U.S. Department of Justice

Antitrust Division

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

March 15, 2004

The Honorable Clair Roseberry
Mayor
City of Ravenswood
212 Walnut Street
Ravenswood, West Virginia 26164

Re: *Public Comment on Proposed 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 Sept. 29, 2003)*

Dear Mayor Roseberry:

This letter responds to your letter of February 4, 2004, which comments on the proposed Final Judgment ("Judgment") submitted for entry in this case. The United States's Complaint in this case charged that Alcan's acquisition of Pechiney would substantially lessen North American competition in the sale of brazing sheet, a rolled aluminum alloy widely used in fabricating certain critical components of heat exchange systems (*e.g.*, heaters, air conditioners, and radiators) for all types of motor vehicles. The proposed Judgment would resolve those competitive concerns by requiring the defendants to divest Pechiney's "brazing sheet business," a term defined in the Judgment, § II(E), to include Pechiney's entire aluminum rolling mill in Ravenswood, West Virginia, which, *inter alia*, produces all of the brazing sheet sold by Pechiney in North America.

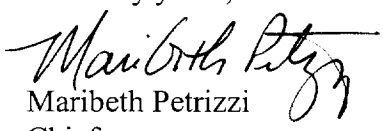
In your letter, you expressed a belief, elaborated upon in the accompanying city council resolution, that in order to safeguard competition and preserve local employment, the Ravenswood facility must be divested to a firm that is, above everything else, competitively viable. The United States, of course, shares this concern, for a lynchpin of the proposed decree is its requirement that the Ravenswood facility be divested to a person who, in the United States's judgment, is able to operate it successfully in competition with Alcan and others (*see* Judgment, § IV(J)). To that end, the proposed Judgment requires defendants to divest any tangible and intangible assets used in the production and sale of brazing sheet, including the 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* Judgment, §§ II(E)(1)-(3).

Concern that there may not be an acceptable purchaser of these assets may be premature. Although the defendants have solicited offers for Pechiney's brazing sheet assets, they have not selected a proposed purchaser. In the event the defendants are unable to find an acceptable purchaser

on their own, the proposed decree permits the Department of Justice to nominate, and the Court to appoint, a trustee responsible for conducting an independent search for an acceptable purchaser and selling Pechiney's brazing sheet assets "at such price and on such terms as are then obtainable upon reasonable effort" (Judgment, § V(B)). At this point in the divestiture process, however, it would be inappropriate to conclude that the defendants' – or if necessary, the trustee's – efforts to sell Pechiney's brazing sheet assets will not produce an acceptable, viable purchaser capable of vigorously competing in the development, production, and sale of brazing sheet in North America.[1]

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

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[1]An "acceptable purchaser" of Pechiney's brazing sheet business would not be a firm so burdened by its former owners' legacy costs that it is unviable. *See* 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."

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City of Ravenswood

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Mayor
Clair Roseberry

Recorder
Lucy J. Harbert

Clerk Treas.
Joan Turner

Council Members
Lee Corder
Robert L. Dittmar
Jack Greene
Gary Lawson
Judy K. Wiseman

January 4, 2004

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:

Attached is a resolution adopted by the Common Council of the City of Ravenswood expressing the concerns of council of the possible sale of the Pechiney Rolled Products Plant under the terms of a consent decree now pending before the United States District Court in Washington.

We request that the concerns highlighted in the attached resolution be considered and trust that it will assist you in your deliberations.

Respectfully yours,

Clair Roseberry

Clair Roseberry
Mayor

Attachment:
Pechiney Rolled Products Plant, Ravenswood, WV Resolution

PECHINEY ROLLED PRODUCTS PLANT
RAVENWOOOD, WEST VIRGINIA
RESOLUTION

Whereas, the City of Ravenswood is a City of approximately 4100 people with the Pechiney Rolled Products Plant located 6 miles south of the City.

Whereas, the purpose of this resolution is to express the Common Council of the City of Ravenswood's concern over the sale of the Pechiney Rolled Products plant at Ravenswood under the terms of a consent decree now pending before the United States District Court House in Washington.

Whereas, many of the employees of the plant live in the city and the surrounding area thus the well-being of the city is linked to the successful operation of the plant because many of its citizens work there and also because about one-third of the families in the city are retirees, many being former workers at the Pechiney plant. The average age in the city's population is 42. If the plant were to close, many families and retirees in the area as well as the City's revenues would be directly affected.

Whereas, it is vital that any purchaser of the Pechiney plant have the capability and commitment necessary to operate the plant into the future. We are concerned that a buyer will be found to satisfy the requirement of divestiture, but the buyer will lack the resources to keep the plant in operation in the long term.

Therefore, the Common Council of the City of Ravenswood urge those in control of this process-the Court, the parties to the consent decree, and any trustee who might be appointed in the future-to accept as potential buyers only those companies that will clearly be successful. If such a clearly successful buyer cannot be found, we urge that Alcan be allowed to keep the plant. Alcan is clearly capable of keeping the plant going into the future. Its continued ownership of the plant would be in the public interest of our community.

Let it be resolved that on the 3rd day of February 2004, the Common Council of the City of Ravenswood by a majority vote of the body in attendance adopted and authorized the Honorable Clair Roseberry, the Mayor of the City of Ravenswood, to sign the foregoing resolution.

Clair Roseberry

Clair Roseberry
Mayor

Attest:

Lucy J. Harbert

Lucy J. Harbert
Recorder