COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 50/LM/Jul02

In the large merger between:

Safmarine Container Lines N.V.

and

the Unicorn Lines Division of Unicorn Freight Services (Pty) Ltd

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Reasons for Decision

APPROVAL

On 4 September 2002 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Safmarine Container Lines N.V. and **the Unicorn Lines Division of Unicorn Freight Services (Pty) Ltd** in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The acquiring firm is Safmarine Container Lines N.V. (trading under the global brand name of Safmarine) ("SCL"), a Belgian-based company.SCL is in turn part of a large international shipping group based in Denmark, the AP Moller Group and subsidiary of Maersk ("Maersk").[1] SCL operates in South Africa through its wholly-owned subsidiary, Safmarine (Pty) Ltd, based in Cape Town.

2. The target firm is the **Unicorn Lines Division of Unicorn Freight Services (Pty) Ltd** ("Unicorn"). Unicorn in turn, is a subsidiary of the Grindrod Group, which has other shipping interests but is only selling Unicorn Lines which operates its

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1 The A P Moller Group acquired the liner shipping interests and the trading name Safmarine in 1999. Also in this group, is Maersk Sealand, one of the largest shipping liner companies in the world. They operate on some of the same international routes that Safmarine do.

African coastal container shipping operations.

Rationale for the Transaction

3. Intra-Africa trade is regarded by Safmarine as a growth area in respect of which they wish to improve and expand services to intra-African destinations. SAF regards Unicorn as very competent in intra-Africa regional/feeder trades, while Safmarine's competence lies in its international global container trades. The merger will facilitate Safmarine's ability to deliver an efficient service to its customers. Similarly, it will enable Unicorn to achieve critical mass and to leverage Safmarine's buying power to achieve savings in operational costs. Since Unicorn is already a sub-contractor for SCL, there will be little change in day-to-day operations

The Merger Transaction

4. Safmarine and Unicorn are to establish a joint venture, (Newshelf 667, later to be re-named "Unifeeder"). Safmarine and Unicorn will, respectively, own 51% and 49% in Unifeeder which will buy the Unicorn's coastal shipping services division. This includes a 40% interest in Mozline SARL). Mozline is a Mozambiquan registered company which facilitates trade between South Africa, Namibia and Mozambique.

The Relevant Market

5. Safmarine is an international, long-haul container line and transporter of cargo.[2] It also operates in West, North, East Africa, the Far East, South America, Europe and the USA.

6. Unicorn Lines is a regional, coastal "feeder" service which operates along the entire South African coastline between Luanda (Angola) and Mombasa (Kenya). It is called a feeder service because it provides regional services by collecting cargo from international carriers and "feeding" it to various smaller South African ports where, due to size constraints, larger vessels cannot dock. Similarly, it collects cargo from small ports and feeds it to international carriers at the larger ports. Unicorn Lines also carries out the shipping of regional commercial cargo from South African ports along the west coast from Durban to Luanda and along the east coast route (from Durban to Mombasa) This type of service is referred to as a coastal service.

7. The parties identify the area of overlap as being their costal service on the

2 It does so in containers and in the form of palettes, crates or boxes (break-bulk).

routes into Angola and East Africa, that is, in respect of cargo transported from Angola to RSA and vice versa, as well as in respect of cargo transported from Tanzania/Kenya to RSA and vice versa.

Impact on competition

8. The overall impact of the combination is insignificant. Based on total cargo shipped and landed in the South African market, combined market shares, including the long-haul shipping activities of SCL, total only 22%. On the RSA/Angola routes where Safmarine and Unicorn compete, the parties estimated Maersk Sealand has 15% market share, Unicorn 14% and Safmarine 13% . Given that Maersk Sealand is a sister subsidiary of the merged firm, their combined shares of these markets would be 42%. However the parties maintain that there are 10 other lines competing in this market, making it very over-traded and highly competitive. On the East Coast route between RSA and Kenya, they estimated MSC having approximately 60%, P&O Nedloyd having 20%, Safmarine 15% and Unicorn having just a few percent.

9. It is obvious that there is a great deal of competition between feeder suppliers because supply exceeds demand. There is a worldwide trend to pool resources and consolidate in such an over-traded market. The parties' strategy is to ultimately lower costs and improve the quality of regional and international container transport by sea, increasing the competitiveness of South African exports. As evidence of this, the parties have pointed out that freight rates had declined substantially in the past year. The total volume of cargo shipped has decreased by 4.42% even though the number of container vessels calls to local ports has increased by approximately 46%.

10. The parties' customers are large companies who, in the event of the exercise of market power by the merged entity, will be able to substitute relatively easily to other shipping service providers, notwithstanding also to rail and road transportation. The parties also refer to the rapid emergence of import competition from wayporters, to whom Unicorn has reportedly lost 27% market share in the last 7 years. Wayporters are various international carriers which stop along the South African coastline and act as feeder operators to other shipping lines and pick up and off-load coastal cargo between ports along the SA coastline. Examples are Tunain, P&O Nedlloyd, Matsui OSK Lines, NYK Lines, CSAV, Keen Hung, MSC. They provide a comprehensive service, comprising global shipping, feeder services and regional coastal transportation, therefore are typically vertically integrated.

11. Furthermore, barriers to entry to South African markets remain low, facilitated by government's deliberate trade liberalization policies in recent years, thereby ensuring that restrictions on foreign vessels from

transporting cargo between local ports have been eliminated. In consequence, the number of container vessels docking at local ports has increased substantially over recent years due to globalisation and the rise of export and import activity.

Vertical Issues

12 Currently, Unicorn Lines operates as a subcontractor for Safmarine as well as other shipping lines, by providing it with a regional feeder service to compliment its international trade. The fact that Unicorn Lines will also be servicing other shipping lines gives rise to the possibility of Safmarine post - merger foreclosing its other competitors by channeling all its regional shipping needs through Unifeeder, preventing it from servicing other shipping lines.

13. However the parties maintain that in an overtraded shipping market, vertical integration of large shipping lines and smaller regional operators is common-place. Unifeeder will require critical mass to remain economically viable, and to maximize the usage of its cargo capacity on its various vessels. Presently, 30% of the volumes it carries is attributable to Safmarine (including Maersk Sealand), the remaining 70% is split equally between other third party lines (including P&O Nedlloyd, Zimlines, NYK) as well as other domestic, commercial cargos. Therefore, Unifeeder will be dependent on the patronage of other shipping lines to keep it in business. There is no evidence to suggest that SCL's competitors will not continue to have access to Unifeeder's services at market related terms.

14. The parties furthermore assured that, in any event, there are other service providers for Safmarine's competitors - on the route into East Africa there are at least two other feeder carriers, Global Container Lines and another company called SPAM Freight. P&O Nedloyd provide their own service into Angola. The parties advised that it is not difficult for larger carriers to implement their own direct service on a particular route, to meet their own requirements, as opposed to utilizing a feeder service and since these markets are so small in global terms, the merger will be unlikely to prevent them from doing so. The parties suggested that, as an alternative, other shipping lines could easily collaborate to form a partnership with one of their overseas trading partners on these African routes. In addition, since much of the feeder service is provided to landlocked countries, there is also the alternative to transport cargo by road or rail. Therefore competitors are unlikely to be foreclosed from these markets.

Conclusion

We conclude that the merger will not lead to a substantial lessening of competition. The Tribunal therefore approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

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Concurring: D. H. Lewis, U. Bhoola

For the merging parties:	Edward Nathan Attorneys
For the Commission:	K. Tshikare, Mergers Division, Competition Commission