

BT Luxembourg II, S.á.r.L

Submission supplementing Form 2 lodged with the ICCC

1. Purpose of submission

This submission supplements the Form 2 application for clearance lodged by **BT Luxembourg II, S.á.r.L (Boluda or Applicant)** with respect to the indirect acquisition of Smit Lamnalco Projects Pte Ltd (PNG Branch) (**SLP**) and the direct acquisition of Smit Lamnalco Towage PNG Ltd (**SLT**) [REDACTED] (SLP and SLT together the **Target Company**).

The Form 2 application for clearance is lodged due to the value of the transaction only. It is the submission of Boluda that there are no actual or likely anticompetitive effects arising from the transaction.

This application relates to the second iteration of the transaction. The ICCC has previously cleared the first iteration of the transaction on 18 May 2023. Additionally, on 17 September 2024, the ICCC approved the acquisition of sole control of SLT (and, indirectly, of SLP) by Boskalis.

The ICCC should refer to its earlier determinations for the general background and description of the parties and their business. The precise details of the transaction are described in the Form 2 to which this submission relates and is filed with the ICCC.

2. The transaction and parties

The second iteration of the transaction involves a change in the structure of the proposed acquisition. Rather than acquire 100% of the shares in Boskalis Westminster Dredging Limited, the new structure is an acquisition of shares in four Smit Lamnalco entities – Smit Lamnalco Towage PNG Limited (SLT), Smit Lamnalco Projects Pte Ltd (SLP) (which, in turn, holds 100% of the shares of SLP), Smit Lamnalco Australia Pty Ltd and Smit Marine Australia Pty Ltd from their applicable shareholders. This involves the acquisition [REDACTED]

The transaction proceeds by way of a sale and purchase of shares (**SPA**), a summary of which is attached to this submission as an Appendix. The SPA contains a relevant ICCC condition precedent at clause 6.3. A full, unredacted version of the SPA will be provided to the ICCC, subject to a claim for confidentiality made under a Form 4 to be lodged with this application.

Through this transaction, Boluda proposes to acquire from Smit Lamnalco International BV a fleet of [REDACTED] that provide towage and associated services for [REDACTED] terminals and ports in Australia and Papua New Guinea, through a number of time charter agreements, towage licenses and bareboat charters.

The acquisition now will be by:

- The acquisition of two companies in Australia, one (1) company in Papua New Guinea and another company (1) in Singapore, which has a branch in Papua New Guinea (see part A of the attached diagram).
- [REDACTED] (see the second attached diagram).

[REDACTED] are owned by Smit Lamnalco Singapore Pte Ltd which is outside the perimeter of the transaction. The seller will [REDACTED] (i.e., Smit Lamnalco Projects Pte Ltd) as per clause 7 of the SPA.

[REDACTED]

[REDACTED]

3. The purpose of the transaction

The PNG transaction as originally structured [REDACTED]

4. Market

The Applicant is a global company providing marine terminal (including harbour towage) services on a worldwide scale. The transaction is conceived as a way in which the Applicant would enter PNG.

As marine terminal services are provided by the Applicant on a global scale, such services are considered to be a global market. The terminal services that will continue to be provided will form part of the Applicant's global terminal services market following the proposed acquisition.

For the purposes of the ICCA Act, the relevant market as determined under competition law and anti-trust principles is more appropriately stated to be a PNG-based port/terminal services market (being the PNG LNG Marine Terminal located in Caution Bay, near Port Moresby, PNG).

Global forces of competition were driven into the relevant market by a tender process. This is 'competition for the market' as opposed to 'competition in the market'.

5. No likely competition effects

The PNG element of the wider transaction is not considered to have likely competition effects. The original reasons given for this conclusion still apply and are repeated below:

- **Assignment and novation of Vessel Orders are permitted** [REDACTED]
[REDACTED], may assign the Vessel Orders to an affiliate without Target Company's consent and assign to its co-venturers with Target Company's consent (not to be unreasonably withheld).

- **Contracting process drives competition into the market.** The global, competitive tender ensured, and in future will also ensure, the presence of a competitive outcome. This is competition for the market.
- **The forces of competition are global.** By their very nature, tugboats are easily transportable within and between different regions in the world. Provided a tugboat and a marine terminal services provider meet [REDACTED] specific requirements, any global competitor of the Target Company would be able to tender for a new contract for marine terminal services for the PNG LNG project.
- **Status quo is retained.** There will be no negative impact on [REDACTED] given the goods, services, and personnel will remain the same. There will be no loss of knowledge with respect to the Target Company.

No barriers to entry. Any costs or restrictions to entry of services are likely to be uniform as between Target Company and another competing provider. Such costs or restrictions are therefore not barriers to entry in the relevant sense to competition market analysis.

6. Requested outcome

Applicant seeks clearance of the PNG element of this new iteration of the wider transaction. Please do not hesitate to contact Dentons PNG should you have any queries

APPENDIX
RELEVANT TERMS OF THE AGREEMENT
CONFIDENTIAL – NOT TO BE DISCLOSED