




BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

FIRST PHASE REVIEW


RESTRUCTURING OF M/S. REKO DIQ MINING COMPANY (PRIVATE) LIMITED

CASE: 1343/Merger-CCP/2022

Commission

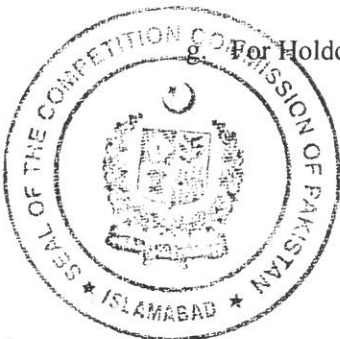

Ms. Rahat Kaunain Hassan
Chairperson



Mr. Mujtaba Ahmad Lodhi 
Member

ORDER

1. On 28th November, 2022, the Competition Commission of Pakistan ("**Commission**") received a pre-merger application ("**Application**") pursuant to Section 11 of the Competition Act, 2010 ("**Act**") read with Regulation 6 of the Competition (Merger Control) Regulations, 2016 ("**Merger Regulations**") from M/s. Barrick Reko Diq Holdings Limited ("**Barrick Shareholder**") concerning the proposed restructuring of M/s. Reko Diq Mining Company (Private) Limited ("**Reko Diq Company**") through various steps amongst the following merger parties: Barrick Shareholder/M/s. Barrick Gold Corporation ("**Barrick**"), M/s. Tethyan Copper Company Pty Limited ("**TCCA**"), the Government of Balochistan ("**GoB**"), M/s. Balochistan Mineral Resources Limited, ("**BMRL**"), M/s. Pakistan Minerals (Private) Limited ("**PMPL**"), M/s. Reko Diq Investments Limited ("**Holdco1**") and M/s. Reko Diq Holdings Limited ("**Holdco2**"), in accordance with the terms of the Framework Agreement dated March 20, 2022 (the "**Agreement**").
 2. The Commission has examined the Application as well as all the documents attached therewith and the information provided by the concerned undertaking(s). The subject transaction/restructuring involves the following parties:
 - a. For Barrick Shareholder: it is a newly formed private limited company incorporated under the laws of Bailiwick. It is an indirect wholly owned subsidiary of Barrick through TCCA. Barrick is engaged in mining operations and the global sale of gold and copper.
 - b. For Reko Diq Company: the Target company, formerly known as M/s. Tethyan Copper Company Pakistan (Private) Limited ("**Tethyan Pakistan**"), and, presently, is a wholly owned subsidiary of TCCA.
 - c. For GoB: Provincial Government operating under the Constitution of the Islamic Republic of Pakistan, 1973.
 - d. For BMRL: Provincial government owned entity that is engaged in the exploration and development of mineral resources in Balochistan.
 - e. For PMPL: a Special Purpose Vehicle ("**SPV**") formed through a consortium of M/s. Oil Gas Development Corporation Limited ("**OGDCL**"), M/s. Pakistan Petroleum Limited ("**PPL**") and M/s. Government Holdings (Private) Limited ("**GHPL**") for the purpose of the subject transaction.
 - f. For TCCA: a joint venture between M/s. Antofagasta PLC (Chile's Luksic Group) ("**Antofagasta**") and Barrick. It is incorporated in Australia and currently owns % shareholding of the Reko Diq Company.
- For Holdco1: holding company incorporated by Holdco2 under the laws of Jersey.



- h. For Holdco2: holding company incorporated by Barrick Shareholder/TCCA under the laws of Jersey.
3. As per Part B of Schedule 4 of the Agreement, the transaction entails multiple steps. Firstly, as Antofagasta wishes to exit the current joint venture between it and Barrick (and, as a result, Antofagasta shall no longer remain a joint venture partner/shareholder in TCCA, which will then be indirectly wholly owned by Barrick), TCCA shall enter into a sale and purchase agreement pursuant to which it will sell _____ % of its _____ shares in Reko Diq Company (formerly Tethyan Pakistan) for approx. USD _____ to BMRL (representing _____ % indirect interest/stake in the Reko Diq Project) and PMPL (representing _____ % indirect interest/stake in the Reko Diq Project and PMPL is a SPV which has been collectively formed by OGDCL, PPL and GHPL for this purpose).

TCCA shall also transfer all of its _____ shareholding in the Reko Diq Company (formerly Tethyan Pakistan) to GoB (representing a _____ % non-contributing interest in the Reko Diq Project)

4. As a result of the above, the First Stage Restructure shall result in the following:
- TCCA shall retain _____ % _____ shares in the Reko Diq Company, which will represent a _____ % interest in the Reko Diq Project.
 - BMRL and PMPL shall collectively hold _____ % of _____ shares in the Reko Diq Company, which will represent a _____ % interest in the Reko Diq Project.
 - The GoB will hold all of the _____ shares in the Reko Diq Company, which will represent a direct 10% non-contributing interest in the Reko Diq Project.
5. Furthermore, for the purpose of the subject transaction, as per Part B of Schedule 4 of the Agreement, Barrick Shareholder/TCCA has also incorporated Holdco2 under the laws of Jersey and Holdco2 has incorporated Holdco1 under the same laws.

