

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 32/LM/Apr06

**In The Large Merger Between
Samancor Manganese (Pty) Ltd`
And
Advalloy (Pty) Ltd**

Acquiring firm

Target firm

Reasons for Decision

Approval

1. On 22 June 2006, the Tribunal unconditionally approved the proposed merger between the abovementioned parties. The reasons for the decision follow.

Parties

2. The acquiring firm is Samancor Manganese (Pty) Ltd (“Samancor Manganese”). The shareholders in Samancor Manganese are BHP Bilton (60%) and Anglo America (40%). Samancor Manganese controls a number of subsidiaries.¹ The operations of Samancor Manganese are divided into five divisions namely: Hotazel, Metalloys, MMC, GEMCO, TEMCO.

3. The target firm is Advalloy (Pty) Ltd (Advalloy). The shareholders in Advalloy are Samancor Manganese (50%) and Mitsui & Co Ltd (“Mitsui”)(50%). Advalloy does not have any subsidiaries.

Transaction

4. The transaction involves Samancor Manganese acquiring 50% of the issued share capital in Advalloy from Mitsui. After the merger, Samancor Manganese will own all the issued shares in Advalloy.

Rationale of the transaction

5. The merging parties submit that there is a close integration of the activities of Advalloy and those of the Metalloys division of Samancor Manganese. The parties further submit that due to the physical proximity of the plants and the close cooperation between Metalloys and Advalloy, Samancor Manganese

¹ Samancor Manganese subsidiaries are: Danjan (Pty) Ltd, Electronic Metal Corporation (Pty) Ltd, Manganese Metal Co (Pty) Ltd, Tonmet Ag, Middleplaats (Pty) Ltd, South African Manganese (Pty) Ltd, FAH Information Services (Pty) Ltd, Terra Nominees (Pty) Ltd, Chemfos (Pty) Ltd, AMM Holdings Ltd (BVI), Manganore Iron Mining Ltd.

deems it appropriate and preferable to further vertically integrate its investment in Advalloy rather than to permit the entrance of a new participant in the share capital of Advalloy.

6. From Mitsui's perspective, the parties submit that there are two reasons that explain Mitsui's willingness to sell its stake in the joint venture. The unsatisfactory returns from the joint venture is one reason and the other reason is its acrimonious relation with Samancor.

The parties' activities

7. The acquiring firm (Samancor Manganese) has two business units in South Africa, Hotazel Manganese Mines in the Northern Cape Province and Metalloys, an alloy smelter near Vereeniging in Gauteng Province. At its Hotazel plant, Samancor Manganese operates two mines namely Mamatwan and Wessels. Mamatwan is an open-cast operation, mining a 20-metre thick body of lower-grade manganese ore overlain by 50 meters of Kalahari sand, gravels and concrete. At the Wessels plant, underground mining of a hydrothermally enriched manganese ore of a higher grade occurs at a depth of 300 meters. The ore produced has low phosphorous content.

8. At the Metalloys plant in Meyerton ferromanganese and silicomanganese are produced at three electric arc furnaces using the same submerged arc furnace process. The process consists of the computer-controlled continuous feeding ores, reductants and fluxes into the furnace where electric smelting takes place.

9. BHP Billiton is involved in commodity businesses such as aluminium, energy coal and metallurgical coal, copper, manganese, iron ore, uranium, nickel, silver and titanium minerals, and has substantial interest in oil, gas, liquefied natural gas and diamonds.

10. The target firm (Advalloy) has a plant capacity to produce 75 thousand tonnes of refined manganese alloys at its Meyerton plant. The refined manganese alloys are mainly exported to Japan.

Relevant Market

11. According to the Commission the proposed transaction is a vertical one, in which the effects occurs in the upstream markets for the production of manganese ore and high carbon ferromanganese and the downstream market(s) for the production of medium and low carbon ferromanganese.

12. There are three products and geographic markets relevant in this transaction:

- (i) The upstream market for the mining of manganese ore
- (ii) The upstream market for the production of hot high carbon ferromanganese

(iii) The downstream market for the production of medium and low carbon ferromanganese

13. The Commission defined the relevant upstream product market as the mining of manganese ore. However it refrained from defining the product market for both the upstream market for the production of hot high carbon ferromanganese and the downstream market for the production of medium and low carbon ferromanganese, because it found that concluding on whether medium and low carbon ferromanganese constitute distinct or separate markets is unnecessary for this transaction.

14. The Commission further defined the geographic market for the mining of manganese ore as national because its enquiry revealed that the importation of manganese ore is not commercially viable. Given the minimal effect on the market structure as a result of the proposed transaction, the Commission refrained from defining the geographic markets for the downstream market for the production of medium and low carbon ferromanganese. We agree with the Commission.

