

Before the
United States International Trade Commission

Certain Potassium Phosphate Salts from the People's Republic of China

Inv. Nos. 701-TA-473 and 731-TA-1173 (Final)

TESTIMONY OF ALLEN SEXTON

Good morning. My name is Allen Sexton. I am the Vice President – Sales and Marketing for Prayon, Inc., a leading producer of food and technical phosphate salts. I have been selling potassium phosphate salts, specifically TKPP, for Prayon for over three years. Prior to that time, I spent 20 years in the water treatment industry. Now I sell TKPP to my former employer and a number of other end-users and distributors.

Prayon sells to both channels of distribution: distributors and end users. Like ICL, we must compete with Chinese imports on a national basis at virtually every customer account. All of our distributors and all of our end-users regularly receive offers from brokers selling Chinese phosphate salts. Our sales meetings have gone pretty much the same as you heard Angie describe. We are constantly bombarded with reports that Chinese material is available for lower prices.

We sell to distributors both “into stock” and what we call “third party” sales. “Into stock” sales are sales into the inventory of distributors. We typically do not sell directly to customers that want small volume, less-than-truckload or “LTL” quantities. Instead, our distributors will supply those customers from inventory.

In other cases, our distributors may have large-volume customers that take rail cars or full truck-load quantities. We will ship directly to these customers of our distributors. Because we are shipping to our customer's customer, we call these "third-party" sales.

We also sell directly to large end-users with no distributor involvement.

In every case, we encounter competition from low-priced Chinese imports. Brokers offering Chinese phosphates send emails and faxes throughout the market regularly. These prices are immediately quoted back to us in negotiations for new supply. For this reason, we cannot maintain long-term or even short-term contracts for more than about 90 days. Given that our contracts typically have meet-or-release provisions and given that Chinese prices are reduced on a regular basis, virtually every price is re-negotiated.

In fact, prices for Chinese TKPP are so low that some distributors will make TKPP solution in order to supply customers that use a 60% solution. Historically, the domestic producers had 100 percent of the solution business in the United States. Freight costs to ship a 60% solution are very high relative to the value of the product—you are shipping water. U.S. producers, close to their customers, could ship tank loads by rail or truck to their customers. In recent years, however, distributors have begun to make TKPP 60% solution using Chinese anhydrous TKPP. Several customers replaced domestic solution with solution provided by distributors, as identified in my affidavit, included in the prehearing brief.

At the preliminary conference, I explained that it used to be our practice to issue a price list to distributors. The distributor's price would be five percent less than the list price. However, with increased Chinese competition in the past two years, prices change too quickly to

keep up. We have simply stopped issuing price lists to our distributors. Instead, we negotiate prices effective for 90 days, although it is rare that prices will stay the same for ninety days.

Another way that we experience import competition is on so-called “support” pricing. Our distributor will tell us that Chinese competition is threatening one of their accounts. They will then ask for a discount below the normal “into stock” price in order for us to try to keep their account against competition from a Chinese importer or another distributor. If we do not provide a deeper discount, the distributor will either lose the account or purchase Chinese phosphates themselves. In many cases we have lost sales to imports, but we cannot identify whether our distributor lost the sale or whether our distributor replaced our product with Chinese material. All we know is that our sales volume to that distributor have fallen off.

We also have experienced competition from Chinese imports at our large, end-user accounts. Historically, we were able to obtain a small premium against the Chinese imports because of our ability to supply on a shorter lead-time. However, since the economy has declined over the past two years, our customers have become more and more price conscious. As the economy has declined, even these customers have switched to Chinese phosphates to get lower prices.

In fact, from a technical standpoint, the quality of the Chinese material is just as good as domestically produced phosphate salts. Angie explained that every supplier analyzes its products and generates a “Certificate of Analysis” identified by Lot number to a given quantity of phosphate salts. Every supplier has its own standard specifications but can also produce to customer specifications if a given customer has other requirements. All of the major U.S.

manufacturers, the Chinese manufacturers and the other foreign manufacturers are technically capable of supplying high quality phosphate salts.

Looking back, 2008 was a high-point for our company because of the coincidence of unusual events. First, we decided to raise prices at the beginning of 2008, anticipating the increase in phosphoric acid costs. Second, the Chinese imports were somewhat limited in the first half of 2008. Third, when the PCS strike caused a shortage of potassium hydroxide, we were able to obtain raw materials from other sources. As a result, our operating results improved in 2008, although the quantity shipped did not increase from 2007.

In fact, I was surprised that we were able to increase prices in 2008 to the levels that we achieved. In 2006 and 2007, we had tried to raise prices in order to improve profits. In both years we were unsuccessful. In 2008, our announced prices held, at least for the first part of the year. Because of the huge increase in raw materials costs, our customers understood that we had to raise prices. Without an immediate surge in imports, those higher prices held. Because of our global position on KOH supply, the PCS strike did not inhibit our ability to produce. We had adequate access to raw materials, but we had to pay a higher price. In fact, our plant was not running at full capacity. So, we were able to supply customers that could not obtain all of their requirements from ICL or PCS.

As a result, we were able to maintain relatively good price levels throughout 2008. Chinese imports did not really begin to flood the market until the fourth quarter.

In 2009, however, the factors that helped us to improve our profits disappeared. World market demand for fertilizer declined, phosphoric acid prices fell and phosphate salts producers in China have had more than adequate access to raw materials. Competition from Chinese

imports became more intense in 2009. Imports of potassium salts surged, and our own sales volumes sharply declined.

Because TKPP is a relatively high-volume product in our plant, we altered our selling strategy in 2009. Rather than stay firm on price and try to keep prices at a profitable level, we were forced to reduce prices. In fact, in some cases we made so-called “voluntary” price reductions, not waiting for the contract period to end, but cutting price at an earlier date to maintain existing customer accounts. This approach has helped us to compete against the lower prices offered by importers of Chinese TKPP.

I should point out that conditions have improved since the preliminary Commerce determination in March. As indicated in my declaration, attached to the prehearing brief, we regained various TKPP customer accounts after antidumping duties were imposed on Chinese imports. Although we still have to compete with the domestic and other foreign suppliers, the Chinese are no longer the price leaders in the market. With the duties in place on Chinese TKPP, we can get the business and make a profit.

Looking forward, the outcome of this case is very important to our company and our industry. First, we have excess capacity to produce potassium phosphates. We need to add to our volume of potassium phosphate production in order to fill our plant.

Second, we believe the Chinese have an enormous amount of excess capacity, and they seem to be intent on exporting to fill it. We can compete with any producer in the world on a level playing field. But, if the Chinese government is willing to subsidize its phosphates industry, I fear that we cannot compete against the resources of a foreign government.

For these reasons, I hope that you will make an affirmative determination. Thank you.