



**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: CR092Jan07/SA090Aug16**

In the matter between:

The Competition Commission

**Applicant**

And

ArcelorMittal South Africa Limited

**Respondent**

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Panel : M Manoim (Presiding Member)  
A Ndoni (Tribunal Member)  
I Valodia (Tribunal Member)

Heard on : 16 November 2016

Decided on : 16 November 2016

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**Settlement Agreement**

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The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and ArcelorMittal South Africa Limited annexed hereto marked "A" and an addendum marked "B".

  
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Presiding Member  
Mr Norman Manoim

**16 November 2016**  
Date

**Concurring: Ms Andiswa Ndoni and Prof. Imraan Valodia**

"A"

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

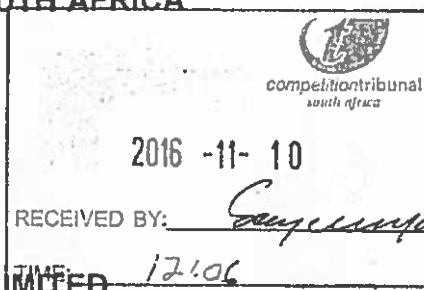
CT CASE NO: CR092JAN07SA090AUG16

In the matter between

COMPETITION COMMISSION OF SOUTH AFRICA

Applicant

and



ARCELORMITTAL SOUTH AFRICA LIMITED

Respondent

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AMENDED SETTLEMENT AGREEMENT BETWEEN THE COMPETITION  
COMMISSION AND ARCELORMITTAL SOUTH AFRICA LIMITED IN TERMS  
OF THE COMPETITION ACT NO. 89 OF 1998, AS AMENDED

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The Competition Commission of South Africa and ArcelorMittal South Africa Limited hereby agree that an application be made to the Competition Tribunal ("Tribunal") of South Africa for confirmation of this Settlement Agreement as an order of the Tribunal in terms of section 49D read with sections 58(1)(a)(iii) and 59(1)(a) of the Competition Act No. 89 of 1998, as amended, on the terms set out below:

1 DEFINITIONS

The following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings in this Settlement Agreement:

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- 1.1 **"AMSA"** means ArcelorMittal South Africa Limited, a public company incorporated in accordance with the company laws of the Republic of South Africa, with its principal place of business at Delfos Boulevard, Vanderbijlpark, South Africa;
- 1.2 **"Basket Price"** means the import weighted price of domestic hot rolled coil prices determined by the weighted average price of certain countries (excluding China & Russia), in their domestic markets based on primary data from the CRU and MEPS global steel publications, weighted as follows: EU 50% (50% Germany and 50% France, UK, Italy and Spain); Asia 30% (50% Japan, 40% South Korea and India and 10% Taiwan); North America including Brazil 20% (75% USA and 25% Canada and Brazil);
- 1.3 **"Cape Gate"** means Cape Gate (Pty) Ltd, a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa, with its principal place of business at 3 Nobel Boulevard, Vanderbijlpark, Gauteng, South Africa;
- 1.4 **"CISCO"** means Cape Town Iron and Steel Works (Pty) Ltd, a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa, with its principal place of business at 1 Fabriek Street, Kuilsrivier Cape Town, South Africa;

1.5 **"Columbus Stainless Steel"** means Columbus Stainless (Pty) Ltd, a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa, with its principal place of business at Hendrina Road, Middelburg, Mpumalanga, South Africa;

1.6 **"Commission"** means the Competition Commission of South Africa, a statutory body, established in terms of section 19 of the Act, with its principal place of business at Building C, Mulayo Building, the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;

1.7 **"Commissioner"** means the Commissioner of the Competition Commission, appointed in terms of section 22 of the Act;

1.8 **"EBIT margin percentage"** means EBIT divided by Revenue expressed as a percentage equal to EBIT margin, with:

1.8.1 Revenue as defined by International Financial Reporting Standards ("IFRS"); and

1.8.2 EBIT being determined as profit or loss for the period, before tax, interest (included in interest is foreign exchange gains and losses) and loss or income from equity accounted investments, which are all as defined by IFRS;



