UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA,<br>Department of Justice<br>Antitrust Division<br>325 7th Street, N.W., Suite 500<br>Washington, D.C. 20530,<br><br>*Plaintiff*,<br><br>v.<br><br>Aluminum Company of America,<br>425 Sixth Avenue<br>Alcoa Building<br>Pittsburgh, PA 15219<br><br>and<br><br>Alumax Inc.,<br>3424 Peachtree Road, NE<br>Suite 2100<br>Atlanta, GA 30326,<br><br>*Defendants*. | ) | Civil No.: 98-CV-1497<br><br>Filed: 6/15/98 |

**COMPLAINT**

The United States of America, acting under direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against defendants and alleges as follows:

1. On March 8, 1998, Aluminum Company of America ("Alcoa") and Alumax Inc. ("Alumax") entered into an agreement under which Alcoa would acquire Alumax. The United States seeks to enjoin this transaction because it would result in Alcoa having a near monopoly of the aluminum cast plate ("cast plate") manufacturing business in the world. Cast plate is made by

pouring molten aluminum into a mold and is used in applications such as airline parts that must be very precise in terms of size and shape.

2. Today, Alcoa and Alumax are the two largest producers of aluminum cast plate in the world, and are each other's most significant competitor. They compete vigorously to lower the costs of producing and selling the best quality cast plate at the lowest prices, and to provide the best technological, marketing, and customer support services. Alcoa and Alumax have proposed a transaction that will further increase concentration in the already highly concentrated aluminum cast plate business, and create one overwhelmingly dominant firm — Alcoa.

3. If Alcoa acquires Alumax, Alcoa is likely to increase prices to customers and reduce production of cast plate. As a result, the proposed acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

## I.
## JURISDICTION AND VENUE

4. This action is filed by the United States under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

5. Both Alcoa and Alumax manufacture and sell cast plate. Alcoa and Alumax are engaged in interstate commerce and in activities substantially affecting interstate commerce. The Court has subject matter jurisdiction over this action and jurisdiction over the parties pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22 and 28 U.S.C. §§ 1331 and 1337.

6. The defendants transact business and are found within the District of Columbia. Venue is proper in this District under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

## II.

## THE DEFENDANTS

7. Alcoa is a Pennsylvania corporation, with its principal offices located in Pittsburgh, Pennsylvania. Alcoa is the world's largest integrated aluminum company, engaging in all phases of the aluminum business — from the mining and processing of bauxite to the production of primary aluminum and fabrication of products. In 1997, Alcoa had revenues of over $13 billion. Alcoa produces cast plate at a facility located in Vernon, California. Alcoa's 1997 sales of cast plate in the United States were approximately $18 million.

8. Alumax is a Delaware corporation, headquartered in Atlanta, Georgia. In 1997, Alumax reported total sales of about $3 billion. Its Mill Products Division produces cast plate, among other products, in Lancaster, Pennsylvania. Alumax's sales of cast plate in the United States were approximately $39 million.

## III.

## TRADE AND COMMERCE

### A. Relevant Product Market

9. Cast plate is a flat aluminum product, ranging from eight to twelve feet long, three to five feet wide and anywhere from one-quarter inch to thirty inches thick. Cast plate is produced by pouring molten aluminum onto a conveyor belt in a shape slightly thicker than what is ultimately desired. After cooling, the shape is milled to achieve its final thickness and shape.

10. Cast plate has metallurgic characteristics that make it uniquely suited for certain applications. The casting process, which involves little or no pressing of the plate, produces aluminum that is free from stresses that can cause warping. The resulting cast metal shape is stable enough for applications that require precise dimensions and flatness, such as jigs, fixtures,

and numerous tooling, mold, machinery and equipment applications. Cast plate is used to make machinery and equipment that manufactures end products with extremely narrow tolerances. Cast plate must be stress-free, stable, and flat, because stress-induced warping, instability, and unevenness would cause movement in the machinery and equipment made of cast plate, which in turn would cause the end products manufactured on that machinery and equipment to be out of tolerance.

11. Other products are not realistic substitutes for cast plate. Rolled tooling plate is not a substitute because the rolled metal shape can warp. Furthermore, it is not possible to produce rolled plate as thick as cast plate can be made. Depending on the thickness of the shape, rolled plate can also be significantly more expensive than cast plate.

12. A small but significant and nontransitory increase in cast plate prices would not cause a significant number of customers to substitute other products for cast plate.

13. The manufacture and sale of cast plate is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

**B. <u>Relevant Geographic Market</u>**

14. Cast plate is sold throughout the world, and manufacturers of cast plate compete for sales to customers located throughout the world. The world is a relevant geographic market within the meaning of Section 7 of the Clayton Act.

**C. <u>Anticompetitive Effects and Entry</u>**

15. There are only three producers of cast plate in the world --- Alcoa, Alumax, and Alpase --- all located in the United States. Alumax is the largest company in the market with approximately 55% of 1997 shipments. Alcoa is the second largest firm with about 34% of 1997 shipments. The

third company that produces cast plate is Alpase, whose plant in located in Downey, California, accounts for the remaining 11% of the world market. Worldwide sales of cast plate in 1997 were nearly $74 million.

16. The cast plate market would become substantially more concentrated if Alcoa acquires Alumax. Using a measure of market concentration called the Herfindahl-Hirschman Index ("HHI") (defined and explained in Appendix A), the proposed transaction will increase the HHI in the cast plate market by nearly 3540 points to a post acquisition level of 7842.

17. Alcoa and Alumax are the two strongest and most significant competitors in the cast plate market. Alpase, the third competitor, is not as significant as either Alcoa or Alumax. Aggressive competition by Alcoa and Alumax has given customers lower prices and improved quality for cast plate products. The proposed acquisition will eliminate that competition and likely cause Alcoa to increase prices, reduce quality, and decrease production of cast plate.

18. Successful entry into the manufacture and sale of cast plate is difficult, time-consuming, and costly. To build an efficient cast plate facility would cost in excess of $25 million, and would take as long as four years from the time of site selection to production of commercial quantities of cast plate.

19. A new entrant into the cast plate business must "qualify" its product with customers before it will be accepted. A new entrant must establish a reputation for good quality product and for reliability in fulfilling customer orders.

20. There are no other domestic or foreign firms whose entry or expansion would be likely, timely, or sufficient to thwart an anticompetitive price increase.

**IV.**

**<u>VIOLATION ALLEGED</u>**

21. The effect of Alcoa's proposed acquisition of Alumax will be to lessen competition substantially and tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

22. Unless restrained, the transaction will likely have the following effects, among others:

   a. actual and potential competition between Alcoa and Alumax will be eliminated;

   b. competition generally in the manufacture and sale of cast plate will be lessened substantially; and

   c. prices for cast plate are likely to increase.

**IV.**

**<u>REQUESTED RELIEF</u>**

**WHEREFORE,** Plaintiff requests:

1. That the proposed acquisition by Alcoa of Alumax be adjudged to violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18;

2. That the defendants be permanently enjoined from and restrained from carrying out the Agreement dated March 8, 1998, or from entering into or carrying out any agreement, understanding, or plan, the effect of which would be to combine the businesses or assets of Alcoa and Alumax;

3. That plaintiff be awarded its costs of this action; and

4. That plaintiff have such other relief as the Court may deem just and proper.

Dated this 15th day of June, 1998.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES

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APPENDIX A
DEFINITION OF "HHI"

The term "HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$). The HHI takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 are considered to be moderately concentrated, and markets in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.