UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
CITRIC ACID AND CERTAIN CITRATE	)	701-TA-456 and
SALTS FROM CANADA AND CHINA	)	731-TA-1151-1152
	)	(Preliminary)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
CITRIC ACID AND CERTAIN CITRATE	)	337-TA-423 and
SALTS FROM CANADA AND CHINA	)	731-TA-1151-1152
	)	(Preliminary)

Wednesday,
May 7, 2008

Room 101
International Trade Commission
500 E Street, SW

Washington, D.C.

The preliminary conference commenced, pursuant to notice, at 9:33 a.m. before the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

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JACK STALOCH, VICE PRESIDENT, ACIDULANTS PRODUCT LINE MANAGER, CARGILL, INC.

CURTIS POULOS, COMMERCIAL DIRECTOR FOOD INGREDIENTS, ACIDULANTS, TATE & LYLE AMERICAS, INC.

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I N D E X

P R O C E E D I N G S

(9:33 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's Conference in connection with the preliminary phase of countervailing duty investigation number 701-TA-456 and antidumping investigation number 731-TA-1151 to 1152 concerning imports of Citric Acid and Certain Citrate Salts from Canada and China.

My name is Robert Carpenter. I'm the Commission's Director of Investigations, and I will preside at this conference.

Among those present from the Commission Staff are from my far right, George Deyman, the supervisory investigator; Chris Cassise, the investigator; on my left, Mary Jane Alves, the attorney/advisor; John Benedetto, the economist; John Ascienzo, the auditor; and Jeff Clark, the industry analyst.

I understand the parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones.

We also ask you state your name and

affiliation for the record before beginning your presentation. Are there any questions?

(No response.)

MR. CARPENTER: If not, welcome, Mr. Ellis; please proceed with your opening statement.

MR. ELLIS: Thank you, Mr. Carpenter and members of the staff. Good morning, my name is Neil Ellis from Sidley Austin, and I represent Petitioners, Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Americas, Inc.

Together, these companies comprise virtually the entire U.S. industry for citric acid and certain citrate salts, the subject merchandise of this investigation. For convenience, I'm going to use the term just citric acid during my presentation.

A good starting point for today's discussion is the Commission's negative determination in the previous investigation of imports of citric acid from China in early 2000. It is worth highlighting the significant changes in the market that have occurred over the past eight years, which have resulted in severe injury to the U.S. industry and threat of continuing injury caused by unfairly traded imports from China and Canada. I've got a slide up there showing some of the major differences between the two

periods.

Looking at the Commission's views in 2000, it is clear that the negative outcome was underpinned by two major considerations. First, in that year, nonsubject imports were a significant presence in the U.S. market, and they were seen as a more direct cause of whatever injury was inflicted on the U.S. industry than were imports from China.

Second, the U.S. market was seen as divided into two segments: food and beverage, and industrial. Although imports from China were increasing, it was generally understood that the Chinese product could not compete in the large food and beverage segment of the U.S. market.

As you will hear from our witnesses this morning, neither of these conditions exist today. The subject imports have grown overwhelmingly since 2000. Canadian production did not even exist back then. Yet, in 2007, Canadian imports represented one third of total U.S. imports.

Chinese production has increased almost 20 fold since 2000, with the result that imports from China now represent approximately one half of total imports in the year 2007.

No other sources of imports of citric acid

come even close to these two. In fact, the total subject imports accounted for over 80 percent of total imports of citric acid in 2007.

There can be no question that now, unlike 2000, subject imports are playing a critical role in the conditions that plague the U.S. market.

As to the second difference from the year 2000 to today, there has been a major improvement in the quality of the product imported from China. This is a direct result of the huge investment in expanding and improving capacity in China, due in no small part to the generous subsidies provided by the Chinese national and provincial governments.

There again can be no question but that as a result, Chinese citric acid is a heavy presence in the food and beverage segment of the U.S. market, unlike the year 2000; and that major users of U.S. citric acid in that segment of the market consider Chinese product to be an acceptable source of citric acid for their ingestible products.

Chinese imports into the United States are now so overwhelming that they are far larger than the total quantity consumed in the relatively small industrial segment of the market.

The developments in the Chinese industry

that in 2000 were predicted to take two to three years to occur have now long since occurred eight years later. Of course, JBL, the Canadian producer, has the most recently constructed plant in North American, and therefore the most modern equipment.

Again, there can be no question but that product incorporated from Canada is of the quality required to serve the food and beverage segment of the U.S. market, and that it does, in fact, serve that market.

Thus, the conditions of competition are very different during the current period of investigation, as compared to those in the prior investigation. The result is that we have a commodity product with high fixed costs, for which competition is driven by price.

Further, the cost of goods sold has increased recently, due in large part to the increasing costs of raw material inputs used in the production of citric acid.

But the price competition from unfairly traded imports has made it impossible for the U.S. industry to sell citric acid at prices that would enable them to cover their costs and obtain an adequate return on their investment.

Thus, over the current POI, the U.S.

industry has been suffering material injury. This injury has been felt across the board by all members of the industry and over an extended period of time, and the injury is directly caused by the unfairly traded imports. We will hear further testimony on these points from Petitioner's panel later this morning; thank you.

MR. CARPENTER: Thank you, Mr. Ellis.

Mr. Waite and Mr. Porter, please?

MR. WAITE: Good morning, Mr. Carpenter and members of the Commission staff. My name is Fred Waite. I am counsel to Jungbunzlauer Technology, the only producer of citric acid in Canada.

When the Commission looks at the volume and pricing of Canadian imports of citric acid, it is looking at JBL, a reliable, responsible, and high quality supplier, that has benefitted and not harmed the U.S. market.

In fact, customers in the United States consider JBL to be an additional domestic supplier, along with the Petitioners.

In my 150 seconds this morning, I want to emphasize several significant facts that distinguish JBL and this case from the cases that the Commission often sees.

First, JBL's prices for citric acid in the U.S. market are consistently higher than other suppliers' prices, including the domestic industries' own prices. The information already on the record shows that throughout the period of investigation, JBL oversold the domestic producers.

Second, JBL is producing at virtually full capacity, so there can be no threat that it can increase shipments to any significant degree.

Third, the domestic industry treats JBL as one of its own. We will discuss this point further during our panel's presentation later this morning.

Fourth, in every year of the period of investigation, JBL announced price increases and tried to increase the price of citric acid in the U.S. market.

Fifth, like the Petitioners, JBL ships directly from its plant to customers in the United States.

Sixth, JBL sells a premium product at a premium price.

For these reasons, we urge the Commission to make a negative determination with regard to Canada. We know that negative determinations are unusual in the preliminary phase of an investigation. But we

submit that these unusual conditions warrant such a result here; thank you.

MR. PORTER: Mr. Carpenter, for the record, my name is Daniel Porter, with the law firm of Heller Ehrman, LLP.

I appear today on behalf of Chinese producers and exports. Mr. Carpenter, Mr. Waite and I split the brief time allotted for the opening statement to make an important point. The Commission should not cumulate imports from China and Canada in its causation analysis.

In this particular market, the U.S. market, there's simply not a sufficient overlapping competition between Chinese producers and JBL to justify cumulation.

Mr. Carpenter, as you know well, eight years ago, these same U.S. producers came to Washington, came to this very building, and alleged they were suffering material injury from competition from citric acid imports from China.

The Commission rejected their argument, because the available evidence of the record demonstrated the actual competitive dynamics were far different. Essentially, the Commission found that the U.S. market was a big market with several distinct

segments, and that the Chinese suppliers and U.S. suppliers focused their competitive energies on different segments.

Mr. Carpenter, there is no question that eight years later, much has changed in the world, including the citric acid world. However, as you will hear from the industry representatives, the Commission's essential conclusion remains the same. The U.S. citric acid market is still a big market. Overall demand is still much more than the three U.S. producers can supply. So imports are required.

Still today, the physical nature of the citric acid product means that U.S. and Chinese suppliers focus their competitive energies on different parts of the market.

Mr. Carpenter, please do not misunderstand my argument. I am not arguing that there is no competition between Chinese and U.S. producers. There are undoubtedly some customer accounts for which the Chinese and U.S. suppliers vie.

However, when you step back and examine the entire market, as the Commission is required to do, we are confident that the record evidence will demonstrate that the nature and composition of the competition between the Chinese and U.S. suppliers is

not sufficient for an affirmative preliminary determination; thank you.

MR. CARPENTER: Thank you, gentlemen, for those comments. Mr. Ellis, would you please bring your panel forward at this time.

MR. ELLIS: Good morning; thank you again, Mr. Carpenter and members of the staff. To provide more information regarding the themes that I presented earlier, I'd like to turn to representatives of the U.S. industry, who will address specific issues in the citric acid industry and are available to answer your questions.

As brief introductions, first, John Oakley, to my right, is the Business Director of Food Additives at Archer Daniels Midland Company. He will provide an introduction to the product itself, including the physical characteristics, how it is manufactured, and its principle uses.

Second, Mark Christiansen, to his right, the Acidulants Sales Manager at Cargill, Incorporated, will provide an overview of the marketing and distribution aspects for the subject merchandise. He will specifically address the pricing structure of the market and the influence of what is known as the China price on annual negotiations with major customers.

Third, Curt Poulos, Commercial Director of Food Ingredients, Acidulants, of Tate & Lyle Americas, will address the financial conditions of the citric acid industry.

Due to the price suppression caused by the subject imports, U.S. producers have been unable to increase their prices to cover rising costs, and have been unable to finance investment in new capacity. Mr. Poulos will explain this in more detail. He will also explain why pricing from Canada and China does not appear to be in accordance with market principles.

Fourth, Chuck Anderson and Andrew Szamosszegi, from Capital Trade, Inc., will discuss the economics of the conditions of competition, threat, and causation.

These witnesses are accompanied by other personnel from the U.S. producers, who are available to answer your questions. With that, I'd like to turn the floor over to John Oakley from ADM, to introduce you to the citric acid product and market; thank you.

MR. OAKLEY: Good morning, I'm John Oakley of the Archer, Daniels, Midland Company. I am currently the Business Director for the Food Additives Group, which includes the citric acid and citrates products.

Over the last six years, I have been involved with the citric product line through sales and management roles. This has provided me the opportunity to gain much experience with the citric and citrate products, and the markets for those products.

We have extensively described in our petition the characteristics, uses, channels of distribution, and processes used to manufacture citric acid and the certain citrate salts of concern to the domestic industry. In my presentation, I will briefly touch upon those topics in highlighting the commodity nature of these products.

Citric acid, sodium citrate, and potassium citrate are all commodity chemicals produced and consumed worldwide. All three products are commonly available as odorless, translucent crystals. In this dry form, they are sold in two primary different granulation sizes: granular and fine granular. A very small amount is sold in powder form.

The granulation styles, particularly granular and fine, which are the most common, are comparably priced. The products also are sold in only a limited packaging. The dry forms typically are packed in 50 pound or 25 kilogram polyethylene line

bags; or alternatively, in super sacks, which are bulk bags typically containing up to one metric ton.

If the products are sold in solution, which is usually water, there is no packaging. These limited packaging alternatives also exemplify the commodity nature of the goods.

Citric acid is used in the food and beverage industry, primarily as an acidulant, preservative, and flavor enhancer, because of its tart flavor, high solubility, acidity, and buffering capabilities. It is commonly used in carbonated and non-carbonated drinks, dry powdered beverages, wines and wine coolers, jams, jellies, preserves, gelatin desserts, candies, frozen foods, and canned fruits and vegetables.

Citric acid is also used in household detergents, pharmaceuticals, cosmetics, metal finishers and cleaners, durable press textile finishing treatments, and numerous other industrial applications. Probably the largest application, other than in the food and beverage sector is in the detergents.

Sodium citrate and potassium citrate, the citrate salts of concern, have many of the same end uses as citric acid, so I will not spend any time

reiterating those uses.

Suffice it to say, the products are produced by the same companies, are sold in the same market, largely to the same customers, and at overlapping prices.

As for unrefined calcium citrate, it is an intermediate product, produced by manufacturers that use the lime sulfuric refining method. I do not believe that there is much current trade in this product in the world today. However, we know that in the past, unrefined calcium citrate has been produced in one country and shipped to another country for finishing into citric acid.

Unrefined calcium citrate, to my knowledge, has no other use than to serve as an input into the citric acid production.

My colleagues and I will be happy to respond to any questions you might have about the characteristics, production, or other issues regarding unrefined calcium citrate.

Although there clearly are a large number of applications for citric acid and the citrate salts, our production equipment is set up to produce to only one standard. That standard is a combination of the food chemical codex, or FCC, and United States

pharmacopia, or USP, requirements.

Our U.S. facility, and I believe the facilities of our competitors as well, can be run to produce 100 percent food grade citric acid; that is, product that meets FCC and USP requirements.

While some production does not meet the food grade standards, the amount is less than the quality that is sold for non-food applications. Therefore, much of what is sold to the industrial users is product that meets the FCC USP requirements.

As we described in our petition, this is an industry where customers are highly concentrated. Even though citric acid has many uses, the fact is that approximately 75 percent of all citric acid, sodium citrate, and potassium citrate sold in the United States, is sold to about 25 end users.

These important customers, as Mark Christiansen will tell you, typically purchase citric acid, sodium citrate, and potassium citrate through fixed price, fixed term contracts. Those customers are driven overwhelmingly by considerations of price, once the FCC and USP quality standard has been met.

For many years, large national distributors have been among ADM's most important customers. However, in recent years, our Chinese and Canadian

competitors have been particularly aggressive at wrestling those accounts away from us.

As is often the case, targeting distributors is the easiest and quickest way for importers to get their product into the market. The distributors can perform much of the leg work, convincing end users that the product is of acceptable quality.

They can also allay potential customer concerns about delivery and availability of imported product by carrying inventory in the United States. If stored properly, hydrous citric acid can have a shelf life of three or more years.

The point at which ADM competes with imports in the distributor market is when their customers are offered Chinese or Canadian product in lieu of ADM product at lower prices. We lose the sale to the distributor, because they have lost the order to another distributor offering this lower priced import product.

Pretty soon, even our most loyal distributors tell us that they have to carry Chinese or Canadian product along with our product, in order to offer their customers lower prices.

Reinforcing the commodity nature of the products is the fact that all major producers are

using similar production methods. All of them use a two stage production process.

The first stage is the fermentation of a starch or sugar base, using a fermenting organism, normally a specific mold or yeast. The second stage is the recovery and refining of the crude citric acid produced by the fermentation. For the first stage, we believe that most of the world's major producers use the deep tank method, and most rely on corn as the starting raw material. The additional raw material inputs are the same or very similar across producers.

For the second stage, there are three commonly available processes: the lime sulfuric acid method, the solvent extraction method, and the ion exchange method. Even with these different technology options, the fixed capital costs are similar, and the efficiencies of one second stage technology, as compared to another, are not so different that it could give a significant pricing advantage to a particular producer.

Looking at both production stages together, the fixed capital costs for large volume production of citric acid are significant. Therefore, manufacturers have the usual incentive of manufacturers in industries with high capital costs to keep their

plants running as close to full capacity as possible. This reinforces the price driven nature of the market for these goods.

As for the production of sodium citrate and potassium citrate, both begin with citric acid as their raw material input. At ADM, we divert a stream of unfinished citric acid slurry to a tank known as a reactor, where it is converted into sodium citrate by reacting the refined citric acid with sodium hydroxide or sodium carbonate, and then crystallizing the resulting sodium citrate.

The same equipment and processes are used to produce potassium citrate by reacting the citric acid slurry with potassium hydroxide or potassium carbonate.

There are no meaningful technological alternatives for these reaction and crystallization processes that would give one producer a competitive advantage in pricing its goods.

In addition, the capital equipment investment needed to produce sodium citrate or potassium citrate from citric acid is low, and independent converters can and do produce these citrates using finished citric acid as the input. With such low barriers to entry by potential

converters, significant pricing premiums are not possible.

In terms of pricing, citric acid and sodium citrate are very comparable, with sodium priced a little lower than citric acid, reflecting its lower dry weight cost.

Chinese producers have been particularly aggressive in offering lower priced sodium citrate in the U.S. market. Potassium citrate is priced somewhat higher than the other two products. However, this is because of the substantially higher and ever-increasing cost of potassium hydroxide, the chemical that is used to convert citric acid to potassium citrate. The higher price does not reflect higher profit margins.

On a citric only basis, adjusting for the value of potassium, the price of citric acid and potassium citrate are similar.

In the last investigation of citric acid in 2000, the Commission found that the market was segmented into two portions, with one of those portions, the food and beverage sector, insulated from Chinese import competition.

Even though the market quality standard was and is the FCC and USP criteria, at the time of the

2000 investigation, there were significant quantities of Chinese goods that, in fact, did not meet those standards and were present in the U.S. market place. In the intervening years, those quality issues with regard to Chinese imports have largely disappeared.

While some lower grade product produced by one of the dozens of small scale Chinese producers does find its way to the U.S., most of Chinese imports these days come from five or so large scale producers, such as BBCA, RZBC, Yixing Union, TTCA, and DSM.

These producers have world class equipment, and produce citric acid and citrate salts that meet food and beverage purity and quality standards. In fact, since the last dumping case, Chinese goods have fully penetrated the food and beverage sector of the U.S. marketplace.

In addition, Canadian product is of the same quality as that produced in the United States, and there has never been a question as to the ability of Canadian product to meet the requirements of the U.S. food and beverage sector.

Therefore, the market segmentation no longer has any significance for the purpose of restricting Chinese competition, and pricing is uniform across the entire market for citric acid, as would be expected in

a commodity market.

Finally, I would like to relate to the Staff our experience with unfair trade in Europe. As you will hear later this morning, imports of Chinese product into the EU are three times the volume of imports into the U.S., even though the EU market is only slightly larger than the U.S. market.

This massive volume of unfairly traded imports forced us to close down our plant in Ringus Guinea, Ireland. We are worried that if the EU imposes dumping duties on imports of Chinese citric acid this summer, this volume will be directed at the U.S. market, further imperiling our continuing operations at our U.S. plant.

Even without additional volumes from China, the current levels of subject imports have forced prices down, reduced our volumes, and created a situation of unsustainable financial returns.

The recent impressive economic performance of other ADM business lines highlights the poor economic performance of the citric acid division even more, and makes it more difficult for the company to justify remaining in this business.

This concludes my remarks. I would be happy to answer any questions.

MR. ELLIS: Thank you, John; we would now like to hear from Mark Christiansen, the Acidulants Sales Manager at Cargill, Inc., who will provide an overview of the marketing and distribution of the subject merchandize; thank you.

MR. CHRISTIANSEN: Good morning, my name is Mark Christiansen, and I am the Cargill Sales Manager for Acidulants, which includes citric acid and its derivatives, sodium citrate, and potassium citrate.

My job is to sell our company's annual output of citric acid; hopefully at prices that will ensure that our costs are covered and the company earns a fair return on its significant investment.

Believe me, my job has been very difficult over the past several years. The increasing presence of Chinese and Canadian citric acid in the U.S. market has driven prices down from levels we think are appropriate and necessary, and have forced Cargill to sell at prices that, at times, do not even meet our manufacturing costs.

I am here today to describe to you the market for citric acid and its close derivatives, sodium citrate and potassium citrate.

As you have heard from John Oakley, citric acid, sodium and potassium citrates, are basic

commodities. As a marketing guy, 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.

The importance of price in purchasing decisions is magnified by the way in which the product is sold. It is important for the Commission to understand the essential nature of the citric acid market, under which I and my counterparts at ADM and Tate & Lyle must operate.

That essential nature is this. Towards the end of every year, November and December, Cargill, along with other U.S. producers, negotiates to sell almost 80 percent of its total output for the upcoming year. A very small number of large customers account for the bulk of the order volume.

Because we must sell our output to a few large customers within a very short window, the customers have tremendous negotiating leverage. It is almost like a reverse auction. At some point, Cargill and other U.S. producers must meet the customers' price requirements, in order to book sufficient orders for the coming production year.

If we miss out on a major order or two, early in the selling season, the pressure on Cargill

to lower prices to gain remaining orders can become enormous.