- 1.9 **"Flat steel Complaint"** means the complaint initiated by the Commission on 21 April 2008 against AMSA and Highveld for alleged contravention of sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act for fixing the price and dividing the market for flat steel products and referred to the Tribunal under case number 34/CR/MAR12;
- 1.10 **"Flat steel products"** means the primary flat carbon steel products produced in coil or sheet form at steel mills, primarily hot rolled coil, cold rolled coil, hot rolled plate, hot dip galvanised coil and pre-painted coil;
- 1.11 **"Highveld"** means Highveld Steel and Vanadium Corporation Limited, a public company incorporated in accordance with the company laws of the Republic of South Africa, with its principal place of business at 29 Old Pretoria Road, The farm Schoongezicht 308 JS, Emalahleni, South Africa;
- 1.12 **"Long Steel Complaint"** means the complaint initiated by the Commission on 22 April 2008 against Scaw, AMSA, CISCO and Cape Gate for alleged contravention of sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act for fixing the price and dividing the market for long steel products and referred to the Tribunal under case number 61/CR/Sep09;
- 1.13 **"Pricing Complaint"** means the complaint initiated by the Commission on 4 June 2011 against AMSA for alleged contravention of section 8(a) of the Act in respect of its basket price and iron ore surcharge for flat

steel products currently being investigated under case number 2011Jul0162;

1.14 **"Raw Materials Basket or RMB"** means the key input material in the manufacture of steel, being iron-ore, scrap and coal which are the main drivers of the price of steel, based on the ratio that for every 1 ton of steel produced, 1,6 tons of iron-ore, 0.6 tons of coking coal and 0.15 tons of scrap is used. The costs to AMSA of these inputs shall be calculated based on international benchmark prices: with regard to Iron Ore and Coking Coal prices, published by MetalBulletin and with regard to Scrap, published by Platts;

1.15 **"SAISI"** means the South African Iron and Steel Institute;

1.16 **"SCAW"** means Scaw South Africa (Pty) Ltd, a wholly owned subsidiary of Anglo American Plc, a public company listed on the London Stock exchange and which is based at Union Junction in Pretoria;

1.17 **"Scrap Metal Complaint"** means the complaint initiation by the Commission on 21 December 2009 against AMSA, Columbus Stainless Steel, Cape Gate, Scaw, Highveld, CISCO and SAISI for alleged contravention of section 4(1)(b)(i) of the Act for fixing the purchase price of scrap under case numbers 2009Dec4844 and referred to the Tribunal under case number CT018259;

1.18 **"Settlement Agreement"** means this agreement duly signed and concluded between the Commission and AMSA;

1.19 **"the Act"** means the Competition Act, No. 89 of 1998, as amended;

1.20 **"RMB spread"** means the difference between the RMB costs and the Basket Price;

1.21 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body, established in terms of section 26 of the Act, with its principal place of business at Building C, Mulayo Building, the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng; and

1.22 **"USD"** means United States Dollar.

## **2 THE COMMISSION'S INVESTIGATIONS AND FINDINGS**

### **2.1 The Long Steel Complaint**

2.1.1 On 22 April 2008, the Commission initiated a complaint against producers of long and flat steel products ("steel mills") in South Africa. On 5 June 2008, the Commissioner extended the complaint to include SAISI as one of the parties to be investigated.

2.1.2 On 19 June 2008, the Commission conducted a search and seizure in terms of section 46 of the Act, of the premises of Highveld, CISCO and SAISI.

2.1.3 Scaw applied for and was granted a marker on 27 June 2008 and later conditional immunity for agreements or arrangements which it had entered into with AMSA, CISCO and Cape Gate in relation to pricing and dividing markets, as is prohibited by sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act.