Following the corporation of the new Holdco companies, TCCA shall transfer all its _____ shares, i.e., _____ %, of the Reko Diq Company to Holdco1. BMRL and PMPL shall also transfer their respective shareholdings in the Reko Diq Company to Holdco1.

In consideration of the above share transfer, Holdco2 shares will be issued in respective proportions to Barrick Shareholder (i.e., _____ % ordinary shares), BMRL (i.e., _____ % ordinary shares) and PMPL (i.e., _____ % ordinary shares). BMRL and PMPL shall collectively own _____ % ordinary shares in Holdco2.

6. In light of paragraph 5 above, the Second Stage Restructure shall result in the following:

Holdco1 will own all of the _____ shares of the Reko Diq Company and be the wholly owned subsidiary of Holdco2.

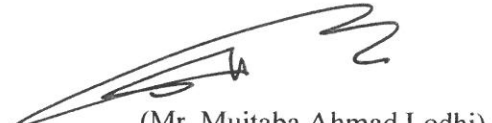


- As a result of the abovementioned share transfers, Holdco1 will have _____ % shareholding in Reko Diq Company and Holdco2 will have _____ % shareholding in the Reko Diq Company (collectively representing a _____ % interest in the Reko Diq Project).
 - Barrick Shareholder will hold _____ % ordinary shares in Holdco2 and BMRL and PMPL will collectively hold _____ % ordinary shares in Holdco2.
 - GoB will retain its _____ % interest in the Reko Diq Project as explained in paragraphs 3 and 4 above.
7. For the purpose of the Act, the relevant product market in this case has been identified as “**Exploration & Mining of Gold and Copper**” and the relevant geographic market is “**Reko Diq – Chagai District, Balochistan, Pakistan**”.
 8. As per the Application, currently, the undertakings concerned are not active in the relevant market. However, for purposes of clarity, it may be noted that PPL (a partner/shareholder in PMPL) is active in other mining projects through its shareholding/stake in Bolan Mining Enterprises related to other minerals, i.e., barite, iron ore, lead and zinc. As the Reko Diq Company is not operational yet, no market shares can be determined. Its estimated time to commence operations is approximately five to six years later in the future.
 9. As per the Application and the Agreement, the Reko Diq Project relates to one of the world’s largest undeveloped open-pit copper and gold porphyry deposits. It is envisaged by the Applicants that the Project would lead to extensive mining operations and development and be a multi-generational mine with a life for at least 40 years in the future. The undertakings concerned undertake that the Project has significant economic benefits to Balochistan and Pakistan, including job creation for an estimated 7500 people once in production and 4000 long-term employment opportunities. Importantly, the Reko Diq Company shall endeavor to maximize employment of qualified individuals in Pakistan and to invest in training and other such programs to develop and enhance the skillset of its human resource.
 10. As per Part 1 of Schedule 1 of the Agreement, i.e., the Mineral Agreement Term Sheet, development of the Reko Diq Project also will lead to the development, design and funding of public infrastructure projects in and around the Reko Diq Project site including the maintenance of roads. The Reko Diq Company would be required to invest in social development projects in Balochistan including education and skills development initiatives as well as local economic development including the support of local supply chains of SMEs in sectors related to the Reko Diq Project.
 11. Moreover, through the subject transaction/restructuring, the stake/interest of the foreign entities has decreased, and the domestic stake/interest has increased where GoB and the Government owned entities, directly or indirectly, now have a _____ % stake/interest in the Reko Diq Project. The development of the Reko Diq Project would also benefit the national exchequer.
 12. Ancillary restrictions have been reported with this transaction, which may require exemption under Section 5 of the Act, read with Regulation 4 of the Competition Commission (Exemption) Regulations 2020 unless the Federal Government notifies the same as exempted in terms of Section 54 of the Act.



13. In this regard, the subject transaction/restructuring is subject to other applicable laws and regulatory regime. Therefore, such matters which fall outside the scope of the Commission's purview shall be dealt with in accordance with the applicable laws in that regard.
14. In light of the above, the subject transaction/restructuring relates to a licensed activity in a regulated sector in Pakistan¹ and the subject transaction/restructuring itself as proposed and envisaged in the Application along with all relevant agreements has no current negative impact on competition in the relevant market. The proposed transaction is hereby authorized under Section 31(d)(i) of the Act.
15. It is so ordered.


(Ms. Rahat Kaunain Hassan)
Chairperson


(Mr. Mujtaba Ahmad Lodhi)
Member



Islamabad the 7th December, 2022.

¹ In this regard, as per the Application, GoB has granted the renewal of Reko Diq Company's exploration license and Reko Diq Company will obtain the requisite Mining and Surface Leases from GoB for the concerned area.