During this period of concentrated sales activity, non-price factors such as availability or delivery terms or payment terms are not a major factor in the negotiations. Since sales are being negotiated for a year, timely delivery is simply assumed. Frankly, if I have sold out next year's production and don't have product available, I simply would not bid for the business.

As for the Chinese and Canadian material, it's certainly is comparable in terms of non-price factors. Much of the Chinese product is imported by distributors such as Unibar and Mitsubishi. These companies and other major distributors have taken the lead in insuring that there are substantial inventories of imported product available.

Maybe eight years ago, U.S. customers might have been concerned about the time it would take to obtain product from China in a timely fashion. But that is no longer the case. There is plenty of Chinese inventory available, and the JBL plant in Canada does not have any locational disadvantages in comparison to U.S. producers.

Then there is the issue of quality. I

understand that in the last antidumping investigation in 2000, the Commission found that Chinese imports of citric acid were not injuring the U.S. industry, because they had not penetrated the food and beverage market in any significant degree.

Much of the imported product from China at that time was in the monohydrate form; whereas, many U.S. users prefer citric acid in its anhydrous form. Canada was not even a factor at all. The site at Port Colborne was still a green field.

Well, as Neil has told you, things have changed significantly since then. Many customers have told me that the quality of citric acid coming from China is world class. As a result of support and subsidies from the Chinese government, Chinese manufacturers have invested substantial sums in deep tank fermentation equipment, sophisticated extractions, and full drying capabilities.

All of the major Chinese exporters that I know of meet the USP and FCC standards for food and beverage uses.

To the extent that major customers require pre-qualification, I believe that Chinese producers have successfully passed this hurdle; and there is no question that JBL Canada, with the newest plant in

North America, offers citric acid of the highest quality and has no problem qualifying as a supplier.

The Commission undoubtedly has heard about the so-called China price. In an annual bidding cycle, such as that for citric acid, the China price can be particularly devastating. Customers only have to raise the specter of sourcing from China, or in the past few years, from Canada, and Cargill is forced to respond to this threat by dropping its price significantly.

It doesn't matter if the customer is in the food and beverage or the industrial business. In all instances, price is the principle factor.

JBL has also been particularly aggressive on price. With a new plant in a small domestic market, JBL has had to secure orders from large U.S. end users and national distributors, in order to justify its substantial investment.

I've been told by my customers that JBL has offered aggressive pricing, sometimes for multiple year agreements, in an attempt to gain large volume orders from key U.S. customers.

I suspect that later today, you'll hear how Chinese imports have dropped recently; thus, alleviating downward pressure on U.S. markets.

However, the question that I would ask the Chinese producers is, why have imports suddenly dropped?

The answer is, since the EU launched a dumping investigation last year, the market has been ripe with rumors about a possible U.S. case. Restraint may be temporary in the hope that an investigation in the U.S. would not be launched.

I understand that although U.S. import data shows a drop in imports from China, so far in 2008, Chinese export data shows substantial increases in exports from China to the U.S. Thus, I do not expect that the minor blip in market improvement in the past two months is a sign of a long term market trend that will continue if the Commission does not allow this investigation to go forward.

Thank you, and I'd be happy to answer any questions you may have.

MR. ELLIS: Thank you, Mark.

We will now hear from Curt Poulos, the Commercial Director of Food Ingredients and Acidulants of Tate & Lyle Americas, who will address the financial conditions of the citric acid industry and the injury inflicted by unfairly traded imports; than you, Curt.

MR. POULOS: Good morning, my name is Curt

Poulos, and I'm the Commercial Director for Acidulants at Tate & Lyle Americas. My responsibilities include sales to key global accounts and worldwide coordination of acidulant sales, include citric acid.

I have been in and around the citric acid industry for most of my 28 year professional career. My friend at Cargill has given you a concise explanation of the market dynamics for citric acid, sodium citrate, and potassium citrate. I would like to explain how those market conditions translate into financial performance.

A good starting point is to review what has been happening on the cost side. The principle raw material input for citric acid production in North America is corn. Anyone who reads the newspaper knows that corn prices worldwide have been skyrocketing, as more and more corn is used to produce ethanol.

You can see on the graphic the dramatic changes in prices over the past several months. Although these rising corn prices and demand for ethanol are creating profits for some divisions within the corporate family of citric acid producers, it is having exactly the opposite effect on citric acid profitability.

The second largest element for variable cost

is energy. Again, the graphic shows the dramatic changes in energy for both natural gas and electricity.

Electricity costs, as well as costs for natural gas, are up substantially over the past three years. So here is an industry facing rapidly rising variable costs and tremendous price pressure caused by a glut of imports. These are the classic conditions for a price cost squeeze, and I believe the Commission will readily see this, when they look at our financial results.

U.S. producers simply have not been able to raise prices to cover increasing costs. There is no doubt that the presence of imports has been suppressing U.S. prices. In its annual negotiations, over the past three years, Tate & Lyle has repeatedly asked its customers for higher prices to cover these increased costs. But it has been unable to obtain those price increases, because our customers use Canadian and/or Chinese supply to leverage our prices down.

Another important factor that the Commission should be aware of is that citric acid plants are continuous operations, and have to be operated around the clock, seven days a week. As you have heard, this

is a very high, fixed cost industry. The cost, from a technical standpoint, of slowing or shutting down, even for short periods of time, is substantial.

These are highly automated continuous processes that operate within very narrow parameters to maintain good process control, and to meet the high quality standards of our customers.

Slowing production is difficult to do from a technical standpoint, as it will throw the processing outside of its optimal parameters. Shutting down operations for even a short period creates problems with processing and environmental controls.

Our products must meet strict food and pharmaceutical standards. If shut down, all the equipment must be flushed and cleaned. This creates a backup for our environmental control equipment, which greatly extends the time required for the plant to return to quality standards and full operation.

I'd like to discuss a few points about the impact of the imports on our company's performance. Because of poor market conditions, Tate & Lyle has been unable even to consider additional capital investment to increase efficiency or expand capacity in the United States.

In fact, because of the global over-capacity

in citric acid production, which is almost exclusively the consequence of expansion in China and Canada, Tate & Lyle has reviewed its overall acidulance business, and has had to consider closing its facility in the United States.

The global pattern of closures in unmistakable. The first to close its plant is where Chinese competition is the fiercest. In Europe, where imports from China are three times the level of the United States, Tate & Lyle has already had to close its plant in Selby, England.

This is not simply a situation of being unable to justify new capital investment. Because of poor market conditions, we have recently written down the book value of our assets, on the basis that projected earnings under current market conditions fail to cover all costs, including future depreciation.

Although this is considered a non-operating expense, it is directly related to poor market conditions in the citric acid business. This action, I believe, is a direct result of competition with unfairly traded imports, and should be considered by the Commission as evidence of injury.

In addition to the ever-increasing supply

from China, Tate & Lyle, along with our U.S. competitors, have had to deal with imports from a brand new plant in Canada, just a few miles from the United States border.

Obviously, this plant is aimed at the U.S. market. Canada's domestic market simply is not large enough to support a plant the size of JBL's. Early in the decade, there was talk of a substantial new market in Canada, associated with oil sand extraction. My understanding is that the Chinese have captured that market, which has forced more Canadian product into the United States.

Because it is a new plant, JBL is saddled with high fixed costs, which means that it is under great pressure to maximize its sales volumes.

From a financial perspective, Tate & Lyle will not produce citric acid indefinitely, if the returns do not adequately justify this investment. Citric acid is a capital intensive industry. A modern world-class plant requires investment of over $100 million. This equipment is operated in a hostile environment. Citric acid is an acid, after all, and must be regularly serviced and upgraded.

However, because of the extremely poor financial returns in recent years, our management has

been reluctant to provide funds to invest in new production capacity. Capital has been limited to only the most urgent needs to maintain product quality standards and the safety of our workforce.

More importantly, investment in new processes and technology have been reduced; and as a result, our ability to compete may be constrained over the long term.

The U.S. industry's commitment to citric acid becomes even more problematic in a period during which other product lines are showing substantial profits, and even greater potential returns. Our companies have other opportunities where they can invest their resources.

Unless the market conditions improve, I suspect that all three U.S. producers will face difficult decisions, when their plants require significant investment. Our corporate management will only accept investments which exceed the cost of capital over the long term; thank you.

MR. ELLIS: Thank you, Curt. We will now hear from Chuck Anderson and Andrew Szamosszegi from Capital Trade, who will discuss the conditions of competition, threat and causation. Thank you. Chuck?

MR. ANDERSON: Good morning. Again, for the

record, I am Chuck Anderson with Capital Trade. You have just heard about the product, the market and the financial conditions of the U.S. citric acid and certain citrate salts industry. I would now like to place this information into the framework that the Commission calls conditions of competition. My colleague Andrew Szamosszegi will then discuss threat, and then I will conclude with a brief presentation about causation.

First and foremost, there is no doubt that, on the spectrum of product types ranging from a highly differentiated consumer product on the one end to a pure commodity on the other, that citric acid falls squarely on the commodity end. As is shown in the slide before you, there are very few different grades or forms or levels of quality for the subject products, and really only two different packing methods.

The market for the subject product, as you have also heard, is fairly homogenous. There are two distinct categories of end uses, one which might be labeled fit for human consumption, which includes the food and the beverage and the pharmaceutical, and the other that is not ingestible, which we call industrial. However, we do not expect to see huge

price differences between the two markets.

I am told by the company sales and marketing people that it is volume more than any physical factor or end use that drives price. Two cautionary comments about pricing comparisons. First, citric acid in the United States generally is sold on a delivered basis. Freight is a significant factor, I think as your questionnaire responses will show, so it is important to know exactly at what geographical point a given quote or sales price represents.

Second, competition between imports and domestic sales takes place at both the distributor level and at the end user level. Some of the major distributors, according to PIERS data, are direct importers. The U.S. industry loses sales to those important customers when those customers choose to import Chinese or Canadian product rather than purchase U.S. product. Thus, in some instances, it is the importer's purchase price, and not their reselling price, which is the first point of competition with the U.S. producers.

The second fact to keep in mind is that demand for citric acid is derived from demand for the products that use it, principally beverages, food products and detergents. Moreover, citric acid

represents a small portion of the total costs of these end use products, typically well less than 1%. Accordingly, large changes in price have little effect on the overall demand for citric acid.

In fact, demand has been fairly constant, growing at the same rate as the overall economy. On the demand side, the market is mature and stable with no new major markets or applications during the POI. A third important factor driving the economics of this market is that it is a high fixed cost industry. As Curt has explained, the production of citric acid in the U.S. employs extensive, specialized equipment and highly sophisticated automated process controls.

Like any fixed cost industry, when supply is abundant and demand is not responsive to changes in price, price will trend downwards towards marginal cost, and there is no question that supply from imports has been abundant. In 1999, the year that the ITC conducted its last antidumping investigation of citric acid, the Commission found that import volumes of subject merchandise were approximately $45 million.

Now, as you can see from this slide right now, imports have risen to a level of around $126 million, and we are showing this in value instead of volume because the volume data for Canada is not made

public by Customs. Nevertheless, I believe that the confidential data for Canada and the public Customs data for China will show that the combined subject imports represents a much larger portion of the total U.S. market than the approximately 8% for China and 0% for Canada calculated by the Commission in 1999/2000.

And there is no question that subject imports now are in the all-important food and beverage market in a big way. The next bar chart juxtaposes the total industrial market in the U.S. with total subject imports. It's total industrial market on the left, total subject imports on the right. Thus, it is clear to the naked eye that even if subject imports were taking 100% of the industrial market, which by the way we know they are not doing, there still would be substantial volumes left over to serve food and beverage customers.

The extensive lost sales and lost revenue allegations provided in the petition also demonstrate that subject imports now play a major role in the food and beverage market. If the Commission wants additional evidence of Chinese and Canadian presence in this market, they need only peruse the internet. As the Chinese sales offers and company website pages show, and these are just two of many examples which we

will provide in our brief, many, many Chinese producers are offering food-grade anhydrous product for sale.

In addition, the PIERS data confirms that most of the product coming in from China now is anhydrous. Finally, I note that JBL's plant in Canada undoubtedly produces anhydrous citric acid that is perfectly suitable for food and beverage applications. Another salient factor in considering the impact of imports on the domestic industry is this annual contracting cycle that Mark talked about.

The Commission does not often see such a strong seasonality in contracting. I'm not talking about sales, I'm talking about contracting. In addition, as the top 10 customer lists for the U.S. producers will show, there are very few customers that account for the majority of sales. Since all major suppliers are in the market, U.S. producers and importers, and they are selling out most of next year's available supply to a relatively few number of customers within a very short time window, these few customers have tremendous leverage in negotiating price.

At some point, the U.S. producers have to accept orders in order to lock in annual production

goals. A few large customers that hold out or switch to subject imports at the early part of the negotiating window can have a major impact on price negotiations for the remaining large contracts. And now Andrew will say a few words about threat.

MR. SZAMOSSZEGI: Good morning. My name is Andrew Szamosszegi, for the record, and I am with Capital Trade. In addition to the indicators of current injury, there are also very strong evidence supporting a finding of threat of injury. In particular, it is very difficult to ignore the 800-pound gorilla in the room, which is large and growing capacity in China.

The latest data we have indicate that total capacity in China exceeds 1 million metric tons, or 2.2 billion pounds. This represents over half of the worldwide capacity for citric acid, and capacity is still rising. I do not know of any domestic demand factors or comparative advantages that are driving this dramatic increase in production capacity. As for demand, the total Chinese market for citric acid represents less than 20% of production capacity in China.

As for comparative advantage, moderate citric acid production is not based on cheap labor.

The most important components are the substrate upon which the mold or yeast feeds, energy and capital equipment. China has no comparative advantage in any of the three. Taken together, these factors and their true cost to China would suggest that, contrary to what has occurred, China is not a very good platform for global citric acid production.

Why, then, has China become the number one platform for global citric acid production? Perhaps the next slide, which contains a map of China's provinces, can provide a clue. The provinces shaded in red are reported to contain at least one citric acid producer. As the map indicates, citric acid production is widely dispersed across China. Responding to government promotion of industry as well as local development needs, sub-national governments in China have created an environment conducive to uncontrolled capacity expansion.

Provinces and local municipalities compete with each other to build or add new citric acid production capacity, completely ignoring the supply and demand realities of the local and global markets. This dynamic is underscored by the number of Chinese firms represented in this proceeding. According to one source, the citric acid production capacity in

China doubled between 2000 and 2005.

The extensive government support for the Chinese citric acid industry is documented in our countervailing duty petition. Despite the fact that the national government has a program for shutting down old, inefficient capacity, new, more modern, expert-oriented capacity continues to emerge. The slide before you shows just three examples of the announced capacity increases.

In other industries, China has justified its enormous capacity build-up on the basis that the country is only building to meet anticipated domestic demand. This does not appear to be the case with citric acid. According to a recent study, the Chinese market is only expected to be, at most, 330,000 metric tons in 2010, which still represents less than 30% of current Chinese production capacity.

The production of this expanded industry can only go one place, and that's off-shore, and there may be fewer places for it to go. As several people on this panel have mentioned, the ongoing antidumping investigation in the EU threatens to divert substantial quantities of Chinese product to the United States. As you've already heard, shipments to the European Union in 2007 were triple the volume of

exports to the United States from China.

Accordingly, if the EU market is closed or significantly limited to China because of the actions of the EU industry, which includes JBL, the pressure to ship to the United States will be enormous. As shown in the next slide, the total amount of product shipped by China to the EU, combined with 2007 levels of imports into the U.S. from China and Canada, almost equals the entire U.S. market for these products.

Turning briefly to Canada, the most important facts for the Commission to consider in assessing the threat posed by Canadian imports are, one, plant location, two, plant age, and three, market size. The Canadian plant lies next to the U.S. border, making the U.S. the natural market for JBL. Transportation costs in this industry, after all, are not insignificant.

Because the Canadian plant is relatively new, it is likely saddled with high depreciation costs, and hence, may have higher fixed costs than its U.S. competitors. This places added pressure upon management to run the plant flat-out in order to spread fixed costs over as many units as possible, and the local market is clearly incapable of absorbing flat-out production, as demonstrated in the next

slide.

Finally, the presence of Chinese imports in the Canadian market, particularly if the EU case is successful, may make Canada an even more attractive market for the Chinese product. I'll turn it back to Mr. Anderson for conclusion.

MR. ANDERSON: Thank you. I'll now just say a few words about causation. From an economic perspective, this is not a particularly complicated causation case. The U.S. industry has been performing very poorly over the POI in what is a classic commodity market. High fixed costs and inelastic demand magnify the price, and ultimately the financial impact of oversupply.

The highly concentrated selling period for annual output makes price an even more important factor in purchasing decisions. In terms of causation, subject imports are the only likely main culprit. The volume of subject imports is significant and it is growing. To illustrate the importance of subject imports, let's consider the other likely suspects in the case of the decline of the U.S. industry.

Number one, self-inflicted injury. Well, there have been no significant disruptions of

production between 2005 and 2007. U.S. producers have not engaged in expensive investments in unneeded capacity, nor have they engaged in financially draining acquisitions, and no one contests the quality of the U.S. product or claims that it is unsuitable for some uses.

What about non-subject imports? Well, they are a small and declining factor in the U.S. market. What about changes in demand? Demand is stable and growing, and there have been no major new uses during the POI for which the U.S. industry has missed the boat. The basic fact is that citric acid and citrates from China and Canada represent a very substantial and growing part of the U.S. market.

In a commodity market, volumes at the level of subject imports must erode U.S. financial performance, both through lower prices and reduced sales quantities, relative to the but-for world without unfairly traded imports. These trends are clearly visible in the data. Given these facts and conditions, it is extremely difficult to envision a scenario where imports are not a cause of injury.

Thank you. This concludes our testimony.

MR. ELLIS: Thank you, Mr. Carpenter and staff. That concludes the presentations of

Petitioners' panel. We are now happy to answer questions you and your team may have for us.

MR. CARPENTER: Thank you, panel, very much for your presentation. It was very helpful. Mr. Ellis, did you say that you had paper copies of the slides that you presented?

MR. ELLIS: Yes, we do.

MR. CARPENTER: Okay, fine. If we can give one to the court reporter, we'll have that attached to the transcript. Thank you. We'll begin the questions with Mr. Cassise.

MR. CASSISE: Good morning, Mr. Ellis. Welcome all that have come to our conference. I'd like to begin the questioning with this issue of market segmentation that you've argued has gone away since our 2000 investigation. I'd like to start by just what the standards are and the different end uses. You have in the petition in the exhibits the standards from the USP and the FCC.

I'd like one of the industry witnesses to just point to me somewhere in those standards, what were the Chinese imports in 2000 not meeting, what were they failing to meet in those standards in 2000, and what you claim they have subsequently remedied. I'd kind of like just some specificity.

MR. CHRISTIANSEN: I'll do my best to answer your question. Back in 2000, what I feel the Chinese were lacking on their specifications was very little compared to what we would have on our specifications for the USP and FCC standards. I believe it was more of an issue that at that point in time the Chinese were still expanding their industry. Today's level of sophistication that they have at their facilities and the amount of capacity they have there has brought their facilities up to world-class standards, and are well in line with the USP and FCC standards.

MR. CASSISE: Okay, and I guess that's what I am trying to get at is that, even in the petition, there's this, in my mind, a contradiction where you don't produce to set standards, but yet you claim that there are standards. You know, I think Mr. Oakley said, well, we produce everything to one standard, but some of it doesn't meet that standard, so I need a little bit more specificity on these standards.

You just say they meet the standards and they have more sophisticated production. Is there anything in the standards that you gave us in the petition that, you know, what meets the standards, what did the Chinese not meet in 2000 and what did they do in the interim to meet those standards? I

mean, besides just saying it's more sophisticated. I mean, maybe you don't know. I'll get that this afternoon. I just wanted to have your opinion on the record.

MR. OAKLEY: I think two of the keys would be around the impurity level of the product and granulation. Industries, certain customers and industries call for specific, consistent granulation to run their processes efficiently. In my opinion, back in the 2000 case, a lot of the Chinese production did not have that consistent product, or their impurities were too high.

