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PUBLIC VERSION

South32 Limited
108 St Georges Terrace, Level 35
Perth, Western Australia
6000 Australia

KGHM Polska Miedź S.A.
M. Skłodowskiej-Curie 48
59-301 Lubin
Poland

Subject: **Case M.10539 – SOUTH32 / KGHM / SIERRA GORDA**
Commission decision pursuant to Article 6(1)(b) of Council Regulation (EC) No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

1. On 6 January 2022, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings South32 Limited ('South32', Australia) and KGHM Polska Miedź S.A. ('KGHM', Poland) intend to acquire within the meaning of Articles 3(1)(b) and 3(4) of the Merger Regulation joint control of Sierra Gorda SCM ('Sierra Gorda', Chile), by way of purchase of shares.[3]

2. The business activities of the undertakings concerned are:

   – for South32: the production of bauxite, alumina, aluminium, metallurgical coal, manganese, nickel, silver, lead and zinc from sites located in Australia, Southern Africa and South America;

1 OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

3 Publication in the Official Journal of the European Union No C 21, 14.1.2022, p. 5.

– for KGHM: the production of valuable commodities, predominantly metals, including copper, silver, gold, molybdenum, nickel, rhenium and lead from a number of sites worldwide;

– for Sierra Gorda: the production of copper concentrate and molybdenum concentrate (which can be further processed into molybdennym oxide) from its mine located in Chile. Sierra Gorda's copper concentrate also contains limited quantities of silver and gold.

3. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraph 5(a) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004.[4]

4. For the reasons set out in the Notice on a simplified procedure, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

4 OJ C 366, 14.12.2013, p. 5.