



**competitiontribunal**  
SOUTH AFRICA

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No:** CR031Sep09/SA078Aug23  
CR093Jan07/SA079Aug23

In the matter between:

The Competition Commission

**Applicant**

And

Allen Meshco (Pty) Ltd  
Agri Wire (Pty) Ltd  
Agri Wire North (Pty) Ltd  
Agri Wire Upington (Pty) Ltd  
Cape Wire (Pty) Ltd  
Forest Wire (Pty) Ltd  
Independent Galvanising (Pty) Ltd  
Associated Wire Industries (Pty) Ltd t/a  
Meshrite

**First Respondent  
Second Respondent  
Third Respondent  
Fourth Respondent  
Fifth Respondent  
Sixth Respondent  
Seventh Respondent  
Eighth Respondent**

---

Panel : I Valodia (Presiding Member)  
: S Goga (Tribunal Member)  
: A Ndoni (Tribunal Member)

Heard on : 22 November 2023

Decided on : 22 November 2023

---

**Settlement Agreement**

---

The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Allen Meshco (Pty) Ltd, Agri Wire (Pty) Ltd, Agri Wire North (Pty) Ltd, Agri Wire Upington (Pty) Ltd, Cape Wire (Pty) Ltd, Forest Wire (Pty) Ltd, Independent Galvanising (Pty) Ltd, and Associated Wire Industries (Pty) Ltd t/a Meshrite annexed hereto.

Signed by Imraan  
Signed at 2023-11-22 11:20:47 +02:00  
Reason: Witnessing Imraan

---

**Presiding Member  
Prof. Imraan Valodia**

---

**22 November 2023  
Date**

**Concurring: Ms Sha'ista Goga and Ms Andiswa Ndoni**



## Form CT 6

### About this Form

This Form is issued in terms of the Competition Tribunal Rules.

Please indicate in the space provided the nature of your motion, including specific reference to the relevant section of the Act or Tribunal Rules.

If this Notice of Motion concerns a matter being brought in terms of Division E of Part 4 of the Competition Tribunal Rules, it must comply with the requirements of Competition Tribunal Rule 42(3).

### Contacting the Tribunal

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

## Notice of Motion

**Date:** 30 AUGUST 2023 **File #** 09/CR/Jan07 & 63/CR/Sep09

**To:** The registrar of the Competition Tribunal

**RECEIVED**

By Cyriel Mpaketsane at 5:15 pm, Aug 30, 2023

### Concerning the matter between:

COMPETITION COMMISSION OF SOUTH AFRICA (Applicant)  
and ALLENS MESHCO (Pty) Ltd & OTHERS (Respondent)

Take notice that the COMPETITION COMMISSION  
intends to apply to the Tribunal for the following order:

Confirming the attached consent agreement entered into between the Applicant and Respondents as an order of the Competition Tribunal in terms of section 49D read with section 58(1)(b) of the Competition Act 89 of 1998, as amended ("Act"), in respect of a contravention of section 4(1)(b).

### Name and Title of person authorised to sign:

Bukhosibakhe Majenge - Chief Legal Counsel

**Authorised Signature:**

**Date:**

30 AUGUST 2023

**For Office  
Use Only:**

Tribunal file number:

Date filed:

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA**

**CC CASE NO:**

**CT CASE NO: 09/CR/Jan07 and 63/CR/Sep09**

**RECEIVED**

*By Cyriel Mpaketsane at 5:15 pm, Aug 30, 2023*

In the matter between:

**THE COMPETITION COMMISSION OF SOUTH AFRICA**

Applicant

And

**ALLENS MESHCO (PTY) LTD**

First Respondent

**AGRI WIRE (PTY) LTD**

Second Respondent

**AGRI-WIRE NORTH (PTY) LTD**

Third Respondent

**AGRI-WIRE UPINGTON (PTY) LTD**

Fourth Respondent

**CAPE WIRE (PTY) LTD**

Fifth Respondent

**FOREST WIRE (PTY) LTD**

Sixth Respondent

**INDEPENDENT GALVANISING (PTY) LTD**

Seventh Respondent

**ASSOCIATED WIRE INDUSTRIES (PTY) LTD**

**t/a MESHRITE**

Eight Respondent

**(collectively referred to as The Respondents)**

---

## FILING SHEET

---

**TAKE NOTICE THAT** the Applicant files herewith the following documents:

1. Competition Tribunal form CT6; and
2. Settlement Agreement between the Competition Commission and Allens Meshco (Pty) Ltd, Agri Wire (Pty) Ltd, Agri-Wire North (Pty) Ltd, Agri-Wire Upington (Pty) Ltd, Cape Wire (Pty) Ltd, Forest Wire (Pty) Ltd, Independent Galvanising (Pty) Ltd, Associated Wire Industries (Pty) Ltd t/a Meshrite (Jointly referred to as "The Respondents")