MR. CASSISE: Okay. Mr. Oakley, that also brings me back to my question that I cited your testimony in my question which, and I just want to clarify that you say that ADM produces all of their citric acid, their production is set up to produce one standard of quality.

MR. OAKLEY: Correct.

MR. CASSISE: But yet, you say that some of it ends up, the end product doesn't meet certain standards. What happens within the manufacturing process that makes different standards?

MR. OAKLEY: Generally, again, one of the things that can happen is it can be around this

granulation issue. If we are producing to a certain specification, there are granulation specifications within that. If the product does not meet it, it can't be sold into that industry. So, generally what would happen is it would be deemed an industrial type of product.

MR. CASSISE: But it's not, I mean, is this a random thing? I mean, do you flip a switch that says, okay, today FCC standards, let's flip another switch tomorrow that says industrial standards, or is it completely random?

MR. OAKLEY: It would be generally an issue with the production process, a problem, if you will.

MR. CASSISE: Okay.

MR. OAKLEY: So we produce consistently to 100% FCC/USP specifications.

MR. CASSISE: So you get a bad batch, it becomes industrial?

MR. OAKLEY: When we get a bad batch, yes.

MR. CASSISE: Okay. How many bad batches do you have? What share would be called bad batches on a given year?

MR. OAKLEY: I don't know that right off the top of my head.

MR. STALOCH: I do, but it's very small.

It's like less than .1% in a year, so it's very, very small.

MR. CASSISE: Okay, would that mean that in order to supply the industrial market, you would, for lack of a better term, have intentional bad batches?

MR. STALOCH: No, you would just use your food-grade, put that in the industrial market. Like we said, it comes off the crystallizer, it's sieved, and it's basically one product and it serves into all the different markets. So if it's a dry product, it's basically the same.

MR. CASSISE: So there wouldn't be a price premium for, say, well, there wouldn't be a price decline for industrial?

MR. STALOCH: That's correct. No.

MR. CASSISE: A quick question on the unrefined calcium citrate. Is anybody aware of any imports of that product coming into the United States?

MR. ELLIS: It appears that nobody is aware of UCC coming to the United States.

MR. CASSISE: Okay. Thank you. This question is for, I think, ADM and Cargill. I'm assuming you produce the corn you use as a raw material in your production process, is that correct?

MR. STALOCH: The farmer produces the corn.

We buy the corn, turn it into dextrose.

MR. CASSISE: So you would be paying market prices for that corn?

MR. STALOCH: Correct.

MR. CASSISE: Is there a -- I mean, we saw the chart. Corn prices have almost tripled in the last year or so, and the petition mentions that there's other alternatives you could use to corn. Is there a tipping point where corn is no longer profitable at all to use? Have we reached that point? Any comment on that?

MR. STALOCH: Are you saying corn relative to other feed stocks, or would we --

MR. CASSISE: Yes, let's start with this. What are the other feed stocks that can be used to make citric acid?

MR. STALOCH: Well, you could use sugar, but that's very, very high. That's probably, corn would have to get to be about $20 a bushel --

MR. CASSISE: Okay.

MR. STALOCH: -- to use sugar.

MR. CASSISE: Okay, is sugar the only alternative?

MR. STALOCH: You could use other forms of starch like potato starch, but those are also very

expensive, so in the U.S., corn is the most economical still.

MR. CASSISE: Okay.

MR. STALOCH: You could use wheat, but that's quadrupled in price.

MR. CASSISE: Right. So you would estimate corn would have to get to $20 a bushel before you even thought of using another feed stock?

MR. STALOCH: Well, for sugar, because as you know, sugar is not at world price here. It's double world price, so yes, we would not use sugar.

MR. CASSISE: Are you aware of the primary feed stock that the Chinese producers use? Is it also corn?

MR. STALOCH: They use basically mostly corn. They've used potatoes in the past. They've used sugar, molasses, but the majority of it is corn, is what we believe.

MR. CASSISE: Okay.

MR. ANDERSON: I might want to elaborate on that. You'll see some of the studies show that there is tapioca and there is sweet potato also used in China, but we believe that the major producers using the deep tank fermentation have switched to corn. Corn does have certain advantages. You do get a

higher quality product, generally, from that. So in terms of what's coming to the United States, it's our belief that corn is the principal substrate.

MR. CASSISE: Okay. Thank you. I don't know if anyone wants to mention potassium citrate, which wasn't involved in the prior investigation. I'm sure you'll brief it in your post-conference brief, but did anybody want to make the argument that there is not a major difference between potassium citrate and sodium citrate and citric acid? I mean, the end uses are pretty much the same. Any distinguishing end uses for just potassium?

MR. STALOCH: I could answer that. The biggest thing about sodium citrate and potassium citrate, the major cost is the citric acid molecule, so that's what's made in the process, and then you react that with either caustic or potassium hydroxide, so that's how the three are related. The major molecule is citric acid.

MR. CASSISE: Okay, thank you.

MR. ELLIS: Excuse me. Of course, we will address further, obviously --

MR. CASSISE: Right, I understand. I just wondered if anyone had any comments they wanted to mention here. I fully assume you'll brief that in

your --

(Pause.)

MR. CASSISE: That's all I have for right now. Thank you.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Good morning. Mary Jane Alves from the General Counsel's Office. Thank you again for coming this morning. Your testimony already has been quite helpful. I do have a number of questions for you. First, Mr. Carpenter had already mentioned this morning -- and thank you for giving us copies of the PowerPoint slides -- have you also given copies to Respondent's counsel as well?

MR. ELLIS: Yes, we have.

MS. ALVES: Okay. Just checking. Let me start off with the scope of these investigations. I realize Chris has already talked a little bit about the fact that there is now potassium citrate included in the scope, as well as unrefined calcium citrate. Can you talk to me a little bit about why both of those products were included in the scope? Is it simply for circumvention purposes, or are there new uses that weren't previously out there?

MR. ELLIS: I'll address the unrefined calcium citrate and I'll ask others to address the

potassium. On the unrefined calcium citrate, there is a circumvention concern. In other words, the calcium citrate is a necessary product, intermediate product, in the production of citric acid when you use the lime-sulphuric method, and there is evidence in the world market that, although it hasn't come into the United States, in response to one person's question, nevertheless it has crossed borders.

So it would be possible to produce the UCC in one country, ship it elsewhere, and finish the production process to convert it into citric acid. So we wanted to include this intermediate product to make sure that didn't happen in the United States.

Does anyone else want to talk about potassium citrate?

MR. ANDERSON: I just want to say one thing about the two salts, sodium citrate and potassium citrate, and that is, in the 1999/2000 investigation, the Commission did find that there was one like product, including citric acid and sodium citrate. If you go back and look at the staff report, you also see a lot of discussion about potassium citrate. My suspicion is, because no one wanted to raise it as an issue, it didn't become a like product at that time, it's why is potassium citrate not in the petition?

In fact, sodium citrate and potassium citrate are probably closer to each other than sodium citrate and citric acid, so if citric acid and sodium citrate are one like product, then potassium citrate should be in the same like product. They are all acidulants. They are used basically for the same purpose, sold in the same markets, and in our particular case, and this is important, they are produced in the same production facilities.

That is, our producers take an unfinished slurry of citric acid and just convert it to a reactor. That reactor can be used to produce either potassium citrate or sodium citrate, so it's very similar in terms of manufacturing processes. Really what it amounts to is what salt the customer wants attached to the citric acid molecule. Some want sodium for their particular purposes, others wanted potassium.

So that's basically --

MS. ALVES: So that's why you would then go to the additional, I assume it's additional expense, in order to produce the potassium citrate as opposed to the citric acid, for example? So, the reason would be that the customer prefers to have it attached to a particular --

MR. STALOCH: Yes, that is correct, and a lot of the rise in the potassium citrate has been with the low salt. People don't want sodium in their diet, so they switch to this, so it's become more popular in this decade.

MS. ALVES: Okay. But they are going for the same applications but perhaps the low-salt version might be using one alternative or another?

MR. ELLIS: He is indicating yes. You have to speak --

MR. STALOCH: Yes.

MS. ALVES: Sorry. Thank you. All right, that was helpful. The scope now also refers to certain blends that are included in the scope. You also indicated, I believe, in the petition that there is the CEH report that's included as one of the appendices, that certain esters of citric acid and a few additional salts are not included in the CEH report's definition of citric products.

Are the blends produced domestically, or is that another circumvention?

MR. ELLIS: It's primarily a circumvention concern.

MS. ALVES: Okay.

MR. ELLIS: In other words, we did not want

to have it where somebody could put potassium citrate with sodium citrate and bring it into the United States and not have it count as covered by the antidumping order, if there is one. Likewise, we know of occurrences where a citric acid or a citrate can be combined with, can be blended with sugar and imported into the United States.

We wanted to make that clear that as long as the covered product is above a certain percentage of that blend, that that also would be covered by the scope of this case.

MS. ALVES: Okay. All right, so at this point in time, you are not aware of any imports or domestic production of the blends?

MR. ELLIS: I think we are aware historically of imports of blends of citric acid and sugar.

MS. ALVES: Okay.

MR. ELLIS: Obviously not for circumvention purposes, because there is no order, but nonetheless, there seem to be other reasons out there why blends like this may be occurring and may be imported, and for that reason, we wanted to address that possibility in this scope definition.

MS. ALVES: Okay, but the tariff subheading

that you believe corresponds to the blends, which was 3824909290, would that include things other than the blends?

MR. ELLIS: It might, yes. That's another category.

MS. ALVES: Okay. Where I am going with this is I'd like the parties to comment, ideally here if you can, on the data sources that we should be using in order to, for example, measure imports, and then to calculate apparent domestic consumption. Should we be looking at that tariff subheading as well, or the other tariff subheadings that predominantly are the citric acid, the potassium citrate/the UCC which you don't believe any is coming in, and then the sodium citrate?

MR. ELLIS: Right. As to the main products, including UCC, it's relatively straightforward which HTS numbers you would use. The blends, we discussed it actually with Customs as well and this is the direction they led us to, this particular HTS code, the one you just mentioned.

MS. ALVES: Okay, but that may include things that are not blends? Do you have any sense of --

MR. ELLIS: I don't have any sense of that,

no. I'm sorry.

MS. ALVES: Okay.

MR. ELLIS: We could try to look into that though.

MS. ALVES: Okay. You'd also mentioned this morning that there might have been a decline in the import statistics in recent periods for China, and you were looking at data on exports from China. I assume you are not making the argument, or perhaps you are making the argument, that we should be using export data, not import statistics?

MR. ELLIS: No, I don't think we are making that argument. The point we were trying to make during that presentation is that there has been a vast increase in imports over the course of the three-year POI. The interim period appears to show a decline, somewhat of a decline. However, we are suggesting that that decline is artificial and temporary, and therefore it should not outweigh the Commission's consideration of the three years of rapid increase in imports that we saw in the three main years of the POI.

It's not that we are suggesting you discard the import data entirely.

MS. ALVES: Okay, and then, any preference

between the import statistics and the importer questionnaire responses? You may not be able to comment on that here, but if in your post-conference briefs, you could give us your thoughts on that as well?

MR. ELLIS: We'll have to hold that for our briefs.

MS. ALVES: Okay. There was testimony this morning that the shelf life of these products could be as much as three or more years if they were properly stored. Would that be for the dry version or the solution version of the product, or both?

MR. CHRISTIANSEN: That would be for the dry packaged version.

MS. ALVES: Okay, and are the imports coming into the United States primarily in the dry version?

MR. CHRISTIANSEN: Yes.

MS. ALVES: Are you comfortable telling me here, are most of your sales in the granular dry version as opposed to the solution version?

MR. CHRISTIANSEN: Yes.

MR. POULOS: Our sales are similar, and about 25% are sold as liquid.

MS. ALVES: Okay. In some other cases we've had arguments in other chemical cases about whether or

not there is competition, for example, in dry versus liquid versions of products. Are you competing with imports in both the dry and the solution form?

MR. POULOS: Yes, we do compete on the solution form, because the conversion of dry citric acid to a 50% solution is not a costly means, and there are a number of converters in the United States that we compete against.

MS. ALVES: Okay, and can you estimate for me the amount of cost that it would take, or the level of technical expertise that it would take for them to process it that way?

MR. STALOCH: I could. I mean, it would take a 10-year-old to mix the dry with the water, so that's pretty simple. So no technical expertise there, and then as far as costs would go, it would be less than 1/40 of the cost, 1/50 of the cost, very, very minimal.

MS. ALVES: Okay. It's sometimes difficult in these preliminary staff conferences to anticipate what the arguments are going to be. I know that there are going to be cumulation arguments, so I am trying to just guess what some of them may be. I've had some help this morning, which was great. To the extent that there are additional issues that I am raising in

terms of questions this afternoon, I would appreciate it if you could answer those same questions from your perspective as well.

It's always difficult to anticipate exactly what the arguments are going to be. Respondents don't have that much time in their opening statement, so they can only give us as much detail as they can. There has also been some discussion this morning of the fact that in the previous case, the Chinese producers may have been supplying mostly the monohydrate as opposed to anhydrous form.

Are you aware, is there still some of the monohydrate form being supplied by the Chinese producers?

MR. CHRISTIANSEN: Yes, there's still some amount of monohydrate, but as we indicated earlier, from the PIERS statistics, you can see that the largest volume now is the anhydrous form coming into the U.S.

MS. ALVES: Okay, and what about the Canadian product?

MR. CHRISTIANSEN: The anhydrous form.

MS. ALVES: Okay, and it's your position that either form could be used by the same purchasers?

MR. CHRISTIANSEN: Yes.

MS. ALVES: Okay. The Canadian respondents this morning in their opening statements indicated that they believe that the Canadian product is a higher quality product. Are there any quality differences between the domestically supplied product, that you are aware of, and the Canadian product, or a portion of the Canadian product?

MR. CHRISTIANSEN: Not that I am aware of. They both meet USP/FCC standards.

MS. ALVES: Are there certain applications that the Canadian product is sold for that the U.S. product is not sold for?

MR. CHRISTIANSEN: Not that I am aware of.

MS. ALVES: Okay. What about the differences between the Canadian product and the Chinese product? Are there quality differences there?

MR. CHRISTIANSEN: No.

MS. ALVES: Are all of you in agreement?

MR. POULOS: I think one of the challenges you face in China is implying that there is a single producer in China, and each site will have its little idiosyncracies of quality and service, as we all do. So to say there is a single China quality is difficult because it runs a pretty vast continuum. That said, it's been incrementally increasing from the time of

the original investigation of 2000 until now.

MS. ALVES: Okay. Okay, so in terms of producers in China, there's a spectrum of producers, or perhaps a spectrum of what they are capable of producing in terms of the impurity levels and what have you. What about the Chinese suppliers to the U.S. market? What is being supplied to the U.S. market? Is there a spectrum of products being supplied here, or?

MR. STALOCH: The vast majority of the Chinese product is equivalent to the U.S., so probably 90% or greater. I mean, it's the vast majority, and the Canadian -- I just wanted to come back to that -- the Canadian product, we benchmark every year product worldwide, and it's similar to ours and to our competitors. So there is no difference that we can see, and in the Chinese product as well, we see no difference, every year.

MR. ANDERSON: I might be able to cast a little bit more light on this issue too, and that is, if you look at the PIERS data as to who the exporters are from China who constitute the imports to the United States, it's really skewed towards the largest four or five producers in China. These are very large plants with deep tank fermentation, full drying

capabilities, producing USP/FCC-grade product.

There does appear to be, you know, some of the smaller producers whose product is coming in, but in terms of overall volume, I think that is pretty insignificant.

MS. ALVES: Okay. There's been several references this morning to a pending case in the European Union. Can you provide some more specifics in your post-conference briefs about the case?

As I understand your testimony this morning, the case is simply an anti-dumping case and not a subsidy case as well.

MR. ELLIS: That's correct. It's just anti-dumping against China.

MS. ALVES: Is there a provisional determination yet?

MR. ELLIS: Our understanding is that the provisional determination is being negotiated, or worked out, even as we speak right now, today.

MS. ALVES: So it could be issued or published at --

MR. ELLIS: Today, or whenever. As you know, the European Commission has to gather the votes from the member states and then to issue a public notice of what is happening right now.

MS. ALVES: Okay. So your reference this morning to something coming out this summer was to the final?

MR. ELLIS: Correct.

MS. ALVES: Okay. And if you have any more details that would be certainly helpful.

In the 1999-2000 case, in the Commission's competition-discussion portion of the opinion, the Commission indicated that at the time food and beverage manufacturers accounted for as much as two-thirds of the total demand.

The Commission also talked about increases in demand, especially for the beverage and somewhat for the food and pharmaceutical uses, and that the slowest demand growth was for detergent applications.

Can you talk about the level of demand in the U. S. market for the various applications; and can you also tell me about any demand changes that you've seen over the period of investigation, and then going forward?

MR. CHRISTIANSEN: I would say that the proportions today are still fairly similar to what we see in the marketplace. Growth rates during that time period, as we mentioned earlier in our testimony, have been similar to what we've seen in the overall

economy.

MS. ALVES: And that's for all of the applications?

MR. CHRISTIANSEN: Yes.

MS. ALVES: In the last investigation, non-subject imports appeared to be a much larger share of the U. S. market, and non-subject imports are still in the U. S. market.

You indicated this morning that you believe we're talking about a commodity product. Are you talking a commodity product for purposes of Bratsk as well?

MR. ELLIS: We were waiting for a Bratsk question. Yes, we would not deny that a Bratsk analysis should be applied to this case. But we think that this situation easily meets the requirements, of however you want to put it, for a Brodsk analysis.

In other words, it is a commodity. But a huge percentage of the imports are subject imports, 80 plus %. So the possibility that non-subject imports could -- that an order would have the impact of simply benefiting non-subject imports, rather than U. S. industry, is really implausible in this case because non-subject imports simply aren't here in a large enough capacity to take over Chinese and Canadian

capacity.

In other words, under a Brodsk analysis in this case, the benefit of anti-dumping order would clearly fall to the U. S. industry.

MS. ALVES: Okay. Can you talk about the identities of the non-subject imports in the U. S. market?

MR. ELLIS: We understand that they are Israeli and Belgian producers.

Now, of course, if there is anti-dumping order in the U.C. (ph) imposed, the Belgium producer will be focusing entirely on its own market because it will then have a very large demand, and it will then want to provide supply for it.

And the Israelis are not remotely large enough to have much of an impact in the U. S. market, and there really is no one other than those two.

MS. ALVES: Okay.

MR. ANDERSON: I was just going to say that the data shows that Belgium is in the No. 3 spot. You have China and Canada vying for No. 1 and No. 2, but there's a huge drop down to No. 3.

Belgium, which I believe is DSM, is that right? DSM, which also is a Chinese producer, but that's a very far drop. Once you get below Belgium,

then the quantities from individual countries are really pretty small.

MS. ALVES: You mentioned this morning that there were some closures of your sister facilities in Europe. Were they temporary closures, or were they permanent closures?

MR. OAKLEY: At ADM, we permanently closed our facility in Ringus Guinea Island in 2005.

MR. POULOS: And the same in our facility in Selby, England. It was closed in early 2007 permanently.

MS. ALVES: I think those are the only questions I have for now, thank you. That was very helpful.

MR. CARPENTER: Mr. Benedetto?

MR. BENEDETTO: Thank you all very much for your testimony. I only have a few more questions. If I ask anything that's business proprietary, please just say so, and answer in follow-up in your brief, if you can.

My first question is: Citric products that go to the food and beverage industry, are they distributed differently than the citric products that go to the industrial segment?

In other words, are they more likely to go

to distributors than directly to the end users, or vice versa?

MR. OAKLEY: In general, no, but the channels of distribution would be very similar to the various industries.

MR. BENEDETTO: Does everyone agree with that? Okay, everyone does.

Why do citric products sometimes go to a distributor versus going to a end user, then, if it's not a market-segment issue?

MR. OAKLEY: As we mentioned in the testimony, there's a small number of very large citric acid users, but then there's a tremendous number of smaller users.

