

STEEL DISPUTE

More to Come?

Complaint to competition body on steel surcharge not the last word, Davies says

TERENCE CREAMER | EDITOR
TRADE and Industry Minister Dr **Rob Davies** has confirmed that he has signed off on a letter to the Competition Commission calling for an investigation into

whether or not steel producer ArcelorMittal South Africa's (AMSA's) proposed iron-ore surcharge, which could be implemented from May 1, constituted an "abuse of dominance" under

South African competition law.

He also indicated that the department was working on a range of other interventions in a bid to ensure that the dispute between Kumba Iron Ore (KIO) and AMSA did not have negative consequences on the economy as a whole. "We have done one thing (the complaint to the Competition Commission) and it will not be the last," Davies averred, stressing that the department could not, though, become directly involved in the commercial dispute resolution process.

AMSA announced in late March that it intended to impose a so-called "Sishen iron-ore surcharge" of 10%, or around R600/t, as a way of recouping the difference between the cost-plus-3% iron-ore deal that had hitherto been in place with KIO's Sishen Iron Ore Company (SIOC) and the commercial prices that could be charged, following SIOC's announcement that it had cancelled the supply agreement.

The transition to commercial pricing is itself the subject of a dispute between AMSA and SIOC, precipitated by the fact that AMSA failed to convert its minerals rights in respect of a

21,4% undivided share it held in the Sishen mine by the April 30, 2009, date prescribed in the Mineral and Petroleum Resources Development Act.

The Department of Mineral Resources has since confirmed that AMSA's rights had indeed lapsed and that Imperial Crown Trading 289 had been granted prospecting rights in its place. However, this matter is also the subject of appeal by SIOC, which mines the resource and which applied for mining rights over the same lapsed AMSA rights.

Davies indicated that government was "unhappy" with the proposed surcharge, which appeared to be an attempt by AMSA to impose a "cost on the economy as a whole" for its own commercial misjudgement.

He indicated, too, that AMSA's suggestion that it would repay the surcharge should it prevail in its dispute with KIO was unsatisfactory, as it was not clear how far that repayment could flow. "They say that if they win the case against Kumba, they will give it back. It is not quite clear to whom [they will give it back]. . . . Is it going to go all the way down the value stream?"