**DATED AT PRETORIA ON THIS 30<sup>th</sup> DAY OF AUGUST 2023**

---

### COMPETITION COMMISSION

#### **Applicant**

77 Meintjies Street

Sunnyside

Pretoria

Tel: 012 394 3527

Ref: Bakhe Majenge / Nelly Sakata /

Simphiwe Gumede

E-mail: BakheM@compcom.co.za/

NellyS@compcom.co.za /

SimphiweG@compcom.co.za

**TO: THE REGISTRAR**  
Competition Tribunal  
Block C, The DTI Campus  
77 Meintjies Street

Sunnyside

Pretoria

Tel: 012 394 3355

Email: [ctsa@comptrib.co.za](mailto:ctsa@comptrib.co.za)/ [registry@comptrib.co.za](mailto:registry@comptrib.co.za)

**AND TO: KRUSE ATTORNEYS INCORPORATED**

**Attorneys for the Respondents**

17 Dely Road Hazelwood

Pretoria, South Africa 0081

PO Box 11481, Hatfield,

Pretoria, 0028

Docex 13, Hatfield

Tel: +27 12 460 0987

Fax: 086 589 9933

Ref: Malcolm Ratz

Email: [malcolm@rkattorneys.co.za](mailto:malcolm@rkattorneys.co.za)

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CC CASE NO:

CT CASE NO: 09/CR/Jan07 and 63/CR/Sep09

**RECEIVED**

*By Cyriel Mpaketsane at 5:15 pm, Aug 30, 2023*

In the matter between:

THE COMPETITION COMMISSION OF SOUTH AFRICA                      Applicant

And

ALLENS MESHCO (PTY) LTD    First Respondent

AGRI WIRE (PTY) LTD    Second Respondent

AGRI-WIRE NORTH (PTY) LTD    Third Respondent

AGRI-WIRE UPINGTON (PTY) LTD    Fourth Respondent

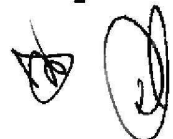
CAPE WIRE (PTY) LTD    Fifth Respondent

FOREST WIRE (PTY) LTD    Sixth Respondent

INDEPENDENT GALVANISING (PTY) LTD    Seventh Respondent

ASSOCIATED WIRE INDUSTRIES (PTY) LTD  
t/a MESHRITE    Eight Respondent

(collectively referred to as The Respondents)



**SETTLEMENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND  
THE RESPONDENTS IN RESPECT OF AN ALLEGED CONTRAVENTION OF  
SECTION 4(1)(b) OF THE COMPETITION ACT, NO. 89 OF 1998 AS AMENDED**

---

**PREAMBLE**

The Competition Commission and the Respondents hereby agree that application be made to the Competition Tribunal for the confirmation of this Settlement Agreement as an order of the Competition Tribunal in terms of section 49D read with section 58(1)(b) of the Competition Act No.89 of 1998, as amended, in respect of contraventions of section 4(1)(b) of the Act.

**1. DEFINITIONS**

For purposes of this settlement agreement the following definitions shall apply:

- 1.1. **"Act"** means the Competition Act, 1998 (Act No.89 of 1998), as amended;
- 1.2. **"AMG"** refers to the Allens Meshco Group which consists of: Allens Meshco (Pty) Ltd, Agri Wire (Pty) Ltd, Agri-Wire North (Pty) Ltd, Agri-Wire Upington (Pty) Ltd, Cape Wire (Pty) Ltd, Forest Wire (Pty) Ltd, Independent Galvanising (Pty) Ltd, Associated Wire Industries (Pty) Ltd t/a Meshrite;
- 1.3. **"Barnes"** means Barnes Fencing Industries (Pty) Ltd, Dunrose (Pty) Ltd and F&G Quality Tubes (Pty) Ltd;

Handwritten initials and a signature.

