UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos.:**
CITRIC ACID AND CERTAIN CITRATE SALTS	**) 701-TA-581 AND**
FROM BELGIUM, COLOMBIA, AND THAILAND	**) 731-TA-1374-1376 (FINAL)**

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
CITRIC ACID AND CERTAIN CITRATE	) 701-TA-581 AND
SALTS FROM BELGIUM, COLOMBIA, AND	) 731-TA-1374-1376
THAILAND	) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Monday, May 14, 2018

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Rhonda K. Schmidtlein, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman Rhonda K. Schmidtlein (presiding)

Vice Chairman David S. Johanson

Commissioner Irving A. Williamson

Commissioner Meredith M. Broadbent

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Amelia Shister, Investigator

Jeffrey Clark, International Trade Analyst

Fernando Gracia, International Economist

Jennifer Brinckhaus, Accountant/Auditor

Courtney McNamara, Attorney/Advisor

Craig Thomsen, Supervisory Investigator

Opening Remarks:

Petitioners (Stephen A. Jones, King & Spalding LLP)

Respondents (Warren E. Connelly, Trade Pacific)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

King & Spalding LLP

Washington, DC

on behalf of

Archer Daniels Midland Company

Cargill, Inc.

Tate & Lyle Ingredients Americas LLC

Christopher B. Aud, Assistant Vice President, Cargill Starches and Sweeteners, Acidulants Product Line, Cargill, Inc.

Brett S. Tuma, Commercial Manager, Acidulants, Cargill, Inc.

Jeffrey S. Peel, Director Acidulants, Archer Daniels Midland Company

Kenneth F. Erickson, Vice President, Product Line Management Acidulants & Vico, Tate & Lyle Ingredients Americas LLC

Andrew Szamosszegi, Principal, Capital Trade, Inc.

Bonnie B. Byers, Senior International Trade Consultant, King & Spalding LLP

APPEARANCES (Continued):

Stephen A. Jones and Benjamin J. Bay - Of Counsel

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:

Crowell & Moring LLP
Washington, DC
on behalf of
S.A. Citrique Belge N.V. ("Citrique Belge")

Hans de Backer, Managing Director, Citrique Belge
Beate Braeuer, Sales Manager, Citrique Belge
Daniel J. Cannistra - Of Counsel

Trade Pacific PLLC
Washington, DC
on behalf
Sucroal S. A. ("Sucroal")

Curtis Andrew Poulos, Commercial Executive, Sucroal
Warren E. Connelly - Of Counsel

APPEARANCES (Continued):

Harris Bricken McCay, LLP

Seattle, WA

on behalf of

COFCO Biochemical (Thailand) Co., Ltd. ("COFCO Thailand")

Niran (Thailand) Co., Ltd. ("Niran")

Adams C. Lee - Of Counsel

Rebuttal/Closing Remarks:

Petitioners (Stephen A. Jones, King & Spalding LLP)

Respondents (Daniel J. Cannistra, Crowell & Moring LLP)

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P R O C E E D I N G S

(9:30 a.m.)

MR. BISHOP: Will the room please come to order?

CHAIRMAN SCHMIDTLEIN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing in the final phase of Investigation Nos. 701-TA-581 and 731-TA-1374 to 1376 involving citric acid and certain citrate salts from Belgium, Columbia and Thailand.

The purpose of this review is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of imports of citric acid and certain citrate salts from Belgium, Columbia and Thailand.

Schedule setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the Public Distribution Table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

I understand that parties are aware of the time allocations. Any questions regarding time allocations should be directed to the Secretary. Speakers are reminded not to refer business proprietary information in their

remarks or answers to questions. Please speak clearly into the microphones and state your name for the record for the benefit of the court reporter.

If you will be submitting documents that contain information you wish classified as business confidential your request should comply with Commission rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Madam Chairman, I would note that all witnesses for today's hearing have been sworn in. There are no other preliminary matters.

CHAIRMAN SCHMIDTLEIN: Very well, then we will move to opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioners will be given by Steven H. Jones of King and Spaulding. Mr. Jones, you have five minutes.

OPENING STATEMENT OF STEPHEN A. JONES

MR. JONES: Good morning, Chairman Schmidtlein and members of the Commission. My name is Steve Jones. I'm from King and Spaulding representing the Petitioners today. This case is about rapidly increasing imports of citric acid and certain citrate salts from Belgium, Columbia and Thailand. The Department of Commerce has preliminarily determined that imports from all three countries are being dumped at commercially significant margins, ranging from 5 to 27 percent. All investigated producers were found to be

dumping.

The Commission is very familiar with this product. It reached affirmative determinations in investigations involving imports of citric acid from China and Canada in 2009 and it reached affirmative determinations as to imports from both countries in the first Sunset Review in 2015.

The scope of these investigations is the same of the scope of those orders. As in those prior investigations, there is a single domestic like product corresponding to the scope of the investigations. The domestic like product definition is not in dispute. The key conditions of competition which have not changed over the past decade make the Domestic Industry especially susceptible to injury from unfairly priced imports.

First, citric acid is a commodity product and suppliers from the Subject Countries and the United States compete primarily on the basis of price. Subject Imports from all three countries compete with each other and with the Domestic Producers. The Imports and the Domestic Products are highly fungible and compete head-to-head in all channels of distribution and all geographic regions. Accordingly, the statutory criteria for cumulation are met.

Second, this industry is highly capital intensive. Fixed costs are high relative to variable costs.

Citric acid plants are intended to operate continuously in order to minimize fixed per unit costs and avoid costly shutdown. Because U.S. Producers must maximize capacity utilization they have a strong incentive to meet lower-priced import competition and avoid lost sales volume.

Third, because there is a small number of U.S. Purchasers that account for a large percentage of domestic consumption there is a high degree of price transparency in the market. Purchasers are well aware of import prices and use that information to negotiate price reductions with Domestic Producers. Contracts provide no insulation as purchasers often demand renegotiations to meet lower prices or purchase less than contracted volume.

Applying the statutory injury factors the volume of cumulated Subject Imports and the increase in the volume of those imports are both significant as are the increases in market share. Subject Imports have increased by 26 percent and gained significant market share during the period. The Staff confirmed that U.S. Producers lost a substantial volume of sales and revenues to Subject Imports.

The Subject Imports also have depressed and suppressed domestic prices. The average unit value of Subject Imports declined significantly over the POI and U.S. Producers attempted to hold the line but were forced to drop their prices in an attempt to maintain sales volume.

Subject Imports have undersold the domestic like product and created a cost-price squeeze.

Finally, the Subject Imports have adversely impacted the Domestic Industry's performance. The industry's profitability declined at a time when it should have been increasing. Declining profitability has prevented needed investments which has adversely affected the industry's competitiveness. The respondents contend that Subject Imports have played no role in the industry's decline, instead blaming non-GMO imports, imports from Canada and several other factors. Those arguments have no merit.

Regardless of the merits of those claims Respondents have not and cannot eliminate Subject Imports as a material cause of the industry's deteriorating condition. Because the industry is materially injured by reason of Subject Imports there is no need for the Commission to assess threat of injury but the export-focused orientation of Subject Producers, their interest in the U.S. Market, the rapid increase in imports, the low and declining prices, the excess capacity in the Subject Countries and globally and the vulnerability of the Domestic Industry combine to make it clear that future injury is also imminent if duty is not imposed to offset the unfair pricing.

Therefore, the Commission should reach

affirmative determinations in each of these investigations. Thank you.

MR. BISHOP: Thank you, Mr. Jones. Opening remarks on behalf of Respondents will be given by Warren E. Connelly of Trade Pacific. Mr. Connelly, you have 5 minutes.

OPENING STATEMENT OF WARREN E CONNELLY

MR. CONNELLY: Good morning. We intend to demonstrate today that the Petitioners entitlement to relief is highly questionable, just as it was in 2009 when they barely survived the 3:3 vote on their Petition against Canada and China. IN 2009 the three dissenters relied on certain facts and findings that are even more relevant today.

For example, then as now the market was relatively concentrated and was dominated by a small group of large end-users primarily in the food and beverage segment. Then as now the Petitioners had a stranglehold on these large accounts and the dissenters noted that the Petitioners "compete fiercely" among themselves for these accounts.

One important way of maintaining their stranglehold was the use of long-term contracts featuring low prices, sometimes indexed to corn prices. That practice continues today. On the other hand, importers have always

depended far more heavily on spot sales and short-term sales. This is an important aspect of attenuation.

Then as now multiple sourcing was a common practice and that seems to be even truer today than it was in 2009 especially because end-users cannot afford significant supply interruptions. Price remains an important purchase factor but the overwhelming opinion of purchasers is that the Petitioners have remained the price-leaders even after receiving import relief in 2009. Their opinion is consistent with the evidence concerning how the Domestic Producers seek to lock up significant sales volumes through long-term contracts with low prices. These prices also have ripple effects throughout other market segments.

The evidence concerning import underselling is mixed but there is an inherent distortion in the Commission's analysis that should be recognized, specifically the quarterly quantities and values reported by the Petitioners have been weight-averaged to derive a single domestic product price for each quarter. This methodology necessarily obscures and neutralizes price leadership among these three fierce competitors.

We provided in our brief the annual AUVs for each Petitioner, which illustrates how domestic price leadership is obscured. For this reason, we urge the Commission to

look behind the averages for all three Petitioners in order to determine what is really going on.

Figuring out the true dynamics of the marketplace also requires an analysis of the nature of Domestic and Import competition if any within each market segment. Our brief shows minimal competition in significant segments such as spot sales, short-term contract sales, sodium citrate and potassium citrate sales and sales of citric acid and solution.

Equally important, the rapid increase in demand for non-GMO citric acid since 2015, especially citric acid that has earned the non-GMO project verified label, is important. We have provided a reliable estimate of the size of this market segment for which no domestic producer can compete. Non-subject imports, especially from Canada are an important competitive factor especially given their extremely low import AUVs.

Apparent consumption rose significantly during the POI as did non-Subject Imports. In fact, non-Subject Imports consistently exceeded Subject Imports in terms of both volume and market share. Against this complex market segmentation in which competition between Subject Imports and the Petitioners is far more limited than has been claimed. We find a very healthy Domestic Industry.

Moreover we have demonstrated that any

performance issues or profitability issues are largely the result of internal factors unrelated to import competition. In summary, Subject Imports play a complimentary role in the U.S. Market. Subject Imports can never hope to replace the Petitioners at the major food and beverage accounts. The evidence in the 2009 investigation and this one make that fact abundantly clear. Underselling is modest and the petitioners are or should be financially sound.

For all of these reasons, we request a negative determination. Thank you.

MR. BISHOP: Thank you, Mr. Connelly.

CHAIRMAN SCHMIDTLEIN: Thank you. Mr. Secretary, would you please announce the first Panel?

MR. BISHOP: Would the Panel in support of the imposition of antidumping and countervailing duty orders please come forward and be seated. Madam Chairman, this Panel has 60 minutes for their direct testimony.

CHAIRMAN SCHMIDTLEIN: Thank you.

STATEMENT OF CHRISTOPHER B. AUD

MR. AUD: Good morning. My name is Chris Aud and since 2013 I have worked at Cargill as Assistant Vice President of Cargill Starches and Sweeteners, Acidulants Product Line Manager. My main responsibilities in that capacity include leading the citric acid business for Cargill Starches and Sweeteners, North America.

Cargill is a privately held, family-owned company that celebrated its 150th anniversary just a couple of years ago. Founded in Conover, Iowa, Cargill has grown into an international company that produces and sells agricultural-based products like citric acid all around the world. For the U.S. market, we produce and sell citric acid and citrate salts out of our Eddyville, Iowa facility.

Our Eddyville plant is part of an integrated bio-refinery and corn processing complex which provides approximately 1,000 well-paying jobs. The Eddyville citric acid plant uses a share of the dextrose produced in the adjacent corn wet-milling complex as the fermentation carbohydrate source for citric acid production.

While modest in its location in South Central Iowa, Eddyville is connected to a truly global market where citric acid is globally produced and traded. The demand side of the equation is also global. The largest citric acid purchasers are global in nature and scope. They have offices and buying agents in foreign countries and purchase citric acid from non-U.S. Producers for consumption in many different markets including the United States.

They are well-aware of the world's supply and demand, pricing and availability of non-U.S. citric acid. They are motivated to obtain the lowest prices because almost all citric acid is interchangeable regardless of

source or end use application. Three of the major exporting countries are Belgium, Columbia and Thailand.

For these countries, the total production capacity for citric acid far exceeds domestic consumption. As a result, all three countries are major exporters and due to the orders on imports from China and Canada that were imposed in 2009 prices in the U.S. Market were higher than elsewhere in the world for a few years.

That all changed, however, then the Chinese Producers responded to the U.S. orders on imports from China by establishing production facilities in Thailand. Niran started producing in Thailand in 2010, Sunshine Biotech started production in 2011 and COFCO started production in 2013.

All of these Thai producers are affiliated with Chinese Producers and all were well-established in Thailand after the orders on imports from China were imposed in the United States. There are a handful of Chinese Producers that are world class and can compete with the Domestic Producers for the largest U.S. customers but it was these world-class Chinese Producers that shifted production to Thailand in order to circumvent the orders in the United States. It is a classic whack-a-mole situation and the imports began to have an injurious impact in 2014.

Like the imports from Thailand, the Columbian

producer has taken advantage of the effectiveness of the U.S. orders on imports from China and Canada and filled the void with low-priced citric acid. The U.S. is now by far the leading export destination for Columbian Citric acid.

With respect to Belgium, Citrique Belge has also taken advantage of the relatively higher prices in the United States to dump its excess capacity in the U.S. Market. Although the volume of imports from Belgium is not as high as those from Thailand and Columbia, the merchandise is being dumped at significant margin and is just as injurious as the Columbian and Thai imports given the high degree of fungibility of imports from all three countries and domestic production.

Because citric acid producers strive to run their plants at full capacity there are powerful economic incentives driving producers in Belgium, Columbia and Thailand to price below their fully absorbed cost of production. Every year during the period of investigation our customers received extremely and increasingly attractive price offers for Subject Imports. This downward price pressure has resulted in numerous lost sales and revenues with the expected and harmful impact on our bottom line.

After minimizing investments in our plant due to declining profitability caused by imports from China and

Canada, Cargill made significant investments after those orders were imposed that enhanced our productivity and expanded our capacity. We also increased our investment in general plant maintenance to be able to reliably and consistently supply our customers.

Unfortunately the surge in low-priced Subject Imports that started in 2014 prevented us from achieving the expected return on those investments. This forced us, again, to curtail our investments and to postpone a number of plant maintenance projects. Fortunately the implementation of preliminary duties in this case has brought citric acid prices back to sustainable levels.

As a result, we have already started to reinvest in our plant and to work on the backlog of maintenance projects. However, without final relief from dumped and subsidized prices Cargill will once again be forced to reduce investments in these same areas.

At Cargill we focus our customers on what we believe is Cargill's superior reliability and service but the reality is that price is the overwhelming driver in the market for this product. Price in this market is magnified by the way in which most citric acid is bought and sold in the United States.

In November and December of every year, Cargill along with other U.S. Producers and importers negotiates

with purchasers to sell most of our total output for the following year. Because most sales are negotiated well in advance to cover a one year period, performance related to non-price factors such as quality, delivery, availability, and timeliness is a given.

If you are large enough to warrant a place at the negotiating table then purchasers assume you can deliver quality product on time. Because we must sell a substantial percentage of our output for the following year within a very short window near the end of the year, a few large customers have tremendous negotiating leverage.

While the annual contracting process begins in the early fall with discussions about volumes and price trends, at some point toward the end of the year, Cargill and other sellers must meet the customers' price requirements in order to book sufficient volumes to keep our plants operating. If one producer misses out on a major sale or two early in the selling season, the pressure to lower prices to make up for lost volume can become enormous.

Thus, just a small amount of incremental volume, if offered in this contract market at low prices at a critical time in the negotiating season can shift the market dynamics decidedly against all suppliers. An issue that has been raising in this investigation is the impact for demand for citric acid that is marketed or labeled as "not

genetically engineered or modified". Also known as non-GMO.

Currently, there are different and competing definitions and certifications used in the marketplace to label products as non-GMO. The citric acid produced by Cargill, which contains no detectable GMO DNA has been certified as non-GMO by the Global Testing and Verification firm SGS. Another standard present in the U.S. Market is the non-GMO Project Standard.

In contrast to the SGS Standard, the non-GMO Project Standard does not allow GMO derived fermentation nutrient sources, for example dextrose, above a threshold of 0.9 percent. Because the U.S. Industry relies heavily on U.S. field corn for its nutrient source it does not meet the non-GMO Project Standard. Despite the proliferation of definitions and certifications for non-GMO, actual demand for citric acid where a non-GMO label is required is very small.

Almost all demand in the United States is GMO indifferent. The vast majority of beverage uses for citric acid do not require a non-GMO certified product and over 20 percent of the citric acid sold in the United States is used in detergents and for industrial purposes that do not require a non-GMO product at all.

For the vast majority of sales in the market, whether citric acid qualifies as non-GMO under a specific

standard is immaterial. Indeed, citric acid that is labeled as non-GMO under one standard competes against citric acids without such labeling and citric acid that is labeled as non-GMO under another standard. We conservatively estimate that the market for non-GMO citric acid which includes products sold under any definition or certification, not just the non-GMO Project Standard, accounts for at most 5 percent of the U.S. Market but the actual level of demand is most likely significantly lower.

Certainly the demand for non-GMO Project Standard citric acid is considerably lower than 5 percent of the market. The lack of clarity in the market is compounded by an absence of official confirmation by the U.S. Government. While the United States Department of Agriculture released a proposed rule for a National Bioengineered food disclosure standard earlier this month on May 4, we estimate that it could take up to a year or perhaps longer before the final rule is rolled out.

We currently make a non-GMO product. We believe that the USDA definition will help bring clarity in the market and that our product will not be defined as a GMO product under the final rule promulgated by the U.S. Government. The Domestic Industry has the ability, albeit after significant investment to alter production processes to make citric acid to any specific standard it does not

already meet.

There is no business case to change our processes or invest our resources to meet the non-GMO Project Standard however because there is not significant demand for this product in the United States and the product does not command a price premium. Given the global nature of the citric acid market the large available capacity of the Subject Countries has an impact on the negotiating behavior of both the major purchasers and sellers in all markets including the United States regardless of the issues surrounding non-GMO product.

In recent years additional supplies of lower-priced imports from Belgium, Columbia and Thailand have shifted the existing supply and demand balance in the United States and have caused U.S. Prices to fall rapidly. Because prices in the United States are still higher than in the rest of the world due to the orders on China and Canada the Subject Producers have increased their sales to large volume customers in the United States by using aggressive and unfair pricing.

The market impact of the overcapacity in the Subject Countries and the increase in imports is not lost on our major customers. They enjoy a clear view of product availability and pricing from the Subject Countries. Unrestrained import pricing from Belgium, Columbia and

Thailand from the U.S. Market has caused material injury to our citric acid business. Without relief on imports from Belgium, Columbia and Thailand the volume of imports will continue to increase and prices will continue to fall.

We will lose more volume to Subject Imports that undersell our product resulting in lost sales volume and overall revenue. The negative impact on our operations has already been significant. The lower market prices caused by increasing underselling by Subject Imports have placed our citric acid operations at risk. Continued volume losses compromise our abilities to operate at the high levels of capacity utilization that are necessary and lower prices and profits have translated into a reduction in investments in our assets.

Since the preliminary duties were imposed in January of this year market conditions have improved significantly. Without final duties on imports from Belgium, Columbia and Thailand those recent gains will be reversed and the condition of our citric acid operations will be in doubt.

We respectfully ask the Commission to make an affirmative determination in these investigations. Thank you. I look forward to responding to your questions.

MR. JONES: Thank you, Chris. Our next witness is Mr. Jeff Peel.

STATEMENT OF JEFFREY S. PEEL

MR. PEEL: Good morning. My name is Jeff Peel. I am the Director of Acidulants with Archer Daniels Midland Company. I am responsible for all commercial activities of the company's North American acidulant business. I previously managed ADM's starch business unit since 2006.

ADM is one of the world's largest agricultural processors and food ingredient providers. We currently have more than 33,000 employees serving customers in more than 140 countries. Our corporate headquarters are located in Illinois. We connect the harvest to the home, making products for food, animal feed, chemical, and energy applications.

ADM has been in the citric acid business since 1990 when we purchased the business from Pfizer. That purchase included two world-class citric acid plants located in Ireland and Southport, North Carolina.

We closed our plant in Ireland during the 2005 surge of low-priced imports from China into the European market, and today maintain all citric acid production at our Southport plant.

Citric acid, sodium citrate, and potassium citrate are commodity products. These products are chemically very similar and are interchangeable in many applications. Our customers can easily substitute products

from any of the subject countries as a drop-in replacement for our merchandise in virtually all end uses. As a result, purchasing decisions in this market are primarily based on price.

Citric acid production is very capital intensive, and profitability is dependent on high capacity utilization through the plant operating 24/7. In order to maintain a high level of capacity utilization, however, we must meet market pricing to support sales and production volumes.

When market prices fall as they did during the investigation period, it is very difficult to justify operating the plant. Combining decreased utilization with low prices makes it impossible to run the plant as efficiently as it was designed to run. This has had a significant adverse impact on our profitability.

Our major customers are sophisticated companies that are well aware of how pricing works in this market and demand that we meet or beat competitor prices. Utilizing lower prices offered from subject importers allows purchasers substantial leverage in sales negotiations because a small number of purchasers account for a large percentage of U.S. citric acid consumption.

Many large U.S. purchasers for citric acid have approved imported citric acid from Thai, Colombian, or Belgian citric acid for their overseas operations. In

addition, imports from China and Canada have been in the market for many years, although they are now disciplined by AD and CVD orders. Even purchasers who don't purchase imports monitor import prices and demand that we meet the import price in order to keep their business. So even when we are able to avoid losing sales, the low-priced subject imports still have an adverse impact on our business.

I would like to note that having a contract does not insulate us from adverse impact on dumped imports. Even though we may have established contracted volumes with a customer, those volumes are not always achieved, and sometimes the customers purchase less than expected and substitutes lower priced subject imports for our product.

There is a competitive open-bid process in this market. All qualified suppliers--including subject imports--have the opportunity to win the business. I would like to assure the Commission that we have had available capacity to produce and sell at all times during the Period of Investigation. We've had no down time, other than what would be regularly scheduled for maintenance. Regular maintenance is taken care of business we build inventories so that we can continue to supply customers during those periodic outages.

We utilize secured outside warehousing as well as inventories at plant site to ensure that we have appropriate

inventories to satisfy all of our customer needs. From ADM's perspective, it would be incorrect to say that it was necessary to buy dumped and subsidized imports because ADM did not have the merchandise available.

Imports from the three subject countries have increased significantly, taking market share, and depressing prices in the market. The increased supply of dumped imports has prevented us from taking advantage of what should have been much more favorable market conditions following the imposition of duties on imports from Canada and China in 2009.

For a few years following those Orders, market conditions improved. The Orders restrained the volume and price of imports from Canada and China, and the industry was able to regain lost market share and raise prices to levels that permitted a return to profitable operations. This enabled ADM again to invest in our Southport plant.

In short, the Orders permitted us to completely turn around our business, which was headed towards termination due to the unfair pricing and increased supply of imports from Canada and China.

But the benefits of those Orders did not last. Starting in about 2013, imports from Belgium, Colombia, and Thailand began to surge. Thailand was not a significant producer of citric acid prior to the imposition of the

Orders in the United States against imports from China. After those Orders, however, Chinese producers built manufacturing facilities in Thailand, targeting the U.S. Market. As a result, U.S. imports from Thailand increased from about 2,400 tons in 2011 to almost 45,000 tons in 2016.

Imports from Colombia also have surged, almost doubling from 2013 to 2014, from about 9,500 tons to 17,000 tons in just one year. And imports from Colombia increased steadily after that before declining last year.

Imports from Belgium have been significant, but were relatively flat during the Period of Investigation. Even so, there was a surge in imports from Belgium after duties were imposed on imports from Canada and China.

Like the other subject countries, Belgium producers saw an opportunity and rushed in to fill the void with low-priced merchandise. But the subject imports have done much more than just replace imports from China. They have taken additional market share from U.S. producers and depressed market prices, harming our profitability and return on investment.

Despite the fact that ADM's Southport plant is efficiently and environmentally friendly, increasing imports have put its continued operations in doubt. Our citric acid operations, including all the jobs at our Southport plant, are at risk. As was the case before the China and Canada

Orders were imposed, our unprofitable operations are forcing us to cut costs such as badly needed plant maintenance to maintain our citric acid operations.

The company cannot justify additional capital expenditures in light of the unacceptable returns that subject imports are causing. Thus, not only are we losing sales and revenue, but we are also losing long-term competitiveness.

Based on our expertise--or, excuse me, based on our experience with the Orders on imports from China and Canada, the trade laws are effective in facilitating a fair market. In fact, the market situation has improved since preliminary duties were imposed in January of this year. The progress we have made this year would be more--or would be for naught if orders are not imposed on subject imports.

In summary, although the Orders on Canada and China saved our Southport pant a few years ago, the subject imports from Belgium, Colombia, and Thailand that surged into the market after those Orders were imposed have again injured our operations and put the plant at risk.

