COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 34/LM/Jun01

In the large merger between:

Standard Corporate and Merchant Bank
a division of the Standard Bank of South Africa Limited

and

PROCHEM (Pty) Ltd

Reasons for the Competition Tribunal's Decision

Approval

1. On 26 July 2001 we approved the merger between Standard Corporate and Merchant Bank (SCMB), a division of the Standard Bank of South Africa Limited, and PROCHEM (Pty) Limited (Prochem). Our reasons for approving the merger appear below.

The Parties

2. SCMB is a division of the Standard Bank SA, a JSE-listed public company whose major shareholders are Old Mutual (21%), Sanlam Group (6,6%) and the Transnet Pension Fund (4,5%). Standard Bank is a major player in financial services particularly in personal and corporate banking. SCMB is its merchant banking division.

3. Prochem is a South African private company carrying on business as stockist, distributor and supplier of commodity, fine, pharmaceutical and specialty chemicals, and in plastic and rubber polymers. It also acts as agent for various local and overseas principals through its subsidiaries and agencies. BOE Bank Limited (BOE) owns 80% of the shares in Prochem with the current management of the firm holding the remaining 20%.

The Transaction

4. This is a leveraged buy-out with SCMB buying from BOE all the issued share capital and assets of Prochem, including all subsidiaries[1]. A special purpose vehicle, Clidet No.345 (Clidet), has been created to act on behalf of SCMB in this transaction. Clidet will acquire 100% ownership of all the assets and shares of Prochem. In addition to taking ownership of all the wholly owned subsidiaries of Prochem, Clidet will also acquire Prochem's 50% share in Duravin Chemicals (Pty) Limited and Protea Chemicals UK Limited's 50% shareholding in a Zimbabwean chemical distribution company, Acol Chemicals (Pty) Limited.

5. Upon completion of the transaction the shares in Clidet will be held as follows: 65% will be held by SCMB and 35% by current Prochem management. In terms of an arrangement between SCMB and the current management of Prochem, managements' shareholding in Clidet could gradually increase to 50% if certain performance based targets are met, thus giving them joint control of Clidet.

Effect on Competition

6. The essence of this transaction is that BOE is disposing of its controlling stake in Prochem and SCMB, through Clidet, is replacing BOE as the controlling shareholder in Prochem. The only issue therefore is whether SCMB has any significant interests in the market for the manufacture or distribution of chemicals in South Africa. Since Prochem is a significant player in the distribution market any interest held by SCMB in that market would raise serious horizontal competition concerns. Similarly, serious vertical competition concerns would result if SCMB had significant interests in the chemical manufacture market.

7. We were assured by the legal representatives of SCMB that it has no interest in any company that engages in the manufacture or distribution of chemicals in South Africa. Based on this

[1] The subsidiaries of Prochem are Protea Chemicals (Pty) Ltd; Protea Industrial Chemicals (Pty) Ltd; Chempro Commodities (Pty) Ltd; Chempro (Pty) Ltd; Montan Chemicals (Pty) Ltd; Products for Industrial Manufacturing (Pty) Ltd; El Rogoff Chemicals (Pty) Ltd; Protea Namibia (Pty) Ltd and Protea Chemicals (UK) (Pty) Ltd.

information we find that this merger does not raise any competition concerns.

8. SCMB is in the investment business and, through Clidet, is making this acquisition with the intention of disposing of the acquired controlling interest in Prochem at some future date to realize its investment. When SCMB decides to sell its stake in Clidet the resulting change of control in Clidet would trigger a notification to the Commission in terms of the Act. For competition purposes, the crtitical issue in the analysis of such a transaction would be whether the firm acquiring from SCMB the controlling shareholding in Clidet has any interest in the manufacture or distribution of chemicals in South Africa. Whoever assumes a controlling interest in Clidet also assumes control over a significant part of the South African chemical distribution market. It is in our opinion very important therefore that in the analysis of the sale by SCMB of its stake in Clidet due consideration be paid to potential horizontal and vertical competition concerns that may arise from the acquiring firm having other interests in the chemical manufacture or distribution market.

9. We considered making our approval of this merger conditional upon SCMB giving notice to the Commission prior to disposing of its stake in Clidet. However we decided that this was unnecessary since such a transaction would in any event result in a change of control in Clidet and trigger a notification to the Commission.

Public Interest Concerns

10. According to the merging parties this transaction will not result in any change in the operation of the business and will therefore have no effect on employment. They have given assurances to the employee representatives, the Chemical, Paper, Printing, Wood and Allied Workers Union that no job losses would result from the merger. We are therefore of the view that the merger raises no public interest issues.

________________ **30 July 2001**

NM Manoim **Date**

Concurring: D Terblanche; U Bhoola