



**COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2017/12/540)**



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01.02.2018

**Notice u/s 6 (2) of the Competition Act, 2002 given by
MIT African Management Limited**

CORAM:

Mr. Devender Kumar Sikri
Chairperson

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Legal Representatives of the parties: M/s Shardul Amarchand Mangaldas & Co

Order under Section 31(1) of the Competition Act, 2002

1. On 27.12.2017, the Competition Commission of India (“**Commission**”) received a notice under Section 6(2) of the Competition Act, 2002 (“**Act**”) filed by MIT African Management Limited (“**MAML**”/ “**Acquirer**”).



2. The proposed combination relates to the acquisition of equity shares of ETC Group (Mauritius) Limited (“**ETC Group**” / “**Target**”) by MAML from its existing shareholder ETC Holdings (Mauritius) Limited (“**ETC Holdings**”) in two phases as given under (“**Proposed Combination**”).
 - i. Acquisition of equity shares that represent approximately 22.44 percent of the equity share capital of ETC Group by MAML from ETC Holdings (“**Phase I**”); and
 - ii. Acquisition of additional equity shares ranging from 7.30 percent to 9.10 percent of the equity share capital of ETC Group from ETC Holdings, depending on the financial performance of ETC Group. This step is planned to be implemented within two years of closing of Phase I (“**Phase II**”).
3. At present, the Target is jointly controlled by (i) ETC Holdings and its group entity Export Trading Group (Singapore) PTE Ltd. (“**ETC HoldCo**”); (ii) Standard Chartered Private Equity (Mauritius) III Limited (“**SCPE**”); and (iii) PRIF AfriVest Limited (“**PR**”). For the purposes of the Proposed Combination, prior to acquisition of shares of ETC Group by MAML, each of ETC HoldCo, SCPE and Marina Finance L.P (“**Marina Finance**”) (non-controlling minority shareholder of ETC Group) will sell their respective holdings to ETC Holdings and will cease to be shareholders of ETC Group. PR will also sell a part of its holdings but continue to retain control over ETC Group. Accordingly, post completion, the Target will be under the joint control of MAML, ETC Holdings and PR.
4. For the purposes of the Proposed Combination, the parties have executed the following agreements –
 - i. Agreement for sale and purchase of 22.44 percent of the issued share capital in ETC Group, entered between, *inter-alia*, ETC Holdings, MAML and ETC HoldCo., on 19.11.2017;



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- ii. Amended and Restated Shareholders' Agreement relating to the ETC Group, entered between, *inter-alia*, PR, MAML, ETC Holdings, ETC HoldCo and ETC Group, on 19.11.2017;
 - iii. Sale of Shares Agreement entered between SCPE, Marina Finance, ETC Holdings and ETC Group on 19.11.2017 for the acquisition of shares of ETC Group by ETC Holdings;
 - iv. Sale of Shares Agreement entered between PR and ETC Holdings for the acquisition of a part of holdings of PR in ETC Group by ETC Holdings;
 - v. Assignment Agreement to the Term Facility Agreement dated 19.11.2017, assigning the loan taken by ETC Group from Mitsui Europe to MAML; and
 - vi. Amendment and Supplement Agreement to the Share Pledge Agreement dated 19.11.2017, entered between ETC Holdings, ETC Group and MAML.
5. In terms of Regulation 14 of The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 "**Combination Regulations**"), *vide* letter dated 05.01.2018, MAML was required to provide certain information/document(s) by 12.01.2018. The Acquirer filed response on 16.01.2018 after seeking extension of time. MAML also submitted certain additional information on 18.01.2018.
6. MAML, a newly incorporated company in Dubai, UAE, is a subsidiary of Mitsui & Co., Ltd. ("**Mitsui**"). Mitsui is a Japanese trading house engaged in a number of world-wide commodities and other businesses, including sale, distribution, purchase, marketing and supply of products in business areas such as iron and steel, coal and nonferrous metals, machinery, electronics, chemicals and energy-related commodities.



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7. ETC Group is a company incorporated and registered in the Republic of Mauritius. It conducts a diversified agricultural trading and processing business and has activities in 27 countries in Africa, North America, Europe, Middle East and South East Asian countries.
8. The Commission noted that the Target and Mitsui are globally engaged in wholesale trading of: (a) Soy beans; (b) Sesame seeds; (c) Oilseeds other than soy and sesame; (d) Soy meal; (e) Cashews; (f) Sugar and paper trade of sugar; (g) Coffee; (h) Pulses; (i) Wheat; (j) Rice; (k) Maize; and (l) Mineral fertilizers. In India, Mitsui is engaged in manufacture, production and sale of mineral fertilizers and sale of pulses while ETC Group is engaged in trading of sesame seeds, cashews, pulses and wheat. Thus, the activities of the Parties overlap in India only in respect of trading of pulses.
9. The Commission assessed the Proposed Combination in the overall market for pulses in India and in the narrower market for import of pulses in India. The Commission observed that the market shares of Mitsui and the Target are not significant to raise any competition concerns in the overall market for pulses in India and in the narrower market for import of pulses in India, Mitsui's presence and consequent change in concentration is not significant to cause any change in competition dynamics. The Commission further noted the presence of the Acquirer and Target globally as regards the other products and observed that the same does not appear significant to cause any AAEC concerns in India.
10. The Commission noted that Mitsui and ETC Group have a customer supplier relationship and observed that the same is not significant to cause any AAEC concerns in India.
11. Considering the facts on record and the details provided in the notice given under Section 6(2) of the Act and assessment of the Proposed Combination on the basis of factors stated in Section 20(4) of the Act, the Commission is of the opinion that the Proposed Combination is not likely to have any appreciable adverse effect on competition in India in any of the relevant market(s) and therefore, the Commission hereby approves the same under Section 31(1) of the Act.



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12. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
13. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
14. The Secretary is directed to communicate to the Acquirer accordingly.