

# Botswanan government sued over failed \$300m mine deal

Russian mining company [Norilsk Nickel](#) says it intends to institute legal action against the Botswanan government to recover the \$271m (plus damages and other costs) that they are owed for the sale of a 50% interest in the Nkomati mine in South Africa and \$6.4m for the sale of the Tati mine in Botswana.



Source: [Weekend Post](#)

The action relates to what Norilsk regards as reckless trading by BCL Limited and Investments Proprietary Limited (BCL). The government is the principle shareholder in BCL through its corporate investment vehicle MDCB.

## Reckless trading

In October 2014, Norilsk agreed to sell its operations in Africa to BCL for a total price of \$337m, though that amount was later reduced when Norilsk agreed to price concessions requested by BCL and the government.

The Nkomati deal, announced by BCL as a strategic priority as part of its high-profile Polaris II diversification and investment strategy, was designed to guarantee the long-term future of BCL's operations by securing the supply of concentrate to its smelter in Selebi Phikwe, Botswana. The government was involved in or approved all material decisions relating to this transaction.

In October 2016, Norilsk learned through the media that BCL had been placed into provisional liquidation by the government

in an apparent attempt to avoid its obligations. It says it had tried on numerous occasions, and through numerous channels, to reach a satisfactory and amicable resolution, but none has been forthcoming.

“Norilsk has therefore been left with little option but to pursue a resolution through legal channels,” the company said in a statement.

In its claim, Norilsk asserts that the business of BCL has been carried on recklessly and that the government was party to that recklessness through the actions of individual ministers, MDCB and the government-appointed directors on BCL's board.

## **Assurances**

In addition, it was also aware of BCL's financial situation throughout, and knew or ought to have known that there was no reasonable prospect of it being able to pay the amounts due to Norilsk without support from the government.

Norilsk was also provided with assurances throughout the negotiations for the deal that the government was fully supportive of the Nkomati transaction, and that BCL would perform its obligations in full. Yet, when the time for completion of the deal came, it became apparent that the government had had no intention of supporting BCL and had in fact taken steps which meant that BCL would not be able to perform its obligations.

The notice was served under section 4 of the State Proceedings (civil actions by or against government or public officers) Act and was served on the attorney general of Botswana, the minister of mineral resources, green technology and energy security, and the minister of finance.

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