

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph Simons, Chairman
Maureen Ohlhausen
Rohit Chopra
Noah Phillips
Rebecca Slaughter



In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide Company
Limited (Cristal)
a corporation,

And

Cristal USA Inc.
a corporation.

Docket No. 9377

**RESPONDENTS' RESPONSE TO
COMPLAINT COUNSEL'S MOTION FOR CLARIFICATION**

On May 17, 2018, Complaint Counsel "move[d] for clarification concerning Complaint Counsel's obligation to respond to Respondents' contention interrogatories." No clarification should be necessary. The Court made Complaint Counsel's obligations clear at the final pretrial conference just one day earlier:

COURT: I don't care what the interrogatory is. If there's something that could answer that question that you're going to try to present in this trial, you better put it in writing and provide it. I can't be any clearer than that. Whether you think it ought to be or not, what's the harm in doing it? Do you follow me?

MR. VOTE: Understood, Your Honor.

COURT: Does everybody understand how this is going to go?

MR. WILLIAMS: Yes, Your Honor.

COURT: Does that take care of it?

MR. VOTE: Yes, Your Honor.

(Pretrial Conf. Tr. 42: 1-13.)

Complaint Counsel's responses to Respondents' interrogatories are long overdue. Tronox, Ltd. ("Tronox") served interrogatories on Complaint Counsel four-and-a-half months ago, on January 5, 2018. On February 14, 2018, Complaint Counsel responded without answering Tronox's interrogatories numbers 3-6. Complaint Counsel offered only objections to these interrogatories, claiming that each one was "premature and unduly burdensome because it is a contention interrogatory and no response is required prior to the close of discovery pursuant to Rule 3.35(b)(2)." Complaint Counsel further vowed as to each one to "supplement its answer, as appropriate, after the close of discovery, as set forth in Rule 3.35(b)(2)."

Similarly, the National Titanium Dioxide Company ("Cristal") served interrogatories on Complaint Counsel on January 25, and reissued those interrogatories on January 30. Complaint Counsel responded on March 1, providing no responses and only objections to interrogatories 1, 3, and 8. Here again, Complaint Counsel objected to each of these interrogatories as "premature and unduly burdensome because it is a contention interrogatory and no response is required prior to the close of discovery pursuant to Rule 3.35(b)(2)." Complaint Counsel further vowed to "supplement its answer, as appropriate, after the close of discovery, as set forth in Rule 3.35(b)(2)."

Rule 3.35(b)(2) provides that an interrogatory "is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but such an interrogatory need not be answered until after designated discovery has been completed, *but in no case later than 3 days before the final prehearing*

conference.” (emphasis added). On May 14, *two days* before the final prehearing conference, Respondents asked Complaint Counsel when to expect Complaint Counsel’s responses to the Respondents’ contention interrogatories. Complaint Counsel provided its responses later that day, less than forty-eight hours before this Court’s May 16 final prehearing conference.

Complaint Counsel’s late submissions were neither complete nor responsive. For instance, in response to Tronox Interrogatory #5, Complaint Counsel responded: “In general, there are many documents, data, and persons that support markets of sales of chloride or rutile TiO₂ to North American customers.” Complaint Counsel then provided, “[f]or example,” a list of some documents on which it intends to rely. (5/14/2018 Complaint Counsel’s Resps. & Objs. to Tronox’s Contention Inter. (3-8) and Cristal’s Contention Inter. (1, 8), Exhibit A.) Accordingly, Complaint Counsel responded to each of the contention interrogatories in substantially the same way, providing one-paragraph answers largely identical to one another, and containing only “examples” of documents and information related to each interrogatory on which it intends to rely. Respondents immediately informed Complaint Counsel that the responses were inadequate and should be covered at the meet-and-confer already scheduled to take place the next day.

