**U.S. Department of Justice**

Antitrust Division

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

March 15, 2004

Ms. Marci D. Weyer
President
Jackson County Development Authority
104 Miller Drive
Ripley, West Virginia 25271

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 Ms. Weyer:

This letter responds to your February 2004 letter, 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, *inter alia*, Pechiney's aluminum rolling mill in Ravenswood, West Virginia, which produces all of the brazing sheet sold by Pechiney in North America.

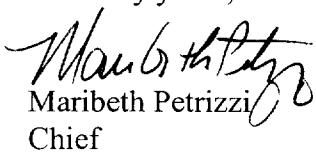
In your letter, you express a general concern, reflected in a resolution adopted by the Jackson County Development Authority, that a new owner of the Ravenswood facility may not be able to operate the plant profitably and may close it, a development that would adversely affect competition for brazing sheet and the income and livelihoods of Ravenswood's current and former employees. You have urged the Court to permit Alcan to retain and operate the plant if "no reliable buyer is found."

Your concern that there will not be an acceptable purchaser for the Ravenswood facility may be premature. 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)). Although the defendants have solicited offers for Pechiney's brazing sheet business, 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."

JC Development Authority
Jackson County DA

Mark A. Kassing, Executive Director
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Maribeth Petrizzi
Chief, Litigation II Section
Antitrust Division
United States Department of Justice
1401 H Street, NW
Suite 3000
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Re: Alcan Acquisition of Pechiney

Dear: Ms. Petrizzi:

It is with great concern that I write to you concerning the acquisition of Pechiney by Alcan. I am president of the Development Authority of Jackson County, West Virginia, where Pechiney has a major plant, Pechiney Rolled products. Under the pending consent decree Alcan is required to divest that plant.

The Jackson County Development Authority adopted the following resolution of February 3, 2004 to express its concern about the long term continuation of the Pechiney Rolled Products plant as an employer and taxpayer in the county:

**WHEREAS**, the Jackson County Development Authority is a body politic created by act of the Jackson County Commission; and

**WHEREAS**, Pechiney Rolled Products is a major employer and taxpaying business in Jackson County, West Virginia; and

**WHEREAS**, under a consent decree permitting the acquisition of Pechiney by Alcan, the purchaser is required to divest that plant by selling it to an owner who would continue to produce brazing sheet at the plant; and

**WHEREAS**, this Authority is concerned that a new owner would lack the capability to operate the plant successfully in light of the plant's lack of profitability and the necessity of integrating it into allied operations of the owner; and

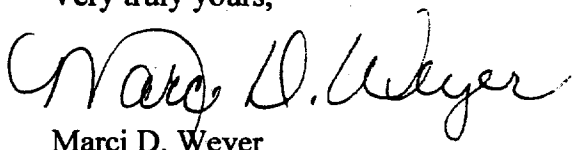
**WHEREAS**, a shutdown at the plant would be devastating to the people of Jackson County; and

**WHEREAS**, continued operation of the plant by Alcan, a qualified owner, would avert the danger of a shutdown of the plant; therefore

**IT IS RESOLVED**, that the foregoing concerns of the Jackson County Development Authority should be made known to the Court considering the consent decree, so that the public interest may be served and the Court might, if no reliable buyer is found for the plant, reconsider the advisability of terminating the requirement of divestiture and permit Alcan to own and operate the plant.

I understand that comments made to you will be conveyed to the parties to the consent decree and to the court.

Very truly yours,



Marci D. Weyer
President
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# RESOLUTION

**WHEREAS**, the Jackson County Development Authority is a body politic created by act of the Jackson County Commission; and

**WHEREAS**, Pechiney Rolled Products is a major employer and taxpaying business in Jackson County, West Virginia; and

**WHEREAS**, under a consent decree permitting the acquisition of Pechiney by Alcan, the purchaser is required to divest that plant by selling it to an owner who would continue to produce brazing sheet at the plant; and

**WHEREAS**, this Authority is concerned that a new owner would lack the capability to operate the plant successfully in light of the plant's lack of profitability and the necessity of integrating it into allied operations of the owner; and

**WHEREAS**, a shutdown at the plant would be devastating to the people of Jackson County; and

**WHEREAS**, continued operation of the plant by Alcan, a qualified owner, would avert the danger of a shutdown of the plant; therefore

**IT IS RESOLVED**, that the foregoing concerns of the Jackson County Development Authority should be made known to the Court considering the consent decree, so that the public interest may be served and the Court might, if no reliable buyer is found for the plant, reconsider the advisability of terminating the requirement of divestiture and permit Alcan to own and operate the plant.