

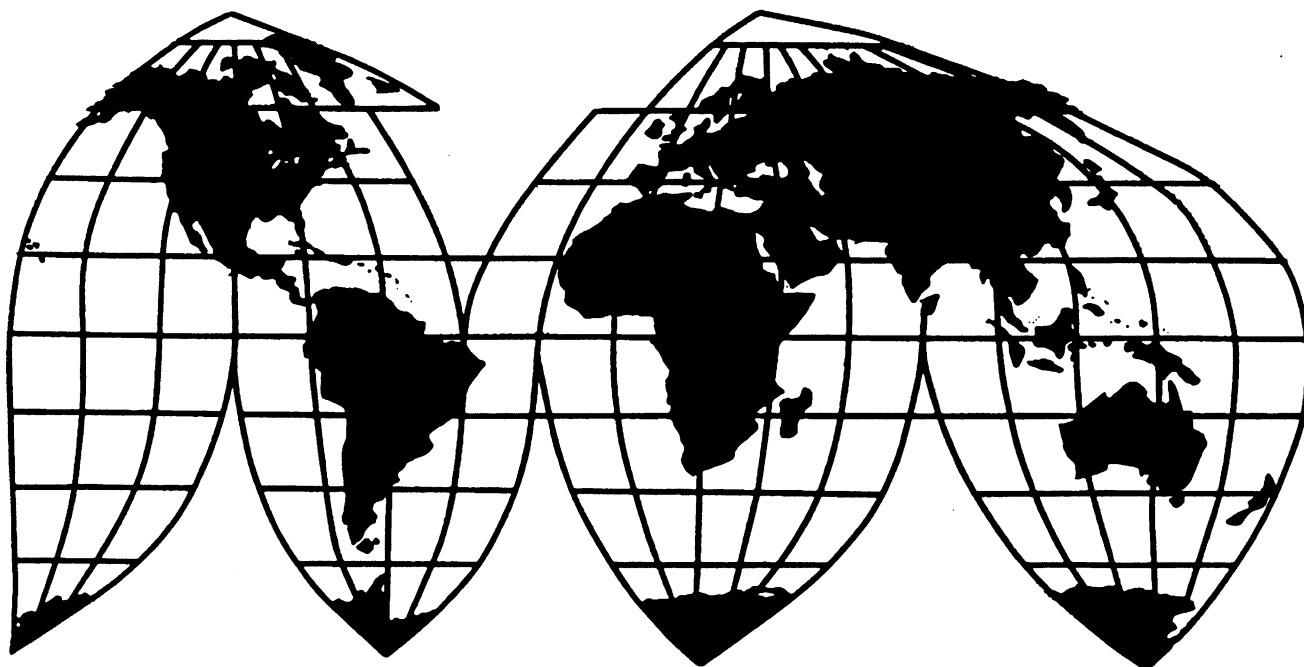
Certain Ammonium Nitrate From Ukraine

Investigation No. 731-TA-894 (Final)

Publication 3448

August 2001

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-894 (Final)

CERTAIN AMMONIUM NITRATE FROM UKRAINE

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of certain ammonium nitrate from Ukraine, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to those imports of the subject merchandise from Ukraine that were subject to the affirmative critical circumstances determination by the Department of Commerce.

BACKGROUND

The Commission instituted this investigation on October 13, 2000, following receipt of a petition filed with the Commission and the Department of Commerce by counsel for the ad hoc Committee for Fair Ammonium Nitrate Trade ("COFANT"), including Air Products & Chemicals, Inc., Allentown, PA; El Dorado Chemical Co., Oklahoma City, OK; LaRoche Industries, Inc., Atlanta, GA; Mississippi Chemical Corp., Yazoo City, MS; and Nitram, Inc., Tampa, FL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain ammonium nitrate from Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 14, 2001 (66 FR 14933). The hearing was held in Washington, DC on July 24, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in the final phase of this investigation, we determine that an industry in the United States is materially injured by reason of imports of ammonium nitrate from Ukraine that the U.S. Department of Commerce (“Commerce”) has determined to be sold in the United States at less than fair value. We also determine that critical circumstances do not exist with respect to subject imports produced and/or exported by Stirol and other Ukrainian producers of the subject ammonium nitrate.

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”¹ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”² In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”³

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁴ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁵ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁶ Although the Commission must accept the determination of Commerce as to the scope of the imported

¹ 19 U.S.C. § 1677(4)(A).