MR. BENEDETTO: Smaller users?

MR. OAKLEY: Yes. And the distributors tend to service a lot of those, or they can also provide a service of storing inventory. In the case of a product coming from overseas or from Canada, they can store it within the United States for quicker delivery.

MR. BENEDETTO: Okay, great. Now, I have two questions on some things that I thought I heard this morning that the Respondent said.

I think, first, one of the Respondents said

that the Canadian product is actually going to be higher priced. Does that sound true to you all, higher priced than domestic product?

MR. CHRISTIANSEN: Not in my case.

MR. BENEDETTO: Anyone else?

MR. POULOS: I haven't seen that to be the case.

MR. BENEDETTO: Okay. If you could just confirm the feeling that I get from you is that your impression is that the Chinese product is also lower priced than the U. S. product. Is that correct?

MR. OAKLEY: In my experience, both the Chinese and the Canadian product, we think is lower priced.

MR. BENEDETTO: Is that everyone else's experience as well there?

MR. POULOS: Yes.

MR. BENEDETTO: Then I think I heard this morning also an allegation that the U. S. industry could not supply the entire U. S. market.

Do you have a response to that allegation?

MR. STALOCH: I think, from our experience, when products are fairly traded and fairly priced, we can supply the industry.

There hasn't been an investment in the last

ten years, very minimal as Curtis had said, because of that issue, so that's where we're at today.

MR. BENEDETTO: Anyone else?

MR. ELLIS: Also, without getting into BPI, I would note that our questionnaire responses show that we do have excess capacity that's unutilized in the United States that could be used for production to meet the increasing demand in the United States.

MR. ANDERSON: And, in addition to that, there are also substantial exports to other markets, and that also constitutes available supply for the U. S. market.

I just wanted to say one thing about capacity-utilization rates. Because the figures that we presented may appear high if you just basically compare them to other industries, but this is an industry which really, for economic and technical reasons, shots to operate at pretty much 100% capacity.

So, even a few points of operation below full capacity could represent substantial product, but it also could represent substantial losses. So it's important to keep in mind, when you're looking at the capacity utilization numbers. that you consider in the context of this industry.

MR. BENEDETTO: Okay. Thank you all very much.

MR. CARPENTER: Mr. Ascienzo?

MR. ASCIENZO: Thank you. Good morning. And thank you for your testimony again.

I'm looking at this increase in corn prices over the POI that you provided. It looks like corn, according to this, in the Central Illinois market, was about $2 a pound in 2005-2006; and then it bolted upwards to $4, and then even higher in 2007 and 2008.

I presume there is, but I've got to ask for the record: Is there a one-to-one ratio between the corn price here and the corn that you use as raw materials for citric acid?

MR. STALOCH: Those are in bushels, so it's kind of odd. There are 56 pounds in a bushel. The yields are proprietary but it's not pound for pound.

MR. ASCIENZO: It's not pound for pound, okay. I presume: If this doubled, or even went more than that, that means that that doesn't necessarily mean that your raw materials prices would have doubled?

MR. STALOCH: But is a significant cost factor, so the raw material can be 25% --

MR. ASCIENZO: Right.

MR. STALOCH: -- of the cost to manufacturers. So, when you have corn tripling, you do have to continue to raise prices and you just get further and further behind.

MR. ASCIENZO: Right, I understand that.

But my point is this: If this is doubled, or more than doubled, and if you look at the data, I think you'll see that on the unit basis, the raw material cost have not doubled. They're gone up significantly, but they have not doubled.

So if you could comment on that, either here or in your post-conference brief, as to --

MR. STALOCH: If I could just comment quickly?

MR. ASCIENZO: Sure.

MR. STALOCH: Each company has the ability to hedge their corn to go out and buy, but that's only on a limited basis. So what you see there hasn't fully hit the market yet.

MR. ASCIENZO: All right, thank you.

The production process: The way I understand it, the bio-mass, I guess it's called, the corn tapioca whatever, is put into a vessel and is fermented is it for a week to two, something like that, is that approximately right?

MR. STALOCH: Approximately, it can be anywhere from a half a week to a full week, depending on how efficient your organism is.

MR. ASCIENZO: Then I presume the different producers have many different vessels because otherwise you'd just have every --

MR. STALOCH: That's correct.

MR. ASCIENZO: Okay. So there is several, so they're staggered, so you've got this stuff coming off line, I don't know, daily, hourly, something like that?

MR. STALOCH: That is correct. There's multiple vessels. It's a batch process on the fermentation side.

So, depending on the size of your plant, you may have one to five or six of these vessels coming down per day.

MR. ASCIENZO: Is that the same for all the other producers?

MR. OAKLEY: Yes.

MR. ASCIENZO: Wonderful, okay, thank you.

By-product revenue: I think in the petition, it mentions that the bio-mass, when it's done, after it's fermented, is sold, let's say as animal feed.

But is some sort of by-product revenue

involved here?

MR. STALOCH: It's very minimal because you have to dry it and process it. So it's basically a break even process.

MR. ASCIENZO: Okay. Is that the same for everyone?

MR. OAKLEY: Yeah, by-product revenue is -- I'd say it's pretty much a break even in this.

MR. ASCIENZO: In your post-conference brief, could you provide a little more details?

For 2007, could you say something like: We have x tons of bio-mass. We sold it for this, but it costs this much to process, so the net was zero. Something along that line, is that possible?

NO AUDIBLE RESPONSE.

Thank you very much.

If you had to build a new plant, how long would it take, how much would it cost; and, then how much do you think you would save in production costs on a per-pound basis if you built a new plant versus operating the plants that you currently have?

MR. STALOCH: That's a lot of questions.

MR. ASCIENZO: Yes. You can answer in the post-conference brief.

MR. STALOCH: First off, it depends on the

part of the world as to how long it would take the U. S.

MR. ASCIENZO: The United States.

MR. STALOCH: The United States, yes. So the permitting process here are more extensive. You need o go and get your permits before you can actually start to dig and construct.

Basically, for one, you've the capital approved, went to the permitting process to the engineering and built it. You could have it on line somewhere between 18 to 24 months, depending on how large the expansion is.

If it's a very minor expansion, maybe it takes a year because it's just ordering equipment and putting it in. If it's a major expansion, it would be 18 to 24 months.

MR. ASCIENZO: And you can answer it post-conference, and the capital up front for $100 million or whatever? And then, assuming you could build a state-of-the-art plant, would you save one cent a pound, two cents, five cents?

You don't have to answer me now.

MR. STALOCH: Yes, we could put that it in the brief. I think that would be best.

MR. ASCIENZO: Thank you. Your lack of

profitability, it's been mentioned a couple of times, have kept you from having capital expenditures that you would like to have had the last several years.

Could you, in your post-conference brief, give us a list by company of projects that have been turned down that you would have liked to have done? And could you give us an estimate of what they would cost?

MR. ELLIS: Okay, we can do that.

MR. ASCIENZO: Thank you very much.

One last question. Energy costs: We see that the price of energy, I guess, has essentially doubled from at least the previous investigation to this investigation.

You can do it now, but I'm sure that this will be in a post-conference submission, per company, could you tell us specifically what the energy cost per pound is for the citric acid and the salts, whether it's five, ten or fifteen cents a pound for 2007, for your most recently completed fiscal period?

MR. STALOCH: We can do that, but it's about 20%.

MR. ASCIENZO: About 20%?

MR. STALOCH: Yes, it's very significant.

MR. ASCIENZO: Very significant.

MR. STALOCH: It depends on your energy source.

MR. ASCIENZO: Yes. Thank you very much. I have no further questions.

MR. CARPENTER: Mr. Clark?

MR. CLARK: Good morning. Thank you for being here.

I guess one of the things I want to ask, just to make sure that I have on the record: Again, we're using the same facilities and the same employees for all the products that we're talking about here, including UCC, correct?

MR. OAKLEY: That's correct.

MR. CLARK: But recently you've had a greater demand for the potassium citrates since people want to avoid sodium in their diets.

How does it impact your operations to produce these citrates in the same vessels?

Do you have just certain reactors that are dedicated to potassium citrate? Because we've talked about flushing costs and shut-down costs. For instance, I'm trying to understand if you need to switch operations in order to produce a different product?

MR. STALOCH: Potassium citrate is generally

produced on the same production equipment as sodium citrates, so you're just campaign it.

MR. CLARK: Excuse me, you're just what?

MR. STALOCH: You just batch it through, campaign sort of.

MR. CLARK: Do you do any other flushing, or is there any other --

MR. STALOCH: There's a procedure that you use to make sure that the two don't mix.

MR. CLARK: How long does it take to do that? Is that extensive? Is there any costs involved in that?

MR. STALOCH: It's minimal costs. It maybe takes, depending on how skilled your team is, between four to eight hours. It's largely making sure that you're following a procedure on a piece of paper.

MR. CLARK: Let's talk about now about some of the different grades, or I guess particle size here on our product.

There's granular, fine granular and powder. Certain customers, they demand I guess I just want to -- into which products are these three particle sized directed in general?

MR. STALOCH: In general, I mean the majority of the sales are in the granular and fine

granular product. Those cross over industries between industrial, and food and beverage.

The powder, we tend to find more, it might be in certain spice companies. So the food companies or pharmaceutical applications, things like that.

MR. CLARK: Since we've already mentioned Bratz here earlier today, have there been any other major breakthroughs in any technologies or processing for this any place around the world?

In the petition, you mentioned a couple of things about Japan using different in-put and a different process. Is anybody else doing anything that we need to be aware of?

MR. STALOCH: The technology advances are incremental. So people will continue to work on their organism to do the fermentation, but those are generally incremental. And there's different unit operations where we've had incremental improvements, but nothing that I would consider a breakthrough technology.

Although one man's breakthrough technology is another's man's incremental technology.

MR. CLARK: Okay, thank you.

Regarding UCC: We said there isn't really a market here in the U.S. and you've included that in

part to try to make sure that somehow you don't circumvent an order.

Is there much of a UCC market elsewhere around the world?

MR. OAKLEY: Not that I'm aware of today, no. But we have seen in the past that product being used and transferred from one country to another to be further processed.

MR. CLARK: Okay, thanks.

MR. ELLIS: I'm sorry, just to be clear: Again, UCC is only used as an in-put to make the finished citric acid.

There's no other use that it can be produced for, and it's a necessary step in the production of citric acid when you use one of the processes, the wine sulfuric process.

Again, the only reason would be to transfer from one country to another would be for the purpose of finishing the citric acid in the second country?

MR. CLARK: Okay, thank you.

That's all I have for now, thank you.

MR. CARPENTER: Mr. Deyman?

MR. DEYMAN: I'm George Deyman, Office of Investigations.

Based on import statistics presented in the

petition, the average unit values of U. S. imports of citric acid from non-subject countries have been substantially higher than the average unit values of citric acid from Canada and China.

Is there anything different about the citric acid from non-subject countries that would command higher unit values, or higher prices than the product from Canada and China?

MR. CHRISTIANSEN: There's no significant difference.

MR. STALOCH: Like I say, we bench mark everybody's product every year, and we've not found any difference.

MR. OAKLEY: If I could just add to that: One of the things that the customers in the U. S., they're going to look for these specifications that we've mentioned, FCC and USP, so producers are shooting those specifications. So the product tends to be very similar.

MR. DEYMAN: Now, to what extend does citric acid need to be qualified at U. S. customers? And, assuming that it needs to be qualified, how long does the qualification process take?

MR. POULOS: Almost entirely, consumers of citric acid will go through a qualification step. The

first step will be a sample, and that sample will be tested against the U.S. PFCC Standards. That may be the only step for some customers.

Others may require an audit where they will send a team to one of our facilities to follow through our process and understand the standards that we use. So there's not a specific one answer. It depends on the customer as to how they perceive the need for qualification.

MR. DEYMAN: As far as you know, are the Canadian and Chinese products qualified at all the major U. S. customers?

MR. POULOS: From what my customers have told me, yes.

MR. DEYMAN: All right. I spoke to a purchaser of some of these products, who said that he believed that one or more forms or salts of citric acid weren't available in the United States. He specifically mentioned monosodium citrate, which, he said, he couldn't get in the United States.

Do you have any comments on that? Do you produce the full range of product here?

MR. POULOS: We don't currently produce monosodium citrate, but the ability exists. It's just that it's a very small market.

MR. DEYMAN: The other producers, do you produce it?

MR. STALOCH: We do not produce it. But as John said, we could produce it as well. But it's a small market. We don't.

MR. POULOS: And the same, we do not produce monosodium citrate. It's use in application is quite small. But the capability, certainly, would be there should the market require it.

MR. DEYMAN: Are there any other products covered by the scope of the investigations that you don't produce in the United States?

MR. ELLIS: Everyone is indicating: No.

MR. DEYMAN: All right.

MR. ANDERSON: I just want to just mention about the monosodium citrate, which is: There's more than one use for monosodium citrate. If it were excluded from the order, there could be potentially far more uses for monosodium citrate.

Based on discussions with the industry, the people we had yesterday, you could re-engineer a lot of products that use -- is it trisodium citrate, to use monosodium if, basically, monosodium were excluded. It's just a slightly different molecular structure.

MR. DEYMAN: So that's why you included it in the scope because you specifically included that, if I recall?

MR. ELLIS: Yes, that's correct.

MR. DEYMAN: My last question is: In the previous investigation on citric acid, the Commission found that converters, that is companies that obtain citric acid and then convert it into a sodium citrate solution, were not engaged in sufficient production-related activity to be included in the domestic industry.

Do you believe that the situation with regard to converters is still the same today?

MR. ELLIS: Yes, it's still the major expense, the major know-how is making the citric molecule. But when you convert, it's basically mixing two things together in a reactor.

MR. DEYMAN: So the value added of the conversion process would be minimal compared to the total cost. Is that right?

MR. STALOCH: Yes, and the investment required would be very minimal, so our belief is still the same.

MR. DEYMAN: Do you agree?

MR. OAKLEY: Yes, I agree.

MR. DEYMAN: Thank you. I have no further questions.

MR. CARPENTER: I have just a few additional questions.

First of all, in terms of quality, you indicated in your testimony very consistently that qualify from all sources is comparable; it all meets the industry standards, such as FCC and USP.

I was wondering are there any customers that have their own requirements that might exceed the industry's standards, or have their own particular specifications that might make it more difficult for some sources to supply the product as opposed to other sources?

MR. CHRISTIANSEN: No, I don't think there would be anything like that that exists.

MR. CARPENTER: Okay.

MR. STALOCH: People have different specifications but it wouldn't be exceeding. So it's not like they want higher purity or things like that. It's just different is all.

MR. CARPENTER: All right. Thank you.

Mr. Anderson, you make a statement that major customers have a big influence on price, which I would expect to be the case in an industry like this,

and maybe the industry's witnesses as well, elaborate on that. How does that work?

My understanding is that the bulk of the product is sold through distributors and a statement was made that importers target distributors.

Could you give us some discussion about how prices are determined in the industry, how price negotiations occur?

MR. ANDERSON: Mark, I'll start and then you can rescue me when I get in trouble, okay.

First of all, those ten, twenty top customers are not only end users, there is also some distributors in that group, and they're involved in this annual negotiating cycle at the same time.

What struck me as being highly unusual in this industry, in comparison to many other products that the Commission looks at, is the fact that these sales are concentrated in a very short time window, and really sold to very few customers.

So the reason that these large customers have such a major impact on price is that when you have so few customers all basically lining up and demanding their low prices all in the same windows, the producers essentially have to begin to lock in contracts in order to basically fulfill their

production goals for the following year.

Therefore, a big customer will have a major impact on price. If you lose out a big customer early in that short time window, then you are going to have a tendency to lower your price to get another large customer in order to basically fulfill your production goals for that period.

MR. CARPENTER: Thank you.

MR. CHRISTIANSEN: I think that Chuck did a good job of explaining the overview of the process. But it goes back to the very tight window where you have an opportunity to negotiate sales volumes that hopefully allow your plant to run at a full capacity.

During these time periods, in the past, we've tried to initiate price increases. But the competitive behavior from the Chinese and the Canadians, during that time period, did not allow that.

Then, basically, you're trying to chase over the remaining pieces of volume that are left in order to run your plant at a high rate. So it's a very competitive time period.

MR. CARPENTER: You've argued that importers have exerted a downward pressure on price. I'm wondering how they do that?

Do your customers, distributors, or end users come back to you and indicate to you that they've been offered a lower price for imports from say from Canada or China? Or it somehow common knowledge in the industry what the pricing levels are?

MR. OAKLEY: I'll speak for ADM, and our experience. We do a fair amount of business through distribution. It will happen in a couple of ways. Either they will be out competing for a piece of business and receive feed back that an importer has come in through another channel, or come in directly to that customer offering lower prices, which forces us to lower prices to try to meet and keep that business.

Or they will come to the distributor themselves offering lower prices for the same product to try to gain the business away from us.

MR. POULOS: I think from a Tate & Lyle (ph) standpoint, and I'm sure for most of the industry, we go through a standard discovery process of inquiry about pricing. The only perfect knowledge I think you end up with is when you don't get the business.

Unfortunately, that's happened more often than we care to think.

And as you go through the discovery process,

one of the obvious questions is: Are they all qualified suppliers? Because you've asked the question about qualifications.

In general, the market requires qualification steps. When you're in that group of qualified suppliers, price becomes the primary motivation for selection.

MR. ANDERSON: And, Mr. Carpenter, I would refer you to the extensive lost sales and lost-revenue allegations in the petition.

I think documents comprehensively the extent to which there are actual prices that are mentioned by customers, either Canadian prices or Chinese prices, in the context of negotiations, that doesn't necessarily mean that the customer has their Chinese supply locked up, but the China price or the Canadian price is used as a way of negotiating in this very intensive time window.

MR. CARPENTER: Thank you. That's very helpful.

There's also a statement made that in this industry volume drives price. Is it typical for the U. S. producers here to provide volume discounts to their largest customers?

You may have supplied details on that in the

questionnaire responses. If so, I apologize. You don't need to respond further. But I was just wondering, in general, if you typically provide volume discounts?

MR. CHRISTIANSEN: From Cargill's standpoint, volume discounts and things like rebates, if somebody reaches a certain volume, are not existing.

MR. OAKLEY: The only thing that I would add is the larger customers, as we've mentioned, there's several large customers that represent a big portion of the volume.

They tend to have a global presence, and are extracting bids from every one of the producers represented here, plus a variety of import from Chinese or Canadian product. They would tend to command perhaps lower prices to lock up volume. It's just depending on where they are in the cycle.

MR. CARPENTER: Okay.

MR. ANDERSON: To sort of put this in your normal way of looking at things: The volume has an effect on price negotiations, but I have not seen any evidence of separate volume discounts or rebates. It's just basically volume as a consideration in price negotiation.

But this industry does not, the U. S. producers at least, don't offer after-sale discounts or rebates based on volume.

MR. CARPENTER: I see, thank you.

Just one last question: I'm still trying to reconcile one point of contention between what Mr. Waite indicated in his opening statement, and your responses to previous questions from the Staff.

He indicated that the product from JBL was a premium product and commanded a premium price, and we've explored that to some extent.

And he indicated I believe that the questionnaire data showed that the product from JBL is priced higher than the domestic product, and the Chinese imports, if I'm not mistaken.

From your testimony and your responses to the questions, it sounds like you would disagree with that.

My only question for those of you who are under the APO, when you have an opportunity to look at the price data as complete as we're able to provide it from the questionnaires, if it turns out that, in fact JBL's product is priced higher than the Chinese product or the domestic product, if you could attempt to comment on that in your post-conference brief and

provide some sort of explanation as to why you believe that might be the case?

MR. ELLIS: Yes, we'll be happy to do so.

MR. ANDERSON: I would caution you to take a very close look at some of these pricing comparisons, and consider it in the context of everything else you've heard in other pieces of information because some of it does appear to be pretty wacky, to be honest with you.

I'll be interested in hearing to see what this quality difference is, for example, and whether or not that constitutes a premium in pricing?

We do have some questions about some of the data that has been submitted so far, but I think that we would prefer to respond to that in the post-hearing brief.

