

In the matter between:

DUFERCO INVESTMENT PARTNERS INC.

Acquiring Firm

and

HIGHVELD STEEL

Target firms

Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member), and
U Bhoola (Tribunal Member)

Heard on : 14 August 2008

Order issued on : 15 August 2008

Reasons issued on : 17 September 2008

REASONS FOR DECISION

Introduction

1. On 15 August 2008 the Tribunal approved the merger between Duferco Investment Partners Inc. and Highveld Steel.

Background

2. This proposed transaction flows from the previous Tribunal decision on 26 April 2007, in which the Tribunal conditionally approved the acquisition by Evraz Group SA of a controlling interest in Highveld Steel and Vanadium Corporation Limited¹, following the European Commission's (EC) decision² in which certain

¹ Case No.: 04/LM/Jan07

² Case Comp/M.4494 Evraz Highveld. At the time of the Tribunal's conditional approval, the EC had already approved the transaction subject to conditions.

conditions were imposed on the parties to engage in a partial divestiture of the Mapochs mine and the divestiture of vanadium business. The present transaction represents the merging parties' effort to comply with the divestiture.

The Transaction and Rationale

3. The primary acquiring firm is Duferco Investment Partners Inc. ("DIP")³ which intends to acquire the primary target firms; Vanchem business of Highveld Steel & Vanadium Corporation Limited⁴ ("Highveld"); 350 "A" ordinary shares in Mapochs Mine (Proprietary) Limited⁵ with limited rights; as well as 50% interest in South Africa Japan Vanadium (Proprietary) Limited ("SAJV")⁶.

Activities of the parties

4. DIP currently has no active investments. DSP is active in the production of steel products. Vanchem Operations and SAJV are active in the vanadium industry in which they produce and sell ferrovandium.⁷

Competition Evaluation

5. There is no horizontal overlap in the activities of the parties, and no vertical relationship which arises between the parties in South Africa.

³ DIP is Duferco Group's private investment company. Duferco group of companies will provide support to DIP in the implementation of this proposed transaction. Duferco group's ultimate parent company is Duferco Participation Holdings Limited ("DPH"). In South Africa, Duferco Steel Processing ("DSP") is the only company within the Duferco Group (50% owned by Duferco and the Industrial Development Corporation ("IDC")).

⁴ The Vanadium operations comprise of the whole vanadium business; its employees, all property, all liabilities, and fixed assets (including the ferrovandium smelter located at Highveld's iron and steel operation sites).

⁵ Mapochs is a wholly owned subsidiary of Highveld. The parties are of the view that this transaction will not result in control of Mapochs, and thus Mapochs should not be considered as a target firm in this transaction. 350 "A" ordinary shares in Mapochs comprise one vote each in the shareholder's meeting, veto rights in relation to any shareholders' resolution that may affect the ore fines supply to VVP and right to appoint one board member (that board member will have a veto right in relation to any board resolution that may affect the ore fines supply to VVP).

⁶ SAJV is a joint venture between Highveld (50%), Nippon Denko Company Limited (40%) and Mitsui Company Limited (10%)

⁷ Ferrovandium is used in steel applications. However the parties submitted that SAJV sells exclusively into Japan, and Vanchem operations sells exclusively to Alcan Pechiney in North America and Johnson Matthey in South Africa.

6. Since the transaction has also been notified to the EC, we asked the parties and the Commission whether there are any issues or concerns which have been raised in that jurisdiction. The parties submitted that the EC has approved Duferco as the acquiring firm in the proposed transaction, and accepted the proposed transaction as consistent with the commitments issued by them.⁸ This was confirmed by the Commission.

Conclusion

7. In the foregoing, we find that this merger will not result in substantial lessening or prevention of competition in the relevant markets and that it constitutes compliance with our divestiture order. Accordingly, we approve the merger without conditions.

8. There are no public interest issues.

17 September 2008

N Manoim

Date

Tribunal Member

Y Carrim and U Bhoola **concur** in the judgment of N Manoim

Tribunal Researcher: L Xaba

For Dufferco : White & Case Attorneys

For Highveld : Werkmans Attorneys

For the Commission : K Mahlakoana

(Mergers and Acquisitions)

⁸ At the time we heard the proposed transaction, the EC had not issued their final approval although it was confirmed that they considered the proposed transaction unlikely to create competition concerns as Duferco was not currently active in the vanadium industry.