On May 15, the day before the final prehearing conference, counsel for Respondents met and conferred with Complaint Counsel about the deficient interrogatory responses. The parties discussed each contention interrogatory individually, and Respondents explained why Complaint Counsel’s responses were deficient. With regard to two of the Cristal interrogatories, Complaint Counsel pledged to correspond with Respondents by end of day as to whether to provide supplemental responses. Complaint Counsel later offered to provide supplemental responses to Cristal Interrogatories #'s 1 and 8 by 5:00 pm May 17.

Complaint Counsel did supplement its responses to Cristal Interrogatories #'s 1 and 8 by again providing exemplary, non-exhaustive lists of information and documents. (5/17/2018, Complaint Counsel's Supp. Resps. and Objs. to Cristal's Contention Inter. (1, 8), Exhibit B.) In response to Cristal Interrogatory #1, rather than "[i]dentify[ing] all adjustments to production levels by TiO₂ producers that You contend were for the purpose of supporting higher prices rather than the result of maintenance or operational issues," Complaint Counsel provided a list of "examples" of production adjustments. Complaint Counsel also objected "that this Interrogatory incorrectly assumes that adjustments to production levels cannot be for the purpose of both influencing prices and for maintenance or other operational reasons." But the interrogatory assumed nothing of the sort; it simply asked Complaint Counsel for any evidence it would put forward in support of a contention that any producer ever adjusted output for the purpose of supporting higher prices instead of as a result of maintenance or operational issues. If the evidence does not exist, then Respondents should be entitled to narrow the issues through this discovery request.

At the same time Complaint Counsel amended its response to two of the interrogatories, and without calling for a meet-and-confer beforehand, Complaint Counsel filed its motion for clarification. But the Court's instructions were clear and consistent with the law. Respondents will object at trial to Complaint Counsel's reliance on materials not asserted in its responses to Respondents' discovery requests. To be clear, Respondents' contention interrogatories are appropriate and explicitly contemplated by the Part 3 rules. Rule 3.35(a)(2) requires that each interrogatory be answered "fully." Rule 3.35(b) expressly provides that interrogatories are "not necessarily objectionable merely because an answer ... involves an opinion or contention." The

same rule provides a timeline for responding to contention interrogatories: no later than three days before the final prehearing conference.

Moreover, this Court's precedent makes clear that "answer[ing] interrogatories fully requires Complaint Counsel to provide facts supporting its contentions." *In re N. Texas Specialty Physicians*, No. 9312, 2003 WL 22936410, at 2 (FTC Dec. 4, 2003). Here, Complaint Counsel's responses to Respondents' contention interrogatories suffer from the very same defects this Court has held to constitute incomplete answers in the past. "Complaint Counsel's responses [to interrogatories] may not be complete where Complaint Counsel has used qualifying language, such as 'the companies include,' which indicates that Complaint Counsel could have additional information that it has not provided." *In re Msc.software Corp., A Corp.*, No. 9299, 2002 WL 31433929, at *1 (FTC Feb. 21, 2002). The same principle applies in federal district court. *See, e.g., English v. Wash. Metro. Area Trans. Auth.*, 323 F.R.D. 1, 19 (D.D.C. 2017) ("[I]t is well settled that contention interrogatories that seek non-privileged information are permissible and warrant a response.").

Contrary to Complaint Counsel's suggestion, Respondents' contention interrogatories are not overbroad. These are standard contention interrogatories asking Complaint Counsel to state its position and supply supporting evidence in an effort to narrow the case, and Complaint Counsel has had the full benefit of discovery before being required to answer them. It is not unduly burdensome for Complaint Counsel to answer. For example, Cristal Interrogatory #1 asks Complaint Counsel to "[i]dentify all adjustments to production levels by TiO₂ producers that You contend were for the purpose of supporting higher prices rather than the result of maintenance or operational issues" That is a reasonable and well-tailored request. Respondents are entitled to

know, in advance of trial, whether Complaint Counsel will contend that *any* producer has adjusted output solely for price purposes and not for maintenance, and if so, when and where.

