



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notices

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### NAMIBIAN COMPETITION COMMISSION

No. 231

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
MUIRSUB INVESTMENTS NAMIBIA (PTY) LTD //  
CRYSTAL INVESTMENTS TWENTY (PTY) LTD

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021MAY0019MER**

1. The Commission has received notification of the abovementioned proposed merger on **6 May 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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### NAMIBIAN COMPETITION COMMISSION

No. 232

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
TRANSPORT HOLDINGS LIMITED //  
GRINDROD FUELOGIC NAMIBA (PROPRIETARY) LIMITED

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021MAY0023MER**

1. The Commission has received notification of the abovementioned proposed merger on **17 May 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 233

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
MR. VOLKER MUNZ // ENGINEERING CENTRE CC**

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021MAY0024MER**

1. The Commission has received notification of the abovementioned proposed merger on **26 May 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 234

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
ALLEGROW FUND (PTY) LTD // MUSHARA LODGE CC

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021MAY0020MER**

1. The Commission has received notification of the abovementioned proposed merger on **7 May 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 235

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
K2021511200 (SOUTH AFRICA) (PROPRIETARY) LIMITED //  
COUNTRY ROOFING (PROPRIETARY) LIMITED

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021JUN0025MER**

1. The Commission has received notification of the abovementioned proposed merger on **7 June 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 236

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
MR. PIERRE JAC JOUBERT // BIDVEST NAMIBIA IT (PTY) LTD

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021JUN0027MER**

1. The Commission has received notification of the abovementioned proposed merger on **18 June 2021**.
2. Please note that the Commission has **approved the proposed merger subject to the following condition:**
  - 2.1 There shall be no retrenchment of employees of the merged undertaking as a result of the merger.
  - 2.2 For the sake of clarity retrenchments do not include:
    - 2.2.1 voluntary separation, resignation and voluntary early retirement (“voluntary separations”); and
    - 2.2.2 retrenchments which are merger specific, but agreed to with the Commission in writing after the date of approval of the merger (“merger specific retrenchments”).

- 2.3 The 33 transferred employees of the business of Bidvest Namibia IT (PTY) LTD must be employed by Mr. Pierre Jac Joubert on terms and conditions of employment that are on the whole not less favorable to them than their existing terms and conditions of employment.

## **COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS**

### **Merger Specific Retrenchments**

3. In the event that the merged undertakings identify any potential merger specific retrenchments, it will request the Commission's agreement to these merger specific retrenchments by way of written correspondence at least one month before these retrenchments are due to be effected. The merged undertakings' written correspondence must include, but shall not necessarily be limited to:
  - 3.1 a list of employees likely to be affected by the merger specific retrenchments;
  - 3.2 the number and categories of employees likely to be affected by the merger specific retrenchments, as well as their job titles;
  - 3.3 the reasons for the retrenchments;
  - 3.4 a description of the steps taken by the merged undertakings to avoid the merger specific retrenchments; and
  - 3.5 the intended date of the merger specific retrenchments.
4. The Commission must within 20 business days of receipt of the correspondence referred to in paragraph 4 above indicate to the merged undertaking whether:
  - 4.1 it agrees to these merger specific retrenchments;
  - 4.2 does not agree to the merger specific retrenchments; or
  - 4.3 it requires further information from the merged undertaking prior to giving its consent.
5. In the event that the Commission requires further information it will, within 20 business days of receiving the aforementioned additional information, indicate in writing to the merged undertaking whether it agrees to or does not agree to these retrenchments.
6. The Commission will not unreasonably withhold its consent to the merger specific retrenchments. In the event that the Commission withholds its consent to the merger specific retrenchments it will provide the merged undertakings with its reasons for withholding its consent in writing.

### **Non-merger specific retrenchments**

7. For the sake of transparency, in the event that the merged undertaking identifies any non-merger specific retrenchments, it will inform the Commission of these potential retrenchments at least one month before these retrenchments are due to be effected. The merged undertakings correspondence must include, but is not limited to:
  - 7.1 a list of employees likely to be affected by non-merger specific retrenchments;

- 7.2 the number and categories of employees likely to be affected by the non-merger specific retrenchments, as well as their job titles;
  - 7.3 an explanation of the reasons that give rise to the non-merger specific retrenchments (including changes to operational requirements);
  - 7.4 a description of the steps taken by the merged undertakings to avoid the non-merger specific retrenchments; and
  - 7.5 the intended date of the non-merger specific retrenchments.
8. The Commission will not unreasonably withhold its consent to non-merger specific retrenchments. In the event that the Commission is of the view that the retrenchments are merger specific then it will inform the parties accordingly.

### **Reporting obligations**

9. In order for the Commission to monitor compliance with the conditions, the merged undertaking must, for the duration of the subsistence of the condition as set out in paragraph above, in addition to the correspondence referred to in paragraphs 3 and 7 above, provide the Commission with reports:
- 9.1 1 October 2021, for the status as at the date of the implementation of the transaction (initial report); and
  - 9.2 Thereafter on a bi-annual basis, starting 1 April 2022, with subsequent compliance until the expiry of the conditions imposed;
10. The merger compliance reports must include but shall not necessarily be limited to the following information:
- 10.1 Regarding employment.
    - 10.1.1 a list of all the employees as at the date of the report which includes their full names, positions and relevant department or division, job grades and remuneration;
    - 10.1.2 copies of the existing (pre-proposed transaction) employment contracts for each different job grade and different position indicating the terms and conditions of employment. Where employment contracts are concluded verbally these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position (which condition is only relevant for the initial report);
    - 10.1.3 copies of the new employment contracts, under which the employees of the target undertaking are employed with the merged undertaking, for each different job grade and different position indicating the terms and conditions of employment. Where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position (which condition is only relevant for the initial report);

- 10.1.4 a list of the employees who have left the employment of the merged undertaking from the time that the merger was approved or since the period covered by the most recent merger compliance report submitted to the Commission;
- 10.1.5 the reasons for the retrenchments; and
- 10.1.6 Any additional information that may be required by the Commission to monitor compliance with the Condition.

### Definitions

“**Commission**” means the Namibian Competition Commission;

“**Competition Act**” means Competition Act, 2003 (Act No. 2 of 2003);

“**Merged undertaking**” means collectively the business of Bidvest Namibia IT (PTY) LTD acquired by Mr. Pierre Jac Joubert or its nominee, subsequent to the merger;

“**terms and conditions**” in relation to employment contracts means any term and/or condition agreed upon between employer and employee relating to, among others, employee duties and responsibilities, work days, working hours, leave days, sick leave, remuneration, benefits such as pension and medical aid schemes or contributions thereto;

11. The Commission’s decision is based on grounds that although the proposed transaction is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003, the Commission found that the proposed merger is likely to have an impact on employment, as envisaged by section 47(2) (e).
12. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
- (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 237

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
SHELFCO TWO THREE ZERO (PTY) LTD AND VALDEMAR INVESTMENTS (PTY) LTD //  
SHELFCO ONE FOUR FIVE (PTY) LTD

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)



**CASE NO.: 2021FEB0007MER**

1. The Commission has received notification of the abovementioned proposed merger on **1 June 2021**.
2. Please note that the Commission has **approved the proposed merger with the following conditions**:
  - 2.1 Within 1 (one) year of the implementation of the merger, 70% of all the sea going crew employed on the MFV Cornerlis Vrolijk Vessel (“the Vessel”) should be Namibian citizens;
  - 2.2 Thereafter, for as long as the merged entity directly or indirectly controls the target undertaking, 70% of all the sea going crew should be Namibian citizens;
  - 2.3 For as long as the merged entity directly or indirectly controls the target undertaking, at an interval of six months, the merged entity, must submit to the Commission a detailed progress report on the Namibianisation of the Vessel; and
  - 2.4 The merged undertakings shall report any and all future change(s) of ownership of the Vessel to the Commission even if the transaction falls below the merger thresholds.

**COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS****Reporting Obligations**

3. In order for the Commission to monitor compliance with the conditions, the merged undertaking must provide the Commission with a report on the following dates:
  - 3.1 On the implementation date of the transaction informing the Commission of the implementation date of the proposed transaction;
  - 3.2 On 1 November 2021, the first progress report on the conditions in paragraph 2 above must be provided; and
  - 3.3 Thereafter progress reports must be provided on a bi-annual basis, starting 1 April 2022, for a period of 5 years from the date of the Commission’s approval.
4. The progress report must include but is not limited to the following information:
  - 4.1 A list of all sea going crew, their nationality, identity numbers, social security numbers and period of employment;
  - 4.2 Detailed ownership structure of the Vessel;
  - 4.3 All changes in the ownership of the Vessel and;
  - 4.4 Any additional information that may be required by the Commission to monitor compliance with the Conditions.

5. The Commission's decision is based on the grounds that the proposed merger is likely to affect the employment of Namibians on the Vessel; affect the ability of small undertakings, in particular small undertakings owned or controlled by historically disadvantaged persons, to gain access to or to be competitive in the market; and is likely to affect the ability of national industries to compete in international markets, as envisaged by section 47(2) of the Competition Act, 2003.
6. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 238

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
KAREE INVESTMENTS TWO SIX THREE (PTY) LTD //  
TOP PROPERTIES (PTY) LTD

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

**CASE NO.: 2021MAY0022MER**

1. The Commission has received notification of the abovementioned proposed merger on **12 May 2021**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**P. CARLSON**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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