

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

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**IN THE MATTER OF  
CITRIC ACID AND CERTAIN  
CITRATE SALES FROM CANADA  
AND CHINA**

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**ITC Inv. Nos. 701-TA-456 and  
731-TA-1151-1152 (Review)**

**TESTIMONY OF STEVE JONES**

**March 26, 2015**

Good morning. Steve Jones from King & Spalding for the Domestic Producers. The Commission should exercise its discretion to cumulate imports from Canada and China in this review. The record establishes an extraordinarily strong case for cumulation.

At the outset, we note that JBL concedes that there is a reasonable overlap in competition between imports from Canada and China and the domestic like product, and it appears to concede that imports from both Canada and China are likely to have a discernible adverse impact if the orders are revoked.

With respect to overlapping competition, the evidence is very strong, and JBL summarizes the relevant facts quite well in its brief. In addition, as we discuss in our brief, any minor quality or product mix differences that may have existed

between Canadian and Chinese merchandise during the POI are no longer apparent. Moreover, as shown in **Hearing Exhibit 1**, imports from Canada and China were sold to many of the same customers during both the POI and the POR. The degree of overlap is very high.

We are not aware of any case in which the Commission has not cumulated when the facts so clearly show overlapping competition. In fact, it seems clear from previous cases that the stronger the evidence establishing overlapping competition, the less likely the Commission will decumulate based on likely differences in the conditions of competition. JBL's arguments in this case fail to establish any such differences.

*First*, JBL claims that differences in the trends in import volumes during the POR indicate a likely difference in the conditions of competition upon revocation. We would dispute that there is any material difference in volume trends, and we will discuss the proprietary data further in our post-hearing brief. But even if the trends during the POR were different, there certainly is no difference in the *propensity* of the Canadian and Chinese industries to export to the United States in the absence of the orders. JBL points to no evidence of any structural changes in the market that would indicate a likelihood of significantly different import trends in the future if the orders are revoked. Imports from both countries entered the United States during every month of the POR, showing that both countries are

highly interested in exporting to the United States and remained active in the market throughout the POR.

The *Wire Rod* case that JBL relies on was very different. In that case, the market share of imports from Canada increased after the orders were imposed, and Canadian production capacity decreased. Moreover, imports from Canada oversold the domestic industry in almost every quarterly pricing comparison during the POR. In addition, there was a significant difference in the product mix between imports from Canada and imports from all of the other countries subject to review. Again, we will explain in our post-hearing brief why this case is easily distinguishable.

*Second*, JBL contends that differences in dumping margins calculated in administrative reviews constitute a difference in the conditions of competition. This argument ignores the Commission's relevant inquiry, which focuses on the conditions of competition *if the orders are revoked*. If the orders are revoked, differences in dumping margins calculated during the reviews will be irrelevant. This may be why we were unable to find any case in which the Commission cited differences in dumping margins calculated during the administrative reviews as a relevant factor supporting decumulation. In this case, Commerce has determined that JBL's dumping margin will be 23.21 percent if the orders are revoked. Thus,

the likely dumping margins are commercially significant for both Canada and China.

*Third*, JBL cites differences in trade barriers in third-country markets, but this fact actually undermines JBL's other arguments. JBL cites antidumping orders on citric acid from China in other markets as a reason why China would be likely to increase exports to the United States. But that conflicts with some of JBL's other arguments, such as differences in import volume, which are meant to show that China would be *less* likely than Canada to export to the United States. So, which is it? Is China more likely than Canada to export to the United States, or less likely?

The evidence shows that both countries are likely to export significant quantities of citric acid to the United States if the orders are revoked. There is no difference between Canada and China with respect to either ability or interest to export significant quantities of subject merchandise to the United States.

*Fourth*, JBL alleges that there are significant differences in the price trends of imports from Canada and China, citing the average unit value data on page I-7 of the prehearing report. As shown in **Hearing Exhibit 2**, based on the importer pricing data, the trends are not different. In addition, for the reasons we discuss in our prehearing brief on page 13, footnote 63, and as shown in **Hearing Exhibits 3** and **4**, the AUV data for China relied upon by JBL are inaccurate for 2009, 2010,

and 2011. Instead, the Commission should rely on the pricing data from responses to the U.S. Importers' Questionnaire. That is the best available information on Chinese pricing during the early part of the POR. Those data do not show any differences in price trends, which is exactly what you would expect of a commodity product like citric acid. Thus, again, the facts of this case are different from the *Wire Rod* case on which JBL relies.

*Fifth*, JBL points to differences in production capacity of the Chinese industry, with many producers, and the Canadian industry, with one large producer located 20 miles from the U.S. border, as a difference in the likely conditions of competition. But JBL does not explain why this is a difference in the likely conditions of competition if the order is revoked. China's production capacity was much greater than Canada's during the POI. There has been no material change in this regard. We are unaware of any case in which the Commission has decumulated based solely on a difference in the size of the industries being compared, and where there has been no significant change since the original investigation. In fact, the Commission tends to cumulate unless it finds there are several relevant differences in the likely conditions of competition.

The evidence demonstrates that both Canada and China have a strong interest in the U.S. market and the ability to increase their exports to the United States if the orders are revoked. Virtually all purchasers perceive the merchandise

as highly substitutable regardless of source, and there will be head-to-head competition among Canada, China, and the United States for sales to all major contract purchasers if the orders are revoked. There are no likely differences in the conditions of competition that would justify de-cumulating Canada and China in this review.

Thank you.