



23 November 2021

## UPDATE ON LEGAL PROCEEDINGS

Sundance Resources Ltd (**Sundance or Company**) has ongoing legal proceedings against the Republic of the Congo (**Congo**), the Republic of Cameroon (**Cameroon**) and AustSino Resources Group Ltd (**AustSino**) and its Executive Chairman, Mr Chun Ming Ding (**Mr Ding**). All three proceedings relate to the Company's Mbalam-Nabeba Iron Ore Project (**Mbalam-Nabeba or Project**), a transboundary project that straddles the border of Congo and Cameroon and has been Sundance's sole focus of investment, exploration and development for nearly 15 years. Mbalam-Nabeba comprises the tenements hosting the Mbalam and Nabeba iron ore deposits.

The purpose of this announcement is to update shareholders and other stakeholders on the status of each of these proceedings.

### 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 International Chamber of Commerce (**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) 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. Sundance requested that its arbitration against Congo be consolidated with Congo Iron's arbitration against Congo, in accordance with the Rules of Arbitration of the ICC (**ICC Rules**).

Sundance's application for consolidation was granted by the ICC such that the Company's claims against Congo will be heard by the same arbitral tribunal, and in the same proceeding, as the claims that Congo Iron is making against Congo.

The arbitration against Congo is seated in London. All three members of the arbitral tribunal have been appointed in accordance with the ICC Rules and Sundance expects that the arbitral tribunal will soon be formally constituted by the ICC. Once this occurs, in accordance with the ICC Rules the arbitral tribunal will convene a first session with the parties to discuss procedural matters and fix a schedule for the written and oral phases of the proceedings.

Sundance notes that international arbitration proceedings have been commenced against Congo by three other iron ore companies (unrelated to Sundance) that have similar cases of unlawful expropriation: Avima Iron Ore Ltd, EPPL Holdings (a subsidiary of Equatorial Resources Ltd) and Congo Mining Ltd.

Sundance will provide a further update on its arbitration against Congo when the arbitral tribunal issues its first procedural order.



### **International arbitration against Cameroon**

As previously announced, on 2 June 2021, Sundance and its subsidiary Cam Iron SA (**Cam Iron**) commenced arbitration against Cameroon at the ICC under the 2015 Transition Agreement between Sundance, Cam Iron and Cameroon (amongst other parties).

This arbitration is seated in Paris and primarily concerned with Cameroon's failure to implement the exploitation permit that was deemed to have been awarded to Cam Iron in respect of the Mbalam tenement in 2010. Sundance and Cam Iron seek various remedies in these proceedings, including an order of specific performance to compel Cameroon to issue a presidential decree to formalise and give full effect to the Mbalam exploitation permit.

Shortly after commencing these proceedings, Sundance and Cam Iron entered settlement discussions with the Government of Cameroon. To accommodate these discussions, it was agreed that the deadline for Cameroon to file its Answer to Sundance and Cam Iron's Request for Arbitration would be extended. The last of these agreed extensions is due to expire on 30 November 2021.

The Company wishes to clarify that it will remain open to any reasonable settlement proposals that Cameroon may make. Sundance has always had good relations with the Government of Cameroon and the Company does not intend for the resumption of the arbitration process to preclude future constructive dialogue, provided such dialogue is conducted in accordance with a definitive timetable and does not unreasonably delay the resolution of the Company's claims.

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

### **Western Australian Supreme Court proceedings against AustSino and Mr Ding**

On 11 October 2021, Sundance announced that it had applied to the Supreme Court of Western Australia for pre-action discovery against AustSino and Mr Ding. As Sundance explained in that announcement, the Company has taken this step because Sundance's Board of Directors has serious concerns regarding the conduct of AustSino and Mr Ding in the period leading up to and following the unlawful expropriation of Sundance's iron ore assets by Congo in late November 2020.

On 26 June 2021, AustSino announced that it had signed a Memorandum of Understanding (**MOU**) with Cameroon and Bestway Finance Ltd (**Bestway**), the immediate owner of Sangha. According to AustSino's announcement:

*"[t]he MOU contemplates the parties undertaking project development studies and other work with the aim of negotiating and executing binding agreements for the construction and operation of a Railway linking Mbalam and the Port Kribi, together with multimodal mineral harbour infrastructure that has a capacity of efficiently transporting, handling and processing approximately 100mt of iron ore per annum."*



On 27 June 2021, Sundance released an announcement outlining its concerns with AustSino's announcement of 26 June 2021, which describes a project that is substantially the same as Sundance's Mbalam-Nabeba Project – which Sundance had introduced AustSino into in 2018 as a prospective joint development partner.