2.1.4 The Commission referred the complaint concerning the steel mills to the Tribunal on 1 September 2009.

2.1.5 In the first aspect of the complaint, the Commission found that AMSA, Scaw, CISCO and Cape Gate attended meetings and/or engaged in informal discussions, sometimes by telephone or correspondence (including emails) through which:

2.1.5.1 information regarding the selling prices of long steel products was exchanged and/or discussed;

2.1.5.2 information regarding discounts and/or discounting structures or levels in respect of long steel products was exchanged and/or discussed; and



2.1.5.3 agreements, arrangements and/or understandings were reached regarding the selling price of the long steel products and the discount structures and/or levels to be applied to them.

2.1.6 In the second aspect of the complaint, the Commission found that in respect of certain products, known as "sections", AMSA, Scaw, CISCO and Cape Gate had an understanding to follow AMSA's pricing or costing with regard to the transportation of such products.

2.1.7 In the third aspect of the complaint, the Commission found that AMSA, Scaw, CISCO and Cape Gate divided the markets by allocating customers. The Commission found that these respondents reached a general understanding that certain customers belonged to certain of them.

2.1.8 In addition to the findings set out in paragraph 2.1.7 above, the Commission found that AMSA, Scaw, CISCO and Cape Gate divided the markets by allocating customers, in that they reached understandings regarding the supply of long steel products to downstream contractors or merchants who had been awarded contracts to supply long steel products to three

large construction projects.<sup>1</sup> These respondents agreed and/or arranged to allocate amongst themselves to supply certain shares or quantities of the steel products required for each of the projects.

2.1.9 In the fourth aspect of the complaint, the Commission found that the respondents shared competitively sensitive information and colluded through SAISI. SAISI and SARCEA (South African Reinforced Concrete Engineers' Association) provided a platform through which AMSA, Scaw, CISCO and Cape Gate could formally or informally facilitate the achievement of the agreements, arrangements and/or understandings referred to above.

2.1.10 According to AMSA this conduct was stopped by AMSA and the ArcelorMittal Group shortly after the ArcelorMittal Group's controlling interest in AMSA increased.

## **2.2 The Flat Steel Complaint**

2.2.1 On 21 April 2008, the Commission initiated a complaint against the flat steel producers Highveld and AMSA, and cited SAISI as a third respondent with no relief sought against it.

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<sup>1</sup> The 3 projects were the construction of the Coega Harbour, the construction of the Hillside Aluminum Smelter and the construction of the Mozal Aluminum.

2.2.2 Based on its investigations, the Commission found that:

2.2.2.1 AMSA and Highveld, through the SAISI export monitoring subcommittee, reached an understanding on volumes of flat steel products that each of them exported to certain countries they defined as sensitive. This understanding enabled AMSA and Highveld to divide export sales volumes between themselves.

2.2.2.2 During the period around 1999 to 2009 Highveld and AMSA had an understanding in terms of which Highveld would follow AMSA's lead on pricing. The Commission found that AMSA and Highveld engaged in information exchange regarding monthly sales volumes.

2.2.3 The Commission referred the complaint against AMSA and Highveld for alleged contravention of sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act to the Tribunal on 30 March 2012.

## 2.3 The Scrap Metal Complaint

2.3.1 On 21 December 2009 and pursuant to an application for leniency under the Commission's Corporate Leniency Policy,

the Commission initiated a complaint against AMSA, Columbus Stainless Steel, Cape Gate, Scaw, Highveld, CISCO and SAISI for alleged prohibited practices in contravention of section 4(1)(b)(i) of the Act in the market for the purchase of scrap metal.

2.3.2 The Commission referred the complaint to the Tribunal on 07 August 2013.

2.3.3 The Commission's referral is predicated on its findings that from the period commencing in or about 1998 until at least 2008, AMSA, Columbus Stainless Steel, Cape Gate and Scaw, being firms in a horizontal relationship, entered into an agreement, alternatively, engaged in a concerted practice of directly or indirectly fixing the purchase price of scrap metal in contravention of section 4(1)(b)(i) of the Act.

