



COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: CR194Mar12/SA206Oct17

In the matter between:

The Competition Commission

Applicant

and

Evrz Highveld Steel and Vanadium Ltd

Respondent

Panel : AW Wessels (Presiding Member)
M Mokuena (Tribunal Member)
A Ndoni (Tribunal Member)

Heard on : 29 November 2017

Decided on : 29 November 2017

Settlement Agreement

The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Evraz Highveld Steel and Vanadium Ltd annexed hereto marked "Annexure A".



Presiding Member
Mr Andreas Wessels

29 November 2017
Date

Concurring: Mrs Medi Mokuena and Ms Andiswa Ndoni

"ANNEXURE A"

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CR194Mar12/SA2060617

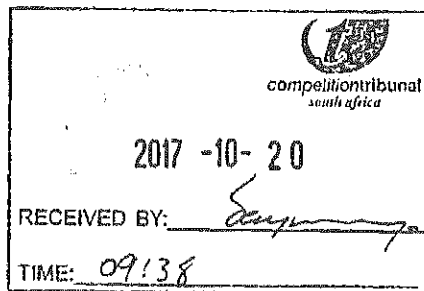
CC CASE NO: 2008Apr3696

CT CASE NO: 34/CR/Mar12

In the matter between:

THE COMPETITION COMMISSION

and



Applicant

EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED

Respondent

SETTLEMENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED IN REGARD TO THE ALLEGED CONTRAVENTION OF SECTIONS 4(1)(b)(i) AND (ii) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED

The Competition Commission and EVRAZ Highveld Steel and Vanadium Limited hereby agree that application be made to the Competition Tribunal ("the Tribunal") for an order confirming this Settlement Agreement as an Order of the Tribunal in terms of section 49D read with section 58(1)(a)(iii) and section 58(1)(b) as well as section 59(1)(a) of the Competition Act No. 89 of 1998 as amended, on the terms set out below.

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[Signature]

1. Definitions and interpretation

1.1. For the purposes of this Settlement Agreement the following definitions shall apply:

1.1.1 "Act" means the Competition Act 89 of 1998, as amended;

1.1.2 "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;

1.1.3 "Business Rescue Practitioner" means Mr Piers Michael Marsden (RSA ID 7703055168084), an independent person appointed by the Companies and Intellectual Property Commission to serve as the joint business rescue practitioner in regard to the business rescue proceedings of Highveld;

1.1.4 "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, DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria;

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

1.1.6 "Complaint" means the complaint referral made to the Tribunal by the Commission under case number 34/CR/MAR12;

- 1.1.7 **"Highveld"** means EVRAZ Highveld Steel and Vanadium Limited (previously called 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 Portion 93 Old Pretoria Road, the farm Schoongezicht 308 JS, eMalahleni, South Africa;
- 1.1.8 **"SAISI"** means the South African Iron and Steel Institute;
- 1.1.9 **"Settlement Agreement"** means this agreement duly signed and concluded between the Commission and Highveld;
- 1.1.10 **"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 3rd Floor, Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. **The Complaint Investigation**

- 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.
- 2.2 The Commission found that during the period of 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.

2.3 The Commission further found that 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 them.

2.4 The Commission referred the complaint to the Tribunal for adjudication on 30 March 2012.

3. Admission

Highveld admits that it provided monthly sales volumes in respect of flat steel products to SAISI, which information was shared by SAISI with AMSA and that Highveld received similar information from SAISI regarding AMSA. Highveld does not admit that this and the conduct set out in paragraphs 2.2 and 2.3 above constitute a contravention of the Act.

4. Administrative penalty

4.1 It is recorded that Highveld is currently under business rescue in terms of in terms of Chapter 6 of the Companies Act, No 71 of 2008 and is accordingly under the management of the Business Rescue Practitioners.

4.2 Having regard to the provisions of section 58(1)(a)(iii) as read with sections 59(1)(a), 59(2) and 59(3) of the Act, Highveld has agreed to the imposition of an administrative penalty in the sum of R1 000 000 (one million rand) which represents an amount of less than 10% of Highveld's turnover for the financial year ended December 2014.

4.3 Highveld agrees to pay administrative penalty within a period of 1 (one) month from the date of confirmation of this settlement agreement as an order of the Tribunal. Payment will be made into the Commission's bank account, the details of which are as follows:

Bank name: Absa business bank

Branch name: Pretoria

Account Holder: Competition Commission

Account number: 4087641778

Branch Code: 632005

Reference: Highveld/2008Apr3696

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

5. Full and final settlement

This Settlement Agreement is entered into in full and final settlement of the complaint and upon confirmation as an order by the Tribunal, concludes all proceedings between the Commission and Highveld, relating to alleged contraventions of sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act.

Signed at Rosebank on this the 04 day of October 2017.



Mr Piers Michael Marsden (duly authorized)

EVRAZ Highveld Steel and Vanadium Limited

Signed at Pretoria on this the 13th day of October 2017.



Tembinkosi Bonakele

The Commissioner, Competition Commission