

**2 December 2015**

**AIM: CHL**

## **CHURCHILL MINING PLC**

("Churchill" or "the Company")

### **ICSID Arbitration Update – Completion of post-hearing briefs**

The Directors of Churchill (AIM: CHL) wish to provide an update on the international arbitration case the Company and its wholly owned subsidiary Planet Mining Pty Ltd ("Planet") are pursuing against the Republic of Indonesia ("Indonesia") at the International Centre for Settlement of Investment Disputes ("ICSID") based in Washington DC. The arbitration before the ICSID Tribunal ("Tribunal") arises from the unlawful revocation by Indonesia of the exploitation mining licences relating to the East Kutai Coal Project in East Kalimantan ("EKCP"), Indonesia, in which Churchill and Planet held a 75% interest through their relationship with the Ridlatama Group ("Ridlatama").

Indonesia's Application for Dismissal of the arbitration case on the grounds of document authenticity ("dismissal application") was heard in Singapore between 3 and 10 August 2015. At the hearing the Company and its solicitors argued that the evidence contradicting the dismissal application was overwhelming. Following the hearing the Tribunal issued Procedural Order 20, in which the Tribunal set out a number of questions to be addressed in the parties' post-hearing briefs. The Tribunal directed the parties to file two post-hearing briefs, the second being a reply. Churchill and Indonesia each submitted their first-round briefs in October 2015 and then filed their reply briefs in November 2015.

Churchill's post-hearing submissions focused on (i) the large and diverse body of evidence (which includes final signed drafts of the disputed general survey licences) to show that the allegedly forged mining licences were in fact authorised by the Regency, (ii) the legal and factual consequences of Indonesia's refusals and failures to produce documents ordered by the Tribunal (for which Churchill has asked the Tribunal to draw adverse inferences against Indonesia), and (iii) the consequences of Indonesia's failure to call as witnesses a number of key Regency officials who were directly involved in the events in question.

Responding to a specific question posed by the Tribunal to the parties, Churchill also made submissions as to the consequences of the refusal of the former Regent of East Kutai, Isran Noor, to attend the hearing. At the beginning of the August hearing, as a result of Mr Noor's refusal to attend, the Tribunal made an order excluding his evidence. This was a significant development because Mr Noor was the person who signed the exploitation licences for the EKCP. Indonesia does not dispute Mr Noor's signatures on these key instruments, but rather alleges that he was tricked or deceived into signing them. Churchill has argued that, without Mr Noor's testimony, there is no convincing evidence to support Indonesia's case that the exploitation licences were the product of deceit (let alone deceit by Ridlatama or Churchill).

In its RNS market release on 4 June 2015, Churchill had noted the fact that Indonesia no longer alleges that Churchill participated in the alleged scheme to defraud Indonesia. In its first-round post-hearing brief, Indonesia changed its case again such that it does now make allegations of forgery and fraud against Churchill (rather than against Ridlatama alone). Indonesia has changed its case in this way despite the fact that, on two separate occasions

before the August hearing, Indonesia represented that it was not accusing Churchill or its officers of fraud or forgery (written representations on which Churchill relied in the preparation of its case). Indonesia's fresh allegations were also not part of the case it presented at the August hearing.

Essentially, Indonesia's fresh allegations focus on a single former Churchill executive (who was not present at the August hearing, and who Indonesia has never requested for cross-examination). In its reply post-hearing brief, Churchill responded to these fresh allegations noting (amongst other things) that despite years of police investigations (the records of which the State was ordered to produce, but failed to do so) not one Churchill (or Ridlatama) employee or officer has ever been charged in connection with this affair. Churchill has also asked that, in any event, the Tribunal declare that Indonesia is barred (by its prior representations referred to above) from changing its case in this respect. The point Churchill has made is that Indonesia's late change of case threatens Churchill's right to procedural fairness.

The filing of the parties' reply post-hearing briefs signals the close of arguments in the document authenticity stage of the proceedings. The Tribunal will now consider the parties' submissions and will in due course hand down its decision. It is not known how long the Tribunal will take to deliver its decision.

Churchill Chairman David Quinlivan commented:

*"We are pleased that oral and written arguments in the document authenticity phase are complete, and we look forward to the decision of the Tribunal. We maintain our position that the Indonesia's allegations of forgery and fraud are baseless. We had insisted Mr Noor come to the hearing, as he is a key figure in this dispute and our counsel had a number of questions to put to him. We are grateful to Mr Noor's predecessor Regent, Awang Faroek Ishak, for his attendance at the hearing and for the apology he made to Churchill. Like Governor Ishak, we too hope that no future foreign investors in Indonesia will receive the treatment Churchill received. Indonesia has a bright future but the reality is a number of foreign investors suffered during the period of regional autonomy, and Churchill is one of them. The sooner this dispute is resolved, the better it will be for all concerned."*

Information on the progress of Churchill/Planet's claim against the Republic of Indonesia can be found at the website of the International Centre for Settlement of Investment Disputes at <https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx> (under cases for "Churchill").

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