
Form B
Commonwealth of Australia
Trade Practices Act 1974 - Subsection 88(1)
Agreements Affecting Competition:
Application for Authorisation

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88(1) of the *Trade Practices Act 1974* for an authorisation under that subsection

- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act; and
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

This Application amends Application A40081 of 6 September 2000.

1. (a) **Name of Applicants**

ExxonMobil Group companies (being Esso Highlands Limited, Ampolex (Highlands) Limited, Ampolex (PNG Petroleum) Inc., and Merlin Pacific Oil Company Limited);

Oil Search Group companies (being Oil Search Limited, Oil Search (Moran) Limited, Oil Search (Tumbudu) Limited, Oil Search (Kutubu) Limited, Oil Search (Gobe) Limited, Orogen (Exploration) Inc., Orogen Minerals (Gobe) Limited, Orogen Minerals (Kutubu) Limited and Oil Search (PNG) Limited);

Mineral Resources Development Company Limited group of companies (being Petroleum Resources Kutubu Limited and Petroleum Resources Gobe Limited);

Merlin Petroleum Company;

collectively the **Applicants**, together with their successors and assigns.

(b) **Short description of business carried on by Applicants**

Development, production, marketing and sale of natural gas.

(c) **Address in Australia for service of documents on the Applicants**

David Brewster
Allens Arthur Robinson
Level 27
530 Collins Street
Melbourne VIC 3000

2. (a) **Brief description of contract, arrangement or understanding and, where already made, its date**

All contracts arrangements or understandings in relation to:

- the negotiation of common terms and conditions (including price) under which gas produced by the Papua New Guinea Gas Project (the **Project**) will be offered for sale;
- the joint marketing of Project gas to a common buyer or common buyers; and
- the common terms and conditions (including price and price arbitrations/determinations) upon which Project gas will be offered for sale and sold by the Applicants to buyers

as identified in the submission of the Applicants (**Submission**) which accompanies this Application.

(b) **Names and addresses of other parties or proposed parties to contract, arrangement or understanding**

The Applicants seek authorisation in relation to any future participant in the Project in accordance with section 88(10) of the Act.

3. **Names and addresses (where known) of parties and other persons on whose behalf application is made**

See Annexure 1.

4. (a) **Grounds for grant of authorisation**

See Submission.

(b) **Fact and contentions relied upon in support of those grounds**

See Submission.

5. **This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.**

(a) **Is this application to be so expressed?**

No.

(b) If so, the following information is to be furnished:

(i) the names of the parties to each other contract, arrangement or understanding

N/A.

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application

N/A.

6. (a) Does this application deal with a matter relating to a joint venture?

Yes. See Submission.

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

No.

(c) If so, by whom or on whose behalf are those other applications being made?

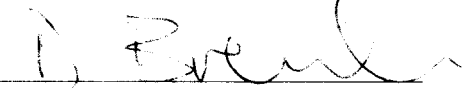
N/A.

7. Name and address of person authorised by the applicant to provide additional information in relation to this application

N/A.

Date: 14 December 2004

Signed by/on behalf of the Applicants



(Signature)

David Brewster

(Full Name)

Solicitor

(Description)

Directions

1. Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in Item 1(a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. In Item 1(b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
4. Furnish with the application particulars of the contract, arrangement or understanding in respect of which the authorisation is sought. Those particulars shall be furnished:
 - (a) in so far as the particulars or any of them have been reduced to writing - by lodging a true copy of the writing; and
 - (b) in so far as the particulars or any of them have not been reduced to writing - by lodging a memorandum containing a full and correct statement of the particulars that have not been reduced to writing.
5. Where the application is made also in respect of other contracts, arrangements or understandings which are or will be in similar terms to the contract, arrangement or understanding referred to in Item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangement or understandings referred to in Item 2.

Notices

1. In relation to Item 4, your attention is drawn to subsections 90(6) and (7) of the *Trade Practices Act 1974* which provide as follows:
 - (6) The Commission shall not make a determination granting an authorisation under subsection 88(1), (5) or (8) in respect of a provision (not being a provision that is or may be exclusionary provision) of a proposed contract, arrangement or understanding, in respect of a proposed covenant, or in respect of proposed conduct, unless it is satisfied in all the circumstances that the provision of the proposed contract, arrangement or understanding, the proposed covenant, or the proposed conduct, as the case may be, would result, or be likely to result, in a benefit to the public and that that benefit would outweigh the detriment to the public constituted by any lessening of competition that would result, or be likely to result, if:
 - (a) the proposed contract or arrangement were made, or the proposed understanding were arrived at, and the provision concerned were given effect to;
 - (b) the proposed covenant were given, and were complied with; or
 - (c) the proposed conduct were engaged in,

as the case may be.

- (7) The Commission shall not make a determination granting an authorisation under subsection 88(1) or (5) in respect of a provision (not being a provision that is or may be an exclusionary provision) of a contract, arrangement or understanding or, in respect of a covenant, unless it is satisfied in all the circumstances that the provision of the contract, arrangement or understanding, or the covenant, as the case may be, has resulted, or is likely to result, in a benefit to the public and that that benefit outweighs or would outweigh the detriment to the public constituted by any lessening of competition that has resulted, or is likely to result, from giving effect to the provision or complying with the covenant.'
2. If an authorisation is granted in respect of a proposed contract, arrangement or understanding the names of the parties to which are not known at the date of application, the authorisation shall, by subsection 88(14) of the *Trade Practices Act 1974*, be deemed to be expressed to be subject to a condition that any party to the contract, arrangement or understanding will, when so required by the Commission, furnish to the Commission the names of all the parties to the contract, arrangement or understanding.

Annexure 1

ExxonMobil Group companies

c/o Esso Highlands Limited

5th Floor Credit House

Cuthbertson Street

Port Moresby N.C.D.

Papua New Guinea

Oil Search Group companies

7th Floor Credit House

Cuthbertson Street

Port Moresby N.C.D.

Papua New Guinea

Mineral Resources Development Company Limited

Level 1, First Heritage Building

Cnr of Waigani Drive & Holiday Inn

Hohola

National Capital District

Papua New Guinea.

Merlin Petroleum Company

c/- Nippon Oil Exploration Limited

3-12 Nishi Shimbashi 1-chome

Minato-ku

Tokyo 105-0003

Japan