



ASX ANNOUNCEMENT

30 October 2023

## Response to Zijin Announcement and Filing of Emergency Order Application

AVZ Minerals Limited (ASX: AVZ, OTC: AZZVF) (AVZ or Company) provides the following update to the Company's shareholders (Shareholders).

AVZ refers to the announcement by Zijin Mining Group Co Limited (Zijin) on 23 October 2023 to the effect that its subsidiary Jinxiang Lithium Limited (Jinxiang) entered into a joint venture with La Congolaise d'Exploitation Minière (Cominière) pursuant to which Jinxiang holds 61% of the shares in Manono Lithium SAS which allegedly holds PR 15775 over a northern portion of the Manono Project.

The Company, via its subsidiaries, has resolved to file an emergency arbitration application under ICC rules seeking injunctive relief against Cominière to enjoin the state owned company from conducting, directly or indirectly, any transaction regarding PR13359 and PR15775 and, generally, to perform certain actions with a view to maintaining and preserving the rights of Dathcom Mining SA (Dathcom) while the arbitration on the merits is pending.

The application will also seek an increase of the amount of the daily penalty ordered by the Emergency Arbitrator's Order dated 5 May 2023 (please refer to Company's announcement dated 8 May 2023 'Favourable Ruling in ICC Emergency Arbitration Proceedings against Cominière'). Cominière's recent actions purporting to terminate the Dathcom joint venture agreement dated 17 January 2017 as varied from time to time (Dathcom JV), to act as the holder of PR13359, and to attempt to monetise said mining rights with third parties all constitute violations of the terms of the Emergency Arbitrator's Order dated 5 May 2023.

The Company also makes the following observations.

### 15% shareholding in Dathcom

Zijin states that its payment to Cominière of USD33.44 million for the 15% of the shares in Dathcom will be "transferred to the JV for offsetting" against consideration payable by Jinxiang for its 61% interest in Manono Lithium SAS.

This acknowledgement that the purchase price for the 15% of shares in Dathcom has been redeployed is inconsistent with Zijin's claim that its subsidiary Jin Cheng Mining Company (Jin Cheng) is a 15% shareholder of Dathcom.

It is notable that this announcement was made shortly after the hearing in ICC case 26986/SP on 5 and 6 October 2023 at which AVZ presented its case that the sale of the 15% of the shares in Dathcom was ineffective, either due to the breach of AVZ's pre-emptive right under the Dathcom JV 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 November 2022.

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Non-Executive Director: Salome Sijaona

ASX Code: AVZ

OTC Code: AZZVF

It appears that Zijin and Cominière have conceded that AVZ is correct and that Jin Cheng is not and has never been a shareholder of Dathcom.

The ICC Tribunal has been informed of Zijin's announcement the terms of which vindicate AVZ's position in the arbitration.

### **Northern Area**

Having apparently abandoned its attempt to appropriate a 15% shareholding in Dathcom, Zijin is instead pursuing, in collusion of Cominière, a new strategy involving the appropriation of the northern area of the Manono Project.

The allegation that Manono Lithium SAS holds PR 15775 over the northern portion of the Manono Project is without any legal foundation.

This northern area includes the Carriere de l'Este, Malata and Kahungwe orebodies, the rebuilt Colline Manono construction camp and administrative centre as well as the Dathcom core yard and core farm that hosts the sample library.

AVZ maintains that Dathcom is the holder of PR 13359 in respect of the entire Manono Project (including the northern area) and the applicant for an exploitation licence (**PE**) in respect of that land.

AVZ has taken advice and is confident of its position. The purpose of the ICSID proceedings which were commenced by AVZ on 8 May 2023 and registered on 8 June 2023 is to authoritatively establish this.

To date AVZ has endeavoured to avoid ventilating its position publicly in case this was perceived as critical of particular Government institutions in the DRC.

Unfortunately, the Fat Tail Nominees have sought to construe the lack of information available in relation to AVZ's position as reflecting a lack of merit and instead assume without, any apparent understanding of DRC Law, that outcomes procured by Zijin and Cominière were lawful and effective.

With respect to AVZ's position, it should be noted that:

1. the mining tenement register maintained by CAMI operates to give notice to the public of decisions under the Mining Code regarding mining tenements but the recording of a decision in the register does not have any legal effect and does not otherwise serve to validate decisions which were contrary to the Mining Code;
2. the ministerial decrees dated 28 January 2023 cancelled the ministerial decrees dated 7 April and 25 April 2022 and restored the status quo that Dathcom is the holder of the PR 13359 and applicant for the PE over the entire Manono Project;
3. the decision by the High Court of Kalemie on 3 May 2023 ordering CAMI to register PR 13359 in the name of Cominière is contrary to law because:
  - it is based on the fact that the Dathcom JV was validly terminated which is incorrect (and will be considered by the arbitral tribunal in ICC Case 27720/SP);
  - a valid termination of the Dathcom JV would not provide any legal basis to transfer PR 13359 to Cominière;
  - Dathcom was not given an opportunity to be heard and had to call for a re-hearing (*tierce-opposition*) which is pending; and
  - the High Court of Kalemie has no jurisdiction to order the transfer of the PR;

4. the ministerial decree dated 12 October 2023 which purportedly extended the term of PR 13359 to 27 December 2027 is contrary to Article 49 of the Mining Code which provides that the term of PR 13359 (which would otherwise have expired on 27 December 2021) is extended indefinitely until the application for the PE is determined; and
5. any decision surrendering or waiving rights in respect of the northern portion of PR 13359 or transferring the northern portion of PR 13359 is contrary to the Mining Code because only the proper holder of PR 13359 is lawfully entitled to take such steps.

It follows that PR 13359 held by Dathcom continues in force in respect of the entirety of the Manono Project and that PR 15775 could not be lawfully granted to Manono Lithium SAS in respect of the northern portion of the Manono Project.

This remains to be authoritatively determined in the ICSID proceedings. AVZ is seeking to uphold the rule of law in the DRC and the suggestion by the Fat Tail Nominees that the ICSID proceedings are unnecessary or misguided is not correct.

It is of concern that some government officers appear to have been procured to make decisions related to PR 13359 and PR 15775 which are contrary to law and would, if given effect, operate to appropriate Dathcom's lawful rights for the benefit of others. Unless immediate action is taken by the State to correct relevant records to reinstate PR 13359 in the name of Dathcom and over the entirety of the Manono Project, AVZ will have no choice but to seek emergency relief from ICSID.

Nigel Ferguson and his AVZ team remains in the DRC and continues with their efforts to progress the negotiation of the MOU with the State. Execution of the MOU by AVZ and the State will provide a pathway for resolution of the ICSID proceedings without further escalation.

In procuring the purported grant of PR 15775 to Manono Lithium SAS, Cominière has acted in disregard of the Mining Code. Moreover, Cominière has acted in contravention of the Dathcom JV as well as the emergency order of the ICC dated 5 May 2023, the latter of which seeks to preserve the status quo including by prohibiting Cominière from taking steps to implement its purported termination of the Dathcom JV.

AVZ will update Shareholders regarding the outcome of its emergency relief application before the ICC once the outcome is known.

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

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