**Before the**
**UNITED STATES INTERNATIONAL TRADE COMMISSION**
**Washington, D.C.**

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| **IN THE MATTER OF**<br><br>**CITRIC ACID AND CERTAIN CITRATE SALES FROM CANADA AND CHINA** | ) | **ITC Inv. Nos. 701-TA-456 and 731-TA-1151–1152 (Review)** |

**TESTIMONY OF JOHN O'DWYER**

**March 26, 2015**

Good morning. My name is John O'Dwyer. Since 2010, I have worked at Cargill as Citric Acid Sales Manager. My responsibilities include creating and executing our sales plan, direct account management, and support / guidance to the larger Cargill sales team. In my testimony today, I will focus on the market dynamics for citric acid.

I like to focus our customers on Cargill's superior quality and service. But the reality is that price is the overwhelming driver in the market for this product.. Price in this market is magnified by the way in which most citric acid is bought and sold in the United States. In November and December of every year, Cargill, along with other U.S. producers and importers, negotiates with purchasers to sell most of its total output for the following year. Because sales are negotiated well in

advance to cover a one year period, performance related to non-price factors – such as quality, delivery, availability, timeliness – is a given. If you are big enough to warrant a place at the negotiating table, then purchasers assume you can deliver quality product, on time.

Because we must sell most of our output for the following year within a very short window near the end of the year, a few large customers have tremendous negotiating leverage. While the annual contracting process begins in the early fall, with discussions about volumes and price trends, at some point toward the end of the year Cargill and other sellers must meet the customers' price requirements in order to book sufficient volumes to keep their plants operating. If one producer misses out on a major order or two early in the selling season, the pressure to lower prices to make up the lost volume can become enormous. Thus, just a small amount of incremental volume, if offered in the contract market at low prices at a critical time in the negotiating season, can shift the market dynamics decidedly against all suppliers.

In a commodity market where there are a few major buyers and a few major sellers, the side with the majority of marketing power will depend on the balance of supply and demand. This is a key condition of competition in the citric acid market. It is well known that there is substantial production capacity in excess of domestic requirements in Canada and China. That capacity can be and has been

engaged to serve the U.S. market – not only in the spot market, but in the all-important annual contract market as well. Virtually all of this capacity would come into play in U.S. price negotiations if the Canadian and Chinese orders were revoked. All of the world's major citric acid producers – JBL in Austria and Canada, COFCO, TTCA, Weifang Ensign, RZBC, and Yixing Union in China – are world class producers capable of delivering high quality citric acid, meeting USP specifications, in substantial volumes. Each of these major producers has production capacity that is equal to, or exceeds, that of Cargill, ADM, and Tate & Lyle. There are no material quality differences, product availability differences, or logistical disadvantages that might restrict the availability of imports from these countries if the orders are revoked.

With respect to product availability, there has been an important change in the market since the orders were imposed that makes the domestic industry more vulnerable to injury caused by imports from Canada. JBL's commencement of supplying sodium citrate from Canada in 2012 now puts it in an even better position to supply large U.S. accounts in the future. Many customers need and use sodium citrate, but they do not purchase it in full truckloads. Because Cargill makes both citric acid and sodium citrate in its plant in Eddyville, we can ship these customers full truckloads of mixed product, which enables us to sell sodium

citrate at full truckload prices. JBL is now in a position to do the same thing from its plant in Port Colborne.

Given the global nature of the citric acid market, the large available capacity in Canada and China has an impact on the negotiating behavior of both the major purchasers and the sellers in all markets, including the United States. Without the pricing disciplines of the orders at issue, additional supplies of lower priced imports from Canada and China would shift the existing supply/demand balance in the United States and could cause U.S. prices to fall rapidly. Because prices in the United States are higher than the rest of the world, the Canadian and Chinese producers definitely would seek to increase sales to our large volume customers in the United States if there were no orders in place.

The market impact of Canadian and Chinese capacity and imports is not lost on our major customers. They enjoy a clear view of product availability and pricing from Canada and China because they actively source from these countries in other markets where there are no measures preventing unfair pricing. The largest customers purchase on a global basis from multiple qualified suppliers. Unrestrained Canadian and Chinese pricing in the U.S. market caused material harm to Cargill's citric acid business in the past. I know of no reason why this would not recur in the future, if the orders were revoked.