² Id.

³ 19 U.S.C. § 1677(10).

⁴ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 & n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁵ See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

⁶ Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”)

merchandise that has been found to be subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.⁷

B. Product Description

In its final determination, Commerce defined the imported merchandise within the scope of this investigation as:

solid, fertilizer grade ammonium nitrate (“ammonium nitrate” or “subject merchandise”) products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and for purposes of the Customs Service (“Customs”), the written description of the merchandise under investigation is dispositive.⁸

Ammonium nitrate is one of several fertilizers that deliver nitrogen to the soil.⁹ Ammonium nitrate is produced by the direct reaction of ammonia (NH₃) with nitric acid (HNO₃).¹⁰ Depending on the producer, ammonium nitrate may be produced in granular or prill form.¹¹

C. Domestic Like Product

In the preliminary phase of this investigation, the Commission found a single domestic like product consisting of high-density ammonium nitrate (also referred to as HDAN),¹² just as it did in the 1999/2000 antidumping duty investigation of ammonium nitrate from Russia.¹³ No party challenged the Commission’s domestic like product determination in the final phase of this investigation, and no new

⁷ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

⁸ Solid Agricultural Grade Ammonium Nitrate from Ukraine, 66 Fed. Reg. 38632 (July 25, 2001).

⁹ Confidential Version of the Staff Report, Mem. INV-Y-147 (Aug. 9, 2001) (“CR”) at I-7; Public Version of Staff Report (“PR”) at I-5.

¹⁰ See, e.g., CR at I-8; PR at I-5.

¹¹ Prills are spherical shapes that range from 1.5 to 2.5 millimeters in diameter whereas granules are somewhat larger and more irregularly shaped. Granules are formed by layering molten ammonium nitrate onto seed particles in a rotary pan or drum granulator, and prills are formed by spraying molten ammonium nitrate droplets into specially designed towers and allowing the molten droplets to free-fall through an upward current of cool air and solidify into small spheres. See, e.g., CR at I-6, I-8; PR at I-4, I-6.

¹² Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894 (Prelim.), USITC Pub. 3374, at 3-5 (Dec. 2000).

¹³ Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Prelim.), USITC Pub. 3232, at 5-7 (Sept. 1999); Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3337, at 3-5 (Aug. 2000).

evidence has been obtained that warrants reconsideration of the Commission's reasoning in the preliminary phase of this investigation. We, therefore, adopt the Commission's reasoning in the preliminary phase of this investigation and define the domestic like product coextensively with the scope of subject merchandise as fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot ("ammonium nitrate").

D. Domestic Industry and Related Party Issues

Section 771(4) of the Act defines the relevant industry as "the producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."¹⁴ In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.¹⁵ Based on our definition of the domestic like product, we find that the domestic industry consists of all domestic producers of the domestic like product.¹⁶ Thus, the domestic industry in our analysis is comprised of ten domestic producers: Agrium, Air Products & Chemicals, Inc. ("Air Products"), Coastal Chem, El Dorado Chemical Co. ("El Dorado"), LaRoche Industries, Inc. ("LaRoche"), Mississippi Chemical Corp. ("Mississippi Chemical"), Nitram, Inc. ("Nitram"), PCS Nitrogen, Prodicta LLC, and Wil-Gro.¹⁷

¹⁴ 19 U.S.C. § 1677(4)(A).

¹⁵ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

¹⁶ We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case. Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd mem., 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

No party argued for the exclusion of any domestic producer as a related party in this case. ***, purchased subject ammonium nitrate in late 2000, but we do not find that *** is a related party under 19 U.S.C. § 1677(4)(B). The *** of subject merchandise that *** constituted less than *** percent of the *** imported from Ukraine in full year 2000, indicating that *** exerted no direct or indirect control over ***. Likewise, *** of subject merchandise from ***, which in turn must have purchased the ammonium nitrate directly or indirectly from ***. *** purchase constituted only *** percent of *** total subject imports for full year 2000 and only *** percent of the *** imported from Ukraine in full year 2000, indicating that it exerted no direct or indirect control over ***. See, e.g., Producers' Questionnaire Responses of *** (question II-13); *** Revised Producers' Questionnaire Response (question II-13); ***, *** Purchasers' Questionnaire Response (question II-1); *** Importers' Questionnaire Response (questions II-7 and II-13); *** Importers' Questionnaire Response (question II-6); CR at III-5; PR at III-6.

