



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No.: LM065Jul24

In the matter between:

Southern Point Resources Fund - I SA L.P.
(Represented by its General Partner SPR GP1 (Pty)
Ltd)

Primary Acquiring Firm

And

Bushveld Vanchem (Pty) Ltd

Primary Target Firm

Panel: T Vilakazi (Presiding Member)
I Valodia (Tribunal Member)
G Budlender (Tribunal Member)

Heard on: 15 October 2024

Decided on: 15 October 2024

ORDER

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b)(ii) of the Competition Act, 1998 (“the Act”) the Competition Tribunal orders that–

1. the merger between the abovementioned parties be approved subject to the conditions set out in “**Annexure A**” in terms of section 16(2)(b) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).

**Presiding Member
Prof. Thando Vilakazi**

15 October 2024

Date

Concurring: Prof. Imraan Valodia and Adv. Geoff Budlender



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 15 October 2024

To : Alchemy Law Africa Attorneys

Notice CT 10

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
Pretoria 0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

Case Number: LM065Jul24

Southern Point Resources Fund - I SA L.P. (Represented by its General Partner SPR GP1 (Pty) Ltd) And Bushveld Vanchem (Pty) Ltd

You applied to the Competition Commission on **24 June 2024** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

- no conditions.
- the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- it was granted on the basis of incorrect information for which a party to the merger was responsible.
- the approval was obtained by deceit.
- a firm concerned has breached an obligation attached to this approval.

The Registrar, Competition Tribunal

CONFIDENTIAL

ANNEXURE A

**SOUTHERN POINT RESOURCES – FUND I SA L.P. (REPRESENTED BY ITS GENERAL
PARTNER SPR GP1 PROPRIETARY LIMITED)**

AND

BUSHVELD VANCHEM PROPRIETARY LIMITED

COMPETITION TRIBUNAL CASE NUMBER: LM065Jul24

CONDITION

1 DEFINITIONS

- 1.1 The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings, namely:
- 1.1.1 "**Acquiring Firm**" means Southern Point Resources – Fund I SA L.P. (represented by its general partner SPR GP1 Proprietary Limited);
- 1.1.2 "**Approval Date**" means the date referred to on the Tribunal's merger clearance certificate, being the date on which the Merger is conditionally approved in terms of the Competition Act;
- 1.1.3 "**Commission**" means the Competition Commission of South Africa, a statutory body established in terms of section of the Competition Act;
- 1.1.4 "**Commission Rules**" means the Rules for the Conduct of Proceedings in the Commission;
- 1.1.5 "**Competition Act**" means the Competition Act, 89 of 1998, as amended;
- 1.1.6 "**Condition**" means this condition;
- 1.1.7 "**Days**" mean any calendar day which is not a Saturday, Sunday or an official holiday in South Africa;
- 1.1.8 "**Implementation Date**" means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;

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- 1.1.9 "LRA" means the Labour Relations Act, 66 of 1995, as amended;
- 1.1.10 "Merger" means the proposed acquisition by the Acquiring Firm of 100% of the shares in the Target Firm;
- 1.1.11 "Merging Parties" means the Acquiring Firm and the Target Firm;
- 1.1.12 "Target Firm" means Bushveld Vanchem Proprietary Limited;
- 1.1.13 "Tribunal" means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act; and
- 1.1.14 "Tribunal Rules" means the Rules for the Conduct of Proceedings in the Tribunal.

2 CONDITION TO THE APPROVAL OF THE MERGER

- 2.1 The Merging Parties shall not retrench any employees as a result of the Merger for a period of three (3) years from the Implementation Date.
- 2.2 For the sake of clarity, retrenchments (as contemplated in clause 2.1, above) do not include (i) voluntary retrenchments and/or voluntary separation agreements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational reasons unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to dismissals as result of misconduct or poor performance.

3 MONITORING COMPLIANCE WITH THE CONDITION

- 3.1 The Merging Parties shall inform the Commission, in writing, of the Implementation Date within five (5) Days of the Implementation Date.
- 3.2 The Merging Parties shall circulate a copy of this Condition within ten (10) Days of the Implementation Date to all employees of the Target Firm and/or their employee representatives including relevant trade unions. The Merging Parties will inform the Commission, in writing, within five (5) Days of circulating the Condition.

3.3 The Target Firm shall submit a report on each of the first and second anniversary of the Implementation Date, confirming its compliance with clause 2.

3.4 The Commission may request additional information from the Merging Parties, which the Commission may reasonably deem necessary to monitor the extent of compliance with the Condition.

4 VARIATION OF THE CONDITION

4.1 The Merging Parties and/or the Commission may at any time, on good cause shown and on notice to the other, apply to the Tribunal for any of the Conditions to be waived, relaxed, modified or substituted.

5 APPARENT BREACH

5.1 If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

6 GENERAL

6.1 All correspondence concerning the Condition must be submitted to: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.