
ORDER ON PETITION FOR FURTHER RELIEF
UNDER PARAGRAPH VII OF THE 1950 JUDGMENT,
APRIL 23, 1954

ORDER

The plaintiff, United States of America, having filed a Petition on July 20, 1953, under the provisions of section VIII of the Final Judgment entered herein on July 6, 1950; defendant Aluminum Company of America (hereinafter called Alcoa) and the other defendants upon whom the said Petition was served having filed their Answers denying the substantive allegations of said Petition; Aluminum Import Corporation (hereinafter called Import) having intervened as a defendant in this proceeding pursuant to Order entered herein on September 4, 1953, and having filed its Answer denying certain of the substantive allegations of said Petition; Aluminium Limited, a corporation of Canada (hereinafter called Limited), of which Import is a subsidiary, having submitted to the jurisdiction of this Court in the manner and form attached hereto; and Alcoa, Import and Limited, by their attorneys, having severally consented to the entry of this Order without trial or adjudication of any issues of fact or law and without admission by any of them in respect to any such issue;

NOW, THEREFORE, before any testimony has been taken, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Order is made at the foot of the judgment herein dated July 6, 1950 and in the exercise of the jurisdiction reserved by section VIII of said judgment of July 6, 1950.

II.

1. Import shall, in each of the years 1954 through 1959, make available to non-integrated users (i.e., aluminum users in the United States who do not now own or control, or who do not have under construction or in existence at the time of any future order or contract, facilities for the smelting of primary aluminum pig or ingot) not less than 110,000 short tons of primary aluminum pig or ingot.

2. In fulfillment of its obligation under paragraph 1 of this Article II, Import shall, in respect of each calendar quarter in each year prior to 1960 in which Import shall not have contracted to deliver at least 110,000 tons to non-integrated users, offer to deliver to non-integrated users such amount of primary aluminum pig or ingot as would, on the basis of approximately equal offerings in such calendar quarter and each succeeding calendar quarter, if any, result in the offering to non-integrated users of not less than the difference between 110,000 tons and the aggregate tonnage of primary aluminum pig or ingot (or certificates therefor) that Import shall have contracted to deliver in such year, provided, however, that the tonnage to be offered for delivery to non-integrated users in any calendar quarter need not be in an amount greater than the difference between 27,500 tons and the tonnage that Import shall, at the time of the offer, have contracted to deliver in such calendar quarter. Each such offer shall be made by Import not less than sixty days, and unless accepted at an earlier date shall remain open for acceptance by non-integrated users having a satisfactory credit stand-

ing until thirty days prior to the beginning of the calendar quarter.

3. For the purposes of this Article II, the commitments of Import to non-integrated users shall be deemed to comprise the aggregate of (a) the quantity of primary aluminum pig or ingot (or certificates therefor) to be delivered pursuant to contracts entered into by Import and (b) the quantity of primary aluminum pig or ingot to be delivered under firm orders from non-integrated users pursuant to the preceding paragraph 2 of this Article.

4. In the event that Import shall in any calendar quarter be unable to fulfill all of its commitments to all customers in the United States for primary aluminum pig or ingot, Import shall defer its deliveries under the Alcoa-Import 1953 contract by such amount, if any, as may be required to enable Import to maintain deliveries under its commitments to non-integrated users either (a) in the amount of 27,500 tons if such commitments shall exceed 27,500 tons, or (b) to the full extent of such commitments if they shall be for 27,500 tons or less, provided that deliveries under the said Alcoa-Import 1953 contract shall be so deferred only to the extent necessary to enable Import to deliver 110,000 tons in any particular year to non-integrated users. The amount of aluminum, the delivery of which is so deferred, shall be cancelled from the Alcoa-Import 1953 contract or shall be delivered at some other time, as said contract may provide.

5. The obligations of Import under this Article II shall be subject only to force majeure.

III.

1. The contract between Alcoa and Import, for the purchase by Alcoa and the sale by Import of 600,000 tons of aluminum during the period 1953-1958, inclusive (which contract is evidenced by a letter of Import dated May 7, 1953, accepted by Alcoa on May 13, 1953, and confirmed by Import on May 22, 1953, and is sometimes designated herein as the Alcoa-Import 1953 contract), may be performed, as the same may be amended from time to time, upon condition that (a) deliveries under the contract shall be subordinated to Import's obligations as required by Article II of this Order, and (b) there be full compliance with and fulfillment of all of the provisions of this Article III.