¹⁷ See, e.g., CR/PR at Table.III-1.

II. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS¹⁸

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.¹⁹ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.²⁰ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”²¹ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.²² No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²³

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of subject imports from Ukraine that are sold in the United States at less than fair value.

A. Conditions of Competition and Business Cycle

We find several conditions of competition and aspects of the business cycle relevant to our analysis in this investigation.

Ammonium nitrate is a commodity product, without readily identifiable variations or grades. The quality of the product may deteriorate through exposure to moisture, changes in temperature, or repeated handling, but the addition of anti-caking and stabilizing agents to the product helps reduce these problems.²⁴ Ammonium nitrate is applied to crops either alone as a direct application fertilizer or after being mechanically blended with other major fertilizer nutrients, phosphorus (“P”) and potassium (“K”), to produce free-flowing bulk blends known as nitrogen/phosphorous/potassium products (“NPKs”). Both prilled and granular forms may be used for direct application or NPK consumption; however, the use of granular ammonium nitrate in NPKs is popular because its irregular surface and larger particle size minimize segregation of blends with other fertilizer nutrients. Ammonium nitrate is used principally to fertilize certain types of row crops (such as corn, soybeans, wheat, cotton, barley, sorghum, oats, and

¹⁸ Imports of ammonium nitrate from Ukraine are not negligible under 19 U.S.C. § 1677(24), as they constituted more than three percent of total imports of ammonium nitrate into the United States in the most recent twelve-month period preceding the filing of the petition for which data are available. This information was derived from CR/PR at Table IV-1.

¹⁹ 19 U.S.C. § 1673d(b).

²⁰ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

²¹ 19 U.S.C. § 1677(7)(A).

²² 19 U.S.C. § 1677(7)(C)(iii).

²³ Id.

²⁴ See, e.g., CR at I-6, I-9 & n.19, V-5; PR at I-4, I-6 & n.19.

rice), pastures and forage crops, and cash crops (such as tobacco and citrus). Ammonium nitrate is also the preferred nutrient for “no-till” planting.²⁵

Ammonium nitrate is one of several single-nutrient, nitrogen-based fertilizers; others include anhydrous ammonia, urea, UAN (a solution of urea and ammonium nitrate), ammonium sulfate, calcium ammonium nitrate, and sodium nitrate. Ammonium nitrate is distinguished from these other nitrogen-based fertilizers by its fast action, good solubility, and low volatility at ambient temperatures.²⁶ Thirteen purchasers reported that other products could be substituted for ammonium nitrate, whereas seven noted that there are no substitutes. Five of eighteen purchasers reported that they always or almost always evaluate whether to purchase ammonium nitrate based on its price per unit of nitrogen relative to the price per unit of nitrogen of other nitrogen-based fertilizers, four reported a moderate amount of switching among products on this basis, while three reported that this substitution rarely or never occurs. Six purchasers mentioned that climatic conditions determine whether there is an option for substitution whereas three stated that the choice to purchase ammonium nitrate is dictated by the choice of crops.²⁷

U.S. consumption of ammonium nitrate is seasonal, with demand peaking in the spring planting season, usually between February and June. Nevertheless, due to the capital-intensive nature of this industry, in order to maximize production efficiencies, producers operate their production facilities throughout the year. During the off-season, producers build up inventories equivalent to a month or two of production and might store an additional month’s worth of production on barges. Traditionally, producers offer ammonium nitrate at lower prices (\$15 to \$20 per ton lower) during off-season periods, such as the fall-fill period, to stimulate demand, preserve profitability, and induce purchasers to share some of the storage burden and price risk.²⁸

Demand for ammonium nitrate is affected principally by planted acreage and application rates; these factors are in turn influenced by crop prices and weather. Demand for fertilizers is generally considered to be mature.²⁹ The majority of U.S. suppliers reported that demand has been steady since 1998.³⁰ Record data reflect different trends depending on whether apparent domestic consumption is measured by quantity or by value. Apparent domestic consumption of ammonium nitrate increased on a quantity basis between 1998 and 1999, but decreased from 1999 to 2000, and was lower in interim 2001

²⁵ See, e.g., CR at I-7, II-9; PR at I-5, II-5.

²⁶ See, e.g., CR at I-7 to I-8, II-12 to II-14; PR at I-5, II-8 to II-9.

