



MERGER DECISION NO 17: 2022

Notice in Terms of Section 53(4) (a) (ii) of the Competition Act 2018

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF CERTAIN ASSETS OF THE BUSINESS OF TATI NICKEL MINING COMPANY (PTY) LTD (IN LIQUIDATION) BY PREMIUM NICKEL GROUP (PTY) LTD

Introduction of the Merging Parties

Pursuant to section 53(4)(a)(ii) of the Competition Act, 2018 ("the Act"), notice is hereby given on the decision made by the Competition and Consumer Authority ("the Authority") in relation to the proposed acquisition of certain assets ("Selkirk Assets") of the business of Tati Nickel Mining Company (Pty) Ltd (in liquidation) ["Tati Nickel"] by Premium Nickel Group (Pty) Ltd ("Acquiring Enterprise" or "PNRG"). The transaction was notified to the Authority on 20th April 2022 and the merger assessment was completed on 25th May 2022.

The Acquiring Enterprise, is a limited liability company incorporated in accordance with the Laws of the Republic of Botswana. It is a special purpose vehicle and does not currently have any business operations in Botswana. PNRG was specifically established to, among other things: acquire the Selkirk Assets; effect exploration activities as well as pre-feasibility and feasibility studies on the Selkirk Assets, more particularly the nickel-copper-cobalt-platinum-group metals ("Ni-Cu-Co-PGM") resources; and develop and construct a new mine and carry out the mining operations at such mine.

The Target Enterprise, Tati Nickel, has been in liquidation since October 2016. Tati Nickel does not directly or indirectly control any firm in Botswana. The Selkirk Assets consists of certain business assets related to the Selkirk Mine that was operated by Tati Nickel. The Selkirk Mine ceased operations in 2002 and has been under care and maintenance. For completeness, it is important to note that since being placed in liquidation, Tati Nickel has not been active in the mining of Ni-Cu- and exportation of the same.

Relevant Markets

The Acquiring Enterprise is an SPV and has no operations in, into or from Botswana. The relevant market to analyse therefore, is that of the Target Enterprise. The Target Enterprise consists of certain business assets related to the Selkirk Mine that was operated by Tati Nickel. The key output/product of the Selkirk Mine was Ni-Cu-, with PNRG targeting the production of Ni-Cu-PGM, which will be exported out of Botswana to international markets.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the proposed transaction involves an acquisition of shares by an SPV and hence the Merging Parties are not active in the same market. Tati Nickel will not wholly transfer its rights into the ML 88/2 to PNRG. The ML 88/2 has two (2) mines situated on it, namely the Selkirk Mine and Phoenix Mine.

PNRG is only acquiring the Selkirk Mine, which is the subject of the proposed merger. The Authority does not expect the proposed transaction to give rise to a Substantial Lessening of Competition; restrict trade or the provision of services; or to endanger the continuity of supplies in the mining of Ni-Cu-PGM in Botswana.

The structure of the relevant market will not change post-merger due to the absence of both horizontal and vertical overlaps in the activities of the merging parties. Furthermore, the Acquiring Enterprise will not be active in the relevant market in Botswana and as such, the proposed transaction will not result in a market share accretion of the merged entity or any other entity in Botswana.

In terms of Public Interest, the proposed transaction will not have any adverse effect on levels of employment in Botswana. No job losses are anticipated in Botswana as a result of the proposed transaction. The proposed transaction affords the Liquidators an opportunity to fulfil their mandate to the Government of the Republic of Botswana which is the major creditor/ indirect shareholder of Tati Nickle. Based on the above, the Authority does not foresee any detriment to matters of public interest that will arise as result of the proposed transaction.

The Determination

The Authority determined through the analysis of the facts of the merger that the structure of the relevant market will not change upon the implementation of the proposed merger and the proposed transaction is not likely to result in any adverse effects on competition, nor endanger the continuity of services in *the mining of Ni-Cu-PGM in Botswana*. Furthermore, the proposed merger will not have any negative effect on public interest matters in Botswana as per the provisions of section 52(2) of the Competition Act 2018.

Pursuant to the provision of section 53 of the Act, the Authority has unconditionally approved the proposed acquisition of certain assets of the business of Tati Nickel Mining Company (Pty) Ltd (in liquidation) by Premium Nickel Group (Pty) Ltd.

However, as stated under section 61 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone on this 25th day of May 2022.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority, P/Bag 00101, Gaborone, Plot 28, Matsitama Road, Tel: 3934278 Fax: 3121013