TESTIMONY OF NICHOLAS PETTORUTO

DELCAL, INC.

before the U.S. International Trade Commission

September 9, 2014 Hearing

Chlorinated Isocyanurates from China and Japan
Inv. Nos. 701-TA-501 and 731-TA-1226 (Final)

1. Good afternoon. My name is Nicholas Pettoruto, and I am the President of DelCal, Inc. DelCal is the exclusive U.S. marketing agent for Shikoku, and has been since 1987. DelCal and Shikoku have been together for almost 40 years. I sincerely appreciate the opportunity to appear before the Commission today to offer my testimony and answer your questions, and I hope it will be helpful as you consider all the information before you in this investigation.

2. I would like to address three issues in particular: first, the unique role of Japanese imports in the U.S. market, and how they came to fill this role; second, the way prices are formed in the granular chlor-isos market; and third, some aspects of Shikoku's strategy for the U.S. market.

3. Before turning to these points, I would like to take a step back and recall my reaction in August 2013, when the petition in this case was filed. At first, I literally was shocked that Oxy and Clearon could accuse Shikoku of hurting them through our pricing behavior in the U.S. market. During Shikoku's decades of participation in the U.S. market, we have <u>never</u> used aggressive pricing to grab market share. It has always been just the <u>opposite</u>: customers have turned to us when the domestic producers would not supply them. Our customers were prepared

to pay premium prices for our high-quality product and reliable customer service. Given the way we have always behaved, I thought how could we possibly be accused of causing harm to U.S. producers? But then I learned that, the way the antidumping law works, domestic industries can easily "tack on" additional countries when filing a petition against their real target. I firmly believe that the case against Japan has absolutely no merit. Our prices are the highest in the market, we do not import or sell tablets, and we do not focus on the same customer segments as U.S. producers of granular isos.

4. I will now turn to my three main points.

Role of Japanese Imports in the U.S. Market

5. As the Commission knows from Shikoku's questionnaire responses, we only import bulk granular isos from Japan, and resell this granular product to a number of unrelated U.S. tablet manufacturers. Our customers, the tableters, specialize in manufacturing granular isos, sometimes combined with other chemicals, into a range of tableted products that are sold in that form to pool supply distributors or to retailers. Shikoku and DelCal sell granular isos in bulk quantities to tableters. Shikoku does not sell tablets in the U.S. market and so we never sell tablets to distributors or retailers. The granular trichlor we sell to tablet manufacturers must first be converted into tablets before entering the distribution or retail channels. Likewise, the much smaller volume of granular dichlor we sell must first be repackaged before entering those channels. We supply many U.S. tablet manufacturers with granular product.

6. The basic Shikoku/DelCal business model of supplying granular chlorinated isos to U.S. tablet producers has not changed in all of our years of participation in the U.S. market. What has changed, however, is how U.S. producers serve the granular market.

7. First, in 2005, Clearon decided to internally consume its self-produced granular product for conversion to tablets, rather than sell its granular product to third parties for tableting. When it made this switch, Clearon began to compete with its former customers – the independent tableters – by selling its tablets to distributors and retailers under its own brand names. Clearon's business decision left many U.S. tablet producers without their main source of supply. These former customers of Clearon needed a new supplier, and Shikoku and DelCal stepped in to fill that supply gap.

8. Also, in 2008, BioLab – the other integrated U.S. tablet producer – decided to withdraw some of its major brands from the distribution market on a national scale. The affected distributors found themselves without a key supplier of tablets, and as a result they turned to independent tablet producers to fill the supply gap. These tablet producers asked Shikoku and DelCal for the additional granular supply they needed.

9. Unlike Clearon and BioLab, we have chosen to focus our business on filling demand from independent tableters, and we do not compete with these customers by selling tablets.