²⁷ See, e.g., CR at II-12 to II-20; PR at II-8 to II-13. We do not find that competition with other nitrogen-based fertilizers explains pricing behavior in the U.S. market during the period of investigation. Various exogenous factors – such as seasonal demand patterns and other downstream demand factors such as acreage planted, crop prices, and farm income – appear to affect the overall fertilizer market, although individual nitrogen-based fertilizers may be affected somewhat differently. At the same time, ammonium nitrate prices rose more slowly and to a lesser degree than prices of other nitrogen-based fertilizers in response to the unprecedented increases in natural gas costs during the period of investigation. See, e.g., CR at II-17 to II-20; PR at II-11 to II-13; CR/PR at Figure II-1; Petitioners’ Prehearing Brief at 32-33, Exhibits 15, 16; July 24, 2001 Hearing Transcript (“Hearing Tr.”) at 44-47; Petitioners’ Posthearing Brief at 1-2, 9-10.

²⁸ See, e.g., CR at II-2 to II-3; PR at II-2; Petitioners’ Prehearing Brief at 14-15; Hearing Tr. at 29-30, 76-79, 84-85.

²⁹ See, e.g., CR at II-9 to II-12; PR at II-5 to II-8.

³⁰ See, e.g., CR at II-21; PR at II-14.

than in interim 2000. On a value basis, apparent domestic consumption fell from 1998 to 1999, but increased between 1999 and 2000, and was higher in interim 2001 than interim 2000.³¹

Importers and domestic producers sell nearly all of their shipments of ammonium nitrate to distributors and retailers, who in turn sell to individual farmers.³² The Mississippi River system serves as an important means for distributing ammonium nitrate, particularly subject merchandise from Ukraine, and many distribution facilities are located along the river system. A substantial amount of ammonium nitrate is sold directly off river barges, and in areas within relatively close proximity to the Mississippi River, in the Southeast, mid-South, and the Plains states; ammonium nitrate also is sold in the upper Midwest, citrus growing areas, California, and the Northwest.³³

Despite the somewhat higher risk of product degradation associated with subject ammonium nitrate from Ukraine,³⁴ we find that there is a moderately high degree of substitutability between ammonium nitrate from Ukraine and the domestic like product. The degree of substitution depends on such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, means of delivery (e.g., barge, rail, or truck), payment terms, and product services).³⁵ All responding domestic producers reported that ammonium nitrate from Ukraine and the domestic like product can be used interchangeably. *** reported that, for certain applications, Ukrainian product is not well-suited due to prill size variation and the lack of hardness and storability associated with the number of times it has been handled. *** observed that the Ukrainian product is subject to the rigors of greater handling and may sometimes have a pink/beige color that customers disfavor. Purchasers reported that ammonium nitrate produced in Ukraine is generally comparable in terms of fourteen purchasing factors.³⁶ Purchasers reported that price is an important factor in purchasing decisions for ammonium nitrate, and other factors such as quality and availability are also important considerations. Eight purchasers reported price as the number one factor in their purchasing decisions, and over half the responding purchasers listed price as their first or second most important purchasing factor.³⁷

³¹ Apparent domestic consumption increased from 2,381,218 short tons in 1998 to 2,555,054 short tons in 1999, then decreased to 2,305,727 short tons in 2000; apparent domestic consumption in interim 2001 was 708,661 short tons compared to 715,614 short tons in interim 2000. On a value basis, apparent domestic consumption decreased from \$278.3 million in 1998 to \$253.9 million in 1999, then increased to \$261.8 million in 2000; apparent domestic consumption in interim 2001 was \$105.0 million compared to \$76.3 million in interim 2000. CR/PR at Table IV-2; CR at II-22; PR at II-14.

³² See, e.g., CR at I-10, II-1; PR at I-7, II-1.

³³ See, e.g., CR at II-1; PR at II-1.

³⁴ Because of the longer transport distance and the additional handling entailed, ammonium nitrate from Ukraine is exposed more often, and for longer periods of time, to adverse conditions. Thus, Ukrainian ammonium nitrate may have more caking and a higher level of fines than are typical of the domestic like product. These problems are reduced by the addition of anti-caking and stabilizing agents to the product as well as by the importers' practice of scheduling the arrival of the imported product to coincide with the spring planting season, so as to avoid additional storage time. See, e.g., CR at II-23, II-25; PR at II-15, II-16; Nov. 3, 2000 Preliminary Staff Conference Transcript ("Conference Tr.") at 86, 94, 98-99, 139-40, 143-46.

