



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM024May22

In the matter between:

Namane Resources Proprietary Limited

Acquiring Firm

and

Ledjadja Coal Proprietary Limited, Resgen South Africa Proprietary Limited, Resgen SA Farms Proprietary Limited, and Waterberg One Coal Proprietary Limited

Target Firm

Panel : Imraan I. Valodia (Presiding Member)
: Mondo Mazwai (Tribunal Panel Member)
: Fiona Tregenna (Tribunal Panel Member)

Heard on : 07 July 2022

Order issued on : 07 July 2022

Reasons issued on : 27 July 2022

REASONS FOR DECISION

Approval

- [1] On 07 July 2022, the Competition Tribunal (“Tribunal”) unconditionally approved the large merger wherein Namane Resources Proprietary Limited (“Namane”)¹ through its subsidiaries intend to acquire certain assets held in the following firms: Resgen South Africa Proprietary Limited (“Resgen SA”); Resgen SA Farms Proprietary Limited (“Resgen SA Farms”); Waterberg One Coal Proprietary Limited (“Waterberg”); and Ledjadja Coal Proprietary Limited (“Ledjadja”) (“collectively referred as the Target Group”). Post-merger, Namane Group will have control of the Target Group.

¹Leopont 557 Properties Proprietary Limited (“Leopont”) and Namane Mining Properties Proprietary Limited (“Namane Properties”) (collectively referred as Namane Group)

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is Namane through its subsidiaries, Leopont and Namane Properties. Leopont and Namane Properties are dormant and have no asset value.
- [3] Namane is ultimately controlled by the following investment trusts: [REDACTED] and [REDACTED].
- [4] Namane owns and operates thermal coal mines in South Africa.

Primary target firm

- [5] The primary target firm comprises the assets that are held in the following firms: Resgen SA (in business rescue); Resgen SA Farms (in business rescue); Waterberg (in business rescue); Ledjadja (in provisional liquidation).
- [6] The Target Group has not commenced any business activities yet. Ledjadja is the holder of the right to a defined coal resource in South Africa's Waterberg coalfield. Resgen SA Farms manages the immovable properties and related aspects of the Boikarabelo coal mine. Resgen SA owns the immovable properties related to the Boikarabelo coal mine and Waterberg holds a prospecting right in the Waterberg Region, Limpopo, South Africa.

Proposed transaction and rationale

Transaction

- [7] The proposed transaction concerns the acquisition by the Namane Group of certain assets of Resgen SA Farms, Waterberg, Resgen SA, and Ledjadja.

Rationale

- [8] [REDACTED]
- [9] [REDACTED]

Relevant market and impact on competition

- [10] The Competition Commission ("the Commission") assessed the national market for the supply of thermal coal and found that a potential horizontal overlap arises because of the proposed merger. This is because, the Acquiring Group operates

thermal coal mines, and the Target Group comprises mining rights and other assets intended for thermal coal mine operations, although it does not have current operations

- [11] The Commission estimates that the merged entity will have a combined market share of approximately 0.9%, with a market accretion of 0.4%.
- [12] In addition, the merging parties will continue to face competition from other significant suppliers such as Glencore Operations South Africa (Pty) Ltd, Seriti, Thungela, Exxaro Coal (Pty) Ltd and Sasol Limited.
- [13] When assessing the proposed transaction, the Tribunal did not find any evidence suggesting that that the relevant market should be broader than the one defined above.

Relevant counterfactual

- [14] The Tribunal assessed the prospects for competition with the proposed transaction against the competitive status quo without the proposed transaction. Based on the above evidence, it concluded that there are no competitive concerns raised.
- [15] No third parties raised concerns regarding the effects of the proposed transaction on competition.
- [16] The Tribunal concludes that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.

Public interest

Effect on employment

- [17] The Commission engaged with the merging parties and respective employee representatives of the merging parties who submitted that the proposed transaction will not give rise to any retrenchments in South Africa.
- [18] We agree with the Commission's findings that the proposed transaction is unlikely to have a negative impact on employment in South Africa.

Effect on the spread of ownership

- [19] Given that the proposed transaction constitutes the sale of certain assets held by the sellers of the Target Group, the Commission found that the proposed transaction will therefore not result in a change in shareholding within the sellers.
- [20] The Commission found that the proposed transaction raised no further public interest concerns, and the Tribunal concurs.

Conclusion

[21] Considering the above, The Tribunal conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Accordingly, we approve the proposed transaction unconditionally.

Signed by: Imraan Valodia
Signed at: 2022-07-27 09:51:25 +02:00
Reason: I approve this document

Imraan Valodia

Prof. Imraan I. Valodia

27 July 2022

Date

Concurring: Ms Fiona Tregenna and Ms Mondo Mazwai

Tribunal case manager : Baneng Naape

For the merging parties : Heather Irvine of Bowman Gilfillan Inc and
Wade Graaff of ENSafrica

For the Commission : Beverley Chomela and Thabelo Masithulela