



## ASX ANNOUNCEMENT

13 March 2024

### Disputes Update

**AVZ Minerals Limited** (ASX: AVZ, OTC: AZZVF) (**AVZ** or the **Company**) provides an update regarding the various disputes related to the Manono Project that are currently the subject of arbitration or court proceedings.

The disputes comprise:

1. **Title Dispute** - the International Center for Settlement of Investment Disputes (ICSID) arbitration proceedings (ICSID Case No. ARB/23/20) commenced by the Company's subsidiaries AVZ International Pty Ltd (**AVZI**), Green Lithium Holdings Pte Ltd (**GLH**), and Dathcom Mining SA (**Dathcom**) against the Democratic Republic of the Congo (**DRC**) in relation to the DRC's failure to procure the grant to Dathcom of an exploitation permit or mining permit (**PE**) in respect of the land the subject of PR 13359;
2. **Dathcom JV Dispute** - the two International Chamber of Commerce (ICC) arbitration proceedings (ICC No. 27720/SP initiated by AVZI and ICC No. 27769/SP initiated by La Congolaise d'Exploitation Minière (**Cominière**) and Jin Cheng Mining Company (**Jin Cheng**) a subsidiary of Zijin Mining Limited (**Zijin**)) in relation to alleged breaches of the shareholders' obligations under the Dathcom joint venture agreement dated 27 January 2017 as amended from time to time (**Dathcom JVA**), and the purported termination of the Dathcom JVA by Cominière (on the basis of which PR 13359 was purportedly transferred to Cominière and an application to wind-up Dathcom was brought by Dathomir Mining Resources SARLU (**Dathomir**));
3. **Jin Cheng Dispute** - the ICC arbitration proceedings initiated by Jin Cheng against AVZI in relation to an alleged abuse of majority position by AVZI in respect of its failure to acknowledge the sale of 15% of the shares in Dathcom from Cominière to Jin Cheng (which AVZI contends was void because it was entered into in breach of AVZI's pre-emptive right);
4. **Dathomir Dispute** - the two ICC arbitration proceedings brought by AVZI against Dathomir in relation to Dathomir's attempts to challenge the sale to AVZI of its 15% shareholding in Dathcom; and
5. **Fat Tail Dispute** - the proceedings commenced by Fat Tail Holdings Pty Ltd (**Fat Tail**) against the Company and two of its directors (Mr Nigel Ferguson and Mr John Clarke) in the Supreme Court of Western Australia alleging oppressive conduct and misleading and deceptive conduct.

This announcement contains updates in relation to the status of these disputes.

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Technical Director: Graeme Johnston

Non-Executive Director: Rhett Brans

Executive Director: Serge Ngandu

Non-Executive Director: Casta Tungaraza

Non-Executive Director: Salome Sijaona

ASX Code: AVZ

OTC Code: AZZVF

## Title Dispute

On 16 January 2024, the ICSID tribunal made interim orders to protect AVZI, GLH and Dathcom's rights pending the final outcome of the Title Dispute including orders that the DRC take the necessary steps to reflect that Dathcom is the holder of PR 13359 (**Interim Orders**).<sup>1</sup>

It is noted that the reinstatement of PR 13359 in the name of Dathcom excluded the northern portion of PR 13359 which Cominière purportedly relinquished to enable the grant of PR 15775 to Manono Lithium SA<sup>2</sup> (a joint venture between Cominière and Zijin). The ICSID tribunal declined to deal with title to the northern area on an interim basis because it affected the interests of Manono Lithium SA. Dathcom's title to the northern area remains to be determined in the substantive proceedings (together with final confirmation of Dathcom's title to the balance of PR 13359).<sup>3</sup>

The Interim Orders are binding on all parties and took effect immediately but the parties were invited to provide comments on the implementation of the Interim Orders.

The DRC has not yet complied with the Interim Orders. In its comments, the DRC presented new arguments directed to achieving a cancellation of the Interim Orders (rather than provide comments on their implementation).