³⁵ See, e.g., CR at II-22 to II-24; PR at II-14 to II-15.

³⁶ See, e.g., CR at II-22 to II-26; PR at II-14 to II-17; CR/PR at Table II-4.

³⁷ See, e.g., CR at II-24 to II-25; PR at II-15 to II-17; CR/PR at Table II-3.

Another important condition of competition is the presence of non-subject imports in the U.S. market during the period of investigation. Responding domestic producers, purchasers, and importers generally reported that subject imports, the domestic like product, and non-subject imports can be used interchangeably, and we find the record indicates a moderately high degree of substitutability among them.³⁸ Imports of ammonium nitrate from Russia accounted for the largest share of total imports of ammonium nitrate into the United States in 1998 and 1999.³⁹ On July 23, 1999, however, petitioners in the instant investigation filed an antidumping duty petition against imports of ammonium nitrate from Russia. That petition led to the January 7, 2000, publication of Commerce's preliminary affirmative determination, suspension of liquidation on imports of ammonium nitrate from Russia,⁴⁰ and the entry into a suspension agreement between Commerce and the Government of Russia on May 19, 2000 governing ammonium nitrate imports from Russia.⁴¹ On August 2, 2000, the Commission made an affirmative final determination that the domestic industry was materially injured by reason of ammonium nitrate from Russia.⁴² Thereafter, ammonium nitrate imports from Russia quickly fell from high levels in 1998 and 1999 to virtually zero in 2000.⁴³ The volume of non-subject imports of ammonium nitrate in 2000, therefore, was much lower than in prior years.⁴⁴ The level of non-subject import shipments in interim 2001, however, was much higher than in interim 2000 because non-subject countries that previously had no presence in the U.S. market, such as Bulgaria, Romania, Spain, and Turkey began selling ammonium nitrate in the U.S. market in interim 2001 while other non-subject countries (such as Canada, the Netherlands, and Russia) continued their presence in the U.S. market.⁴⁵ Nonetheless, the record indicates that the average unit values of non-subject imports (including Russian ammonium nitrate imported under the suspension agreement) in 2000 were much higher than those of subject imports of ammonium nitrate from Ukraine. Further, while non-subject import volumes increased in interim 2001, when there were no imports of subject ammonium nitrate from Ukraine, non-subject imports' average

³⁸ See, e.g., CR at II-26; PR at II-17; CR/PR at Table II-4.

³⁹ See, e.g., CR/PR at Table IV-1.

⁴⁰ Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation, 65 Fed. Reg. 1139, 1144 (Jan. 7, 2000).

⁴¹ The suspension agreement provides for a quota of 49,962 metric tons of ammonium nitrate from Russia in 2000, 100,000 metric tons in 2001, and annual increases thereafter through 2004. The suspension agreement also provides that the price at which all imports of ammonium nitrate from Russia are made must be at or above a "reference price" set with reference to weekly market prices in the United States, but at no time lower than a "floor price" of \$85 per ton f.o.b. Russian port. Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation, 65 Fed. Reg. 37759 (June 16, 2000).

⁴² Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 (Aug. 2000). The Commission's affirmative final determination noted the significant underselling and price suppressing and depressing effects of imports of ammonium nitrate from Russia. Commerce and the Commission completed the final phase of their investigations after petitioners filed a request for continuation of the investigation.

⁴³ Imports of ammonium nitrate from Russia increased from *** short tons in 1998 to *** short tons in 1999, then decreased to *** short tons in 2000. CR/PR at Table IV-1.

⁴⁴ Shipments of non-subject imports (including imports from Russia) increased from *** short tons in 1998 to *** short tons in 1999, then declined to *** short tons in 2000, and as a share of apparent domestic consumption by quantity, non-subject imports were *** percent in 1998, *** percent in 1999, and *** percent in 2000. CR/PR at Tables IV-2, IV-3.