MR. CARPENTER: Definitely, good.

There some additional questions, I believe, Mr. Cassise?

MR. CASSISE: I have one request for the post-conference. That is: to, again, revisit this market segmentation.

In the 2000 investigation, the Commission found that around two-thirds of U. S. consumption was this food and beverage segment. Approximately one-

third was industrial, and less than 10% was pharmaceutical.

So, using those market segments, which haven't changed, could you, in your post-conference, just split out say your 2007 U. S. shipments, and estimate where those shipments went in relation to their end use, using those segments: food and beverage, pharmaceutical, and industrial/laundry.

I noticed in page 8 of the petition, you had mentioned that this detergent end use has been increasing over the years, so keep that in mind when you address that in the brief as well.

Also, if you could break that out by citric acid, sodium, citrate and potassium citrate as well.

That's all I have, thank you.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Just an add-on to some of what you're already going to be discussing in terms of some of the allegations made by the Canadian producer about the differences in terms of their prices versus U. S. and the Chinese prices.

Mr. Anderson, this morning, you testified that prices in this industry are made on a delivered basis. If you could discuss, in your post-conference brief, whether or not that may have some impact on any

pricing differences that we're seeing?

And if you could also discuss whether or not there might be difference in terms of prices to end users, or distributors that we're seeing here as well?

A lot of these issues are obviously going to go towards accumulation, which it sounds as though from their opening statement this morning, the Respondents will be addressing more this afternoon.

So, again, if you could discuss whatever accumulation issues they raise as well, that would be helpful?

MR. CARPENTER: Any other questions around the table?

Again, thank you very much for your testimony and for your helpful responses to our questions. We very much appreciate it.

At this point, we'll take a short break and resume the conference about ten minutes to twelve.

MR. ELLIS: Thank you, Mr. Carpenter.

MR. CARPENTER: Thank you.

(Whereupon, a short recess was taken.)

MR. CARPENTER: Could we resume the conference now, please? Please begin whenever you're ready.

MR. SMITH: Good morning. My name is Matt

Smith, Senior Purchasing Manager at Proctor & Gamble responsible for P&G's purchases of citric acid for consumption in North America. With me here today is Jim Hodges, who is the Purchasing Group Manager at P&G for Global Chemical Purchases.

P&G is a major U.S. purchaser and industrial user of citric acid. We estimate that P&G accounts for more than 10 percent of the citric acid consumed in the United States and that P&G is one of the top four purchasers of this product. We use citric acid in detergents, including Tide and Gain, beauty care products, including Head & Shoulders and Pantene, and oral care products, including Crest and Scope. Detergents for fabric care account for more than 90 percent of the citric acid we consume on an annual basis.

P&G purchases citric acid from all of the domestic manufacturers, from JBL in Canada, and from two plants making this product in China. All of the suppliers of citric acid of P&G must be qualified to supply the product. That process can require six to nine months for citric acid used in detergents and much longer for oral care and beauty care products. No Chinese supplier is qualified to supply to our oral care or beauty care products. The qualification

process involves acquiring the input, producing the final product, and testing the final product for a period of time to ensure stability and effectiveness.

P&G tries to source its inputs from a variety of producers, in order to ensure diversity of its supply sources. It does so primarily to ensure reliability of supply, minimizing the risk of plan disruption. P&G is also in a global supply relationship with a number of the U.S. and foreign suppliers it seeks to maintain over the long term. P&G has two plants making detergents for fabric care in the United States, one at Lima, Ohio, and the other at Alexandria, Louisiana.

One hundred percent of the citric acid used in detergents is fed into our process as a solution. P&G purchases citric acid in three forms: citric acid in solution, monohydrate, and anhydrous. Both monohydrate and anhydrous forms must be converted to solution prior to entering our process at our fabric care detergent plants. Most of what we purchase from Canada and three domestic producers is in solution form. All of the citric acid produced from China are in anhydrous or monohydrate form. For citric acid in solution form, the active ingredient, citric acid, is 50 percent of the total solution; for citric acid in

monohydrate, the active ingredient is 92 percent of the weight of the product; and for anhydrous citric acid, the active ingredient is 100 percent of the product.

Citric acid is priced roughly on based on the anhydrous equivalent of the form in which that it is sold. That is, solution is normally priced at one-half of the price of anhydrous for the gross weight of the product and monohydrate is only priced at eight to 10 percent less than the price of anhydrous for the same gross weight of the products.

We are concerned that this investigation that the U.S. and Customs statistics do not reflect the true quantity or average unit value of citric acid entering the United States and anhydrous equivalent basis. We know that we purchase a substantial quantity of citric acid from JBL in Canada in solution form and that the Customs statistics probably reflect the gross weight of the product entering the United States, rather than the anhydrous equivalent weight. Moreover, most of the citric acid that we source in China is monohydrate from which overstates the anhydrous equivalent weight by eight percent.

There is a significant difference in the citric acid that is available to us from Canada and

the citric acid that is available to us from China. As I mentioned, most of the citric acid that we buy from Canada is purchased in solution form. There is a direct rail connection between JBL's plant in Canada and our plants in Ohio and Louisiana, enabling us to purchase the citric solution from JBL, especially line tanks on railcars. In addition, the lead time purchases from JBL is typically two weeks or less. This allow a minimization of inventory at our detergent plant producing plants.

In the case of our purchases from China, on the other hand, all of the product is shipped to P&G in monohydrate or anhydrous form. This product must then be dissolved in liquid before it enters our process, adding cost and complexity to the use of the China's product. The lead time between order and delivery is a minimum of 60 days. The product from China must also be warehoused in the United States, increasing its cost.

At P&G, we do not use any Chinese or Canadian citric acid in any potentially ingestible products, such as Crest and Scope, made in the United States. However, we believe the U.S. food and beverage purchases see a difference between citric acid source in China and citric acid source in Canada,

primarily because JBL is an established European producer of food and beverage grade citric. It can also be assumed that JBL is capable of producing equivalent products at its new facility in Canada.

Because P&G takes citric acid in solution, some of the U.S. manufacturers can minimize their cost and price to P&G by shipping solution to P&G and then thereby eliminating the energy costs necessary to fully dry the product. Other U.S. manufacturers can also increase output and reduce scrap by dissolving anhydrous citric acid that does not meet mandated particle sizes and ship the solution to P&G. This allows them to dry the batches of citric acid faster, lowering their cost of overall production, knowing that the off spec particles produced in this way can be dissolved and sold to P&G. Otherwise, these particles would have to be reprocessed for sale in the markets that require standard grade citric acid. Some U.S. producers take advantage of this process flexibility more than others, allowing them to offer lower prices in the market.

During the period of investigation, P&G agreed to multi-year contracts with its U.S. suppliers. All of these supply agreements were for more than one year and one was for a period of three

years. The contracts specifically affix -- the contracts specify a fixed price and a fixed quantity that can be ordered by P&G at that price. P&G then issues purchase orders against the contract for supply its manufacturing plants. We believe that all of the domestic suppliers heads their cost of corn or dextrose or other feedstock to ensure that they can sell us citric at a profit over the course of these long-term contracts regardless of the movement of the feedstock price. We were surprised to learn that the domestic producers are claiming that they have operated at a loss throughout this period and wonder whether they have correctly attributed the lower cost corn or other feedstock purchase through these hedging contracts to their citric acid financial results.

P&G has found that its U.S. suppliers are offering the lowest prices in the market. Between 2005 and 2007, the average delivered price from our domestic suppliers was lower than the average delivery price for citric acid from Canada and China in every year. Furthermore, there was a significant difference in the price being offered by suppliers in the market. Each year of the period of investigation, at least one U.S. suppliers was a clear price leader in the market. Partly for this reason and because the U.S. suppliers'

ability to deliver solution to our plants, P&G would like to increase its purchases of domestic citric acid, but is unable to do so because of lowering constraints imposed on P&G by the domestic industry.

Thank you for the opportunity to testify here today. I would be pleased to answer any questions you may have.

MR. LAFAVE: My name is Arthur Lafave on behalf of -- a lawyer for P&G. I just want to say that we're not going to say much today about causation, other than based on the larger record, other than what Matt has just told you, because the data is proprietary. But, there is, in the proprietary data, a much different story to tell about what is really going in this industry and we'll have to wait until we file our post-conference brief to give you that information. Thank you.

MR. HSU: Good morning. My name is Hsu. I'm the President of United Food Corporation. United Food is a distributor of various food products in the United States. One of the products that I sell is citric acid. I've been selling citric acid for the last 25 years. I, also, want you to note that I'm a chemist by training. I would like to offer my comments and thoughts today on the competitive nature

and dynamics in the citric acid market in the United States.

Before I begin, though, I want to tell you that I'm very aware that our sponsor importer's questionnaire was missing quite a bit of data. I apologize for that. We have very few office staff members and I've been out of the country for the last two weeks. I just came back from China two nights ago and I drove down to Washington, D.C. the following day. I promise that I will send you a completed questionnaire response by the end of this week.

The first point I want to talk about is the difference between Jungbunzlauer, JBL, the sole Canadian supplier, and the Chinese. From my standpoint, JBL is equivalent to a domestic supplier. Although JBL built their plant in Canada, there is no question that the primary purchase of the plant was to service the U.S. market. The plant is located, as far as I know, in Ontario, Canada, just a few miles from the U.S. border. And my experience is that all U.S. Customs treat JBL as the exact same supplier as Cargill, ADM, or Tate & Lyle. They do not consider JBL to be a foreign supplier. Needless to say, my suppliers, the Chinese suppliers are not treated that way. There is no question that the U.S. Customs

consider my suppliers to be foreign suppliers.

Now, let me turn to the nature of competition between the Chinese and the three U.S. producers and by extension, JBL. You heard a lot of the testimony earlier today that citric acid from Chinese suppliers, from JBL, and from three domestic producers is all the same, "interchangeable," the Chinese product being able to meet USB and FCC standards. Such testimony imply that the citric acid from China is used by any customer in the United States. This is just not true. In fact, there is a very large segment of the U.S. citric acid market that excludes Chinese suppliers. This segment is the soft drink segment. It is very, very difficult for Chinese producers to supply U.S. soft drink customers.

In order to understand this fundamental point, you need to understand a little bit about how citric acid is used by soft drink producers. U.S. soft drink producers insist on purchasing citric acid in anhydrous form, meaning that the citric acid cannot have any water. It must be free-flowing, fine granular, or powder. The reason is that the soft drink producers, they use material conveyance systems and a tubular vacuum for conveying systems that feed citric acid to their soft drink concentrates. As

everyone knows, U.S. companies like to minimize labor costs, so they prefer use of automated mechanical systems as much as possible. U.S. soft drink producers are no exception. Virtually all U.S. soft drink producers utilize vacuum conveying systems to feed materials into the soft drink concentrate tanks. The use of such mechanic machinery requires a very free-flowing non-caked citric acid.

The trouble for the Chinese producers, they have to ship the citric acid across the ocean to the United States and citric acid is very hygroscopic. It absorbs moisture from the air. This means it is virtually impossible to ship citric acid across the ocean without having the material absorb moisture. When the citric acid absorbs moisture, it cakes up into solid blocks and chunks. These blocks and chunks clog the vacuum conveying tubes, causing massive problems for the soft drink producers. So, the issue has nothing to do with the underlying quality of the citric acid. It has to do with the very simply chemical nature, that you cannot transport citric acid in the anhydrous form from across the ocean, far away on the other side of the world. That is why U.S. soft drink companies do not want to buy Chinese citric acid.

I know this for a fact. The chairman of one of the largest producers in China told me personally on my trip to China that his company had tried to sell citric acid from their brand new plant to Pepsi, but his company's shipments were rejected because of the hard caking problem. If this company, which is among the newest and best citric acid manufacturers in China, cannot supply Pepsi, and I really doubt any other producers can, this means that the Chinese producers are effectively excluded from the single largest segment of the U.S. market, which is the soft drinks.

Now, let me tell you about the flip side. Customer accounts are serviced by Chinese producers for which the domestic producers and JBL have little interest. You need to understand that citric acid is used in a vast array of different food products, everything from ice cream, to pickled vegetables, to jams and jollies, and puddings. What this means is that citric acid is used by anyone or company that makes these products. Citric acid is not just for big conglomerates. Mom and pop small establishments use citric acid, as well.

What you also need to understand that overall, U.S. demand is much more than three U.S.

producers can supply. My estimate that three domestic producers only have the capacity to supply half of the total market demand. What does this mean? This means that the three domestic producers are able to and, in fact, focus all of their efforts on the largest accounts. Those accounts demand railcar volumes and multiple truckloads for each shipment. Needless to say, from an administrative standpoint, it is much easier to service large accounts and that is why the domestic producers love them. With these accounts, you do not need an army of salespeople wearing out their shoes looking for small customers. This focus on the largest accounts means that there are a lot of small customers, who need citric acid, but cannot get the domestic suppliers' attention.

This is where I come in. I service these small accounts. I have a slew of customers, who have never, ever been approached by domestic producers or JBL. Honestly, I really have no competition in this segment of the market. The domestics and JBL leave me completely alone.

I, also, want to tell you that I believe this business has grown significantly over the last few years. I know this because I have had to turn down customers away repeatedly. I have received many

phone calls, but I just cannot handle for lack of staff. What I know is that this business has gone to other distributors and importers of Chinese citric acid.

I, also, want to talk about overall demand for citric acid. My estimate is that over the last few years, total U.S. demand grew by at least 10 percent. Now what is behind this demand growth? Perhaps, the biggest demand driver is the increased crackdown on use of hazardous materials, such as phosphoric acid. Very simply, more and more states are prohibiting the use of phosphoric acid in water treatment applications. The states are trying to control the allergy created by the presence of phosphorous substances in public waterways. So, more and more states have either passed environmental regulations limiting the use of phosphoric acid in many applications or have expressly announced their intention to do so. My understanding is that in 2006, the State of Washington was the first state to enact a statewide band on the use of phosphates in detergents and other products. Since then, many more states have followed. My guess is about between 12 and 13 states of enacted similar regulations or have announced their intention to implement such regulations soon. Indeed,

just three weeks ago, I got a call from a potential customer, a paper mill in Maine. The paper mill said they had just received a letter from the State of Maine limiting the use of phosphoric acid in their water treatment application. I will be happy to get a copy of this letter.

Citric acid is perhaps the best replacement for phosphoric acid, given that citric acid can perform many, if not most of the same functions, but without the negative side effects. So, the increased regulation of phosphoric acid has increased overall demand for citric acid, in particular the industrial segment of the market. And because the domestic suppliers have only available capacities to supply half of the market, which means virtually all of the food and beverage market, so the increased demand needs to be supplied by imports, in particular, the industrial segment, imports from China.

And I hope my comments are very helpful and I will be happy to answer any questions that you may have. Thank you.

MR. WAITE: Good afternoon, Mr. Carpenter, members of the Commission staff. Again for the record, my name is Fred Waite. I'm with the firm of Vorys, Sater, Seymour, and Pease. With me is my

colleague Kimberly Young. Together, we represent Jungbunzlauer Technology, the only producer of citric acid in Canada.

Jungbunzlauer, or JBL, has been selling citric acid to customers in the United States since the 1970s, when it supplied the market from its plant in Austria. In 1999, however, JBL decided to construct a plant in Canada, in order to better serve its customers in North America and throughout the western hemisphere.

I would like to begin by providing some background information about the company. JBL is a privately-held family-owned company, which dates back to 1867. Today, it has manufacturing operations in Austria, France, Germany, and Canada. However, only the Austrian and Canadian plants produce citric acid. And I want to emphasize that the Canadian plant, which is the Respondent in this investigation, produces only citric acid. It does not produce citric salts, citric sodium citrate, or potassium citrate.

This morning, Mr. Carpenter, you heard from a witness in the domestic industry alleging that JBL constructed the plant in Canada, in part to service the oil sands industry in Canada. That is incorrect. That was never the intention of JBL and, indeed, it

cannot serve that market, because the oil sands industry uses sodium citrate in its processing. And as I've just mentioned, JBL Canada produces only citric acid. It does not produce sodium citrate. However, JBL believes that that market in Canada is served by Chinese imports and also by U.S. producers, particularly ADM.

As I mentioned, JBL decided in 1999 to construct its second citric acid plant in Port Colborne, Ontario, in response to increasing global demand for citric acid. In making this investment, JBL sought to promote its objectives of supply security, supply flexibility, short lead times, logistical simplification, and nearby technical advice and technical services for its customers when they were needed.

JBL explored potential locations in both the United States and Canada, but it selected the Port Colborne site for several reasons. First, Corn Products International, or CPI, which is the main supplier of JBL's primary input, has a production facility in Port Colborne adjacent to the site of JBL's plant. Second, the largest consumers of citric acid in North America are located within 800 miles of Port Colborne. Third, JBL's plant has access to ample

supply of water for its production operations and it has its own water treatment facility, as well as its own power generation plant. In addition, JBL is committed to being environmentally responsible and it has reduced carbon dioxide emissions at its Canadian plant by 50 percent since it started operations in 2002. JBL believes that its plant in Canada is the most modern facility in the world for the production of citric acid and you heard this morning from witnesses from the domestic industry that it is certainly the most modern plant in North America.

When Port Colborne began production, JBL ceased shipping citric acid to the U.S. market from its Austrian facility, replacing it with citric acid produced at its state-of-the-art plant in Ontario. The plant is actually located very close to Niagara Falls in Buffalo, New York.

JBL estimates that global consumption of citric acid is increasing at approximately five percent per year. The United States is the world's largest per capita consumer of citric acid and, as you have heard, demand is growing. JBL estimates that the U.S. market for citric acid is approximately 800 million pounds per year. On a global basis, about 40 percent of all citric acid goes to the beverage

market, another 20 percent or so is for food applications, and one-quarter of all citric acid is consumed in the production of detergent and related cleaners. Pharmaceuticals make up an additional, but small percentage of total consumption of citric acid. As you might expect, the highest quality of citric acid is the food grade product and 100 percent of JBL's production in Canada is food grade. JBL takes pride in producing citric acid that has consistent purity, color, and quality.

When the Commission looks at the volume and pricing of Canadian imports of citric acid, as I mentioned this morning, it is looking at JBL; JBL, a reliable, responsible, and high-quality supplier that has benefitted, but not harmed the U.S. market. In fact, U.S. customers, as you've just heard, consider JBL to be an additional domestic supplier, along with ADM, Cargill, and Tate & Lyle. In short, JBL is an integral part of the North American market for citric acid.

JBL sells to customers on the basis of long-term contracts, often two or three years, and short-term contracts. It does not make spot sales. The majority of JBL's sales are to end users, such as food processors, beverage companies, and manufacturers of

consumer products. JBL understands that Petitioners also sell largely to these same end users, indeed as they confirmed in their testimony this morning. Like the Petitioners, JBL makes truckload deliveries to customers in the United States and, in some instances, it makes deliveries by railway tanker care. Like the Petitioners, JBL has announced periodic price increases in the market, particularly during the so-called mating season at the end of the year and it has tried to realize those increases. In fact, JBL tried to raise prices in each year of the period of investigation; but, in most cases, was undersold by lower-priced product from other customers -- other suppliers.

When the Commission considers the facts in this case, it will see that JBL is not injuring or threatening to injure the domestic industry. First, JBL's prices for citric acid in the U.S. market are consistently higher than other suppliers' prices, including the Petitioners. In fact, the pricing data, which the staff has collected, shows that JBL oversold the domestic industry in all 39 comparison periods for each of the pricing products that JBL produced.

Second, JBL is producing at virtually full capacity, as shown in its response to the Commission's

foreign producers' exporters questionnaire. In fact, during the period of investigation, JBL actually produced citric acid for one of the Petitioners, whose production had been disrupted. JBL even packed the citric acid into bags supplied by that U.S. producer with the producer's own logo and other identifying characteristics, so that the U.S. producer could continue to meet its obligations to its customers. And we will provide documentation on this in our post-conference brief.

Finally, I would urge the staff to review carefully Petitioners' allegations of lost sales and lost revenues with respect to Canada. Some of the products identified by Petitioners in their allegations are not even made by JBL in Canada.

