INDUSTRIAL RELATIONS

Thumbs Down

Labour Court rules against AMCU in gold strike case

LEANDI KOLVER | SENIOR ONLINE WRITER

The Labour Court has ruled in favour of gold mining companies AngloGold Ashanti, Harmony Gold and Sibanye Gold, making permanent an interim order preventing the Association of Mineworkers and Construction Union (AMCU) from embarking on strike action at some of the companies' operations.

AMCU had, in January, served strike notices detailing its intent to strike at Sibanye's Driefontein mine, Harmony's Kusaselethu and Masimong mines, and AngloGold Ashanti's South African operations.

The strike was called in response to the 2013 wage negotiations that were concluded on September 10, when a two-year wage agreement was reached with the National Union of Mineworkers, Uasa and Solidarity, which represented 72% of employees at that time.

Following the issue of the AMCU strike notices, the Chamber of Mines (CoM), acting on behalf of the companies, made an application to the Labour Court to declare any strike action by AMCU on wages and other conditions of service unprotected.

The Labour Court had initially granted the interim order preventing a strike by the union's members on January 30.

The gold producers, represented by the CoM, last week welcomed the ruling by the Labour Court, which made this interdict permanent.

"The decision brings certainty about the binding nature of the 2013 wage agreement, which is in the best interest of employees, the industry and our country. Historically, the gold industry has always conducted wage negotiations at a centralised level and the process has always been inclusive and fair.

"Going forward, we will continue to bargain in good faith with the elected representatives of employees," CoM chief negotiator Dr **Elize Strydom** said speaking on behalf of the affected gold producers.

Solidarity welcomed the Labour Court's ruling and appealed to AMCU to act in the best interests of its members and the mining industry at large by preventing shafts from being sabotaged, as was the case when a similar provisional injunction was granted by the Labour Court earlier this year.

"The court ruling will prevent the damage to the mining industry from spreading further than the devastating platinum strike. The damage to the mining industry now has to be contained to give this industry time to recover so that, after two years of labour unrest, it can, once again, be put on a sustainable path," Solidarity general-secretary **Gideon du Plessis** said in a statement.

Meanwhile, Werksmans Attorneys director **Anastasia Vatalidis** stated that the Labour Court's decision once again highlighted the challenges faced by minority unions seeking organisational rights as a first step toward collective bargaining.

She said that, in a modern business environment, where it might be impractical to conduct recruitment centrally, branches of companies could be classified as independent workplaces, thereby, potentially requiring employers to accommodate more than one union.

ELIZE STRYDOM
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"While the objective of recognising a union such as AMCU at a particular mine may be genuine, one cannot but wonder at which point multiple union representation in the workplace would justify accommodating further unions, even at the cost of majoritarianism," she said, stating that there was, after all, no correlation between the number of unions granted organisational rights and the quality and effectiveness of the union representation in a particular employer's workplace.

"Bearing in mind that labour relations and, more particularly, the facilitation of trade union representation must be manageable for employers both financially and logistically, perhaps the debate should shift from being one about majoritarianism and increasing the number of unions exercising organisational rights to one around how one can ensure union representation is more effectively utilised," Vatalidis said.

She added that businesses outside the mining sector might soon find themselves bargaining collectively with different unions representing employees at each independent branch.

FERROUS METALS

Exxaro to write down R5.36bn investment in Mayoko project

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DIVERSIFIED mining group Exxaro warned shareholders last month that it would write down its R5.36-billion investment in the Mayoko iron-ore project, in the Republic of Congo (RoC).

After having failed to secure a rail framework agreement and a port memorandum of understanding with the RoC government, and owing to higher-than-expected project development costs following the outcome of a revised concept study for the 12-million-ton-a-year project and a revised ramp-up strategy, the miner has determined that there will be an impairment of its investment in the project.

Speaking to investors and media during a teleconference, Exxaro CEO **Sipho Nkosi** said the results of the concept study indicated that the project was not economically viable, based on revised capital, operational costs and resource and long-term iron-ore price assumptions. "Consequently, the board had met and approved the pretax write-off of an amount up to the original acquisition cost of its investment in the project; the project-related cost capitalised to date, up to a maximum of R5.4-billion; and the sale of all unused assets, such as rail locomotives and wagons."

Exxaro states that the exact quantum of the impairment loss will be communicated as soon as calculations have been finalised.

Meanwhile, the board has decided to stop all future expenditure on the project until such time as a revised and newly negotiated definitive agreement has been concluded on favourable terms, which will support an economically viable project.

As a result of these decisions, Exxaro says it has tried to spend about R300-million during the second half of this year to support the activities required to scale down the project.

The group says it will also actively liaise with the RoC government on the future of the project as well as maintain the current support to the surrounding Mayoko community.

"We will also remain committed to reaching a rail and port solution that will render the project economically viable in a clearly defined timeline," Nkosi said, adding that, if the terms and conditions met in the definitive agreement were favourable, and if the rail and port solution provided for an economically viable project, Exxaro would only then be in a position to consider the next steps regarding the future of the project.

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