

NOTICE 168 OF 2004**COMPETITION TRIBUNAL****NOTIFICATION OF DECISION TO APPROVE MERGER**

The Competition Tribunal gives notice in terms of rule 35 (5) (b) (ii) of the "Rules for the conduct of proceedings in the Competition Tribunal" as published in Government Gazette No. 22025 of 01 February 2001, that on 08 December 2003 it approved the merger between Boart Longyear, a division of Anglo Operations Ltd and Huddy (Pty) Ltd & Huddy Rock Tools (Pty) Ltd subject to the following conditions:

1. Boart Longyear ("Boart") appoints two independent agents to sell the Kempe machine, as well as the spare parts for the machine. The concluded agency agreements must be in force for a period of not less than three (3) years ("the period") and must provide that the following terms apply for the period, at least:
 - 1.1 Boart must supply the agents with the Kempe machines and the spares.
 - 1.2 Boart must undertake to provide the appointed agents with consignment stock of the Kempe machines so that each agent has at least two (2) machines on consignment at all times;
 - 1.3 Boart must sell the Kempe machines and the spare parts to the agents at the standard discount rate it offers to its agents from time to time, provided that the discount rate must not be less than 15% off the list price applicable at the time. The list price for 2003 is attached hereto as annexure "A". Thereafter the list price for the Kempe and the spares may escalate annually on 1 December provided, however, that the increase does not exceed an amount greater than the consumer price index, excluding mortgage bond rates (CPI_x), for the year immediately prior to the increase¹.
2. Boart must enter into the agreements within three (3) months of date of this order.
3. The agents must be financially independent of one another and must conduct business in South Africa.
4. For the period that these conditions are in force, Boart must, within fourteen(14) days of the conclusion of the agency agreements, and, the preparation of the annual price list, provide the Commission, with –
 - i. Copies of the agreements concluded with each of the agents; and
 - ii. The annual price lists reflecting the prices of the Kempe machine and the spares.

¹ By way of example, this means that on 1 December 2004 the prices will be increased by an amount not exceeding the CPI_x for the period 1 December 2003 to 30 November 2004.

(Case No. 41/LM/Aug03)

**The Chairperson
Competition Tribunal**