2.3.4 In particular, the Commission found that AMSA, Columbus Stainless Steel, Cape Gate and Scaw:

2.3.4.1 commencing in or about 1998 until at least 2008, coordinated and aligned their behaviour in the market for the purchase of scrap metal, acting as a buyers' cartel;

2.3.4.2 collaborated and acted in tandem with the upstream cartel of scrap merchants, which was investigated and

referred to the Tribunal under case number CT/51/CR/Aug10;

2.3.4.3 began coordinating and aligning their behaviour through meetings and correspondence and adopted two main interrelated mechanisms, being:

2.3.4.3.1 these respondents and the scrap merchants, referred to above, collectively negotiated and agreed a standard pricing formula which was used to determine the purchase price of scrap metal and on an annual basis, agreed amongst themselves as the respondents, through meetings and various correspondence, adjustments to the standard pricing formula and used the agreed adjustments to collectively renegotiate the standard pricing formula with the scrap merchants; and

2.3.4.3.2 these respondents and the scrap merchants, referred to above, agreed on premiums that were applied by different tiers of scrap merchants when selling scrap metal. The premiums were then structured as discounts off the formula price and on an annual basis, these respondents agreed amongst themselves the

premiums to be applied by different tiers of scrap merchants and used their agreement as a basis for renegotiating the premiums with scrap merchants.

## **2.4 The Pricing Complaint**

2.4.1 On 4 June 2011 the Commission initiated a complaint into AMSA's pricing policy for its flat steel products based on a complaint by the Department of Trade and Industry. The investigation pertained to AMSA allegedly charging excessive prices for its flat steel products which were based on international market dynamics, in contravention of section 8(a) of the Act.

2.4.2 In respect of the pricing complaint, it is alleged that:

2.4.2.1 AMSA's basket price was above the competitive counterfactual as it included high cost countries in determining the flat steel base prices and deliberately omitted countries such as South Korea, India and China whose operating costs are closer to those of AMSA;

2.4.2.2 AMSA priced above the basket for a period of about three years since 2009;

2.4.2.3 AMSA announced on 30 March 2010 that it would be introducing an iron-ore surcharge of approximately 10% due to the termination of the input supply agreement it had with Sishen Iron Ore Company (Proprietary) Limited. This surcharge was over and above the basket price; and

2.4.2.4 customers to whom rebates were not offered were charged excessive prices.

2.4.3 AMSA has co-operated fully in the investigation, and in respect of which no findings have been made by the Commission to date.

### 3 ADMISSIONS

#### *Long Steel Complaint*

3.1 In relation to the Long Steel Complaint, AMSA admits that historically as set out in clause 2.1, AMSA (then Iscor) engaged in the conduct described in paragraph 2.1 above, which contravened sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act.

#### *Flat Steel Complaint*

3.2 In relation to the Flat Steel Complaint, AMSA admits that it provided monthly sales volumes in respect of flat steel products to SAISI,

which information was shared by SAISI with Highveld and that AMSA received similar information from SAISI regarding Highveld. AMSA does not admit that this constituted a contravention of the Act.

#### *Scrap Metal Complaint*

3.3 In relation to the Scrap Metal Complaint, AMSA admits that it engaged in conduct described in paragraph 2.3 above, which contravened section 4(1)(b)(i) of the Act.

#### *The Pricing Complaint*

3.4 In relation to the Pricing Complaint, AMSA makes no admission. AMSA has agreed to a pricing remedy to address the competition concerns arising from its pricing policy, which remedy is set out more fully in clause 5 below.

## **4 ADMINISTRATIVE PENALTY**

4.1 Having regard to the admissions above, AMSA is liable to pay an administrative penalty in terms of section 58(1)(a)(iii), read with sections 59(1)(a), 59(2) and 59(3) of the Act in the amount of R1 500 000 000 (one billion five hundred million rand).

4.2 AMSA will pay the administrative penalty over a period of 5 (five) years from the date on which this Settlement Agreement is made an order of the Tribunal. AMSA agrees to pay the above administrative penalty in 5 (five) annual instalments of not less than R300 000 000



(three hundred million rand) each, the first payment being due in 2017 and the last payment being due in 2021. The first instalment shall be paid within a period of 1 (one) year from the date of confirmation of this Settlement Agreement by the Tribunal, and thereafter on or within each successive anniversary of the date of confirmation of the Settlement Agreement by the Tribunal, until the final payment in 2021.

