

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 17/LM/Mar02

In the large merger between:

Islandsite Investments 149 (Pty) Ltd

and

Chlorchem, a division of Sentrachem Limited

Reasons for Decision

APPROVAL

On 17 April 2002 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Islandsite Investments 149 (Pty) Ltd and Chlorchem, a division of Sentrachem Limited, in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The parties

1. The acquiring firm, Islandsite Investments 149 (Pty) Ltd. ("Islandsite"), is a company having been established just for the purposes of this merger and has yet to commence trading.
2. Islandsite is controlled by Investec Bank Limited ("Investec"), which is in turn controlled by Investec Group Limited and ultimately controlled by Investec Holdings Limited. The minority shareholding in Islandsite is to be held by two individuals with expertise in the chemicals industry, namely Dave Whelan, Managing Director of Metsep SA (Pty) Ltd and Chris van Niekerk, CEO of PG Bison.
3. The target firm is Chlorchem, a company engaged in the Chemical industry, a division of Sentrachem Limited ("Sentrachem"). Sentrachem, itself a division of Dow Southern Africa Holdings (Pty) Ltd, of which the ultimate parent company is Dow Chemical Company. ("Dow")¹
4. The parties have informed us that Islandsite has no interest in any of the target firms other than through this transaction.

¹ Dow entered the South African market in 1997 by the acquisition of Sentrachem.

The merger transaction

5. Islandsite is acquiring the business of Chlorchem as a going concern.
6. The Managing Director and management team of Chlorchem will be retained post-merger. The proposed ordinary shareholding of Islandsite post-merger is:

Investec Bank Limited	49.99%
Chris van Niekerk	25.001%
Dave Wheelin ²	25.001%

7. Investec are the holders of all the convertible shares which can be converted to full voting rights on demand. By virtue of this right of redemption, should they choose to convert their shares, they would have an 85% interest in the company, with the minorities and management having a 15% interest. Generally however, they will not get involved in the day to day business of Chlorchem.

Rationale for the Transaction

8. Islandsite is the vehicle by means of which Investec is acquiring the business as an investment opportunity in the chemicals industry. It will on sell the business in due course. Dow Chemical, most active in the plastics and agrosience business, seeks to dispose of a business that is non-core and has no synergies with its other businesses.

The relevant product market

9. Investec is engaged in the banking and financial services sector. It has at present no interest whatsoever in the chemical industry. The other two shareholders are ,subject to the qualification mentioned in relation to Whelan's interest in Metsep, not owners of any significant stake in the relevant industry.
10. The business of Chlorchem consists of Chlor Alkali and Walvis Bay Salt Refiners of Namibia. Basically, Chlorchem manufactures and distributes chlorine and associated products, such as chlorine, caustic soda and salt.

² Managing Director of Metsep SA (Pty) Ltd, which is also involved in the manufacture of hydrochloric acid. On further questioning by the panel it appeared that Metsep is not really a competitor in the industry as its customer base is different. The parties stated that Metsep's business is distinguishable, in that it relates to the recovery and regeneration of hydrochloric acid for essentially the metals beneficiation industry.

Walvis Bay Salt Refiners produces chemical grade and food and agricultural salt.

11. The Commission states that Chlorchem operates in three areas: Chlor Alkali; water treatment (via Ultrafloc) and salt. The chlor alkali market can further be broken down into the following markets:³
- Liquid chlorine
 - Hydrochloric acid
 - Caustic Soda Lye
 - Caustic Soda Flake
 - Sodium Hypochlorite
 - Chlorinated Paraffin
12. There is no product market overlap because neither Investec nor any of its associated companies have any interest in the chlorine or salt markets.

Geographical Market

13. Since there is no product overlap it is not necessary to define the geographical market.

Vertical Integration

14. The parties advise that because there are at present various vertical relationships between Chlorchem and other companies within the Sentrachem group, this merger will be pro-competitive, insofar as it will terminate these relationships. The relationship of Chlorchem with the Sentrachem group will, post-merger, become an arm's length one. Post merger it appears that various companies within the Sentrachem group will become the largest customers of Chlorchem. We express no opinion about the validity of the claimed pro-competitive benefits as the merger raises no vertical concerns.

Conclusion

From the evidence it appears that there are close co-operative relationships between firms in the chlor alkali market, particularly between Chlorchem and Sasol Polymer. We were advised at the hearing that these relationships are longstanding.⁴ The issue for us however is whether the merger, given this history in the industry, facilitates a more co-operative, as opposed to rivalrous relationship between the firms. As it appears that these relationships are struck

³ Its main competitor in the Chlor Alkali market is Sasol Polymer.

⁴ Evidence of Dr Barney Steyn.

at an operational level it appears that the change of ownership will have no bearing on them.

The Tribunal endorses the Commission's finding that this transaction will not substantially lessen or prevent competition in the relevant market and accordingly approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

N.M. Manoim

23 April 2002
Date

Concurring: D. Lewis, U. Bhoola