

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case no.: 28/LM/Jun03

In the large merger between:

Xstrata South Africa (Pty) Ltd

and

Char Technology (Pty) Ltd

Reasons for Decision

Approval

On 23 July 2003 the Competition Tribunal approved the merger between Xstrata South Africa (Pty) Ltd and Char Technology (Pty) Ltd. The reasons are set out below.

The merger

The transaction

This is a vertical transaction whereby Xstrata South Africa (Pty) Ltd (“Xstrata”) will purchase all the issued shares of Char Technology (Pty) Ltd (“Chartech”) from Chartech International Ltd.

The parties to the transaction

Xstrata is a subsidiary of Xstrata (Sweiz) AG, a company registered in Switzerland, which in turn is owned by Xstrata Plc (UK). Glencore, which owns 40% of the share capital of Xstrata Plc and also controls it, will cease its control of Xstrata Plc due to a Capital Management Programme with Credit Suisse First Boston, resulting in Glencore’s shareholding being diluted to 16%. Xstrata’s wholly owned subsidiaries Duiker Mining (Pty) Ltd, which mines steam coal and bituminous coal, and Maloma Colliery Ltd, that mines anthracite, are relevant for purposes of this transaction.

Chartech is a wholly owned subsidiary of Chartech International Ltd, which in turn is wholly owned by Glencore International AG, a company incorporated in Switzerland.

Rationale for the transaction

The transaction will give Xstrata direct control over Chartech's production of char and electrode paste, of which Xstrata is a consumer.

Competition evaluation

Relevant market

As stated above this is a vertical merger. Xstrata is a consumer of char and electrode paste while also supplying anthracite and bituminous coal, the input products used to produce char and electrode paste.

Chartech produces char and electrode paste. Char is a type of coal used as a reductant in pyro-metallurgical furnaces and electrode paste is used as an electrode in energy intensive furnaces in the Aluminium industry, the Ferro-alloy industry and the Calcium carbide industry. To produce electrode paste Chartech consumes anthracite and to produce char it uses bituminous coal. As a result of this transaction Chartech will integrate backwards with Xstrata, a supplier of anthracite and bituminous coal.

The relevant markets are therefore:

- Char
- Electrode paste
- Anthracite
- Bituminous coal

There are three suppliers of char in South Africa, African Fine Carbon with a market share of 54% and Chartech and Carbide, both with a market share of 23%. Xstrata currently consumes Chartech's entire annual production of char and also consumes a further 23% of African Fine Carbon's production.

Three firms account for the total production of electrode paste in South Africa, Ferroveld with a market share of 41%, Chartech with 34% and Rand Carbide with 25%. Xstrata buys all of its electrode paste from Chartech. It consumes 43% of Chartech's annual production and does not have the capacity to use Chartech's entire production of electrode paste. Chartech also sells electrode paste to customers such as Zimasco, Silicon Smelters, Hernic and SA Chrome. According to the Commission only 17% of the total South African production of electrode paste will be removed from the market should Chartech stop supplying third parties.

Chartech currently buys its anthracite from Zululand Anthracite. Maloma Colliery, a subsidiary of Xstrata incorporated in Swaziland, produces anthracite and accounts for approximately 18% of total local anthracite production. Other major suppliers in South Africa are Zululand Anthracite with a market share of 13,9%, Ingwe Coal 13,9% and Benicon Coal 12,5%.

The major suppliers of bituminous coal in South Africa are Graspan Colliery (market share 15%), Black Wattle Colliery (10%), Total SA (6%) and Duiker Mining (4.6%). Chartech currently sources its bituminous coal from Total SA and Graspan Colliery. Should Xstrata require it to purchase from Duiker Mining, its subsidiary, it would result in 5,4% of available bituminous coal being removed from the local market, and will mean that Chartech's competitors still have access to 95,3% of the market.

Effect on competition

In light of the above we agree with the Commission that the vertical integration will not give rise to foreclosure or an exchange of information that would facilitate collusion. The merger will therefore not substantially lessen or prevent competition in the relevant markets.

Public Interest

The transaction does not raise any public interest grounds.

D Lewis

12 August 2003

Date

Concurring: N Manoim, F Fourie