4.3 No interest will be levied upon the administrative penalty for the first 18 (eighteen) months from the date on which this Settlement Agreement is made an order of the Tribunal and thereafter interest will be levied on the remaining outstanding balance at the prevailing interest rate on debts owing to the State prescribed by the Minister of Finance in terms of section 80(1)(b) of the Public Finance Management Act No.1 of 1999, as amended. At the time of signature of this Settlement Agreement the applicable rate is 10.5%.

4.4 AMSA shall remit payments of the administrative penalty into the following bank account:

<b>Name of account holder:</b>	<b>COMPETITION COMMISSION</b>
<b>Bank name:</b>	<b>ABSA BUSINESS BANK</b>
<b>Account number:</b>	<b>4087641778</b>
<b>Branch code:</b>	<b>632005</b>
<b>Reference:</b>	<b>AMSA (Consent)</b>



- 4.5 The Commission will pay the administrative penalty into the National Revenue Fund in terms of section 59(4) of the Act.

## 5 PRICING REMEDY FOR FLAT STEEL PRODUCTS

5.1 For a period of 5 (five) years from the date on which this Settlement Agreement is made an order of the Tribunal, AMSA shall not be permitted to earn an EBIT (earnings before interest and tax) margin percentage greater than 10% relating to flat steel products (produced at Vanderbijlpark) sold in South Africa over a 12 (twelve) months period, subject to clause 6 below.

5.2 The 12 (twelve) months period contemplated in clause 5.1 above shall be calculated on the average EBIT margin based on a period of 12 (twelve) months corresponding with AMSA's financial year. AMSA's financial year is based on a calendar year.

5.3 The measurement of the EBIT margin cap shall be on a 12 (twelve) months basis and not on a quarterly basis. For avoidance of doubt, in the event that the 10% EBIT margin cap is exceeded in a quarter, this shall not constitute a breach of this Settlement Agreement provided that the EBIT margin cap contemplated in clause 5.1 read with clause 6, is not exceeded for the 12 (twelve) months measurement period.

5.4 This pricing remedy will exclude long steel products as the pricing complaint related to flat steel products.

## 6 VARIATION OF EBIT MARGIN CAP

6.1 It is hereby agreed that the EBIT margin percentage cap of 10% may be exceeded by AMSA up to a maximum EBIT margin percentage cap of 15%, if the difference between the RMB costs and Basket Price (RMB Spread) exceeds or is forecast to exceed USD350/t for a period of at least 3 (three) months.

6.2 AMSA shall be entitled to exceed the EBIT margin percentage cap of 10% as contemplated in clause 6.1 above, only in respect of the period that the RMB Spread exceeds USD350/t.

6.3 AMSA will revert to the EBIT margin percentage cap of 10%, if the RMB Spread, for a period of at least 3 (three) months, is below or is forecast to be below the USD350/t RMB spread.

6.4 AMSA will be entitled to exceed the EBIT margin percentage cap of 10% if the RMB Spread has been or is forecasted (based on AMSA's forecasts) to be exceeded for any 3 (three) months as contemplated in clause 6.1 above provided that for purposes of the measurement of the 12 (twelve) months period, the EBIT cap, proportionally adjusted for any period where the 15% cap was applicable in terms of clause 6.1, will not be exceeded. Proportionally adjusted means

that for each month or part thereof that the 15% EBIT cap is applicable, the 12 (twelve) months EBIT cap will be calculated taking into account the actual period that the 15% cap was applicable, as a proportion of the total 12 (twelve) months period. This can be illustrated as follows: if the 15% EBIT cap is applicable for 3 (three) months then the proportional adjustment will be  $3/12 \times 15\% + 9/12 \times 10\%$ .

