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## TOR

# THE DOWNFAL OF ACCACIA MINING PLC IN TANZANIA: WILL TANZANIA GET A BETTER DEAL

A case of the new agreement between Barrick and the government of Tanzania

2<sup>nd</sup> Edition

### 1.0. Background information

HakiRasilimali is a platform of Civil Society Organizations (CSOs) working on strategic issues around minerals, oil and gas extraction in Tanzania. The coalition emerged from an online “Knowledge Community of Practitioners” in the extractive industries in 2010 to its current status as a joint learning and advocacy platform. The group started engaging in extractive advocacy in an ad-hoc manner, albeit with some success. Taking into account the lessons learnt since 2010, the group envisages to utilize the available potential to become more effective in influencing extractive industries related policies, laws and practices in the country; by adopting a more strategic and proactive approach. This involves building a formal coordination mechanism for strategic and improved advocacy in extractive industries.

HakiRasilimali is affiliated to Publish What You Pay (PWYP), a global membership-based coalition of civil society organizations (CSOs) in over forty countries united in their call for an open and accountable extractive sector, so that oil, gas and mining revenues improve the lives of women, men and youth in resource-rich countries and that extraction is carried out in a responsible manner that benefits countries and their citizens. HakiRasilimali membership to PWYP is an institutional commitment to global transparency agenda.

HR wishes to recruit a consultant to conduct an analysis work on a post-mortem assessment of the first publication done by HakiRasilimali with a title *“The downfall of ACACIA mining plc in Tanzania: will Tanzania get a better deal?”* reflecting on issues addressed in the pre and post framework agreements negotiations for a possible settlement as initiated by the GoT in 2018 and completed in January 2020.

## **2.0. Overall Objective:**

Assessing the short and long term economic, social costs and benefits anticipated to rise from the Tanzania and Barrick final agreements.

## **3.0. Issues to Contemplate**

1. What has been the role and involvement of the Parliament and the public in ensuring scrutiny of the new Framework Agreement?
2. To what extent was the public thoroughly involved in the negotiations that resulted into the new frameworks
3. What mechanisms have been put in place to ensure that there are checks and balances to ensure that all carry-forward losses have originated from genuine investment costs?
4. What will be the impact on tax and anticipated revenues from the Tanzania –Barrick framework agreement as of January 2020?
5. To what extent has the GoT reflected on its policies and legal framework or how the new deal complemented or deviated from the spirit and letter of the Natural Resource Wealth Permanent Sovereignty Act, 2017; The Natural Wealth and Natural Resources Wealth (Contract review and re-negotiation 2017 of unconscionable terms) and the Written Laws (Miscellaneous amendment) act, 2017.
6. The status of Twiga minerals ltd since its establishment (Management, registration etc.)
7. The impact of the Barrick-Tanzania Framework Agreement across other Companies Operating in Tanzania. What has been the government partiality role in negotiations with other mining companies operating in Tanzania? To what extent has the GoT initiated other negotiations with mining companies in the spirit to implement the 2017 Natural resources related laws (Natural Resource Wealth Permanent Sovereignty Act, 2017; The Natural Wealth and Natural Resources Wealth (Contract review and re-negotiation 2017 of unconscionable terms) and the Written Laws (Miscellaneous amendment) Act, 2017

## **4.0. Expected Results**

1. More Information is generated to enhance CSO participation in the decision-making process
2. Policy brief and fact sheet providing recommendations for amendments of the reforms and influencing decisions making process in the mining sector in Tanzania

## 5.0. Scope of the assignment

On 24th January 2020, Barrick Gold Corporation (NYSE: GOLD) (TSX: ABX) - majority share owner of Acacia Mining Plc and the Government of Tanzania (GoT) reached a final decision by signing a new Framework Agreement that resulted from a prolonged tax dispute and negotiations between Tanzania and Acacia Mining Plc. The Final Framework Agreement among others, led to the payment agreement of USD 300 Million (in which USD 100 Million has already been paid) to settle the outstanding tax and other disputes (commonly known as 'kishika uchumba'); establishment of a joint operating company -Twiga Minerals Corporation as a holding company for Bulyanhulu Gold Mine, North Mara Gold Mine and Buzwagi (Pangea Minerals Limited) i.e GoT owning 16% of non-dilutable equity shares and Barrick Gold owning 84% of the joint venture; 50/50 sharing of the economic benefits being generated by the mining operations after the recoupment of capital investments. In addition, Barrick is expected to partner with the University of Dar es Salaam and committed up to USD 10 million in funding over a 10-year period for training and skills development in the mining industry, and is also expected to commit up to USD 40 million to upgrade the road between the Mwanza and Bulyanhulu Gold Mine.

Conversely, in 2019, HakiRasilimali analysed the “Recommended Final Offer for the acquisition of ACACIA MINING PLC; that commended government efforts to renegotiate with BARRICK Gold Corporation with the aim to secure better terms for the country. In its analysis, a lot of concerns were generated in the spirit of making use of the enacted 2017 natural resource related laws addressing issues of value addition, international arbitration, local content, equity sharing, tax avoidance, corporate social responsibilities, among others. The signing of the Final Framework Agreement has continued to generate concerns among CSO especially on the current state of the mining sector in reflection to a number of changes that have been brought up after the deal and operations within the entire mining sector.

## **6.0. Proposed Methodology**

The analysis will employ analytical methods to gain information from stakeholders. To collect and analyse both primary and secondary data. The assignment is thus anticipated to take place at predominantly two levels:

- a. Secondary data collection: A desk review of available documentation available within extractive sector at large;
- b. Primary data collection: information obtained from extractive sector stakeholders.

## **7.0. Expertise Required**

Bachelor degree in social science, Research or any related field.

At least 5 years' experience in conducting research and/or analysis

Demonstrated ability in leading the monitoring, evaluation and Learning activities.

Experience in designing tools, data collection, statistical analysis, qualitative methodology.

Strong knowledge of Microsoft Office.

Understanding of the extractive sector.

Previous experience working in similar organisational context.

NB: Demonstrate understanding of and experience in one or more of the following will be of added advantage:

- 1) Prior experience in conducting research and analysis
- 2) Baseline knowledge of the extractive industry.

## **8.0. Deliverables and Timeline**

The Reviewer will prepare and submit the following key deliverables:

- a. Inception report including a review work plan
- b. Analysis tools and
- c. Analysis report.

The table below shows a timeline of the different assignment milestones and deliverables that will be required from the reviewers:

S/N	Activity	Day(s)
1.	Consultation with HR Secretariat	1
2.	Inception report setting	1
3.	Document analysis	14
4.	Completion of first draft	1
5.	Validation meeting	1
6.	Final report submission	5

#### 9.0. Accountability and Administrative Arrangements

The consultant will report to and consult with HR Executive Director regarding the approval of all deliverables, guidance during the execution of the mandate.

The HR Secretariat will offer administrative and logistical support to the consultant.