**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** | )<br>)<br>)<br>)<br>)<br>)<br>) | **ITC Inv. Nos. 701-TA-456 and 731-TA-1151–1152 (Review)** |

**TESTIMONY OF MARTIN HURT**

**March 26, 2015**

Good morning. My name is Martin Hurt. I am the director of global acidulant sales for Tate & Lyle, a position I have held since January 2010. I have worked in the citric acid business for 16 years.

Tate & Lyle is a multinational company. We operate manufacturing and blending facilities in over 30 countries around the world. We employ over 4,300 people and have been in business for 150 years. We entered the citric business in 1998, when we bought the citric acid operations of Haarman & Reimer, which included plants in Dayton, Ohio, Santa Rosa, Brazil, and Selby UK. In my current position, I am responsible for all of Tate & Lyle's citric acid business worldwide. I am familiar with market conditions and prices in all markets.

At Tate & Lyle, we are particularly attuned to the importance of combating unfair trade. We were forced to close the Selby plant in 2007 because of inadequate financial performance that was the direct result of dumped imports from China. Similarly, we still produce citric acid in Brazil, but imports from China, and more recently Canada, have had significant negative effects on our operations there.

Unfair imports can have a dramatic impact because citric acid and citrate salts are true commodity products. The orders cover citric acid, sodium citrate, and potassium citrate. Most of the product sold in the U.S. is citric acid, in anhydrous form. The second most common form is sodium citrate. Both citric acid and citrates are made to standard specifications, which makes them completely interchangeable. Accordingly, citric acid is a "drop-in" replacement. This permits purchasers to easily substitute one qualified source for another.

Although citric acid requires specialized equipment and substantial technical expertise to produce, from a marketing standpoint it is very simple. All world-class citric producers – including the major Chinese companies and JBL Canada – produce to the standard specifications. Citric acid varies only in particle size and level of moisture.

In most cases, even the different types of citric acid – anhydrous, monohydrate, or solution – are highly interchangeable. This is not surprising,

because citric acid is typically used in aqueous solution, and the only difference among these three types of citric acid is the amount of water that they contain.

Because citric acid is a true commodity product, you would expect price to be the paramount factor in sales negotiations, and it is. The major purchasers of citric acid are global companies, with sophisticated worldwide purchasing networks. They negotiate fiercely to drive our prices down by a penny or two per pound. They do not haggle about special grades, delivery terms, particle sizes, or bag sizes. The real issue to work out in annual negotiations is price.

Prior to the imposition of the orders, the large customers on whom Tate & Lyle depends were regularly using JBL Canada and Chinese prices to leverage down our prices in the annual contract negotiations. We were also losing a significant volume of sales to both JBL Canada and the Chinese producers. As T&L explained at the Staff Conference in the original investigations, the negative effects of subject imports were so bad that T&L was required by its auditors to take a substantial write-off on the value of its citric production equipment and was being forced to consider closing its citric acid plant in Dayton. Due to the impact of unfair imports, our capital expenditures on the plant were limited to what was absolutely necessary for safety and to keep the equipment operating, with no budget whatsoever for upgrades or replacement. In short, prior to the imposition of the orders, the citric plant in Dayton was on a terminal path.

The orders on citric acid from Canada and China changed all of that. In fact, the improvement in the market became apparent as soon as preliminary antidumping duty cash deposits were imposed in November 2008, which was the middle of the 2009 contracting season. As a result, we were able to obtain dramatically higher contract prices for 2009. The improvement was not a one year event. Prices and operating profits for Tate & Lyle have remained much higher than in the pre-order years. This has allowed us to make substantial new investments. For example, we have made investments to debottleneck certain processes in order to improve efficiency and increase production capacity.

Looking forward, U.S. demand will continue to be soft and likely will decline primarily due to declining consumption of both naturally sweetened and artificially sweetened beverages. Over 50 percent of citric usage is in beverages. The data clearly show that consumption of beverages is declining due to health concerns. You might have seen the article in the Washington Post on Tuesday about declining consumption of diet drinks. The other big change involves the oilfield segment of the industrial market. Growth in that segment has been stifled by recent declines in oil prices worldwide.

Given these demand trends, as well as the ample global supply of citric, we have no doubt that the Dayton plant would be put back on that terminal path if these orders are revoked. Customers have told us that the orders have forced prices

upwards, and caused them to turn to U.S. producers for more volume. It is important to keep in mind that many of these customers purchase JBL Canada and/or Chinese product in other global markets. Thus, they know what they are getting, and what prices these suppliers will accept. In fact, one large customer has told us that, in the absence of the orders, they would expect to pay no more than 35 to 40 cents per pound in the U.S. market, which is consistent with the global prices they pay. These prices would be nearly at the same level we were forced to sell at prior to the order and would again put Dayton on a terminal path.

The downward path would resume even if only the order against Canada was revoked. Our recent experience with JBL Canada in the Brazilian market provides an excellent case example of how JBL would respond in the U.S. market if only the orders against China were maintained. Tate & Lyle and Cargill are the only two domestic producers of citric acid in Brazil. In 2010, we filed a petition in Brazil against imports of citric acid from China. In July 2012, Brazil imposed antidumping measures in the form of a price undertaking for certain Chinese producers and antidumping duties on all remaining producers. Within a few months, JBL Canada entered the Brazilian market in a big way for the first time, undercutting local prices and stealing away some of our largest customers. This is explained in detail in the confidential affidavits attached as Exhibits 25 and 26 to our Prehearing Brief.

There is absolutely no reason why JBL Canada would not repeat this behavior in the U.S. market if the order against Canada alone were revoked. U.S. prices are higher than prices in alternative third-country markets such as Mexico. We believe that JBL Canada only ships to lower-priced export markets because it cannot increase its volume into the United States without incurring antidumping duties. The desire for profit maximization compels a shift of volume back to the U.S. market. But to increase its market share in a declining market, JBL Canada would need to lower prices, which it could easily do without the discipline of the antidumping order. Even if JBL Canada did not want to lower its U.S. market prices, it would be forced to do so by its large multinational customers, who are accustomed to paying lower prices to JBL in other markets.

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