



15 April 2023

## UPDATE ON LEGAL PROCEEDINGS AGAINST CONGO, CAMEROON AND AUSTSINO

### Summary:

- **Memorial of Claim have been filed at the International Chamber of Commerce (“ICC”) in respect to Sundance’s proceeding against the Republic of Congo. Document review is ongoing with the first hearing scheduled for Q1 2024.**
- **The Republic of Cameroon has ignored the interim order by the Emergency Arbitrator at the ICC and instead granted exploitation rights over Mbalam to a third party, resulting in a Memorial of Claim being issued against Cameroon. The mysterious circumstances surrounding the sudden death of the Cameroon Minister of Mines in January 2023 have delayed arbitration proceedings.**
- **Progress with the discovery of any relevant data on the personal mobile phone belonging to AustSino Executive Chairman, Mr Chun Ming Ding (to comply with pre-action discovery orders granted to Sundance in the Supreme Court of Western Australia) has been delayed after Mr Ding stated that he lost his phone in China. This matter is the subject of ongoing proceedings in the Supreme Court.**

Sundance Resources Ltd (“**Sundance**” or “**Company**”) is pleased to provide the following update on positive developments in the Company's international arbitration proceedings against the Republic of Congo (“**Congo**”) and the Republic of Cameroon (“**Cameroon**”) and the Company's ongoing pre-action discovery proceedings in the Supreme Court of Western Australia (“**Supreme Court**”) against AustSino Resources Group Ltd (“**AustSino**”) and its Executive Chairman, Mr Chun Ming Ding (“**Mr Ding**”).

As previously announced, these proceedings concern the Company's Mbalam-Nabeba Iron Ore Project (“**Mbalam-Nabeba**” or “**Project**”) which, for more than a decade up until the illegal expropriation of its Nabeba permit in Congo in late 2020, Sundance was working on developing into a globally significant, high-grade iron ore project producing direct-shipping ores grading >62.0% Fe at a rate of 40Mtpa for at least 29 years. Mbalam-Nabeba was structured as a two-stage development to generate significant economic benefits for the people of Cameroon and Congo and substantial, sustained value for Sundance shareholders. Sundance completed a Definitive Feasibility Study for Stage 1 and a Pre-Feasibility Study for Stage 2 on a 580km railway linking the mines at Mbalam in Cameroon and Nabeba in Congo to a dedicated export terminal in the deep-water Port of Kribi, Cameroon. Sundance’s pre-development investment of more than \$A400 million made Mbalam-Nabeba the most advanced iron ore project in Cameroon and Congo and positioned it as the enabler for the development of other iron ore deposits in the two countries.

### International arbitration against Congo

As previously announced, following the 30 November 2020 unlawful expropriation by Congo of the exploitation permit for the Nabeba iron ore tenement held by Sundance's subsidiary Congo Iron SA (“**Congo Iron**”), Congo Iron commenced arbitration against Congo at the ICC under the Nabeba Convention on 25 March 2021, seeking damages for breach of various provisions of the Nabeba Convention including the guarantee against expropriation.



Subsequently, on 28 June 2021, Sundance (in its capacity as a beneficiary of certain guarantees under the Nabeba Convention) also commenced arbitration against Congo. Sundance brought this claim following the announcement by Congo that it had granted a mining convention to Sangha Mining Development SASU ("**Sangha**") in relation to the Nabeba tenement. The Sundance and Congo Iron claims against Congo have now been consolidated into a single arbitration.

On 27 May 2022, a Memorial of Claim ("**Memorial**") was filed at the ICC. The Memorial included:

- factual background to the Project and the dispute;
- a detailed statement of the legal basis for each claim brought against Congo;
- a number of witness statements; and
- reports from several independent experts covering the value of the Project and demonstrating damages ranging from \$US1.5 billion to \$US5.7 billion, depending on the iron ore price used.

Congo has replied to the Memorial and both parties are currently reviewing discovery documents that have been requested.

Following this review and other procedural requirements, the first ICC hearing is expected to occur in Q1 2024.

Sundance will provide a further update on the arbitration against Congo in due course.

### **International arbitration against Cameroon**

Sundance and its subsidiary Cam Iron SA (**Cam Iron**) issued a Notice of Dispute with the Government of the Republic of Cameroon ("**Cameroon**"), as announced on 16 December 2021, to reinforce their legal rights to have a mining permit via a Presidential implementation decree issued to Cam Iron.

Negotiations with Cameroon were progressing. However, following a visit to Cameroon by the Congolese Minister of Mines, Mr Pierre Oba, and public reporting on meetings that he had with senior Cameroon officials and the President of Cameroon, Sundance and Cam Iron decided to commence international arbitration at the ICC (in Paris) against Cameroon. This was announced on 2 June 2021.

