ICC Tribunal Dismisses Sundance's Arbitration Claim against the Republic of Congo

By:

Mawuto Tossa

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An International Chamber of Commerce (ICC) tribunal dismissed Sundance's arbitration claim against the Republic of Congo (Congo Brazzaville), the Australian-headquartered mining company confirmed in a statement released on 27 January 2026. According to the statement, the tribunal, which operated under the ICC Arbitration Rules 2021, issued its final decision following a hearing held in Paris in November 2024 and subsequent post-hearing submissions.[1] The tribunal determined that "Congo had a legitimate basis for revocation of Sundance subsidiary Congo Iron's exploitation permit due to non-development of the project in the period 2016-2018 and, consequently, all claims by Sundance and Congo Iron have been dismissed."[2]

The Mbalam-Nabeba Iron Ore Project, which spans the border between Cameroon and the Republic of Congo, was a flagship initiative that Sundance sought to develop successfully completing the Definitive Feasibility Study for

Stage One and Pre-Feasibility Study for Stage Two in 2011. The Australian investor planned to construct a 510 km rail line dedicated to transporting iron ore through Cameroon, along with a 70 km rail spur line connecting the Nabeba mines in Congo. A dedicated mineral export terminal capable of handling bulk carriers of up to 300,000 tonnes was also envisioned.[3] The project Mbalam-Nabeba Iron Ore Project was intended to deliver substantial economic benefits to the people of Congo and Cameroon, while creating significant value to Sundance's shareholders.[4] However, Sundance failed to meet the project development timeline.

This prompted the Congolese government to revoke the permit held by Sundance subsidiary Congo Iron in December 2020, citing insufficient progress in developing the Nabeba iron ore project and failing to pay royalties. The Nabeba permit was subsequently awarded to Shanga Mining Development, a subsidiary of the Hong Kong company Bestway Finance, Ltd., triggering the dispute. In response, Sundance filed an arbitration claim against the Congo government, seeking 8.8 billion US dollars in damages over the Nabeba-Mbalam Iron Ore Project, alleging unlawful expropriation.

The arbitration was registered as ICC Case No. 26145/DDA/AZO (C-26344/AZO) on 25 March 2021. The claimants, Sundance Resources Limited and Congo Iron were represented by Clifford Chance's Perth Office, including Enric Soudaiha, Joshua Banks, and Rose Cuenin. The Republic of Congo was defended by teams from Jeantet-Avocats, Cabinet Grossmann, Curtis, and Mallet-Prevost, Colt & Mosle LLP, including Thierry Lauriol, Martin Tavaut, Joséphine Hage Chahine, Kevin Grossmann, Remy Lerner, Marie-Claire Argac, Simon Batifort, and Dori Yoldi.

Following the arbitral decision, Sundance said it was "shocked" by what it described as a "poorly reasoned ICC Award."[5] According to David Porter, the company's Non-Executive Chairman, "the Tribunal members made fundamental errors and failed to allow us to present our case on issues that, as it turned out, were central to their decision-making process (…) The Tribunal seemed to have misunderstood fundamental aspects of how mining and the iron ore market work. The Tribunal also seemed to come to conclusions that were not based on the parties' submissions."[6]

Sundance stated that a review of the award, conducted with assistance of a King's Counsel, identified serious irregularities that resulted in injustice to the company and is subsidiary. Dissatisfied with the ICC tribunal's award on the grounds that it contains irregularities under section 68 of the 1996 English Arbitration Act, Sundance decided to challenge it before the High Court of England and Wale.[7] The company is seeking to have the award set aside and is represented in these proceedings by Siddharth Dhar KC from Essex Court Chambers, instructed by Clifford Chance.

A parallel arbitration claim has been filed by Sundance against the Republic of Cameroon relating to the same Mbalam-Nabeba project for similar reasons. This dispute arose from the decision of the Cameroonian government to turn to other partners, after Sundance's failure to develop the Mbalam iron ore project, which included the construction of a railway connecting Mbalam to the port of Kribi, the exploitation of the mine, and the establishment of a mineral terminal at Kribi's deep-water port. In fact, despite several extensions of the exploration permit, Sundance's negotiations with other investors to secure financial and technical support for the development of the project were unsuccessful.[8] Consequently, in June 2025, the Cameroonian government decided to sign a Memorandum of Understanding with AustSino Resources Group Ltd and Bestway Finance, two China-linked groups.[9]

Since August 2022, the exploitation permit has been awarded to Cameroon Mining Company (CMC) SARL, a subsidiary of Bestway Finance, prompting Sundance to initiate international arbitration over alleged illegal expropriation. The Company reported progress in this separate and pending ICC arbitration,[10] with an award expected to be rendered by the arbitral panel between February and March 2026. The Company emphasized that "as this case is independent of the Congo proceedings and before a different Tribunal", it "expects the outcome of the Congo proceedings not to influence or affect the outcome of the Cameroon proceedings."[11]

Footnotes

[1] Global Arbitration Review, Congo defeats Australian's miner mega-claim, 23 January 2026, available at https://globalarbitrationreview.com/article/congo-

defeats-australian-miners-mega-claim

[2] Sundance Resources Ltd, Update on Congo Proceedings, 27 January 2026, available at https://www.sundanceresources.com.au/irm/pdf/b9fd655a-9e5b-4fac-9824-a1f7e5b8c689/UPDATE-ON-CONGO-PROCEEDINGS-CLAIM-DISMISSED-SUNDANCE-CHALLENGES.pdf?Platform=ListPage

[3] Sundance Resources Ltd, The Mbalam-Nabeba Project, available at https://www.sundanceresources.com.au/irm/content/the-mbalam-nabeba-project.aspx?RID=217

[4] Dippih Sing, ICC tribunal rejects arbitration claim against Congo, 28 January 2028, available at https://www.africanlawbusiness.com/news/icc-tribunal-rejects-arbitration-claim-against-congo/

[5] Sundance Resources Ltd, Update on Congo Proceedings – Claim Dismissed; Sundance Challenges, 27 January 2026, available at https://www.sundanceresources.com.au/irm/pdf/b9fd655a-9e5b-4fac-9824-a1f7e5b8c689/UPDATE-ON-CONGO-PROCEEDINGS-CLAIM-DISMISSED-SUNDANCE-CHALLENGES.pdf?Platform=ListPage#:~:text=A%20Tribunal%20constituted%20under%20

[6] *Ibid.*

[7] *Ibid.*

[8] Amina Mallou, Mbalam-Nabeba project : Sundance loses ICC case against Congo, presses Cameroon, available at https://www.businessincameroon.com/mining/2801-15670-mbalam-nabeba-iron-project-sundance-loses-icc-case-against-congo-presses-cameroon

[9] Mining Review Africa, AustSino’s MoU with Cameroon raises Sundance’s heckles, 28 June 2021, available at https://www.miningreview.com/base-metals/austsinos-mou-with-cameroon-raises-sundances-heckles/

[10] Sundance Resources Limited and Cam Iron SA v. Republic of Cameroon, ICC Case N°26291/AZO, available at https://jusmundi.com/en/document/other/en-sundance-resources-limited-and-cam-iron-sa-v-republic-of-cameroon-sundance-resources-press-release-on-the-

update-on-legal-proceedings-against-congo-cameroon-and-austsino-saturday-15th-april-2023

[11] Sundance Resources Ltd, Update on Congo Proceedings – Claim Dismissed, Sundance Challenges, 27 January 2026.

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