



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No:42/LM/APR12  
(014944)**

In the matter between:

**Gold One International Limited**

Acquiring Firm

And

**First Uranium Limited and its wholly owned  
Subsidiary, Ezulwini Mining Company (Pty) Ltd**

Target Firm

Panel : Norman Manoim (Presiding Member),  
Andreas Wessels (Tribunal Member),  
Takalani Madima (Tribunal Member)  
Heard on : 27 June 2012  
Order issued on : 27 June 2012  
Reasons issued on : 29 June 2012

### **Reasons for Decision**

#### **Approval**

- 1] On 27 June 2012 the Competition Tribunal ("Tribunal") unconditionally approved the large merger between Gold One International Limited and First Uranium Limited and its wholly owned subsidiary, Ezulwini Mining Company (Pty) Ltd. The reasons for approving the proposed transaction follow below.

## **Parties to transaction**

- 2] The primary acquiring firm is Gold One International Limited (“Gold One”), a public company with a primary listing on the Australian Securities Exchange and a secondary, dual listing on the Johannesburg Securities Exchange. Gold One is controlled by BCX Gold Investment Holdings Ltd (BVI) (“BCX”), a company incorporated in the British Virgin Islands. BCX is a special purpose vehicle created by a consortium of investors from the People’s Republic of China for the purpose of acquiring and holding interest in Gold One. BCX is ultimately controlled by the Baiyin Non-Ferrous Group Co Limited (“BNG”), the CADFund Group, the Changxin Element Group and the China-Africa Xinyin Group.
- 3] The primary target firms are First Uranium Limited (“FUL”) and its wholly owned subsidiary, Ezulwini Mining Company (Pty) Ltd (“EMC”). FUL is incorporated in terms of the laws of Cyprus, and EMC is a private company incorporated in terms of the laws of the Republic of South Africa. FUL is the wholly owned subsidiary of First Uranium Corporation (“FIU”), a public company incorporated in terms of the company laws of Canada and controlled by AngloGold Ashanti Limited.

## **Activities of merging parties**

- 4] Gold One produces and supplies gold as its primary product, and produces a negligible amount of silver as a by-product of the gold refining process. Its mining operations are located in the Gauteng Province. Gold One owns uranium deposits but does not yet supply uranium as its uranium processing plant is only scheduled to begin operating in 2015.
- 5] The BCX consortium’s members are active in the minerals and natural resources industries. BNG is a large-scale mining and smelting group based in the People’s Republic of China which operates across the industry chain in the non-ferrous metals industry. Its operations include developing, mining, smelting and mineral processing of copper, aluminium, lead, zinc, sulphur and, to a negligible extent, gold and silver.<sup>1</sup> The

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<sup>1</sup> See footnote 9 on page 60 of the Record.

CADFund Group is a Chinese equity fund focused on direct investments from China into Africa. The Changxin Element Group invests and manages Chinese capital investments in natural resources, resource companies and properties outside China, and the China-Africa Xinyin Group invests in the development and extraction of mineral resources in emerging markets.

- 6] FUL is a holding company whose sole activity entails holding all the issued share capital of EMC. EMC's activities involve producing and supplying gold and uranium sourced from its Ezulwini Mine located in the Gauteng Province. EMC also produces a negligible amount of silver as a by-product of the gold refining process.

#### **Proposed transaction and rationale for transaction**

- 7] The proposed transaction entails Gold One acquiring 100% of the total issued share capital of FUL, and any and all claims FIU has against either or both FUL and EMC. Gold One will thus acquire sole control of FUL and EMC.
- 8] According to Gold One Ezulwini Mine is an attractive investment for its BCX investors because it will expand Gold One's existing Cooke Operations by providing an alternative gold processing plant and access to an adjacent gold and uranium ore body to which EMC holds the prospecting rights. It will also enable Gold One to begin immediate uranium production. In addition, the transaction provides Gold One with both cost saving and future expansion opportunities.
- 9] From FUL's perspective, the company is in severe financial difficulties and the proceeds of the sale will help FUL meet its outstanding financial obligations.

#### **Relevant markets and impact on competition**

##### *Horizontal Analysis*

10] The Commission found that there is a horizontal overlap in the activities of the merging parties with regard to the production and supply of gold, silver and uranium. Although Gold One does not produce uranium at present, its uranium processing plant is substantially complete and expected to be operational by 2015. Given the long lead times for uranium mining projects, Gold One's facility will be operational relatively soon, and Gold One's potential presence in the uranium market is therefore relevant for the competition analysis. Furthermore, the merger will grant Gold One access to EMC's uranium processing plant, which will enable Gold One to begin extracting and supplying uranium from its uranium deposits earlier than 2015. The Commission thus defined the relevant markets as the international markets for the production and supply of gold, silver and uranium.<sup>2</sup>

11] In assessing the impact on competition, the Commission considered the market shares and the characteristics of the relevant markets. The merging parties' combined post-merger market share is very low at 0.28%, 0.9% and 0.04% in the international markets for the production and supply of gold, silver and uranium respectively. These markets are highly fragmented, and the merged entity will continue to face competition from a large number of players in all three markets. Furthermore, in the market for uranium, the customers have significant countervailing power as utility providers generally diversify their sources of supply, and can switch to secondary suppliers (military and commercial entities with large stockpiles) if the price increases. It is therefore unlikely that the merged entity will be able to influence prices to the detriment of consumers.

12] We thus agree with the Commission that the proposed transaction is unlikely to substantially prevent or lessen competition in the market.

### **Public Interest**

13] The merging parties submitted that the proposed transaction will have no

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<sup>2</sup> In previous cases involving these markets the Tribunal has repeatedly held that the markets are international in scope, and there is no basis for distinguishing those decisions in this case. See *AngloGold Ashanti Limited and First Uranium Corporation*, 84/LM/Sep11; *Harmony Gold Mining Company Limited and Pamodzi Gold Free State (Pty) Ltd*, 71/LM/Oct09

adverse effects on employment since they do not foresee any retrenchments as a result of the merger.<sup>3</sup> The Commission noted that although there have been retrenchments at Ezulwini Mine since December 2011, these retrenchments were a consequence of FUL's financial difficulties and were conducted in a transparent manner with the National Union of Mineworkers. The Commission thus concluded that the retrenchments were not merger-specific.

14]In addition, the merging parties submitted at the hearing that Ezulwini and Gold One's adjacent shafts were historically part of one mine. Gold One is thus ideally located to make the most efficient use of the mine's resources, and through sharing the processing plants and senior management Gold One will be able to decrease the operating costs and potentially rescue the mining operations at Ezulwini Mine. The Commission is thus of the view that the transaction may save employment in the long run.

15]No other public interest issues arise due to this transaction.

## **Conclusion**

16]Having regard to the facts above, we find that the proposed merger is unlikely to substantially lessen or prevent competition in any relevant markets. Furthermore, the proposed transaction raises no public interest concerns. Accordingly, we approve the merger unconditionally.

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**Norman Manoim**

29 June 2012  
**DATE**

**A Wessels and T Madima concurring**

Tribunal Researcher: Elizabeth Preston-Whyte

For the merging parties: HB Senekal of Edward Nathan Sonnenbergs

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<sup>3</sup>See page 86 and 109 of the Record

For the Commission:        Bheki Masilela and Lindiwe Khumalo