“The purpose of interrogatories is to narrow the issues and thus help determine what evidence will be needed at trial.” *In re N. Texas Specialty Physicians*, 2003 WL 22936410, at *2. Complaint Counsel’s responses to Respondents’ contention interrogatories are plainly inadequate and do not narrow the issues to determine what evidence will be needed at trial. Respondents should not be required to guess Complaint Counsel’s support for the contentions on which it relies to build its case. Respondents respectfully ask the Court to reiterate its statement at the final prehearing conference: that if a party *could have* provided information in response to an interrogatory and failed to do so, that party cannot later rely on the omitted information at trial. The Court cannot be any clearer than that.

Dated: May 18, 2018

Respectfully Submitted By:

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CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2018, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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The Honorable D. Michael Chappell
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I also certify that I caused the foregoing document to be served via email to:

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Counsel for Respondents National Industrialization Company (TASNEE), The National Titanium Dioxide Company Limited (Cristal), and Cristal USA, Inc.

/s/ Michael F. Williams
Michael F. Williams

Counsel for Respondents Tronox Limited

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

May 18, 2018

By: /s/ Michael F. Williams
Michael F. Williams

EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**Tronox Limited
a corporation,**

**National Industrialization Company
(TASNEE)
a corporation,**

**National Titanium Dioxide Company
Limited (Cristal)
a corporation,**

And

**Cristal USA Inc.
a corporation.**

Docket No. 9377

**COMPLAINT COUNSEL’S RESPONSES AND OBJECTIONS TO RESPONDENT
TRONOX’S CONTENTION INTERROGATORIES (3–8) AND RESPONDENT
CRISTAL’S CONTENTION INTERROGATORIES (1, 8)**

Complaint Counsel hereby responds to Respondent Tronox’s and Respondent Cristal’s Contention Interrogatories (“Respondents’ Interrogatories”). Subject to the General and Specific Objections below, and without waiving these objections, Complaint Counsel answers as follows:

GENERAL OBJECTIONS

Complaint Counsel reiterates both the General Objections made in the February 14, 2018 Response to Tronox’s First Set of Interrogatories and the General Objections made in the March 1, 2018 Response to Cristal’s First Set of Interrogatories. The General Objections apply to all of Respondents’ Interrogatories and are hereby incorporated by reference into each of the following responses. The assertion of the same, similar, or additional objections or the provision of partial

answers in response to an individual interrogatory does not waive any of Complaint Counsel's general objections as to the other interrogatories.

SPECIFIC OBJECTIONS AND RESPONSES

Subject to the foregoing, Complaint Counsel provides the following responses to Respondents' Interrogatories:

RESPONSES TO TRONOX'S CONTENTION INTERROGATORIES:

Tronox Interrogatory No. 3

Identify all of the specific documents, data, and/or persons with knowledge who you contend support your allegation that the TiO₂ industry is an oligopoly.

Response to Tronox Interrogatory No. 3

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. In general, there are many documents, data, and persons that demonstrate that the industry as a whole operates as an oligopoly. For example: The decision of the U.S. Court of Appeals for the Third Circuit in *Valspar Corp. v. E. I. Du Pont De Nemours & Co.*, 873 F.3d 185 (2017); the decision of U.S. District Judge Richard D. Bennett in *In re Titanium Dioxide Antitrust Litigation*, 959 F. Supp. 2d 799 (D. Md. 2013); Public Statements by Tronox, (e.g., PX9005); and other documents and testimony: PX1030; PX1091; PX2242; PX6000; PX7025; PX1300; PX1046; PX1047; PX2035; PX5000; PX1178; PX1187; PX1037; PX1091; PX1153; PX1435; PX2050; PX1048; PX1305; PX1432; PX1448; PX1099; PX5004; PX7026; PX1300.

Tronox Interrogatory No. 4

Identify all of the specific documents, data, and/or persons with knowledge who you contend support you allegation that the sale of chloride TiO₂ is a relevant product market.