2. Alcoa shall give written notice to the plaintiff, acting through the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, of (a) any proposed amendment of or supplement to the Alcoa-Import 1953 contract which would increase the aggregate tonnage to be delivered thereunder, or (b) any proposed additional contract between Alcoa and Import for the purchase by Alcoa of aluminum pig or ingot to be delivered in whole or in any part prior to the calendar year 1958 if (i) deliveries under such additional contract are to extend over a period of more than twelve calendar months, or (ii) the aggregate of aluminum pig or ingot to be delivered under such additional contract either alone or in conjunction with all other such additional contracts theretofore entered into between Alcoa and Import exceeds 50,000 tons in any calendar year. Alcoa shall not, without the consent of the plaintiff acting through the Attorney General or the said Assistant Attorney General, enter into any

such proposed amendment or supplement, or proposed additional contract, until the expiration of fifteen days after the giving of such written notice, provided, however, that if the plaintiff during such fifteen day period should apply to this Court for an order or orders with respect thereto Alcoa shall take only such action with respect to such proposed amendment or supplement or proposed additional contract as shall be consistent with any order or orders entered by the Court upon such application.

3. Forthwith upon the entry of this Order, Alcoa shall communicate to Olin Industries, Inc. (hereinafter called Olin), and keep open for acceptance for a period of ninety days, an offer in writing to sell to Olin up to 40,000 tons of primary aluminum pig or ingot during each of the calendar years 1954-1957, inclusive, and up to 20,000 tons of primary aluminum pig or ingot during the calendar year 1958 or the first six months thereof, upon Alcoa's standard terms and conditions. The offer shall provide that Olin shall have an option to cancel all or any part of the undelivered portion of the resulting contract at any time upon fifteen months' written notice to Alcoa in the event that Olin shall undertake to construct an aluminum smelting plant and shall in such notice base its cancellation upon that fact. The offer shall further provide that the resulting contract may contain such other lawful terms or conditions not inconsistent therewith as Olin may propose and Alcoa may accept.

IV.

Except as relief is herein granted, the Petition of July 20, 1953, on motion of the plaintiff, is hereby dismissed.

April 23rd, 1954

JNO. C. KNOX
Chief Judge

Entry of the foregoing Order is hereby consented to:

For the plaintiff

HERBERT BROWNELL, JR.

STANLEY N. BARNES

LEONARD J. EMMERGLICK

For the defendants

LEON E. HICKMAN

WILLIAM K. UNVERZAGT

HARRY FLYNN

L. HOMER SURBECK

Attorneys for

ALUMINUM COMPANY OF AMERICA

MILBANK, TWEED, HOPE & HADLEY

by EDGAR P. BAKER

a partner

Attorneys for

ALUMINUM IMPORT CORPORATION

Within the limits of the attached submission to the jurisdiction of this Court entry of the foregoing Order is consented to by Aluminium Limited.

MILBANK, TWEED, HOPE & HADLEY

by EDGAR P. BAKER

a partner

Attorneys for

ALUMINIUM LIMITED, a corporation of Canada

United States District Court

FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALUMINUM COMPANY OF

AMERICA, et al.,

Defendants,

and

ALUMINUM IMPORT

CORPORATION,

Intervenor.

Equity No. 85-73

SUBMISSION TO JURISDICTION.

Aluminium Limited, a corporation of Canada and the holder of all the issued and outstanding capital stock of Aluminum Import Corporation and of all the issued and outstanding common stock of Aluminum Company of Canada, Limited, hereby submits to the jurisdiction of this Court in the above-captioned cause to the extent and only to the extent, if any, as may be necessary for the purpose of enforcement of compliance with the provisions of Article II of the foregoing Order, but for no other purpose and to no further extent whatsoever.

IN WITNESS WHEREOF, Aluminium Limited has caused this submission to jurisdiction to be duly executed and delivered this 21st day of April, 1954.

ALUMINIUM LIMITED [CORP. SEAL]

By NATHANAEL V. DAVIS
President

Attest:
JAMES A. DULLEA
Secretary