COMPETITION TRIBUNAL REPUBLIC OF SOUTH AFRICA

Case No: 58/LM/Oct01

In the large merger between:

Acerinox S.A

and

Newco (a consortium comprising Highveld Steel & Vanadium Corporation Ltd, Samancor Ltd and the Industrial Development Corporation of South Africa)

In re : Columbus Stainless

Reasons for the Competition Tribunal's decision

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 28 November 2001 approving without conditions the merger between Acerinox S.A and Newco. The reasons for our decision to approve the merger are set out below.

The Merger Transaction

Highveld Steel & Vanadium Corporation Ltd ("Highveld"), Samancor Ltd and the Industrial Development Corporation of South Africa (IDC) are equal partners in Columbus Joint Venture, an unincorporated partnership trading as Columbus Stainless. The partners will transfer the business of Columbus Stainless into Newco, a shelf company, pursuant to which Acinerox will acquire a major share in Newco.

Upon implementation of the transfer of the business to Newco, Acerinox shall acquire 64% of the issued share capital of Newco in equal shares from each of the three partners. Highveld, Samancor and the IDC will each hold 12% of the issued share capital.

The merging parties submit that the transaction will improve the company's competitiveness in respect of international markets because Columbus will gain technological advantages. The acquisition will also ensure direct foreign investment in Columbus bringing about further capital expansion, technical assistance in the manufacturing processes, access to Acerinox's distribution network, market information and intelligence and access to technology and skills.

Evaluating the Merger

The relevant market

Acerinox is a Spanish stainless steel producer and Columbus is the sole producer in the South African domestic market. Both parties sell their products globally as well as in South Africa, where Columbus sells 25% of its production and Acerinox less than 1% of its production.

Both merging parties manufacture stainless steel. The product market can be divided into four narrow markets, i.e. cold rolled or hot rolled Austentic stainless steel and cold rolled or hot rolled Ferritic steel[1].

The market shares of the merging parties in South Africa are as follows:

PRODUCT	COLUMBUS	ACERINOX
Austentic:		
Cold rolled	90%	Less than 2%
Hot rolled	90%	Less than 2%
Ferritic		
Cold rolled	90%	Less than 2%
Hot rolled	90%	-

Columbus provides 90% of the stainless steel market in South Africa the remaining 10% is imported. We are not certain if the market is an international or national market with import competition. The parties themselves did not satisfactorily answer this question at the hearing.[2]However, we do not have to decide this, as nothing turns on the precise definition of the geographic market.

Even if we regard the market as a national one, the effect of the transaction on the national market is minimal

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given Acerinox's insignificant South African market share. The effect in the global market for stainless steel where the combined market share post merger would be 7.9% is also and does not raise competition concerns given the fact that there are eight other international competitors.

Public Interest

The merger does not raise any of the public interest concerns enumerated in section 26(3).

<u>16 January 2002</u>

N.M Manoim Date

Concurring: C. Qunta and P.E Maponya

Austentic stainless steel is chromium and nickel based alloy with low carbon content and Ferritic steel is chromium based steel with a low carbon content. Both products can be divided into hot rolled steel and cold rolled steel, which cannot be substituted for each other.

We were provided with several overseas analysts reports, which generally treat the market as an international one, although at the same time refer to national markets. Certainly the import tariff on the product is low , 5 %.