

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

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

JOINT MOTION TO REVISE BRIEFING SCHEDULE FOR APPEAL

Pursuant to Rules 3.22, 3.52, and 4.3 of the Commission's Rules of Practice, 16 C.F.R. §§ 3.22, 3.52, and 4.3, Complaint Counsel and Respondents Tronox Limited, National Industrialization Company (TASNEE), National Titanium Dioxide Company Limited (Cristal), and Cristal USA Inc., hereby jointly move the Commission for an Order revising the deadlines by which the parties' remaining appeal briefs are due.

On Friday, December 7, 2018, the Chief Administrative Law Judge issued an Initial Decision and Order in the above-captioned action. Because the Commission has sought

preliminary relief in a federal district court under 15 U.S.C. 53(b), the Commission reviews the Initial Decision without the filing of a notice of appeal pursuant to Rule 3.52(a), 16 C.F.R. § 3.52(a). Respondent Tronox Limited filed its opening appeal brief on February 4, 2019.¹ Absent an Order of the Commission revising the deadlines for the remaining appellate briefing, Complaint Counsel's answering brief would be due on Tuesday, February 26, 2019; and Respondents' reply brief would be due on March 6, 2019.

The parties jointly request that the Commission order the parties to adhere to the following revised schedule:

- Answering brief to be filed on Thursday, March 28, 2019;
- Reply brief to be filed on Monday, April 8, 2019.

The parties are currently engaged in settlement discussions regarding a consent proposal intended to fully resolve the Commission's competitive concerns included in the Administrative Complaint, filed on December 5, 2017.² Therefore, the parties agree that an extension to the briefing schedule is warranted to facilitate further settlement discussions between the parties and to prevent wasting resources.

The temporary relief requested herein is for good cause and will allow the parties to engage in constructive discussions that may produce a proposed consent agreement to be presented to the Commission. If the parties reach an agreement regarding a consent proposal, they will file a joint motion to withdraw this matter from adjudication temporarily, so that the

¹ Respondent Tronox Limited submitted its opening appeal brief electronically on January 28, 2019 while the proceeding was stayed pursuant to the Commission's December 28, 2018 Order Regarding Scheduling; therefore, according to the January 31, 2019 email from the Acting Secretary (*see* Exhibit A), Tronox's appeal brief is constructively treated as being filed and served on February 4, 2019, the first business day after the stay is lifted.

² Administrative Complaint (Redacted public version, filed Dec. 5, 2017), *available at* https://www.ftc.gov/system/files/documents/cases/docket_no_9377_tronox_cristal_part_3_administrative_complaint_redacted_public_version_12072017.pdf

Commission can consider the proposed consent agreement. No other extensions related to the appeal have been requested.

Accordingly, Complaint Counsel and Respondents respectfully request that the Commission grant their Joint Motion and issue an Order setting the deadlines for Complaint Counsel's answering brief as Thursday, March 28, 2019; and Respondents' reply brief as Monday, April 8, 2019.

Dated: February 11, 2019

Respectfully submitted,

/s/ Michael F. Williams

Michael F. Williams, P.C.
Matthew J. Reilly, P.C.
Karen M. DeSantis
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Suite 1200
Washington, DC 20005
(202) 879-5000
(202) 879-5200 (facsimile)
michael.williams@kirkland.com
matt.reilly@kirkland.com

Counsel for Respondent Tronox Limited

/s/ Dominic Vote

Dominic Vote
Charles A. Loughlin
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
(202) 326-2222
(202) 326-3384 (facsimile)
dvote@ftc.gov
cloughlin@ftc.gov

Counsel Supporting the Complaint

/s/ James L. Cooper

James L. Cooper
Peter J. Levitas
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, N.W.
Washington, DC 20001
(202) 942-5000
(202) 942-5999 (facsimile)
james.cooper@arnoldporter.com
peter.levitas@arnoldporter.com

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

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2019, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April J. Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

I also certify that I caused the foregoing document to be served via email to:

Michael F. Williams
Karen McCartan DeSantis
Matthew J. Reilly
Travis Langenkamp

James L. Cooper
Seth Wiener
Carlamaria Mata

Kirkland & Ellis LLP
655 Fifteenth Street, NW
Washington, DC 20005
michael.williams@kirkland.com
kdesantis@kirkland.com
matt.reilly@kirkland.com
travis.langenkamp@kirkland.com

Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington DC 20001
james.cooper@arnoldporter.com
seth.wiener@arnoldporter.com
carlamaria.mata@arnoldporter.com

*Counsel for Respondent
Tronox Limited*

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

/s/ Blake Risenmay
Blake Risenmay
Counsel Supporting the Complaint

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Acting 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.

