

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRONOX LTD.,
NAT'L INDUSTRIALIZATION CO.
NAT'L TITANIUM DIOXIDE CO. LTD.,
and
CRISTAL USA, INC.,

Defendants.

Civil Action No. _____-cv-_____

**EXPEDITED TREATMENT
REQUESTED**

**PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION FOR A TEMPORARY
RESTRAINING ORDER**

Plaintiff Federal Trade Commission moves this Court pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b), for a temporary restraining order enjoining the proposed merger involving Defendants Tronox Limited, National Industrialization Company, National Titanium Dioxide Company Limited, and Cristal USA, Inc., until the Court has the opportunity to evaluate Plaintiff's motion for a preliminary injunction. The temporary restraining order would prevent Defendants from merging while the Court considers Plaintiff's request for a preliminary injunction. Absent a temporary restraining order, Plaintiff believes Defendants likely will be free to consummate the merger on or about July 16, 2018.

The Commission has determined that it has "reason to believe" that the proposed merger of Defendants would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45. The Commission voted to authorize the administrative complaint in

this matter on December 5, 2017. The administrative trial began on May 18, 2018 and has been completed. The record for the administrative trial closed on June 27, 2018.

Section 13(b) applies the same standard for temporary restraining orders and preliminary injunctions. 15 U.S.C. § 53(b) (“Upon a proper showing that, weighing the equities and considering the Commission’s likelihood of ultimate success, such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond.”). As the U.S. Court of Appeals for the D.C. Circuit has made clear, under Section 13(b) of the Federal Trade Commission Act, a temporary restraining order should issue when “such action would be in the public interest—as determined by a weighing of the equities and a consideration of the Commission’s likelihood of success on the merits.” *FTC v. H.J. Heinz Co.*, 246 F.3d 708, 714 (D.C. Cir. 2001). Here, as explained in detail in the accompanying Memorandum in Support, a temporary restraining order is in the public interest because Plaintiff is likely to succeed on the merits in the ongoing administrative proceeding, and strong public equities favor effective enforcement of the antitrust laws and preserving the status quo pending the completion of that proceeding. *Id.* at 726 (“The principal public equity weighing in favor of preliminary injunctive relief is the public interest in effective enforcement of the antitrust laws.”). Furthermore, without provisional relief, Defendants can “scramble the eggs”—that is, merge their operations and make it extremely difficult, if not impossible, for competition to be restored to its previous state if the merger is subsequently found to be illegal.

Thus, as more fully set forth in the attached Memorandum in Support, injunctive relief is necessary to prevent Defendants from merging while the Court considers Plaintiff’s motion for a preliminary injunction. A temporary restraining order is necessary to preserve the Court’s ability

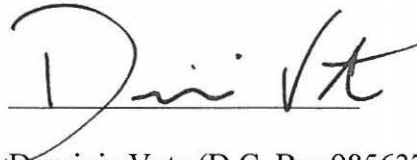
to evaluate and to enter effective relief if it determines that a preliminary injunction is warranted.

Plaintiff is available for a scheduling conference to further discuss the preliminary injunction.

A proposed order for a temporary restraining order is attached.

Dated: July 10, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Vote", written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of July, 2018, I served the foregoing on the following counsel via electronic mail:

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Dominic Xote
Counsel for Plaintiff Federal Trade Commission