



MERGER DECISION NO 04: 2023

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

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL OF ZIMCO GROUP (PTY) LTD BY LEIF 853 (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 100% of the issued share capital of Zimco Group (Pty) Ltd ("Zimco" or the "Target Enterprise") by Leif 853 (Pty) Ltd ("Leif 853" or the "Acquiring Enterprise").

The Acquiring Enterprise, Leif 853 is a private company incorporated under the Laws of South Africa. Leif 853 is directly controlled by AutoX Proprietary Limited ("AutoX"), a private company incorporated in accordance with the Laws of South Africa and Trinitas Equity Partners Proprietary Limited ("TEP"), a private company incorporated in accordance with the Laws of South Africa. The Trinitas Group does not have any employees in Botswana. On the other hand, the Target Enterprise, Zimco is a private company registered in accordance with the Laws of South Africa and is a producer of lead products; industrial and base minerals as well as a manufacturer and supplier of zinc, aluminium metal and alloys, related chemicals, and engineering foam and plastic products. Zimco does not have any employees in Botswana.

Relevant Markets

The Trinitas Group through AutoX, is a manufacturer and distributor of a range of automotive batteries for passenger vehicles, light and heavy commercial vehicles to Original Equipment Manufacturers in South Africa and the independent aftermarket in some selected African countries including Botswana, as well as in the United Kingdom. AutoX also offers a battery range to cover deep cycle and leisure applications, gel batteries and specialised battery applications such as lithium and carbon batteries for the solar and renewable energy market together with related solar system products and solutions. AutoX does not have a physical presence in Botswana but it supplies automotive batteries to automotive replacement retail outlets.

On the other hand, Zimco sells products and renders services from South Africa into Botswana. It mainly operate through its two (2) broad business divisions in sub-Saharan Africa, namely:

- i. **Lead Division** – this operation includes a secondary lead smelter producing soft lead and bespoke lead alloys, a lead processing plant producing anodes for electroextraction processes. The sub-divisions / entities which comprise the Lead Division include:
 - a) Castle Lead Works – converts lead alloys into lead products, mainly in the mining industry for use in electro-winning processes. Its products include lead anodes, sheeting, extrusions, casting.
 - b) Fry's Metals – operates a secondary lead smelter, producing soft and bespoke lead alloys for supply into the local automotive, mining and cable industries as well as selected export markets. Furthermore, Fry's Metals purchases and recycles lead bearing materials, including scrap/spent automotive and industrial batteries, drosses and scrap lead which is processed by smelting and refining into soft lead or alloys. The battery cases are recycled into polypropylene granules.
- ii. **Industrial Division** – this operation includes mines extracting and processing base minerals, an industrial foam manufacturer, a plastic engineering company, and a zinc and aluminium secondary processing plant. The sub-divisions entities which comprise the Industrial Division include:
 - a) Associated Additives – a manufacturer of fire assay fluxes, litharge, stabilisers and lead oxide for supply to the mining and plastics and automotive industries.
 - b) Dutton Plastics Engineering – a manufacturer of a range of plastic injection moulding products used in the plumbing and packaging industries.
 - c) G&W Mineral Resources – a diversified miner of bentonite, limestone and kaolin with a processing and packaging plant to blend, dry, mill and package mineral products.
 - d) Sondor Performance Foams – a manufacturer and supplier of industrial foams and bubble wrap, operating through six sites across South Africa
 - e) Zimco Metals – a secondary zinc and aluminium smelter in Southern Africa producing dust, powders, alloys, oxides, deoxidants and sulphates.

In this regard, the aluminium producing sub-division manufactures secondary aluminium products, specialising in the production of explosive powders, commercial alloys for motor manufacturers and deoxidants. It also toll process dross and reject material from smelters. The zinc producing sub-division manufactures zinc sulphate, oxide and alloys used in the rubber, paint, mining and agricultural industries.

