



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM199Mar22

Hapag-Lloyd Aktiengesellschaft (Primary Acquiring Firm)
and
DAL Deutsche Africa-Linien GmbH & Co. KG (Primary Target Firm)

REASONS FOR DECISION

- [1] On 24 May 2022, the Competition Tribunal (“Tribunal”) conditionally approved a large merger between Hapag-Lloyd Aktiengesellschaft (“HL AG”) and DAL Deutsche Africa-Linien GmbH & Co. KG (“DAL”).
- [2] HL AG will acquire the DAL liner and agency business from the Von Rantzau—Essberger Group. The South African leg of the proposed transaction entails HL AG acquiring all shares in DAL Agency, DAL Transport, and Simba Africa.
- [3] HL AG is a stock corporation incorporated in accordance with the laws of Germany¹ and is jointly controlled by CSAV Germany Container Holding GmbH, (“CSAV”), Klaus Michael Kühne (“Kühne”), and HGV Hamburger Gesellschaft für Vermögens-und Beteiligungs Management mbH (“HGV”). HL AG controls a number of firms globally and in South Africa it only controls Hapag-Lloyd Africa Proprietary Limited (“HL Africa”).
- [4] HL AG is active in the international shipping business and provides international container liner shipping services, offering global door-to-door and port-to-port containerised cargo services under the Hapag-Lloyd brand, through a fleet of approximately 257 container ships.
- [5] DAL is incorporated in terms of the laws of Germany and is indirectly controlled by the Von Rantzau—Essberger Group. DAL indirectly controls multiple firms in South Africa, namely, DAL Deutsche Afrika-Linien SA (Pty) Ltd; DAL Agency (Pty) Ltd (“DAL Agency”); DAL Transport (Pty) Ltd (“DAL Transport”); Simba Africa Maritime (Pty) Ltd (“Simba Africa”); and Styria Ranch Investments (Pty) Ltd (“Styria Ranch”). In South Africa, DAL also has an indirect interest in Transglobe Holdings (Pty) Ltd (“Transglobe”), through its wholly-owned subsidiary, Africa Logistics Investments GmbH. Transglobe does not form part of the business being sold and will remain a separate business of the sellers.
- [6] The DAL liner and agency business provides liner shipping services for the transportation of containerised cargo between Europe, Africa and the Indian Ocean. The focus of DAL’s liner and agency business operations is in respect of the African continent. DAL liner business offers container liner shipping services on various trade routes. DAL Transport offers ship owners and operators a comprehensive range of

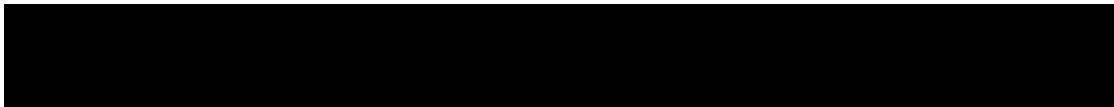
¹ Listed on the Frankfurt Stock Exchange and Hamburg Stock Exchange.

services in respect of all types of vessels calling at South African ports, including port operations and ship's husbandry. DAL Agency has a network of offices in South Africa to provide easy access to fast, reliable and safe liner shipping services for the transportation of containerised and break-bulk cargoes between Europe, Africa and the Indian Ocean. Simba Africa provides a range of services including providing inland and cross-border logistics solutions, selling containers and liner agency services.

[7] In its competition assessment, the Competition Commission ("Commission") identified a horizontal overlap in the provision of container shipping liner services to/from South Africa. The Commission assessed the following relevant markets:

- i) The market for container liner shipping services on the Northern Europe-South Africa route (southbound);
- ii) The market for container liner shipping services on the South Africa-Northern Europe (northbound) route;
- iii) The market for container liner shipping services on the West Mediterranean/North Africa-South Africa (southbound) route; and
- iv) The market for container liner shipping services on the South Africa-West Mediterranean/North Africa (northbound) route.

[8] In the abovementioned markets, the Commission, found that the merging parties would have low post-merger market shares, and would continue to be constrained by other players in each of the above markets such as Maersk Line and Mediterranean Shipping Company.

[9]  Further, the merger is unlikely to present a platform through which the members of the respective competing Vessel Sharing Agreements can coordinate their conduct via the merged entity, therefore negatively impacting competition.

[10] The Commission was of the view that the proposed transaction is unlikely to substantially lessen or prevent competition.

[11] Regarding employment, the merging parties submitted that HL AG does not anticipate a negative merger-specific impact on employment in South Africa. The employee representative of HL AG confirmed that employees have been notified of the proposed transaction and that no concerns have been raised.

[12] The employees of the Target Business raised concerns with the proposed transaction regarding potential retrenchment. The merging parties, in addressing the employees' concerns, indicated that they would be "*willing to commit that for a period of 36 months after closing of the merger there will be no merger specific job losses or retrenchments in South Africa...*" Such undertaking by the merging parties has been imposed as a condition for the merger's approval.

[13] The merging parties submitted that the proposed transaction entails the acquisition by a German registered company of part of the business of another German registered company and is accordingly, a foreign-to-foreign merger. Both the seller and the acquiring entity are foreign companies and, therefore, do not have historically disadvantaged shareholders.

- [14] HL Africa does not have any historically disadvantaged shareholders. HL Africa is a Level 4 contributor and is accordingly regarded as fully BEE compliant. The South African target firms also do not have any historically disadvantaged shareholders. As Simba Africa and DAL Transport have a level 4 BEE contributor status, these two entities would be regarded as fully BEE compliant. DAL Agency is a level 6 BEE contributor.
- [15] The merging parties emphasised the fact that the proposed transaction will not result in a reduction or change in the BEE contribution levels of the three South African firms which form part of the transaction.
- [16] We concluded that the proposed transaction is unlikely to substantially lessen or prevent competition in any relevant market, or to have a negative impact on the public interest. Accordingly, we approved the transaction on the basis of the Conditions attached to the order.

Signed by: Enver Daniels
Signed at: 2022-05-24 13:53:43 +02:00
Reason: Witnessing Enver Daniels

Enver Daniels

24 May 2022

Mr. Enver Daniels

Date

Ms. Yasmin Carrim and Dr. Thando Vilakazi concurring

Tribunal Case Manager:
For the Merging Parties:
For the Commission:

Camilla Mathonsi
Anton Roets of Nortons Inc
Portia Bele and Grashum Mutizwa