The steps we have taken to cut costs and improve productivity have been inadequate to improve the profitability of our operations in light of unfair import competition from the subject countries. Without the relief we are requesting, the continued existence of our production

in Southport is at risk. Therefore, we respectfully request the Commission make an affirmative determination so that orders are imposed.

I look forward to answering your questions. Thank you.

MR. JONES: Thank you, Jeff. Our next industry witness is Ken Erickson.

STATEMENT OF KENNETH F. ERICKSON

MR. ERICKSON: Good morning. My name is Ken Erickson. I am the Vice President, Product Line Management Acidulants & Vico at Tate & Lyle Ingredients Americas. I have held this position since 2015 and have worked at Tate & Lyle since 2011. Altogether I have 14 years of experience working in management and financial positions in the agribusiness and food industries.

In my current position, I am responsible for all of Tate & Lyle's citric acid business worldwide. I am familiar with market conditions and prices in all markets.

Tate & Lyle is a multinational company. We operate manufacturing and blending facilities in over 30 countries around the world. We employ over 4,200 people and have been in business for over 150 years.

We entered the citric acid business in 1998 when we bought the citric acid operations of Bayer's Haarman & Reimer Division, which included plants in the United States,

Brazil, Colombia, Mexico, and the United Kingdom.

I(n Colombia, we divested our share of the joint venture that we operated at the old Haarman and Reimer facility. After the divestment, which was completed in 2012, the company changed its name to Sucroal. We decided to sell our share of the Colombian business due to our assessment of the plant's long-term competitiveness and its exposure to low-priced competition from China in the Colombian and other regional markets.

When we were a partner in the venture, we had exclusive rights to import into the United States. We were careful not to oversupply the U.S. market with imports of citric acid from Colombia. After the divestment, however, Sucroal increased exports to the United States, almost doubling the quantity of exports from 2013 to 2014, and cutting the price sharply to buy market share. The volume of Sucroal's exports to the United States has continued to rise until just before the Petitions were filed.

Unfairly priced imports have had a dramatic impact in the market because citric acid and citrate salts are commodity products. The scope of the investigations cover citric acid, sodium citrate, and potassium citrate. Most of the product sold in the United States is citric acid in anhydrous form. The second most common form is sodium citrate. Both citric acid and sodium citrate are made to

standard specifications which make them completely interchangeable. Tate & Lyle's Dayton plant makes only citric acid.

Although citric acid requires specialized equipment and substantial technical expertise to produce, from a marketing standpoint it is very simple. All world-class citric producers--including the subject Belgian, Colombia, and Thai producers--produce to the highest food-grade specifications.

Citric acid varies only in particle size and level of moisture. Therefore, in almost all cases, even the different types of citric acid--anhydrous, monohydrate, or solution--are highly interchangeable. This is not surprising, because citric acid is typically used in aqueous solution, and the only difference among these three types of citric acid is the amount of water they contain.

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

The customers on which Tate & Lyle depends

regularly use import prices to leverage down our price in the contract negotiations. This happens almost always when we negotiate with a customer to renew a contract. In other words, we often must lower the price to keep the business.

In addition, as low-priced subject imports have increased, some of our contract customers have asked us to renegotiate their contracts during the term of the contract, forcing us to lower our prices to meet subject import prices.

And also, in some cases our customers have taken less volume than what was projected in the contract and increased their purchases of subject imports. In our experience, the existence of a contract provides no insulation from the adverse impact of dumped and subsidized imports.

Low and declining import prices have resulted, therefore, in lower prices for our merchandise in the U.S. market. This is severely injurious by itself, but the injury is compounded by the cost environment in which we operate.

We have not only been forced to reduce our prices, but we have also been unable to increase our prices to cover our costs. Both of these aspects of the price competition of subject imports have directly and negatively impacted our bottom line.

The orders on citric acid from Canada and China show what can happen when a remedy is imposed on dumped and subsidized imports into this market. The market improved as soon as preliminary antidumping duty cash deposits were imposed in November 2008, which was in the middle of the 2009 contracting season. As a result, we were able to obtain much higher contract prices for 2009. The improvement was not a one-year event. Prices and operating profits for Tate & Lyle remained much higher for several years which allowed us to make necessary new investments.

For example, we made investments to debottleneck certain processes in order to improve efficiency and increase production capacity. Unfortunately, the increase in imports from Belgium, Colombia, and Thailand have reversed these gains in profitability and new remedies on these imports are now needed for us to recover.

We have seen improvement in the market since the preliminary duties were imposed in January. These gains will disappear, however, if the orders are not imposed as a result of these investigations.

Continuous investment in this industry is absolutely critical. Citric acid is an asset-intensive business, and continual maintenance is necessary to keep the plant running efficiently. The caustic nature of acid production increases wear and tear and requires constant

attention to the maintenance of expensive equipment at the plant.

Morever, the plant cannot be turned off and on and must run continuously to achieve the lowest costs and highest levels of efficiency and productivity. Unscheduled downtime for maintenance is very harmful to the profitability of the business.

The increase in low-priced subject imports has adversely impacted our ability to both make capital investments to improve our processes, and to make routine maintenance expenditures. Fortunately, during the period we had no significant outages or unscheduled downtime and were able to supply all of our customers in a complete and timely manner.

Finally, I would like to make a point about the importance of a fair market to the employment in the citric acid industry. All workers in Dayton are represented by the United Steelworkers Union, which has submitted a letter in support of the Petition.

The Dayton plant is vital to the City of Dayton and surrounding community. The plant provides good manufacturing jobs that are highly desirable. We have several employees who have been working at the plant since it opened in 1977, and many of them have been working there since we acquired the facility in 1998. If we have a job

opening, we usually get 200 to 300 applications for the position.

Each manufacturing job at the plant supports several jobs in the surrounding community. If duties are not imposed on imports from Belgium, Colombia, and Thailand, those jobs will be in jeopardy.

On behalf of Tate & Lyle, I request that the Commission make an affirmative determination. Thank you for your attention. I look forward to answering your questions.

MR. JONES: Thank you, Ken. Our final witness is Andrew Szamosszeji from Capital Trade.

STATEMENT OF ANDREW SZAMOSSZEGI

MR. SZAMOSSZEJI: Good morning. I'm Andrew Szamosszegi. I'm a principal with Capital Trade. I'm here today appearing in place of Charles Anderson. He regrets he could not be here.

Let me start by summarizing what others have already said about the subject of this investigation. Citric acid is a classic commodity. As evident from Slide 1, where the font size indicates relative significance, citric is sold, for the most part, in one grade, one form, and in two types of packaging.

Once a producer of citric acid has been received, the standard food -- has received the standard food pharma certifications, the product can be purchased for

virtually every end use by almost every U.S. customers. There's no branding the product differentiation strategy that might give one producer a non-priced edge over its competitors and enable sales at a substantially higher price.

The product is storable for multiple years and can be shipped in bulk across oceans and continents fairly cheaply. Thus, the surest way to register large increases in the sales of citric acid is to reduce its price.

Turning to the supply aspects to conditions to competition, as evident from Slides 2 through 4, which are aerial photos for the three U.S. citric plants, a modern facility is a major capital investment. The Greenfield plant in the United States would cost in excess of $100 million. These plants are extremely difficult to operate. Citrus is produced through a highly finicky bio-fermentation process. Each producer has its own in-house spread organism that is designed to achieve optimum yields in its own plant using its particular fermentation carbohydrate source.

Temperature, pressure, PH, sterility must be strictly controlled during the fermentation process. Citric acid is made in a continuous process of fermentation, extraction, purification, and packaging. Plants are designed to operate 24/7. Shutdowns lead to substantial losses. You lose all of the citric work and process and

re-starting an idle plant is expensive and time-consuming. All the holding tanks and lines have to flushed and sterilized.

Turning to demand, Slide 5 summarizes the main applications in which the citric acid is used. Beverages constitute the largest application, by far, accounting for half of total usage. Another important element of demand is that the U.S. market is dominated by a few large purchasers -- major soft drink manufacturers, detergent producers, general food companies, and large multi-national general chemical distributors.

All these customers purchase primarily on contract, either short term, annual, or long term. Usually, these major contracts are under negotiation simultaneously in the fall and early winter for the following year's shipments. These contracts establish prices, but sometimes purchases request renegotiation based on declines in the market price. Quantities are also specified; however, purchasers sometimes do not take all of the contracted quantity and substitute lower priced merchandise instead.

The major purchasers are extremely sophisticated about the dynamics of the domestic and global citric markets. Some purchasers -- citric producers of the subject imports in the United States or in other markets. If not, they certainly are well aware of global citric acid export

prices as well as U.S. prices in the spot market. Moreover, major U.S. purchasers also make some spot market purchases, so they are well aware of subject import availability and prices.

Globally, the citric acid market is over supplied. According to the CEH report in 2015 China alone represented over 60 percent of total citric acid production capacity, but only 11 percent of global consumption. China, thus, remains the world's largest exports of citric acid and is a major source of citric acid in the subject countries.

As shown in Slide 6, Chinese producers have exported large quantities to and hold substantial market and import shares in the subject countries, putting further pressure on these countries to export. As a result, Sucroal, Citrique Belge, and the subject's high producers have increasingly relied on the U.S. market.

The export oriented Thai industry ramped up quickly after the U.S. imposed orders on China in 2009. The new Thai capacity has not replaced Chinese capacity, but has added and exacerbates the global supply demand and balance. Sucroal began to lower prices and ramp up exports dramatically after its relationship with Tate & Lyle expired and the United States is Belgium's non-EU national market.

The situation in China suggests that this pressure on the subject imports is going to continue. The

market there remains over supplied. Through March 2018, China's export unit values are running 9 percent lower than year earlier levels and export quantities are up 14 percent.

With respect to demand and substitutability, I'd like to make two points. First, the demand for citric acid is inelastic. As the Commission has found in past cases, citric acid constitutes a very small percentage of the total cost of most of the finished products in which it is used and has no close substitutes. This is why price reductions does not cause disproportionately large increases in domestic consumption.

Second, there's asymmetric substitutability between the domestic-like product and the subject imports. While GMO citric acid cannot substitute for non-GMO, project verified citric acid, the reverse is not true. Non-GMO project verified citric acid is a drop-in substitute for GMO citric acid. This means that changes in the prices and quantities of non-GMO citric acid can and do influence the volumes, prices, and market shares of domestic citric acid.

With those conditions of competition in mind, let's now turn to the role of the subject imports. Citric acid from Thailand, Colombia, and Belgium has been increasing over the past three years, having started from virtually nothing after the imposition of orders on Canada and China. Imports from the subject imports now account for

almost a quarter of U.S. consumption. As is clear from Slide 7, price has been the driving factor in these substantial gains in import volumes and market share.

This surge in the low priced imports has depressed U.S. prices and shifted volumes from U.S. producers to subject imports. Slide 8 shows the relationship of U.S. producer operating profits to subject import volume. As you can see, there's an inverse relationship between the two. Imports from Thailand, Colombia, and Belgium accelerated soon after the orders against China and Canada were imposed and as the subject imports increased, U.S. profits declined.

The domestic industry experienced adverse volume and price affects over the POI by reason of the subject imports. The volume of subject imports is significant in its own right, increased in absolute terms and increase relative to U.S. production and consumption. But for those imports, the domestic industry would've had higher capacity utilization rates, more efficient production, lower unit costs, and higher profitability. The key indicators of volume-based injury are clearly present here. The same is true for price-based injury. According to the pre-hearing reports, underselling presentation, subject and domestic unit values declined and the volume of undersold subject imports exceed the volume of oversold subject imports by

approximately 130 million pounds. This constitutes significant underselling.

In addition, financial data indicate that the domestic industry's gross margin was compressed over the POI because prices declined more than the cost of goods sold. Further, the pre-hearing report demonstrates that in numerous instances in which domestic producers lost market share the subject imports gained market share. Price was frequently the primary reason for the decision to purchase the subject imports. Large contract customers have repeatedly invoked the lower import prices to obtain lower prices from U.S. producers. These facts are all indicative of significant adverse price effects by reason of the subject imports.

With respect to impact, the indicia are clear. The increase in volumes of unfairly traded imports have caused several adverse effects, such as declines in production and utilization rates, declines in the volume, value, and unit value of the domestic industry's U.S. shipments, declines in the volume, value, and unit values of net sales, declines in gross profits, operating income, and net income, declines in gross profit, operating income, and net income margins, declines in cash flow and returns on investment, declines in capital expenditures and Research and Development, and finally, actual and anticipated

negative effects on investment.

The link between the subject imports and domestic performance is illustrated in Slide 9, which projects the impact of reduced subject imports on domestic operating profits based on full-year projections and on first quarter import data. The graph illustrates the reduction in subject imports in the first quarter of 2018, if maintained, would improve the financial performance of the domestic industry to pre-POI levels.

The factors, other than subject imports, cannot explain these declines. This is not a case of falling or inadequate demand. U.S. consumption exceeds total U.S. production capacity. Falling profitability has not been caused by rising input costs. The price of corn, the principal material input has been rising or declined over the period.

Non-subject imports could not have significant adverse price effects and volume effects. Imports from Canada are under the discipline of the order while subject imports are unfairly traded and purchased their share through underselling. The three U.S. producers are competing for the same large contracts and under similar market conditions that prevailed prior to the period of investigation; yet, their operating performance has deteriorated significantly.

Let me concluded by addressing the non-GMO issue and then threat. As you've heard from others, the segment of the U.S. market that requires that citric acid be non-GMO is difficult to measure. The difficulty in measuring the size arises from the fact that, as the record clearly demonstrates; almost all non-GMO citric acid in the U.S. market is being sold for applications that are GMO indifferent, such as detergents, industrial, Pharma, and almost all food and beverages.

Both Respondents and Petitioners estimate that the non-GMO market share is very small, less than 5 percent for the total market. Subject imports account for a much larger share of the market; thus, the record clearly shows that subject imports aren't just serving the niche non-GMO market. Instead, almost all subject imports are competing head-to-head against U.S. production for the GMO in different market.

Regarding threat, I wish to make three points. First, producers in the subject countries are export oriented. Each of them produces far more than they consume in their domestic market, as shown in Slide 11.

Second, this export-orientation is unlikely to change. As shown in Slide 12, China is by far the dominate source of imports and have significant share of the market in both Colombia and Thailand. China is also a major source

of imports in Belgium. Chinese citric acid is likely to remain a significant presence in the subject country markets, encouraging continued exports to the United States.

Third, the domestic industry is vulnerable to injury. This is a capital-intensive industry that requires adequate investment returns. If those returns remain depressed due to the continued presence of the low priced subject imports, the industry will not survive in its present form.

Thank you. I'll turn it over to Steve Jones.

MR. JONES: Thank you, Andrew. That concludes our prepared presentation. We'd like to reserve whatever remaining time we have for rebuttal at the end of the hearing today. Thank you very much for your attention and we look forward to answering your questions.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much and I'd like to thank all the witnesses for being here today to help us understand the issues in this case.

I will begin the questioning this morning and I think I'm going to start with some questions about the imports from Canada. And Mr. Szamosszegi, you touched on this, I think, just now in your testimony where I believe I heard you say that -- and this, of course, goes to a non-attribution argument, which the Commission is required to consider in every case.

That Canada is under order and were fairly traded, so therefore it could not be a source of injury for the Petitioners. Did I hear that correctly?

MR. SZAMOSSZEGI: Could not be a source of injury by reason of dumping and subsidies because they're fairly traded. Yes.

CHAIRMAN SCHMIDTLEIN: Okay, so let me just explore a little bit what you think is going on because, of course, my understanding that one of the largest producers in Canada now has a zero rate. Correct?

MR. JONES: Chairman Schmidtlein, that is correct.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. JONES: The order on Canada was continued in the sunset review of 2015. We requested administrative reviews every opportunity and JBL in Canada has been able to demonstrate in reviews, at least since the sunset review, that they're not dumping, so they have a zero cash deposit rate at this time.

CHAIRMAN SCHMIDTLEIN: Okay. And so we imports from Canada increasing substantially over the POI and they also gained market share in this market. So tell me how we are to consider that and why we would not attribute some part of the loss in market share or maybe all of the loss in market share to the gains by the Canadians?

MR. SZAMOSSZEGI: The Commission has before it subject imports and non-subject imports. Canada is a part of the non-subject merchandise and should be analyzed in the context of non-subject imports as a whole. And I think if you do that and because of the nature of competition from Canada I can't really say very much. You will find that there were less changes in the market share of the non-subject imports, overall, compared to the subject imports.

MR. JONES: I'd also like to point out the information that's in Appendix E of the pre-hearing report, which details the price and comparison for imports from Canada with producers and also with the subject imports. And those findings by the staff are that imports from Canada oversold the United States in 71 percent of the comparisons and measured by volume the overselling was 74 percent. So the imports from Canada are at higher prices than the domestic producers and the subject imports and Canada is a strong competitor.

I mean the industry competes with imports from Canada. And as those of you -- I think all of you were on the Commission during the sunset review. As you may recall, there was a lot of testimony and information on that record about the threat from Canada and the need for Canada to remain under order. So there's no question that the

competition is there.

CHAIRMAN SCHMIDTLEIN: So how did Canada -- given the testimony we heard this morning that this is a commodity product, this is sold on the basis of price, if you're at the table -- I think I recall one of the witnesses saying if you're at the table it's assumed, it's a given that you're going to be able to supply on time and so forth. How did Canada gain those sales if this product is sold on price and they are primarily overselling the U.S.? Does that undermine your argument that is a market that is driven solely by price?

MR. SZAMOSSZEGI: There were -- and we can provide more information on who lost what from the non-subject sectors, but once Canada achieves its status with its zeroes, I think what happened was a lot of exports from other sources in Europe and elsewhere declined because Canada was able to compete more effectively against them. So what was really with the U.S. market price compressing others dropped off and Canada was able to come in as fairly-traded product and replace those exports and so that's why you a Canada share that does one thing and looks one way and a non-subject share where the changes are much less dramatic.

CHAIRMAN SCHMIDTLEIN: So you believe there are other non-subject -- so basically, Canada was taking sales

from other non-subject countries?

MR. SZAMOSSZEGI: Yes.

CHAIRMAN SCHMIDTLEIN: Why do you think the imports from Belgium and Colombia declined over the POI when the market was increasing?

MR. TUMA: I can share from our perspective what our thoughts are, but after the preliminary investigation and the affirmative decision, we got a lot of requests from both distributors and direct customers for products around the August timeframe and we can only attribute that to the fact that maybe Colombia and Belgium were dumping product and they saw what was ahead of them and had exited the market potentially being conservative as we approach the final decision. So we actually saw a pretty significant uptake in demand and we can directly attribute that to the preliminary investigation.

CHAIRMAN SCHMIDTLEIN: Okay, so let me understand. They exited the market after preliminary duties were put in place.

MR. TUMA: No, sorry. I'll clarify. We believe they exited in July and August and the initial --

CHAIRMAN SCHMIDTLEIN: July and August of '17?

MR. TUMA: '17, correct. So before the preliminary duties were in place, but after that the ITC decision. And so as the investigation was going into the

final stage for ITC and the Department of Commerce was looking at the preliminary investigation, we saw an exit from both companies or both countries, I should say.

CHAIRMAN SCHMIDTLEIN: But not from Thailand.

MR. TUMA: We didn't see as much from them.

CHAIRMAN SCHMIDTLEIN: So why do think these are acting so differently in a market again that's a commodity product and so forth. Duties hadn't been put in place. I mean are there any theories? Do you have any theories?

MR. JONES: You know we don't know is the bottom line answer. We can look at some factors. One would be the preliminary dumping margins found for the various countries. Colombia had the highest preliminary margin, 27 percent. Citrique Belge had the second highest preliminary dumping margin, which was 24 percent. The margins for the Thai producers, while still significant, were lower than both of those.

Now why an individual company would make a decision to pull back or to pour it on, we don't have any insight into that.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. SZAMOSSZEGI: Just quickly, the underselling data and other data points show that the Thai -- imports from Thailand are very aggressive and the price was declining, so at some point it may be hard or difficult to

maintain the presence that you had, even with -- unless you dump more, right? And so at some point it becomes less feasible, but we had a large increase in imports, overall. A lot of that was from Thailand at low prices and so that would tend to maybe reduce the enthusiasm for this market as the POI progressed.

CHAIRMAN SCHMIDTLEIN: Okay. I'm sure that my fellow Commissioners are going to probably get into this quite a bit, but I'll go ahead and ask the question. On the non-GMO side of the market -- and Mr. Szamosszeji, you put up a slide, Number 10, I believe it was, Comparison of GMO/non-GMO market share by application and you estimate this. You say this a conservative estimate of the size of the relative demand. Can you tell me how you estimated these numbers?

MR. SZAMOSSZEGI: Those numbers were estimated by Cargill and I think the calculation is in our pre-hearing brief. If not, we'll present them. But it's basically taking an estimated share within a given segment and creating weighted average shares, adding them all together, and that's how you get it. So it's larger in the -- obviously, in the food and beverage sector than it is in the industrial sector, but most of the beverage sector, I mean, is GMO indifferent.

CHAIRMAN SCHMIDTLEIN: So from Cargill, forgive

me, Mr. Aud? Okay, so can you talk a little bit more about -- because this is what's required, right? This isn't just what's being sold as non-GMO in the U.S. market, but what you believe to be required by purchasers?

MR. AUD: Correct.

CHAIRMAN SCHMIDTLEIN: And so where do you get that information?

MR. AUD: So we are in the market on a daily basis. Our sales team is out talking to customers. We have a very good handle on the view of the market and the overall size. And we hear regularly from our customers what their needs are and so that's a big input to it, in terms of what our telling us. We track that. We monitor it. It's an estimate, so we don't have perfect information, but again, we feel like we've got a pretty good view into the market and so it's taking that as well as another set of data that we can go into more detail in the post-conference brief. Be happy to share the exact calculation that we come up with that estimate.

CHAIRMAN SCHMIDTLEIN: Okay, I think that would be helpful. I mean I don't know if you all do anything like actually surveying your purchasers, your customers, and you might be able to share that with us. That would be helpful. Mr. Jones?

MR. JONES: Chairman Schmidtlein, the brief

contains several actual alternative estimates of this on this issue, using proprietary survey-source data. We can't get into that in the hearing, but we have a fairly lengthy discussion in our brief about it and we, I'm sure, will get into that some more in the post-hearing brief. But it's based on both the experiences of the participants in the market, the companies, and also some independent survey data.

CHAIRMAN SCHMIDTLEIN: Okay, thank you very much. My time is expired and so Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein and I would like to thank all of you for appearing here this morning.

I'd like to continue on the issue of GMOs. As you all know, the Petitioners discuss this issue quite extensively in their pre-hearing briefs and also at the staff conference. Could you all please comment on one particular statement of the Petitioners? In particular, could you please comment on Pepsico's statement from the preliminary phase quoted at page 10 of the Colombian brief that "The domestic industry's refusal to qualify its product as non-GMO disqualifies them from selling to companies like Tropicana that are producing verified products to meet the verging demand for such products."

MR. AUD: Thanks for the question. So again, we

have a fairly good view, we feel, of the total size of that market. We, by definition, can't participate in the Project non-GMO market for those customers who absolutely require that because we have dextrose and it's a GM-sourced feed stock. However, we participate and compete aggressively with subject imports coming into the U.S., even though their Product (A) has that paper certification, our Product (B) is identical in terms of its physical characteristics, its end use, the technical datasheet, the quality specs you have on it, so the subject imports coming into the U.S., while on paper -- and by the way, that's a very, very inexpensive certification to achieve if you do have a product that meets it and so you know it's one of those of why wouldn't you get the certification if you could because you just have to go through the process to obtain that from Project non-GMO? However, the vast majority of the imports that we see into the U.S. we compete head-to-head with in the GM market because it's the same exact product. And so I can't speak to Pepsi's comments specifically, but I would offer those general comments.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Aud.

MR. SZAMOSSZEGI: I'll be quick. If you look at -- it's in the staff report. I don't recall the table, but we'll specify it. But if you look at that country's -- that company's -- I'm sorry. The share of GMO citric acid that's

required I think that really dilutes the power of that particular argument, so we'll say it more clearly in post-hearing.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Szamosszeji. And one reason I'm asking this is it seems to me that the presence of non-GMO or rather demand for non-GMO has grown during the period of investigation, at least as consumer appears to be the case. I could be completely wrong on that, but that certainly has caught my attention.

MR. ERICKSON: We have a secondary plant in Brazil that we manufacture citric acid. We are Project non-GMO verified in that plant. We don't see the interest in bringing that material to the U.S. Now Brazil has a healthy domestic industry for citric acid, so when you see that material coming up to the United States it would be more expensive than a dumped subject citric acid, but we do have the ability to supply Project non-GMO verified citric acid trading at a fair price in a healthy market in Brazil and there is just not interest in brining that material up. And I can only surmise that it's because of price.

VICE CHAIRMAN JOHANSON: Thanks, Mr. Erickson. And also out of curiosity, what is the feed stock for the product in Brazil?

MR. ERICKSON: Sugar cane.

VICE CHAIRMAN JOHANSON: Okay, so that's no much

of a GMO issue.

MR. ERICKSON: Right. That is a non-GMO substrate.

VICE CHAIRMAN JOHANSON: Okay, thanks for your response.