- 1.4. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at 1st Floor, Mulayo Building (Block C), the DTI campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.5. **"Commissioner"** means the Competition Commissioner of South Africa, appointed in terms of section 22 of the Act;
- 1.6. **"CWI"** means Consolidated Wire Industries Limited;
- 1.7. **"Other Respondents"** means Cape Gate (Pty) Ltd, Hendok (Pty) Ltd, Wireforce Steelbar (Pty) Ltd and CWI;
- 1.8. **"Settlement Agreement"** means this agreement duly signed and concluded between the Commission and The Respondents;
- 1.9. **"The Respondents"** refers to Allens Meshco (Pty) Ltd, Agri Wire (Pty) Ltd, Agri-Wire North (Pty) Ltd, Agri-Wire Uppington (Pty) Ltd, Cape Wire (Pty) Ltd, Forest Wire (Pty) Ltd, Independent Galvanising (Pty) Ltd, Associated Wire Industries (Pty) Ltd t/a Meshrite;
- 1.10. **"Parties"** means the Commission and the Respondents; and
- 1.11. **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act with its principal place of business at 1<sup>st</sup> Floor, Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

## 2. BACKGROUND

- 2.1. On 19 December 2003, Barnes filed a complaint against certain firms including the Respondents, alleging that the Respondents and some of its competitors engaged in collusive conduct.



- 2.2. On 15 January 2007, the Commission referred Barnes' complaint against, amongst others Allens Meshco (Pty) Ltd, Hendok, Wire Force, Independent Galvansing (Pty) Ltd and Associated Wire Industries (Pty) Ltd t/a Meshrite ("the 2007 Referral") for alleged contraventions of section 4(1)(b)(i) of the Act.
- 2.3. On 28 July 2008, CWI applied for corporate leniency in terms of the Commission's Corporate Leniency Policy for its involvement in certain cartel activity in the wire industry. It alleged that the Respondents had contravened section 4(1)(b)(i), (ii), and (iii) of the Act. Based on this information, the Commission initiated a complaint against various firms, which included the Respondents.
- 2.4. On 7 September 2009, the Commission concluded its investigations and referred its findings to the Tribunal. The Commission found that the Respondents had contravened section 4(1)(b) of the Act ("the 2009 Referral").<sup>1</sup>

### 3. COMMISSION'S REFERRAL

- 3.1. In its 2007 Referral, the Commission found that from at least 1 September 2000, the Respondents and some of its competitors<sup>2</sup> contravened section 4(1)(i) of the Act by fixing the price of nails. This was achieved through the exchange of agreed price lists.
- 3.2. In the 2009 Referral the Commission found that from 2001 to about 2008, the Respondents had met, through their authorised representatives<sup>3</sup>, and corresponded with representatives of the Other Respondents, on numerous occasions, to fix the selling prices of wire and wire related products in South

<sup>1</sup> The 2007 referral (Tribunal case: 09/CR/Jan07) and 2009 referral (Tribunal case 63/CR/Sep09) were later consolidated as they related to similar conduct and respondents.

<sup>2</sup> Hendok, Independent Galvanising and AWI.

<sup>3</sup> For example, Mr Rick Allan who also represented Allens Meschco (Pty) Ltd, Wireforce Steelbar (Pty) Ltd, Agriwire (Pty) Ltd, Agriwire North (Pty) Ltd, Agriwire Upington (Pty) Ltd, Cape Wire (Pty) Ltd, Forest Wire (Pty) Ltd, Independent Galvansing (Pty) Ltd, Associated Wire Industries (Pty) Ltd.

Africa.<sup>4</sup> Prices were fixed by agreeing on a common national price list and certain discounts that may be deducted from the national price list.<sup>5</sup>

- 3.3. In addition, the Commission found that from 2006 to 2008, the Respondents allocated customers for wire and wire related products by agreeing to share customers, to not compete for each other's "traditional" customers or not to sell into certain geographic areas.<sup>6</sup>
- 3.4. Finally, the Commission found that from 2001 to 2008, the Respondents, agreed that certain firms tender collusively. This was done by coordinating their respective bids or deciding not to bid for the supply of cable armouring. The Respondents coordinated their bids to ensure that an allocated respondent was awarded certain tenders. These tenders were the Malasela Technologies tender, the Africa Cables tender<sup>7</sup> as well as the 2001 Harmony Gold tender.
- 3.5. The Commission therefore found that the above conduct contravened sections 4(1)(b)(i), (ii) and (iii) of the Act and thus referred the complaint to the Tribunal.

#### **4. ADMISSION**

- 4.1. The Respondents admit that they engaged in the collusive conduct described above in contravention of section 4(1)(b)(i) of the Act.