Competitive Analysis and Public Interest

In the assessment of Substantial Lessening of Competition, the proposed transaction involves the acquisition by an entity, which is vertically related to the Target Enterprise. The Acquiring Enterprise is controlled by AutoX, an entity involved in the manufacturing of automotive acid-lead batteries for supply in the Southern Africa region including Botswana. AutoX uses inputs from the Target Enterprise for its manufacturing processes. The Target entity also supplies inputs to the only manufacturing player for acid lead batteries in Botswana. The proposed transaction therefore may result in input foreclosure for the Botswana based manufacturer and as such, has the potential to substantially lessen competition in Botswana.

The structure of the relevant market will not change post-merger since the Merging Parties are not active in the same market. As such, the proposed transaction will not result in a market share accretion of the merged entity or any other entity in Botswana. Furthermore, a vertical merger has economic benefits as it increases synergies, which means entities are able to combine their efforts and resources to accomplish more collectively than they could individually. This will eventually result in increased productivity, efficacy, and performance. Nonetheless, a vertical merger can also have negative effects on competition through the conduct of input foreclosure and this is considered as a possibility in the proposed merger considering that Zimco is the sole supplier of secondary lead to independent acid lead battery manufacturers in the Southern Africa region including Botswana.

In terms of public interest concerns, the proposed transaction will not have any adverse effect on levels of employment as the Merging Parties are not domicile in Botswana. As such, no job losses are anticipated in Botswana as a result of the proposed transaction. However, the behaviour of the merged entity has a bearing on the efficiency of the Botswana based battery manufacturer in the sense that limited supply of inputs could negatively affect the competitive edge of Chloride Exide Botswana (CEB) as well as its profits and this may lead to retrenchments.

The Determination

Taking the concerns raised into account and pursuant to the provisions of section 53 of the Act, the Competition and Consumer Authority has resolved to approve the proposed acquisition of 100% of the issued share capital of Zimco Group (Pty) Ltd by Leif 853 (Pty) Ltd with the following conditions:

1. The Merging Parties shall negotiate with CEB to amend the duration of the existing Toll Agreement for a period of 5 (five) years ending in the year 2027. This will be in accordance with the terms and conditions of the existing Toll Agreement (Extended Toll Agreement), subject to the supply of feedstock and reasonable competitive commercial terms and conditions being acceptable to the contracting parties.

2. The Merging Parties shall submit the finalised Extended Toll Agreement to the Competition and Consumer Authority ("Authority") within six (6) months from the decision date and the Extended Toll Agreement shall be effective upon submission to the Authority.
3. Notwithstanding the provisions of clause 1, for the avoidance of doubt, the following shall apply in relation to the Extended Toll Agreement:
 - a. the Merging Parties shall maintain the specifications and volumes of lead supplied in accordance with the terms and conditions of the existing toll agreement while CEB shall maintain its current specifications and volume requirements in accordance with the terms and conditions of the existing toll agreement; and
 - b. compliance by the Merging Parties in terms and conditions of the Extended Toll Agreements shall be wholly dependent on the CEB supplying sufficient scrap lead that meets the specific chemical requirements of CEB notwithstanding any obligation to the contrary in the existing toll agreement.
4. The Merging Parties shall include other Special Metals/ Alloys, which CEB currently procures from Fry's Metals and the trading of these will be subjected to the terms and conditions of the Extended Toll Agreement. The Special Metals/ Alloys will include:
 - i. COS Antimonial Lead Alloy (COS)
 - ii. 0.1% Calcium Alloy
 - iii. Calcium Positive (CAP)
 - iv. C2 Antimonial Lead Alloy(C2)
 - v. 5HT Antimonial Lead Alloy(5HT)
 - vi. Refined Soft Lead (RSL).

However, as stated under section 61 of the Act, this approval shall not relieve an enterprise from obtaining such other approvals as may be required from bodies in exercise of their statutory responsibilities.

Dated at Gaborone on this 14th day of April 2023.

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