⁴⁵ CR/PR at Table D-1. Shipments of non-subject imports in interim 2001 were *** short tons compared to *** short tons in interim 2000. CR/PR at Table IV-2. The higher level of non-subject imports in interim 2001 appears to be in response to the high natural gas costs in the U.S. market and the subsequent increase in prices for ammonium nitrate in the U.S. market.

unit values in 2001 were still much higher than the average unit values of the subject imports from Ukraine in 2000.⁴⁶

A final condition of competition that we have considered is the cost of natural gas. Ammonia is the primary raw material in the manufacture of ammonium nitrate, and the basic feedstock for producing ammonia is natural gas. The cost of natural gas represents approximately 70 to 80 percent of the cost of producing ammonia and about 30 to 50 percent of the cost of producing ammonium nitrate.⁴⁷ The largest domestic producers are vertically integrated and purchase natural gas and produce ammonia at their own production facilities, whereas other domestic producers purchase ammonia.⁴⁸ Natural gas costs of ammonium nitrate production fell irregularly from over \$35 per short ton of ammonium nitrate in January 1998 to a low of just above \$25 per short ton in September 1998.⁴⁹ Natural gas costs of ammonium nitrate production then rose irregularly until reaching about \$47 per short ton of ammonium nitrate in May 2000, before rising at a faster pace over the next five months and then skyrocketing in December 2000 and January 2001 to over \$150 per short ton. Gas prices declined in February and March 2001 and have continued to decline since then, but are still at historically high levels.⁵⁰ Like natural gas prices, ammonia costs (averaged over those domestic producers that produced ammonia and those that purchased it) fell early in the period of investigation and rose sharply in 2000.⁵¹

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁵²

The volume of subject imports of ammonium nitrate from Ukraine increased both absolutely and relative to apparent domestic consumption over the period of investigation. Subject imports of ammonium nitrate from Ukraine were *** short tons in 1998, *** in 1999, and then increased more than *** over 1998 levels to *** short tons in 2000; subject imports of ammonium nitrate from Ukraine were *** in interim 2001 compared to *** short tons in interim 2000.⁵³ Subject imports of ammonium nitrate from Ukraine ceased as of December 2000, and respondents conceded that they exited the U.S. market in response to the pendency of this case.⁵⁴ Accordingly, we reduced the weight given to this decline in subject import volume pursuant to 19 U.S.C. § 1677(7)(I).

⁴⁶ CR/PR at Table IV-1.

⁴⁷ See, e.g., CR at V-1; PR at V-1.

⁴⁸ See, e.g., CR at V-1; PR at V-1. During the period of investigation, *** domestic producers purchased ammonia, *** produced ammonia, and one firm, ***, accounting for about *** percent of industry trade sales, produced ammonium nitrate from ammonia nitrate solution. See, e.g., CR at VI-1; PR at VI-1.

⁴⁹ This discussion is based on Henry Hub Terminal natural gas pricing data converted into the natural gas costs to produce a short ton of ammonium nitrate. See Petitioners’ Prehearing Brief at Exhibit 34 (providing Inside FERC’s Henry Hub Monthly Index Settlement Prices).

⁵⁰ See, e.g., CR at V-1; PR at V-1; CR/PR at Figure V-1.

⁵¹ See, e.g., CR at V-2; PR at V-1.

⁵² 19 U.S.C. § 1677(7)(C)(i).

⁵³ CR/PR at Table IV-1.

⁵⁴ See, e.g., CR/PR at Table I-1; Hearing Tr. at 138.

Market share data reflect similar trends to those for volume data. Measured by quantity, the market penetration of subject import shipments was *** percent in 1998, *** percent in 1999, and then increased to *** percent in 2000; subject imports' share of apparent domestic consumption in interim 2000 was *** percent, compared to *** percent in interim 2001.⁵⁵ We reiterate our finding from the preliminary phase of this investigation that such a rapid rise in the volume and market share of the subject imports from virtually nothing is evidence of the acceptable and marketable quality of the Ukrainian product, despite respondents' claim that its quality is inferior.⁵⁶

In the antidumping duty investigation of ammonium nitrate from Russia, the Commission found that imports from Russia had held a significant share of the U.S. market in 1999.⁵⁷ The increase of subject imports of ammonium nitrate from Ukraine to the U.S. market between 1999 and 2000 prevented the domestic industry from capturing any additional market share notwithstanding the virtual disappearance of imports of ammonium nitrate from Russia from the U.S. market in 2000.⁵⁸ Domestic producers' share of apparent domestic consumption was 82.3 percent in 1998, 78.9 percent in 1999, and 78.4 percent in 2000; their share of apparent domestic consumption was 70.4 percent in interim 2000 compared to 55.4 percent in interim 2001.⁵⁹

For all of these reasons, we determine that subject import volume and the increase in subject imports in absolute terms and relative to consumption in the United States is significant.

