

AFRICA RISK CONSULTING

Country briefing – Zambia

20 December 2013

Summary

Civil society organisations demand the release of the final draft constitution and question the government's commitment to the process. Zambia Environmental Management Agency suspends Nonferrous Mining Corporation's mining licence. A national power failure hits mining operations and causes sulphur dioxide to be released in Chingola.

1.1 Delays in release of draft constitution cause unrest

Unrest is mounting as President **Michael Sata** (2011-present) delays the release of the final draft of the new constitution promised after his election. A hundred civil society organisations (CSO's) including the **Foundation for Democratic Process (FODEP)** and **Transparency International** gathered at the parliament buildings on 10 December to petition speaker of the national assembly **Patrick Matibini** to release the draft constitution. FODEP executive director **MacDonald Chipenzi**, speaking on behalf of the CSO's, urged members of parliament to reject an amendment bill on the constitution should the government put it forward.¹ The new constitution contains a clause which requires a 50% majority plus one vote in order to win an election. Sata won the presidency in 2011 with a 41.98 % majority. FODEP believes that the PF government is purposely delaying the constitution making process to avoid this clause and bolster their chances of remaining in power following the 2016 elections.²

In September **Ernest Mwansa**, spokesman for the **Technical Committee on Drafting the Zambian Constitution (TCDZC)**, announced that the committee would hand over the final draft constitution simultaneously to Sata and the general public on 31 October 2013.³ This followed three delays from the original deadline of 30 June.⁴ When the ZTDZC failed to meet the October deadline, opposition **Movement for Multiparty Democracy (MMD)** president **Nevers Mumba** accused the government of

¹ Zambia Reports, 11 Dec 2013

² Zambia Reports, 20 Nov 2013

³ Lusaka Times, 19 Sep 2013

⁴ Various sources

failing to deliver on its promises.⁵ A week later the TCDZC announced that Sata's administration had instructed the committee to print only ten copies of the constitution and deliver all copies to them in advance of the public release. The committee refused to sign the draft until there was clarity over distribution as doing so would be contrary to their terms of reference.⁶

FODEP believes the order to print only ten copies of the draft is proof of the PF government's delaying tactics.⁷ Sata stated on 30 November that Zambia does not need a new constitution but merely amendments to the current constitution.⁸ His comments and repeated delays in the delivery of the new constitution provoked the 10 December CSO gathering. Police arrested Chipenzi on 11 December for questioning in regard to concerns which the **Daily Nation** had published regarding the secrecy surrounding police recruitment procedures.⁹ This led to the arrest on 14 December of 24 **University of Zambia (UNZA)** students who blocked the **Great East Road** demanding the release of both the draft constitution and Chipenzi.¹⁰ Justice minister **Wynter Kabima** has requested that the TCDZC release the draft constitution by 31 December.¹¹

1.2 Environmental agency suspends NFC Africa Mining Corporation's licence

The **Zambia Environmental Management Agency (ZEMA)** has suspended the mining licence of **NFC Africa Mining Corporation (NFCA)** following a November audit of the corporation's \$832m **South East Ore Body** project. The **Chinese** company failed to create a comprehensive resettlement plan for those affected by the project. Until a suitable plan is produced NFCA will not be able to go forward with the development.¹² The agency's suspension of NFCA's licence signals a change in the government's willingness to enforce environmental regulations:

*"ZEMA is a lame duck agency. There is a recent history of ZEMA trying to regulate and being consistently undermined at the highest echelons. That that hasn't happened [this time] is interesting because [it implies] that the senior levels are changing their behaviour."*¹³

⁵ Lusaka Times, 1 Nov 2013

⁶ TCDZC Press Release, 1 Nov 2013

⁷ Zambia Reports, 20 Nov 2013

⁸ *Zambian Watchdog*, 30 Nov 2013

⁹ Lusaka Times, 11 Dec 2013

¹⁰ Lusaka Times, 16 Dec 2013

¹¹ The Post Online, 19 Dec 2013

¹² International Business Times, 9 Dec 2013

¹³ Source, mining analyst, London

ZEMA's action highlights mining corporations' recent difficulties in dealing with the Zambian government. In November Sata threatened to revoke **Konkola Copper Mines (KCM)**'s licence if they followed through with plans to lay off 1,529 workers by March (See *ARC Zambia November 2013 Briefing*) and 2,000 by 2017. Sata's threats have created uncertainty about Zambia in the investment community.