#### **5. FUTURE CONDUCT**

- 5.1. The Respondents agree and undertake to:

---

<sup>4</sup> Including products such as diamond mesh fencing, nails and barbed wire. For Further detail, please see Annex "NN2" to the Referral. The relevant products produced by Hendok that were included in the collusion can be found at Annex "NN3" to the Referral.

<sup>5</sup> Para 28 of the Referral.



<sup>6</sup> Para 29 of the Referral.

<sup>7</sup> Not involving Cape Gate (Pty) Ltd.

- 5.1.1. Prepare and circulate a statement summarising the contents of this agreement to their managers and directors within 14 (fourteen) days of the date of confirmation of this Settlement Agreement as an order of the Tribunal;
- 5.1.2. Implement and monitor a competition law compliance programme incorporating corporate governance designed to ensure that their employees, management, directors and agents do not engage in future contraventions of the Act. In particular, such compliance programme will include mechanisms for the monitoring and detection of any contravention of the Act. The Respondent undertakes to engage proactively with the Commission within 30 days of this settlement being confirmed by the Tribunal, to assess any existing programme and further developments of its internal programme. This programme will be submitted to the Commission; and
- 5.1.3. Refrain from engaging in any contraventions of the Act.

## 6. ADMINISTRATIVE PENALTY

- 6.1. After considering the factors in section 59(3) of the Act, as well as the role of the Respondents in the contraventions set out in the Referral, the Commission and the Respondents agree on an appropriate administrative penalty of R5 000 000 (five million rand) to be paid by the First Respondent in full and final settlement of the complaint referrals. Although the First Respondent agrees and undertakes to pay the administrative penalty on behalf of all Respondents, all the Respondents remain liable for the payment of the administrative penalty, jointly and severally, the one paying, the others to be absolved from payment of the penalty.

 6  


6.2. The First Respondent will pay an administrative penalty over four years from the date when this Settlement Agreement is made an order of the Tribunal. The Respondents agree to pay the administrative penalty as follows:

6.2.1. R1 000 000 (one million rand) immediately upon confirmation of the Settlement Agreement by the Tribunal; and then



6.2.2. R1 000 000 (one million rand) to be paid on or within each successive anniversary of the date of the confirmation, by the Tribunal, of this Settlement Agreement for the next four years.

6.3. No interest will be levied upon the administrative penalty if the Respondents do not default on the payment terms outlined above in clause 6.2.

6.4. Notwithstanding the provisions of clause 6.3, if the First Respondent defaults on the payment terms contained in clause 6.2, interest on the remaining outstanding balance as at the date of default will be levied for the duration of the default at the prevailing interest rate on debts owed to the State in terms of section 80(1)(b) of the Public Finance Administration Act 1999, as amended.

6.5. Payment of the above administrative penalty shall be made into the Commissions' bank account, details of which are as follows:

<b>Bank Name</b>	<b>Absa Bank</b>
<b>Branch Name:</b>	<b>Pretoria</b>
<b>Account holder:</b>	<b>Competition Commission Penalties Account</b>
<b>Account number:</b>	<b>4087641778</b>
<b>Branch Code:</b>	<b>638056</b>
<b>Reference:</b>	<b>63/CR/Sep09 (AMG Respondents)</b>

 7 

6.6. The administrative penalty shall be paid over by the Commission to the National Revenue Fund in accordance with section 59(4) of the Act.

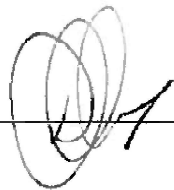
## 7. FULL AND FINAL SETTLEMENT

7.1. This Settlement Agreement is entered into in full and final settlement of the specific conduct set out in the referrals and, upon confirmation by the Tribunal, concludes all proceedings between the Commission and the Respondents in respect of this conduct in relation to referrals under Tribunal case numbers 09/CR/Jan07 and 63/CR/Sep09.

### For the Respondents:

Dated and signed at Cape Town on the 9<sup>th</sup> day of August 2023.

Signature: \_\_\_\_\_



Full Names:

Richard Brian Allen

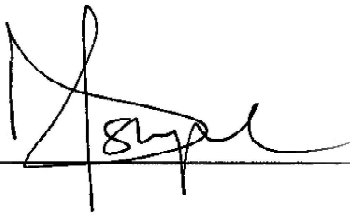
Capacity:

Managing Director

### FOR THE COMPETITION COMMISSION:

Dated and signed at Pretoria on the 29 day of August 2023.



Signature:  \_\_\_\_\_

Full Name: **Doris Tshepe**

Capacity: **COMMISSIONER**

