



U.S. Department of Justice

Antitrust Division

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

March 15, 2004

Ms. Renee Martin-Nagle
Vice President and General Counsel
Airbus North America Holdings, Inc.
198 Van Buren Street
Suite 300
Herndon, Virginia 20170-5335

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. Martin-Nagle:

This letter responds to your letter of November 21, 2003, 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.

Your company, Airbus North America Holdings, Inc., purchases various rolled aluminum products from the Ravenswood facility that would be divested pursuant to the terms of the proposed Judgment. Airbus is concerned that any new owner of Pechiney’s brazing sheet assets must have “the technical, financial, and managerial qualifications necessary to operate the plant effectively in extremely competitive global markets.” You have requested an opportunity to comment on the qualifications of a prospective buyer before the United States exercises its “sole discretion” and concludes that that firm is an acceptable purchaser of the assets pursuant to the terms of the Judgment, § IV(J).

The United States shares your concern that, to be an effective competitor, the new owner of Pechiney’s brazing sheet business must be capable of operating the assets successfully. For that reason, a lynchpin of the proposed decree is its requirement that the Ravenswood facility be divested to a person who, in the United States’s sole discretion, 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 sell 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)).

Although the United States reserves “sole discretion” as to whether a prospective buyer of Pechiney’s brazing sheet business may be a viable and effective competitor (*see* Judgment, § IV(J)), it will consider your company’s view before making a final decision on that question.

In any event, the divestiture process is continuing and has yet to produce any proposed purchaser. Although the defendants have solicited offers for Pechiney’s brazing sheet assets, they have not proposed a purchaser for the divested assets. If the defendants are unable to find an acceptable purchaser on their own, the proposed Judgment 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)). In short, at this point, we cannot 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.

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

cc: Richard Liebeskind, Esquire



November 21, 2003

Anthony Harris, Esq.
U.S. Department of Justice
Litigation II Section, Suite 3000
1401 H Street, NW
Washington, DC 20530

Re: U.S. v. Alcan, Inc.

Dear Mr. Harris:

On behalf of Airbus SAS and Airbus North America Holdings, Inc., I hereby request that Airbus be advised about each potential purchaser of the Ravenswood, West Virginia facility that is considered by the Department of Justice pursuant to the consent decree in the above-captioned case. Specifically, Airbus asks that you provide it with the opportunity to comment in a timely and effective way on the qualifications of any such purchaser. You may send all information to Airbus by addressing it to me at the address below. In addition, I ask that you also send a copy Martyn Brown at Airbus UK, Ltd., B3 New Tech Center, Golf Course Lane, Filton, Bristol, UK BS99 7AR.

As you know, Airbus purchases significant amounts of highly specialized aluminum products from the Ravenswood plant and is very concerned that Ravenswood be owned by a company with the technical, financial, and managerial qualifications necessary to operate the plant effectively in extremely competitive global markets. Further, the sale of the Ravenswood facility has the potential to cause damage to our commercial competitiveness by raising prices for specialized aluminum.

Thank you in advance for your consideration. Please feel free to call me at (703) 834-3545 should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Renée Martin-Nagle", written over a circular stamp or seal.

Renée Martin-Nagle
Vice-President & General Counsel

cc Martyn Brown
Richard Liebeskid