On page 49 to 50 of the preliminary staff conference transcript, you, Mr. Erickson of Tate Lyle, discussed the declining trends in the carbonated beverage market. Please correct me if I'm wrong, but I don't recall seeing this mentioned in your post-hearing -- rather in your pre-hearing brief. Is such a decline still recognized as a market factor?

MR. ERICKSON: Yeah, we still continue to see carbonated beverage declines. As a category, I think that's going to be a continue factor. Now there is trade offs in terms of total beverage, so you know consumers aren't drinking less liquids. They're just shifting their consumption to other liquids, but we do see a decline in the carbonated beverage space.

VICE CHAIRMAN JOHANSON: Is it being made up for in the other liquids?

MR. ERICKSON: Yes. I mean I think, in general, the total amount of fluids that the average human is consuming remains flat year-over-year. They're just tending to change that mix. So it could be water, which would not

contain any citric acid. It could be a juice that would maybe offset the same amount of citric acid if you're specifically looking at the share of citric acid within beverage.

VICE CHAIRMAN JOHANSON: Okay, thank you.

I was expecting when I first picked the binders in this investigation to see the demand for citric acid to go down, but that has not been the case. I assumed that would be the case because of the importance of soft drinks to your industry. What has been the overall driver of increased demand for the product? And I also note that I believe it was the Belgian Respondents mentioned the growing use of this product in fracking. Has that, indeed, been a major factor in your mind?

MR. PEEL: Jeff Peel, ADM. From our experience, looking at the demand that's coming from fracking, we understand it's more about supply interruption coming from imports. And so it's not so much it's a question of growing; it's as the subject importers have supply issues, they look for domestic supply.

MR. TUMA: This is Brett Tuma from Cargill. Just to add to Jeff's comments, overall we see the industry as relatively flat. There may be some slight growth when you look at the POI, but some of that offset in the beverage segment which has seen some reductions, has been netted out

by growth in industrial segments when you see citric acid jump there. When you think specifically about oil, we have seen a little bit of an uptick, but I would not consider it a significant portion of demand from our perspective.

VICE CHAIRMAN JOHANSON: Okay, I assumed that was the case. I assumed I would have read that on your part in the briefs if that was the case. And sticking with the issue of soft drinks, do long-term contracts in the soft drink segment insulate the domestic industry from the import competition, as suggested by the Columbian respondents at Page 3 of their pre-hearing brief?

MR. PEEL: We don't find that the long-term contracts that have been in the past are what we consider to be a very valid tool because of the fact that we establish volume commitments for those contracts and those volume commitments are usually fallen short on, and we find that whenever lower priced citric is in the marketplace, it's bought in against the contracted volume, so that's where we look at long-term contracts.

VICE CHAIRMAN JOHANSON: Okay, thank you.

MR. ERICKSON: Simplistically, I would say no. It really depends on your partner company. We can provide more details in the post-hearing brief though.

VICE CHAIRMAN JOHANSON: Okay. Thank you, Mr. Erickson.

MR. TUMA: Brett Tuma with Cargill again. Just to add to Ken and Jeff. The answer for us is no as well. When we negotiate these deals, pricing from all subject imports countries is part of that bidding process. So there really is no insulation.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Tuma. As presented in the staff report at Table 6-3, there is a divergence between the financial performance of the companies with some companies performing notably better than others. What are the key factors related to supply chains, channels and/or manufacturing operations which help to explain this divergence?

MR. JONES: Commissioner Johanson, the industry witnesses don't have any visibility into the relative performance of the other companies. That information is proprietary. We'd be happy to address that in the confidential post-hearing brief.

VICE CHAIRMAN JOHANSON: Okay, certainly, Mr. Jones. I understand. Also for post-hearing, could you please comment on the Thai respondents' assertion in the last paragraph on Page 12 of their pre-hearing brief about the financial performance of the domestic industry? This is also commented on by the Columbian respondents at Page 35 of their brief.

MR. JONES: Commissioner Johanson, I don't

recall what's in those briefs, so I can't comment here in the hearing. But we will certainly address that post-hearing.

VICE CHAIRMAN JOHANSON: Right. I intended that to be for the post-hearing.

MR. SZAMOSSZEGI: I think one thing to keep in mind when looking at those data, and I think I can see this, is looking at what the level is of each company's profitability in 2015 and where it is in 2017. And I think, based on that, you can see what our argument, or part of our argument at least, is gonna be post-hearing. Thanks.

VICE CHAIRMAN JOHANSON: Okay, thank you. I look forward to seeing those in the post-hearing. And my time is expiring right now.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Madame Chairman. I also wanted to express my appreciation to all the witnesses for coming here today and presenting your testimony. Let me start with one broad question.

None of the petitioners nor respondents have any purchasers on their panel. And I was just kind of curious about that. 'Cuz we have some issues which purchasers would be helpful, and many cases we do have. So I was just wondering why? Is it the fact that citric acid is such a small share of the end product or what?

MR. JONES: Commissioner Williamson, Steve Jones. I would say that purchasers tend not to support petitions. So it's kind of a rare occurrence when there is a purchaser on the domestic industry panel. We've had them before --

COMMISSIONER WILLIAMSON: And it's the fact that they catch our attention when they do --

MR. JONES: It's happened. But I think, at least from our perspective, that would be a reason. But I would just say that I think purchasers care about this product. They use hundreds of millions of pounds of citric acid every year. And while it may be a small part of the value of the end product in which it's used, cumulatively, it's a big spend for purchasers.

COMMISSIONER WILLIAMSON: Okay, thank you. I was just wondering about it. Okay. Let's see, Commissioner Johanson already asked you the question about financial performance, and I know you're gonna do that post-hearing.

And I was curious about the relevance of R&D in this industry. Is most of it dedicated to the product development application or to something else? And also, post-hearing, if you could also address differences between, you know, particular manufacturers in this regard. Is there anything in general people can say about it now?

MR. JONES: I'm not sure any of the industry

witnesses has a comment about R&D. Certainly the comparison that you're asking for, we'll be happy to handle in our post-hearing brief.

MR. AUD: Chris Aud with Cargill. Yeah, we would prefer to handle that in the post-hearing. Just due to confidentiality.

COMMISSIONER WILLIAMSON: Sure. Okay, thank you. Okay. You can contend that concerns over quality are limited to whether or not citric acid products meet national or international standards. How do you reconcile with Table 2-7 of staff report in which the import purchasers rank quality exceeds industry standards to be very or somewhat important purchasing factor?

MR. TUMA: This is Brett Tuma from Cargill. The way I interpret that is purchasers sharing what is important to them, which are quality, reliability, accountability of supplier. But the fact of the matter is, across all of the petitioners and the subject importers, those requirements are met all the time.

So there on Table 2-6, and from our perspective what ends up happening, I think, if you look on that chart, the next item is price and so ultimately, decisions fall to price. And so when we see unfairly dumped product in the market, we've seen significant injury the last few years.

COMMISSIONER WILLIAMSON: Okay.

MR. AUD: This is Chris Aud with Cargill. I'll just add to that, that, you know, the vast majority, I'd say safely well over 95% of the time of conversations between ourselves and our customers in a negotiation is around price. It's not about quality. It's not about reliability service. As much as we want to make it that part of the discussion, it's about price. Pure and simple, that's our perspective.

MR. PEEL: Jeff Peel with ADM. We agree with those two statements that it's really driven by price. And we don't see -- we see the fact that quality issues and overall product is so interchangeable that that's what drives it is the price.

COMMISSIONER WILLIAMSON: Is that sort of to say this is kind of a global product with global producers and everybody meets that kind of global standard? Is that the explanation?

MR. SZAMOSSZEGI: It is a commodity. We believe it's a commodity product, so yes.

MR. AUD: Chris Aud with Cargill. We would agree with that statement that it is a globally-traded commodity that is nearly impossible to differentiate outside of price.

COMMISSIONER WILLIAMSON: Okay.

MR. JONES: I would just add, all domestic

producers, all subject imports are produced to the highest possible quality grade, which is food-grade. Even if it's not used in a food product, it's still food-grade and can be used for anything. Mr. Peel? Comment?

MR. PEEL: I was just gonna say that we agree with that. It's, like you say, the production is universal. It's all made to food grade standards. I have yet to hear of any company in the world that's trying to make product that's off-grade or industrial, because then it really reduces their availability in market product.

COMMISSIONER WILLIAMSON: Okay. Turning to the question of GMO, where is it that the demand for it in the U.S. is growing? The reason why I ask is, I was at the grocery store on Friday buying orange juice and, actually, I don't do that often. And I was surprised at how many brands of non-GMO product I saw on the shelf. And it really struck me, and then I come here this morning and I -- you say it's not as important?

MR. AUD: I think in our post-hearing information that I touched on earlier -- in terms of how we come up with our estimates, some of the data that you'll see there is gonna be very telling in terms of the size of the total food and beverage market, not just citric acid's role in that, and so we'll share that post-hearing.

I would say that the comments around a

burgeoning and increasing demand around non-GMO -- keep in mind when you grow double digits in a very small niche segment, it's still a very small niche segment, and so while as a percentage, we would agree, generally speaking, I would say, without having the data in front of me, that non-GMO demand for food and beverage is probably growing at a faster rate than the GM demand. Just the size of the markets is just dramatically different as night and day.

And as you saw from some of the respondents' appendix, they shared some information on Cargill's website, which we appreciate the promoting of our products -- we have a wide variety of products across our $110-, $120 billion dollar company--depending on the year--and when you have a product that meets the non-GMO project Butterfly standard, again, like I said earlier, it's a very low cost to achieve that standard, if you've got a product that meets that definition, so why wouldn't you?

I think you see one of the products on there is soybean oil. Soybean in the U.S. is by far and away a GM crop grown in the U.S., but because it's such a large crop, there is scalability even though it's a niche product within that soy GM market.

We went ahead and got the Butterfly standard on soybean oil, which we were able to identity-preserve and get the Butterfly for it because the demand is so great in that

segment relative to citric acid, whereas soybean oil is sold in the billions of pounds, literally, in the U.S. whereas citric acid is a much smaller market.

So, again, it gets back to the point, if the demand is there, we as Cargill will go out and do it if our customers are willing to pay a premium for it and take on that additional cost. Where we want to be that solution provider for our customer.

COMMISSIONER WILLIAMSON: Okay. But can you sort of say what segment or what types of products are we seeing this most dramatically now?

MR. ERICKSON: I'll take a stab at that. When you think about the non-GM side, the products that are most prevalent are the ones that are not genetically engineered and oranges are not genetically engineered.

There's not a GMO and a non-GMO orange, so the default would be to go non-GMO because it's very easy to have your small ingredients get included. Same thing with potato chips. You'll see that a lot of potato chips will be labeled as non-GMO because there are not genetically-modified potatoes.

So when you get into a more complex or a label that has multiple products in there, that becomes harder to become no-GMO, but when you're on a main ingredient inclusion that is already non-GMO, it becomes much easier to

actually have that whole product be labeled and get that Butterfly standard.

COMMISSIONER WILLIAMSON: Okay. Thank you. That's helpful.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. You had pointed out, Commissioner Williamson, Table 2-7, and I just wanna point out that on that table being non-GMO product verified, is not important to the highest number of customers on the tally, much lower than price. So just getting to the importance of that factor versus price.

COMMISSIONER WILLIAMSON: Okay, thank you. One other question -- I notice that a number of times you mentioned that, I guess, Canada is moving into the Belgium and the Columbian market and pushing them to come here. Why isn't there anybody being able to get into those markets? Is there anything about those markets -- or is this just generally all over the world they're sending Chinese product?

MR. SZAMOSSZEGI: Do you mean the Canadian citric going to other markets in Latin America or --

COMMISSIONER WILLIAMSON: I thought you mentioned -- wasn't it the --

MR. SZAMOSSZEGI: The Chinese, yes --

COMMISSIONER WILLIAMSON: Chinese, yeah.

MR. SZAMOSSZEGI: The Chinese -- China continues, as they did during the original investigation, continues to have very high levels of excess capacity and is increasing exports every year. And so those exports are limited in the U.S. market. But they do go to the other markets, including Columbia and Belgium and even Thailand.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. SZAMOSSZEGI: Canada, I haven't looked at their --

COMMISSIONER WILLIAMSON: I was thinking about --

MR. SZAMOSSZEGI: Okay. So Canada, I would have to look at their -- we'll discuss that post-hearing.

COMMISSIONER WILLIAMSON: Okay. And I was curious -- is reason, why they're able to get in there. Or why they having their cases brought in those markets. Okay. Thank you for those answers.

COMMISSIONER BROADBENT: Thanks. I wanna thank the witnesses for coming today. We appreciate having you here. Mr. Aud there in the back, I didn't hear whether you said Cargill is planning to increase its production of non-GMO product?

MR. AUD: We are not planning to increase our production of non-GMO citric acid.

COMMISSIONER BROADBENT: Okay. And I guess I'm

trying to understand that, if the demand is growing and if you can use non-GMO in all end-use applications, but are limited with your GMO, why wouldn't you be moving to more non-GMO?

MR. AUD: So my comment around not growing our non-GMO?

COMMISSIONER BROADBENT: Yes.

MR. AUD: My assumption is you're asking about the Butterfly? Why we're not pursuing the --

COMMISSIONER BROADBENT: Well, I'm getting my standards mixed up. 'Cuz you had a standard in your testimony that you mentioned, and then there's the Butterfly standard, but I think that's the same one as the -- Explain to me the different standards.

MR. AUD: Yes. So then the project non-GMO, the Butterfly? Is --

COMMISSIONER BROADBENT: Yes. So the Butterfly is the project non-GMO?

MR. AUD: Yep. And that does not -- that requires a feedstock, a fermentation feedstock source that is non-GMO, and so our U.S.-produced citric acid across all three companies use a corn that is GM. So the fermentation source, the dextrose source is genetically-modified. So we, by definition, can't meet that project non-GMO standard.

However, my comments around -- if the demand was

large enough in that sector and if the price premium was there in the market to warrant an investment in that, we can certainly do that. There is a couple of different avenues that we could use to pursue to meet that customer demand, if it was significant enough, and if there was a price premium in the market.

COMMISSIONER BROADBENT: So it would be more costly for you to make the non-GMO?

MR. AUD: Yes. More costly for us to make the project non-GMO Butterfly standard. Yes.

COMMISSIONER BROADBENT: And say again why?

MR. AUD: The feedstock required is a non-GMO corn. The vast majority of corn, like soybean grown in the U.S. is a GM corn --

COMMISSIONER BROADBENT: Right.

MR. AUD: -- and so if you were to identity-preserve and keep a non-GM corn separate in your supply chain and bring it into your plant, there's additional costs to that. There's also an additional premium that you have to pay the farmer to segregate it on his land for that non-GMO corn. And there's other costs we can get into in the post-brief that come into play.

But needless to say, we would be forced to pass those costs to our customers in order to make that investment and if they're not willing to pay that, which

today they're indicating they're not willing to pay that, we either wouldn't make the investment or we'd make the investment and make a really bad decision and not be in the business very long.

COMMISSIONER BROADBENT: Do you grow your own corn? Or do you buy your corn?

MR. AUD: Cargill sources our corn from local farmers, so we do not grow our own corn.

COMMISSIONER BROADBENT: Okay. Got it. Thank you.

MR. TUMA: Commissioner Broadbent, I'd just like to add to that. This is Brett Tuma from Cargill. You're asking about the non-GMO certifications, and I just wanna clarify. Part of the issue that we've discussed is the lack of clarity, because there is one standard called the Butterfly.

But Cargill's held the position for a long time that our citric acid is non-GMO. It meets the standard definition that's developed in the EU, and recently we were able to gain certification with a company called SGS, which is a large food auditing group.

And so today, when you ask, are we gonna increase our production of non-GMO, I would argue we've been producing non-GMO for the last few years. It's just there are many different viewpoints, unfortunately, at this point,

on what that means.

COMMISSIONER BROADBENT: So is that SGS certification something that allows you to export to the EU?

MR. TUMA: Yes.

COMMISSIONER BROADBENT: Okay. Is that an EU certification firm? Or who are they?

MR. TUMA: There is an EU standard that was put together by the EU that seeks not to define what is non-GM, but instead seeks to define what should be labeled as GM for consumer-packaged goods. And that's the standard we meet.

I also wanna call out that the USDA is currently developing a similar standard definition that would hopefully be in place in the U.S. in the next year or so that will seek to label what should be labeled as GM, but will not define what is non-GM.

And as Mr. Aud presented in his testimony, while there is no exact definition in place yet, we feel that based on what we've seen, that Cargill citric acid will not need to be labeled as GM once that comes to fruition.

COMMISSIONER BROADBENT: In Europe or in the U.S.?

MR. TUMA: In the U.S.

COMMISSIONER BROADBENT: Okay. But in Europe, you still have to be labeled GMO?

MR. TUMA: In Europe today, we do not need to

label our citric acid as GM.

COMMISSIONER BROADBENT: Because of this SGS certification?

MR. TUMA: It's because of the EU standard.

COMMISSIONER BROADBENT: Okay. All right. In response to the U.S.'s 301 announcement regarding tariff imposition on products from China, China indicated that it would be imposing retaliatory tariffs on several agricultural products including corn exported from the U.S. Is this gonna have any impact on your raw material prices for citric acid?

MR. PEEL: When we take a look at the corn costs, we really have to go back to what we consider to be a net corn, and that's once we get all of the byproducts into it. What we find is if the price of corn goes down, the credits also decline as well. And so you're not paying less. In some cases you could be paying more because you're losing such a contribution value from your byproducts.

COMMISSIONER BROADBENT: Okay. I'm not sure I quite follow that, but -- does the difference in CACCS substrate--and I guess it can be corn, beet sugar, molasses, tapioca--have any relevance on end-use applications? Such as an end-user would prefer one substrate over another?

MR. ERICKSON: The one aspect of the substrate is the non-GMO versus GMO, so that is the primary

differentiator between allowing the company to get to a non-GMO certification is the substrate. So the underlying substrate for the non-GMO products is a non-GMO substrate.

COMMISSIONER BROADBENT: Right.

MR. ERICKSON: Outside of that, the citric acid as a chemical is identical. All produced is identical. So there's no differentiation between -- and they're all drop and replacement, so a customer wouldn't be able to say, hey, I want the one with dextrose and not with sugar cane. There's no difference chemically. It would just be that non-GMO versus GMO in labeling. It would be the only difference that would be, from a finished good.

COMMISSIONER BROADBENT: So in terms of the imports that are made with beet sugar, molasses or tapioca, those are non-GMO?

MR. ERICKSON: Those are non-GMO.

COMMISSIONER BROADBENT: Yeah? Okay.

MR. ERICKSON: And so those local producers are choosing the lowest cost feedstock available to them, which happens to be non-GMO in their market.

MR. AUD: This is Chris Aud with Cargill. I just wanna make sure -- I wanna try to provide a little clarity, to again, just to reiterate the fact that the subject import product coming into the U.S. as citric acid, although it is qualified under the project non-GMO standard,

the vast majority of that volume that comes into the U.S. competes with our GM or our non-GM, in our case, citric acid in the market.

And so while it's true that they support a small niche of the market that we cannot, the vast majority of their volume coming in competes head-to-head in our space. And we see it across segments. So I wanna make sure that's clear.

MR. JONES: Commissioner Broadbent, I'd just like to add that also the calculus that Cargill makes or any producer would make is to whether to invest in being able to produce to the non-GMO project verified standard. At least to date has been based on analysis of a market that is depressed by unfair trade practices. In a fair market, there might be different calculuses to whether to make or to invest in that product if the prices in the market justify that expenditure.

COMMISSIONER BROADBENT: Okay. For the post-hearing, Mr. Jones, if you could -- I was looking at Capital Trade's pie chart here, and if we could talk about the growth rate expected, projected for non-GMO in the beverage sector, the food sector and the pharmaceutical sector, and kind of break that out from the industrial and the detergent?

MR. JONES: We'll address that post-hearing.

COMMISSIONER BROADBENT: That would be helpful. Thank you. In the pricing data, the Commission asked for pricing data for two categories, spot short-term contracts and annual long-term contracts. Could you talk about any significant differences in pricing for these categories? And how they may affect the price aggregates contained in the Commission's analysis?

MR. JONES: Commissioner Broadbent, I think that's gonna call for some analysis of confidential data, so we'll be happy to address that post-hearing.

COMMISSIONER BROADBENT: Okay. That's good. Thank you very much.

MR. TUMA: Just to add one thing. It was mentioned in the opening testimony for the respondents that petitioners don't compete in certain spaces and one is in the spot market with the respondents, which is incorrect. We do carry some spot business ourselves and compete in that market.

And the other thing that I think needs to be addressed is the fact that when we enter into long-term contracts with distributors, which is our practice, and in the spot market, the respondents continue to depress pricing. Our distributors are selling many times load-to-load or order-to-order.

And so we either need to react by lowering our

price and risk losing the business. So we are affected both in the long-term bids that are done in the Fall and throughout the year in the spot market, even within our long-term contracts.

COMMISSIONER BROADBENT: Okay.

CHAIRMAN SCHMIDTLEIN: Okay, so this is probably going to be best done in the post-hearing given the confidential information, but maybe we can have somewhat of an exchange about it.

So in your brief at Page 26, you talk about Table II-8 of the staff report, which is on Page II-22. And there, which is actually not bracketed, the data in that table, which is for the year 2017, which shows the quantity of pounds, I guess that purchasers estimated were non-GMO project verified. Do you see where I'm talking about?

And so seven purchasers I guess answered yes to that question, and then they estimated it's 67 million pounds, roughly. And when you compare that number and you anticipate this question in your brief, when you compare that number to the total on the next table, Table II-9, which is bracketed, in terms of what percentage that is of total sales, GMO and non-GMO, I come up with a bigger percentage than 5%, right?

It looks like--and maybe you can just walk me through--it looks like in your brief on page 26 that your

response to that is, well, that the questionnaire instructions don't really get at the question of whether or not those purchases of GMO Project Verified were actually required to be GMO Project Verified, or certified? Is that right? Is that what the argument is?

MR. JONES: This is Steve Jones, Chairman Schmidtlein. We certainly are concerned about some of the data in the staff report and it not being clear what the data shows, what it represents.

The Table 2-8 I think is an example of that, where it's not clear what is being presented, exactly what the data would show with respect to demand for non-GMO Project that is required for the end use.

And so I think the short answer is: We do have some concerns about that, so we tried to provide additional data--tried to provide additional clarity on that.

For example, in table 2-8 it is not clear from the table, and I don't think it's clear from the questionnaire responses, what the--just looking at the non-GMO Project Verified line, 67 million dry pounds, and then "share of quantity, 16.6 percent."

So does that mean that 16.6 percent of the 67 million pounds is required to be non-GMO Project Verified? I think that's the conclusion that Pepsi reached in its brief, but it's not clear to us, anyway, what that shows, or

what the data--where the data were taken from.

So that's--we had a concern about relying on that table because we just weren't sure about what the data represented.

CHAIRMAN SCHMIDTLEIN: And have you gone back to look at the questionnaires to see what--because it looks like on the page before where it talks about 7 of 32 responding purchasers required--I guess the questionnaire specifically asked, "Do you require?" Right? Which is the question it seems we're trying to answer. Non-GMO Project Verification for your purchase? And if so, estimate what percentage of your purchases require that? And they estimated 16 percent. And I assume that, based on that, is where we came up with the 67 million pounds. That is equal to 16 percent.

I haven't gone back to look at the questionnaires, but we will. I don't know if anybody else has.

MR. BAY: This is Ben Bay from King & Spalding. I mean it's a two-part question. So the first part is a straight-up 'yes' or 'no.' Do you require non-GMO Project Verified Butterfly? And we think, yes or no, that's an easy question for everyone to answer.

The next part of the question is the difficult part. The next part of the question is: If yes, indicate

the share of your firm's 2017 purchases that were certified, in parentheses, "percent". If you answer that question the way it is written, what you are--you're just responding to, okay, I have bought X amount from this producer. Everything is certified as non-GMO under that standard, therefore that's what I'm going to put down.

But that is not the actual percentage that is required for your end-use that you need. So people are over-reporting based on the way that question is written. And so therefore that 67 million is most likely much, much, much too high. That's what we try to differentiate between.

CHAIRMAN SCHMIDTLEIN: So, okay. So let me ask you this hypothetical. If we were to say, well, I don't know, I think the question was pretty clear and they probably answered it reporting what was required to meet the certification, what does that do to your case in terms of that percentage?

So if we say, well, if you look at that, and you look at that as a ratio of that to the total imports in domestic, and, yeah, it's higher than what you all are arguing is the percent of the market that is required to be, let's call it "Butterfly certified" just for abbreviation. What does that do to your case? Does it matter?

MR. JONES: So I don't think there's any way you can find that there's 67 million pounds of non-GMO required

demand in the market. But let's say hypothetically that that's what the number is. Then I think that you still should reach an affirmative determination because subject imports are still a material cause of injury to this industry when you look at the volume of subject imports, when you look at the market share they take, and when you look at all of the indicia of low pricing that are in the record, including underselling, and you look at the correlation between the increase in subject imports and the decline in the domestic industry's performance, as we showed in one of our slides, I think you still have a case where subject imports are a material cause of injury to this industry.

Are there other causes? Perhaps. But there's no question that subject imports are a material cause of injury.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. I agree with that, and I just want to say that even at that level there are still nonsubject imports present in the market above that level, which would cause harm if they come in increasing levels, depress the price, and cause lost sales. It would still harm the domestic producers and cause material injury. There's enough there.