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁶⁰

As noted earlier, the record in this final investigation indicates that ammonium nitrate is a commodity product, there is a moderately high degree of substitution between the domestic like product and subject imports, and price is an important factor in purchasing decisions.⁶¹

⁵⁵ CR/PR at Table IV-3.

⁵⁶ Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894 (Prelim.), USITC Pub. 3374, at 11 (Dec. 2000).

⁵⁷ Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 (Aug. 2000).

⁵⁸ Indeed, the volume of subject imports from Ukraine in 2000 ***. This information was derived from CR/PR at Table IV-1.

⁵⁹ CR/PR at Table IV-3.

⁶⁰ 19 U.S.C. § 1677(7)(C)(ii).

⁶¹ See, e.g., CR at I-6, I-9 & n.19, II-22 to II-25; PR at I-4, I-6 & n.19, II-14 to II-17; CR/PR at Tables II-3, II-4.

Prices for ammonium nitrate tend to follow seasonal trends. They are generally higher in the spring planting season and lower in the fall and early winter. Thus, price trends are best discerned by comparing prices for the same month over successive years.⁶² Measured in this manner, ammonium nitrate prices in the U.S. market declined continuously between 1997 and 1999,⁶³ while there was little Ukrainian product present in the U.S. market. In 2000, by contrast, as injurious levels of Russian ammonium nitrate exited the U.S. market, a significant volume of subject imports from Ukraine surged into the U.S. market.⁶⁴ Simultaneously, prices for ammonium nitrate in the U.S. market generally were higher in 2000 than in 1999, but prices in the U.S. market still did not recover to meet unprecedented production costs.⁶⁵

During the final phase of this investigation, the Commission gathered monthly data on weighted average f.o.b. plant/port/shipping point prices and quantities and weighted-average delivered prices and quantities for shipments of subject ammonium nitrate from Ukraine and the domestic like product. These pricing data reflect significant underselling by subject imports at large margins and in all but one quarter in which they were sold in the U.S. market.⁶⁶

In addition to significant underselling, the record indicates that the significant volume of subject imports of ammonium nitrate from Ukraine suppressed price increases for the domestic like product that otherwise would have occurred to a significant degree. In 1998 and 1999, the first two years of our period of investigation, imports from Russia still were present in significant quantities. In its 2000 Russian determination, the Commission found that domestic producers' ammonium nitrate prices during the 1999 fertilizer year were at depressed levels relative to 1997 due to the effect on prices of the imports from Russia of ammonium nitrate.⁶⁷ While the record shows that ammonium nitrate prices in the U.S. market were higher in 2000 and interim 2001 than in 1999,⁶⁸ during 2000 and interim 2001 (particularly between May 2000 and January 2001), the domestic industry experienced a significant increase in natural gas costs. As noted above, natural gas accounts for 30 to 50 percent of the cost of production of ammonium nitrate.⁶⁹ This rise in the cost of natural gas is reflected in the difference in the industry's unit cost of goods sold in 1999 of \$98.82 per short ton compared to \$115.16 per short ton in 2000, and of \$98.41 per short ton in interim 2000 compared to \$167.04 in interim 2001.⁷⁰ The evidence indicates that,

⁶² See, e.g., CR at V-12 to V-13; PR at V-7.

⁶³ See, e.g., CR/PR at Tables V-1, V-2; Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894 (Prelim.), USITC Pub. 3374, at 11 (Dec. 2000).

⁶⁴ CR/PR at Table IV-1.

⁶⁵ CR/PR at Tables V-1, V-2.

⁶⁶ See, e.g., CR at V-8; PR at V-5; CR/PR at Tables V-1, V-2. In addition, we find that the evidence of numerous confirmed instances of lost sales and lost revenues also supports our finding that underselling by the subject imports is significant. See, e.g., CR at V-17 to V-18; PR at V-8 to V-9; CR/PR at Appendix E.

⁶⁷ Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, at 9-11 (Aug. 2000).

⁶⁸ CR/PR at Tables V-1, V-2.

⁶⁹ See, e.g., CR at V-1; PR at V-1.

