

Court upholds decision on Kumba subsidiary's rights

■ Sishen, ArcelorMittal prices to be renegotiated

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SISHEN Iron Ore Company (SIOC) has won the legal battle to retain its mining right after the Supreme Court of Appeal on Thursday dismissed an application by the government and Imperial Crown Trading (ICT) to have ICT's rights to the Sishen complex reinstated.

The Supreme Court's decision ended the three-year squabble involving some of the biggest mining houses and upheld the 2011 judgment of the North Gauteng High Court.

The Supreme Court found that ArcelorMittal South Africa, which had 21.4 percent of the Sishen mining right, had retained the right to convert its old order right to a new order mining right before midnight on April 30, 2009 but had failed to do so.

"This means that SIOC had the exclusive right to mine iron ore at the Sishen Mine," SIOC, a subsidiary of Kumba Iron Ore, said on Thursday. Kumba Iron Ore is a subsidiary of Anglo American.

The Supreme Court found that, as of midnight on April 30, 2009, SIOC became the sole holder of the right to mine iron ore at the Sishen Mine, after ArcelorMittal SA failed to convert its undivided share of the old order mining right.

The companies renewed a supply settlement in December, in which they agreed 4.8 million tons of iron ore would be sold by Kumba to ArcelorMittal SA at \$65 (R600) a ton.

In March 2010, Kumba cancelled a 2001 agreement to supply 6.25 million tons of ore a year at cost plus 3 percent



An excavator loads iron ore into a haul truck at the Sishen open cast mine, operated by Kumba Iron Ore. The Supreme Court of Appeal dismissed an appeal to have Imperial Crown Trading's rights reinstated at the Sishen complex.

PHOTO: BLOOMBERG

from Sishen to ArcelorMittal SA. This was after Kumba said the agreement had lapsed because ArcelorMittal SA failed to renew its mining licence for a portion of the deposit, an argument rejected by the steel maker.

An analyst who spoke on condition of anonymity on Friday said the court decision would pave the way to renegotiate pricing of the agreement. "They are going to renegotiate the price now that the court has made a ruling."

Kumba said the arbitration

date had not yet been agreed on. It said the sale of iron ore to ArcelorMittal SA in the meantime remained under the interim pricing agreement.

The Department of Mineral Resources awarded ICT the 21.4 percent prospecting rights in the Sishen mine in May 2009 when ArcelorMittal SA failed to convert its old order mining right to a new order right.

The directors of politically connected ICT include Archie Luhabe, the former chairman of the Mineworkers' Investment Company; and Jagdish Parekh,

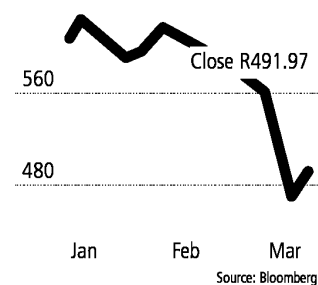
an associate of the Gupta brothers; as well as prominent businessmen Sandile Zungu and Duduzane Zuma, a son of President Jacob Zuma.

As a result of incidents of duplication in the awarding of mineral rights, the Department of Mineral Resources has announced an overhaul of Section 11 of the Mineral Petroleum and Resources Development Act, which deals with the transferring of rights.

On Thursday Kumba shares erased earlier declines to close unchanged at R491.97.

Kumba Iron Ore

Share price, rand Jan - Apr 1



Source: Bloomberg