CHAIRMAN SCHMIDTLEIN: Enough subject?

MR. SZAMOSSZEGI: Yes, subject.

CHAIRMAN SCHMIDTLEIN: Yes, subject. Okay.

MR. AUD: This is Chris Aud with Cargill. I just want to make one more point about the 16.5 percent. And again we'll address in more detail in the postconference brief. I'll just say, for now I'd be shocked if that were a real number relative to the total food and beverage market that requires non-GMO. Citric in many applications is less than one percent in many beverage applications. In fact, the carbonated soda softdrink market, that's in many cases less than one percent of the total finished formula of citric acid.

And so to extrapolate by multiple factors that citric acid would require more non-GMO in the market than all other food and beverage categories to me is just a flawed argument.

So I don't know how the question was asked, or how the purchasers respond, but I would be shocked and frankly we would be doing a really poor job tracking the market if citric acid is required in 16.5 percent of the total market in the U.S. Project non-GMO Butterfly. We just don't see that at all.

And we will be happy in the post-brief to provide more details on that.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. AUD: Commissioner Schmidtlein, to answer

your other question, we have gone and looked at the individual questionnaires, and there are some that are just demonstrably wrong that I can't talk about the numbers, but there would be let's say a high percentage, and then you go to their website and only, you know, three out of hundreds of products are non-GMO, and they're not exactly household names.

So we'll lay out these arguments. There are a few of those that will underscore why we think that number cannot possibly be the size of the non-GMO Project Verified U.S. market in the post-hearing brief.

CHAIRMAN SCHMIDTLEIN: Okay. And if you could also include--again, this is bracketed, but to your point about providing other data on page 26 when you refer to a particular survey, and that that was a percentage for all food and beverage, and that goes to the number on page 24 as well at the top where you talk about, you know, talking about total food and beverage, all brand lines.

Why is it--given that those are different denominators, right, as you said, like that's a percentage of the price, you know, the consumption value of those items, food and beverage, why does it make sense to compare the percentage of citric acid purchases to a percent of that total market in order to determine whether it makes sense--you know, in order for us to estimate what the non-GMO

Project Verified market is. Do you see what I'm saying? It doesn't make sense to me because there's two different denominators. So why would I expect them to be similar, and they're quite different in scale?

MR. SZAMOSSZEGI: Chairman Schmidtlein, we would be happy to explain the methodology that we used in more detail.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. SZAMOSSZEGI: And it's a challenge, frankly. There isn't a lot of data out there on this. We were able to find some, and we think the data are good and we think the data support our position.

MR. AUD: This is Chris Aud--sorry, just one more thing to add. I would suggest that the data that you see there on page 24 and the source that we used is a much more inclusive look at the total food and beverage market than is the number of purchasers that responded to this questionnaire. I don't know the total number--it's confidential--but I would guess that total U.S. market for citric acid is a certain number, and it's probably a relatively small percent of that total that's represented by those respondents.

So to extrapolate that 16.5 percent, even if you believe it, to the total market I think is a leap that the data that we provided for the total food and beverage market

is I'd say a more accurate representation of how impactful that Project non-GMO Butterfly standard is in the market.

CHAIRMAN SCHMIDTLEIN: Okay. Well in that--in the post-hearing, though, it isn't confidential here. This table is 32 purchasers responded, and we know that the purchasers are concentrated into a fairly small number of large purchasers for citric acid. So you can take that into account in putting forward why these other numbers are a better way to estimate.

Okay, Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein.

On page 21 of your prehearing brief you present information about why it is difficult to meet the so-called "Butterfly Standard." After all, it appears that it could be costly and complicated to switch between GMO and non-GMO feedstocks. For example, it would be necessary to flush systems after using GMO feedstocks and then switching to non-GMO.

Could this situation actually lead to increased--could this situation actually lead purchasers to increase purchasing all non-GMO inputs when only a fraction of their end products would need to be certified as non-GMO?

MR. PEEL: Jeff Peel, ADM. We've gone through the investigation of looking at non-GMO certifications, and

we've come to the conclusion that, while non-GMO Project Verify is a good first step, we don't believe it's going to be the end decision. We believe that some of the customers that went with that was their way of being able to give some verification to their customers, to give them a satisfaction that it's non-GMO, but we feel there's other processes out there to analyze for the product.

I think Ken, I think may have pointed out earlier, if you look at non-GMO based on EU standards, we meet it. We meet it very well. While Project Verify looks at the front end, there are others out there that are actually looking at the whole process with processing aides, and they look at the fact that just because you start with a product that may be GMO, you actually go through the process and you end up with a product that does not have that organism present.

So that would make it non-GMO when you look at EU, but until we get clear direction from the USDA that's the only thing that many of these large softdrink companies cling to.

Plus, the fact is too that remember that their flagship brands have not been switched over. So when you look at the major softdrink companies, they're not switching their flagships over. That would cost too much money.

So you're looking at the juice lines, some tea

lines, you're looking at the segments that they're trying to grow. But that doesn't necessarily mean they are growing.

VICE CHAIRMAN JOHANSON: It appears that adhering to the Butterfly Standard would make it very difficult to switch between non-GMO and GMO products. Is that the case?

MR. PEEL: It--for the Butterfly, if there is another process out there for verification and it makes more sense, not everybody's bought in on that process because of the fact that, like I said, that's a good first step. That doesn't mean that ultimately that will be the end step. And once we get clarification from the USDA, I think you will see other opportunities come in.

MR. AUD: This is Chris Aud with Cargill. I can speak for Cargill. It would absolutely increase our cost of production. Keep in mind that our citric acid facility is part of a larger biorefinery complex, as I stated in my testimony. The small minority of bushels ground in the facility go toward citric acid. And so not only would it take to eliminate the cost, you would still have to pay the premium to the farmer for that non-GMO corn. But to really eliminate all other costs that are involved in that supply chain on that Butterfly standard, you would have to convert our whole facility to a non-GMO corn, and we don't see that happening in the market any time soon.

VICE CHAIRMAN JOHANSON: Alright, thank you, Mr.

Aud.

Based on questionnaire responses, the Commission is aware that some contracts are tied to raw material prices. During the Period of Investigation, we saw prices decrease to varying degrees for all substrates except tapioca, which saw a slight price increase. Could you please explain how these changes in prices have affected pricing negotiations in your sales? And whether these sales are short-term, long-term, or annual contracts?

MR. TUMA: This is Brett Tuma from Cargill. I think we want to handle most of that in the postconference brief. But what I can say is that, while we have seen some slight reductions in our corn dextrose over the Period of Investigation, the pricing that we've been able to attain in the market fell much more rapidly.

So it's not an element of us passing on savings to our customers. We had relatively flat, to slightly declining raw material, but felt a lot of injury on the revenue side.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Tuma. Could you all please address COFCO's assertions on pages 4 to 5 of its brief regarding competition among U.S. producers, and the fact that purchasers identified domestic producers as the price leaders?

MR.; JONES: Vice Chairman Johanson, let me just

address that in a couple of ways.

First, there's no question that there's intense competition in this industry. There's competition between the domestic producers. There's competition between domestic producers and subject imports. There's competition between domestic producers and non-subject imports. It is a very competitive market, and it's a commodity product.

The question about price leadership is--I think all of the Respondents, or at least several of them in their briefs tried to make a lot out of what was in the staff report regarding the companies that were named as, quote, "price leaders," unquote.

And it's just useful I think to look at the definition of price leader that's provided in the Purchasers Questionnaire. The definition, it states, quote, "A price leader is defined as one or more firms that initiate a price change either upward or downward that is followed by other firms; or (2) one or more firms that have a significant impact on prices." And then an italicized sentence, "A price leader is not necessarily the lowest price supplier." Unquote.

So, you know, when a purchaser is answering that question, given that guidance from the Commission staff in the questionnaire, it's really hard to draw any conclusions from identifying a company as the price leader. It could

mean they're the upward price leader; it could mean the downward price leader. It could mean they're the first to market. It could mean a lot of things.

The Respondents have concluded that it must mean that they're the downward price leader, but as I just read, the question in the questionnaire for purchasers doesn't even remotely suggest that.

VICE CHAIRMAN JOHANSON: Thank--yes?

MR. SZAMOSSZEGI: Andrew Szamosszegi, Capital Trade. There's also some verbiage in the staff report which goes to an example of what one company reported. And that just confirms what Steve said.

I think everybody at this table would prefer to be a price leader on the upside and not the downside, and that's what this example talks about in the fourth quarter. So the domestic industry does compete with each other, but they don't want to lose money or make less money. And so the Respondents' theory is that they're purposely losing money, and that's just not the case.

VICE CHAIRMAN JOHANSON: Thank you for your responses.

For the post-hearing, could you please compare and contrast two tables that are in the Colombian Respondent's prehearing brief at pages 8 and 20? Hypothetically, could it make sense that a purchaser appears

in both of these tables? In other words, are the purchasers that both require non-GMO Certifications and also require that their citric acid be domestically sourced? If you all could look at that, I would appreciate that.

MR. JONES: We would be happy to address that, Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you.

Also for post-hearing, could you please address the assertions on page 7 of COFCO's prehearing brief regarding supply constraints, delays, and disruptions?

MR. JONES: Happy to do that.

VICE CHAIRMAN JOHANSON: And I've got two more for you, post-hearing. For post-hearing, I would like Petitioners to respond to the list of allegations presented by the Thai Producers on page 7 of their prehearing brief.

And my last one is this: For post-hearing, could you please offer your best explanation for the behavior described in Petitioner's prehearing brief at page 12 in the paragraph that begins with, quote, "In some of the pricing product categories" end quote.

Thank you, and I appreciate you all appearing here today.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Madam Chairman.

Let's see. Tate & Lyle's Brazilian operations obtain non-GMO Project Verified Certification, and I think you indicated that you were supplying primarily the Brazilian market. But are you supplying other markets with this product?

MR. ERICKSON: We do. We can provide our exports in the post-hearing brief, but primarily it is a domestic Brazilian market that we're servicing.

COMMISSIONER WILLIAMSON: Okay, good. Thank you.

What sort of trends has your business experienced in the terms of lengths of contracts during the Period of Investigation due to imports from the subject countries? If there has been a shift in contract sales, what effects have they had on pricing? Have you seen any shifts? And what effects have they had on pricing? And you can do it now or post-hearing.

MR. JONES: Commissioner Williamson, shifts in the length of contracts? The duration of contracts?

COMMISSIONER WILLIAMSON: The terms, or lengths.

MR. JONES: Terms or lengths, okay. It's probably not something that the witnesses can speak to in the public hearing, but we'd be happy to address that post-hearing.

COMMISSIONER WILLIAMSON: Post-hearing is fine.

Most of the imports of citrate imported from

Thailand are sold as U.S. product, but a lot of those imports also undersold nonsubject Canadian and--but nonsubject Canadian also undersold Belgian and Colombian. If duties are imposed, is there a threat that nonsubject imports will replace subject imports and harm the domestic industry?

MR. JONES: Steve Jones. Commissioner Williamson, this is something that we'll analyze certainly post-hearing, but--and we think that imposing duties on the subject imports is going to create a fair market. And if--you know, it's just hard to say what will happen in terms of imports from Canada. We can say, based on what the Commission found, that imports from Canada oversold the domestic industry. Will the Canadians reduce their prices to grab more market share? I think it's doubtful, given that they know they're going to be under administrative review every year. They know they're going to have to provide their pricing and cost data to the Department of Commerce, and demonstrate that they're not dumping. And I think it would be risky for them to do that.

But whether they decide to take that risk, I don't think we can say.

MR. AUD: This is Chris Aud with Cargill. I would just suggest to look at the Calendar 17 profitability and financial data of the U.S. industry relative to

forecasted '18 branch of that, and you'll see that's a dramatic turnaround. And so with the preliminary duties in place, we saw that turnaround and we were able to compete on fair grounds with each other and get back to sustainable profitable levels.

COMMISSIONER WILLIAMSON: Okay, so--

MR. JONES: And, Commissioner William--excuse me--we will be providing more information in our post-hearing about what happened after the preliminary duties were imposed by Commerce in January.

COMMISSIONER WILLIAMSON: Okay, good. You've kind of gotten to my question--that was the next question I was going to throw out about the Replacement Benefit Test, and whether we should be using that in this case with the Canadian imports--what impact might it have?

But I guess what you're saying is that we've already had somewhat of a test of that? But you can amplify on that post-hearing, too.

MR. JONES: I think I would prefer to think about that a little bit, look at the numbers and give you a well-thought-out analysis than one off the cuff in the hearing.

COMMISSIONER WILLIAMSON: Okay, thank you. Appreciate it. And, actually, I think those are all the questions I had. So thank you very much for those answers.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

COMMISSIONER BROADBENT: Mr. Aud, just to clarify an earlier discussion, you said that there would be a price premium for non-GMO domestic product because of the costs associated with sourcing the non-GMO substrate. Is that correct?

MR. AUD: Chris Aud with Cargill, yes, sorry. Let me clarify. If there were to be a price premium, would customers be willing to pay a price premium, we would be able to undergo the increased cost to take that on. Just because we take on that additional cost and go out to the market and introduce that to a customer, I guess by definition doesn't mean that they're be willing to pay that premium. So in a lot of cases we would require that to be kind of an upfront negotiation. If that customer was willing to pay the premium, and there's a large enough demand pool to justify the investment, then we would go ahead and make that investment.

COMMISSIONER BROADBENT: So is the product for Belgium or Colombia or Thailand being sold at a price premium?

MR. AUD: Not from our view. In the market we compete head-to-head with them. Like I said earlier, a product by product and we see the pricing and the volume data coming into the U.S. suggesting dumping, and the

preliminary duties I think that were found by Commerce suggest the same. So we compete head to head with that product.

COMMISSIONER BROADBENT: Okay. Mr. Jones, should the Commission analyze the domestic industry's capacity and utilization rates differently in light of their inability to supply non-GMO product?

MR. JONES: Commissioner Broadbent, I don't think so. I think that the data, our Table of Analysis, including both non-GMO and GMO imports, you know I suppose it could be that as we said there's a small portion of demand that the industry cannot supply, and we've estimated what that amount is. I'm not sure how that would impact the capacity utilization analysis.

COMMISSIONER BROADBENT: Okay. Mr. Jones, if we consider Belgium individually and not cumulated, what evidence on the record should we look at to see material injury by reasons of imports from Belgium?

MR. JONES: Well, you know, I think that you certainly have the same factors that you would look at. You know, the cumulation issue was addressed at length in the preliminary investigation. And, you know, we think that there really is a very poor argument to decumulate Belgium. So we haven't, frankly, given a lot of thought to whether, if you did decumulate imports from Belgium, could be found

to be a source of material injury. We can go into that post-hearing, but we think the possibility of that is pretty remote so we haven't spent time looking at that.

COMMISSIONER BROADBENT: Okay, it would be helpful if you did that post-hearing.

Let's see. Mr. Szamosszegi--I can't pronounce your name, I'm so sorry--imports from Canada are also GMO, if I understand it correctly. Why isn't Canada's continued and increasing presence even under Order not the driver of the adverse impact on the domestic industry?

MR. SZAMOSSZEGI: Well--Andrew Szamosszegi--I go for the Irish, you know, "Sam-O-Seggi."

COMMISSIONER BROADBENT: Yes, that's good.

MR. SZAMOSSZEGI: That makes it easier. It's all those "s"es and "z"es that just drive people nuts.

With Canada, Canada again we've looked at them in terms of, you know, there's subject imports, there's nonsubject imports, Canada is part of the nonsubject import group. And while we see Canada rising, having an increasing presence in the market, nonsubject imports as a whole, the changes are not that severe.

And GMO imports from other nonsubject countries are being replaced by Canadians. So that's why you get that kind of back pattern that you see.

And so while, again, these guys are--these

companies are competing, certainly competing with Canada, and Canada is certainly doing reasonably well in this market, but nonsubject imports overall I think are what the Commission should be focusing on, rather than just one member of the nonsubject pool.

MR. BAY: Commissioner Broadbent, this is Ben Bay from King & Spalding. Your statement that the Canadian imports are GMO, I think it's important to point out the lack of clarity when it comes to that distinction, especially when you look at the Belgians. The Belgians during the staff conference in the preliminary phase said that they were in the process of getting a non-GMO Certification, being the Butterfly. They've only gotten that recently. So during the Period of Investigation, the product from Citrique Belge is not non-GMO Project Verified being sold in the United States.

I believe--I don't want to get into the particulars because I don't want to get into anything of APO, but I believe that when people get their standards over the POI, and it happens at different times, it's just dangerous to say, oh, these imports are non-GMO, these imports are GMO, and to think about it that way as the way it was throughout the entirety of the Period of Investigation.

COMMISSIONER BROADBENT: Okay, good point. Thank

you. I want to thank the witnesses. I don't have any further questions.

CHAIRMAN SCHMIDTLEIN: Okay, I just had a couple. Again, I think for the post-hearing.

Mr. Szamosszegi, following up on what you just said in response to Commissioner Broadbent's question about Canada, I would invite you all to address that question in the post-hearing. Because when I look at the numbers with regard to the different nonsubject countries, it looks to me like Canada is increasing more than its fellow nonsubject countries are decreasing, right? So if your argument is, well, the Canadians are just taking market share from their other nonsubject competitors, it looks like they're taking more market share than that.

So just to get it clearly on the record what the Petitioners' response is to the argument with regard to what do we point to in the record to demonstrate that market share is not being lost by the domestic industry to nonsubject, and therefore any injury that they're experiencing is really attributable to that. So I would invite you to address that in the post-hearing.

MR. SZAMOSSZEGI: Sure, we will.

CHAIRMAN SCHMIDTLEIN: Okay. And then lastly, Mr. Peel and Mr. Erickson, in both of your witness statements you mention that purchasers have used import

prices to leverage down prices, or renegotiate--forced you to renegotiate the contracts.

It would be helpful in the post-hearing if you could put on the record any emails or other correspondence that shows that, if you have it, where the purchasers are citing to subject imports as the basis for them wanting lower prices from you.

MR. ERICKSON Ken Erickson from Tate & Lyle. We would be happy to provide that.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, and with that, I do not have any further questions.

Vice Chairman Johanson?

(No response.)

CHAIRMAN SCHMIDTLEIN: No? Okay, that concludes the Commissioners' questions. Do staff have any questions for this panel?

MR. THOMSEN: Craig Thomsen, Office of Investigations. Staff has no questions.

CHAIRMAN SCHMIDTLEIN: Thank you. Do Respondents have any questions for this panel?

MR. CONNELLY: No questions.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much. So that brings us to our lunch hour. Let's return at 1:00 p.m. Let me remind you that the hearing room is not secure, so please take your documents and confidential

business information with you, and we will stand in recess until one o'clock.

(Whereupon, the hearing in the above-entitled matter was recessed, to reconvene at 1:00 p.m., this same day.)

A F T E R N O O N S E S S I O N

MR. BISHOP: Will the room please come to order.

CHAIRMAN SCHMIDTLEIN: Good afternoon. Mr. Secretary, are there any preliminary matters.

MR. BISHOP: Madam Chairman, I would note that the panel in opposition to the imposition of anti-dumping and countervailing duty orders have been seated. This panel has 60 minutes for the direct testimony.

CHAIRMAN SCHMIDTLEIN: Alright, you may begin when you're ready.

MR. CANNISTRA: This Dan Cannistra for Crowell Moring on behalf of the Respondents. We're going to begin this afternoon with Citrique Belge, Mr. Hans de Backer will be testifying on behalf o Citrique Belge.

STATEMENT OF MR. HANS de BACKER

MR. HANS de BACKER: So good afternoon. My name is, indeed, Hans de Backer, the CEO of Citrique Belge and we are the sole Belgium producer of the products concerned in this proceeding.

By having flown in yesterday from Belgium, I wish to thank you for the opportunity to testify before you today and I will address the following three main points.

First, the distinction between the subject products that are non-GMO Project Verified and the domestically-produced citric acid derived from GM corn

feedstock is significant because the U.S. market for citric acid is segmented based on the end use for which the downstream products are distinct.

Food and beverage and pharmaceutical applications increase the required non-GMO products certified inputs, which the U.S. producers have discussed this morning, are unable to supply to their U.S. customers from their domestic production. On the other hand, the imports from Belgium, Colombia, and especially Thailand, help fill this void without causing injury to the U.S. producers.

Second, the pre-hearing report confirms that the imports from Canada have surged over the period of investigation and consists of subject products that compete directly with those produced domestically by the U.S. producers. And like imports from Belgium, Colombia, and Thailand that are non-GMO Project Verified, imports from Canada are not certified to free of GMOs and thus, compete directly with U.S. produced citric acid derived from GMO corn feedstock.

The cause of any injury to the U.S. producers is, indeed, severe competition in terms of quantities and values from Canadian imports. Also, in growing market segments, like detergents and fracking.

Third, imports from Belgium have not caused

material injury to the domestic industry and do not pose a threat of material injury to that industry. The volume and market share of imports from Belgium are, indeed, the smallest of any subject country and are the only ones to have declined steadily over the period of investigation.

In addition, Citrique Belge's production capacity is limited to approximately 250,000 pounds per annum and our capacity utilization is remarkably high. Our commercial focus is overwhelmingly on satisfying the booming demand for our customers in Europe for consumption in Europe.

Based on this introduction, please allow me now to expand on these three key points. First, as mentioned this morning, the Petitioners still maintain that demand for citric acid certified not to contain GMOs is too small and the price premium is insufficient to make the product profitable. They have continuously downplayed the importance of citric acid certified not to contain GMOs because they use GM corn as their primary feedstock and cannot satisfy the growing demand for non-GMO Project verified products.

However, there is a growing demand by users in the food and beverages and farm industries for non-GMO Project Verified products and this is incontrovertible. We understand that U.S. demand for these products is

approximately 20 percent of the market. However, evidence confirms that not only is demand for these products growing fast it is also greater than 20 percent in the food and beverages and Pharma applications for which they are destined.

Along with the major producers in Colombia and Thailand, Citrique Belge's products are now also non-GMO Project Verified and as a result imports from Belgium do not compete with U.S.-produced citric acid in these growing food and beverages and Pharma application for which non-GMO Project Verified inputs are required by the customers. Average U.S. producers are unable to supply it from their domestic production. Such growth markets include, for instance, new energy and sports drinks which are perceived by consumers to be healthier than sodas or carbonated soft drinks.

U.S. producers of citric acid simply cannot compete in this segment supplying citric acid produced from GMO corn feedstock. As mentioned, even Cargill even recognizes these trends and seek to promote its non-GMO capabilities, claiming in promotional documents, and you can see that on the three websites of the Petitioners, that it has the broadest portfolio of non-GMO ingredients, including citric acid.

Cargill, however, I believe it's unclear on the

site whether or not that citric acid is produced in the United States, but as the pre-hearing report confirms none of the U.S. producers has obtain a non-GMO Project Verified certification for their U.S. production facilities; thus, any non-GMO Project Verified citric acid U.S. producers may supply to their customers in the United States must be sourced from foreign production, as mentioned, Brazil, for instance.

The ability of producers from Belgium, Colombia, and Thailand to claim that their products are non-GMO Project Verified has an equally important impact on competition between these imports on the other hand and U.S. produced from GMO corn on the other hand, as branding has had in other cases. The non-GMO Project Verified label is especially sought by consumers in the United States as a mark of quality, consistency, and reliability.

The label, indeed, drives purchasing decisions over other factors, including price and as a result, products with a non-GMO verified label no longer compete directly with other products derived from GMO corn feedstock, such as the U.S. produced, domestically produced citric acid. Although, U.S. producers may, of course, try to claim that their products derived from GMO corn feed qualify as GMO free. It is clear to the market practice that the only qualification that matters in the eyes of the

users, and especially the consumers, is the non-GMO Project Verified, the Butterfly label.

The summaries of shipments by GMO stated in the pre-hearing report confirm that the only genuine direct competition domestic producers' face is more and more from imports from Canada, which are also derived from GMO corn feedstock and compete fiercely in terms of quantities and values for growing market applications other than Pharma and food, such as detergents and fracking.

Second, data in the pre-hearing report confirm that Canada is the cause of any injury suffered by the domestic industry in the present case. In fact, while the market share of imports from Belgium have decreased from 2015 to 2017, along with those of Colombia and non-subject sources, imports of citric acid from Canada have surged between 2015 and 2017. Actually, the sales have gone up from $58 million in 2015 to $76 million in 2017 and that accounted, indeed, for the drop in the U.S. producers' market share.

Between 2015 and 2017, the increase in Canadian imports has been found to offset completely the decrease in other known subject imports of citric acid. And in addition, the unit value of citric acid from Canada has been found to have dropped and to have been consistently lower than other non-subject imports of citric acids. In fact,

Jungbunzlauer obviously, we know them very well, has substantially expanded its production capacity interest in Canada in recent years from approximately 130,000 pounds to 175,000 pounds recently.

And they have also completed the integration of a corn milling plant that was adjacent to their principal production site and they have acquired this plant in order to reduce their costs. Based on this significant growth in citric acid production from GMO corn feedstock, Jungbunzlauer has pursued and will be able to sustain a very aggressive strategy to capture even greater U.S. market share for applications that do not require non-GMO Project Verified products and they know their cost level.