10. Oxy, the largest U.S. producer of granular isos, still only manufactures granular product – although it does toll-produce some tablets. However, Oxy has also, through its way of doing business, created demand for Shikoku's granular supply. As part of a very large bulk chemicals manufacturer, Oxy's isos business focuses on very large volume accounts. This plays to our strength as we supply smaller volumes to independent tablet producers. In fact, we are now reselling Oxy product to these customers, as I will describe in a moment.

Price Formation

11. I would now like to turn to the issue of pricing, and try to shed some light on two aspects of how prices are established in the U.S. market for granular isos. The first aspect is who determines the baseline prices in the market. I can tell you with certainty that it is never Shikoku and we account for the lion's share of Japanese imports. The one supplier of granular product who is large enough to do so – and actually <u>does</u> so in practice – is Oxy. Oxy is <u>the</u> price leader in the granular market.

12. The other aspect of pricing is the premium that we are consistently able to maintain for Shikoku's granular product. Quality is of paramount importance for our customers. Why is that? Because, as Mr. Eisch will be able to explain better than I, higher quality in this industry means more consistent granulation and low moisture and off-gassing. These qualities, in turn, make tablet production more efficient, help the tableters manage the health and safety risks inherent in processing isos, and reduce the potential for damage to packing materials, processing equipment, and storage facilities. Simply put, tablet producers pay more for the level of quality Shikoku provides, because using our product makes their job easier and less costly. Isos are not a pure commodity product. Quality differences matter, and show up in prices.

13. One of the reasons I was surprised by the antidumping petition against Japan is that we <u>always</u> price responsibly – that is, as high as we can given market conditions – and <u>never</u> try to gain customers or increase volume by reducing our pricing. In fact, Shikoku and DelCal have specifically rejected this method of gaining U.S. market share, recognizing that it will only hurt us in the end.

The Co-Production Agreement with Oxy

14. When I appeared before the Commission staff about a year ago, I discussed the co-production arrangement with Oxy. I was quite surprised to see that Oxy is attempting to describe its relationship with Shikoku as just an ordinary sale to a customer. What I see, from my vantage point of participating in this arrangement every day, is quite different.

15. First, our co-production arrangement is now entering its fifth pool season, and is continuing to grow. The details of the arrangement are described in Shikoku's confidential submissions to the Commission. However, the basic contours of the arrangement – including the fact that Shikoku is supplying Oxy-made granular product under Shikoku's brand names – are very well known in the isos marketplace.

16. Second, the arrangement is producing win-win outcomes for both parties. For Shikoku, the arrangement is valuable because Shikoku has for many years sought to shift more of its sourcing for U.S. tablet producers to U.S.-based supply. Mr. Ide will provide more detail on this point in his testimony. The co-production arrangement also helps Shikoku by ensuring a second source of high-quality granular supply for our customers in the volumes demanded, and when needed.

17. As for Oxy, I believe that the co-production arrangement has been favorable because it has allowed Oxy to manufacture more granular product and reach more customers than would otherwise have been possible, as Oxy is now able to take advantage of our extensive customer network and marketing expertise, and our longstanding relationships with many independent tablet producers who are not part of Oxy's small group of large-volume accounts. Just consider the fact that Oxy has chosen to use us to deliver their granular product to tableters

other than their customers and under our own brand name. This unique arrangement – and I know of no other one like it in the industry – must be advantageous to Oxy or they would not have chosen to do this. Oxy could well have chosen to market directly to the customers served by the co-production arrangement. This does not sound like a typical buyer-seller arrangement to me.

18. I would also like to note that Oxy is not the only U.S. producer of granular isos that Shikoku is actually helping through our responsible participation in the U.S. market. BioLab, which produces only trichlor, is another example. BioLab purchases bulk dichlor from Shikoku to help it offer a full product line.

19. I would also like to note that there are a number of other factors that have impacted our market in recent years. These include adverse weather conditions, changing consumer spending trends, and other factors that I would be pleased to elaborate on if that would be helpful.

20. For all of these reasons, I really do not understand why Japan was dragged into this case. It just isn't right, as I hope you will agree. Thank you.