

special report

YEAR

1927

Peak. The year when the commercial copper deposits were discovered by D. Magee who was working for Tanganyika Concessions Limited.

CURRENT TRADING. Copper is currently trading at \$7,300 (Shs26m) a metric tonne in London, its best run in almost three decades. Had government had managed to resuscitate the mines, Kilembe would be back on track. According to bloomberg news, copper was at \$7,289 a metric tonne in April at the London Metal Exchange, after earlier touching \$7,312.50, the highest since 2014.

The haunting legacy of Kilembe mines

Part III. In July last year, a committee instituted to advise government on the Kilembe mines lease recommended the termination of the contract for Tibet Hima Mining Company, a Chinese company, which three years earlier had been granted a 30-year concession for the once vibrant copper/cobalt mines. Close to a year after the concession was terminated, the status quo hangs in balance, writes **Frederic Musisi**.

Officially, Tibet Hima Mining Company (THMCO)'s concession for Kilembe mines stands terminated as President Museveni ordered last June and as per the recommendations of the winding-up commission, which was established to study the salient issues leading to THMCO's non-performance. The commission's report was submitted to government on October 31 last year.

Unofficially, multiple government sources talked to say they do not know what is next.

At the heart of the matter, sources say, has been the lobbying to have THMCO "pardoned" but under revised terms.

Upon receiving the winding-up commission's report, Ms Evelyn Anite, the State minister for Finance in-charge of Investment and Privatisation, told *Daily Monitor* that "it was studied and a request sent to the Attorney General to advise accordingly". She, however, referred the matter to Finance minister Matia Kasaija.

Mr Kasaija had told this newspaper earlier on that he could not pronounce himself on the final decision.

When this newspaper contacted the chairperson of the winding-up commission, Mr Edwin Mwesigwa, about the ongoing maneuvers to 'pardon' THMCO, he said: "I think we should equally wait for the Attorney General's opinion if that is what Finance is waiting for."

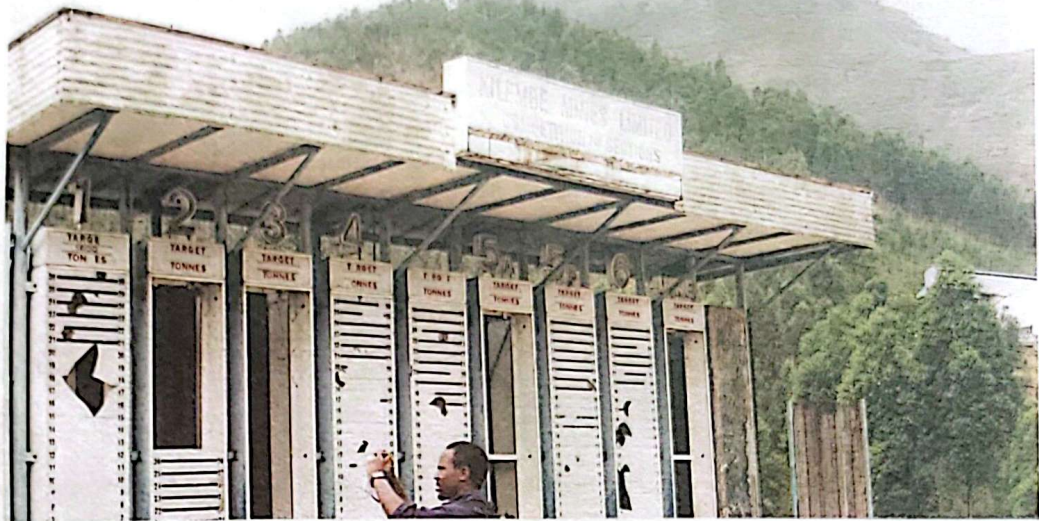
Commission's view

"As a Commission, we did our job. However, it is important to add that the issue as regards the next steps is perhaps larger than the question put. There is the strict interpretation of the concession agreement and applicable laws to take into consideration in terms of what the next steps are not to mention what government's expectations still are," Mr Mwesigwa said.