The ICSID tribunal has responded by reminding the DRC that it is bound by the Interim Orders and indicating that it will, in due course, draw the appropriate conclusions from any failure to comply with the Interim Orders. The ICSID tribunal also invited AVZI, GLH and Dathcom to provide submissions as to the basis upon which they contend they are entitled to be paid penalties in respect of any failure to comply with the Interim Orders.

AVZI, GLH and Dathcom subsequently filed a motion requesting the ICSID tribunal make financial penalty orders for non-compliance with the Interim Orders.

In the substantive proceedings, the next procedural step is for the AVZI, GLH and Dathcom to file their statement of claim by 20 March 2024.

The acceptance of jurisdiction by the ICSID tribunal to hear the claim coupled with the ICSID tribunal's acceptance that it had power to compel the reinstatement of title on an interim basis bodes well for the prospects of this claim but the Company will await receipt of the DRC's statement of defence before commenting further on the merits.

The Company notes that its preference remains to achieve a negotiated resolution with the DRC but understands that the ability of the DRC to engage in negotiations is restricted until a new cabinet is formed following the Presidential election.

## Dathcom JV Dispute

As announced on 8 May 2023, AVZI obtained emergency orders restraining Cominière from taking steps to implement its purported termination of the Dathcom JVA and ordered that Cominière pay to AVZI a fine of €50,000 per day for any non-compliance with that emergency order.<sup>4</sup>

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<sup>1</sup> Refer to ASX announcement dated 18 January 2024 titled 'AVZ Successful in ICSID Interim Measures'.

<sup>2</sup> Manono Lithium SA is a joint venture between Cominière (39%) and Jinxiang Lithium Limited (61%) which is a subsidiary of Zijin Mining Ground Company Ltd, a Chinese group. Jin Cheng is also a subsidiary of Zijin Mining Ground Company Ltd.

<sup>3</sup> Refer to ASX announcement dated 18 January 2024 titled 'AVZ Successful in ICSID Interim Measures'.

<sup>4</sup> Refer to ASX announcement dated 8 May 2023 titled 'Favourable Ruling in ICC Emergency Arbitration Proceedings against Cominière'.

As announced on 17 November 2023, AVZI obtained further emergency orders restraining Cominière from conducting exploration or mining within the boundaries of PR 13359 or PR 15775 and ordered that Cominière pay a fine to AVZI of €50,000 per day for any non-compliance with that emergency order.<sup>5</sup>

AVZI has now applied to the ICC for a partial award seeking to liquidate (i.e. have paid) the accrued fines in respect of both emergency orders.

The next steps in the proceedings are:

- in relation to the liquidation of the fines, the parties must exchange written submissions and then a hearing will take place on 3 April 2024; and
- in relation to the AVZI claim against Cominière (ICC No. 27720/SP), AVZI must submit its statement of claim by 30 April 2024; and
- in relation to the Cominière and Jin Cheng claim against AVZI (ICC No. 27769/SP), there is a procedural hearing on 29 May 2024 after which the ICC tribunal will determine whether it is appropriate to bifurcate the proceedings with a first hearing in respect of jurisdiction (as, among other things, AVZI contends the ICC does not have jurisdiction in respect of the Jin Cheng claims in this matter) and a second hearing in respect of the merits.

Based on the material that has been filed in the proceedings to date and having regard to the failure by Cominière to comply with the emergency orders, the Company remains confident that it will prevail in relation to this dispute.

### **Jin Cheng Dispute**

AVZI's jurisdictional challenge was heard on 5 and 6 October 2023, at which AVZI presented its case that the sale of the 15% of the shares Dathcom was ineffective, either due to the breach of AVZI's pre-emptive right under the Dathcom JVA or due to the circumstances in which that agreement was entered into by Jin Cheng and Cominière some of which were addressed in the IGF Report dated 30 September 2022.<sup>6</sup>

The Company is still awaiting the decision of the ICC tribunal in respect of this hearing which it understands is imminent.

Based on the material that has been filed in the proceedings to date and having regard to the hearing on 5 and 6 October 2023, the Company remains confident that it will prevail in relation to this dispute.