Response to Tronox Interrogatory No. 4

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. Complaint Counsel specifically objects that the phrase “sale of chloride TiO₂ is a relevant product market” mischaracterizes the relevant markets alleged in the Complaint. In general, there are many documents, data, and persons that support the importance of chloride TiO₂ to North American customers. For example: Testimony of Customers (e.g., PX7044, PX8003, PX8006, PX7016, PX8001, PX8000, PX7025, PX7020; PX7030); Testimony of Chloride TiO₂ suppliers (e.g., PX8002, PX8004); Public Statements of Tronox (e.g., PX9012); and other documents: PX1322; PX1399; PX1427; PX9121; PX9104; PX9062; PX9049; PX5000; PX5002; PX5004.

Tronox Interrogatory No. 5

Identify the specific documents, data, and/or persons with knowledge who you contend support your allegation that the relevant geographic market is the sale of TiO₂ to North American customers.

Response to Tronox Interrogatory No. 5

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. Complaint Counsel specifically objects that the phrase “the relevant geographic market is the sale of TiO₂ to North American customers” mischaracterizes the relevant markets alleged in the Complaint. In general, there are many documents, data, and persons that support markets of sales of chloride or rutile TiO₂ to North American customers. For example: Testimony of Tronox personnel (e.g., PX7001; PX7026); Testimony of Cristal personnel (e.g., PX2252; PX7043; PX7037); Public

Statements of Tronox (e.g., PX9008; PX9006); Testimony by Customers (e.g., PX7016; PX7025); and other documents and testimony: PX8002; PX8003; PX8004; PX1021; PX2039; PX2041; PX1345; PX1456; PX1739; PX1682; PX2315; PX2356; PX1105; PX2030; PX5000; PX1349; PX2027; PX1008; PX5004.

Tronox Interrogatory No. 6

Identify the specific documents, data, and/or persons with knowledge who you contend support your allegation that Tronox and its competitors, including Cristal, have conspired, colluded, coordinated (explicitly or tacitly), or engaged in parallel interdependent or accommodating conduct to reduce production or increase prices of TiO₂.

Response to Tronox Interrogatory No. 6

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. In general, there are many examples of documents, data, and persons that support that Tronox and its competitors may have conspired, colluded, coordinated, or engaged in parallel interdependent or accommodating conduct. For example: The decision of the U.S. Court of Appeals for the Third Circuit in *Valspar Corp. v. E. I. Du Pont De Nemours & Co.*, 873 F.3d 185 (2017); the decision of U.S. District Judge Richard D. Bennett in *In re Titanium Dioxide Antitrust Litigation*, 959 F. Supp. 2d 799 (D. Md. 2013); Public Statements of Tronox (e.g., PX9005; PX9006; PX9010); and other documents and testimony: PX1048; PX1325; PX1305; PX1432; PX1046; PX1047; PX2035; PX1178; PX1187; PX1037; PX1030; PX1036; PX1091; PX1153; PX1435; PX1448; PX1099; PX2050; PX2242; PX7026; PX1300.

Tronox Interrogatory No. 7

Identify the specific documents, data, and/or persons with knowledge who you contend support your allegations that the Proposed Acquisition will result in anticompetitive effects.

Response to Tronox Interrogatory No. 7

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. In general, there are a vast number of documents that support a likelihood of anticompetitive effects resulting from the Proposed Acquisition, including all the documents cited in these responses. For example: Testimony from Customers (e.g., PX7025); the decision of the U.S. Court of Appeals for the Third Circuit in *Valspar Corp. v. E. I. Du Pont De Nemours & Co.*, 873 F.3d 185 (2017); the decision of U.S. District Judge Richard D. Bennett in *In re Titanium Dioxide Antitrust Litigation*, 959 F. Supp. 2d 799 (D. Md. 2013); Documents of Chloride TiO₂ suppliers (e.g., PX3000); and other documents and testimony: PX1038; PX1045; PX1435; PX5000; PX5004; PX1305; PX2035; PX1178; PX1187; PX1435; PX1448; PX1037; PX1030; PX1432; PX1046; PX1047; PX1036; PX1091; PX1153; PX1486; PX1299; PX1075; PX1029; PX9003; PX9005; PX2055; PX1074; PX1333; PX2116.