The increase of imports from Thailand between 2015 and 2017 did not contribute to any injury suffered by the U.S. producers in this context because imports from Thailand are largely non-GMO Project Verified and just do not compete directly. Instead, as imports from citric acid from Canada that are also derived from GMO corn feedstock that compete directly with the U.S. producers; therefore, any drop in the U.S. producers' market share and any resulting injury is directly attributable to the surge in imports from Canada.

This negative impact in the market of significant volumes of price competitive non-subject imports

from Canada absolutely cannot be attributed to the imports from Belgium, Colombia, and Thailand. Given the segmentation of the U.S. market for citric acid based on the end users to which the products are destined, members of the domestic industry producing citric acid from GMO corn feedstock are left to compete on price with their similarly positioned Canadian counterparts in market segment like as mentioned detergents and fracking, for which the distinction between GMO and non-GMO citric acid is largely irrelevant.

To the extent demand by value did not quite match the amount by quantity, this is likely due to the fact that the products used in growing applications like detergent and fracking are of a common rate not non-GMO Project Verified and thus, sold at lower prices, as supported by the drop in unit value of non-subject imports from Canada between 2015 and '17.

Please add to this the relative geographically proximity of the Canadian citric acid production operations to the fields of the U.S. fracking industry, for instance, the plant is based in Fort Colburn, which is near Buffalo, New York and the negative impact of Canadian imports on the U.S. industry is further confirmed Canadian imports are the cause of injury to the U.S. producers.

Third, neither criterion the Commission considers to determine whether there exists a threat of

injury to the domestic industry is remotely satisfied in the present case with respect to Belgium. In fact, imports from Belgium have declined over the period of investigation and under utilization of our capacity is absolutely not an issue. Specifically, Citrique Belge's questionnaire response confirms that the company has been running at over 90 percent production capacity in 2017, even as its exports to the U.S. have declined. Our capacity utilization is even greater today, well in excess of 90 percent.

In addition, there are certain structural limitations on our production capacity and our company consistently sells more than 80 percent of our volume within the European Union; therefore, a finding that imports from Belgium might present a threat to the domestic industry is completely unfounded, in my view.

In conclusion, for the reasons I have presented, I do respectfully request the Commission to confirm that Belgium imports are neither causing material injury nor threatening to cause material injury to the U.S. industry and also to determine that subject imports from Belgium should not be cumulated with those from other subject countries and accordingly to terminate the anti-dumping investigation as to Belgium. Thank you very much for your consideration and we obviously look forward to answering your questions. Thank you.

MR. CANNISTRA: Thank you. This is Dan Cannistra again on behalf of Crowell Moring with just a few additional comments before we turn to the Colombians.

There was a lot of discussion this morning about Canadian imports and the size of imports and surges of imports from Canada, so I went and I took a look at the public import data just so we can speak about these openly and so everyone can understand the magnitude of imports that we're talking about from Canada.

Between 2015 and 2017, Belgium imports went from $11 million to $9 million. Most of that decline was actually in 2016, not 2017. Colombia, during the same period, went from 23 million to 16 million in imports. During this same period, Canada went from 57 millions in imports to 75 million in imports. Canada is approximately eight times the size of the increase in Belgium imports and five times the size of Colombian imports.

And while imports from Thailand during the same time did increase as well, the vast majority of those increases were in the non-GMO market. They went from 42 to $68 million. Again, I'm using the public import statistics so we can speak about the magnitude of Canada and the magnitude certainly relative to the subject countries in this public hearing.

I'd also like to briefly draw the Commission's

attention to two recent and relevant cases. The first is the truck and bus tire case. I think that that tire case has a lot of applicability to this case and there the Commission found that the truck and bus tires imported from China operated at one tier known as Tier 3 imports, whereas, U.S. production, principally, operated at different tier. We'll call it a Tier 2 and most of the separation of those tiers were brand-oriented, perception-oriented and there were also some quality factors associated with them as well.

And I'm certainly well aware that two out of the four Commissioners did not agree with this particular opinion, but two found that there was no overlap in competition or insignificant overlap in competition between the two tiers to find that one market was impacting the other. It didn't rise to the level of like product, but there was as disconnect between the levels of competition.

Now this case is actually more extreme than the truck and bus case. In the truck and bus case, the Commission staff found that the level of substitutability between the imported tires and U.S. tires was moderate to highly substitutable between the two tiers. That's the factual finding that the Commission made.

In this particular case, in the staff report, it is a degree below that. The staff indicates no more than a

moderate degree of competition between subject imports and domestic production and it ties that reduced level of competition between subject imports and domestic production to GMO and non-GMO certification, so it's very similar in that regard to the tiering argument in truck and bus tires, although at a more magnified level in this case.

The second case I'd like to draw the Commission's attention to and certainly one that we'll be addressing post-hearing is the brass, the Mattel Steel series of cases which focuses on the impact of non-subject imports in the Commission's investigation. And certainly, there's been some fluidity in the Commission's analysis with regard to non-subject imports, but the one thing that hasn't changed is that the Commission must evaluate the impact of non-subject imports. The Courts have certainly said there's no particular methodology that must be followed, but that doesn't mean that the analysis in any way falls away.

And then the most recent case involving the Commission's analysis of non-subject imports the Courts reiterated that the Commission must consider the role of other factors that have injured the domestic industry and break the causal link between subject imports and material injury to the domestic industry. We submit in this case that causal link that breaks the link between subject imports and any perceived injury is the imports from Canada

in this case combined with the separation of GMO and non-GMO.

Canada only competes in the same space that the U.S. producers compete, which is in the GMO market. The vast majority of other subject imports compete in a space where the Canadians and the U.S. producers do not, which is the non-GMO market. Thank you. And now we'll turn our panel's attention to Mr. Connelly on behalf of the Colombians.

STATEMENT OF CURT POULOS

MR. POULOUS: Good afternoon. My name is Curt Poulos and I am responsible for marketing Sucroal's citric acid and citrate salts in the United States and Europe as well as to major multi-national accounts. Before joining Sucroal in 2012, I worked for Myles Laboratories and Haarmon & Reimer. Tate & Lyle acquired the citric acid business from Harmon & Reimer in 1998 and I joined Tate & Lyle at that time. I managed the citric acid commercial business at Tate & Lyle until my departure.

Over my 38-year career, I've acquired a thorough understanding of the competitors of the citric industry with its strengths and weaknesses of their production processes, the products themselves, the customers and applications and the pricing and contracting practices that they employ. Of course, the three domestic producers have historically

dominated the market and that fact remains true both today and for the foreseeable future.

This dominance is the result of at least the following factors. First of all, the three members of the domestic industry have fostered deep and longstanding relationship by the largest domestic buyers; namely, Coke, Pepsi, Kraft, Dr. Pepper, Snapple Group, and other food and beverage producers. Food and beverage consumption, as you've seen, exceeds 50 percent of the U.S. consumption.

Second, these relationships are frequently facilitated by contractual arrangements that offer low prices in return for substantial long-term volume commitments. Third, the major accounts, by and large, remain in the hands of the domestic industry because ADM, Cargill, and Tate & Lyle compete fiercely with each other for the citric acid business as well as leverage other products in their broad portfolios to gain customer share. For all these reasons and more, a substantial proportion of the entire purchaser segment remains well insulated from import competition.

The one exception is the Canadian producer, JBL, which you have heard have been extraordinarily successful in the U.S. market. Its plant is relatively new and efficient and its nearby location provides a major competitive advantage over other imports.

Sucroal started in Colombia as a company called Sucroal Miles, which was a 50/50 joint venture between Miles Laboratories and the OAL Group, which is a conglomerate of Colombian companies, including Postobon, which is Colombia's largest soft drink producer. Postobon consumes a very significant portion of Sucroal's annual output of citric acid. Sucroal also has the key strategic advantage of having direct access to its primary raw material cane sugar.

The OAL Group is a leader in sugar production in Colombia through two affiliated producers. Sucroal's plant is located in the heart of the Cauca Valley, which is where sugar cane production is concentrated. This valley has some of the world's highest yields for sugar. The Sucroal Myles joint venture, which Tate & Lyle eventually took over, was dissolved in 2012 for two primary reasons.

First, the OAL Group wanted to invest in new technologies, but Tate & Lyle would not support this investment. Furthermore, Tate & Lyle was not doing an effective job in distributing Sucroal's products across all markets. Sucroal was created, at that time, as a wholly owned member of the OAL Group. In 2013, Sucroal began its initial direct marketing efforts in the United States. We had a very, very specific marketing strategy in mind, which was not price-focused, despite the Petitioner's claim. Rather Sucroal had a strategy of differentiation based on

integration to can sugar and sustainability.

Sucroal was the first company to obtain non-GMO Project Verified status for citric acid, which occurred in early 2015. The non-GMO Project Verified label is the gold standard or ingredient and food producers because its criteria is extremely demanding. Cargill, itself, has recognized the importance of the non-GMO market and the importance of receiving the non-GMO Project Verification. Cargill has been publicly quoted as saying that the non-GMO Project is the leading verifier of non-GMO projects in the United States -- products in the United States.

No domestic producer can meet this standard because domestic corn used in fermentation is genetically modified and while Sucroal's cane sugar is not genetically modified. The enormous growth and popularity of non-GMO food and drink has been extensively documented. Even though Sucroal has remained unable to penetrate the major purchaser accounts, for those sales where non-GMO Project Verified status is not required, we have had success at Coke, Pepsi, and Dr. Pepper, Snapple Group for those products where non-GMO citric acid is mandated. The domestic producers simply cannot compete for this business regardless of the prices that they offer.

Our business strategy is to promote non-GMO citric acid as a value proposition, not as a lower-priced

alternative. A key benefit of offering non-GMO citric acid is that it eliminates the need for a purchaser to maintain separate inventories of GM and non-GM material, which generates cost savings. In addition, the fact that Sucroal's substrate is cane sugar offers buyers a hedge against volatile corn prices. Sugar and corn prices sometimes move in opposite directions, as they have done recently.

We also satisfy the need of many producers for multiple sourcing and because Sucroal does not use grain, like corn, in our processes our citric acid is certified by a number of Kashrut groups as kosher for Passover, Kitniyot free. You have to remember that we seek to sell our citric acid to both end users and distributors that may buy hundreds or thousands of different ingredients.

Pepsi is a good example. They need non-GMO citric acid for their non-GMO Project Verified brands. They need kosher for Passover citric acid for certain products during Passover and they need standard citric acid for other soft drinks. We have developed a niche business with Pepsi because we can supply one product that meets all of these diverse requirements, but the Petitioners continue to dwarf our sales at Pepsi and other similar major accounts.

Our ability to deeply penetrate the U.S. market is limited for another reason. Sucroal does not have an

affiliated U.S marketing subsidiary and it does not maintain any inventory in the United States, so we can only do business with customers who are willing and able to import directly. Our pre-hearing brief explains how the citric acid market is highly segmented; therefore, the extent of head-to-head competition between subject imports and the domestic industry is significantly reduced from what might normally be expected for a commodity product.

A good example is the tomato packing industry in central and northern California, which produces more than 95 percent of the nation's processed tomatoes. Processed tomatoes get turned into everything from tomato paste, soup, and sauces to salsa and ketchup. We supply this market through a distributor that dissolves our lower quality citric acid into a 50/50 solution, which is the preferred form for these customers.

Domestic producers find it difficult to compete for this business for several reasons. First, there are significant transportation costs incurred in getting products to the West Coast from production sites on the East Coast or the Midwest, either in dry or solution form. More importantly, the customers in this segment have come to prefer non-GMO ingredients, which enable them to label their products with the non-GMO Project label. Currently, this segment is nearly entirely non-GMO. We do encounter some

competition from the Thai producers in that market through other distributors or directly, but that competition does not affect the Petitioners.

The opposite situation exists where a domestic purchasers needs citric acid in solution. Selling solutions increases the output of a plant. Less pure product streams can be used and/or unclassified partials can be used to make the citric acid solution. A key example is Proctor & Gamble's detergent plant in Lima, Ohio. Tate & Lyle can easily supply citric acid solution to P&G from its own Dayton plant. It is expensive to transport a 50 percent solution of citric acid, but not where your customer is located nearby. The P&G business in Ohio is business for which no subject importer can meaningfully compete.

The record does not appear to contain information the prices or pricing mechanisms that domestic producers use for their solution grade sales. Solution grade material is typically the lowest priced citric acid product and we believe that domestic producer prices for solution grade have had an affect on prices in other segments. We would like the Commission to further investigate this issue.

There are many other instances where competition is limited. For example, the proportion of sales that the domestic industry makes through distributors is relatively

limited. In contrast, Sucroal relies far more heavily on distributors because of our internal limitations. We also tend to rely more heavily on spot market and short-term contract sales while the Petitioners are far more heavily dedicated to annual and long-term contracts.

It is well know in the corn milling industry that the Petitioners have developed long-term contracting price models that index finished product prices to corn prices and energy prices. So when corn prices decline, so too do corn-based product prices. A general estimate for the citric industry is that a one-dollar-per-bushel decline in the price of corn will yield about a two cent per pound decline in the price of citric acid.

Whether domestic industry contracts were in effect through 2015 to 2017 that contain this type of de-escalator is not in the record. However, we urge the Commission to pursue this issue with the Petitioners because the existence of automatic price de-escalators tied to the price of corn or fuel could easily account for any of the price declines that may have occurred during the POI.

It is equally well known that some of the domestic producers have encountered internal issues that have affected their competitiveness. For example, Tate & Lyle suffered a major production outage in 2016. This problem caused them to declare force majeure and lose

customers. Once the problem was resolved, they had to lower prices in order to regain lost business.

It is also understood that ADM's plant in North Carolina is aging and inefficient as well as located a long way from the Corn Belt. The Commission needs to consider the effect of the internal problems on the domestic industry performance.

In conclusion, Sucroal has operated responsibly in the United States. We raised our prices in 2016 and in 2017 in order to test the value of our non-GMO citric acid. We do not deny that there has been some price competition from time-to-time between subject imports and domestic products. But overall, it is hard to see how the Petitioners could ever be dislodged from their preeminent position as suppliers to the major consumers of citric acid. They have done far too much over decades to insulate themselves from import competition. The remainder of the market is where both subject and non-subject imports compete.

This completes my remarks and I look forward to the Commissioner's questions to allow further clarification. Thank you.

STATEMENT OF ADAMS LEE

MR. LEE: Good afternoon. My name is Adams Lee of the law firm Harris Bricken and today I'm here on behalf

of COFCO Biochemical Thailand, Niran Thailand, who are two of the Thai citric acid producers, and Zhong Ya Chemical, which is a U.S. importer of Niran citric acid.

I concur with the points made earlier by my other colleagues from the Belgium and Columbian respondents. I'd just like to add a few comments to expand upon, or to emphasize some of these points. First, I'd like to focus on a few of the inherent contradictions or inconsistencies in petitioners' arguments.

First and foremost is the GMO, non-GMO issue. Petitioners insist that the demand for non-GMO citric acid is not a big deal for this case. They say, "It doesn't have a price premium." "Demand is small." "Standards aren't clear." They need clarification. "It's not worth it for us." "But we could supply it if we really wanted to, but we don't because it's really not important."

But here's the undeniable fact about non-GMO. The food and beverage industry is the largest end-use market segment for citric acid and the demand for non-GMO products has the largest growth rate and increased demand for all citric acid products.

So, as noted before, this market segment is not just soft drinks--Coke and Pepsi--but also flavored sports drinks, flavored waters, ice teas and also covers jams, jellies, jellos, candies and other food products. So anyone

who goes to the supermarket is an end-user customer.

I don't go to a supermarket that often, but nowadays I am befuddled by how many options there are. I see organic, natural, sustainable, responsibly-grown, cage-free. Non-GMO is part of this wave of that being marketed to consumers as a greener, healthier and thus, for some, a better product.

You know from your own experience that non-GMO is much bigger than it was just a few years ago. And the Commission staff report supports that internal gut feeling that you have and shows that the demand for non-GMO is, in fact, the fastest growing market segment over the POI.

So here's the thing. Petitioners have abandoned this non-GMO market segment. Regardless of whether the non-GMO standards need clarification, it was undeniable that they cannot or will not supply this market segment now and in the realistic near future. So it's just not what they do. And so that leads to attenuated competition for the non-GMO subject imports that are serving that market segment.

Petitioners just aren't there. But actually, denying the existence or significance of this surge in demand for non-GMO citric acid is realistically all that they can do. If they can't provide a non-GMO product, then all they can really try to do is convince you that, "Oh, the

demand is too small right now," and they try to deny, deny, deny that more and more people will actually want this non-GMO product in the future, to try to dismiss the significance of that market segment.

The second major contradiction in petitioners' arguments is that price is the primary, if not the only, factor that affects purchasing decisions. The staff report clearly shows that this is not so. Non-price factors such as quality, availability, reliability of supply recited by purchasers more often than price as the top factor in citric acid purchases.

So when citric acid is a relatively small part of the overall cost of the finished product, it is by far more important for the end user to have confidence that the citric acid supplier will meet its quality standard, and that the deliveries will always be there and they won't screw up your own production schedule.

So it's more important to have a reliable supplier who can always deliver on time, and to try to save a little bit on price. Indeed, the staff report includes numerous instances of purchasers complaining about supply shortages from the domestic producers and limited availability, particularly in the most recent 2016-17 season.

Purchasers often will require a second, or even

a third supply option in order to protect against being caught in a short-supply situation. Purchasers may pay more or less depending on the supplier, but it is critical that they have more than one supply option because diversity of suppliers means security of supply.

So even if the Thais are a necessary second supplier to certain major end-users, it does not necessarily mean that they are going to move into becoming the primary supplier for those purchasers' requirements. Indeed, if the Thais were so low-priced during the period, you would've expected a much larger swing in the purchase volumes from the major end-users, but you don't actually see that from the questionnaire data.

So we ask you to look closely at that and just see how important of a shift is it to the Thais and the other subject imports in terms of their purchasing decisions. Was it really driven by price? Or was it really driven by the need to have a secure, reliable second or third supplier?

Another factor affecting pricing is to what degree are petitioners selling by long-term or annual contracts and to what degree are subject imports being sold by spot contracts? And what is the inter-relationship of these pricing mechanisms?

The domestic industry relies heavily on

long-term, or annual, contracts, which usually set a price term that is fixed for the whole year, but leaves quantity terms open to be determined on an order-by-order basis. Usually the pricing for annual contracts is set higher than current spot prices to anticipate possible increases in costs forecasted for the next year.

In contrast, most of the subject imports are not sold through an annual, or long-term, contracts, but rather are instead sold on spot basis. Since pricing for most of the domestic industry sales are set a year in advance, they're typically insulated from any head-to-head pricing from the subject imports that are sold on a spot basis. So thus, the pricing comparisons that the Commission has collected has limited value in this particular case.

Another factor affecting pricing is that everyone in the citric acid industry knows that different producers use different start substrates to make their citric acid. As petitioners acknowledged, the major customers are sophisticated, multi-national companies, and many of them monitor these costs of these different starches very closely. Corn for the U.S., sugar for Belgium and Columbia, cassava/tapioca for Thailand.

Purchasers can and do closely watch these material input prices because they know they have a direct and significant impact on the overall costs of citric acid.

So when citric acid prices are indexed either officially or unofficially to corn, sugar and cassava prices, the ups and downs of corn and sugar and cassava prices can be translated to the ups and downs of the respective citric acid prices.

Indeed, the talk this morning about the recent improvement in pricing and the condition of the domestic industry cannot be attributed to the filing of this petition or the prelim determination. The timing just doesn't work. The prelim came out in January of 2018, and yet the petitioners are saying that they improved by the end of 2017. So their timing is just off.

Rather, if you look at the Thai cassava prices, you'll see that Thai cassava prices are going up in 2017 and you'll also see Thai citric acid prices going up in that time as well. Given the complex mix of price trends of your corn, cassava and sugar pricing, sophisticated purchasers want to have a diverse and balanced supply sources to hedge against or to take advantage of the differences and starch prices in price trends. No one wants to be all ran on just one single supply source.

Finally, the third glaring hole in petitioners' argument is that they failed to address the degree to which there is either internal competition amongst the three domestic producers, or they don't address the significance of JBL as a competitor from Canada. Petitioners say little

about competition from non-subject producer JBL, other than to say, "Well, it was just part of non-subject imports, and if it's blended in with other non-subject imports, it's not that important."

But if you look at the instances recorded in the staff report about purchasers identifying who they were switching their sourcing from, you know, often they're identifying they're switching from one domestic producer to another, or they're identifying JBL as the new supplier. So we provided a detailed break-down of lost sales allegations that were either denied or disputed, and we ask the Commission to look closely at those allegations to see who really are the domestic producers losing their sales to. We submit that it's not really the subject imports.

In sum, given the context of the unique conditions of competition for the citric acid industry, the record evidence does not support a finding that the subject imports are causing injury to the domestic industry. There were no adverse volume effects as the data should be viewed in the context of the significant increase in demand for non-GMO citric acid, which cannot be supplied by the petitioners and can only be supplied by the subject imports.

There were no adverse price effects when pricing data is considered in the context of the greater priority

and emphasis placed by purchasers on non-price factors such as availability and reliability of supply.

Given the disparity in how domestic producers rely predominantly on sales made by annual or long-term contracts, the Commission's pricing data must discount the significance of any underselling. For impact, we urge the Commission to consider the record evidence that shows there really is no causal nexus between the subject imports and the condition of the domestic industry.

Our pre-hearing brief provides a detailed break-down of the domestic industry's financial performance and clearly shows that something other than subject imports is responsible for any decline shown in the overall financial condition of the domestic industry. In short, for these reasons, we believe the Commission should make a negative determination and find that subject imports are not a cause of material injury, or threat of material injury.

One final note, we urge the Commission to make a negative critical circumstances determination for Thailand. Department of Commerce did make an affirmative critical circumstances finding for one Thai producer, Niran, but not the other two mandatories, COFCO and Sunshine. The data shows that the Niran post-petition imports that are subject to DOC's critical circumstances finding, do not warrant an affirmative critical circumstances determination.

In short, the Niran import volumes and inventory levels are just not big enough to undermine the remedial effect of any anti-dumping order that may be imposed. Given the track record of how the Commission has looked at critical circumstances, we submit that the data for Niran's imports show that a negative critical circumstances finding is warranted in this case. Thank you for attention in this matter, and I look forward to answering any questions you may have.

MR. CANNISTRA: Thank you, and that concludes Respondents' panel.

VICE CHAIRMAN JOHANSON: Thank you all for your testimony today, and thank you in particular to Mr. de Backer who came all the way from Belgium to be here. We appreciate you appearing at the hearing.

I will begin with this afternoon's Commissioner questions, and I am going to begin, not too surprisingly, on the whole issue of GMO versus non-GMO.

On page 12 of their prehearing brief, Petitioners argue that there is no price difference between GMO and non-GMO CACCS as a non-GMO Certification does not qualify for a price premium in the U.S. market.

The lack of a price premium for non-GMO is again mentioned at pages 29 to 30 of the Petitioners prehearing brief to explain why Cargill does not invest in its non-GMO

product.

Could you all please reply to the assertion that there is not a price premium for non-GMO citric acid?

MR. de BACKER: This is Hans de Backer, Citrique Belge. I also would like to introduce our sales director who may want to complement.

Two points. First of all, there is a price difference, as was mentioned just now. Customers are not only interested in price. They are interested in quality, availability, reliability, and that includes also the non-GMO aspect, the label.

And so we have now obtained it, and we see more demand, and we see that we can sell at higher prices. We estimate that the price differentiation between non-GMO and GMO is roughly 10 percent.

VICE CHAIRMAN JOHANSON: Thank you, Mr. de Backer. Mr. Poulos?

MR. POULOS: We're finding similar. Since we were the first in 2015, we were kind of the experimental case of what is the value of citric acid with a non-GMO Project Verification.

We began with a price strategy of keeping it the same, and we found quickly that people would buy more than our capabilities to price it the same. So in the subsequent years we raised prices to further evaluate what is the value

of non-GMO citric acid. And we've been successful in those strategies to increase pricing as well as successfully sell volume to those customers who require that criteria.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Poulos.

Could you all please comment on home market demand? And in particular I would like to hear from Citrique Belge. I was wondering if you could comment on European Union demand.

You mentioned in your testimony earlier that demand is high in the EU. I would appreciate it if you could comment, and also if we could hear regarding Colombia and Thailand as well. Thank you.

MR. de BACKER: Well actually the European Union, there was also a report from CEH 2015-2020. That report was mentioned that European demand would be growing by roughly one percent per annum. But now that the economy has been picking up, we do estimate that now the demand growth is more than 2 or 3 percent. And especially the last few months we have seen an increasing amount, and that means basically that for this year we are virtually sold out already for the full year of 2018.

It's very hard because we don't have recent numbers on the market growth. So whether it's 2 percent or 3 percent or more, it's hard to say.

But there is a second thing. And that's the

consumer demand is changing. And that is also related to the discussion that we have had today. We see that carbonated softdrinks are going down, but we see that new energy drinks, sports drinks, teas--for instance, Coca-Cola is now bringing Honest Tea to the European market since this week.

We see a shift in the amount, as well. And that shift is actually increasing the demand for citric acid, because there is more citric acid in the new drinks than there was in the old drinks, for instance. So that is underpinning my feeling that the demand right now is growing by at least 2 or 3 percent, rather than the 1 percent that was mentioned in the report of 2015.