Market Share and Competitive analysis

15. According to the parties the market shares for the relevant markets would be as follows:

Upstream

15.1 Mining of Manganese ore

Company name	Global Market		National Market	
	Production	Estimated Market share (%)	Production	Estimated Market share (%)
Samancor Manganese	2186 927	7	2186 927	54
Assmang	1 881 621	6	1 881 621	46
Other	25 931 449	86	-	-
Total	30 000 000	100	4 068 551	100

Downstream

15.2. Production of medium carbon ferromanganese

	2004		2005	
Company name	Production in Kit	Estimated market shares	Production in Kit	Estimated market shares
Advalloy	71	6	65	5
CVRD	46	4	48	4
Eramet	233	21	247	21
Transalloys	30	3	33	3
Ore & Metal	66	6	66	6
Japan	94	8	93	8
China	405	36	440	37
Ukraine	34	3	36	3
Minera Autlan	37	3	40	3
India	18	2	20	2
South Korea	61	5	64	5
Ferroatlatica	39	3	39	3
Total	1 134	100	1 191	100

National market shares are as follows:

	2004		2005	
Company name	Production in Kit	Estimated market shares	Production in Kit	Estimated market shares
Advalloy	71	43	65	40
Transalloys	30	18	33	20
Ore & Metal	66	40	66	40
Total	167	100	164	100

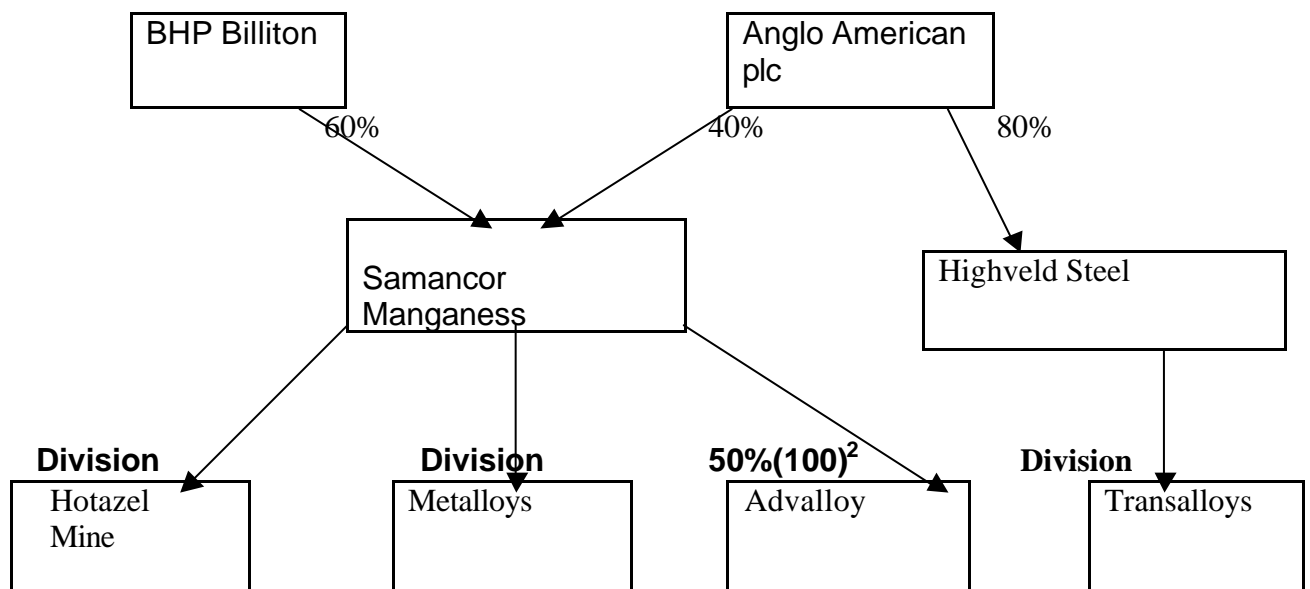
16. The Commission investigated two relevant sets of concerns that have been identified in anti-trust analyses of vertical mergers, namely the likelihood of input foreclosure and the likelihood of coordinated conduct.

Input foreclosure

16.1 The Commission contacted competitors of Advalloy in the downstream market(s) for the production of medium and low carbon ferromanganese and they indicated that they have no objections to the proposed deal. The parties also submitted that Samancor Manganese currently supplies approximately 54% of its production of manganese ore to third parties that are unrelated to Samancor Manganese. In addition, Ore and Metal, which competes with Advalloy in the downstream market, is vertically integrated to Assmang. Further, Transalloys, a competitor of Advalloy procured its Manganese ore requirements from Samancor Manganese. The relationship between Samancor Manganese and the producers of medium and low carbon ferromanganese existed pre-merger. We therefore agree with the Commission that input foreclosure, as a result of this transaction is unlikely.

Ability to promote coordinated conduct

16.2 In investigating whether the proposed merger is likely to promote any coordination, the Commission used the shareholding structure of the merging parties with respect to the affected subsidiaries as set out below.



16.3 The Commission found that the proposed merger is unlikely to heighten any coordination between Transalloys and Advalloy in the downstream market for the production of medium and low carbon ferromanganese, because the business relationships and the shareholding structure of the acquiring group existed pre-merger. We therefore agree with the Commission that post merger the proposed merger is unlikely to promote any coordination between Transalloys and Advalloy in the downstream market for the production of medium and low carbon ferromanganese.

Public interest

17. No public interests issues arise from the merger.

² The figure in parentheses reflects the shareholding structure of Samancor Manganese post the merger.

Conclusion

18. Based on the above the transaction will not result in a substantial lessening or prevention of competition in the identified markets and is accordingly approved unconditionally.

D. Lewis

5 July 2006
Date

Concurring: Mokuena and N Manoim

For the merging parties: E van Biljon

For the Commission: Hardin Ratshisusu, Mergers and Acquisitions