Since AustSino's announcement of 26 June 2021, the obvious similarities with Sundance's Project have been confirmed by various public statements by AustSino and Bestway. For example, on 27 August 2021 the Managing Director of Bestway, Alexandre Mbiam, gave an interview with a Cameroonian television station in which he described the consortium that would develop the infrastructure project in Cameroon and the mine in Congo. The parties to the consortium Mr Mbiam described are essentially the same as those who signed a consortium agreement with AustSino and Sundance in February 2019 (**Sundance Consortium Agreement**), as announced to the ASX by Sundance and AustSino on 8 July 2019. Mr Mbiam also referred to MCC, which signed an MOU with AustSino in late 2019 to work with AustSino and Sundance on the Project.

Further, on 22 September 2021, AustSino issued a market announcement in which AustSino said that it had signed a further MOU with China Railway 20 Bureau Group Corporation (**CR20G**) to assist with the formulation of detailed technical and commercial proposals for what AustSino described as its "*New Project*" in Cameroon. CR20G is a related company of China Railway Construction Corporation International Co Ltd, which is a signatory to the Sundance Consortium Agreement.

Sundance's concerns regarding the conduct of AustSino and Mr Ding continue to grow. A key area of concern for Sundance relates to the possibility that AustSino and Mr Ding may have misused confidential information relating to Sundance's Project that was disclosed to them during the period in which they were collaborating with Sundance in relation to the Project. Notably, this body of confidential information included a definitive feasibility study (**DFS**) of the Project, covering both the Mbalam-Nabeba mines and the proposed railway to the port of Kribi in Cameroon. The DFS and other technical materials relating to the Project's port and rail components – which were the product of years of work and over \$400 million worth of expenditure by Sundance – were disclosed to AustSino and Mr Ding on the limited basis that they were strictly confidential and not to be used for any purpose other than collaboration with Sundance on the Project.

Sundance understands that in October 2021, in conjunction with Bestway, AustSino submitted to the Government of Cameroon a feasibility study for the construction of a railway linking the Mbalam site to the port of Kribi. This occurred only four months after AustSino announced, on 26 June 2021, that it was to "*begin necessary studies and advancing discussions to achieve the objectives outlined in the MOU*" with Bestway and Cameroon.

Sundance does not believe AustSino and Bestway could have completed a feasibility study, ready for assessment by the Government of Cameroon, for a project with an estimated capital cost of several billion dollars in just four months without making improper use of Sundance's confidential DFS for the Project (which includes a detailed feasibility study of a railway linking Mbalam to the port of Kribi) and other confidential information, such as later studies which looked at expansion requirements for 100Mtpa.



Through the pre-action discovery process in the Supreme Court, Sundance hopes to find out more about the feasibility study that AustSino has submitted to the Government of Cameroon and the extent to which AustSino and/or Mr Ding may have misused other confidential and proprietary information of Sundance.

On 2 November 2021, the Supreme Court issued programming orders for the pre-action discovery process, including deadlines for the filing of responsive affidavits and submissions by AustSino and Mr Ding. Sundance is pleased with these orders, which contemplate a one-day hearing of Sundance's pre-action discovery application at a time after 28 January 2022. Sundance will resist any attempt by AustSino or Mr Ding to unnecessarily delay the pre-action discovery process.

The Company will provide a further update when the outcome of the pre-action discovery process is known.

Commenting on the litigation update, Sundance Non-Executive Director Giulio Casello said:

*"Sundance worked diligently and constructively with authorities in Congo and Cameroon for many years to develop Mbalam-Nabeba into a world-class iron ore project and the cornerstone of a high-quality iron ore industry in Central Africa, to deliver value to Sundance shareholders and all of the Company's stakeholders, including the people of the region. We were shocked when Congo expropriated the Project, leaving us with no choice but to commence legal action. But the situation has evolved since then and we now have third parties openly claiming the Project as their own and apparently trying to get the benefit of our hard work and significant investment. As these new actors have emerged, we have expanded our legal strategy accordingly."*

*"Sundance is well resourced and committed to taking the three current sets of proceedings to a conclusion to deliver maximum value to our shareholders. Working with our legal team at Clifford Chance, we are learning more every day about who and what was behind Congo's expropriation of our Project and we are confident that the case we are presenting to the arbitrators is compelling. And though we have so far been unable to reach a settlement with Cameroon, we have had productive discussions with the Government and are hopeful these talks will continue even if it is necessary to resume the arbitration process. With respect to AustSino and Mr Ding, we look forward to the hearing of our application in the Supreme Court of Western Australia for pre-action discovery."*

*"We remain confident in our legal position, but we recognise that our pursuit of justice will take time. We thank our shareholders for their continued patience and look forward to updating them as and when we can."*

Clifford Chance partner Dr. Sam Luttrell added:

*"This is no ordinary expropriation. It is a complex case involving at least two foreign governments and a range of private parties, with parallel proceedings before arbitral tribunals in London and Paris and in the Supreme Court of Western Australia."*



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*"It will take time to unravel the events in question but, through the forensic processes of litigation and arbitration, we believe we will be able to get to the bottom of what occurred. At the same time, we will continue to support Sundance in any future settlement negotiations that the Company sees fit to pursue."*

**ENDS**

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