

# Churchill Mining loses ICSID case v the Republic of Indonesia

Churchill Mining {AIM: CHL} have been informed by the ICSID based in Washington that they have lost the forgery case v the Republic of Indonesia in respect of their mining exploration licences for thermal coal, previously issued to an associate company.

Churchill lose in forgery case v ROI, where to now for the company?

Churchill Mining are an Australian based AIM listed company, engaged in the exploration and development of a thermal coal property in East Katai, located in East Kalimantan, Indonesia.

In 2011 their exploitation licences for East Katai were discovered to hold over 3.2 billion tons of thermal coal, with a value at the time of over \$3 billion. At that point you had a junior miner listed on AIM in possession of billions of dollars worth of resources, worth many multiples of their market cap, which was a huge success story, and a rare one for the AIM mining sector.

At that point you had to fear the green eyed monster didn't arrive to try and plunder the spoils that had not been previously thought to exist, but unfortunately it did. The ROI took back the licences citing such issues as mining in

forestry protected areas, and forged licences. CHL were not mining at all, just exploring, and the licences were held by their local partner, Ridlatama.

Ridlatama, had possession of 34 licences that the tribunal found to be “forged”, and therefore not valid. The Republic of Indonesia therefore cancelled the licences and withdrew CHL’s licence to develop and mine their discovery.

Churchill took the ROI to the International Centre for settlement of Investment Disputes (ICSID), in Washington D.C. in the hope that they would be handed back the licences.

Their case looked to be strong, there weren’t any problems before the valuable resources was discovered, so you hoped the tribunal would find in their favour.

The ROI made a statement that the licences were forged, and so the tribunal considered evidence from both sides, with the ROI failing to produce some vital documents and a key witness, yet somewhat surprisingly ICSID decided they were forged, and found against Churchill, awarding costs of \$9 million to the ROI in the process.

CHL now have to consider whether to appeal and request a stay of the costs, or accept defeat, and presumably go into administration, as the \$9 million cost award greatly exceeds their roughly \$1 million in treasury, and one cannot see them being able to raise money to pay the ROI’s costs in a losing court case with no assets at all!

This is a very sad case, following hard on the heels of OXUS Gold, another tribunal decision that looks suspect when the available evidence is perused.

As an investor, all you can do is hope that the jurisdiction your company is located in is an honest and decent one, and respects international norms of governance. In this respect, maybe UK investors won't be rushing to invest in companies located in either Indonesia nor Uzbekistan (OXUS) anytime soon?

Clearly we only hear the side of the story in our media, in respect of our company, but the recent verdicts of the ICSID look possibly political rather than just, and one can only imagine the politics involved in the background if that is the case!

Caveat emptor seems very appropriate in the more exotic countries mining companies work in, and for that reason I normally restrict myself to North, Central, and South America, select African countries, and Australia.