



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 12/LM/Feb12

In the matter between:

Anglo American PLC

Acquiring Firm

And

De Beers SA

Target Firm

Panel	:	Andreas Wessels (Presiding Member) Medi Mokuena (Tribunal Member) Taki Madima (Tribunal Member)
Heard on	:	11 April 2012
Order issued on	:	11 April 2012
Reasons issued on	:	13 April 2012

Reasons for Decision

Approval

- 1] On 11 April 2012 the Competition Tribunal ("Tribunal") approved the merger between Anglo American PLC and De Beers SA. The reasons for approval follow below.

Parties to transaction

- 2] The primary acquiring firm is Anglo American PLC (“Anglo American”), a public company with a primary listing on the London Stock Exchange and secondary listings on the Johannesburg Stock Exchange, Swiss Exchange, Botswana Stock Exchange and the Namibian Stock Exchange. Anglo American is not controlled by any shareholder.
- 3] The primary target firm is De Beers SA (“DBSA”) a private company incorporated in Luxembourg. The De Beers Group (“De Beers”) operating companies are indirectly owned through DBSA. DBSA has both A shares and B shares in issue. The A shares in DBSA are all owned by DB Investments SA (“DBI”). DBI is a private company incorporated in Luxembourg and is owned by (i) Anglo American (45% indirectly through Anglo Diamond Investments Sarl); (ii) CHL Holdings Ltd (“CHL”), representing the Oppenheimer family interests (40% indirectly through Central Investments DBI SA (“CIDBI”), a subsidiary of CHL); and (iii) the Government of the Republic of Botswana (15% indirectly held as to 11.05% through Debswana Investments SA and 3.95% through Debswana Investments’ minority shareholding in CIDBI).

Activities of merging parties

- 4] Anglo is a diversified mining company with operations in various parts of the world. Its worldwide activities include the mining of platinum group metals, coal, base and ferrous metals, industrial minerals and diamonds. Anglo American’s existing interest in diamonds is held wholly through its 45% joint controlling stake in De Beers.
- 5] The primary activities of De Beers involve the exploration, mining, processing, valuing and sale of rough diamonds. Together with its joint venture partners De Beers is the world’s leading rough diamond producer (by value) with mining operations in Botswana, Namibia, South Africa and Canada.

Proposed transaction and rationale for transaction

- 6] The proposed transaction entails CHL agreeing to make an offer to sell its entire indirect 40% interest in De Beers to the other two shareholders of De Beers. The proposed transaction, in essence, results in Anglo American increasing its shareholding in De Beers from 45% to up to 85%. Therefore the proposed transaction represents an increase in shareholding from joint to sole control by Anglo American of De Beers.
- 7] According to Anglo American the proposed transaction represents a continuation of its strategy to focus on world class mining assets with long lives, low cost profiles and clear expansion potential.

Impact on competition

- 8] There is no horizontal overlap between the activities of the merging parties in South Africa or globally. Pre-merger Anglo American's only interest in diamonds is through its existing 45% interest in De Beers and it is not engaged in any other activity which competes with the activities of De Beers. Since there is no overlap in the merging parties' activities, and also no significant vertical relationships between them, the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in any relevant market.

Public interest

- 9] The merging parties confirmed that there will be no negative impact on employment as a result of the proposed transaction.¹ Furthermore, the proposed deal raises no other public interest concerns.

¹ Merger record, pages 14, 58 and 75.

CONCLUSION

10] We approve the proposed transaction unconditionally.

Andreas Wessels

13 April 2012
DATE

Medi Mokuena and Taki Madima concurring

Tribunal researcher:	Thabo Ngilande
For the merging parties:	Nortons Inc
For the Commission:	Grace Mohamed