



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 019901

In the matter between:

ANGLO AMERICAN PLC

Primary Acquiring Firm

And

SAMANCOR HOLDINGS PROPRIETARY LIMITED

Primary Target Firms

**GROOTE EYLANDT MINING COMPANY
PROPRIETARY LIMITED**

SAMANCOR AG

Panel	: Andreas Wessels (Presiding Member)
	: Mondo Mazwai (Tribunal Member)
	: Prof Imraan Valodia (Tribunal Member)
Heard on	: 10 December 2014
Order Issued on	: 10 December 2014
Reasons Issued on	: 07 January 2015

Reasons for Decision

Approval

[1] On 10 December 2014, the Competition Tribunal ("Tribunal") unconditionally approved the acquisition by Anglo American Plc ("Anglo American") of joint control over Samancor Holdings Proprietary Limited ("Samancor Holdings"), Groote Eylandt Mining Company Proprietary Limited ("GEMCO") and Samancor AG (collectively referred to as "Samancor").

[2] The reasons for approving the proposed transaction follow.

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm is Anglo American, a company incorporated in accordance with the company laws of England. Anglo American is a public company with a premium listing on the London Stock Exchange and secondary listings on the Johannesburg Stock Exchange, SWX Swiss Exchange, Botswana Stock Exchange and Namibian Stock Exchange. Anglo American is not controlled by any single shareholder.

[4] Relevant for purposes of the competition assessment of this transaction is that Samancor is a manganese joint venture in terms of which BHP Billiton Limited and BHP Billiton Plc (collectively referred to as BHP Billiton) holds 60% of the issued share capital, while Anglo American holds the remaining 40%.

[5] Anglo American has a portfolio of mining assets and natural resources which includes platinum group metals, diamonds, copper, iron ore, metallurgical coal, nickel, niobium and thermal coal, as well as interests in the production of manganese ore and manganese alloys through its interest in Samancor.

Primary target firms

[6] The primary target firms are Samancor (Samancor Holdings, GEMCO and Samancor AG). Samancor Holdings is a firm incorporated in terms of the laws of South Africa. Samancor Holdings holds a 100% interest in GEMCO and Samancor AG.

[7] As stated above, pre-merger Samancor Holdings is controlled by BHP Billiton which holds 60% of its issued share capital, while Anglo American holds the remaining 40%.

[8] Samancor is a producer of manganese ore and manganese alloys in South Africa and in Australia.

- [9] BHP Billiton is a public company registered in Australia. BHP Billiton is not controlled by any single firm or individual. BHP Billiton is a global resources company producing commodities such as aluminium, nickel, manganese, coal, copper and iron ore. None of these activities are relevant to this transaction other than manganese.

Proposed transaction and rationale

- [10] As discussed above, Samancor is a 60:40 manganese joint venture between BHP Billiton and Anglo American.
- [11] The proposed transaction does not amount to a sale or transfer of shares or assets, but merely makes changes to the governance structure of Samancor specifically by improving the shareholder rights of Anglo American. As a result of the proposed transaction, Anglo American will be acquiring additional rights in relation to Samancor including the right to veto the business plan and/or budget, material projects and transactions, as well as the appointment of senior management. This constitutes an acquisition of control for the purposes of section 12(2)(g) of the Competition Act¹.
- [12] The merging parties submitted that that the internal restructuring relating to Samancor is part of a broader proposal by BHP Billiton to demerge certain aspects of its business.

Impact on competition

- [13] According to the Commission's findings, the proposed transaction does not give rise to a horizontal overlap of the merging parties' activities since Anglo American is not involved in the mining of manganese ore or the production of manganese alloys, other than through its current shareholding in the Samancor joint venture.
- [14] We concur with the Commission's competition assessment, i.e. that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

¹ Act No. 89 of 1998, as amended.

Public interest

- [15] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment.²
- [16] The proposed transaction further raises no other public interest concerns.

Conclusion

- [17] In light of the above we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transactions. Accordingly we approve the proposed transaction unconditionally.



Andreas Wessels

07 January 2015

DATE

Mondo Mazwai and Imraan Valodia concurring

Tribunal Researcher: Derrick Bowles

For the merging parties: Anton Roets of Nortons Inc for the acquiring firm
Jean Meijer of Bowman Gilfillan for the target firms

For the Commission: Maanda Lambani and Nompucuko Nontombana

² *Inter alia* merger record page 9.