

South Africa is not ArcelorMittal's only battlefield

Lynley Donnelly

ArcelorMittal South Africa's recent bad performance mirrors that of its parent, which has also announced dismal interim results.

The *Financial Times* reported that ArcelorMittal's 63% fall in net income was driven by tough conditions in the eurozone.

The poor results will put pressure on owner Lakshmi Mittal to cut back the company's European plant network, which employed half of its global workforce but accounted for about a sixth of profits, the *Financial Times* reported.

The company's woes are not confined to the performance of ArcelorMittal South Africa or the group as a whole. The international arm is embroiled in a fight with Kalahari Resources, its fellow shareholder in a joint venture project, Kalagadi Manganese. The project's third partner is the Industrial Development Corporation.

Kalahari recently won a high court bid to force ArcelorMittal to pay R241.3-million to comply with shareholder funding obligations towards Kalagadi.

ArcelorMittal has filed for leave to appeal the judgment and Kalahari has instituted an urgent application to enforce the court order. As the *Mail & Guardian* was going to press, the urgent application was understood to have been granted in Kalahari Resources' favour, with costs.

ArcelorMittal has maintained that the judgment did not address the breach of material obligations under the Kalagadi shareholders agreement and there remained serious concerns over corporate governance.

These included, according to a recent ArcelorMittal statement: "Kalahari Resource's refusal to afford ArcelorMittal and its nominated directors right of access to the books and records of Kalagadi; Kalahari's refusal to embrace joint control principles and to implement proper management as well as financial and internal control; and Kalahari's refusal to adopt and implement corporate governance standards."

Kalahari's chairperson, Daphne Mashile-Nkosi, denied this.

"The judgment in our favour by the court is an indication that the corporate governance failures cited by ArcelorMittal were found to be lack-

ing by the judge. This is based on the evidence that Kalahari presented to counter their allegations," she said.

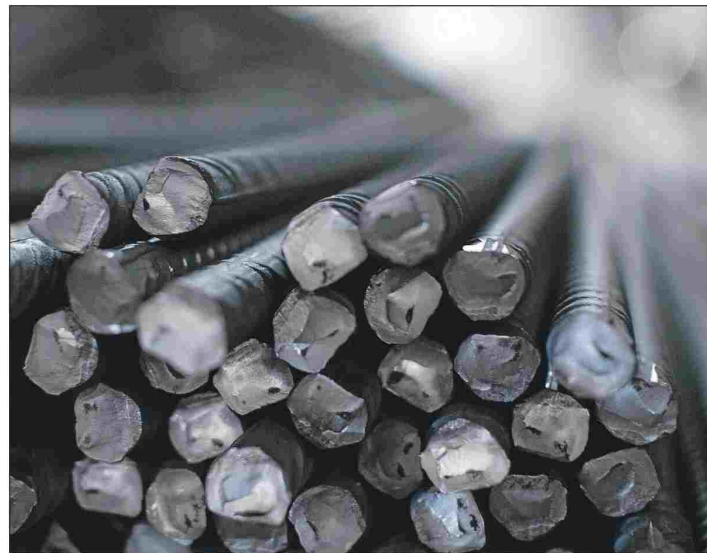
"At the end of the day, it is only ArcelorMittal who can provide a true explanation for their refusal to honour the shareholders agreement."

The judgment said it appeared that ArcelorMittal deliberately withheld funding from Kalagadi. ArcelorMittal claimed that it was not required to pay up, because a relevant mining right had not been ceded to Kalagadi and there was a breach of corporate governance rules.

The parties had begun mediation, but the judgment said ArcelorMittal did little to meet Kalagadi's funding needs. It also did not institute arbitration proceedings to address the alleged breaches.

Mashile-Nkosi argued that the court judgment proved that Kalahari was not in breach of the corporate governance issues, as ArcelorMittal had alleged.

Kalagadi was formed in 2007 as a joint venture between Kalahari and the Industrial Development Corporation. In 2008, ArcelorMittal acquired a 50% stake in the venture. Kalahari retained 40%



Executives of global steel giant ArcelorMittal remain optimistic despite dismal results and costly legal battles. Photo: Michael Buholzer/Reuters

and the Industrial Development Corporation 10%.

Kalagadi is developing a three million tonne manganese mine and sinter plant in Hotazel in the Northern Cape.

Despite ArcelorMittal's appeal, Mashile-Nkosi said Kalahari believed in "allowing the legal process to take its course".

"The delay will not affect the progress of the project," she said.

South Africa appears to be fertile ground for legal wrangling involving ArcelorMittal. Its local arm is in a battle with the department of mineral

resources, Imperial Crown Trading and Kumba Iron Ore over mineral rights granted to Sishen Iron Ore.

ArcelorMittal South Africa chief executive Nonkululeko Nyembezi-Heita would not comment on the Kalahari matter.

Despite a challenging environment, she said, "there isn't any sense from our holding company that their investments in South Africa need a review".

The group's decisions would be informed by a long-range outlook on steel, which, in terms of Africa, was positive, said Nyembezi-Heita.