The last point that I want to address is the supply and demand situation in the U.S. market. JBL understands that U.S. producers are operating at very high rates of capacity utilization and that they have relatively little available unused capacity. Nevertheless, even at those levels of production, the three domestic producers of citric acid cannot meet the full demand for this product in the U.S. market. We note that Petitioners filed their antidumping petition at the beginning of the seasonal peak in

demand for citric acid. The months of April through August are the beverage season, when consumption of soft drinks and other beverages increases in the United States. Beverage companies, as you have heard, are one of the largest end users of citric acid, so this five-month period is critical to the citric acid market in the United States.

In addition, it appears that this peak period also will be adversely affected by the recent announcement of Cargill, that it will be unable to meet its supply commitments to its citric acid customers. According to Cargill, its Eddyville, Iowa plant recently suffered a complete shutdown of electrical service, which also caused collateral damage to the plant's equipment. As a result, according to Cargill, production at the plant was entirely shut down. Cargill has notified customers that their purchases of Cargill's products will be limited to about 70 percent of their contractual amounts until "approximately September 2008." Thus, Cargill will have to allocate its shipments to U.S. customers for at least the next four to five months. We will include a copy of Cargill's announcement in our post-conference brief.

We know that negative determinations are

unusual in the preliminary phase of the investigation, but we submit that there are unusual conditions in this case, which warrant such a result. How can JBL's Canadian plant be a cause or a threat of material injury to the domestic industry when: (1) JBL has consistently oversold the U.S. producers throughout the period of investigation; (2) JBL is producing at virtually full capacity; (3) JBL was asked by one of the Petitioners to supply citric acid to its customers during a period when the U.S. producer's operations were disrupted; (4) JBL consistently tried to increase prices in every year of the period of investigation; and (5) JBL sells a premium product at a premium price and customers in the United States know that.

For these reasons, we urge the Commission to make a negative determination with regard to Canada. Thank you. And I believe that concludes our panel's presentation and we are available for questions. Thank you.

MR. CARPENTER: Thank you, very much, panel for your presentation. It was very helpful. We will begin the questions with Mr. Cassise.

MR. CASSISE: Well, I will start with one that Petitioners asked. And since you, Mr. Waite, ended on that point, we might as well continue it.

What makes the Canadian product a premium product worth a premium price?

MR. WAITE: First -- for the record, my name is Fred Waite. First, I want to make it clear that we are not arguing that the Canadian product is of a higher quality than the U.S. product. What we are arguing is that for a number of reasons, the market sees our product as a premium product.

The consistency of the product is an important issue for many customers, particularly end users in the food and beverage and, as we just heard, in the consumer product sectors. JBL prides itself in the consistency of its product, as I testified, concerning color, concerning quality, concerning its purity.

Secondly, the reliability, the dependability, the speed with which JBL can respond to customers' demand, both for product and also for technical advice or assistance, if they require it.

So, we are not arguing that the JBL product has a quality that is higher or exceeds other products in the market. What we are arguing is that the entire package of product that surrounds the product supplied by JBL presents to a customer a premium product. And since we are able to sell in the U.S. market and we

are able to sell at prices higher than other suppliers in the U.S. market, that must resonate with some customers.

MR. CASSISE: So would it be fair to say that your product consistently meets FCC and USB standards and you have a premium customer service?

MR. WAITE: Absolutely.

MR. CASSISE: Okay.

MR. WAITE: And I would also mention that we often hear, and it's a campaign season, we all recognize that, about the burdens under which U.S. industries suffer in terms of environmental, in terms of consumer, in terms of labor requirements in this country. JBL's flagship plant is located in the European Union and its second plant, as we've discussed, is located in Canada, two regions which have environmental, safety, labor standards that are the equivalent and, in many cases, superior and even more demanding than the requirements in this country. So, it's not surprising that a company like JBL can provide a product that is consistently of the highest quality and consistently meets its customers every needs.

MR. CASSISE: Okay, thank you. I did have one further question for you regarding the data that

was submitted by JBL in their importer's questionnaire. I just want to verify, is JBL the sole importer of record of U.S. imports from Canada and, therefore, any other reported imports from Canada would be purchases from your company?

MR. WAITE: Not entirely. As Mr. Lafave pointed out in his notice of appearance in this case, starting this year, Proctor & Gamble has become importer of record on solution products that it purchases from JBL in railroad tank cars. But, by and large, JBL is the only producer in Canada and it should be during the period of investigation the only importer. There could always be instances where it may sell to a Canadian customer, who subsequently decides that he wants to sell it into the U.S. market. But, we would consider that to be very remote.

MR. CASSISE: So, it would be reasonable for the Commission staff to use JBL's import numbers as Canadian imports? That's a reasonable thing to do?

MR. WAITE: Yes, yes.

MR. CASSISE: Okay. And Mr. Smith, when did the P&G begin doing their direct importing from Canada?

MR. SMITH: It's been about three weeks now.

MR. CASSISE: Okay, very recently.

MR. SMITH: Recently.

MR. CASSISE: And the issues you had with the import numbers, that's all very recently, because you've been directly importing in the last three weeks?

MR. LAFAVE: No, no. The issue that we have with the import numbers is if you calculate an AUV for Canada, for example, based on the import statistics, since the weight is going to be the solution weight, at least in terms of the shipments to P&G, which did occur during the period of review, where JBL was the importer of record, if you look at that solution weight and then you look at the value and you divide, you're going to end up with a price that's one-half of the anhydrous equivalent AUV.

MR. CASSISE: No, I understand that, Mr. Lafave. But, we requested that imports be given in 1,000 dry pounds and if JBL has answered their questionnaire properly, we won't have these problems that you point out. Is that correct?

MR. LAFAVE: From JBL's perspective, that is correct. They responded in terms of dry pounds. We cannot speak to the official import statistics and to what Customs may have put into their database.

MR. CASSISE: Well, since -- we have the

sole U.S. importer from Canada here. Why would we use import statistics?

MR. LAFAVE: No, no, I agree with you. It's fine. If what Mr. Waite says is correct, which is that they converted everything to a dry weight basis, then using the JBL importer questionnaire numbers should be fine.

MR. CASSISE: Okay.

MR. LAFAVE: But, I will also point out that monohydrate comes in a crystal form and so an importer could confuse that instruction by assuming that as long as they're reporting the weight of monohydrate, that they're reporting it in a dry form.

MR. CASSISE: No, I understand your concern. That's why I asked Mr. Smith, this has just occurred three weeks ago, which is not in our period of investigation.

MR. LAFAVE: No, I think you're misunderstanding. P&G has purchased solution form from JBL throughout the period of investigation. But, JBL was the importer of record for all of those shipments through the end of March. And as far as China is concerned, P&G is not the importer of record, but P&G purchases monohydrate, which the importers could interpret they had properly reported simply by

reporting the gross weight of the shipment. But, that would still give you an incorrect comparison on an AUV basis or even on an importer questionnaire basis, give you an improper comparison to an AUV that's based on an anhydrous weight basis.

MR. CASSISE: No, I understand that. But, I had thought, and maybe we should clarify, I had thought that Mr. Waite had said that JBL was the -- virtually almost all of the U.S. imports during the period of investigation, JBL was the importer of record. And that what you had described is a recent phenomena. It must be, because I did not receive an importers questionnaire from Proctor & Gamble. So, unless you -- I would like to move on unless you still think this is an issue. I just wanted to establish that JBL's import numbers would be the best indication of what U.S. imports from Canada are.

MR. LAFAVE: I was agreeing with you -- I agree with you on Canada. I was making a separate point, which is that although the importer questionnaire calls for reporting on a dry weight basis, that doesn't distinguish between monohydrate and anhydrous. And we know, P&G knows that a lot of -- most of what it buys from China is monohydrate. So, the AUV figures and the importer questionnaire figures

from China will give a false AUV.

MR. CASSISE: And that was your eight percent that you had mentioned in the testimony? You believed that imports from China could off by as much as eight percent because of this issue?

MR. SMITH: That's correct, eight percent high on volume and the equivalent low on price.

MR. CASSISE: Okay. You plan on arguing with a different set of Chinese imports than the Commerce statistics in your brief?

MR. PORTER: If I may, Mr. Cassise, I think my suggestion on how to get at this issue is for simply the Commission staff, and I hate to ask Commission staff to do more than they're already doing, but just to go back to the importers and ask them -- I mean, they're not that many of them, ask them how they reported it. I think Mr. Lafave, his principle point is sort of the official import statistics, the utility of using AUV information from the official import statistics could be questionable, because of the point that he is raising. And, obviously, you can't go back. So the best thing to do is just to go -- there's probably a handful of large importers that count for the vast majority of the product from China. So, I think it's probably a

narrow universe that you need to have.

MR. CASSISE: Okay. Well, I'll move on. We can brief that issue about your eight percent and we can move on.

Mr. Porter, I have a quick question for you about the clients that you represent. In the 2000 investigation, there was a list, a short list of Chinese exporters and producers in China that were deemed the large ones, if you will. Are those the same -- has that changed in eight years? Are those companies still the major players in China?

MR. PORTER: I don't have that list in front of me.

MR. CASSISE: Okay. If you could address that, that would be --

MR. PORTER: Address it right now?

MR. CASSISE: Absolutely.

MR. PORTER: What I would like to say is that according to official Chinese export statistics, four, only four producers account for more than 92 percent of the exports to the United States. So, although I represent quite a large number of individual companies, the exports to the United States are concentrated in just a few.

MR. CASSISE: Okay. And I'm sure you will

tell us who those four are in your brief.

MR. PORTER: Yes, and you have the -- you will have all of their foreign producer questionnaire responses, as well.

MR. CASSISE: Mr. Hsu, you had mentioned that the Chinese product was kind of locked out of the beverage market because of this caking issue.

MR. HSU: Yes.

MR. CASSISE: Are you aware -- is there any type of shipping method that exists that could prevent that caking issue and thus make the Chinese product usable in the beverage market?

MR. HSU: Not that I know of.

MR. CASSISE: But, the caking issue doesn't disallow Chinese product to be used in the food industry, does it not?

MR. PORTER: Let me clarify, Mr. Cassise. You want to be clear on this, you're saying "beverage." Mr. Hsu's discussion was only with respect to soft drinks.

MR. CASSISE: Okay.

MR. PORTER: Okay. The beverage market, itself, is broken down into segments, the soft drinks being the overwhelming driver of that, according to the data Petitioners, themselves, put on the record.

MR. HSU: Correct.

MR. CASSISE: Okay. But the Chinese product would be used in all other sub-segments of the food and beverage except for soft drinks? That caking issue is only for the soft drink market.

MR. HSU: The caking problem is a major problem by all the food and beverage users that use the particular anhydrous form, fine granular or powdered citric acid.

MR. CASSISE: So, it expands to the entire segment? It's not just soft drinks, then. Soft drinks is just the --

MR. HSU: That's just the majority --

MR. CASSISE: -- most prominent example.

MR. HSU: -- overwhelming portion, but it does expand to other segments.

MR. CASSISE: Okay. I think this was Mr. Smith. You had talked briefly about the qualification process that P&G goes through to certify citric acid producers. You said it takes six to nine months to qualify a citric acid producer for your detergent market. And then I didn't -- I thought I heard you say that you don't have any Chinese producers certified for what you call the oral care and beauty product segment. Could you just expand on that a

little bit, your certification process and what segments are certified in China and which are not?

MR. SMITH: The Chinese are only qualified to supply to our fabric care, our detergents, so Tide and Gain. Our oral care products, Crest and Scope, they're not qualified, as well as our beauty care products, Pantene, Head & Shoulders. Those products touch the skin or it could be ingested and so they require more elaborate testing, which we have never done with Chinese product. The testing for fabric and home care, for our fabric care products primarily is six to nine months, because it's easier to get that qualification done than the beauty care or oral care products. That could be upwards of two years possibly.

MR. CASSISE: Now, you're qualification process, does it go beyond what these FCC and USB standards are? I'm assuming you have almost a unique certification process. Is it above and beyond the standards that we see in the FCC and USB?

MR. SMITH: It is above and beyond. I don't have the specifics of the technical tests that are required. A big part of it is just the stability on the shelves for our beauty care and oral care products and having that product be the same finished product

months down the road. But, yes, the testing is more stringent than the normal testing that we would use for our fabric care.

MR. CASSISE: I mean, a Chinese producer couldn't come up to you and say, well, we've passed these standards, these FCC and USB standards. You would say that doesn't matter. We have an additional requirement. We need to do a formal certification process.

MR. SMITH: Yes, that's true.

MR. CASSISE: Okay. And I asked the Petitioners to break out their 2007 shipments by market segments. If you could do that, as well, for Canada and China, estimate the end use segments, Mr. Porter?

MR. PORTER: Yes, Mr. Cassise, we intend to do so. We intend to, for at least all of the major Chinese exports, to break out their U.S. shipments by segment. However, I would -- I respectfully ask that the Commission send this out in writing and specify the segments. And I would ask that the Commission break out the segments. For example, Petitioners want you to believe there are only two segments, food and beverage, industrial, and their own materials supported in the petition break out beverage between

soft drinks, ready-to-drink teas, other. And then in food, they have for cheese and dairy processing and so forth. Now, we don't need to do maybe 16, but I really think that we need to break out soft drinks, other beverage, and then food, maybe one and two, and then so forth. And that's all right there in the petition. It's very easy to do and I suggest that the Commission send out a list of what it wants to see and everyone is on the same page. Otherwise, you're going to get different interpretations of segments and it's not going to be useful.

MR. CASSISE: No, I agree. And as long as we keep it reasonable, I agree with you and we'll send that out.

MR. WAITE: And Mr. Cassise, Canada will respond to that question.

MR. CASSISE: Great, thank you. I believe that's all I have for right now. Thank you, very much.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Good morning. Mary Jane Alves from the General Counsel's Office again. Thank you all for coming. It's been very helpful already. I have some additional questions. As I mentioned this morning, anything that I ask this morning's panel, I

would appreciate getting answers to you in your post-conference briefs. Vice versa for the afternoon panel, if I've asked questions of the afternoon panel, I would be interested in getting responses from the domestic industry, as well.

Let me just start with domestic like product before we get into a lot of cumulation issues. It appears from your testimony this morning that you're not going to contest the domestic like product.

MR. PORTER: On behalf of the Chinese, that is correct. For the purpose of summary determination, we will accept the Petitioners' definition of like product.

MR. WAITE: We, also, accept the Petitioners' definition of like product.

MS. ALVES: Okay, thank you. Second, if you could examine the information that you have under the protective order and let me know if you believe if there are any related party issues and, if so, whether or not any appropriate circumstances exist excluding any of the domestic producers.

MR. WAITE: We will do that.

MR. PORTER: And we will do that, as well.

MS. ALVES: Also, in the last case, the Commission examined whether converters were engaged in

sufficient production related activities, to include them in the domestic industry. In the last case, the Commission concluded they were not engaged in sufficient production related activities. Would you agree with that assessment or, if not, what has changed since then?

MR. PORTER: On behalf of the Chinese, we don't anticipating disagreeing with the prior Commission conclusion.

MR. WAITE: On behalf of JBL, we, also, do not anticipate contesting that at this stage.

MS. ALVES: Okay, thank you. Okay. Let's move to cumulation. Let's spell it out very cleanly using the Commission's typical four-factor test. Let's just talk present material injury for purposes of the immediate discussion. Mr. Porter, if you could walk through each of the four factors and just let me know what your position is as to whether or not the Commission should cumulate the Chinese and the Canadian imports.

MR. PORTER: Needless to say, this will be an extensive part of our post-conference brief. But, I really think what you heard today goes to the essence of the competition between the Chinese suppliers and JBL. I mean, I was quite intrigued that

Petitioners, themselves, put forth a chart that indicated that but for Lake Erie, the JBL would be a domestic producer. I mean, if you look at it and you look at the chart, I mean, you couldn't really get any closer to the United States than that. And that is essentially our point. For all intensive purposes, JBL is part of the domestic industry. And I think we heard very dramatic testimony from Mr. Waite that, in fact, the domestic industry considers JBL to be so much one of their own, they asked JBL to impersonate them on several occasions. And the testimony we heard from Mr. Hsu indicates that the Chinese suppliers are really focused on different segments of the market.

And so when you step back and look at the competition, there's not a sufficient overlap really between the Chinese suppliers and the domestics, but by extension JBL to allow cumulation.

MS. ALVES: Okay. So, as I understand your arguments, are they limited to differences in the fungibility between the imports from the two sources?

MR. PORTER: The fungibility with respect -- at the customer level. I think a little bit of the confusion that is happening here is that in many other cases, that arguments have been made with respect to cumulation with inherent product differences, okay.

This product has these. Here, I'm not so sure the argument is that inherently, the citric acid, itself, is different. What is different is the fact that you can't transport long ways without caking and that very much affects the use of the product.

You see, Petitioners are doing a little bit sleight of hand. They're saying that the Chinese suppliers, especially the new plants, can produce the grade, meaning, I guess, FCC and USB standards. No one is disputing that. When it comes off the factory line, it meets those standards. The question is, can the customer use it. And that's the essence of competition.

MS. ALVES: Okay.

MR. PORTER: Okay and that's what we're getting at.

MS. ALVES: Playing devil's advocate, there's been information in the petition where they have said it doesn't really matter what the form is. It can come in, in anhydrous or it can come in the monohydrous or it come in, in solution form. If you needed to be in solution, you make it into solution. If you need to convert your production process -- it's all really competing against one another. And your argument is that that's not the case?

MR. PORTER: Absolutely. The fact that it is physically possible to ship, let's say, liquid from China and then someone could then convert it doesn't mean that that is, in fact, being done, okay. The point of the matter is that the big soft drink companies, and we hard an example about Pepsi, require it in a form so that they can use it easily. Just because it's theoretically possible to ship Pepsi something else and they then can do something to get it to where they can use it doesn't mean that Pepsi wants it like that. So, again, where is the focus? The focus should be on what the customer requires, not what physically could be used.

MR. LAFAVE: May I add something to that? We, also, perceive a difference in the products, in that the product that's coming from China is all anhydrous or monohydrate. It's not coming in, in solution. And P&G is able to purchase solution from JBL. That's very important to them. More than a majority, a large portion of what they buy from JBL is in solution form. And so, the products are not fungible and the difference is important.

MS. ALVES: Is it not the case, though, there was testimony this morning that it's fairly easy to convert the dry form into a solution form. It

would take a 10-year old to do it. Is that not the case?

MR. SMITH: I don't think I personally could do it. But, we have tollers that are set up to do it at additional cost and we're set up at our Alexandria plant, best, versus our Lima plant, to handle the powder that comes in, the monohydrate or the anhydrous. But, I think when you look at the different applications, such as the food and beverage industry, they require the anhydrous form to be received at their plants, because of the way their production process is set up and they're not set up as well as P&G. It would probably require capital, I would guess, for them to be able to receive solution and I'm not even sure if they can have solution in their final product. So --

MS. ALVES: So for certain purchasers, because of their existing capabilities, they couldn't do it. But for other purchasers, that possibility is out there, including yourself.

MR. SMITH: I think for P&G, we can do it at an additional cost.

MS. ALVES: And have you done it during the period of investigation, since 2005?

MR. SMITH: Have we taken powder and made it

into solution? Yes, certainly.

MS. ALVES: And what is the relationship in terms of pricing of the powder versus the solution?

MR. SMITH: Well, typically, if you're talking anhydrous base, it's an anhydrous powder, it would be twice as much of a 50 percent solution received at our plant. The advantage of receiving solution is we don't have to do the additional processing, the additional costs, to bring it in. Our process requires solution for the production.

MS. ALVES: But, there's certainly a relationship in terms of how you would ask for a price quote for the dry versus the solution form? If somebody is going to supply you with the dry form and you need to put it into solution, you're going to factor that in when you're asking for the product?

MR. SMITH: I would say that normally the negotiations are based on the citric price regardless of solution or powder and then we absorb that cost of putting it into solution. It's not -- we can leverage and subtract that cost out of the powdered cost, if that's what you're asking.

