



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018366

In the matter between:

**SIBANYE GOLD LIMITED**

Primary Acquiring Firm

And

**WITWATERSRAND CONSOLIDATED GOLD  
RESOURCES LIMITED**

Primary Target Firm

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Panel	: Anton Roskam (Presiding Member)
	: Medi Mokuena (Tribunal Member)
	: Merle Holden (Tribunal Member)
Heard on	: 12 February 2014
Order Issued on	: 12 February 2014
Reasons Issued on	: 26 February 2014

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### Reasons for Decision

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#### Approval

- [1] On 12 February 2014, the Competition Tribunal ("Tribunal") unconditionally approved the acquisition by Sibanye Gold Limited of Witwatersrand Consolidated Gold Resources Limited as a going concern.
- [2] The reasons for approving the proposed transaction follow.

## Parties to transaction

- [3] The primary acquiring firm is Sibanye Gold Limited ("**Sibanye**"). Sibanye is a public company listed on the Johannesburg Stock Exchange (JSE) with a secondary listing of its American depositary receipts on the New York Stock Exchange. Sibanye was previously known as GFI Mining South Africa (Pty) Ltd ("**GFIMSA**") and was incorporated and registered as a private company in South Africa in December 2002. Prior to GFIMSA's incorporation, the operations which now constitute Sibanye Gold were owned by Gold Fields Limited ("**Goldfields**"). The mining assets now referred to as the Sibanye Gold assets were unbundled from Gold Fields. Sibanye Gold was thereafter converted from a private to a public company and listed on 11 February 2013 and is not controlled by any single entity.<sup>1</sup>
- [4] The primary target firm is Witwatersrand Consolidated Gold Resources Limited ("**Wits Gold**"). Wits Gold has a primary listing on the JSE, a secondary listing on the Toronto Stock Exchange, and a level 1 ADR program backed by the Bank of New York Mellon. Wits Gold is not controlled by any single shareholder.<sup>2</sup> Wits Gold however controls K2013164354 (Pty) Ltd.

## Proposed Transaction

- [5] In terms of the proposed transaction Sibanye Gold will acquire 100% of the issued share capital of Wits Gold. The intention is for this transaction to proceed by way of a scheme of arrangement, which Sibanye will propose to the board of directors of Wits Gold, which will in turn propose to the shareholders of Wits Gold for a decision.

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<sup>1</sup> See list of largest shareholders on page 6 of the Commission's Report.

<sup>2</sup> See list of largest shareholders on page 8 of the Commission's Report.

## **Rationale**

### *Primary acquiring firm*

- [6] The primary acquiring firm seeks to acquire funds for a further transaction and to deliver returns to its shareholders in order to secure and strengthen the future of its core operations, seeking growth opportunities and securing the future of its Beatrix operations.

### *Primary target firm*

- [7] The transaction will provide shareholders with the opportunity to receive cash considerations for 100% of their holding in Wits Gold, which will allow it to focus on its new objective of becoming a gold producer and take its focus away from early stage mining operations.

## **Relevant Market and Impact on Competition**

- [8] The relevant market is the market for the international production and supply of gold and silver. In line with our previous decisions involving the production and supply of gold and silver we find these markets to be international in scope because all South African Gold is sold to the international bullion banks and the Rand Refinery acts as an agent for most of the South African gold producers in the process.<sup>3</sup>
- [9] There is a horizontal overlap in the activities of the merging parties based on the potential overlap in the production and supply of gold and silver. We find that the proposed transaction is unlikely to substantially prevent or lessen competition given the merged entities minimal market share of less than 2% in respect of the production and supply of gold and 1% in respect of the production and supply of silver.<sup>4</sup>

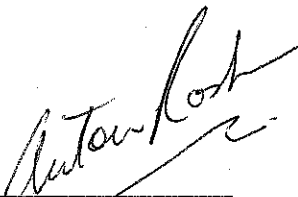
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<sup>3</sup> See Harmony Gold Mining Company Ltd and Pamodzi Gold Free State (Pty) Ltd, 71/LM/Oct09.

<sup>4</sup> See Table 1 and Table 2 on pages 14-16 of the Commission's Report.

## Conclusion

[10] In light of the above we agree with the Commission's conclusion that the proposed transactions are unlikely to substantially prevent or lessen competition in the international market for the production and supply of gold and silver. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.

  
Anton Roskam

26 February 2014  
**DATE**

## Medi Mokuena and Merle Holden concurring

Tribunal Researcher: Derrick Bowles  
For the merging parties: HB Senekel and Darren Smith - ENS  
For the Commission: Lindiwe Khumalo