



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 17 February 2020

No. 7122

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Government Notice

MINISTRY OF INDUSTRIALISATION, TRADE AND SME DEVELOPMENT

No. 43

2020

NOTICE OF APPLICATION FOR REVIEW OF DECISION OF COMMISSION IN RELATION TO PROPOSED MERGER: RIO TINTO NAMIBIA HOLDINGS LIMITED AND CHINA NATIONAL URANIUM CORPORATION: COMPETITION ACT, 2003

In terms of section 49(2) of the Competition Act, 2003 (Act No. 2 of 2003) read with Rule 32(1) of the Rules published under Government Notice No. 41 of 3 March 2008, I -

- (a) give notice that I have received an application for review in relation to the proposed merger between Rio Tinto Namibia Holdings Limited ("RTNH") and China National Uranium Corporation ("CNUC") with particulars of the application and grounds for review set out in the Schedule; and
- (b) invite interested parties to make written submission, to me with regards to the matter to be reviewed within 14 days after the date of publication of this Notice, by delivering the written submissions to the Office of the Minister, Ministry of Industrialisation, Trade and SME Development, Brendan Simbwaye Square, Block B, Room 235, Corner of Dr. Kenneth Kaunda and Goethe Street, Windhoek.

T. TWEYA
MINISTER OF INDUSTRIALISATION,
TRADE AND SME DEVELOPMENT

Windhoek, 5 February 2020

SCHEDULE

PROPOSED MERGER NOTICE - RIO TINTO NAMIBIA HOLDINGS LIMITED (“RTNH”)
AND CHINA NATIONAL URANIUM CORPORATION (“CNUC”)
CASE NO. 2018DEC0048MER

1. Please take notice that the Competition Commission (“the Commission) conditionally approved the proposed merger between Rio Tinto Namibia Holdings Limited (“RTNH”) and China National Uranium Corporation (“CNUC”) in relation to CNUC’s acquisition of the entire interest of RTNH in Rossing Uranium Limited (“RUL”) as published under General Notice No. 264 of 23 July 2019.
 2. Notice is hereby given that I have on 5 August 2019, in terms of Section 49(1) of the Competition Act, 2003 (Act No. 2 of 2003), received an application from CNUC on behalf of the parties requesting for review of the decision of the Commission in relation to the merger concerned.
 3. The purpose of the review is to review the conditions that the Commission imposed on the proposed merger. The Commission imposed the following conditions in its determination under paragraph 3 of the determination:
 - 3.1 *“3.1.2 RUL shall maintain a ratio of at least 95% (ninety five percent) local employees to 5% foreign employees, at the level of Management until the expiry of LOM-this ratio shall be determined based on average percentage calculated over the applicable Reporting Period and shall at all relevant times be calculated in relation to the Management Compliment.”*
 - 3.2 *“3.2.2 Notwithstanding condition 3.2.1 and to the benefit of local Namibian SME’s for procurement of any services, goods, or products below a value of N\$250, 000 per project the following shall apply -*
 - 3.2.2.1 *The merged undertaking shall procure a minimum of 80% (eighty percent) of any such services, goods of products from companies which:*
 - 3.2.2.2 *are a majority Namibian owned and registered; and*
 - 3.2.2.3 *employ a minimum of 75% Namibian citizens.”*
 4. The conditions stipulated in paragraph 3 is challenged on the basis that the imposition of an employment condition was incorrect.
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