

The Australian group AVZ is determined to defend its rights against the Chinese of Zijin and the state company Cominière over the Dathcom Mining permit before international justice

Response to ad by Zijin about of the company "Manono Lithium" (new partnership between Cominière and Zijin) and deposit of a request for a decree emergency.

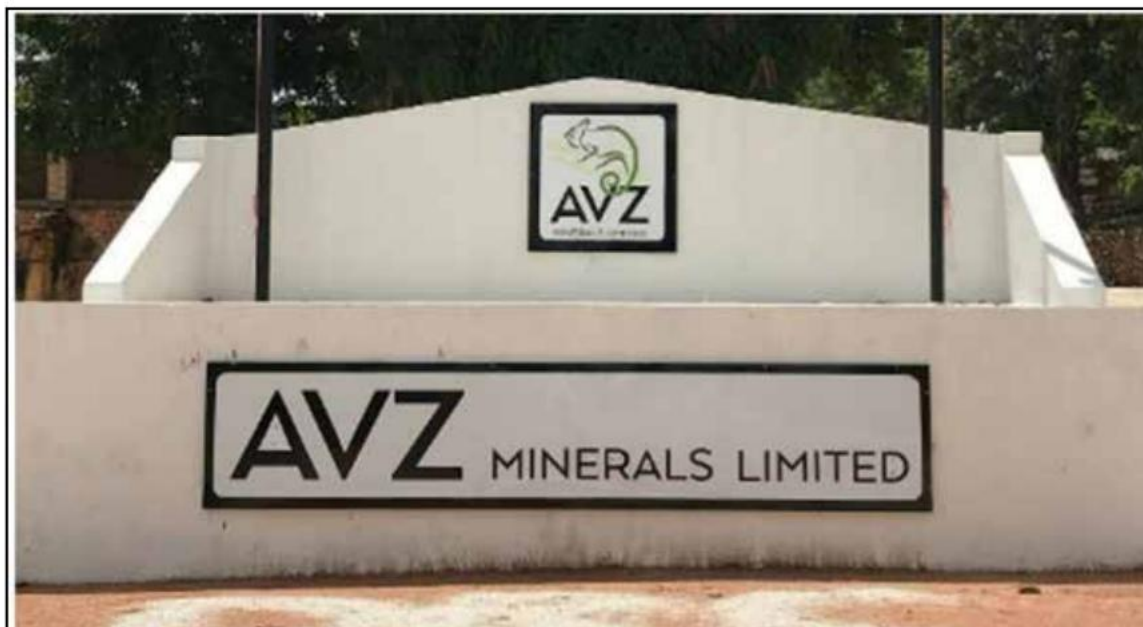
In a detailed press release dated October 30, 2023 for everyone, AVZ Minerals provides the following update to the Company's shareholders, Cominière, Zijin and public opinion Response to the announcement of Zijin and announced the filing of an emergency decree request before an international court to secure its rights in the Dathcom Mining joint venture.

Indeed, as our colleague Kiki Kiengé of the online media CongoPress writes well, it is following the announcement of the Chinese group, ZIJIN MINING, which claims through its subsidiary in the Democratic Republic of Congo, Jinxiang Lithium to have concluded an agreement on the Manono lithium deposit in the province of Tanganyika in DR Congo, a deposit valued internationally by the feasibility study carried out by the Australians of AVZ MINERALS using its own financial and technical means.

Since the announcement of the Chinese on the creation of a joint venture with the Congolese State (MANONO LITHIUM) through COMINIÈRE and the ownership right of PR15775, no reaction from the Congolese authorities to deny or certify the declarations from ZIJIN.

Within 60 days from the date of signature, the authorities and institutions of DR Congo must publish this agreement as required by the country's mining legislation. To date, there is silence from Kinshasa on the exit of the Chinese group.

