



U.S. Department of Justice

Antitrust Division

City Center Building
1401 H Street, NW
Washington, DC 20530

September 20, 2004

Mr. Ron Thompson
Vice President of Operations
Century Aluminum of West Virginia, Inc.
Ravenswood Operations
Post Office Box 98
Ravenswood, West Virginia 26164

Re: *Public Comment on Proposed Amended Final Judgment in United States v. Alcan Ltd., Alcan Aluminum Corp., Pechiney, S.A., and Pechiney Rolled Products, LLC, Civil No. 1:030 CV 02012 (D.D.C., filed May 26, 2004)*

Dear Mr. Thompson:

This letter responds to your August 9, 2004, comment on the proposed Amended Final Judgment (or "AFJ") in this case. That comment is virtually identical to your comment on the initial settlement. The United States's response to your earlier comment, which fully addressed the concern you expressed, was previously published in the Federal Register (69 Fed. Reg. 18930, 18966-69 (Apr. 9, 2004)). Before addressing your current comment, however, it may be helpful to summarize the major terms of the amended settlement.

The Amended Final Judgment, if entered by the Court, would resolve the United States's serious concerns that Alcan's acquisition of Pechiney would substantially lessen competition in the sale of brazing sheet, an aluminum alloy used by auto parts makers throughout the nation to manufacture radiators, heaters, and air conditioning units for motor vehicles. See Complaint, ¶¶ 1-3, 19-24, and 27-30; Revised Competitive Impact Statement, pp. 4-9. The Amended Final Judgment requires Alcan to divest either its own or Pechiney's "brazing sheet business."¹ AFJ, § IV(A). Alcan's brazing sheet business includes Alcan's aluminum rolling mills in Oswego, New York, and Fairmont, West Virginia, which produce the brazing sheet sold by Alcan in North America. AFJ, §

¹The initial settlement only would have required Alcan (or a court-appointed trustee) to divest Pechiney's brazing sheet business. The amended settlement would also permit Alcan to restore competition by selling (or spinning off) its own brazing sheet operations. Alcan has indicated, however, that it will sell its own brazing sheet operations only as part of a major corporate reorganization, an undertaking driven, at least in part, by business considerations unrelated to Alcan's acquisition of Pechiney. See Revised Competitive Impact Statement, n. 3.

II(F). Pechiney's brazing sheet business includes its aluminum rolling mill in Ravenswood, West Virginia, which makes the brazing sheet sold by Pechiney in North America. AFJ, § II(E). Prompt divestiture of either brazing sheet business to a viable new competitor would advance the paramount public interest in competitive prices and continued high quality and innovation in the brazing sheet market by quickly restoring the rivalry that existed in domestic sales of this crucial material before Alcan's acquisition of Pechiney. To help ensure that the proposed divestiture is expeditiously completed and competition restored, the Amended Final Judgment provides that if Alcan does not complete its sale of either brazing sheet business to an acceptable purchaser by the established deadline, the Court may appoint a trustee to complete the divestiture of Pechiney's brazing sheet business. AFJ, § V(A).

Alcan already has taken steps to divest its own brazing sheet business by arranging to spin it off to the company's shareholders along with many of Alcan's other domestic and foreign businesses. Under the terms of the Amended Final Judgment, however, there is a possibility that Alcan may later decide (or a trustee may be appointed) to divest the Pechiney brazing sheet business.

Century Aluminum is a customer of the Pechiney brazing sheet business that could be divested pursuant to the terms of the Amended Final Judgment. Your major concern is that any new owner of the Ravenswood facility must be a financially viable, ongoing enterprise, fully capable of paying for any aluminum that it purchases from your firm.

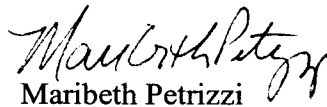
The United States also strongly believes that if Alcan chooses to divest Pechiney's brazing sheet business, the new owner must be capable of operating the Ravenswood plant as part of an ongoing, viable new enterprise. In fact, a lynchpin of the Amended Final Judgment is the requirement that the Alcan or Pechiney brazing sheet business be divested to a person who, in the United States's judgment, is able to operate it successfully in competition against Alcan and others (*see* AFJ, §§ IV(J) and V(B)). To that end, the Amended Final Judgment requires Alcan to sell any tangible and intangible assets used in the development, production, and sale of brazing sheet, including Pechiney's entire Ravenswood facility, and any research, development, or engineering facilities, wherever located, used to develop and produce any product – not just brazing sheet – currently rolled at the Ravenswood facility. *See* AFJ, §§ II(E)(1)-(3). Because the amended decree ensures that any new purchaser of Pechiney's brazing sheet business would obtain every tangible and intangible asset previously used by Pechiney to compete in developing, making, and selling brazing sheet and any other aluminum products made by the Ravenswood facility, there is no reason to believe that that business can only survive if it is sold to a dominant aluminum manufacturing concern, such as Alcan.²

²You argue that Alcan should be allowed to retain the Pechiney brazing sheet business because it would maintain current employment levels at Ravenswood. A firm that acquires market power, however, will be more likely to raise price and reduce output, and as a consequence, would be more, not less, likely to reduce employment levels.