MS. ALVES: Okay. So, you have converted some of the dry form into solution. Have you done the reverse and just purchased solution and not -- for the

facility where you're currently converting the dry into solution, was there a time when you were only purchasing solution for that facility?

MR. SMITH: No, there was not a time.

MR. LAFAVE: May I add something? This is Arthur Lafave. It's both -- it's cheaper on both sides of the equation; that is it's cheaper for the manufacturer to produce liquid form citric acid, because they don't have to fully dry it. Or if they do fully dry it, they can use off spec particles to make the solution. So, it's cheaper on their side. Certainly cheaper on P&G's side to buy the solution. They wouldn't go to the trouble of railcarring it from JBL to their plant in Louisiana in specially lined railcars if it wasn't a better solution for them, to use that word too often.

MS. ALVES: Understood. Okay. Let me just give Mr. Waite and Mr. Lafave an opportunity to flesh out some of the -- if there's anything more that you want to add to the fungibility discussion.

MR. WAITE: Well, we certainly -- this is Fred Waite. We will certainly address the fungibility, as well as the other four statutory factors, in cumulation, as well as other factors that are, in our judgment, very important in this case,

volume trends and pricing data, in our post-conference brief. I must confess that although we have a great deal of anecdotal information on the four points, we only received questionnaire responses that would enable us to look into the same record that you will be looking at yesterday. So, we will do that between now and next Monday and hopefully that would enable us to give you a completely full analysis on our decumulation issue, relying both on information that we have obtained from JBL, as well as the information that you will have in the record.

MS. ALVES: I'm just trying to get a sense of where some of the issues are heading, given that there's an even longer delay before I get the post-conference briefs, just so that we can have a sense of where things are going, if you're primarily focusing on the fungibility issue, as opposed to channels of distribution, if there are differences there.

MR. WAITE: Well, JBL sells most of its production directly to end users, for example.

MS. ALVES: Which you indicated you believed was also the case for the domestic producers.

MR. WAITE: And that is the case for the other domestic producers. Also, JBL participates in the so-called mating season at the end of the year

with the major customers, the 10 to 20 largest consumers of citric acid, and it fully participates in that process, again in the same way that the domestic producer does, and receives from its customers the same information domestic producers receive, in terms of how the customer can get a better price elsewhere unless JBL is willing to be more aggressive on its pricing.

MS. ALVES: Are you encountering customers, who are telling your client that they can get better Chinese product?

MR. WAITE: It depends on the customer and from what we understand many customers will simply say the price you gave me is close, the price you gave me is out of the ball park, you're going to have to do better. It's not the case where they're shown competing offers from other producers or even have the other producers either by company or by country identify to them.

MS. ALVES: They just know that tehre's somebody who's more competitive without necessarily knowing the source or --

MR. WAITE: They are told by the customer that tehre's somebody more competitive, yes. Which is not unusual, I think, in many industries. Market

information is always imperfect. Customers should be one of the most reliable sources of pricing information in the market, and particularly information from large customers. I don't mean to suggest that customers are misleading their suppliers, it's a dance, it's a negotiation. We've all been through it when we've bought homes or bought cars. On this level it's multinational companies talking to each other about service contracts going for 12 months, perhaps 24 months. So tehre is a lot of signaling back and forth within the constraints of the antitrust and fair competition laws as to what prices are acceptable and what aren't.

I believe as one of the industry witnesses from the Petitioners said this morning, you certainly know the result after you've been told you didn't get the sale.

MS. ALVES: You've made two references this morning to the mating season, and you mentioned at one point that for the beverage industry it's your understanding that April to August is the key period there. Can you talk more specifically, are you alleging, not that tehre's seasonality but there's some sort of equivalent in this industry? If so, if you could break down the distinctions by segment.

MR. WAITE: Of course. Actually the mating season is the period, and I've used that term and I apologize, because I've been in a number of cases where at the end of the year there is this process of negotiation and it's called the mating season in the magnesium industry and the silicon metal industry. I'm not sure if you use the same term in the citric acid industry. It might just be negotiating time.

That's when the contracts are negotiated. What you will also see among the major consumers, and particularly from what we could see in the public record, from the beverage companies, they're often sourcing globally. If you look at some of the beverage companies as to who is the customer in a beverage company, it may not be an office in the United States. It may be an office elsewhere, and that's because that company, and it could be other types of major consumers too, are sourcing globally and they're going through one office in order to make their purchases.

So the contract --

MS. ALVES: So are they not specifying then the point of delivery?

MR. WAITE: I beg your pardon?

MS. ALVES: They're not specifying where the

product would be delivered? They're asking for a global price --

MR. WAITE: No, that's not my understanding, but it's handled globally. That would certainly give a multinational a much better handle on their costs and on the availability of raw materials that they are procuring for their production. But no, different pricing and different markets, obviously, and in different currencies and different quantities and perhaps even different delivery schedules. It's simply that the multinationals will have global sourcing.

I think at many recent hearings before this Commission when you have purchasers come in, especially large multinational purchasers, often the title of the witness will be Global Sourcing Manager or International Procurement Manager. That's all I'm saying. They're negotiated for particular markets as I understand it, and the pricing and delivery terms and schedules are different.

When I was talking about seasonality, that has to do with consumption. Obviously in the United States during the summer we consume a great deal of soft drinks. You just have to go to National Stadium or any other venue and you can see how much Coke or

Pepsi, whoever has the franchise, is consumed.

That's simply a question of shipment, of production and shipment schedules. Prices are not established during that season. That's the consumption season as opposed to the contractual season.

MR. BUTTON: Ken Button from Economic Consulting Services.

As your question is focused a bit on the negotiating process that takes place at the end of the year, I thought a comment would be appropriate to address an issue that was related by the Petitioners this morning. I'd make a comment about that and then invite P&G to carry on.

It was said this morning that in these negotiations, in this mating period, this compacted period of time, the US producers feel somewhat vulnerable because they're dealing with some large customers who seem to have all the market power from their perspective. It's basically the US producers offer a price, the consumers say nope, you've got to go lower, and the US producers are somehow trapped.

There's another side to it, in fact, and I think that P&G perhaps can address this point. It includes, one, the short timeframe is not set by the

customers, it's set by the US producers. It's short by their choice.

Secondly, the US customers are equally concerned to obtain available supply to keep their plants running and they have concerns, and particularly this year that can be discussed, of getting adequate supply.

Perhaps I'd invite P&G to comment about that further.

MR. SMITH: We actually prefer not to have all of our contracts ending on the same date because it leaves our company exposed to more risk. And price aside, supply is number one as far as a purchaser for a company of raw materials. We have to keep our plants operational.

So we would prefer to keep our contracts staggered often on many of our materials including citric acid. We've approached producers early, prior to the end of the year, to see if we can have negotiations. Typically those negotiations have been delayed until the end of the year.

I don't think it's ever been P&G that's driving the delay to the end of the year. We would prefer to actually land our contracts early on so we can focus on maybe some other contracts that end

towards the end of the year.

MS. ALVES: And you mentioned, Mr. Smith, that your contracts have recently been anywhere from a year to, there was one that was a three year term. What is the experience of the others in the industry? Petitioners in their petition and again in their testimony this morning said there are approximately 25 large players. That tehre are these long-term, fixed term contracts. Is that your understanding of the market as well?

MR. SMITH: I can address a bit of that.

We prefer to have long term contracts. Especially in markets like the market that we have right now for citric acid. Recently we have not been able to obtain long term pricing. If that was the question you were asking.

MS. ALVES: If you have any other thoughts --

MR. PORTER: I just wanted to mention --

MS. ALVES: -- obviously you don't have all of your clients here.

MR. PORTER: Mr. Hsu mentioned, there's a whole other side to the market. Petitioners heard today that they're very intent, they're just laser-like focus on these very large customers that can buy

rail volumes and truckload volumes. Certainly JBL is like that too. But we heard that tehre's a lot of small customers out there and they need to be serviced. Those small customers do not buy on a long term contract basis.

MS. ALVES: But they do buy on a contract basis?

MR. HSU: Small customers buy on a spot basis only.

MS. ALVES: At least looking at the import statistics, though, there's certainly a lot of Chinese product in the US market. Is it your position that all of that is going to these mom and pop type producers?

MR. HSU: Yes, the importers that they sell to, distributors and distributors will sell to the mom and pop establishments who require many other ingredients, they want delivered on the same pallet, in the same container. Maybe five bags or 20 bags of citric acid, but a slew of other ingredients of 30 to 40 items in very small quantities. It's a totally different market.

MS. ALVES: And are tehre attempts to sell at some of the other larger purchasers, even if they're not successful sales? Are there --

MR. HSU: No. I believe attempts were made. As I testified earlier, there was a large, the largest Chinese producer attempted to sell Pepsi, but they were not successful.

MS. ALVES: But that was within the period of investigation since 2005?

MR. HSU: Correct.

MS. ALVES: To your knowledge that's the only major area where there were attempts of sales?

MR. HSU: Yes, attempts were made but they did not succeed.

MS. ALVES: Okay.

There's been some reference, in your testimony today you referenced the Kenbuckle Economics Handbook from August 2006 that was put out by SRI. I wondered if you had any comments on the utility of this information. It's included in the petition as one of the exhibits. It's copyrighted so it's in the confidential version.

MR. LAFAVE: I think that was mentioned by the Petitioners as a proprietary exhibit in their petition.

MS. ALVES: Do you have any thoughts on the utility of the source? If others in the industry are familiar with it --

MR. LAFAVE: -- my client so it's pretty difficult to have a thought on it.

MS. ALVES: Are they aware, I'm just trying to get a sense of whether or not this is a publication that's readily available to others.

MR. SMITH: It is. We're aware of the publication. You have to subscribe, pay for the publication.

MS. ALVES: It's something that people in the industry use?

MR. SMITH: It is. It's not published every year, so therefore the data is not always completely up to date.

MS. ALVES: There was some discussion this morning with Chris Cassise about the datasets that we should be looking to and modifications that may be needed to be made in order to accommodate conversion factors and things like that from the monohydrate to the anhydrous version or the solution version. If you can provide as much detail as you can on whatever thoughts you may have as to conversion factors that we need or which datasets are preferable and why, that would be helpful.

MR. LAFAVE: I think I can answer that right now.

From solution to anhydrous you have to divide in half for the quantity. For monohydrate to anhydrous you multiply by .92.

MS. ALVES: So if we had a sense of which portion of imports from China were one form or another we could apply that formula.

MR. LAFAVE: Yes, you could.

MS. ALVES: Okay. And if the Petitioners could comment on the utility of that formula as well in the post-conference briefs that would be helpful.

My last question for now relates to Bratsk. I know you're all familiar with it. Petitioners have conceded this morning that they believe that this does involve a commodity product. Do you have any response to their arguments on the Bratsk issue?

MR. PORTER: A quick response. I believe Petitioners were focusing sort of on the wrong issue. They look at 2007 import volumes and say see, how could non-subjects possibly be a factor in the market? By their own admission, you only go back a few years and non-subjects were a huge part of the market.

So unless they demonstrate that all of that capacity has shut down, and we heard about one or two, but not all. Unless all the capacity is shut down, by their own admission that capacity could come back into

the market if the Chinese and Canadians were kicked out.

So again, I think the issue under Bratsk is the capability of supplying the US market in the future, and not necessarily what has happened in the last year of the POI.

MS. ALVES: Mr. Waite or Mr. Lafave?

MR. LAFAVE: I will just say on behalf of P&G that Mr. Waite testified this morning that the JBL plant in Canada replaced imports from Austria. Obviously if there was a significant antidumping duty placed on product from Canada it's quite possible that that product would be shipped to Europe and the European product would be shipped to the United States.

MS. ALVES: Do you have any thoughts on the types of products that are coming in from the non-subject sources? Are tehre similar questions in terms of the utility of the average unit values?

MR. LAFAVE: P&G doesn't source from any of those places so it doesn't have very good knowledge about those.

MR. WAITE: We will take a look at the import data and hopefully be able to give you some more information in our post-conference brief as to

what those products may be. We'd also note that pricing and quantity often have a relationship and if they're small quantities you tend to have higher prices. Also if they're small quantities they could be specialized products or tehre could be a special relationship that brings them in.

So we'll address that the best that we can in our post-conference brief.

MS. ALVES: That's all the questions I have.

MR. CARPENTER: Mr. Benedetto?

MR. BENEDETTO: Thank you all very much for your testimony and if I ask any questions about any proprietary information, please just indicate that and if you can address it in your briefs.

I guess first for Mr. Smith, I understood from your testimony you said that it's costlier for your firm to use Chinese product. Aside from the overall cost to your firm, are the Chinese and the Canadian products, citric acid products, actually less expensive than the US product or more expensive? On an anhydrous equivalent basis when you just look at the sale, not the overall cost to your firm?

MR. SMITH: The comparison that we've done is on the overall cost. That's how we negotiate and compare, based on a delivered price to our plants.

The Chinese and Canadians have always been more expensive, we know that.

MR. BENEDETTO: Mr. Hsu, is that consistent with what you've observed also? That the Chinese and Canadian product is more expensive --

MR. HSU: We do not compete with the domestic producers in those smaller accounts. Our price is always like 20 to 30 percent higher than the market for large accounts.

MR. BENEDETTO: Mr. Hsu, do you distribute domestic at all? I was going to ask you if you compete with distributors who also distribute domestic. You're saying the domestic is not present in those markets at all?

MR. HSU: I actually purchase domestic citric acid from their distributors as well.

MR. BENEDETTO: Do you compete with other distributors who are distributing domestic also?

MR. HSU: Not really.

MR. BENEDETTO: Do you sell that domestic to some of those same customers that you --

MR. HSU: We actually sell not a single product, we sell a package of ingredients.

MR. BENEDETTO: But to the same customers as you sell the imported --

MR. HSU: Correct. The imported tends to be more expensive.

MR. BENEDETTO: I think I know the answer for Canada since JBL put its plant next to Corn Products International., but we heard this morning that Petitioners thought that the raw materials used in China and Canada were also mostly corn. Is that correct?

MR. WAITE: That is correct, yes.

MR. BENEDETTO: For Canada, that's correct. Is that true for China also, or --

MR. HSU: Excuse me?

MR. BENEDETTO: Is the raw material used in China to produce citric acid mostly corn? Or is it something else?

MR. HSU: I think it's split between corn and tapioca.

MR. BENEDETTO: Is it half and half do you think?

MR. HSU: It's about half and half.

MR. BENEDETTO: Do you know anything about trends in tapioca pricing in China?

MR. HSU: Tapioca prices have I think quadrupled.

MR. BENEDETTO: So something like corn, it's

gone up a lot like corn.

MR. HSU: I think the tapioca demand in the Asian food applications have quadrupled.

MR. BENEDETTO: In terms of quality --

MR. HSU: Both demand and price quadrupled.

MR. BENEDETTO: Thank you. That's helpful.

In terms of the quality comparison between the US and Chinese product, is caking due to absorption of water the only issue? Are tehre other differences? I understand that could be a very significant issue, but --

MR. HSU: The Chinese in general is inferior, although it does meet USP or FCC standards. Color is not specified in the USP. The acidity level is not consistent. The pH value is not consistent from batch to batch among the Chinese suppliers. In that respect the imported materials are not consistent and are of inferior quality, but they do meet USP or FCC specs.

MR. BENEDETTO: So tehre's a wider range of issues there then.

I guess both Mr. Hsu and Mr. Waite, you said that JBL is not considered a foreign supplier, or that it is considered a domestic supplier in the US market. I understood your example that you say you're going to

submit documentation on about how they actually produced for a US producer.

Is that what you mean by saying they are considered a US supplier? I guess I'm confused. What does it mean to be, they're not a US supplier, so what do you mean, they're considered a US supplier?

MR. WAITE: A number of things. As Mr. Hsu indicated, and as we've been told by our customers, customers consider JBL no differently than they consider the three domestic producers. The fact that JBL is located across the border from Niagara Falls is not an important consideration to customers given the terms of the NAFTA which permit duty-free entry in terms of transportation hubs and links in the northeast of the United States that then feed into the Midwest and the rest of the country.

But in terms of being a US supplier tehre are a number of factors and I went through them in my testimony. JBL acts like a domestic supplier. Indeed, its marketing officer is located in Newton Center, just outside Boston, Mass. And when it enters the market it acts like an American producer in so many ways. It ships directly to end users in the United States. It engages in the so-called mating season the same way American producers do. It offers

a consistently high quality product, what we termed a premium product in terms of purity and color and grade and quality. It operates under many and indeed more constraints than US producers in terms of its own operations in Canada and the standards that it must meet.

So by being a US supplier it's both customer perception and also the way JBL enters the market. They decided to come to North America in order to be a North American producer, and not to continue to source from their Austrian plant for their customers in the United States.

MR. BENEDETTO: IS it a corollary that non-subject imports and Chinese imports don't do those things that you just described?

MR. WAITE: Tehre's no non-subject or Chinese production on the border of the United States. As far as I know, tehre's no longer any citric acid production in North America. There had been production in Mexico by affiliates of some of the domestic producers but we understand that those have been shuttered.

There may be some local Mexican producers but the quality is probably not of a level that would enable them to enter the US market.

So in terms of Chinese, obviously Chinese cannot operate the same way we do. They can't ship tank cars across the Pacific. They can't ship the way that we do on the North American rail and road net.

Whether there are other producers in North America that might operate the way we do, we're not aware of them. And I don't think the domestic industry mentioned it or any other producers in North America that operated the way they and JBL operate.

MR. BENEDETTO: That's helpful.

Have there been any exchange rate affects over this period that have affected the citric acid imports from the two subject countries?

MR. HSU: Yes. The revaluation of the Chinese currency I believe about 18 to 20 percent --

MR. BENEDETTO: What affect has that had on the citric acid market?

MR. HSU: -- has resulted in significant increases of Chinese citric acid prices.

MR. BENEDETTO: And for Canada?

MR. WAITE: The Canadian currency has obviously appreciated against the US dollar the way so many currencies of industrialized countries have. And that's simply an issue that has to be addressed.

Most producers, and again, we're a producer

in North America. Most producers try to hedge on currency as they try to hedge on their raw materials. JBL does what you would expect any multinational company to do in that regard. Indeed, as the Petitioners themselves do.

In terms of actual affect, we can look at that. I would say that when you're selling into the US market you're selling into the US market and the US market is really driving the conditions in this market.

MR. BENEDETTO: Going to one of the charts that the Petitioners gave us, the growth of citric products, subject imports since 1999, it shows an increase in the value of both Canadian and Chinese imports over 2005 to 2007. I guess my question is, if the prices are higher for the imports as you're saying, and there's been these exchange rate issues, why are the imports increasing? What's going on in the US market or wherever? Why are subject imports increasing over 2005 to 2007?

MR. WAITE: I can only speak of JBL and its production and shipments from Canada. One of the reasons, of course, as I mentioned is that historically JBL had served its customers in North America from its operations in Europe. When the

Canadian plant started production, moved into operation, that production replaced production coming out of Europe. So you would see an increase coming from Canada and a decrease coming out of Europe. That's what indeed the import statistics show.

Incidentally, JBL moved into production in about 2002 and that correlates very closely with the chart that the Petitioners provided you this morning.

In terms of how can a company that sells at higher prices and your data shows that do that? How can it stay in the market? Again, there are other non-price factors that are obviously driving purchasing decisions, particularly these large purchasers.

You have heard so many times in this room from large consuming companies, particularly multinational companies, tell you that many of them even have corporate rules that require them to multi-source and to multi-source basic significant inputs. I think you heard a little of that, or it was intimated, today. That these companies cannot rely on just one supplier. They don't like to rely on contracts that will expire on the same date. They have a production schedule that is important that it not be interrupted because they incur tremendous costs

both in terms of their production and also in terms of their presence in the market.

So tehre are many reasons why companies may be willing to pay, as I said earlier, a premium price including the consistency of the product, the dependability of the supply, the willingness of the supplier to work with the customer in terms of any technical issues or delivery or terms that may come up.

MR. BENEDETTO: Any response for China?

MR. HSU: The increase of Chinese imports primarily is from the industrial sector. Especially the water treatment sector.

MR. BENEDETTO: Why has tehre been an increase in that sector?