6.5 AMSA shall provide the Commission with information on the 12 (twelve) months performance regarding the RMB costs and EBIT margin, and the international benchmark prices (with regard to Iron Ore and Coking Coal prices published by MetalBulletin and with regard to Scrap, published by Platts, unless other published benchmarks are agreed between the parties) on a 6 (six) monthly basis and in particular when the USD350/t difference in the RMB Spread has been or is forecast to be exceeded.

6.6 The Commission will have the right to review and verify the information justifying exceeding the EBIT cap of 10%, retrospectively based on actuals for the preceding 3 (three) months, as soon as possible or through the 6 (six) monthly reviews contemplated in clause 11.1 below, even though it may have been implemented and notwithstanding that the measurement period will be over a 12 (twelve) months period.



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## **7.1 Capital Investment**

AMSA commits to execute the additional capital expenditure of R4 640 000 000 (four billion six hundred and forty million rand) over 5 (five) years, subject to it being affordable and feasible in the light of the financial circumstances and recognising that economic, market or other conditions, including where material assumptions do not materialise (for example regarding the implementation of duties and the designation of local primary steel for infrastructure projects) may require that AMSA depart from these programmes and specific investments. It is AMSA's firm intention to retain the overall investment level as required to contribute to the retention and creation of jobs within the steel industry as circumstances may permit. AMSA will provide its capital expenditure plan to the Commission and inform the Commission of progress or any changes to the capital expenditure programme at least every 6 months. The current indicative Capital Expenditure Plan is attached solely for information purposes on a confidential basis and is subject to change from time to time. It is attached as **appendix A**.

## **7.2 Support to Industry – Rebates**

AMSA has historically provided a benefit to customers in the form of certain rebates – strategic rebates and export rebates. These rebates have supported the local industry and have also assisted exporters to remain competitive. AMSA will use best endeavours to continue with these rebates at AMSA's prerogative and subject to their ongoing commercial viability for AMSA provided these rebates are structured in a fair and equitable manner and do not contravene the Act.

## **8 INDUSTRY ASSOCIATIONS**

AMSA agrees to review its participation in industry associations to ensure that it does not engage in the exchange of competitively sensitive information which may facilitate collusion.

## **9 AGREEMENT CONCERNING FUTURE CONDUCT**

9.1 AMSA agrees and undertakes to comply with the provisions of the Act at all times.

9.2 AMSA further agrees and undertakes to:

9.2.1 prepare and circulate a statement summarising the contents of this Settlement Agreement to its employees who are managers, within its operations, and to its directors within one month after the date of confirmation of this Settlement Agreement as an order of the Tribunal;

9.2.2 review and further develop and implement AMSA's compliance programme in order to ensure that its employees, management and directors do not engage in any conduct which constitutes a prohibited practice in terms of the Act; and

9.2.3 submit a copy of the compliance programme to the Commission within 3 (three) months of confirmation of this Settlement Agreement by the Tribunal.

## 10 COOPERATION

10.1 AMSA agrees to provide all reasonable cooperation to the Commission in its continued prosecution of any or all of the Long Steel, Flat Steel and/or Scrap Steel complaints.

10.2 Such cooperation shall include but not be limited to making available all relevant documentary evidence (which is not subject to legal privilege) and making employees who have personal knowledge of the relevant complaints available to the Commission.

## 11 MONITORING

11.1 The monitoring or review of performance against the EBIT margin by the Commission will be on a 6 (six) months basis, having regard to performance for the preceding 6 (six) months, the latest reviewed or audited financial statements available, and the 12 (twelve) months EBIT margin.

11.2 AMSA shall within a period of 12 (twelve) months from the date of confirmation of this Settlement Agreement by the Tribunal (Confirmation Date ) or such longer period as may be agreed with the

Commission, and thereafter within 3 (three) months of the end of each financial year during the period of this Settlement Agreement, ensure that an independent external audit is conducted by its independent auditors or another reputable audit firm to confirm that the pricing remedy as described in clause 5 or any variation in terms of clause 6 have been applied in accordance with the provisions thereof.