*"It's very haphazard [...] it's not consistent...[or] predictable and it's not always proportionate. Sata is an archetypal populist politician, it's not thought through necessarily, there's no big consultation, [Sata's attitude is that] it's what the people want so we are going to give it to them. The people want a minimum wage rise so let's give them that, and we'll increase the wage of all the civil servants. If that was thought through, especially the civil servant stuff you might have also had some sort of civil service reform ... but that's not what happened. It's quite a reactionary form of politics, reacting to external events rather than setting agendas and having a clear vision."*¹⁴

Sata's intervention failed to retain employment levels at KCM. Encouragement of workers to leave employment through voluntary separation has seen over 70 KCM miners resign in the last three months.¹⁵ *"Looking at the rate we are going in the number of workers quitting their jobs at KCM, I am sure by 2017, Vedanta would have succeeded in shedding its planned 2,000 jobs, if not more."*¹⁶

1.3 National power failure cuts supply to mines

A system failure at the **Kafue Gorge Power Station** on 13 December caused a national power outage for four hours, calling into question Zambia's ability to sustain industrial and mining activities amid frequent power outages. **Zambia Electricity Supply Corporation (ZESCO)** lost an estimated 1,555 MW from their production capacity, cutting power supply to mines owned by **Barrick Gold Corporation, Vedanta Resources** and **Glencore Xstrata**.¹⁷ Following the outage KCM spokeswoman **Joy Sata** announced that the **Nchanga** smelter was affected, releasing sulphur dioxide into the town of **Chingola** in the **Copperbelt Province**. Sata advised residents to stay indoors until KCM had resolved the situation.¹⁸ Mining and energy permanent secretary **Charity Mwansa** apologised for the blackouts and said ZESCO had isolated the defective isolator.¹⁹

¹⁴ Source, academic

¹⁵ The Post Online, 12 Dec 2013

¹⁶ ibid

¹⁷ Bloomberg, 13 Dec 2013

¹⁸ The Wall Street Journal, 14 Dec 2013

¹⁹ Times of Zambia, 14 Dec 2013

Zambia, along with many neighbors in the region, is experiencing an electricity deficit. Installed power production capacity is unable to provide sufficiently for industrial growth. In the mining sector especially power failures not only affect profits but endanger lives. Following the recent blackout, mining companies had to rescue hundreds of miners who were working underground at the time.²⁰ The only areas spared the outage were in the southern and western provinces which receive power from the unaffected **Victoria Falls Power Station**.²¹

The country's electricity shortage has prompted ZESCO to institute the **Zambia Power Rehabilitation Project (PRP)**. The PRP will rehabilitate Kafue Gorge, **Kariba North Bank** and Victoria Falls Power Stations. With its completion total generation capacity will be increased by an expected 210 MW. In addition to the PRP, the 750 MW **Kafue Gorge Lower Hydro** project will be completed by 2017.

2 Implications

Sata in 2011 made a promise to develop a new “people driven” constitution. His demand to have first access to the final draft constitution before any public scrutiny is possible has caused speculation about his commitment to the integrity of the process. If the TCDZC releases the draft constitution only to the PF government there will be significant public outcry over its subversion in the final stage. However, if the committee further delays the release of the constitution due to distribution disputes there will be a large increase in protests and public unrest in the coming months.

ZEMA's suspension of NMC's mining licence will reinforce the opinion of foreign direct investors that Zambia is becoming an increasingly risky investment destination. KCM's anticipated pruning of at least 2,000 workers by 2017 is evidence that the government's interventions are not a significant benefit to the public either. The PF government's reactionary form of politics is a both a hindrance to long term investment security and against the public interest.

The national power outage is a serious indication of the need to refurbish the power grid's infrastructure. Failure to supply power to mining operations not only severely hampers production

²⁰ Wall Street Journal, 14 Dec 2013

²¹ ibid



and also endangers Zambian workers and the public. The PRP will go some way to resolving power supply shortages with keen anticipation of the 750 MW Kafue Gorge Lower Hydro Project coming online. Exporting some of the project's capacity will increase the revenue available to be allocated towards future development.