February 11, 2019

By: /s/ Blake Risenmay
Blake Risenmay

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

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

**[PROPOSED] ORDER GRANTING JOINT MOTION TO REVISE BRIEFING
SCHEDULE FOR APPEAL**

Complaint Counsel and Respondents have filed a Joint Motion to extend the deadlines to file appeal briefs in this matter. The parties request these extensions to engage in settlement discussions that would be impacted in the absence of an extension. Pursuant to Commission Rule 4.3(b), 16 C.F.R. § 4.3(b), the Commission has determined, for good cause shown, to grant the Joint Motion. Accordingly,

IT IS ORDERED THAT Complaint Counsel’s answering brief must be filed on or before March 28, 2019; and

IT IS FURTHER ORDERED THAT any reply brief must be filed on or before April 8, 2019.

By the Commission

April J. Tabor
Acting Secretary

SEAL:

Issued: _____

EXHIBIT A

From: [Tabor, April](#)
To: [Vote, Dominic E.](#); [Loughlin, Chuck](#); "[Michael.Williams@kirkland.com](#)"; "[Matt.reilly@kirkland.com](#)"; "[Ryan.Watts@apks.com](#)"; [kDeSantis@kirkland.com](#); [peter.levitas@apks.com](#); [katherine.clemons@arnoldporter.com](#); "[James.Cooper@apks.com](#)"; "[Ryan.Watts@apks.com](#)"; [Schwartz, Haidee](#); [Nathan, Jon J.](#); [Akleman, Cem](#); [Brock, Thomas H.](#); [Cerilli, Krisha](#); [Dahm, Steven A.](#); [Elmore, E. Eric](#); [Tovsky, Robert S.](#); [Bayer Femenella, Peggy](#); [Lee, Joonsuk](#)
Cc: [Martin, Teresa](#); [Allen, Devon](#); [Wint, Corene](#); [Langenkamp, Travis J.](#) ([tlangenkamp@kirkland.com](#)); [Clark, Donald S.](#)
Subject: In the Matter of Tronox Limited, Docket No. 9377 > Timing for Filing Answering Brief
Date: Thursday, January 31, 2019 5:38:39 PM

Good afternoon, Everyone:

We received Respondents' opening Appeal Brief in the above-referenced matter on January 28, 2019. The Commission's [Order Regarding Scheduling](#) fully stayed this proceeding "for the duration of the shutdown and for an additional five business days thereafter." As you all know, agency operations lapsed from 11:59 pm on December 28, 2018, until the President signed legislation on January 25, 2019, resuming operations.

The shutdown having now ended, the proceeding remains stayed until Monday, February 4, 2019, which is the first business day *after* the additional five business days provided in the Commission's Order. Correspondingly, any deadlines triggered by Respondents' filing are tolled pending the stay of this proceeding. This means that, *for purposes of calculating the deadline for filing an Answering Brief*, we are constructively treating Respondents' brief as being filed and served on February 4, 2019.

[Commission Rule 3.52\(a\)\(1\)](#) provides that an Answering Brief must be filed "within 20 days of service of the opening brief ." In this instance, the 20-day period will begin on February 4, 2019, and will end on February 24, 2019. As February 24 is a Sunday, pursuant to [Commission Rule 4.3\(a\)](#), the 20-day period therefore will end on the next business day; that is, Monday, February 25. However, as Respondents' Appeal Brief was served by electronic delivery, one day must be added ([Commission Rule 4.3\(c\)](#)). Any Answering Brief therefore must be filed on or before February 26, 2019.

Please let me know if you have any questions about this process. Thank you.

Regards,

April

April J. Tabor, Esq.

Acting Secretary

Federal Trade Commission