Constructive discussions then took place with Cameroon resulting in Sundance delaying the arbitration proceedings.

However, in March 2022 Sundance was made aware that Cameroon, via the Presidency, was looking to issue the Mbalam exploitation permit to a government or private entity. Sundance initiated an emergency injunction via the ICC to prohibit Cameroon taking action on the exploitation permit.

An interim binding order was issued by the Emergency Arbitrator on 1 April 2022, which required Cameroon to refrain from issuing the Mbalam exploitation permit to any party other than Cam Iron until either the full arbitration against Cameroon was completed or a full body of arbitrators reconsidered this position.



On 16 June 2022, Cameroon filed a request to annul the Emergency Arbitrator's interim order of 1 April 2022 (“**Request**”). This Request was heard by the Emergency Arbitrator on 5 July 2022 in front of legal representatives of Sundance/Cam Iron and Cameroon. On 20 July 2022, the Emergency Arbitrator issued his decision, in which he declared that “[...] insofar as the Cameroon Request is admissible, it is without merit and accordingly [the Emergency Arbitrator] denies the Request in its entirety”.

On 5 September 2022, Sundance announced that Cameroon had issued a Presidential decree on 17 August 2022 that issued an exploitation permit over the Mbalam deposit to an entity named Cameroon Mining Company SARL, which had only been formed some months earlier. This decree was in direct contradiction to the orders issued by the ICC Emergency Arbitrator.

In December 2022, Sundance filed a Memorial of Claim (“**Cameroon Memorial**”) at the ICC against Cameroon. The Cameroon Memorial included:

- factual background to the Project and the dispute;
- a detailed statement of the legal basis for each claim brought against Cameroon;
- a number of witness statements; and
- reports from several independent experts covering the value of the Project and demonstrating damages up to \$US5.5 billion, depending on the iron ore price used.

Sundance was waiting on a reply to the Cameroon Memorial.

However, on 21 January 2023, the Cameroon Minister of Mines, Mr Gabriel Ndoke, died suddenly in mysterious circumstances. This led to Cameroon requesting a delay in the arbitration proceedings. The ICC tribunal granted Cameroon a two-month delay with a potential further month on review.

Cameroon has appointed an Interim Minister of Mines though the appointment of a permanent Minister is still to be announced.

Sundance will provide a further update on the arbitration against Cameroon in due course.

### **Supreme Court of Western Australia proceedings against AustSino and Mr Ding**

As announced on 5 April 2022, the Supreme Court on 31 March 2022 ruled in favour of Sundance and subsequently (on 22 April 2022 and 13 June 2022) made orders for pre-action discovery from AustSino and Mr Ding of, in substance, the categories of documents requested by Sundance (“**Pre-Action Discovery orders**”). As part of this ruling, the Supreme Court agreed with Sundance that the Company had presented evidence which established it might have various causes of action against AustSino and Mr Ding, including misuse of confidential information and breach of fiduciary obligations by the diversion of a commercial opportunity.

AustSino appealed this decision on 6 May 2022 but discontinued its appeal on 26 May 2022. The Pre-Action Discovery orders therefore remain in force.



There have been delays in Sundance obtaining discovery and inspection of documents from AustSino and Mr Ding. A key category of documents that has still not been discovered or produced by Mr Ding or AustSino comprises documents on Mr Ding's personal mobile phone, in particular any relevant WhatsApp, WeChat and SMS messages. Mr Ding has said he was unable to provide those documents while he was in China.

Mr Ding returned to Perth in mid-January 2023. During the approximately four weeks he was in Perth, Mr Ding did not hand over his mobile phone to his solicitors to retrieve any relevant data that fell within the scope of the Pre-Action Discovery orders.

Mr Ding returned to China in mid-February where, he states, his mobile phone was lost. Sundance has engaged an independent expert to review the possibility of obtaining the relevant messages through alternative means, including retrieving the data from his old mobile phone and from other directors of AustSino.

These matters are currently ongoing in the Supreme Court and have delayed Sundance making a final decision on whether to progress with substantive action against AustSino and Mr Ding.

Sundance will provide a further update on the Supreme Court proceedings in due course.

**ENDS**

**Further information:**

Giulio Casello  
Non-Executive Director  
Sundance Resources Limited  
Tel: +61 9 9220 2300  
Email: [info@sundanceresources.com.au](mailto:info@sundanceresources.com.au)

**Media:**

Peter Klinger  
Cannings Purple  
Mob: +61 411 251 540  
Email: [pklinger@canningspurple.com.au](mailto:pklinger@canningspurple.com.au)