### **Dathomir Dispute**

The Dathomir Dispute comprises two separate proceedings:

- ICC proceedings (ICC No. 27425/SP) were instituted by AVZI to obtain an order confirming that it validly acquired a further 5% shareholding in Dathcom pursuant to an agreement executed in 2019 (**2019 SPA Proceedings**); and

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<sup>5</sup> Refer to ASX announcement dated 17 November 2023 titled "AVZ Successfully Restrains Cominière and Additional ICC Arbitration Updates".

<sup>6</sup> Refer to ASX announcement dated 27 September 2023 titled 'Arbitration Proceedings Update'.

- ICC proceedings (ICC No. 27401/SP) were instituted by AVZ and AVZI to obtain an order confirming that AVZI validly acquired a further 10% shareholding in Dathcom pursuant to an agreement executed into in 2020 (**2020 SPA Proceedings**).

In the 2019 SPA Proceedings, Dathomir's jurisdictional challenge was heard on 19 January 2024 during which the parties addressed the issue of whether AVZ executed the 2019 agreement on behalf of AVZI. The Company is awaiting the ICC tribunal's decision in respect of this hearing.

As announced on 19 December 2023, in the 2020 SPA Proceedings, the ICC tribunal made emergency measures requiring Dathomir to preserve the status quo pending the outcome of the 2020 SPA Proceedings including by withdrawing its application before the Commercial Court of Lubumbashi seeking the winding-up of Dathcom.<sup>7</sup> Dathomir has indicated to the ICC tribunal that it will withdraw its application at the next procedural hearing scheduled to take place before the Commercial Court of Lubumbashi on 25 March 2024.

Furthermore, in the 2020 SPA Proceedings:

- Dathomir filed its defence on 4 March 2024; and
- AVZ and AVZI are required to file their Reply on 21 May 2024.

Based on the material that has been filed in the proceedings to date the Company remains confident that it will prevail in the 2019 SPA Proceedings and 2020 SPA Proceedings.

### **Fat Tail Dispute**

As announced on 18 December 2023, Fat Tail filed an originating process on Friday 15 December 2023 commencing proceedings in the Supreme Court of Western Australia against the Company and two of its directors, Mr Nigel Ferguson and Mr John Clarke (the **Defendants**). Fat Tail alleged, among other things, that the Company engaged in oppressive conduct against shareholders.

More particularly, Fat Tail alleges that, during the months of March to May 2022, AVZ did not adequately disclose matters relating to its application to convert PR 13359 into a PE and the circumstances surrounding Mr Ferguson's resignation from AJN Resources Inc.. Fat Tail alleges, in AVZ's view without any apparent basis, that such actions were contrary to its, and other shareholders', interests.

Having previously been put on notice that the Defendants considered Fat Tail's claims to be materially deficient, Fat Tail filed its third iteration of its statement of claim on 27 February 2024. AVZ has put Fat Tail on notice it considers that the statement of claim still fails to articulate a reasonable cause of action.

AVZ denies these allegations and maintains that its disclosure was appropriate. AVZ will continue to vigorously defend these claims. On 29 February 2024, the Company filed its defence against Fat Tail.

The next substantive procedural step is for Fat Tail to file any reply by 28 March 2024.

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<sup>7</sup> Refer to ASX announcement dated 19 December 2023 titled 'AVZ Successfully Restrains Dathomir'.

*This announcement was authorised for release by the Board of Directors of AVZ Minerals Limited.*

For further information, visit [www.avzminerals.com.au](http://www.avzminerals.com.au) or contact:

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## FORWARD LOOKING INFORMATION

This announcement contains certain forward-looking statements and comments about future events. Forward looking statements can generally be identified by the use of forward-looking words such as 'expect', 'anticipate', 'likely', 'intend', 'should', 'could', 'may', 'predict', 'plan', 'propose', 'will', 'believe', 'forecast', 'estimate', 'target' and other similar expressions within the meaning of securities laws of applicable jurisdictions. Indications of, and guidance on, future earnings or financial position or performance are also forward-looking statements.

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