Tronox Interrogatory No. 8

Identify the specific documents, data, and/or persons with knowledge who you contend support you allegation that alleged anticompetitive effects outweigh the procompetitive benefits of the Proposed Acquisition.

Response to Tronox Interrogatory No. 8

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it seeks to compel Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Tronox. Tronox has

acknowledged that the “overwhelming portion” of its projected “synergies are ex U.S.” PX9101. To the extent that there is a portion of the remaining synergies fall within the United States or North America, Tronox bears the burden of demonstrating which of those synergies are cognizable efficiencies under the Merger Guidelines that will benefit the market for sales of chloride TiO₂ to North American customers. As described in response to Tronox Interrogatory No. 7, there are many examples of documents that support the likelihood of anticompetitive effects. Furthermore, there are many documents and testimony that call into question the cognizability of Respondents’ claimed efficiencies, for example: PX9101; PX9087; PX7008; PX7018; PX7006; PX2205; PX2206; PX7009; PX1286; PX2202; PX1079; PX7038; PX9000; PX1284; PX7012; PX1281; PX7042; PX2373; PX7017; PX1418; PX7023; PX5001; PX5002; PX5003; PX5005.

RESPONSES TO CRISTAL’S CONTENTION INTERROGATORIES:

Cristal Interrogatory No. 1

Identify all adjustments to production levels by TiO₂ producers that You contend were for the purpose of supporting higher prices rather than the result of maintenance or operational issues, including the dates of such conduct, the producer who adjusted its production, the plant at which production was adjusted, the amount by which TiO₂ output was adjusted, the grades of TiO₂ affected, and the amount by which prices were higher than they otherwise would have been (total and for each grade of TiO₂ affected).

Response to Cristal Interrogatory No. 1

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it calls for Complaint Counsel to identify adjustments to production level by producers or plants other than those used to serve the North American market, and that it seeks Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Cristal. Complaint Counsel further objects that this

Interrogatory incorrectly assumes that adjustments to production levels cannot be for the purpose of both influencing prices and for maintenance or other operational reasons. Dr. Nicholas Hill has analyzed output at Respondents' North American plants, and that analysis shows that Respondents periodically reduce output at their plants. *See* PX5000. For example, Tronox slowed production in 2015 for the purpose of influencing price but may also have conducted maintenance while production was slowed.

Cristal Interrogatory No. 8

Identify all of the specific documents, data, information, and/or persons with knowledge (including a specific description of relevant knowledge the persons have) who You contend support Your allegation in paragraph 34 of the Complaint that "North American purchasers of TiO₂ also have a number of distinct demand characteristics compared to TiO₂ purchasers in other regions," and provide a description of all distinct demand characteristics of North American purchasers and why North American purchasers have such distinct demand characteristics.

Response to Cristal Interrogatory No. 8

Complaint Counsel reiterates the General Objections. Generally, North American customers demand chloride TiO₂ substantially more than in other regions, due to the superior brightness, durability, and coverage offered by chloride TiO₂. North American customers prefer the blue tint provided by chloride TiO₂. For certain customers, that blue tint is needed to provide a consistent color base across multiple product lines. Other customers prefer the blue tint due to its color. And certain North American customers demand TiO₂ delivered as a slurry, rather than a dry powder. North American customers also demand the quality provided by the chloride TiO₂ offered by Respondents, Chemours, Kronos, and Venator. These demand characteristics, and others, are reflected in the choice of chloride TiO₂ grades supplied to the North American market. Examples of documents and testimony that support the allegation

include: PX7044, PX8003, PX8006, PX7016, PX8001, PX8002, PX8004; PX8000, PX7025,
PX7020; PX1322; PX1399; PX1427; PX9121; PX9104; PX9062; PX9049; PX5000; PX5002;
PX5004; PX9012.