11.3 In the event of any adverse audit findings, AMSA will be allowed a reasonable period within which to remedy any such finding.

11.4 For a period of 5 (five) years after the confirmation of this Settlement Agreement as an order of the Tribunal, AMSA shall:

11.4.1 upon request by the Commission and having been given reasonable notice, grant the Commission access within business hours to such information, including audit reports contemplated in clause 11.2 above, that is necessary to demonstrate its compliance with the provisions of clause 5 read with clause 6 above.

11.4.2 provide the Commission on an annual basis with a report on compliance with the terms of this Settlement Agreement.



11.4.3 include in its financial statements a statement by the CEO in respect of each year in question, that AMSA has in all material respects complied with this Settlement Agreement.

## 12 GENERAL VARIATION

12.1 AMSA shall be entitled, if there is a change in laws, or a significant change in the economic, financial and market circumstances affecting AMSA's ongoing viability to request the Commission to consent to the waiver, relaxation or modification of this Settlement Agreement and the remedies provided herein (excluding the quantum of the administrative penalty which shall be non-variable), which consent shall not be unreasonably withheld.

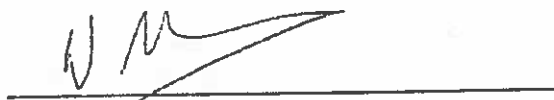
12.2 In the event of the Commission and AMSA agreeing upon the waiver, relaxation or modification of this Settlement Agreement and the remedies provided herein, the Commission and AMSA shall apply to the Tribunal for confirmation by it of such waiver, relaxation, or modification.

12.3 In the event of the Commission withholding its consent to a waiver, relaxation or modification, AMSA shall be entitled to apply to the Tribunal for an order waiving, relaxing or modifying this Settlement Agreement and the remedies provided herein. The Commission shall be entitled to oppose such application.

### 13 FULL AND FINAL SETTLEMENT

This Settlement Agreement, upon confirmation thereof as an order by the Tribunal is in full and final settlement and concludes all proceedings between the Commission and AMSA in relation to the Long Steel Complaint, Flat Steel Complaint and Scrap Steel Complaint and terminates the investigation regarding the Pricing Complaint.

Signed at Johannesburg on this the 9<sup>th</sup> day of November 2016.



**Willem Abraham de Klerk**

**Chief Executive Officer, ArcelorMittal South Africa Limited**

Signed at Muldersdrift on this the 10<sup>th</sup> day of November 2016.



**Tembinkosi Bonakele**

**The Commissioner, Competition Commission**

"B"

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA**

**CT CASE NO: CR092JAN07SA090AUG16**

In the matter between

**COMPETITION COMMISSION OF SOUTH AFRICA**

Applicant

and

**ARCELORMITTAL SOUTH AFRICA LIMITED**

Respondent

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**ADDENDUM TO THE AMENDED SETTLEMENT AGREEMENT BETWEEN THE  
COMPETITION COMMISSION AND ARCELORMITTAL SOUTH AFRICA LIMITED IN  
TERMS OF THE COMPETITION ACT NO. 89 OF 1998, AS AMENDED**

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The Competition Commission and ArcelorMittal South Africa Limited hereby agree to amend the settlement agreement dated 10 November 2016 as follows:

**Deletion of clause 6.4**

Clause 6.4 of the settlement agreement is hereby deleted in its entirety.

**Insertion of clause 9.3**

A new clause 9.3 is hereby inserted in the settlement agreement to read as follows:

"9.3 AMSA undertakes to engage in any future exchange with government departments and interested stakeholders regarding the promotion of steel imports, including risks of anti-dumping duties on such exports, in an open and


transparent manner, subject always to compliance with the Competition Act No.89 of 1998, as amended.”

Signed at PRETORIA on this the day of 16 November 2016.

  
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**Willem Abraham de Klerk**

**Chief Executive Officer, ArcelorMittal South Africa Limited**

Signed at PRETORIA on this the 16 day of November 2016.

  
\_\_\_\_\_  
**Tembinkosi Bonakele**

**The Commissioner, Competition Commission**