



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: LM176Mar20**

In the matter between

**MITSUBISHI HEAVY INDUSTRIES LTD**

Primary Acquiring Firm

And

**MITSUBISHI HITACHI POWER SYSTEMS LTD**

Primary Target Firm

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Panel : Mr E Daniels (Presiding Member)  
: Dr T Vilakazi (Tribunal Member)  
: Prof F Tregenna (Tribunal Member)  
Heard on : 13 May 2020  
Order Issued on : 13 May 2020  
Reasons Issued on : 09 June 2020

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### REASONS FOR DECISION

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#### APPROVAL

- [1] On 13 May 2020, the Competition Tribunal (“Tribunal”) unconditionally approved a large merger between Mitsubishi Heavy Industries Ltd and Mitsubishi Hitachi Power Systems Ltd.
- [2] The reasons for the approval of the proposed transaction follow.

## PARTIES TO THE PROPOSED TRANSACTION

### *Primary acquiring firm*

- [3] The primary acquiring firm is Mitsubishi Heavy Industries Ltd (“MHI”), a public company incorporated in Japan and headquartered in Tokyo. MHI is currently listed on four Japanese stock exchanges. MHI is not controlled by any firm. MHI controls numerous firms internationally.
- [4] Globally, MHI is a heavy machinery manufacturer of *inter alia* thermal, nuclear and renewable energy power plants, equipment and systems. In South Africa, MHI’s offerings include material handling systems and metals machinery.

### *Primary target firm*

- [5] The primary target firm is Mitsubishi Hitachi Power Systems Ltd (“MHPS”), a public company incorporated in Japan and headquartered in Tokyo. MHPS is jointly controlled by MHI (65%) and Hitachi Ltd (35%). Hitachi is a public company incorporated in Japan and currently listed on two Japanese stock exchanges. It is not controlled by any firm.
- [6] Globally, MHPS is active in thermal power generation systems and environmental technology. Its offerings and operations include steam power plants, integrated coal gasification combined cycle power plants and their components.
- [7] In South Africa, MHPS controls Mitsubishi Power Systems Africa Ltd (“MHPS Africa”) (75%).<sup>1</sup> MHPS Africa controls no firms. MHPS Africa produces commercial use boilers. It is currently executing two utility steam generator projects with Eskom Ltd at the Medupi and Kusile power stations.

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<sup>1</sup> MHPS Africa is a company incorporated in accordance with the laws of South Africa.

## **PROPOSED TRANSACTION**

- [8] MHI intends to acquire the remaining 35% shareholding in MHPS from Hitachi. Post-merger, MHI will have sole control over MHPS.<sup>2</sup>

## **RELEVANT MARKET AND IMPACT ON COMPETITION**

- [9] The Competition Commission (“Commission”) considered the activities of the merging parties and found that the proposed transaction raises a horizontal overlap due to MHI’s 65% shareholding in MHPS.
- [10] The Commission found that the proposed transaction does not change the structure of any market or result in any market share accretion. This was because the proposed transaction represents an increase to an already significant shareholding. Additionally, the Commission found it unlikely that MHI would be incentivised to behave differently post-merger, as MHI’s conduct had been largely unconstrained by Hitachi.<sup>3</sup>
- [11] Due to the above, the Commission concluded that the proposed transaction was unlikely to substantially lessen or prevent competition in any market. We found no reason to disagree.

## **PUBLIC INTEREST**

- [12] The merging parties submitted that the proposed transaction would not result in duplications or any job losses. Additionally, the employee representatives contacted by the Commission raised no concerns regarding the proposed transaction.

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<sup>2</sup> To date, the merger has been notified and approved in China, Turkey and Russia. A review in Mexico was ongoing.

<sup>3</sup> The Commission found that the agreement between the merging parties and Eskom would not be affected by the proposed transaction for the same reasons. The merging parties made the same submission.

[13] As a result, the Commission concluded that the merger was unlikely to raise any employment concerns. In addition, the Commission found that the proposed transaction raises no other public interest concerns.

## **CONCLUSION**

[14] In light of the above, we concluded that the proposed transaction was unlikely to substantially prevent or lessen competition in any relevant market. In addition, we are of the view that no public interest concerns arise from the proposed transaction.

[15] Accordingly, we approved the transaction without conditions.

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**Mr E Daniels**

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**09 June 2020**

**Date**

**Dr T Vilakazi and Prof. F Tregenna concurring**

Tribunal Case Manager: P Kumbirai

For the Merging Parties: N Lopes & T Willey of ENSafrica

For the Commission: N Msiza & M Aphane