

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 66/LM/Aug06

In the matter between:

Pamodzi Gold (Pty) Ltd

Acquiring Firm

And

Bema Gold South Africa (Pty) Ltd

Target Firm

Panel: D Lewis (Presiding Member), Y Carrim (Tribunal Member) and N Manoim (Tribunal Member)

Heard on: 11 October 2006

Decided on: 11 October 2006

Reasons issued on: 06 December 2006

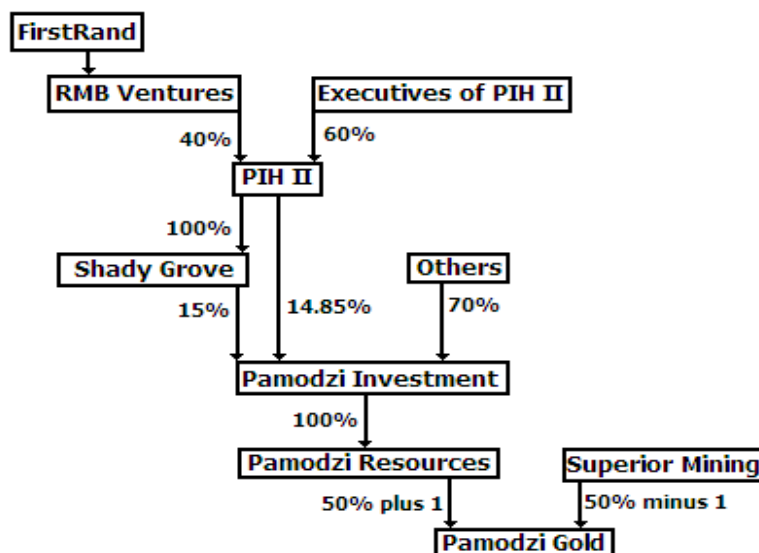
Reasons for Decision

APPROVAL

[1] On 11 October 2006, the Tribunal approved the merger between Pamodzi Gold (Pty) Ltd (“Pamodzi Gold”) and Bema Gold South Africa (Pty) Ltd (“Bema”). The reasons for approval follow.

THE TRANSACTION

[2] Bema Gold SA is wholly owned by Bema Gold Corporation. Pamodzi Gold is jointly controlled by Superior Mining Corporation SA and Pamodzi Resources (Pty) Ltd. The structure of the Pamodzi Group is depicted below:



- [3] In their initial filing, the merging parties stated that Pamodzi Gold intended subscribing for 41% of the shares in Bema with Pamodzi Resources retaining an option to acquire 10% of Bema. The parties had therefore requested the Commission to recommend approval for and acquisition of 51% of the shares in Bema. The Commission however took the view that in the absence of an amended MOU, it would not consider the additional 10% and accordingly recommended that the Tribunal approve 41% only.
- [4] Subsequent to the Commission's referral, but prior to the hearing, the merging parties filed a *sale of shares* agreement which reflected Pamodzi' Gold's intention to acquire 50.17% of the shares in Bema before 30 November 2006. During the hearing held on 11 October 2006, the Commission indicated that they would not oppose the additional acquisition.
- [5] According to the parties, the transaction is the first of a number of transactions aimed at consolidating the junior gold mining sector in South Africa.

IMPACT ON COMPETITION

- [6] Since both parties are active in the production and supply of gold,¹ the Commission defined the relevant market as the international market for the production and supply of gold.²
- [7] The parties did not supply us with figures for their share of the international market. They did have figures for their share of South African production which indicates that they are relatively insignificant players with Pamodzi Gold accounting for 0.12% and Bema for 1.32%. If one considers the international market, the market shares become even more insignificant.

¹ The Pamodzi Group has interest in various sectors including food manufacturing, vehicle sales, facility management, information technology, short term insurance, integrated card technology and metal beneficiation.

² The Tribunal has, in previous mergers in this sector, accepted that that this market is an international one. See Randfontein Estates Ltd and AngloGold Ltd Case no: 03/LM/Jan01 Harmony Gold Mining Company Limited and African Rainbow Minerals Gold Limited Case no: 25/LM/May03.

[8] In light of this, we are of the view that the merger will not substantially lessen or prevent competition in the market for the production and supply of gold, either in South Africa or internationally.

CONCLUSION

[9] There will be no job losses as a result of the transaction. We accordingly approve the merger unconditionally.

N Manoim

D Lewis and Y Carrim concurring.

Tribunal Researcher: M Murugan-Modise

For the merging parties: T Mhlanga and N Browne (Cliffe Dekker)

For the Commission: M Mohlala and E Ramahlola (Mergers and Acquisitions)