Dated: May 14, 2018

By: Dominic Vote

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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2018, I delivered via electronic mail a copy of the foregoing document to:

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EXHIBIT B

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**Tronox Limited
a corporation,**

**National Industrialization Company
(TASNEE)
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**National Titanium Dioxide Company
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a corporation,**

And

**Cristal USA Inc.
a corporation.**

Docket No. 9377

**COMPLAINT COUNSEL’S SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
RESPONDENT CRISTAL’S CONTENTION INTERROGATORIES (1, 8)**

Complaint Counsel hereby supplements the responses to Respondent Cristal’s Contention Interrogatories (“Respondent’s Interrogatories”). Subject to the General and Specific Objections below, and without waiving these objections, Complaint Counsel answers as follows:

GENERAL OBJECTIONS

Complaint Counsel reiterates the General Objections made in the March 1, 2018 Response to Cristal’s First Set of Interrogatories. The General Objections apply to all of Respondent’s Interrogatories and are hereby incorporated by reference into each of the following responses. The assertion of the same, similar, or additional objections or the provision of partial answers in response to an individual interrogatory does not waive any of Complaint Counsel’s general objections as to the other interrogatories.

**SPECIFIC OBJECTIONS AND SUPPLEMENTAL RESPONSES TO CRISTAL'S
CONTENTION INTERROGATORIES:**

Cristal Interrogatory No. 1

Identify all adjustments to production levels by TiO₂ producers that You contend were for the purpose of supporting higher prices rather than the result of maintenance or operational issues, including the dates of such conduct, the producer who adjusted its production, the plant at which production was adjusted, the amount by which TiO₂ output was adjusted, the grades of TiO₂ affected, and the amount by which prices were higher than they otherwise would have been (total and for each grade of TiO₂ affected).

Response to Cristal Interrogatory No. 1

In addition to its General Objections, Complaint Counsel specifically objects to this interrogatory as unduly burdensome to the extent it calls for Complaint Counsel to identify adjustments to production level by producers or plants other than those used to serve the North American market, and that it seeks Complaint Counsel to undertake investigation, discovery, and analysis on behalf of Respondent Cristal. Complaint Counsel further objects that this Interrogatory incorrectly assumes that adjustments to production levels cannot be for the purpose of both influencing prices and for maintenance or other operational reasons. Subject to the foregoing objections, Complaint Counsel answers by providing the following examples:

- A) Tronox adjusted production at Hamilton during the following periods: 1) August 2012 to October 2012; 2) September 2013 to February 2014; and 3) May 2015 to January 2016.
- B) Cristal adjusted production at Ashtabula I during the following periods: 1) December 2011 to March 2012; 2) May 2012 to July 2012; 3) September 2014 to November 2014; 4) June 2015 to November 2015; and 5) June 2016 to April 2017.
- C) Cristal adjusted production at Ashtabula II during July 2012 to October 2012.
- D) Cristal adjusted production at Yanbu, KSA and Stallingborough, UK from the summer of 2015 to the spring of 2016.

- E) Cristal idled and then subsequently closed its Hawkins Point Plant, MD in 2009–10.
- F) Cristal closed its facility in Le Havre, France in 2008.
- G) Tronox predecessor Kerr-McGee closed capacity in Savannah, GA in 2004.
- H) Tronox closed capacity in Savannah, GA in 2009.
- I) Chemours closed capacity in Edge Moor, DE in 2015.
- J) Chemours has idled capacity at New Johnsonville, TN since 2016.

Additional information regarding adjustments to output is available within the expert reports of Dr. Nicholas Hill—PX5000, PX5002, and PX5004—which were provided to Respondents on April 18, April 30, and May 10, respectively.

Cristal Interrogatory No. 8

Identify all of the specific documents, data, information, and/or persons with knowledge (including a specific description of relevant knowledge the persons have) who You contend support Your allegation in paragraph 34 of the Complaint that “North American purchasers of TiO₂ also have a number of distinct demand characteristics compared to TiO₂ purchasers in other regions,” and provide a description of all distinct demand characteristics of North American purchasers and why North American purchasers have such distinct demand characteristics.

