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## Cortec demands Sh204.9bn for revoked licence

Photo/ ANDREW KASUKU



**CLEAN UP:** Mining CS Najib Balala inspects Taru Coal Exploration project in Kwale county on May 14. The minister has said he will streamline licensing in the mining industry.

BY LOLA OKULO

CORTEC Mining is seeking \$2.087 billion (Sh204.9 billion) from the government for revoking its licence for the Mrima Hill project in a case filed at an international arbitration institution.

In documents seen by the Star, Cortec has lodged a request for arbitration at the US-based International Centre for Settlement of Investment Disputes accusing the government of confiscating its assets.

This follows cancellation of its special mining licence for exploration in Kwale where it was prospecting for niobium.

"Balala revoked the licence without giving us time to explain," said a source at Cortec.

The suit has been filed by Cortec Mining Kenya, its parent company Cortec Pty and Stirling Capital Ltd.

The investors argue that Kenya violated the Bilateral Investment Treaty signed with the UK in 1966 and ratified in 1967.

The dispute started in August 2013 when Mining Cabinet secretary Najib Balala cancelled Cortec's special mining licence together with permits for 41 other firms in an industry-wide probe. Cortec sued Balala after the revocation but the High Court upheld the CS' decision in a ruling issued in March, dealing a big blow to Cortec's local operations.

Cortec filed an appeal which is pending.

"Since the High Court decision, the state has taken a number of steps without waiting for the final outcome of the Kenyan court process," states the companies in the filings.

In cancellation of its licence issued on April 4, 2008, Cortec argues, the government violated provisions of Section 27 of the Mining Act which states that prior to revocation of a miner's licence, the Commissioner of Mines shall call upon the holder of the right or licence to show cause within a time specified why his right or licence should not be

revoked.

The Sh204.9 billion, according to sources at the firm, has been computed by consultancy firm Deloitte, which includes among other expenses, the percentage of the value of what Cortec has lost for the months it has not been allowed to explore for minerals, given the niobium output potential of the area. The miner also wants the government to pay the costs of the arbitration process.

Cortec maintains that it followed due process in application of its special mining licence.

In 2006, the World Duty Free company lost a case against Kenya at ICSID where it had sued Kenya Airports Authority for breaching a contract entered into in 1989 for exclusive operation of duty free shops at Jomo Kenyatta International Airport.

In February, US energy firm WalAm filed a case against Kenya at ICSID following cancellation of its geothermal exploration licence in 2012 for non performance.

## Nairobi hosts insurance conference

BY STAR REPORTER

INSURANCE leaders and experts are today meeting in Nairobi at a conference that seeks to stimulate growth in the industry.

Participants in the African insurance and re-insurance conference will explore the challenges hindering the pen-

etration of life insurance and solutions that can be offered through effective products, delivery and distribution channels.

Other areas of focus include insurance, emerging cyber risks and application of analytics in making investment decisions.

"The themes for this year's

conference pick up on the increasing optimism as the insurance sector now more than ever positions itself to play a key role in supporting the unprecedented economic growth the continent is witnessing," said Naomi Njoroge, the managing director of Aidem Business Solutions which has organised the event.

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## OBAMA'S VISIT A GOOD ENDORSEMENT FOR KENYA

Barack Hussein Obama is the 44th and current president of the United States, and the first African-American to hold the office. President Obama was born in Honolulu. His mother's family was from Kansas [which is also the setting for one of my favourite films The Wizard of Oz] and his father's family of course hails from K'ogelo, Kenya. I recall the morning we learnt that Barack Obama had won the presidency in November 2008 and there was ecstasy in the air. I remember turning to Nishet and asking:

"Do you feel it?"

I remember thinking how curious that an election so far away could be the catalyst for this mass ecstasy here in Nairobi.

Ambassador Robert F. Godec [who was recently my guest at Mindspeak and is the US Ambassador to Kenya] compared President Obama's visit to Kenya to President John F. Kennedy's to Ireland and I thought to myself 'exactly.' It is a real big moment and I asked Bob Godec: "Its a big deal?"

"Doesn't get bigger than this" he replied.

Some folks complain that he should have come sooner. Its easy to forget that the US economy was cratering in 2008. It was surely a political mission impossible in the first term for the president to be seen to be cavorting across Africa, when jobs were being lost all over America. You could imagine how it would have played on Fox. Images of jobless folk somewhere in the US contrasted with the President landing somewhere in Africa and the caption

"Is this man president of the US of A or the US of Africa?"

The US economy has largely mended, its creating jobs. The president has made the US energy independent and is now in fact the price-setter of oil and that represents a serious geopolitical inflexion point which has advanced US power. For someone whom the right like to characterise as supine [these folks need a "Son et Lumiere" show] he has pushed NATO right up against Vladimir Putin and the pivot to Asia is gaining bite and traction. In fact, history will judge president Obama far more kindly than some of the trenchant contemporary criticism.

The ambassador confirmed that the US's total contribution to Kenya was a \$1 billion a year with the biggest component of that intervention being via the president's Emergency Plan for AIDS Relief programme, which is providing ARVs for more than 700,000 of our citizens.

Alex Chamwada who is putting together a documentary about the Potus's visit keeps asking me;

"What the positive economic spillover from this visit is."

In June 2013 Ben Rhodes [deputy national security advisor for strategic communications & speechwriting] said:

"Frankly, we have heard a high demand signal from the US private sector. What we hear from our businesses is that they want to get in the game in Africa."

Take a look and whether it is GE setting up their sub Saharan Africa headquarters in Westlands, or Dow Chemical who have set up in Riverside, Google and many others, that demand signal about which Ben Rhodes spoke has preceded this presidential visit. The president's visit will crown an affair that began in earnest a little while back. The US economy remains the biggest and most dynamic in the world and therefore closer engagement is a no brainer. AGOA is kicking big as well. North America is responsible for at least half of our inward remittances and bought 66 per cent of our Eurobonds. The ostensible reason for this visit is the the Global Entrepreneurship Summit 2015. This seal of approval around entrepreneurship is well appreciated. There are deep pools of smart capital that our entrepreneurs can tap into.

I can hear someone asking: "But what about the look East policy?"

My answer is we have to look West and to look East. We have two eyes. To look just one way is like poking one of your eyes out. It's really very silly. In order to succeed in this new 21st century, we have to be as globally fluent as this president born in Honolulu of a Kenyan father and an American mother who is on his way to Nairobi.

So karibu Mr President

Readers are advised that this column represents Mr Satchu's personal opinion.