

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

**Case Numbers: 07/IR/Oct99 and
15/IR/Dec99**

In The Matters Between:

Botswana Ash (Pty) Ltd,
Chemserve Technical Products (Pty) Ltd

- and -

American Natural Soda Ash Corp,
CHC Global (Pty) Ltd

Order

Further to Botswana Ash (Pty) Ltd and others' and American Natural Soda Ash Corporation and others' applications for interim relief in terms of section 59 of the Competition Act 1998, and as agreed and proposed by the parties, the Competition Tribunal declares the attached agreement between the parties an order of the Competition Tribunal.

**N.M. Manoim
Presiding Member**

Date

Concurring: D.H. Lewis, D.R. Terblanche

Agreement Between:

**Botswana Ash (Pty) Ltd
("Botash"),**

Chemserve Technical Products (Pty) Ltd,

**American Natural Soda Ash Corp
("Ansac")**

and

**CHC Global (Pty) Ltd
("the parties")**

1. Introduction

It is recorded that,

- 1.1 Botash brought a complaint to the Competition Commission ("the Botash Complaint").
- 1.2 Botash brought an application to the Competition Tribunal for interim relief pending the outcome of the Botash Complaint ("the Botash Interim Application").
- 1.3 Botash has agreed to withdraw the Botash Interim Application if the Botash Complaint is referred to the Tribunal and if the Complaint is finally determined on the following terms and conditions.
- 1.4 The parties and the Commission agree that they wish to bring to final determination the Botash complaint with reasonable expedition.

2. Intervention and participation

- 2.1 Should the Botash Complaint or any other matter arising from the Commission's investigations be referred to the Tribunal by the Commission, Botash and Chemserve will have the right to intervene and fully participate in the Tribunal's proceedings in respect of the matter so referred. In particular Botash and Chemserve in addition to the Complaint referral, if any, filed by the Commission, shall be entitled to file a separate statement of particulars of its complaint and the material facts relevant to its complaint whereafter the rules and time limits (suitably abbreviated to give effect to the intention of the parties and the Commission to expedite the matter) relating to answer and reply in respect of a Complaint Referral will apply mutatis mutandis to such statement of particulars.
- 2.2 In order to expedite the matter and for the purposes of Rules 17 and 18 of the Rules of the Competition Tribunal, Botash shall have the right to file a separate statement of particulars of its complaint prior to the referral of the complaint by the Competition Commission or Botash or Chemserve, as the case may be, in which event Ansac will deliver its answer thereto within 21 calendar days of receipt thereof.
- 2.3 The Tribunal by making this agreement an order of the Tribunal hereby allows such intervention and participation on the terms set out in 2.1 above.

3. Co-operation

- 3.1 The parties will co-operate with the Commission and each other in order to bring the proceedings to final determination with reasonable expedition.

3.2 Further steps to bring the matter to final determination will be agreed by the parties by reference to the issues in dispute, failing with such steps will be determined by the Tribunal.

4. Investigation by the Commission

It is recorded that the Commission has agreed to finalise its investigation of the Botash Complaint and to make a decision to either:

4.1 Refer the Botash Complaint or any matter arising from their investigation to the Tribunal and to file a Complaint Referral by 22 March 2000; or

4.2 not to so refer the Botash Complaint or any matter arising from their investigation in which event it shall issue a Notice of non-referral in respect thereof to Botash by 22 March 2000.

5. Withdrawal of interim applications and costs

5.1 The parties hereby withdraw their application for interim relief on the basis that each party shall pay its own costs. This will apply to and override any earlier order of costs made by the Tribunal in these matters.

5.2 In respect of Ansac's application it will proceed in the same manner, mutatis mutandis.

6. Order of the Tribunal

The parties agree that this agreement is made an order of the Competition Tribunal.