

30<sup>th</sup> September 2020

## Minimum US\$95m Compensation Claim Lodged Against Tanzania

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- Request for Arbitration lodged with International Centre for Settlement of Investment Disputes - a division of the World Bank
  - Request includes claim for compensation in excess of US\$ 95 million
  - All rights reserved to increase the compensation claim during arbitration
  - All legal costs funded through US\$4.65m litigation funding facility confirmed in August 2020
  - Indiana now working to prepare full Statement of Claim for compensation
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Indiana Resources Limited (ASX: IDA) ('Indiana' or the 'Company') provides the following update on the dispute with the Government of Tanzania over the illegal expropriation of the Ntaka Hill Nickel Project and other breaches of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Republic of Tanzania for the Promotion and Protection of Investments ("UK-Tanzania BIT" or "BIT").

As the majority shareholder in Ntaka Nickel Holdings Ltd ("NNHL") and Nachingwea UK Ltd ("NUK") (both incorporated in the United Kingdom) Indiana is the manager of the Joint Venture for the Project and is leading activities with regards to this matter. Further background to the dispute and breaches of the UK-Tanzania BIT can be found in the latter part of this release.

The Company is pleased to advise that NUK, NNHL and its subsidiary Nachingwea Nickel Limited ("NNL") (the "Investors") have now lodged a Request for Arbitration ("RfA") with the International Centre for Settlement of Investment Disputes ("ICSID"), part of the World Bank, in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "ICSID Convention"). The RfA contains a background to the dispute, a summary of the Claimant's claims and an initial estimate of compensation for loss of the Project and damages sustained by the Investors resulting from the actions of the Government of Tanzania, which is currently in excess of US\$95 million.

Documents relating to the RfA have now been sent by ICSID to H. E. The Hon John Magufuli President of the United Republic of Tanzania, The Hon Doto M. Biteko, Minister for Minerals and Prof Adelardus Kilangi, Attorney General of Tanzania notifying them of the arbitration proceedings. ICSID should soon proceed to formally register the case.

The ICSID Convention has been ratified by 154 States, including Tanzania. An award issued by an ICSID tribunal is enforceable in any one of those 154 member States as if it were a judgment of one of their own courts. Partly because of this, States have overwhelmingly and historically complied voluntarily with the payment terms of such awards.

The Company has engaged LALIVE, an international law firm, to act on its behalf. LALIVE has offices in Geneva, Zurich and London, and specialises in international arbitration. The firm has extensive experience in

international investment arbitration concerning mining and other natural resources and is representing investors and States as counsel worldwide.

### **Company Comment**

**Indiana’s Executive Chairman Bronwyn Barnes said:** *“We have worked diligently over the past 6 months to prepare to lodge our request for arbitration with ICSID and place an estimate on the value of the claim for compensation for the expropriation of the Project. The lodgement of our RfA formally commences the arbitration process and we will now prepare to present our full claim for compensation for the loss of the asset and damages resulting from the actions of the Tanzanian Government.*

*With litigation funding in place to support all legal costs relating to arbitration, we can proceed to prepare for arbitration knowing that shareholders’ interests have been fully protected and will not incur any further losses in seeking compensation.*

*I would also like to reaffirm that US\$95 million is our minimum compensation claim and there is clear scope for this amount to increase once our full claim for compensation is put forward. I look forward to updating shareholders on the arbitration process in due course.”*

### **Ends**

*This announcement is authorised for release to the market by the Chairman of Indiana Resources Limited with the authority from the Board of Directors. For further information, please contact:*

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To find out more, please visit [www.indianaresources.com.au](http://www.indianaresources.com.au).

### **Background to Claim**

In July 2017, the Government of Tanzania amended the Mining Act 2010 by, *inter alia*, abolishing the legislative basis for the Retention Licence classification with no replacement classification.

On 10 January 2018, Tanzania published the Mining (Mineral Rights) Regulations 2018, which cancelled all Retention Licences issued prior to 10 January 2018 at which point they ceased to have any legal effect. The rights over all areas under Retention Licences, including the Retention Licence held for the Project, were immediately transferred to the Government of Tanzania.

During the time from January 2018 to December 2019, the Company actively engaged with the Tanzanian Minister for Energy and Minerals and the Mining Commission in an effort to resolve a suitable tenure mechanism for the Project Licence to be reinstated.

At all times Tanzanian Government representatives reassured the Investors’ representatives, as well as Indiana Board members that visited Tanzania for the purpose of collaborative engagement with the Government, that their historic investment would be recognised and that their rights would be respected and protected.

On 19 December 2019, the Mining Commission of Tanzania announced a public invitation to tender for the joint development of areas covered previously by Retention Licences. The invitation provided that the successful bidder should compensate the previous Retention Licence holder for its exploration costs incurred. This public invitation was not sent to the Company or the Investors but was advertised on the website for the Ministry of Energy and Minerals.

On 20 December 2019, the Mining Commission of Tanzania announced a revised public invitation to tender, which removed the condition that the successful bidder compensate the previous retention licence holder for its exploration costs incurred.

Through the measures described above, Tanzania has removed the ownership of the Project from the Investors, and in doing so has breached its obligations to the Investors under the UK-Tanzania BIT and international law. These include, but are not limited to:

- a) Tanzania's obligation not to nationalise or expropriate the Investors' investments or subject them to measures having effect equivalent to nationalisation or expropriation without prompt, adequate and effective compensation under Article 5(1) of the BIT; and
- b) Tanzania's obligation to accord fair and equitable treatment and full protection and security to the Investors' investment and not to impair by unreasonable or discriminatory measures the maintenance, use, enjoyment or disposal of the Investor's investment under Article 2(2) of the BIT.

Article 8(3) of the BIT provides that the Investors may submit the dispute to ICSID if the Investors and Tanzania are unable to reach an agreement concerning the dispute within six months of the dispute arising (in this instance from the date of the Investors' notice of dispute being 14 January 2020).

Further information on the Ntaka Hill Nickel Project, including historical exploration reporting and releases relating to development studies, can be found at the Company's website [www.indianaresources.com.au](http://www.indianaresources.com.au).