In any event, at this stage, since Alcan has not proposed a buyer for Pechiney's Ravenswood plant, much less negotiated any terms of sale, the United States sees no basis for concluding that *any* effort to divest Pechiney's brazing sheet business will fail to produce an acceptable, viable new owner capable of continuing the firm's competition against Alcan and others in developing, producing, and selling brazing sheet in North America.³ It would clearly be an error to reject the amended settlement on speculation that an alternative purchaser will not turn up when the reasonable canvass the parties envisioned has not been allowed to run its course. *Citizens Pub. Co. v. United States*, 394 U.S. 131 (1969); *FTC v. Harbour Group Investments, LP*, 1990-2 Trade Cas. (CCH) ¶ 69,247 (D.D.C. 1990). *See generally*, Horizontal Merger Guidelines ¶ 5.2 (1990 ed.); Areeda, Hovenkamp, and Solow, *Antitrust Law* ¶ 952 (rev. ed.).

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), a copy of your comment and this response will be published in the Federal Register and filed with the Court.

Sincerely yours,



Maribeth Petrizzi

Chief

Litigation II Section

³An "acceptable purchaser" of Pechiney's brazing sheet business would not be a firm so burdened by its former owners' legacy costs that it is not viable. *See* Amended Final Judgment, § IV(J): Divestiture terms must not give the defendants "the ability unreasonably to raise the [new firm's] costs, to lower [its] . . . efficiency, or otherwise to interfere in . . . [its] ability . . . to compete effectively."

Century ALUMINUM

Ravenswood
Operations

August 9, 2004

Ms. Maribeth Petrizzi
Chief, Litigation II Section Antitrust Division
United States Department of Justice
1401 H Street, NW ,Suite 3000
Washington, DC 20530

Re: Pechiney Rolled Products Plant, Ravenswood, West Virginia

Dear Ms. Petrizzi:

I am the manager of the Century Aluminum primary aluminum plant at Ravenswood, West Virginia. The plant is adjacent to the Pechiney Rolled Products plant that was to be divested by Alcan as a divestiture obligation as part of its acquisition of Pechiney.

This obligation was lifted in May 2004 when Alcan and the Department of Justice executed and filed with the United States District Court in Washington, DC an Amended Final Judgment that recognizes Alcan's spinoff of its original rolling assets, including its mill for rolling brazing sheet, as an alternative remedy to divestiture of the Ravenswood mill. The comments below represent a restatement of Century's position with respect to ownership of the rolling mill.

The two plants operated as an integrated entity from the late 1950s, when Kaiser Aluminum constructed them, until 1999 when Century sold the rolling mill to Pechiney. The rolling mill is the major customer for our plant. It contractually purchases between 275 million and 325 million pounds of primary aluminum a year out of our total yearly production of about 375 million pounds. The metal is delivered in molten or liquid form as it comes out of Century's electrolytic cells. This eliminates the need for much of the metal to be cast by Century and then re-melted by the mill for casting into shapes suitable for rolling. This arrangement and the close proximity of the plants produce savings that are shared by the parties. The savings are important to the economic viability of our plant and to the jobs of our 700 employees and the pension and health benefits enjoyed by our 300 retirees.

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A Century Aluminum Company

Ms. Maribeth Petrizzi

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Century Aluminum's principal concern with ownership of the mill is that prospective new owners must meet our company's credit standards. Century typically holds as much as \$30.0 million in accounts receivable each month under the existing contract which is a significant liability for a company of our size. Alcan's size, favorable reputation and credit worthiness satisfy this concern. If Alcan were to sell the plant to a third party, we would require that the new owner possess a credit rating approximating that of Pechiney/Alcan.

I hope we have provided you with a fuller understanding of the inter-related manufacturing processes between our reduction plant and the rolling mill. We hope that the mill will continue to operate under the management of an owner with all of the financial, technical and marketing resources required to assure its economic success.

We are available to provide any additional information you may require.

Sincerely,



Ron Thompson

Vice President of Operations

Century Aluminum of West Virginia, Inc.