Response to Cristal Interrogatory No. 8

Complaint Counsel reiterates the General Objections. Generally, North American customers demand chloride TiO₂ substantially more than in other regions, due to the superior brightness, durability, and coverage offered by chloride TiO₂ that is necessary for their products. Many North American customers also strongly prefer the blue tint provided by chloride TiO₂. Moreover, because North American customers have based their product formulations around these distinct chloride characteristics, switching to sulfate would generally require burdensome and costly reformulation efforts. Additionally, certain North American customers, unlike those elsewhere, demand TiO₂ delivered as a slurry, rather than as a dry powder. North American

customers also demand the quality provided by the chloride TiO₂ offered by Respondents, as well as Chemours, Kronos, and Venator. Additional characteristics demanded by North American customers include: location, requirements for consistency of product, requirements for consistency of supply, and requirements for technical support.

The following is a non-exhaustive list of evidence in the record that supports this response:

The Expert Reports of Dr. Nicholas Hill, including materials and data cited or relied upon

The materials cited in Complaint Counsel's Pre-Trial Brief

Testimony from Customers, including exhibits used in depositions (PX7003, PX7016, PX7020, PX7025, PX7027, PX7030, PX7031, PX7033, PX7034, PX7039, PX7040, PX7044, PX7049; PX7051, PX8000, PX8001, PX8003, PX8006)

Tronox Earnings Call Transcripts (PX9000, PX9001, PX9002, PX9003, PX9004, PX9005, PX9006, PX9007, PX9008, PX9009, PX9010, PX9011, PX9012, PX9014, PX9015, PX9028, PX9030, PX9031, PX9032, PX9033, PX9034, PX9035, PX9036, PX9037, PX9099, PX9101).

Tronox Testimony, including exhibits used (PX7001, PX7002, PX7005, PX7006, PX7007, PX7011, PX7012, PX7013, PX7014, PX7019, PX7021, PX7022, PX7023, PX7024, PX7026, PX7029, PX7038, PX7041, PX7046, PX7047, PX7050).

Cristal Testimony, including exhibits used (PX7000, PX7004, PX7008, PX7009, PX7010, PX7017, PX7018, PX7032, PX7036, PX7037, PX7042, PX7043, PX7048; PX2246).

Supplier Testimony, including exhibits used in depositions (PX7015, PX7035, PX7052, PX7053, PX7054, PX8002, PX8004).

Many documents, including: PX1322; PX1399; PX1427; PX9121; PX9104; PX9062; PX9049; PX1003; PX1346; PX1324; PX2227; PX3038; PX1085; PX1449; PX1349; PX1317; PX1021; PX2462; PX2050.

The following customers have information about their requirements and preferences that supports the characteristics described above: AkzoNobel; Ampacet; Ashland; Axalta; BASF Corporation; Benjamin Moore; Deceuninck North America; Masco Corporation; Mississippi Polymers; PPG; RPM International; Sherwin-Williams; True Value; and Westlake Chemical Corporation.

The following suppliers have information about the requirements and preferences of customers that supports the characteristics described above: The Chemours Company; Ishihara Corporation; Kronos Worldwide; Lomon Billions; and Venator.

Dated: May 17, 2018

By: Dominic Vote

Dominic Vote
Bureau of Competition
Federal Trade Commission
400 7th Street, S.W.
Washington, D.C. 20024

Counsel Supporting the Complaint

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2018, I delivered via electronic mail a copy of the foregoing document to:

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Notice of Electronic Service

I hereby certify that on May 17, 2018, I filed an electronic copy of the foregoing Respondents Response to Complaint Counsel's Motion for Clarification, with:

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Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
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I hereby certify that on May 17, 2018, I served via E-Service an electronic copy of the foregoing Respondents Response to Complaint Counsel's Motion for Clarification, upon:

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I hereby certify that on May 17, 2018, I served via other means, as provided in 4.4(b) of the foregoing Respondents Response to Complaint Counsel's Motion for Clarification, upon:

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