VICE CHAIRMAN JOHANSON: Mr. de Backer, earlier today we heard Cargill state that Cargill can ship its product to the EU and that it is certified--or that it is seen as GMO-free by the European Commission. Then again, your product is explicitly GMO-free. Do you see a market advantage for you all in the European market due to that?

MR. de BACKER: Well in the European market everybody knows that our feedstock is non-GMO, because we start from sugar beet and we are in the middle of the sugar feet, and there is no discussion about it in European Union. All our customers know that we are non-GMO. We initially had some difficulties to prove that in the U.S. market,

although our clients also understood this, and now we have been able to get the Butterfly Label.

We do actually have a possibility to ask higher prices in return.

VICE CHAIRMAN JOHANSON: Do purchasers in the EU seek our product not produced by GMO feedstock?

MR. de BACKER: First of all I should say that the three U.S. producers hardly have any exports. If you look at ADM, Cargill, and Tate & Lyle, and if you look at the staff report, the exports from the U.S. operations are less than 5 percent of their sales. So they hardly have any exports.

So they certainly don't come to Europe. Tate & Lyle has closed its plant in Europe some years ago, and that's basically we're down to two producers back in Europe now.

So it's very hard to comment on the fact that the U.S. producers may be able to come to the European market with their products. The fact is that both the Austrian competitor, Venslauer and Wi, when we serve the European market, when we serve our purchasers, everybody knows that European Union is non-GMO with respect to citric acid.

VICE CHAIRMAN JOHANSON: Thank you, Mr. de Backer. Mr. Poulos?

MR. POULOS: On that subject, in my time at Tate &

Lyle it was my experience that no U.S. producer was able to sell in the European market to large food consumers due to the perception of the consumer, not necessarily the EU directive. Sucroal was recently approved as a supplier to a major beverage company in Europe because of our integration to sugar, whereas the Petitioners are all qualified suppliers to that customer but chose us as an alternative supply because of our integration to sugar cane.

VICE CHAIRMAN JOHANSON: And, Mr. Poulos--I'm sorry, Mr. de Backer?

MR. de BACKER: I would just like to add one point, Mr. Commissioner. We are enjoying an extremely high demand right now, and that has to do with China. China has cracked down on pollution, which was initiated by its president, Mr. Xi Jinping, and the crackdown on pollution has started last year. And this has had a serious impact on the production capacity of China coming into the European market.

Actually three of the six plants were affected by that crackdown on pollution because they could not meet certain standards, like CO2 emissions or waste water treatment. And that has basically reduced the capacity coming out of China. And that means that we have basically enjoyed an exceptional market situation in Europe lately, which is still the case right now.

VICE CHAIRMAN JOHANSON: Thank you, Mr. de Backer.

MR. CONNELLY: Commissioner Johanson, I just wanted to go back to I think the question you started with, which was the effect of China imports into Colombia. There was a slide from Petitioners this morning that showed the great percentage of Chinese imports into Colombia.

Without going into any APO information, let me just say, first of all, that demonstrates that there is a very significant market in Colombia. And, secondly, the fact that the Chinese have pushed into Colombia is of great concern to Sucroal, something we're looking at very closely.

VICE CHAIRMAN JOHANSON: How is demand overall in Colombia?

MR. POULOS: Demand in Colombia is very robust. Many Third World Countries grow at jealous amounts of citric acid growth due to growth in economics. The population that's able to drink soda rather than water grows with the growth in the economy, and the Colombian economy has been very successful over the last number of years, as is the growth of citric acid.

As I mentioned in my testimony, one of the largest consumers of citric acid in Colombia is a sister company of ours, Postabon. And indeed their product portfolio and their consumption is growing quite

consistently.

VICE CHAIRMAN JOHANSON: Thank you. Mr. Lee, could you comment briefly on the situation in Thailand?

MR. LEE: Sure. For Thailand, Thailand also has a strong and robust home market. But it's also a hub. Thailand is a hub for Southeast Asia. So to the extent that there is food and beverage producers that are having headquarters in Singapore, or in Bangkok, our Thai producers are well positioned to serve those purchasers' needs.

And so in terms of home market demand, yes, we're serving large end users in the home market as well, and throughout Southeast Asia.

VICE CHAIRMAN JOHANSON: Alright, thanks for your comments. That concludes mine for now.

Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. I too want to thank the witnesses for coming in, and Mr. de Backer for coming all the way across the Atlantic.

I think you've said that you see that there is a premium for the GMO product. And I guess the Petitioners this morning argued rather vigorously that there was not. Could you address further what the basis for saying there's a premium, and what evidence you could maybe submit post-hearing, or what you can point us to to substantiate this difference--substantiate that there is a premium, and

how much it is?

MR. de BACKER: Thank you for the question. It's not an easy one. It's true, it's hard to figure out exactly what is the price differentiation, but now we see it. We have the labels, so we see it coming.

First of all it has to do with quality. And so the Butterfly Label is basically also a quality label. It's a label that is driven by consumer demand, by consumer trend, by consumer weight. So the people want to have that product. That's the first thing.

The second thing is we do see--we have never been in the States to drop prices. We have never been here to go below any prices. We do see that we can ask higher prices right now, and that's what we have discussed. It's roughly 10 percent.

COMMISSIONER WILLIAMSON: Okay.

MR. CONNELLY: Commission Williamson, let me just try to address this from a little different angle. So it's clear from the testimony this morning and this afternoon that no domestic producer can sell non-GMO material to a U.S. purchaser. That's clear.

It's not clear, really, how big that demand is--

COMMISSIONER WILLIAMSON: I'm sorry? Can sell non-GMO material?

MR. CONNELLY: No U.S. producer can sell non-GMO

material to a U.S. purchaser. They don't make it. Alright? So the question is, how big is that demand?

Now we've given an estimate. The staff has an estimate. The Petitioners have two or three estimates. I would submit that the one Sucroal has submitted is the most reliable. But whatever it is, that's a premium. That entire volume at whatever price it is sold at is in one sense a premium because there is no competition with the U.S. industry. That is a very--

COMMISSIONER WILLIAMSON: Okay, I'm not sure I understand that argument, but I would rather hear Ms. Braeuer address my question first before you change the question. Thanks.

MS. BRAEUER: Okay, Beate Braeuer from Citrique Belge. I would say the customer honors the efforts we do with the GMO labeling because we have to source. You have efforts to do--you have to source raw materials of non-GMO quality. So your whole quality system has been adapted to comply with the quality standard. So this takes a lot of effort, and the consumer honors this certification and pays a premium for it.

COMMISSIONER WILLIAMSON: Okay--

MS. BRAEUER: And you also can serve actually not only the non-GMO project market, but you can also serve the organic market. Because whenever you buy organic labeled

product, it has to be non-GMO product.

COMMISSIONER WILLIAMSON: Okay. If there's anything post-hearing, price negotiations, anything that helps substantiate this, it would be helpful.

MR. de BACKER: Yes, we will very much try to calculate a premium, which will be very difficult, but one thing I would like to add is, in the pharmaceutical sector we see ourselves as very high quality, and also in terms of standards and in terms of processes. You've seen also that the pharmaceutical industry is interested to see non-GMO, although you would not flaunt a chemical basis for that. They simply want to have the highest quality. That's what they're looking for.

COMMISSIONER WILLIAMSON: Okay. Because what I'm particularly curious about is, given--Petitioners this morning contended that basically we have a commodity product. Everybody meets the high standards. And I don't know that there's been any evidence about lack of quality, or that they introduced some into evidence. That's why I asked, why don't you folks have any folks here testifying, because that's usually where we hear that evidence presented.

MR. CANNISTRA: Dan Cannistra on behalf of Crowell & Moring. We can only guess, it's a Monday hearing, perhaps. I don't know why they're not here. But we do

understand that they will be submitting some post-hearing comments from purchaser.

But if I could just perhaps lend some concrete criteria to the GMO versus non-GMO, if I could approach the Commission with a bottle of ketchup, I think that that will shed some light perhaps on your point.

(Sample is brought before the Commission.)

COMMISSIONER WILLIAMSON: Okay, you were going to make a point on this, I guess?

MR. CANNISTRA: So when we speak about GMO versus non-GMO, just to lend some clarity to this issue, the Butterfly Label that you see on the lower left-hand corner, that is the magic to the non-GMO certification.

So when a manufacturer of citric acid sells to a catsup manufacturer, that is what they are seeking, that Butterfly Label, which allows them to put it on their finished product. So it is a price issue, but it's even more so a branding issue. But it's not a branding issue for the citric acid manufacturers, it's a branding issue for the catsup companies, the soft drink companies, the tea companies. Those are the ones that are benefitting from the branding, not necessarily the citric acid producer.

And the perception of the marketplace is they're doing that because that allows themselves to brand themselves as a premium product. That looks like a very

fancy kethup. It doesn't say "Heinz" on it. It has an organic label. It has the non-GMO label. But that's the only way that a new entrant and a premium product is going to be able to compete with the likes of Heinz, because Heinz, as my kids will certainly tell me, is the finest quality product, period.

So they're not going to beat Heinz based on quality. They're not going to beat Heinz based on price, because catsup is relatively inexpensive. So how do you beat Heinz in the catsup game? With that label. Being able to call yourself "organic," or "non-GMO."

And I unfortunately do have the misfortune of spending lots of time in grocery stores, and as you walk through grocery stores you will see that particular label on, I would bet, we think it's about 20 percent, but on an average grocery store aisle it's about 20 percent. And those are the products that have the premium attached to it.

So it's as much as a consumer-driven premium, the consumer being the catsup manufacturer, the soft drink manufacturer, as it is the supplier.

The other small point that I want to make is, well, we're also operating in a market where citric acid is a tiny fraction of the finished product. It's fractions of a percentage point in soft drinks, or ketchup, or canned tomatoes. But that label is extraordinarily valuable, and

that's what they're seeking.

COMMISSIONER WILLIAMSON: Okay. Mr. de Backer?

MR. de BACKER: If I could just add, we do not agree that citric acid is just a commodity. We just purchased Citrique Belge one-and-a-half years ago, and we were very happy to read all the purchasers questionnaires that came in on behalf of the Commission.

The first thing that was ranked was quality. The second thing which was ranked I think was reliability. And price came in maybe third or fourth. So this is not simply a commodity. I would be very happy to see that in the reports.

COMMISSIONER WILLIAMSON: Okay. I'm not sure--but I guess the question I want to raise is: Are we still talking about a very niche market when we get to things like that brand of catsup, or other things where really people are going to look at the Butterfly level?

MR. CANNISTRA: You are--and because you haven't heard of that brand, that's why it made such a great example, because that's what brands are doing, is they're trying to distinguish the new brands. Because Heinz doesn't need to distinguish themselves. Heinz is Heinz. Diet Coke is Diet Coke. The new brands, the new trends, the growing ones, that's how they're starting to distinguish--or that's how they're distinguishing themselves in the market:

Organic, non-GMO. That is where the significant increase has occurred, and that is the thing that precipitated the increase, we would submit, from Thailand as well because they were non-GMO.

And as those markets increased, other markets declined. So GMO, which is Belgium, Colombia, U.S. producers, they are following as a percentage of the market. That is why our exports declined. That's, I suspect, why Colombia declined, as well. They can't serve the cool new markets, the new products coming out.

COMMISSIONER WILLIAMSON: I'm sorry? You got me confused there. Just that last statement? Maybe you'd better clarify that. My time is running over, but you said they're declining why?

MR. CANNISTRA: Belgium, until this year, was not certified in the U.S. market as non-GMO. And their exports declined. They started at a low level, and they declined. They weren't participating in the growing market.

Colombia, not non-GMO certified, declined. Not participating in the U.S. market. Thailand, non--yes, non-GMO certified, they increased.

So everybody that was supplying into the non-GMO market, and I wish there was a more elegant way to say GMO and non-GMO, but there isn't, at least not that I'm aware of, everybody that was supplying the GMO product declined.

Everybody that was supplying the non-GMO expanded.

And that's where the market expanded. That's the piece of the overall market. That no-name ketchup which is clearly branding themselves as a premium brand, that's where all the growth is occurring. And all of the U.S. suppliers absolutely agree with that point. We pulled up a study from Tate & Lyle. Apparently they did a non-GMO versus GMO study that, by the way, I don't recall it being submitted to the Commission despite the fact that I think such studies are requested, 270 percent growth in the last three years on the non-GMO side.

COMMISSIONER WILLIAMSON: Okay. My time has expired. Thank you.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

COMMISSIONER BROADBENT: Mr. Connelly, in the Sucroal pre-hearing brief, you indicated that the four cumulation criteria the Commission typically considers are not exclusive. Can you identify instances in which the Commission, for purposes of the present material injury, has considered factors outside of the reasonable overlap of competition analysis?

MR. CONNELLY: Well, Commissioner, I think offhand I cannot. The only thing I could refer to is the statute, which is what I did. And we'll take a look at that further post-hearing brief.

COMMISSIONER BROADBENT: Okay, thank you. Can you respond to Petitioners' arguments on pages 23 through 30 regarding the size of the non-GMO market and their assertions that non-GMO citric acid is being used in applications that do not require non-GMO product?

MR. CONNELLY: We agree with that. There's no dispute. None of us are disputing that non-GMO products can be used in GMO applications. What we are disputing is the size of the non-GMO market for which non-GMO must be offered. That's the issue. How big is that market? In our view, that's the issue.

So we have all these competing estimates of what it is. I think Chairman Schmidtlein asked a good question this morning about it looked to her like the question was pretty clear in the questionnaire. It looked pretty clear to us, too. Do you require non-GMO certification?

We counted up the number of companies, purchasers who said, yes, it is required. I won't give you the number, but it's significant. And that's only a limited subset of purchasers, because you didn't get responses from all the purchasers, but it's a good enough number for us.

So we did the calculation. Now if you look at the calculation, our calculation, or even Cargill's calculation, estimate, which was 5 percent. Okay, the 5 percent, taking Cargill's number, is "must be non-GMO," 5

percent of apparent consumption in 2017 was 5 percent of 873 million pounds. So call it 43, 44 million pounds.

That is a big number when you compare that number to the decline in domestic shipments over the POI. That increase in non-GMO for which GMO cannot compete vastly exceeds the decline in GMO shipments by the Petitioners. That's what we think is significant about this non-GMO demand issue.

COMMISSIONER BROADBENT: But I don't see how you get over the reasonable overlap of competition, because you're having both of these products being used for different uses.

MR. CONNELLY: Yeah, I understand. There is a reasonable overlap of competition where non-GMO and GMO do compete. There is no overlap of competition when there is non-GMO required.

Now going back to the cumulation issue, it's not the reasonable--I don't think we deny there is a reasonable overlap of competition in certain segments. Our position on cumulation is simply that if you look at the trend of imports from Colombia, if you look at all the circumstances which we'll go into again in our post-hearing brief, and I think Citrique Belge is making the same argument, the trends are very different from Thailand. And that's our noncumulation argument. Very different trends which we

think are relevant factors on cumulation.

They are not the four traditional criteria you consider, granted, but that doesn't mean you can't consider them.

COMMISSIONER BROADBENT: Mr. Lee, how granular do you think the Commission should view the market segments in this case? Do we need to disentangle the types of food and beverage segments to see the attenuated competition?

MR. LEE: I would ideally like to see that, but I'm afraid at this point of the investigation I doubt we're going to get that data. But I think what you have on hand in terms of the data, in terms of breaking down food and beverage segments, and then identifying individual purchasers, I think you do have a means to identify specific market segments based on particular end-users, particular purchasers who are known producers of food and beverage products there.

Sprinkle in a few other known distributors who are servicing the food and beverage industry and I think you do have a way to get a more granular data point on how much the non-GMO/GMO issue is showing up in your purchaser and pricing data.

COMMISSIONER BROADBENT: Okay, Mr. de Backer, in your prehearing brief at page 12 to 13 you discuss capacity reductions in China causing a global supply shortage. Can

you elaborate further on the relevance of that to this case?

MR. de BACKER: Thank you for the question, Madam Commissioner. So China has big producers. There are six of them who are exporting. And they have capacities up to six and a thousand tons. In pound that will be 1.2, 1.3 million pounds per year.

As I mentioned, three of them have been affected by the crackdown on pollution of the Beijing Government, the Central Government, and these three are called Enzyme, the number one, and they have temporarily had a reduction in capacity during at least six months.

We don't know exactly how much their capacity has been slashed, but it has been done by the Central Government.

The second player was COFCO. COFCO had a plant in Bamboo City, which was too much close to residential area. That plant had to be closed. And so they have now had to open a new plant. Obviously it takes time to close one plant and open another plant in the north of China.

The third player is LI WO. They also have had-- their capacity is around 170,000 tons, so let's say 350,000 pounds. They also have had a temporary reduction in capacity imposed by the government.

Now if we add up these three players, there has been a lower capacity out of China of roughly 30 percent.

And that has been substantial. And we have felt that mainly in Europe. Obviously it has not been felt in the States because the Chinese are not here, but it has been seriously felt in Europe where there was a lack of product. There was actually a shortage of product until recently.

It's now getting better, because China's New Year is behind, and they have been able to restore the past capacity, and also add to the capacity again.

COMMISSIONER BROADBENT: Okay, and what is the relevance to our determination here?

MR. de BACKER: It's relevant for European market, and it's relevant for the global market. And so it changes the balance, because the Chinese have been lowering prices for five years in a row. Last year, they have increased prices. We have been able to increase prices last year in Europe. So it does have relevance also to the case here, not directly but indirectly, since we have increased our prices in Europe thanks to the Chinese not being able to supply. We obviously have less incentive to--you understand.

COMMISSIONER BROADBENT: Okay. And then what's happening to demand in Europe?

MR. de BACKER: Well obviously we have the same situation. Beverages is number one, followed by food, followed by pharmaceuticals, cosmetics, and then detergents

and washing tablets would be the last amount. The beverage market is really changing. It will be interesting to hear Pepsi and Coke on that, because they are two big players. Carbonated soft drinks are also going down in Europe, less than in the States. In the States, it's roughly 4 percent decline per annum. In Europe it's a big less. But carbonated soft drinks sodas are going down.

And so the big players rapidly have to change their market position. And you see a big restructuring of Coke. You see a lot of changes at Pepsi Cola who has also sent its report.

What you can see there is that they are rushing to produce new products, new energy drinks, new sports drinks, new isotonic drinks, but they also are rushing to buy companies. Coke has rushed to buy Monster, has bought Honest Tea, Pepsico has done several acquisitions in a short period of time. So it is a big of a revolution going on in the drinks industry, which is actually helping us in terms of demand because the new drinks require more citric acid than the old drinks.

So we see an increased demand in the beverage sector as a result.

COMMISSIONER BROADBENT: So how does the--what's the difference in the regulatory environment in Europe versus in the U.S. on this?

MR. de BACKER: In Europe, non-GMO versus GMO is not an issue because everything is non-GMO. So that is not a debate. For the rest, to be honest, I don't see a huge change in terms of what the customers like. They like reliability. They like quality, they like flexibility. They like service. And they like especially a good, stable supplier because they need--if you have a very big factory, you don't want to have any stoppage. You want to have secure, reliable suppliers. So it's more or less the same arguments that they use, but maybe my field director can comment on that.

MS. BRAEUER: Maybe I can add. I mean in general, both markets, and that's the trend on trend in the market. Everybody is looking for natural products. That is a growing demand. You cannot deny that. And that is happening in Europe. That is happening in the U.S. It's maybe less happening in the less developed markets yet, but it will come.

So this market is changing. And the companies denying this, they will have a problem. And citric acid is a natural--considered as a natural product and can still be used. It has a grass status. So there is no limit for citric acid to be used in these products. And the trend is also growing in the soft drink industry, food industry, using less sugar, but still have the same taste

appropriate.

So what do they do? They use a little bit more of citric acid, you know, to get the better flavor. So that's the tendency in the market at the moment.

COMMISSIONER BROADBENT: Okay, thank you very much.

CHAIRMAN SCHMIDTLEIN: Thank you. I'd like to thank you all for being here today. I want to understand a little bit more about the non-GMO Project and when did that begin? It's something that's -- is it based here in the United States? Okay, if someone could just explain that to me and when it began offering a certification and then I'd like to understand what you have to do to obtain that valuable label, as it was described.

MS. BRAEUER: We are the latest one, so we are the most experience. They have already obtain the label previously, so much earlier than we have, but as far as we know it started -- yes, it's a label that can only be used actually in the U.S., the non-GMO Project Verified label and in Canada as well, so it's U.S. and Canada, but not in Europe. It would not be a label that we would use in Europe, but we have lots of companies in Europe exporting their end products to the U.S. market and that is -- which helps them because they want their products then have certified in the U.S. with this label.

So if we have the certified label for the citric acid, one of the ingredients is already verified and helps them to get this quality approval.

CHAIRMAN SCHMIDTLEIN: So when did non-GEM Project start; how many years ago?

MS. BRAEUER: We heard first it was in 2013, '14, maybe, something like that, if I'm right.

CHAIRMAN SCHMIDTLEIN: So it's just been since 2013.

MS. BRAEUER: It's very recent actually. It is. It is, yes.

CHAIRMAN SCHMIDTLEIN: Okay. And you all just recently became --

MS. BRAEUER: Well, actually, we started our process -- our difficult position and this aspect was actually that we have beet molasses. We use beet molasses as a feedstock and the problem is molasses in the United States is GMO and not non-GMO. In Europe, it is completely non-GMO, so there's a completely different situation compared to the U.S. And to convince the non-GMO Project organization and to prove that our molasses is really non-GMO it took us nearly two years.

CHAIRMAN SCHMIDTLEIN: And so what did you have to do?

MS. BRAEUER: We had to get all the certificates

from all our raw material suppliers. We had to prove the whole supply chain that everything is non-GMO, so the molasses stored in the tanks, then shipped to us, this has to be proved with certifications, transportation, everything.

CHAIRMAN SCHMIDTLEIN: So did you actually have to change anything about the citric acid?

MS. BRAEUER: No.

CHAIRMAN SCHMIDTLEIN: No?

MS. BRAEUER: No, we didn't change, but the effort to get all this qualification process finish is enormous.

CHAIRMAN SCHMIDTLEIN: Okay.

MS. BRAEUER: Okay.

MR. DE BACKER: If I might had.

CHAIRMAN SCHMIDTLEIN: Sure.

MR. DE BACKER: So it's a nonprofit organization and it's difficult to communicate directly with them, so they communicate through authorized audit firms, so we had to work with an audit firm called NFS and they have basically worked with us during two years to get all our suppliers certified, all our transportation traceability. We are sourcing raw materials from 10 European countries up to Russia, Ukraine, Belarus, Poland, Germany, France, Holland, Belgium, and I probably forget one or two origins,

so we had to get documents from all these suppliers and they really wanted to see the documents from the exact supplier with the tanks that they use, the transportation that they use, so it's a full traceability exercise and that's hwy it has taken us almost two years to get through this. And obviously, it did not help that the United States sugar beet is GMO, which is not the case in Europe. So it was a kind of painful process for us that we have been able to succeed.

MS. BRAEUER: Yes. And we should not forget that this is a process that is not once you have the label it is finished. No, not at all. It's a yearly recertification process - a verification process, so we have to keep up all the quality documentation and everything.

CHAIRMAN SCHMIDTLEIN: And Mr. Poulos, was that the same for your company? When did you become Project certified?

MR. POULOS: In 2015. Again, I mentioned that we were the first citric acid producer, but certainly not the first ingredient producer to be verified. The process was a little easier for us since we are backward integrated to sugar, so we went to our sister companies for the verification and got the documentations and the transportation is fairly simple from our plant to our sugar production sites, but it is a rigorous process. They look at every step in your process and look for challenges to

the system with genetically modified materials, whether that --

CHAIRMAN SCHMIDTLEIN: But you did not have to change -- the way you were doing anything.

MR. POULOS: We did not. No, we were kind of born into it.

CHAIRMAN SCHMIDTLEIN: And so how long would you say that it took for you to get verification?

MR. POULOS: A lot of it is the queue that you have to get through to actually get the verification auditors to look at your materials. We are currently being reviewed for acidic acid, a non-subject material, but it's taken us at least a year just get them to do the audit work. So there are a lot of important companies going through this process.

CHAIRMAN SCHMIDTLEIN: Okay. And then Mr. Lee, for the companies in Thailand what's the status of their -- if you can say?

MR. LEE: They are all non-GMO. They're Butterfly certified. I don't have the details on exactly when they were certified, but I believe they all got certified a little bit earlier than the Belgians and probably around the same time as Sucroal.

My understanding of that it is a pretty rigorous process, but fortunately for Thailand, there really isn't a

question, a debate on whether the cassava plants are GMO or non-GMO. It's well understood that they all non-GMO and so the certification process, while rigorous in terms of complying all of the necessary documents, there really is no extra time trying to debate and further prove or verify the authenticity of the non-GMO of the cassava.

CHAIRMAN SCHMIDTLEIN: Okay, so you believe they were all certified somewhere between '15 and '17, I guess?

MR. LEE: Probably closer to '15 than '17, so probably on the earlier end of the POI.

CHAIRMAN SCHMIDTLEIN: On the earlier end of the POI, okay. And were the Thai companies and forgive me, you know the POI goes back to '15, so were the Thai companies selling into the U.S. market before then?

MR. LEE: I'll have to go back. I believe so.

CHAIRMAN SCHMIDTLEIN: They were. Mr. Poulos is saying yes, right?

