

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case no.: 22/LM/Mar05

In the large merger between:

Kermas South Africa (Pty) Ltd

and

Samancor Ltd

Reasons

Introduction

1. On 26 May 2005 the Competition Tribunal approved the merger between Kermas South Africa (Pty) Ltd and Samancor Ltd. The reasons are set out below.

The transaction

2. Kermas South Africa (Pty) Ltd (“Kermas SA”) entered into a Sale of Shares agreement for the acquisition of the chrome operations of Samancor Ltd.
3. Kermas SA is a company established for purposes of the present transaction. It is 100% owned by Kermas Ltd, a public company incorporated under the laws of the British Virgin Islands. Mrs Danica Zagmester owns 82% of the total issued shares in Kermas Ltd. The Kermas Group mines chromium ore in Russia and Turkey, produces ferrochrome in Russia and Germany and distributes it to various territories in the world, excluding South Africa.
4. Samancor Chrome is a business unit of Samancor Ltd, a wholly owned subsidiary of Samancor Holdings (Pty) Ltd (“Samancor Holdings”). Samancor Holdings is a joint venture between BHP Billiton plc and Anglo American plc. BHP Billiton plc, through African Metals Ltd, controls

Samancor Holdings, holding 60% of the shares, with Anglo American plc holding the remaining 40%.

5. Kermas will also acquire Samancor Ltd's 50% share in the Ferroveld joint venture, which Samancor owns with Highveld.

Rationale for the transaction

6. Samancor Holdings wishes to dispose of its chrome division, which it has identified as a non-core asset.

Effect on competition

7. Samancor is vertically integrated into the mining of chrome ore and the production of ferrochrome.¹ It owns chromium ore mines and has mining and production facilities in Mpumalanga, Limpopo and North West Province. It also produces electrode paste through its Ferroveld joint venture.²

8. Although Kermas SA has never traded in South Africa its holding company, Kermas Ltd, owns two ferrochrome production facilities:

- 1) Serov Ferroalloys Plant ("Serov") a Russian company active in the production of chrome ore and the production of ferrochrome in Russia, and
- 2) Elektrowerk Weisweiler GmbH, a German company that produces ferrochrome and which also owns three chromium ore mines in Turkey.

9. The transaction has horizontal as well as vertical competitive effects. The horizontal effects are as a result of the activities of the merging parties overlapping in the production of chrome ore and ferrochrome and the vertical as a result of the Ferroveld joint venture's production of electrode paste, an electrode used in the production of ferrochrome. Both parties are also vertically integrated in the upstream chrome ore and downstream ferrochrome markets.

10. Three product markets are relevant in this transaction:

- 1) The market for the production of chrome ore

¹ More than 85% of chromium ore is converted into ferrochrome for metallurgical purposes and used as a feedstock in the production of stainless steel. The remainder is used for refractory, foundry and chemical industries. There is no substitute for chrome in the production of ferrochrome.

² Electrode paste is used as an electrode in energy intensive furnaces in the aluminium industry, the ferroalloy industry and the calcium carbide industry.

- 2) The market for the production and supply of ferrochrome
- 3) The market for the production of electrode paste

11. The Commission defined the geographic market for the production and supply of ferrochrome as international. However it refrained from defining the geographic markets for both the production of chrome ore and the production of electrode paste because it found that, for purposes of this investigation, the transaction would not have any effect on competition whether the geographic markets are defined narrowly as national markets or whether they are defined broadly as global markets. We accept this argument.

The production of chrome ore

12. The major international producers of chrome ore are: South Africa, producing 45% of world production, Kazakhstan 17%, India 14% and Zimbabwe 6%.
13. Kermas' market share in the international market is 0.03% and Samancor 21%. The combined market share of the merged entity will be 21%. We were not supplied with market shares of competitors. Although we agree with the Commission that the increase in market share is negligible we found the information on market shares insufficient.
14. Samancor Chrome estimates that it holds approximately 50% of the chrome resources in South Africa. Assmang holds 26% and Xstrata 13%. We also requested the parties to provide estimates of global chromium ore resources and were provided with very old data, 1982 estimates of global resources provided by the US Bureau of Mines. Based on this information, which dates back 23 years, Kermas holds approximately 0,03% of the total global chrome resources and South Africa 62%.
15. As mentioned above the merging parties are vertically integrated ferrochrome producers, which could result in possible customer foreclosure. However, we found that customer foreclosure is highly unlikely since South African ferrochrome producers will, post the transaction, be able to source chrome ore from other local suppliers. Although Xstrata SA, Herculite Ferrochrome and Assmang produce their own chrome ore requirements in-house, Xstrata, Lanxess and Rustenburg Minerals also supply local customers.

Production and distribution of Ferrochrome

16. South Africa accounts for close to 60% of the world's ferrochrome production and exports more than 90% of its ferrochrome, local companies consume approximately 10% of the total production.

17. The global market shares for the production of ferrochrome are:

Company/Country	Estimated global market share %
Samancor Chrome	20
Kermas (Serov/EWW)	1
Xstrata (South Africa)	20
Other South African producers such as Hernic and Asea SA Metals	6
Kazchrome (Kazakhstan)	13
Zimbabwe producers such as Zimasco and Zimalloys	4
Chelyabinsk (Russia)	1
Vargön (Sweden)	1
Others	34
Total	100

18. The combined global market share of the merged entity will be 21%. Its main South African competitor is Xstrata with a market share of 20%.

19. Local companies can also source ferrochrome from other producers such as Zimasco, Zimalloys, Hernic Ferrochrome and Xstrata. The proposed transaction is thus unlikely to substantially prevent or lessen competition in this market.

Supply of electrode paste to ferrochrome producers

20. There are no substitute products for electrode paste. Ferrochrome producers view electrode paste as a crucial raw material input in the production of ferrochrome.

21. Although this transaction does not cause a competitor to exit the market, since one shareholder is merely replaced by another, the Commission did investigate the likelihood that customer foreclosure would take place. Ferrochrome producers in South Africa indicated to the Commission that they have alternative suppliers, other than the Ferroveld joint venture, from whom they could source electrode paste. Chartech, the largest supplier, with a market share of 44% and Rand Carbide with a market share of 18% do currently supply approximately 45% of their production to external customers. The Ferroveld joint venture has a market share of 42%.

22. Input foreclosure, as a result of this transaction, is thus highly unlikely.

Conclusion

23. Based on the above we are of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any of the relevant product markets nor would the transaction lead to input or customer foreclosure in the chrome ore and the electrode paste markets.

Public Interest issues

24. The transaction will not have an adverse impact on any public interest issues.

D Lewis

14 June 2005
Date

Concurring: N Manoim, M Moerane