For information, PR15775 granted to the joint-



venture MANONO LI-THIUM (joint venture with ZIJIN), is a part of PR13359 which belongs to the joint venture Dathcom Mi-ning SA, joint venture between Cominière, Dathomir of Simon Cong Maohuai with the Australians of AVZ Mi-nerals .

The Chinese of Zijin claim to have 61% of the shares of PR15575, in exchange for a consideration of US\$33,400,000 from the illegal sale of 15% of Dathcom Mining and should pay US\$70 million in humanitarian aid, payable according to a modality and periods which remain ambiguous.

Contrary to its strategy, the Australian group AVZ has just reacted to the alleged agreement between the Congolese State via Cominière and the Chinese of ZIJIN of October 23, 2023 on the creation of Manono Lithium SAS on PR15775:

AVZ refers to the announcement made by Zijin Mining Group Co Limited (Zijin) on October 23, 2023 that its subsidiary Jinxiang Lithium Limited (Jinxiang) has entered into a joint venture with La Congolaise d'Ex-ploitation Minière (Cominière) under which Jinxiang holds 61% of the shares of Manono Lithium SAS, which would hold PR 15775 on a northern part of the Manono project.

The Company, through its subsidiaries, has decided to file a request for emergency arbitration in

under the rules of the CCI in order to obtain an injunction against Cominière in order to prohibit the state company from carrying out, directly or indirectly, any transaction concerning PR13359 and PR15775 and, in general, from take certain actions with a view to maintaining and preserving the rights of Dathcom Mi-ning SA (Dathcom) while the arbitration on the merits is in progress.

The request also aims to obtain an increase in the amount of the daily penalty ordered by the emergency arbitrator's order of May 5, 2023 (see the Company's announcement of May 8, 2023). 'Favorable decision in the ICC's emergency arbitration proceedings against Cominière'). Cominière's recent actions to terminate the Dathcom Mining Joint Venture Agreement dated January 17, 2017 as amended from time to time (Dathcom JV), to act as holder of PR13359 and to attempt to monetize said mineral rights from third parties all constitute violations of the terms of the emergency arbitrator's order dated May 5, 2023.

The Company also formulates the following observations

The 15% of the capital of Dathcom Mining illegally sold in fire sale in Zijin by Cominière

Zijin says its payment to Cominière of \$33.44 million for 15% of Dathcom's shares will be "transferred to the joint venture for compensation" against the consideration payable by Jinxiang for its 61% stake in Manono Lithium SAS.

This acknowledgment that the purchase price of the 15% of Dathcom shares was redeployed is inconsistent with Zijin's assertion that its subsidiary Jin Cheng Mining Company (Jin Cheng) is a 15% shareholder of Dathcom Mining.

It should be noted that this announcement was made shortly after the hearing in ICC 26986/ SP of October 5 and 6, 2023, during which AVZ presented its thesis that the sale of the 15% of the shares of Dathcom Mining was ineffective, either due to the violation of AVZ's right of pre-emption under the joint venture Dathcom Mining, or due to the circumstances in which this agreement was entered into by Jin Cheng and Cominière, some of which were addressed in the IGF report dated November 30, 2022.

It seems that Zijin and Cominière recognized that AVZ was right and that Jin Cheng was not and had never been a shareholder of Dathcom Mining.

The ICC Tribunal has been informed of the announcement of

Zijin, the terms of which justify AVZ's position in the arbitration.

The "Northern Zone" of the Dathcom License illegally allocated to Zijin under Mano-no Lithium

Having apparently abandoned its attempt to appropriate a 15% stake in Dathcom, Zijin is instead pursuing, in collusion with Cominière, a new strategy of appropriation of the northern zone of the Manono project as well as the part containing the workers' camp and the sample conservation shed of Dathcom Mining.

The allegation that Manono Lithium SAS owns PR 15775 on the northern part of the Manono project has no legal basis.

This northern area includes the Carrière de l'Este, Malata and Kahungwe deposits, the reconstructed Manono Hill construction camp and administrative center, and the central courtyard and main farm of Dathcom Mining which host the sample library.

AVZ maintains that Dathcom Mining is the holder of PR 13359 for the entire Manono project (including the northern zone) and that it is the applicant for an exploitation permit (EP) for this land .

AVZ has taken advice and is confident in its position. The aim of the ICSID procedure, which was initiated by AVZ on May 8, 2023 and registered on June 8, 2023, is to establish this authoritatively. Until now, AVZ has tried to avoid publicly expressing its position in case it is perceived as critical of certain government institutions in the DRC.

Unfortunately, Fat Tail candidates have sought to interpret the lack of available information regarding the position

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of AVZ as reflecting a lack of merit and instead assumed, without any apparent understanding of DRC law, that the results achieved by Zijin and Cominière were legal and effective.

Regarding the position of AVZ, it should be noted that:

1. the function of the register of mining tenements held by the CAMI is to inform the public of decisions taken under the Mining Code concerning mining tenements, but the entry of a decision in the register has no effect legal and does not serve to validate decisions contrary to the Mining Code; 2. the ministerial decrees of January 28, 2023 annulled the ministerial decrees of April 7 and April 25, 2022 and restored the status quo according to which Dathcom Mining is the holder of PR 13359 and applicant for the EP on the entire project Manono; 3. the decision of the Kalemie High Court of May 3, 2023 ordering CAMI to register PR 13359 in the name of Cominière is contrary to the law because:

- it is based on the fact that the Dath-com Mining joint venture was validly terminated, which is incorrect (and will be examined by the arbitral tribunal in case ICC 27720/SP); - a valid

termination of the Dathcom Mining joint venture would not provide any legal basis for transferring PR 13359 to Cominière; - Dathcom Mining did not have the opportunity to be heard and had to request a new hearing (third-party opposition) which is in progress; - the Kalemie High Court does not have jurisdiction to order the transfer of the RP;

4. the ministerial decree of October 12, 2023 which would have extended the duration of PR 13359 until December 27, 2027 is contrary to article 49 of the Mining Code which provides that the mandate of PR 13359 (which would otherwise have expired on December 27, 2021) is pro-



rogé sine die until the EP request is decided; and 5. any decision to waive or relinquish rights to the northern part of PR 13359 or transfer the northern part of PR 13359 is contrary to the Mining Code because only the legitimate holder of PR 13359 is legally empowered to take such measures.

It follows that PR 13359 held by Dathcom Mining remains in force with respect to the entire Manono project and that PR 15775 could not legally be granted to Manono Lithium SAS with regard to the northern part of the Mano-project

This remains to be determined authoritatively within the framework of the ICSID procedure. AVZ seeks to uphold the rule of law in the DRC and the Fat Tail candidates' suggestion that ICSID procedures are unnecessary or ill-advised is not correct.

It is worrying to note that certain officials appear to have been led to make decisions relating to PR 13359 and PR 15775 which are contrary to the law and which, if applied, would have the effect of appropriating the legitimate rights of Dathcom Mining for the benefit of others. Unless immediate measures be taken by the State to

correct the relevant files in order to reinstate PR 13359 in the name of Dathcom Mining and on the entire Manono project, AVZ will have no choice but to request emergency assistance from the ICSID.

Nigel Ferguson and his team at AVZ remain in the DRC and continue their efforts to advance the negotiation of the Memorandum of Understanding with the State. Execution of the memorandum agreed by AVZ and the State will pave the way for the resolution of the ICSID procedure without further escalation.

By procuring the alleged concession of PR 15775 from Manono Lithium SAS, Cominière acted in contempt

of the Mining Code. In addition, Cominière acted in violation of the Dathcom Mining joint venture as well as the CCI's emergency order dated May 5, 2023, the latter aimed at preserving the status quo, in particular by prohibiting Cominière from take steps to implement its purported termination of the Dathcom Mining joint venture.

AVZ will inform shareholders and the public of the outcome of its request for emergency measures before the CCI as soon as the outcome is known, concludes the company's public document in our possession.

DR Congo sells 61% of Manono Li-thium's PR15775 to the Chinese ZIJIN for US\$103 million and keeps 39% of the new project

At the price assessed by the General Inspectorate of Finance on the sale of Cominière to Zijin on the basis of the Dathcom Feasibility Study, of which Cominière and the government must have copies and carried out by AVZ of which all favorable legal opinions are re-which by the Mining Code of the DRC were given by the government technical services, should not the 61% of MANONO LITHIUM of PR15775 be worth more or less US\$650 million? So, asks Kiki Kienge of CongoPress in her publication of October 24, 2023.

Already almost silently announced on the Mining Cadastre (CAMI) portal; "Application 15775, request for partial assignment."

As a reminder, application 15775 concerns the Northeast part of mining permit PR13359 from Dathcom Mining. After a standoff between the two partners Cominière and AVZ, Madam Minister of Mines, Antoinette Nsamba Kalambayi had canceled the conversion of research permit (PR13359) into exploitation permit (PE13359); secondly by a decree,

AVZ reiterates its position on the favorable decision in the ICC emergency arbitration proceedings against Cominière AVZ Minerals Limited

AVZ or Company) made reference again to his announcements previous to date from April 17, 2023 and of May 8, 2023 entitled respectively "New legal action to assert interests in the Manono Project" and "Favorable decision in the emergency arbitration procedure of the ICC against Cominière" in the context of an arbitration procedure before the International Court of Arbitration of the Chamber of International Trade (CCI) against the Congolese Exploitation Mi-nière (RCCM 14-B-5938) (Cominière) (Procedure

Cominière arbitration). As a reminder, as part of the arbitration procedure against Cominière, the Company, via its subsidiaries and Dathcom Mining SA (Dathcom), filed a request for emergency arbitration according to the rules of the ICC, heard by an emergency arbitrator on May 3, 2023, seeking an injunction for the purpose of preventing Cominière from taking any action regarding its alleged termination of the Dathcom Joint Venture Agreement (Dathcom JVA). AVZ considers that Cominière's alleged termination of the Dathcom JVA is illegal because it was attempted without valid reason and in a contrary manner

under the express terms of the Dathcom JVA. The emergency arbitrator found that she had jurisdiction to order emergency measures and ruled in favor of the company's emergency request. The emergency arbitrator's order, dated May 5, 2023, provides as follows: • Cominière cannot take any action or take any measure that would result from the implementation of the termination of the Dathcom JVA and/or the consequences of such termination, until the final award on the merits of the broader Cominière arbitration procedure is decided. ; • Cominière must

comply with article 11.1 of the Dathcom JVA (i.e. the obligation to resolve any dispute by arbitration before the ICC) and refrain from initiating any dispute in relation to the Dathcom JVA and/or the termination it claims having carried out, before the courts of the Democratic Republic of Congo (DRC), until the final award on the merits of the broader Cominière arbitration procedure is rendered • any violation of the above-mentioned orders, will be liable to a penalty of 50,000 euros per day of infringement and any dispute relating to the liquidation of the penalty, will be reserved to the arbitral tribunal in the

framework of the Cominière arbitration procedure, which will rule on the question of the validity of the termination of the JVA; In accordance with this emergency order, AVZ considers any attempt to dispose of the assets of Dathcom Mining by any party invoking the so-called resolution of the joint venture agreement (Dathcom JVA) to be in violation of the order of the arbitration judge and therefore illegal. AVZ will continue to rely on legality to defend by all legitimate means the interests arising from the joint venture agreement (Dathcom JVA).

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she had united the two parts of PR13359, and thirdly she had acted by 'returning' to Cominière the 100% of PR13359. Illegal and irregular administrative acts according to Dathcom, AVZ and experts in Congolese mining law.

A few days after the announcement of the famous Application on the CAMI portal, the Chinese group Zijin announced that application 15775 had just been transformed into a research permit, P15775, by the authorities of the DR Congo. Something confirmed even on the CAMI portal, which notably confirms that the remaining PR13359 now belongs entirely to Cominière SA. A big blow to mining governance for which civil society and certain press have been fighting for some time in the DRC.

The new PR15775 would now belong to the joint venture, Manono Li-thium SAS, of which the Chinese group, Zijin, would own 61% of the shares and the Congolese State through Cominière, 39% of the shares.

According to Zijin's press release, the Chinese should, or have "already paid" a

sum of US\$33 million, according to the old agreement deemed illegal by the General Inspectorate of Finance (IGF), for the 15% of Cominière's shares in Dathcom; in addition, the Chinese will add US\$70 million, to reach US\$103 million in order to own 61% of Manono Lithium which now owns PR15775.

These figures have yet to be confirmed by Cominière and the Congolese State, which has opted for silence to date. Last year, the IGF estimated at least US\$150 million for the 15% of Cominière shares sold to Zijin, so US\$10 million for 1%.

"The board of directors and directors of the company guarantee that there is no false information, misleading statements or major omissions in the content of the announcement and take legal responsibility of the authenticity, accuracy and completeness of its content in accordance with the law.

On October 23, 2023, the joint venture between the foreign subsidiary of Zijin Mining Group Co, Ltd (Jinxiang Lithium) and Cominière, Manono Li-

thium, Jinxiang Lithium holds 61% of the shares and Cominière holds 39% of the shares, obtained approval from the Ministry of Mines of the Democratic Republic of Congo, rights for the northeastern part of the lithium deposit of Manono (PR15775)." Part of the Zijin Communiqué (Jinxiang Lithium).

The Australian government is now following the AVZ file in the DRC, the Congolese government must avoid replicating the expropriation of First Quantum Minerals

According to several observers of the mining sector in the Democratic Republic of Congo, what is happening to Dathcom Mining is an illegal expropriation similar in all respects to that of the mining permits of the Australian-Canadian group First Quantum Minerals under the Kabila regime of sad memory; and above all a lack of long-term vision of the mining sector, the management of critical and strategic minerals, and a biased understanding of global geopolitical and geostrategic issues on the part of the Kinshasa government. its who offers on the set

of gold and at low prices the strategic lithium sector, a critical and strategic mineral without taking into account the serious consequences in the short, medium and long term; to the Chinese who already control the country's copper and cobalt sector, have disputes with the State or their partner Gécamines among others at Sicominex and are regularly singled out by reports from local civil society for violation of economic human rights, environmental and social at Commus and Kamao by the famous Zijin.

For Congolese civil society, the "Coalition Tous Pour la DRC" which has been interested in this issue since last year, the only fair outcome remains an amicable settlement without Zijin or another group. between the Congolese State, owner of Cominière, and the Australian group AVZ which has invested resources for the valorization of the lithium permit coveted by the Chinese who are keen to secure their supply chain. ment of this critical mineral and consolidate their lead over the United States of America

and the Westerners in their economic war, without worrying about the community development of the Congolese of Manono and Tanganyika who believe in AVZ and Dathcom Mining but have now become the victims of their wild and gluttonous appetite.

One thing is true: the Americans and other Western Anglo-Saxons (those of the Commonwealth too) observe closely in silence everything that is done. They need critical minerals from the DRC in the face of Chinese competition and dependence. The Australian government, which is interested and closely monitoring it, would make it a state affair with disastrous consequences for the country's reputation and the business climate.

If you carefully read the letter that we are publishing here and which is circulating on Australian social networks, the AVZ file in the DRC is already a state affair. It is up to the DRC to take this into account and play the game by protecting its interests by taking into account the balance in partnerships concerning its mining sector.

By Ben Nkaya for FKF
Softpress.