MR. LEE: I think he would probably actually know better than I

CHAIRMAN SCHMIDTLEIN: So were all the Respondents selling into the -- you were all selling into the U.S. market before this Project organization started offering a verification.

MS. BRAEUER: Yes.

CHAIRMAN SCHMIDTLEIN: And so who were you

selling to at that time, I guess, into the food and beverage.

MS. BRAEUER: It was also the non-GMO market, not only, but also the non-GMO market at that time because our customers use 1 to 3 percent of citric acid in their finished product. Then with the verification process you can tell pass with a GMO statement when you confirm. You get a lot of documentation to answer for these customers then instead of having the label, which will make it a little bit easier now.

CHAIRMAN SCHMIDTLEIN: And so were any of you at that time or I guess at this time selling into the U.S. market for uses other than food and beverage?

MS. BRAEUER: Pharmaceutical.

CHAIRMAN SCHMIDTLEIN: Pharmaceutical.

MS. BRAEUER: Yes.

MR. POULOS: A number of our volume goes through distribution, so we don't have a direct line of sight for some of those, but our direct contracts we were not selling into non-food applications. And in fact, to this day, are not approved as suppliers to some of the largest consumers in the non-GMO -- that's not the right word, the GM industrial applications.

CHAIRMAN SCHMIDTLEIN: In terms of when you sell to distribute -- how much of that is a part of your sales.

The sales of distributors that you don't have a real line of sight into what they're using it for.

MR. POULOS: Over 50 percent of our sales is through distribution.

CHAIRMAN SCHMIDTLEIN: Through distribution? And you don't track where they then eventually sell that?

MR. POULOS: No, we don't.

CHAIRMAN SCHMIDTLEIN: Okay. And what about the Thai companies?

MR. LEE: I think that there's a significant portion. I prefer to address the details of our breakdown between distributor sales versus the end users, but there is a significant portion of Thai material that is going to a distributor channel and those distributors you know some are serving food and beverage industry, but some are just serving industrial. So someone who wants to have a cleaner product and they need citric acid, so for those non-GMO is not required. But in terms of like the order or magnitude, those sales now are relatively a small portion of the overall component. And more importantly, the trend is towards the food and beverage segment. And so we still have a solid -- you know we continue to have a solid amount of sales to those distributors, but in terms of trend our guys are looking more and more towards the food and beverage and the non-GMO and they see the Butterfly logo as a big plus

for them going forward.

CHAIRMAN SCHMIDTLEIN: Okay. I would invite you to follow up in the post-hearing on that with the breakdown.

Okay, Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein.

And this question is for Mr. De Backer or Ms. Braeuer. It's for citric or Belge Citrique. On page 6 of your brief, you argue that oil well fracking applications for CACCS are important. As far as I can tell, you were the only party to mention this application. Could you please provide a bit more information on how significant this is to the citric acid industry?

MR. DE BACKER: Well, we were surprised that the market was growing so much during the -- especially during 2017 and so we have seen that your president has decided to re-install the operation of oil and shell gas, especially towards the end of 2016. And so we do know that the fracking industry is back in business, certainly, now with today's oil prices. They do use citric acid for cleaning purposes, but we would have to dive deeper into exactly how much has been used in 2017. Today we don't have accurate numbers on that, but if you look at the growth that the industry has been showing, it's beyond the normal growth and the fracking industry has come on top, especially, as from

the end of 2016.

VICE CHAIRMAN JOHANSON: Thank you, Mr. De Backer. Anything that you could provide in the post-hearing that would be helpful, if you can, indeed, find any such information.

Okay, this next question is really more so for the lawyers, although any party is welcome to reply. Petitioners argue that average unit values are perhaps more probative than pricing product comparison and are useful because the HTS numbers that they're associated with are clean. Given the pricing data we have on the record, is there any need for us to look at AUVs? Is there any reason why these two measures would give different impressions of the price effects of subject imports?

MR. POULOS: Okay, we don't have a problem with the concept of using AUVs, but I want to clarify how we think the AUVs should be used and I'll get to the issue of whether there's a difference.

The point of competition between Sucroal, let's say, and a domestic Petitioner is the Petitioner's price to a customer and either Sucroal's price to that same customer or if they're using a distributor the distributor's price. That's the competition. Now what the Petitioners are saying is, no, no, use the import AUV. The import AUV is not priced to the customer. That's the declared import value,

so we take issue with the comparison that they are proposing, but we don't take issue with using AUVs as a measures for the reasons they say.

Now is there a difference between looking at -- I just want to add one thing. When you look at the AUVs, we'll address what they show in the confidential post-hearing brief, but I would suggest to you that the AUV is telling a very different story than what the Petitioners are claiming with respect to who are the price leaders.

Now with respect to the issue of do the AUVs tell a different story from the quarterly price and value or quantity value information? Do they tell a different story? Frankly, we don't know. But one reason we don't know is when you do Q&V for underselling, of course, you are combining all the prices of the domestic producers, so you're getting at weighed average Q&V.

Now I understand that's the typical way the Commission does it. That's not the only way you can do it. In our view, that's not the way you should do it in this investigation because these three producers -- domestic producers operate in very different ways. We'll go into in the APO post-hearing brief of the different ways they operate, but you can't read their respective questionnaire responses and come away with a conclusion that they -- even though it's a so-called commodity, they do business in very

different ways. And so when you weight average quantity and value of all three Petitioners, you are obscuring the different ways in which they do business and that's why there may be a different result when you look at the underselling analysis versus the import AUVs -- the AUVs for commercial shipments versus what the domestic producers charge. Because when you look at the AUVs of commercial shipments for domestic producers, you're getting a company-specific AUV and that's the comparison we think is the one you should be using.

MR. CONNELLY: If I could, on behalf of Belgium. I think the different datasets present different types of analysis. The average unit values aren't necessarily averages across product mix. They assume that product mix remain the same over the years. The product-specific information and the underselling data present a much narrow analysis in the case of Belgium. I think the picture was the same. Our average unit values are significantly above anybody else's through the period of investigation and I believe the underselling data with respect to Belgium speaks for itself. So in our case, I believe the both state the same thing.

MR. LEE: For us, the AUV data I think are important with respect to making sure that Canadian AUVs are also considered. We believe that to the extent that as

you're looking at domestic AUVs versus subject imports I think it's very important that you consider Canadian AUVs because the trends that are shown for Canadian AUVs in particularly 2016 and 2017 will show a very different story than what Petitioners are saying.

To the extent that Thai AUVs are going in different directions than the Canadian AUVs we would submit that the AUV data would show that there is no causal of nexus in terms of what's happening with pricing when you're using AUVs as the measure.

MR. CANNISTRA: We'll second that. Certainly, the most interesting AUVs are the Canadian AUVs.

VICE CHAIRMAN JOHANSON: Alright, thank you for your responses. We'll take that all into consideration.

And this is a question for Mr. Lee. On page 6 of Thai Respondents' brief, you all argue that the pricing of the various substrates have a direct effect on the costs of CACCS, but isn't there a more or less global citric acid market where there is price competition between citric acid producers? Would one company's advantage in one input cost enable that company to consistently undersell its global competitors?

MR. LEE: Consistently sell below, no. I would say not because the index prices for corn, for sugar, for cassava, they are moving. And so it is something where

industry analysts -- a lot of industry analysts spend a lot of time tracking what are the corn prices, what are the corn future prices going to be? And so for every starch you have a global industry trying to figure out and anticipate what is next year's corn price going to be, what is next year's sugar price going to be, and so to consistently undersell that would only happen if you would know that your starch substrate is always going to be lower than all other substrates for a consistent period.

Unfortunately, for us Thailand cassava, tapioca, the prices were the lowest out of corn and sugar for most of the POI this year. I would urge you guys to look at the data when Thai tapioca prices were not the lowest and to kind of see what's happening in the pricing data that you're showing. Because what we're seeing that to the extent that Thai tapioca prices were low, yeah, Thai citric acid prices wound up being the lowest. But when they weren't, we wound up overselling the domestic product and/or the Colombian or Belgian products -- actually, probably not the Belgian and Colombian because their prices for sugar were so much higher than U.S. corn or Thai tapioca.

So it is a very complex picture to try to track your starch substrate and to try to relate that to your citric acid prices, but I do believe that is what the major purchasers are trying to do. They don't want to be caught

with just a corn citric acid supplier. They would like to have some flexibility so that their pricing can be balanced with a little bit of Thai cassava or Belgian or Colombian sugar-based citric acid just so they don't slammed with a sudden shift in corn prices or sugar prices or tapioca prices.

VICE CHAIRMAN JOHANSON: Alright, thank you, Mr. Lee for your response. The red light is on, so I'm going to stop at that.

COMMISSIONER BROADBENT: Thank you. Mr. Lee, continuing on this was there a period during the POI when the tapioca prices were higher than the corn/sugar prices? You talk about we should look at that, but I'm trying to figure out do we have any data on that?

MR. LEE: Yes, I can pull that up for you.

COMMISSIONER WILLIAMSON: Post-hearing you could supply the period.

MR. LEE: Yes. I think the staff report did have a chart in there that showed the corn and European and South American sugar prices, along with the Thai tapioca prices. And in our brief, we provided some of the raw data for those U.S. corn prices and the Thai tapioca prices and so those data go back many years on they're on a monthly basis and we can try to provide that for you so that you kind of see. But yes, the short answer is I do believe

there was a time when Thai tapioca prices were higher than U.S. corn prices.

COMMISSIONER WILLIAMSON: Because one of the questioning I'm asking is, looking at the underselling data and looking at the AUV data and this whole question about GMO -- non-GMO premium and at least with respect to Thailand is there any basis for saying there's such a thing? No, what explains the Thai prices?

MR. LEE: For Thailand, I think in terms of how we are selling our product we're looking at our cost and we're also looking at what the market is willing to pay for our product. But fundamentally, you know if our costs are covered by the price that's being offered by the seller that's an acceptable price to us. So if at that point our tapioca, our cassava prices are low relative to U.S. corn or South American sugar or European sugar, we have an advantage over the other suppliers. So in terms of us offering a non-GMO product, yes, we do get a premium because certain customers will only come to us and not turn to any U.S. suppliers.

But in terms of them knowing our costs, they can see what Thai tapioca prices and so when they negotiate prices with us they're very aware of saying, okay, we think your costs should be "X" based on these tapioca prices that we see from the market indexes. So in terms of how far we

can push that premium in terms of how much of a price premium we could get, it is limited, to some extent, by the transparency that our customers can see in terms of our raw material costs.

COMMISSIONER WILLIAMSON: I'm wondering is there any premium at all, given what the prices are. I mean what's the basis for saying there's a premium if the prices are always lower? Why should anybody who wants a GMO or non-GMO why would it matter?

MR. LEE: Well, I think you would see during the period for a big chunk of it Thai prices were low. We'll acknowledge that, but I think if you look at Thai prices now, 2018, after the POI I think you would see that our prices are much higher. So I think this goes to an earlier question was like can you consistently sell low. I don't think anyone can. I think the Thais had a nice run being the low guy in the marketplace, but I don't think that's always going to be true. I don't think it is currently right now. I don't have the details on the market access there, but in terms of consistently selling below everyone else, I don't think the Thais are going to be in that position, mainly, because the Thai tapioca prices are not going to be the lowest out of corn and sugar in the global marketplace.

COMMISSIONER WILLIAMSON: Have they been higher

in the l18 months -- in 2018?

MR. LEE: Beginning in 2017, we saw cassava/tapioca prices increasing. And that's why the staff reported that Thai tapioca prices increased when they looked at a very broad 2015 to 2017 comparison and that was mainly because 2017 -- the end of 2017 saw a very high spike in Thai cassava prices that was even higher than what we believed was a pretty high beginning 2015 price for cassava. So in between 2015 and the end of 2017, we saw a big dip where Thai cassava prices were low for most of that period, but overall, at the beginning and end of the periods you know our Thai tapioca prices were actually pretty comparable to where U.S. corn prices were.

COMMISSIONER WILLIAMSON: And what's been the trend in 2018?

MR. LEE: Your guess is as good as mine, but I would say in terms of trying to forecast where Thai --

COMMISSIONER WILLIAMSON: I wasn't asking forecast. I've been up to now.

MR. LEE: Currently?

COMMISSIONER WILLIAMSON: The first four months.

MR. LEE: I believe Thai tapioca prices have been stable and trending a little bit higher in terms of where they were at 2017, but I'll have to check on that.

COMMISSIONER WILLIAMSON: Okay, thank you.

Mr. Cannistra, I think in your presentation you went back to the tires case and thought that was relevant. Now note, one of the things people talked a lot about in that case was brands and how you distinguish between brands. We don't have that with citric acid here. I mean we had the discussion about GMO and non-GMO, but I haven't heard anybody talk about different brands.

MR. CANNISTRA: I respectfully disagree because the only thing that this Project GMO or non-GMO is getting you is the label that's on that bottle of ketchup. That's what all this process that's --

COMMISSIONER WILLIAMSON: And that's been only in the last year, at least for the product from Belgium?

MR. CANNISTRA: Correct, which is why Belgium imports have been insignificant, fractions of the probably 1 percent market share in the U.S. They have been flat, except for the first two years and then declined. That is precisely why they declined and that is precisely why they needed to get into the business. Belgian imports are probably down 20 percent during that same period when GMO/non-GMO distinction became important.

But to come back to the tires case, the brand is the Butterfly on that jar of ketchup. And again, it's not

the branding of the citric acid producers. It is what the citric acid producers are giving their customers that they can use for branding. They get to put the Butterfly label on.

COMMISSIONER WILLIAMSON: I'm curious of what percent of I guess food products -- food and beverage products are you going to see the Butterfly on?

MR. CANNISTRA: The estimates have ranged anywhere from 50 percent to 20 percent. All I know Tate & Lyle, for example, says in the last three years it has grown 270 percent. And again, but that's a pretty small base.

VICE-CHAIRMAN JOHANSON: Okay, so you're saying 15, 20 percent now.

MR. CANNISTRA: Fifteen to twenty percent now. I mean that's -- and food and beverage is 75 percent of the entire citric acid business, so that's pretty big size of the market that we're talking about. But again, the brand is what translates into the customers and they can basically convey that brand, the ability to use the non-GMO brand on their food product.

Now one can disagree whether or not it's important, whether or not there's really any significance to GMO. Is there any harm to GMO? I don't know the answer to that, but this is a branding question. It allows them to expand sales to a certain customer base. A diet Coke will

have the same exact ingredients as a --

COMMISSIONER WILLIAMSON: I lived through beef hormones.

MR. CANNISTRA: Exactly.

COMMISSIONER WILLIAMSON: It's almost a matter of religious convictions, so let's not go there.

MR. CANNISTRA: Yes, exactly. I don't know the answer to that.

COMMISSIONER WILLIAMSON: Okay.

MR. CANNISTRA: I do know it's a brand, though.

COMMISSIONER WILLIAMSON: Okay. I don't want to go back to beef hormones.

For Citrique Belge, can you describe how the shallow tank production method you employ differs from the deep tank production methods employed by the domestic industry and other subject producers and does that matter for the purposes of this case?

MR. DE BACKER: It does not really matter. If I may start by saying so. Because at the end of the day, it's a refined product that comes out and that has the highest quality.

Just to briefly describe, Mr. Commissioner, how it works, so shallow pan is basically fermentation rooms which are filled with pans, in our case, really, with forklifts, so we have forklifts, with obviously people

driving all these pans into the rooms. We have pans -- six of them. These are big rooms. We close them. We then have spores, sporelation -- so basically we have a strain which is sporelated and that starts to turn sugar into a citric acid, which is biologically kind of, it's immediate product that is then further refined.

Deep tank is basically deep fermenters, so they are tanks -- we are looking into that technology right now as a new investor, because that is probably the technology of the future. But we have been working on shallow pans since 100 years. Next year we will be 100 years old, and still very happy to do so.

COMMISSIONER WILLIAMSON: Thank you. And my time is expired. Thank you.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent. No more questions? Okay. All right. Back to me. So let me just follow up, Mr. Lee, on what you were just saying with regard to why prices from Thailand are so low. And if I understand you correctly, it's because the substrate, raw material cost was low.

And so that was keeping Thai prices down, even though other imports that you would assert you're competing as non-GMO were higher, as long as your companies were covering their costs, you were happy to take that lower price? Even though it appears that the market would bear a

higher price? Your companies were willing to leave money on the table in those situations? Is that what you're saying?

MR. LEE: Yes and no. I mean to -- that's in --

CHAIRMAN SCHMIDTLEIN: Are they for-profit companies?

MR. LEE: Definitely.

CHAIRMAN SCHMIDTLEIN: Okay. So why are not they trying to maximize their profit?

MR. LEE: In part because for certain customers, you know, your large end-users who, they are very aware of what your costs should be, so in terms of approaching these customers with a bid price, they will ask you to submit a price and they'll ask you to break down, okay, "How are you basing your price calculation?"

And they have an idea, just in terms of how reasonable your bid price is gonna be. So if you try to submit a price that is basically at or higher than, say, a Belgian price, you know, because you know they have higher prices, the Thais are gonna come in with a bid price that the customer is gonna say, "No, that's not a realistic bid price, because we know your tapioca prices are a lot lower, and we know your costs should be a lot lower," so --

CHAIRMAN SCHMIDTLEIN: But wouldn't the principles of supply and demand apply here? I mean, why would your price need to be -- I'm looking at the pricing

products. Like, why would your price need to be so far below, like, the Belgian and the Columbia products are? And then we can get to the question of -- there's a portion of the POI, right?

So the Belgium companies just became project certified in 2017. So if you look at the pricing products in 2016, let's say, right? The Thai product consistently undersells the Belgium product. Consistently. All the time. But yet you had your project verification. So you have a very valuable brand label that the Belgians keep talking about. You were in possession at the Thai companies --

MR. LEE: Right.

CHAIRMAN SCHMIDTLEIN: -- and yet you're charging much, much less than the company who doesn't have it. Why?

MR. LEE: In terms of supply and demand, in terms of who has the bargaining power in that relationship here, plus as a supplier, you would think, you know, you're suggesting that the --

CHAIRMAN SCHMIDTLEIN: Because they need that, right? Your argument is, all of these purchasers --

MR. LEE: Right.

CHAIRMAN SCHMIDTLEIN: -- are now requiring the project certification.

MR. LEE: Right.

CHAIRMAN SCHMIDTLEIN: Requiring it. They don't have it.

MR. LEE: Right.

CHAIRMAN SCHMIDTLEIN: You do. Why is your price below theirs?

MR. LEE: It is below theirs, because in terms of what the purchasers know and how much power they have over, you know, our capability to demand a higher price. A big end-user like Coca-Cola or Pepsi, they have more bargaining power, just in terms of being able to demand what our prices should be.

CHAIRMAN SCHMIDTLEIN: How, though? Because you're telling me that they -- it's a requirement --

MR. LEE It is --

CHAIRMAN SCHMIDTLEIN: -- that they get the Butterfly --

MR. LEE: It is a requirement. So in terms of who we are competing with, we are competing with the Belgians and the Columbians --

CHAIRMAN SCHMIDTLEIN: But you weren't. You weren't competing with them in 2016. They were not project-verified. Let's talk about 2016.

MR. LEE: Even if we were the only producers that were available, you know, that had the Butterfly logo,

we would try to get the highest price that we could get from them. But any --

CHAIRMAN SCHMIDTLEIN: But the Belgians are selling at a much higher price. So --

MR. LEE: And we would try to do that, but in terms of, you know, the purchasers accepting our price, they would say, "No, we know your tapioca prices should be X, and we're not going to pay that much of a premium, even if you are the only non-GMO supplier," because -- actually, they are paying a premium --

CHAIRMAN SCHMIDTLEIN: So what would they do then? If they said, "We are not gonna pay that price?" What would they do then?

MR. LEE: Well, fortunately or unfortunately, there are more than one Thai producer that are able to meet this. So there is internal competition amongst the Thai producers, just as there is amongst the U.S. producers.

So in terms of each individual Thai producer being able to have full market information as to where their pricing fits in terms of other competitors, it may be just another Thai competitor that they are bidding against. And so that's part of the problem in terms of who, you know, how high they can press their prices up in their bids to the purchasers.

CHAIRMAN SCHMIDTLEIN: So does anyone else want

to address why, what -- Mr. De Backer?

MR. DE BACKER: It's very difficult to address the price of somebody else. But there has been a huge difference in capacity utilization between us and the Thai producers. We have always been running at very high capacity utilization. This year we completely sold out. No incentive to price lower. But the Thai factories have been building --

CHAIRMAN SCHMIDTLEIN: You have people -- in 2016, you were still able to sell into the U.S. market even without this project verification --

MR. DE BACKER: Yeah, but the --

CHAIRMAN SCHMIDTLEIN: -- at a price that was higher than companies had --

MR. DE BACKER: Yes.

CHAIRMAN SCHMIDTLEIN: -- the project verification.

MR. DE BACKER: We did no longer reduce price, so we were shrinking.

CHAIRMAN SCHMIDTLEIN: So how is that though?

MR. DE BACKER: But that, that --

CHAIRMAN SCHMIDTLEIN: 'Cuz I thought the purchasers were demanding --

MR. DE BACKER: Basically --

MS. BRAEUER: We are not actively approaching

the U.S. market. It's actually the customers asking for our quality. They come and ask quotes from our product. We are not actively promoting our product in the U.S.

CHAIRMAN SCHMIDTLEIN: But in 2016, what -- how was that? That -- since you didn't have that Butterfly --

MS. BRAEUER: Yes, we did not have it, but we do is we already knew that we would have the product verification very likely, so that was one of the promises that we have already the non-GMO product. But not yet verified. So we have what we could give --

CHAIRMAN SCHMIDTLEIN: But I thought it was the label that mattered. I thought it was being able to put that label on the end-use product.

MS. BRAEUER: That is where we -- but otherwise, we probably would have even gone more down now if we would not have achieved now the label, I think then probably our market share would shrink more than it is. It was.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Poulos, do you have anything to add?

MR. POULOS: Certainly. In 2015, we, as I mentioned, we received the verification from the non-GMO project. And that opened doors for us. There are customers who came to us with their desire to put that Butterfly on their labels. And that's not a trivial decision.

Because they know that that limits their ability

to purchase and I have encouraged others to get that verification as well, as you've seen in respondents, as well as the petitioners. Probably the cleanest area of competition in the non-GMO verification is what my colleague and friend mentioned in the ketchup industry, and I mentioned in my testimony that central valley of California where 95% of the tomatoes of the United States are produced.

From 2015 till now, they have been migrating from "Oh, it's interesting" to "It's a requirement". And because we sell a different product, it is an unrefined product for solution, we found ourselves head-to-head with Thai competition. Even in the early days when it wasn't as important. But now, uh, much less so.

CHAIRMAN SCHMIDTLEIN: And so given that and given that you've had this certification for longer than most of these other companies, can you remind me again, why does the Columbia imports go down? Especially from '16 to '17 when demand -- and according to you all, demand in the non-GMO verified portion of the market is the only portion of the market that's increasing.

MR. POULOS: Right.

CHAIRMAN SCHMIDTLEIN: And this seems to be right up your alley, so why is your imports dropping so?

MR. POULOS: We are running the dangerous experiment of price optimization, right? So you don't know

exactly where this is gonna take you and you raise your price and you have that November to December time period to determine what that conclusion is. And we've lost business along the way trying to optimize prices. There's no question about it.

CHAIRMAN SCHMIDTLEIN: So in '17 you raised prices and --

MR. POULOS: We did.

CHAIRMAN SCHMIDTLEIN: -- and that's why you lost --

MR. POULOS: And again in '18.

CHAIRMAN SCHMIDTLEIN: -- market share?

MR. POULOS: Correct.

CHAIRMAN SCHMIDTLEIN: Okay. And I assume you're losing market share to the Thais then?

MR. POULOS: That's a tough answer to know directly. There's this fog of negotiation where we're losing business. Some of it, yes, I'm sure. A significant portion of that.

CHAIRMAN SCHMIDTLEIN: Who else would you be losing it to?

MR. POULOS: In the non-GMO? Then it would be Thai.

CHAIRMAN SCHMIDTLEIN: It would be Thai.

MR. POULOS: I would not expect it to be from

Belgium.

CHAIRMAN SCHMIDTLEIN: Yeah.

MR. POULOS: I haven't seen that in their import statistics.

CHAIRMAN SCHMIDTLEIN: Right. Okay. All right. My time is up. Vice-Chairman Johanson?

VICE-CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein. Do you all know what percentage of subject imports are specifically purchased for the U.S. market due to their status as non-GMO? Since GMO versus non-GMO is a distinguishing factor for your product?

MR. POULOS: I'll have a try. This is Curt Poulos. It's a tough answer to have. There are some that we know distinctly that they are, every product that they sell is non-GMO. And that's a clear line-of-sight.

Others, as I mentioned, in my testimony, like, Pepsi, how much of our product goes into the non-GMO required part? How much of it goes into kosher for Passover? And how much of it goes into the GM part? It's hard to know. It's hard to know.

But as of only a month or so ago with this, in discussions, they would love us to be able to sell across their portfolio because our product meets all of their criteria, right? So if you build a better mousetrap and you price it properly, people come to you. And we've been

fortunate enough to have, in a "commodity world", we have a commodity-plus product.

MR. CANNISTRA: I was just gonna add, on behalf of Belge, during the POI, no imports were non-GMO project verified. Zero.

VICE CHAIRMAN JOHANSON: Okay. Thanks for your responses. It would be nice -- I know it doesn't sound like it's possible to have some type of figures to how much our imported non-GMO properties. But then again, if they're all non-GMO, that's another factor to consider. So. Okay. Thanks for your responses.

For post-hearing, could you please compare and contrast two tables that are in the Columbian respondents pre-hearing brief at Pages 8 and 20? Hypothetically, could it make sense that a purchaser appears in both of these tables? In other words, are the purchasers both require non-GMO certifications and also require that their citric acid be domestically sourced? I look forward to seeing any responses you have on that.

And for those respondents who have made arguments about cumulation, I would like to ask you for post-hearing to address the investigation on Xanthan gum from Austria and China, which is the ITC completed in mid-2013. It strikes me that there might be some similarities here and I think you can read how we struggle

with these issues in that case.

So if you'd like to address that, that would be great. Don't feel like you have to, but I think it might be useful to see any analysis there.

MR. CANNISTRA: Thank you. We will.

VICE CHAIRMAN JOHANSON: On Page 22 of their brief, petitioners contend that a food and beverage user could use GMO CACCS and still meet non-GMO project verified standards. Do you all agree with that? Mr. De Backer, you look like you're shaking your head?

MR. DE BACKER: How can a beverage producer reach non-GMO if the citric acid is not GMO is not clear to me.

VICE CHAIRMAN JOHANSON: Okay. Mr. Connelly.

MR. CONNELLY: I just don't understand why the petitioners struggle so hard to claim that their product is non-GMO. I mean, I'm just mystified by that. It's not non-GMO. And it seems to me they're trying to have it both ways here and they can't.

I don't understand this argument on Page 22. It seems to be some kind of de minimis exception to the non-GMO project verified standard. The brief says, "An applicant must demonstrate that 99.1% of finished product comes from non-GMO inputs." Okay. I don't understand what they're trying to prove here. Sorry.

VICE CHAIRMAN JOHANSON: Okay. Thanks for your response. And a somewhat similar question here. You know what? It's so similar, I'm not even gonna ask it. How's that? I think it'd be somewhat redundant. That concludes my questions. I appreciate you all appearing here today.

COMMISSIONER WILLIAMSON: Thank you. Just a series of questions. This would be for post-hearing. And I guess there've been references to the difference in performance of different members of the domestic industry. And we raised this question this morning. So post-hearing, the lawyers want to address what we should make of that? What are the explanations? For why there are differences in -- and what a significant issue attached to it?

Okay. I'm also curious about -- I guess, what, like, 23-, 24% of the domestic consumption is in detergent and other, almost 6% in industrial. And I think, is it fair to say that all of -- well, three other countries represented here -- are competing in the -- sometimes it's called other market, the industrial or detergent market? I mean there's a lot of selling to distribution. You might not know where it goes. But is that a fair statement?

MR. POULOS: To the best of my knowledge, we are not participating in the industrial segment of the U.S. market, and in fact, one of the largest detergent consumers of citric acid hasn't even qualified us as a supplier.

COMMISSIONER WILLIAMSON: So it's all food, beverage and pharmaceutical?

MR. POULOS: I wouldn't say all. There are accounts that I know we do some pharmaceutical business through a distributor of ours. But very limited amounts in what I consider industrial detergent market segments.

COMMISSIONER WILLIAMSON: Actually I'm getting to -- what I'm really asking, I guess, is segments where they don't, non-GMO doesn't matter.

MR. POULOS: Right. And those are pharmaceuticals 'cuz there's a whole list of USP requirements that preclude any non-GMO requirement. And industrial applications of cleaning or detergent applications.

COMMISSIONER WILLIAMSON: That would be fracking too, I assume?

MR. POULOS: Fracking, right. Probably 30- to 35% of the market is indistinguishable when it comes to GM. So they don't care.

COMMISSIONER WILLIAMSON: And I'm just -- Okay. What about the others? What extent are you participating in the market?

MR. DE BACKER: We do not participate in detergents or fracking or other industrial applications here. Obviously, we also have distributors, so we cannot

always guarantee where the end product ends up. But with our prices, we are not in the detergent and fracking industry. We do that in Europe, but that's because they are close to us in the European market. Not in U.S. market.

COMMISSIONER WILLIAMSON: Why not in the U.S. market?

MR. DE BACKER: Because the detergent prices are lower than the food and beverage prices, so we don't want to have that in our portfolio. Obviously, in Europe, since we are one of the only two players left, the P&G, Unilever, they also need some parts of our product, but to be honest, we don't try to maximize it because the prices are lower than we can find in the pharmaceutical and food and beverage markets.

COMMISSIONER WILLIAMSON: Okay. Mr. Lee?

MR. LEE: For the Thais, we are in the industrial and non-beverage segments to a certain extent. We find that our customers were approaching us because they found that U.S. supply was not sufficient to meet their demand.

The staff report shows that, in terms of total U.S. production capacity is well short of total demand. And so a lot of U.S. distributors, especially small ones, who couldn't get the time of day from the Big 3 producers here, they came looking to us to say, "Hey, can you supply us?"

And, you know, we're trying to service our industrial customers or, you know, other category customers, but, you know, our quantities that we wanna order are relatively small compared to what ADM, Cargill, Tate & Lyle, what kind of orders they expect to get from their top-line customers and we don't fit as a top-line customer.

But, you know, to the Thai producers, these distributors were considered and treated as top-line customers and that's why they were willing to sell to them, even though it was a non-GMO application.

COMMISSIONER WILLIAMSON: Okay. Does the Canadian producer -- do you know whether they are in all segments of this market? Okay. I was just wondering. Okay. Thank you for those answers.

Sucroal, the pre-hearing brief refers to practical capacity. Could you elaborate on this and how it may relate to optimal capacity utilization for the domestic and foreign industry?

MR. CONNELLY: Yeah, I think we better do that in the post-hearing brief, Commissioner.

COMMISSIONER WILLIAMSON: That's fine. Good. Um, and is there separate practical capacity for different producers and what factors may be affecting the differences in practical capacity? Is that also post-hearing?

MR. CONNELLY: That's a tough one, except we can

give you an answer for Sucroal. I'm not sure we could give you an answer for anybody else.

COMMISSIONER WILLIAMSON: Does anybody else see a distinction between the practical capacity and how that might vary from producers?

MR. POULOS: Having been around for a while, there's really two answers to that. One is capacity and the other is capability. Some people like to say their capacity is X where in fact their capability of production is something less than that.

And depending on what publication you're putting out, you may put out a capacity that's 100 when you know your capability of production is only 75. Or vice versa, depending on the -- And both are correct answers if you ask the right question.

COMMISSIONER WILLIAMSON: Okay. And if someone says they want 80%, you can't do it, you're in trouble. Okay. I think that's all my questions. I wanna -- and this for the testimony.

CHAIRMAN SCHMIDTLEIN: I do have a few more. So for the Belgian and Columbian witnesses, do you all have the same experience as the Thai companies where your purchasers are tracking your substrate raw material costs and when they see those go down, they use that to leverage price negotiations with you?

MR. POULOS: They may, but we don't entertain that part of the negotiation. Our strategy is, and always will be, price optimization, and try to understand the supply-demand dynamics, which are hard to understand completely, to try to get the best price for our stockholders. You know, it's a private company, but for our company.

MS. BRAEUER: Same as well with Belgium.

CHAIRMAN SCHMIDTLEIN: Okay. So Mr. Lee, would you ask your clients if they could put on the record any correspondence? Because apparently they do have purchasers citing the price of the tapioca starch or the substrate, as a basis to leverage down the price?

MR. LEE: I'll see what I can find.

CHAIRMAN SCHMIDTLEIN: If you could put that on the record, I think that would be helpful in understanding that that's actually occurring. Okay, I had a couple more questions about the price trend in this case. And in particular, in the prelim, the Commission found that there was price depression.

And so the question here is, in your view, why were prices declining in a market that is increasing? And is there anything different on this record of the final investigation then the prelim where the Commission found that there was price depression?

MR. DE BACKER: I think the only new element compared to the preliminary hearing was the enormous increase by the Canadian, which is also to us a big surprise. But --

CHAIRMAN SCHMIDTLEIN: But the Canadians --

MR. DE BACKER: -- in hindsight --

CHAIRMAN SCHMIDTLEIN: -- were overselling the U.S. prices during 75% of the comparisons almost, they were overselling.

MR. DE BACKER: Correct. But you can also see that they have been reducing their prices over the last few months, and that can only be explained by the fact that they have expanded capacity, reduced their costs, integrated their corn milling, became more efficient.

They have been able to, knowing that they are still under basically review period of the previous case, they must have decreased their costs substantially in the meantime. That's the thing. The only new element that we can see, and it's quite substantial in terms of volumes and in terms of dollars.

MR. CONNELLY: Madame Chairman, I think we better answer that one in the post-hearing brief. I have some thoughts about that one, and I think the record more importantly has some evidence about that one. I think we better save that.

CHAIRMAN SCHMIDTLEIN: Okay. And the last question is along the same lines. If you look at Appendix D of the pre-hearing report, we have some breakouts for GMO and non-GMO products, and it shows what the average unit values are and that they were declining.

This is at D-4-7, so again, if demand in particular for the non-GMO side was increasing, why were prices for non-GMO product, the AUVs, declining in this period? And again, you're welcome to answer that in the post-hearing as well, if you'd like.

Okay. That's all the questions I have. Do Commissioners have any other questions? No? All right. Do staff have any questions for this panel?

MR. THOMSEN: Craig Thomsen, Office of Investigations. Staff have no questions.

CHAIRMAN SCHMIDTLEIN: Okay, thank you. Do petitioners have any questions for this panel?

MR. JONES: No questions, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: Alright. Thank you very much. That brings us to closing statements. Petitioners, you have seventeen minutes from direct, five for closing, for a total of twenty-two minutes. Respondents, you have fifteen minutes from direct, five for closing for a total of twenty minutes. And we will begin with the petitioners, and I will dismiss this panel at this time again. Thank you all

very much for being here.

MR. BISHOP: Rebuttal and closing remarks on behalf of Petitioners will be given by Stephen A. Jones of King & Spalding.

Mr. Jones, you have 22 minutes.

CLOSING STATEMENT OF STEPHEN A. JONES

MR. JONES: Thank you. Steve Jones for Petitioners. I've got a lot of notes here. One of my challenges is going to be to see whether I can read my own writing at this point. I'll give it my best shot.

There are quite a few points to rebut, so we're going to have a good time this week with our post-hearing brief. I'll try to hit some of the high points, such as they are.

First I'd just like to point, there again I said this in my opening, there doesn't seem to be any dispute regarding the domestic like-product definition. I think that's a settled issue and does not require further analysis.

I would like to say a few words about cumulation. Counsel for the Colombian producers seemed to concede that there is a reasonable overlap in competition here. So for purposes of material injury, I think there is agreement that the statutory factors have been met.

If the--and I think that just stems from the--

(Someone sneezes.)

MR. JONES: Bless you. It seems like there--it's kind of hard to get around our slide, as you'll recall, with 95 percent GMO indifferent, and 5 percent non-GMO. Virtually all the market is GMO-indifferent, and the subject imports compete with each other and compete with the domestic industry for that business.

Vice Chairman Johanson, your question about Xanthan Gum is interesting. Xanthan Gum was a threat case, ultimately, and the Commission determined not to cumulate imports from China and imports from Austria due to a finding of differences in the conditions of competition in which those imports competed.

We will address that in our post-hearing as well. I just would point out, though, that what the Commission found in that case--and I can't go into details, but the general finding was that the subject imports from Austria and China were competing in different segments of the market. And not just some of the imports, but all of the imports from Austria were concentrated in one segment. All the imports from China were concentrated in another segment. That's not our case.

We have broad overlap across food and beverage, industrial, detergent, you name it, here. So we will say more about that, but I don't think this is a case that's

like Xanthan Gum for that reason, and others as well.

I'd just like to again note that what the Commission should be doing is focusing on the industry as a whole. You were invited by the Respondents to look at what's going on with each producer individually, and I would submit that the staff is doing that and is correcting the data as necessary and so on, but I can't think of a case--and I would challenge the Respondents to find one--where the Commission did anything other than an aggregated analysis based on differences in the way the domestic producers do business.

On multiple sourcing and the need for more than one producer, there are many sources of citric acid. There are three in the U.S., three domestic producers. So multiple sourcing is not a problem, should not be a problem for purchasers here. The need for more than one source does not explain or excuse the reliance on dumped imports.

Let me just also note, make a point about some testimony that was incorrect. Tate & Lyle never declared force majeure in 2016. That testimony is not correct.

Regarding the importance of price, as Mr. Tuma testified this morning, quality, availability, and so on, are table stakes in this market. You don't have a seat at the table unless you are qualified, you have a quality product, you have enough capacity, enough--you have

available product. And so--and this is not unique to this case. This happens in a lot of cases where you'll find purchasers saying, well, quality is the most important, availability second, and price is third.

Well again, quality, availability, table stakes, it all comes down to price. And that's this case.

Okay, non-GMO. As we testified this morning, the size of the true non-GMO market--that is, the amount of citric acid that is required to be non-GMO Project Certified, is very small. We have estimated--we have several alternative estimates in our brief--the 5 percent that I believe Mr. Connelly noted from our brief is the size of demand for all GMO products, whether Project--I'm sorry, all non-GMO products, whether Butterfly or not. The size of the demand for Butterfly, or non-GMO Project is smaller than that, we think.

So it's a very small market. Sucroal did provide an estimate in its brief, and it's based on proprietary purchaser data, but I would note that they included in their analysis not just Butterfly--not just demand by purchasers for citric acid that has the Butterfly certification, but also other GMO certifications.

So their estimate includes Butterfly and other. And as the domestic industry noted this morning, they have certification under EU, the SGS certifying firm provided

Cargill's certification, and the other domestic producers have non-GMO product and indeed Tate & Lyle can supply non-GMO from Brazil. They haven't gotten a lot of interest in that because the price is too high, and it's all about price.

There was testimony about business on the West Coast to the tomato industry. The domestic industry has been involved in those, in those--in that bidding to supply those folks, so it's not a question of logistics or can't supply the West Coast. That's not what's going on here.

What's going on here is that the domestic industry couldn't supply that because the tomato folks found an alternative supplier with a lower price. But it wasn't a logistics issue, and it wasn't a non-GMO issue.

So is there a price premium for non-GMO? A lot of testimony on that today. And the answer to that is: No. There's a discount. Look at Thailand. Look at the prices for imports from Thailand, non-GMO throughout the period, or at least a significant part of the period.

And if there's a premium for non-GMO product, then why are all these non-GMO suppliers dumping? Why did the Department of Commerce find sales at less than fair value?

Their arguments on this just don't make sense. And I encourage you to review the transcript and the

arguments in their briefs with some skepticism.

Colombian imports, testimony from the Colombians have said they didn't really get going until they got their non-GMO Certification; that that was really the key for their ability to serve the market.

Well if you look at the import statistics, the imports from Colombia surged from 2013 to 2014. The testimony today was that the Colombians received their Project--their non-GMO Project Certification in 2015. So that argument doesn't add up.

The non-GMO Certification didn't, quote, "open doors" unquote, for Sucroal. Sucroal had already kicked down the door with low pricing.

Let me turn to nonsubject imports, and we will have more on this of course in our post-hearing brief. As we testified this morning, JBL in Canada is a competitor. The domestic producers compete against JBL every day, and they are a threat to dump citric acid. That's why they're under order to begin with. That's why the domestic industry requests administrative reviews every year.

So we've worked hard to do what we can under the law to make sure that JBL is disciplined with respect to price.

And, you know, we think it is having an impact on JBL. We think that their pricing has been disciplined. The

findings in the prehearing report at Appendix E show the extent of overselling by JBL in comparison with the U.S. producers.

One of the witnesses, I believe the Belgian witness, Mr. de Backer, testified that Canadian imports are the cause of injury to the domestic industry, and I would just submit that the evidence does not support that statement.

There is substantial evidence on the record of lost sales and revenues to subject imports. And it is important in this case because of the need to keep plants running continuously that you also take note of the lost revenues. Because a lot of times the industry is able to lower their price and maintain the business, but they lose revenue doing that. And that has happened quite a bit.

Toward the end of the Respondent's presentation, there was some testimony about the average unit value of imports from Canada. And I would just like to point out footnote 155 in our brief. In that footnote we explain what we think is an error in the data that's in the prehearing report. And we encourage the Commission to--and the staff, which by the way has done a great job in this case, to further investigate that and make sure the data are accurate in the final report.

There is a pretty significant disconnect between

what's in the report and what's in the questionnaire responses.

Finally, I would just like to make a couple of points about the relevance of China in this case. China and the competitive pressure that China is putting on producers everywhere in the world is something that we included in our presentation, and we think it is a factor. We think it is relevant.

The testimony you heard in the Respondent's panel was that China is becoming less--somehow less of a threat, or is putting less pressure on producers in various countries because of environmental concerns; they're closing capacity. I wasn't sure I caught everything that was testified to, but I would like to point out--and I think this was the Belgian witness who was speaking to this--that the testimony seems to be inconsistent with a report that Citrique Belge attached to its brief. I believe it's the last attachment to the brief at Exhibit 5.

And the conclusion, or the summary of the report, which is a Chinese citric acid market review, is that, quote, "The situation of oversupply is hard to change in the near future. It is expected that the price of citric acid will keep low in the beginning of 2018." Unquote.

So it seems that the testimony may have been in conflict with the report, and certainly the report is

consistent with our view of the impact of China. China still has more capacity to produce citric acid than any country in the world, and through its exports they're putting a lot of competitive pressure on the Thais, the Colombians, and the Belgians to export, and to export to the United States.

Let me just say, again with respect to China, that the China and Canada case provides a prologue to what the Commission is seeing in this case. And the Commission was able to see in the sunset review how the industry responded to trade relief on imports from China and Canada. And the direct relation and the causal relationship between those imports and the condition of the industry was really clear, and the recovery of the industry after those cases was really clear.

Well, it's happening again. And the Respondents' arguments notwithstanding, the imports from the three subject countries on a cumulated basis have had a significant injurious impact on this industry. And we respectfully request that you make affirmative determinations here, and hopefully the industry will recover as it did after the China and Canada investigations concluded.

Thank you.

CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Jones.

MR. BISHOP: Rebuttal and closing remarks on behalf of Respondents will be given by Daniel J. Cannistra of Crowell & Moring.

Mr. Cannistra, you have 20 minutes.

CLOSING STATEMENT OF WARREN E. CONNELLY

MR. CANNISTRA: Thank you. And I certainly won't take the full time. There were just a few points that I would like to make this afternoon.

It's a very interesting factual case that really boils down to three I think substantive questions.

First, obviously the role of GMO versus non-GMO. What is it? Is it important? Is it critical to purchasing decisions? How big is that market? How big is the brand? We intend to develop some additional information and provide as much information as we can about the size of this market in the post-hearing brief, but in the meantime I do think Petitioners really speak for themselves on this issue. There is no doubt it's important, and that it does play a critical role for an important segment of consumers. And again, we will outline this in more detail, but the brand at issue here is the Butterfly, not the brand provided by the citric acid, but the ability to sell further value-added products downstream, to differentiate between organic, non-GMO, and again whether or not these things are important or not important to us as individual consumers. It's not

terribly critical to the analysis.

The key factor in the analysis should be: Are these things critical to a certain targeted segment of consumers, to whom it is critical.

So coming back to this point, how important is it or not important? Cargill. Let's go to what Cargill says: non-GMO is one of the fastest growing claims in the U.S. industry.

A recent Cargill study showed GMO is top-of-mind when consumers are asked what they avoid when purchasing food.

Tate & Lyle. Commenting on the expansion of non-GMO products, the global platform leader said: In the past three years, non-GMO product sales in the U.S. have grown by 270 percent. They then cite an internal study. I certainly would be interested in seeing the output of that study. And as we reiterated during our opening statements, I believe that the questionnaire asks for any relevant studies that have been conducted by U.S. producers, as well as other companies. I would certainly encourage them to submit that to the Commission, since it's publicly cited.

It goes on to say that at Tate & Lyle "we're committed to providing manufacturers with solutions which respond to customer demands, and we are delighted to be able to provide our customers with a wide range of non-GMO

options alongside our existing products.

And finally, ADM. ADM itself continues to announce plans to significantly expand its production of non-genetically modified products by expanding capacity at its facilities. Why would companies be doing this if the brand is not important?

It clearly is important, and we will be providing some additional information to try to quantify the size of these markets going forward.

And I do think it goes a long way to explaining the somewhat unique patterns that we have in this industry. Petitioners have spoken about cumulated imports a number of times, but at other times they have talked about surges of imports from Belgium, or surges of imports from Colombia. Again, not only was there no surge in imports from Belgium or Colombia, they actually declined throughout the Period of Investigation.

Their prices were not underneath the U.S. producers; they were above the U.S. producers. There was simply no surge from those countries, and those are the two countries that did not ship Project Certified non-GMO product to the U.S. Those are the ones that lost market share.

Did they misplay the U.S. market? Perhaps. Did they wait too long to get their certification? Perhaps.

But that's what happened. They didn't export non-project certified GMO material. They lost shipments to the U.S.

Thailand, on the other hand, was perhaps the market leader. They were the ones that had. That's what they shipped: project-certified non-GMO. They are the ones that increased exports into the U.S., but they were also the ones that had the project certification as well, perhaps being ahead of the market rather than anybody else.

I also want to briefly address the question of cost structure, because we did talk about it a little bit with respect to Thailand, but I think it is also interesting with respect to Canada as well. How is Canada possibly achieving the prices that they are? We understand that there was some significant backward integration at the Canadian mill which allows them--has allowed them to not only expand their capacity greatly, but also to reduce their production costs.

I think the same questions of Canada should be asked, to be asked of the Canadians, what is being asked of the Thais. Why are you pricing at the levels you are pricing? And then one should ask ourselves, why doesn't Canada have 100 percent of the market, if everything is interchangeable? And we're talking about a commodity product. And the reality is, we're not talking about a commodity product. We have differentiated markets.

And one additional point with respect to Canada, Canada is really the only other import country that has a comparable volume to Thailand. An interesting comparison is what are the price comparisons between those comparable volumes? Obviously similar customers. Where do those price comparisons lead?

From our perspective, I think that there's one statement in the staff report that summarizes this case, and it's in footnote 11. Unfortunately it should be brought to the main body of the text, but I think it encapsulates a lot of what we've been saying today. And it reads as follows:

Domestic producer X stated that it reported a supply constraint because it does not supply non-GMO Project Verified citric acid. Otherwise, it did not experience a supply constraint during the POI. There's a recognition from a party, that is unfortunately bracketed, that confirms that they experienced a supply constraint into the market because it does not supply non-GMO Project Verified. It has become a critical part of the market. And by losing that volume in a capital-intensive industry, what ends up happening is the smaller piece of the volume that is left needs to absorb the rest of the capital intensity. Your cost structure increases, and then you end up in a declining profitability simply because you cannot produce the volume that is demanded by the market, and as a result your costs

increase.

We heard throughout today, particularly this morning, about unrestrained import pricing. I think the record makes it very clear that is not correct with respect to Colombia and Belgium. Certainly there was no surge in imports. And most importantly, we can't just make Canada disappear by waiving a magic wand. It doesn't matter. If Canada is subject to an antidumping order or not, that fact has no legal significance at all.

I'm not even quite sure why it became part of the testimonies today. They are a nonsubject country for the purpose of this investigation, antidumping order or not. No more. No less than Brazil, or Mexico, or Israel, or any other country that produces citric acid, the existence of the order is meaningless to analyzing the impact of Canada on subject imports.

Finally, one additional point with respect to cumulation and decumulation. It is obviously our position that there should be a decumulation analysis undertaken in this case. And in fact Belgium and Colombia operate in a very different space with very different market pricing than the Thai exporters do, or certainly Canada does as well. And I'll just leave the Commission with the volume of imports from Canada, just a reminder that they are eight times the volume of imports from Belgium, seven times

exports from Colombia, and certainly varied significantly during the period of investigation.

And then one additional point that wasn't really discussed that much today, but we are going to raise it in our post-hearing briefs, is the impact of corn. We didn't discuss much today, and I unfortunately had it in my notes to discuss it today. Corn prices declined by 15 percent during the period of investigation.

Corn is obviously a significant raw material into the manufacture of citric acid. There hasn't been much discussion today about how the decline of corn prices between 2015 and 2017 impacted the citric acid prices, but we will be addressing that in our post-hearing brief as well.

Thank you very much to the Commission. That closes our testimony.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much. Alright, that brings us to the closing statement. Post-hearing briefs, statements responsive to questions, and requests of the Commission and corrections to the transcript must be filed by May 21st, 2018. Closing of the record and final release of data to parties will be June 13th, 2018, and final comments are due June 15th, 2018.

Again I'd like to thank all the witnesses for being here today. And with that, this hearing is adjourned.

(Whereupon, at 3:51 p.m., Monday, May 14, 2018, the hearing in the above-entitled matter was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand

INVESTIGATION NOS.: 701-TA-581 and 731-TA-1374-1376

HEARING DATE: 5-14-18

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 5-14-18

SIGNED: Mark A. Jagan
Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Christopher Weiskircher
Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

SIGNED: Gaynell Catherine
Court Reporter