He added that "all these must be factored in to avoid a process that would be liable to challenge in future or expose government to public ridicule".

THMCO itself sued the government, seeking, among others, an interim injunction against the State from interfering with the concession until the main application has been disposed of and damages of at least Shs120b.

The company, in its suit filed at the High Court's Commercial Division in Kampala



Seeking redemption. A section of the dilapidated Kilembe mines in Kasese District. FILE PHOTOS

on February 21, also accuses government of breaching terms of the concession, among others "failure to renew the company's mining lease, failure to approve draft insurance policies, and failure to deliver permits and licences required to commence" its activities. Hearing of the case is scheduled to start soon.

The company's temporary injunction was, however, dismissed with costs on April 5. The court said maintaining the status quo or not had no threat to hearing the main suit, whose hearing is yet to be fixed.

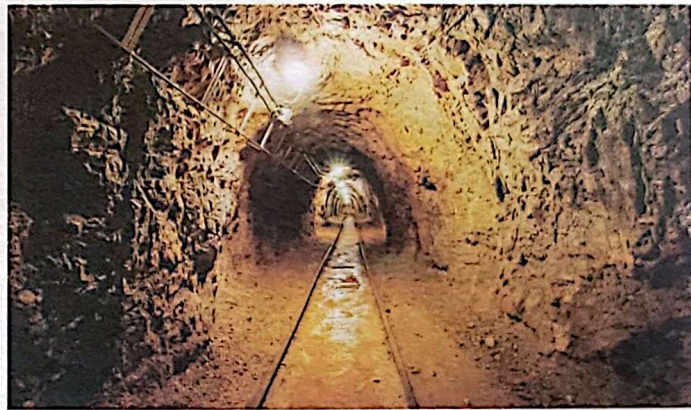
The winding-up commission was established by virtue of provisions of the concession agreement between government and THMCO signed in September 2013. The consortium was said to have beaten the likes of China's Ginkgo Energy Investments Company, Sino-Steel Limited (China) Konkola Copper Mines (Zambia), Tibet-Hima Industries Consortium (China) and Shree Minerals of Australia to the deal.

18,000

Production. During the 1970s, production at Kilembe peaked at around 18,000 tonnes of copper cathode a year.

The consortium was said to be comprised of Shanghai Baosteel Group, which is an iron and steel conglomerate, with expertise in smelter technological supplies; Chinalco Luoyang Copper Company; Yunnan Copper Company with experience in exploration expertise provision; and Dongfang Electric Corporation, whose expertise is in hydro-power technical and development equipment supplies.

Others included Tebian Electric Apparatus, who are manufacturers of cables, cords and transformers; Zijin mining Group (mining and downstream beneficiation) as well as Zongshen Industry Group (mining



Idle. One of the tunnels leading to the mines.

financial investments). However, several firms in the consortium pulled out in due course, setting in motion THMCO's woes.

One senior official familiar with the matter told *Daily Monitor* that partly why THMCO failed is that the company "naively" agreed to a number of the government's ambitious targets such as setting up a smelting plant even when such facility clearly does not make any business sense.

Company faulted

"The mine had been abandoned for nearly 30 years and government expected it to be turned around in less than five years. Isn't that madness?" the official said.

Mr Mwesigwa, however, disagreed with this reasoning, saying "the government packaged the Kilembe mines and carried out a procurement, which had several bidders participate. Tibet emerged the best after the evaluation and entered into the Concession Agreement."

"They had the benefit of advisors; I did

not participate, so I do not know who their transaction advisors were. We enjoy the principle of freedom of contract and a party is bound by the terms of the contracts they freely enter into. It would be inconceivable to imagine that they responded to a bid and actively pursued and eventually entered into a concession when they did not appreciate what it was and the scope or the extent of the investment that was required," he said.

Therefore, he added that "it is not a question of government setting high standards, which if you ask me, [were] entirely within their remit to do."

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