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Common Market for Eastern
and Southern Africa

CASE FILE No. CCC/MER/6/20/2014

Decision¹ of the Fourteenth Meeting of the Committee of Initial Determination Regarding the Proposed Acquisition of Khumo Bathong Strategic Investments No 2 Proprietary Limited and Star Focus Proprietary 115 Proprietary Limited by Chlor – Arkali Holdings Proprietary Limited

ECONOMIC SECTOR: FOOD ADDITIVES

10th March 2015 – Johannesburg, South Africa

¹ In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible the information omitted has been replaced by ranges of figures or a general description.

Information and Relevant Background

1. On 26th October, 2014, the COMESA Competition Commission (hereinafter referred to as "the Commission") received an application for approval of a transaction involving the proposed acquisition of Khumo Bathong Strategic Investments No 2 Proprietary Limited (hereinafter referred to as "Khumo Bathong") and Star Focus Proprietary 115 Proprietary Limited (hereinafter referred to as "Star Focus") by Chlor – Arkali Holdings Proprietary Limited (hereinafter referred to as "CAH")
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations (hereinafter referred to as "the Regulations"). The primary concern of the Commission with regard to transactions of this nature is whether the proposed transaction between the parties would, or is likely to have the effect of substantially preventing or lessening competition; or would be contrary to public interest in the Common Market pursuant to Article 26 of the Regulations.
3. The Committee of Initial Determination (hereinafter referred to as "the CID") noted that the parties operate in two or more COMESA Member States. This, therefore, means that the regional dimension requirements under Articles 23(3) and 23(5) of the Regulations are satisfied and asserts jurisdiction of the Commission to assess the transaction. The parties to the transaction are currently active in the following COMESA Member States:
 - DRC
 - Swaziland
 - Zimbabwe

The Parties

Chlor- Arkali

4. The acquiring firm, CAH controls various entities in South Africa, Botswana and Namibia and operates through three trading divisions namely Walvis Bay Salt Holdings ("WBSH"), Botswana Ash Proprietary Limited and NCP Chlorchem Proprietary Limited. CAH is controlled by Investec Bank Limited through Investec Principal Investments. CAH, through its subsidiaries, is involved in the production and supply of raw salt, fine food grade salt, chlorine, caustic soda, chlor-arkali derivatives and soda ash. In the Common Market, the company is involved in the supply of fine food grade salt to DRC and Zimbabwe.

Khumo Bathong and Star Focus

5. The target firms, Khumo Bathong and Star Focus, are private companies incorporated in accordance with the company laws of South Africa. Their registered place of business is Grahamstown National Road, Coega, South Africa. Khumo Bathong controls Star Focus which in turn controls Cerebos Limited. Cerebos holds a controlling stake in National Salt Proprietary Limited ("National Salt"). The companies are involved in the production, packaging and supply of salt through exploitation of the Cerebos deposits. In the

Common Market, the companies, through Cerebos, are involved in the supply of fine food grade salt to Swaziland and Zimbabwe.

Nature of the Transaction

6. The proposed transaction occurs pursuant to the Sale of Shares and Claims Agreement ("**the Sale Shares Agreement**") entered into between CAH, Africa Pioneer Limited ("African Pioneer"), Investec Bank Limited, Netherne Investments Proprietary Limited ("Netherne"), Khumo Bathong, Mr. Leonard Mark Chandler, Star Focus and Cerebos.
7. Pursuant to this Agreement, CAH will acquire African Pioneer, Investec Bank Limited and Netherne's entire shareholding in Khumo Bathong. Post implementation of the proposed transaction, CAH will acquire the entire issued share capital in Khumo Bathong, an entity that owns 95% shareholding in Star Focus. In addition, CAH will also acquire Mr. Leonard Mark Chandler's entire shareholding in Star Focus (5%) and will thus control the entire issued share capital in Star Focus.

Competition Analysis

8. The CID established that the transaction would not frustrate the single market objective of the Treaty in that it does not have an appreciable effect on trade between Member States. The CID further established that the food grade salt market in the Common Market is contested by a number of players with manufacturing bases in South Africa and Asia.

Determination

9. The CID determined that the merger does not substantially prevent or lessen competition and is compatible with the Treaty Establishing the Common Market. The CID has therefore decided to approve the transaction.
10. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 10th day of March, 2015.

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Commissioner Alexander J. Kububa (Chairman)

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Commissioner Thabisile Langa (Member)

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Commissioner Chilufya Sampa (Member)