MR. HSU: As I said, states have been limiting, as far as I know, the state of Washington, the state of Maine, there are at least 12 to 13 states that are regulating the use of phosphoric acid. They're eradicating the phosphoric acid from the water treatment plants, and users, industrial water treatment companies and also the paper mills, the sewage plants, they are switching to citric acid.

MR. BENEDETTO: When you spoke about a demand growth of ten percent was that just for the

industrial segment? Or was that for --

MR. HSU: Ten percent in relation to the total consumption.

MR. BENEDETTO: Total consumption of all citric acid across all segments.

MR. HSU: Right.

MR. BENEDETTO: Is that an annual number or is that for 2005 to 2007 or --

MR. HSU: For the POI.

MR. BENEDETTO: Is ten percent growth over two years or so, is that a good rate, considered a good rate of growth?

MR. HSU: It is a very good rate of growth.

MR. BENEDETTO: Is that consistent with what the Petitioners said this morning, that there has sort of been demand growth at the same rate as population growth? There hadn't been anything particularly --

MR. HSU: If I remember correctly the Petitioners said the growth has been five percent every year.

MR. BENEDETTO: You think that's consistent then with that? Or --

MR. HSU: Yes.

MR. BENEDETTO: Do you agree with that as well?

MR. WAITE: JBL believes that global consumption is increasing about five percent a year. Within various segments in the US market some are probably increasing faster than that and some not as quickly.

MR. BENEDETTO: One more question for JBL. Are there any other Austrian producers besides JBL? Or are we going to be able to see very clearly in the import data the Austrian shipments switching over to Canadian shipments?

MR. WAITE: We are not aware of any other Austrian producer of citric acid, but we will confirm that to you, Mr. Benedetto.

MR. BENEDETTO: Thank you all very much for your testimony.

I don't have any further cadence.

MR. CARPENTER: Mr. Ascienzo?

MR. ASCIENZO: Thank you, I have just one question for Mr. Hsu.

The product that comes in from China prior to caking, the way I understand it, meets the FCC and the UCC, all of the specifications.

After caking does it still meet these specifications?

MR. HSU: No. The USP and FCC has a

moisture content limit of half a percent. The resulting moisture at arrival at the US ports probably excess the USP, FCC standard.

MR. ASCIENZO: So it does not meet them after it cakes.

MR. HSU: Correct.

MR. ASCIENZO: Thank you. That's my one question.

MR. CARPENTER: Mr. Clark?

MR. CLARK: Thanks for your testimony. I just have a couple of questions about the product that's produced regarding JBL's production. Why only citric acid? Why not the salts?

MR. WAITE: The decision was made to focus on citric acid. I'm not sure I can say anything further than that in the public forum, but if there are other reasons I will put those into our post-conference brief.

MR. CLARK: Okay, I appreciate that.

MR. WAITE: Of course.

MR. CLARK: For the Chinese producers, are there plants that focus only on citric acid or only on the salt forms?

MR. HSU: Are tehre any Chinese plants solely focused on citric acid?

MR. CLARK: Yes. They don't bother making the salts, they only make the acid form.

MR. HSU: As far as I know, yes.

MR. CLARK: If you could provide some information on that. Tehre seems to be enough market in the US, again we talked about potassium citrate being used in, I guess not with the Chinese at this point, not being able to get --

MR. HSU: China is a net importer of sodium carbonate and sodium hydroxide. China is also a net importer of potassium hydroxide. So the salts are imported and more expensive than what US producers can source.

MR. CLARK: Thank you.

MR. WAITE: Mr. Clark, if I could interrupt for a second. I just wanted to confirm that my response referred to JBL Canada only in terms of production of citric acid. JBL does produce the citrates in its plants in Europe.

MR. CLARK: Thank you.

Those are all the questions I have. Thank you.

MR. CARPENTER: Mr. Deyman?

MR. DEYMAN: George Deyman, Office of Investigations.

The Petitioners contend that the industry in China has excess capacity, that capacity in China far exceeds internal demand and that producers in China are increasing their capacity.

Do you dispute the Petitioner's assessment of the industry and capacity in China?

MR. PORTER: We certainly dispute their implications.

There's no question that capacity in China has increased since the last case. In fact you will see, I believe, that the capacity probably increased over the POI.

The good news is you're going to have all of this data, Mr. Deyman, because the clients that we represent, and each one will give a complete and full answer to the foreign producer questionnaire, giving capacity, production and so forth.

The one thing that I'd like to ask you to consider is that I don't think the dumping law requires a focus solely on internal consumption. You will see that the Chinese do export a lot but they export to a lot of different countries. In fact the latest statistics from the Chinese export statistics show that in 2007 exports to the United States were at the lowest level compared to the percent of total

exports than at any time for the past eight years.

So in fact they're exporting, but they're exporting to other countries as well as the United States, an increasing amount besides the United States.

When we look at capacity we need to think of both internal consumption as well as exports to other markets.

MR. DEYMAN: Okay.

MR. HSU: May I add a comment to it?

I believe your 1999 and 2000, at that time there were more than 100 citric acid producers. Nowadays those plants theoretically counted as capacity, they have been idled or shuttered because of pollution, not meeting environmental standards. So theoretically the capacity is still there, but legally they cannot reopen.

What new producers and Mr. Porter was representing before, is probably the one-third of the fuel radical capacity.

MR. DEYMAN: Thank you.

To the extent that producers of citric acid in China use corn or tapioca as their raw material substrate, what has been the effect of large increases in the prices of corn and tapioca on the producers'

pricing and on their ability to export?

MR. HSU: The increase in corn and tapioca prices have a negative impact on Chinese producers' ability to export. So the answer is yes.

MR. LAFAVE: I think we can say from P&G's perspective that the price of the Chinese citric has gone up steadily through the period of investigation.

MR. DEYMAN: All right.

According to Petitioners the subject imports of citric acid increased during 2005 to 2007. Assuming that tehre was an increase in subject imports what were the principle reasons for the increase? They claim that the product essentially is dumped, but other than that, why would the imports be increasing from both Canada and China?

MR. WAITE: If I can go first on behalf of Canada, it's because the Canadian plant of JBL was built in 2000 to 2002. It began production in 2002, so by 2005 it was reaching its full capabilities as a company. As a result of that and replacing the production from Austria which had been coming in through the United States to meet US demand for JBL products, you saw the replacement and the increase from Canada occur during that time period.

MR. PORTER: I would echo that, Mr. Deyman.

I think -- Don't forget, subject imports is an artificial construct. Obviously a legally important one, but still an artificial one. So the two driving things, the increase in subject imports are import substitution, they're replacing imports from other sources, and increased demand.

As we heard from Mr. Hsu today, there's been an increased, probably larger than the average increase in the industrial segment where the Chinese supplies have historically been. So demand for their product has increased.

MR. DEYMAN: Now to what extent, if any, do importers or end users blend citric acid from different sources. Does this occur in this product?

MR. SMITH: As far as P&G, the blending happens in the campaign, so we never commingle product from two different sources. But we can do product from different sources separately.

MR. DEYMAN: All right. Mr. Hsu?

MR. HSU: The answer is no. No commingling or domestic/import citric. They cannot be blended.

MR. DEYMAN: Mr. Hsu, earlier you mentioned selling a package of products. I took that to mean that sometimes you will sell to a customer citric acid but also some other products that kind of go with it.

Is that correct?

MR. HSU: Yes.

MR. DEYMAN: When that happens is the price of the citric acid influenced by the price of the other products with which it's sold?

MR. HSU: Yes, to a certain degree. The citric acid price and relative to other ingredients, a distributor will look at the total bottom line profitability.

MR. DEYMAN: So when you report your prices of citric acid, is it an estimate or is it an actual price for --

MR. HSU: It would be an estimate.

MR. DEYMAN: It would be an estimate.

My last question is, as I understand it in July of last year China reduced its export tax rebate on a number of industrial products. Would the export types rebate reduce for citric acid? And if so, by how much was it reduced and when did the rebate become effective?

MR. HSU: China charges an export value added tax on all exports but they would rebate to exporters certain percentages. As far as I believe, and I may not be correct on this issue, the export rebate has been reduced to five percent.

MR. DEYMAN: By five percent? To five percent?

MR. HSU: It was 13 or 12 percent. Now the rebate is five percent.

MR. CARPENTER: That's as of last summer.

MR. HSU: It's actually a burden on exporters. In the United States, actually, they don't pay sales tax. They don't pay value added was. The Chinese exporters have to pay the government a 17 percent value added tax. They only get five percent back from the government and they are paying 12 percent, which the United States exporters do not have to pay.

MR. DEYMAN: Has the price of --

MR. HSU: It is a significant disadvantage to the Chinese export industry.

MR. HSU: Has the price of the product from China increased not only because of the exchange rate but because of the lesser rebate that they're getting since last summer?

MR. HSU: The Chinese citric acid prices have increased between 30 and 40 percent from the level in 2005, 2006. We saw significant increases in 2007 and the first quarter of 2008, almost a 40 percent increase compared to the prices of two years

ago.

MR. DEYMAN: I have no further questions. Thank you.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Mr. Porter, if you wanted to take a quick moment and comment on the pending EC investment against imports from China?

MR. PORTER: I'll be happy to address it in post-conference brief. I do not know any more than was said today. There is an investigation, but I agree with Mr. Ellis, there have been no provisional duties imposed yet but DC is going through their process. I believe they're under some sort of time deadline as well.

MS. ALVES: That's all.

MR. CARPENTER: Mr. Benedetto?

MR. BENEDETTO: One more quick question, I'm sorry.

Mr. Smith and Mr. Hsu, we heard this morning that the percentage of end use product,s the percentage of the cost of an end use product accounted for by citric acid was very low. Is that consistent with what you know from your experiences?

MR. SMITH: I guess it depends what you mean as low. I heard one percent.

MR. BENEDETTO: Is that consistent with your experience?

MR. SMITH: P&G is more than one percent. We'd have to submit that post-hearing.

MR. HSU: They value of citric acid in a food or beverage product is very low. I would say less than two percent.

MR. BENEDETTO: And in a cleaner or detergent product?

MR. HSU: I'm not aware of the detergent, but in food and juice products I would say the acid cost, citric acid cost relative to the total price of that particular product per unit is less than two percent.

MR. BENEDETTO: Thank you all very much.

MR. CARPENTER: Thank you again very much, panel, for your testimony and for your very thorough responses to our questions. We very much appreciate it. It was very helpful to us.

At this point we'll take a short break of about ten minutes to allow parties to prepare their closing statements and we'll begin those with the Petitioners.

(Whereupon, a brief recess was taken).

MR. CARPENTER: Mr. Ellis, please proceed

whenever you're ready.

MR. ELLIS: Good afternoon, I appreciate your patience and your attention and your effort you put in through this long hearing conference. I'm glad to give my final thoughts on this preliminary investigation.

What I'd like to do is start with a few rebuttal points. I understand I have about ten minutes, is that correct?

MR. CARPENTER: Correct.

MR. ELLIS: I'll give a few rebuttal points and then a closing.

First we heard a great deal today from Mr. Waite about how the Canadian industry considers it basically a part of the US industry or part of the North American industry. I would just remind everybody in the room that Canada is a foreign country. They're very proud of their sovereignty. JBL in fact is not part of the US industry. They were specifically located in Canada for whatever combination of reasons, but the fact is that they are not a US producer.

Nonetheless, the plant was built as close as you can get to the United States specifically for reasons of intending to compete and to participate in

the US market.

So for purposes of cumulation, at least, we would say that the Canadian producer clearly competes across the board with the US industry and therefore it meets that criteria for cumulation.

So does China. We heard a lot today about the Chinese producers allegedly not producing up to the quality required of the US food and beverage industry and the soft drink industry. That simply does not match the reality of what we understand is going on in the US market.

One small thing we showed in the slide earlier today, the US non food and beverage industry, that is the industrial sector, is smaller than the total amount of Chinese imports. So if the Chinese imports even met 100 percent of the requirements for the industrial sector there would still be some Chinese left over that has to be going to the food and beverage industry.

The notion that the Chinese industry is not sufficiently like the Canadian, not sufficiently like the United States industry so therefore should not be cumulated, simply does not fly.

Going back to the Canadian pricing, we heard about there was a lot of confusion about the prices.

Admittedly we share some of that confusion. The fact is that the average unit values reported by customs and commerce are much lower than the reported data in the imported questionnaire responses. We think the latter is strange, we don't understand it, we will try to deal with it in BPI in our post-conference brief to the extent we can figure this out, but I would note that the peers data shows that 90 percent of imports are anhydrous. So this idea of conversion of monohydrate to anhydrous or liquid or whatever is causing the problem, can't be the problem. It just statistically can't work out to be that significant.

The other point I would mention about Canada is that although I'm sure JBL is very proud of its product, it is not a premium product that would warrant the kind of overselling ratios we're seeing.

It meets the same quality standards as the US product. It meets the same USP and FCC requirements. While they are proud of their customer relations, so are the US producers. In fact this is not an industry that requires intensive post-sale technical or quality service, so the idea that customers would be paying more for that I would submit is unlikely.

Back to the Chinese production for a moment,

I would note, as I said a moment ago, they must be servicing the soft drink and beverage industry because of the sheer volume of what's coming in from China. But in addition we noted, we have a list of importers in our petition and it shows that tehre are major beverage companies who are directly importing from China including Pepsi, one of the ones that was mentioned this afternoon.

In addition we note that the caking problem that was talked about is highly exaggerated. Chinese product is shipped around the world. It's shipped to Africa, it's shipped to the Middle East, so is American product. People have learned to deal with caking, to suppress that problem over the years. It is simply not a big enough problem that Chinese product somehow fails to meet the US beverage standards because of caking of the product.

Finally on rebuttal point, my final rebuttal point, I would note that the Chinese witness you had, although I'm sure he is very knowledgeable, has a very narrow view of the industry. He is basically a repackager. It sounded like he sells to very small quantities to very small purchasers in the United States A few bags here, a few bags tehre. The fact is that 180 million pounds of Chinese citric acid were

shipped to the United States in 2007. They did not come in here a bag at a time and they were not sold to customers a bag at a time. There are very major US importers who you have not heard from and hopefully we'll be getting, we've gotten some importer questionnaire responses, maybe we'll get a few more. But their story and the story told by Mr. Hsu this afternoon I think are very different in terms of how they service the US industry, how they compete with the US suppliers. So this is not a vision of the way that China competes in the United States that you should take away from this hearing.

A few final points, general points I'd like to make.

First, material injury is being suffered by the US industry which is reflected across a range of the financial indicators that the Commission traditionally considers. Capacity utilization, inventories, profitability, investment, return on assets, employment trends, across the board.

Also, this is true for all of the US companies. Tehre's no one US company that for idiosyncratic reasons has dragged down the statistics. It's across the board, all three companies.

Second, as I think has been agreed, this is

pretty much a commodity product. Competition is on the basis of price. Again, contrary to what we may have heard this afternoon, the Chinese are qualified to sell to the food and beverage industry, they do sell to the food and beverage industry. Quality is not really a problem for JBL, of course, or for the major exporters of China product to the United States, and therefore the only remaining method or basis on which there is competition is on price.

Third, production capacity in Canada and China it cannot be disputed has expanded dramatically. In Canada the details are proprietary so we will talk about that in our post-conference brief.

In China, as we've already mentioned, capacity has increased massively and it continues to increase with new investments. It's projected to continue increasing for the next few years.

Tehre's a 2007 update of the CEH report which we will submit with our post-hearing brief we just obtained. It shows in 2006 the total capacity in China had grown to over one million metric tons and while production in China is 700,000 metric tons, that still leaves about 500,000 of unutilized capacity. In addition, of the 700,000 metric tons, half a million were exported because, again, tehre's only about

200,000 metric tons of domestic demand in China.

Mr. Porter mentioned this capacity may not necessarily come to the United States. I would point out that Southeast Asia or wherever else, Africa, that China may ship, is simply not a big enough part of the world to command half a million tons. Again, if Europe gets closed off there's going to be additional pressure due to the shipments in Europe having to be diverted elsewhere.

So in conclusion, the US industry has suffered material injury throughout the three year POI and into the present. That can't be denied. Meanwhile capacity and production in Canada and China have increased significantly. That also can't be denied. The causal connection between the two likewise cannot be denied.

As unfairly traded imports have increased to assume a large percentage of the US market and they have invaded the food and beverage sector of the market despite what we heard this afternoon. The US industry has suffered injury across a range of financial indicators that the Commission considers. This is a classic situation, I would submit, for operation of the trade remedy laws.

Petitioners submit, therefore, that the

Commission should issue an affirmative determination and permit this investigation to continue.

Thank you very much.

MR. CARPENTER: Thank you, Mr. Ellis.

Mr. Porter or Mr. Waite?

MR. WAITE: Thank you, Mr. Carpenter.

I just want to reiterate several of the points that we discussed. I don't think it's necessary to elaborate them at this point. We discussed them at length and they will certainly be fully addressed in our post-conference brief.

We pointed out that the record evidence in this case shows that the products produced by JBL in Canada are consistently priced higher than the domestic market. The domestic producers. JBL is operating at virtually full capacity. When JBL began production in Canada it displaced production from Europe and simply replaced Austrian citric acid with Canadian citric acid for JBL's American customers.

We've heard I believe from all panels today that demand for citric acid is growing, certainly globally. It's growing in the United States and in particular in certain segments of the market.

JBL in Canada produces 100 percent of its product to the food grade standard which means it can

be used throughout the marketplace. That it produces a consistent and quality product. And that customers in the United States consider JBL to be simply an additional domestic supplier.

We believe when the Commission considers these and the other salient facts in this investigation it will see that JBL is not injuring or threatening to injure the domestic industry.

Thank you very much.

MR. PORTER: Mr. Carpenter, I hope to be very brief.

For the record, again, my name is Daniel Porter.

A couple of quick rebuttal points in response to Petitioner's testimony and to Mr. Ellis' comments a moment ago.

First, the issue is, again, less about quality coming off the production line than, if you will, how the product arrives at the customer. Mr. Ellis tried to say that the caking problem was overstated because the Chinese ship to the Middle East and to Africa. Yes, they may ship there. However, those customers don't have the sophisticated, automated machines that require that the forum be no moisture and so there's no clogging.

So the fact that it could be shipped somewhere else and be used doesn't mean that the customers here can't take it when it comes off the boat. The focus, of course, is customers here. Issue number one.

The next thing, again, is the argument is not that the Chinese don't compete at all in the entire food and beverage segment. There are certain segments within the all important food and beverage, certainly very important segments, that they ra not in.

Again, you heard testimony about Pepsi. I urge you to contact Pepsi and speak to them yourself.

Finally, I want to note that it was quite unusual this morning that the Petitioner's witnesses actually admitted two critical points of our argument. First, this morning Petitioners said they are intently focused on the very large customers in the market. The customers that they can provide the container loads and the truck loads.

At the same time, Petitioners acknowledge, and this is a quote, "that tehre's a tremendous number of customers out there in the market for very many different end uses."

So there you have it. You have different

segments in which different suppliers are concentrated. I think when you've stepped back and looked at this you'll see that the Chinese suppliers are not competing in such a head to head fashion on an entire market basis as to cause them material injury.

Thank you.

MR. CARPENTER: Thank you, gentlemen, for those comments.

ON behalf of the Commission and the staff, I want to thank the witnesses who came here today, as well as counsel, for helping us gain a better understanding of this product and the conditions of competition in this industry.

Before concluding let me mention a few dates to keep in mind. The deadline for the submission of corrections to the transcript and for briefing investigations is Monday, May 12th.

If briefs contain business proprietary information, a public version is due on May 13th.

The Commission has tentatively scheduled its vote on the investigations for May 28th at 11:00 a.m.. It will report its determinations to the Secretary of Commerce on May 29th.

Commissioners' opinions will be transmitted to Commerce on June 5th.

Thank you for coming. this conference is adjourned.

(Whereupon, at 2:04 p.m., the preliminary conference in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Citric Acid

INVESTIGATION NOS.: 701-TA-456

HEARING DATE: May 7, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 7, 2008

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter