



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$4.00

WINDHOEK - 26 September 2014

No. 5570

CONTENTS

Page

GENERAL NOTICES

No. 343	Namibian Competition Commission: Notice of decision of Commission regarding exemption: Tullow Kudu Limited // The National Petroleum Corporation of Namibia (Pty) Ltd // Cieco E&P (Namibia) Co. Ltd	2
No. 344	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Curzola Island Investment (Pty) Ltd // Etale Properties (Pty) Ltd	3
No. 345	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Lycopodium Limited // Alluvial Diamond Projects Namibia (Pty) Ltd	3
No. 346	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Ofuto Investments (Pty) Ltd // Afrimat Contracting International (Pty) Ltd	4
No. 347	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Burma Plant Hire (Pty) Ltd // Prodev Plant Hire (Pty) Ltd	5
No. 348	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: BB Investment Company (Pty) Ltd // Adcock Ingram Holdings Limited	5
No. 349	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Trustco Group Holdings Limited // Fides Bank Namibia (Pty) Ltd	6
No. 350	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Anand Radhakrishnan // Namibia Stationery Wholesale cc	8
No. 351	Namibian Competition Commission: Notice of determination made by Commission in relation to proposed merger: Robert Bosch GMBH // Hytech Holdings (Pty) Ltd	9

General Notices

NAMIBIAN COMPETITION COMMISSION

No. 343

2014

NOTICE OF DECISION OF COMMISSION REGARDING EXEMPTION:
TULLOW KUDU LTD, NAMCOR, CIECO E&P (NAMIBIA) CO. LTD
2013APR0003EXEMP

Competition Act, 2003 (Act No. 2 of 2003)
(Section 28, Rule 21(5))

1. The above named applicant has applied to the Commission on **19 April 2013** for an exemption in respect of certain restrictive practices, as contemplated in section 27(1) of the Act for a category of agreements as described in its application.
2. The Commission gives notice of its decision in terms of section 28(1)(a) to grant the exemption concerned, with conditions, until the 15th anniversary of the start date of the Kudu-Gas-Power Project.
3. A copy of the conditions is attached as Annexure 1.

F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

ANNEXURE 1

The following conditions are attached to the exemption

- 3.1 In granting the exemption, restrictions arising from the Gas Sales Agreement (“the GSA”) and the Joint Operating Agreement (“the JOA”) are permitted because they are specific to the Kudu-Gas-Power Project (“the project”). The commercial sales agreement in the GSA as well as the agreement regarding the exchange of information in the JOA must not extend beyond the specific requirements of this project.
 - 3.2 A copy of the GSA must be submitted to the Namibian Competition Commission within seven (7) days of signing and the Commission will review it within 30 days and amend the exemption should it be warranted.
 - 3.3 The Commission recognises the possibility of third party access to the pipeline. It is therefore a condition of this application that the Applicants submit to the Namibian Competition Commission, at the end of the second year of operation, criteria for granting third party access to the pipeline.
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NAMIBIAN COMPETITION COMMISSION

No. 344

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: CURZOLA ISLAND INVESTMENT (PTY) LTD // ETALE PROPERTIES (PTY) LTD
CASE NO.: 2014JULY0036MER**

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

1. The Commission received notification of the abovementioned proposed merger on **7 July 2014**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 345

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: LYCOPODIUM LIMITED // ALLUVIAL DIAMOND
PROJECTS NAMIBIA (PTY) LTD
CASE NO.: 2014JUN0032MER**

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

1. The Commission has received notification of the abovementioned proposed merger on **30 June 2014**.
2. Please note that the Commission has **approved the proposed transaction without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 346

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: OFUTO INVESTMENTS (PTY) LTD // AFRIMAT CONTRACTING
INTERNATIONAL (PTY) LTD AND OFUTO INVESTMENTS (PTY) LTD // PRIMA
QUARRIES NAMIBIA (PTY) LTD
CASE NO.: 2014JUNE0030MER AND 2014JUNE0031MER**

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

1. The Commission received notification of the abovementioned proposed mergers on **27 June 2014**.
2. Please note that the Commission has **approved the proposed mergers without conditions**.
3. The Commission's decision is based on grounds that the proposed transactions are not likely to substantially 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 347

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: BURMA PLANT HIRE (PTY) LTD // PRODEV PLANT HIRE (PTY) LTD
CASE NO.: 2014JUL0034MER**

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

1. The Commission received notification of the abovementioned proposed merger on **10 July 2014**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 348

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO
PROPOSED MERGER: BB INVESTMENT COMPANY (PTY) LTD // ADCOCK
INGRAM HOLDINGS LIMITED
CASE NO.: 2014JUL0039MER**

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

1. The Commission received notification of the abovementioned proposed merger on **29 July 2014**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 349

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: TRUSTCO GROUP HOLDINGS LIMITED // FIDES BANK NAMIBIA (PTY) LTD
CASE NO.: 2014JUNE0029MER**

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

1. The Commission received notification of the abovementioned proposed merger on **25 June 2014.**
2. Please note that the Commission has **approved the proposed merger subject to the following conditions –**
 - 2.1 *That the merged undertaking retains at least 20 persons in its employ or re-employ at least 20 persons of the retrenched workforce within three (3) months from the date of approval of the transaction, and*
 - 2.2 *That the merged undertaking first consider employing persons from the retrenched workforce whenever making new appointments for a period of two (2) years from the date of approval of the transaction, and*
 - 2.3 *That the merged undertaking make available an amount of N\$ 700 000 for the purpose of training retrenched employees. The indicated amount should translate into N\$8 750.00 per employee who are subjected to retrenchment. The merged undertaking shall allocate an amount for training to the affected employees subject to the following;*
 - 2.3.1 *That the merged undertaking informs the affected employees (verbally and in writing) that funds are available for training courses offered by accredited institutions and request that interested employees communicate their interest, the training they wish to undertake and the estimated costs thereof within a period not less than three (3) months from the date that they are informed.*
 - 2.3.2 *That the amount made available shall be paid directly to the chosen training institution upon production of proof of acceptance by an employees that declared their interest.*

- 3. In order for the Commission to properly monitor compliance with the above conditions the merged undertaking shall:**
- 3.1 Within a month after the expiration of the period specified in condition no. 2.1, provide the Commission with a written report indicating the names and positions of the twenty (20) persons retained or re-employed.
- 3.2 Provide a report detailing the recruitment procedure undertaken for re-employing employees referred to in 2.1 and 2.2 above.
- 3.3 Within the 2 year period specified in condition no. 2.2, provide the Commission with written reports every six (6) months from the date of approval of the transaction detailing the following:
- 3.3.1 All vacant positions to be filled within the next 6 months;
- 3.3.2 The qualifications required for each position;
- 3.3.3 The skill requirements for each position;
- 3.3.4 The recruitment procedure to be followed as well as rationale and sufficient proof of its transparency and fairness;
- 3.3.5 Names of retrenched employees considered for recruitment and those recruited and their positions.
- 4. For the purposes of this condition the following definitions apply:**
- 4.1. “date of approval”** means the date on which the Commission’s determination is communicated to the merging parties in writing;
- 4.2. “employee”** means any person employed by FIDES Bank Limited at the date of the merger notice;
- 4.3. “affected employee”** means any person employed by FIDES Bank Limited at the date of the merger notice that will be retrench and not re-employed by the merged undertaking;
- 4.5. “merged undertaking”** means Trustco Group Holdings Limited, Trustco Bank and FIDES Bank Limited;
- 4.6. “retrenched workforce”** means the employees actually retrenched by FIDES Bank Limited subsequent to the merger determination and immediately preceding the implementation of the transaction and/ or the employees retrenched by Trustco Bank from the date of approval of the merger by the Namibian Competition Commission.
- 4.7. “training”** means any training courses offered by institutions accredited by the relevant authorities.
- 5. The reasons for the conditional approval of the proposed merger are as follows:**
- 5.1 The acquiring undertaking indicated in its merger filing that it will retrench all the current Fides employees after the implementation of the proposed transaction. That effectively means that the current 123 employees and trainees are to lose their jobs after the implementation of the proposed transaction.

- 5.2 The reason for requiring the merged undertaking to make available resources is for the purposes of training the affected employees. The Commission is of the view that the amount would enable affected employees to acquire skills that would put them in a better position to find alternative employment.
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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 350

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: ANAND RADHAKRISHNAN// NAMIBIA STATIONERY WHOLESALE CC
CASE NO.: 2014JUL0035MER**

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

1. The Commission received notification of the abovementioned proposed merger on **11 July 2014**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially 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.*

**F. HANGULA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 351

2014

**NOTICE OF DETERMINATION MADE BY COMMISSION IN RELATION TO PROPOSED
MERGER: ROBERT BOSCH GMBH // HYTECH HOLDINGS (PTY) LTD
CASE NO.: 2014JUN0033MER**

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

1. The Commission received notification of the abovementioned proposed merger on **30 June 2014**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on grounds that the proposed transaction is not likely to substantially 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.*

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