⁷⁰ CR/PR at Table VI-2. When assessing whether the domestic industry has experienced price suppression, we generally consider the industry's cost of goods sold as a percentage of net sales. In this instance, the ratio of cost of goods sold to net sales was slightly lower in 2000 (95.5 percent) than in 1999 (96.5 percent), but in interim 2001, the ratio of cost of goods sold to net sales was 102.8 percent compared to 84.1 percent in interim 2000. CR/PR at Table VI-1.

despite rising prices, the combination of competition from the low-priced subject imports and rising production costs caused the domestic industry to experience a cost-price squeeze.⁷¹

In these circumstances, even though rising prices, after relief was granted with respect to imports of ammonium nitrate from Russia, allowed domestic producers to pass on at least some of their increasing costs, the price increases were not sufficient to return domestic prices to profitable levels.⁷² Accordingly, based on the high degree of substitutability between the subject imports and the domestic like product, the importance of price in this industry, the industry's need to pass on rising costs in order to regain profitability and recover from the price depressing effects of Russian ammonium nitrate in 1997 to 1999, and the significant underselling by the Ukrainian product, we conclude that subject imports have suppressed price increases that otherwise would have occurred to a significant degree.

Consequently, we find that the subject imports have had significant negative effects on prices of the domestic like product during the period of investigation.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.⁷³ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."^{74 75 76}

⁷¹ A cost-price squeeze occurs when a producer is unable fully to pass on increases in its cost of production in the form of price increases. In the preliminary phase of this investigation, respondents conceded that the domestic industry was facing such a situation. See, e.g., Conference Tr. at 152.

⁷² See, e.g., City Lumber Co. v. United States, 311 F. Supp. 340, 347-48 (Cust. Ct. 1970) (in second of two sequential investigations involving imports of the same product from different countries, the Commission may base its injury determination with respect to the second country on sales at less than fair value that continue injury due to subject imports from the first country), aff'd, 457 F.2d 991 (C.C.P.A. 1972). Moreover, while we have considered whether the prices of non-subject imports may be responsible for the failure of domestic prices to recover significantly from their 1999 lows, the average unit values for non-subject imports, including those that entered the U.S. market in interim 2001 during a time when there were no imports of subject ammonium nitrate from Ukraine, were well above those for the subject imports in 2000. CR/PR at Table IV-1.

⁷³ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

⁷⁴ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812 to 813 (Prelim.), USITC Pub. 3155 at 25, n.148 (Feb. 1999).

⁷⁵ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final antidumping duty determination regarding ammonium nitrate from Ukraine, Commerce found that the weighted-average amount by which the normal value exceeded Stiroi's export price was 156.29 percent. Commerce assigned the same antidumping duty margin to all other producers/exporters of ammonium nitrate from Ukraine. Solid Agricultural Grade Ammonium Nitrate from Ukraine, 65 Fed. Reg. 38632 (July 25, 2001).

⁷⁶ Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to
(continued...)

As noted above, Commerce suspended liquidation of imports of ammonium nitrate from Russia in January 2000, and those imports all but disappeared from the U.S. market in 2000.⁷⁷ In light of their virtual disappearance from the U.S. market and the subsequent suspension agreement governing later imports from Russia, we would have anticipated an improvement in the condition of the domestic industry. Instead, consistent with our findings that the volume of subject imports of ammonium nitrate from Ukraine is significant and increased in both absolute terms and relative to apparent domestic consumption and that there is significant price underselling and price suppression by subject imports, we find that subject imports are having a significant adverse impact on the domestic industry. A number of domestic industry performance indicators declined throughout the period of investigation and, importantly, continued to decline in 2000.⁷⁸ We find that unfairly traded imports of ammonium nitrate from Ukraine prevented the domestic industry from recovering from its already injured condition at the end of 1999 and impeded the domestic industry's ability to respond to the rapid and unprecedented increases in natural gas costs that occurred in 2000 and early 2001.

Specifically, while the capacity of domestic producers increased marginally during the period of investigation, actual production of ammonium nitrate and capacity utilization decreased significantly during this period.⁷⁹⁸⁰ We find these production declines to be significant in light of the need for domestic producers to operate their production facilities at high rates of capacity utilization throughout

⁷⁶ (...continued)

be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Prelim.), USITC Pub. 3345, at 11, n.63 (Sept. 2000).

⁷⁷ CR/PR at Tables IV-1, IV-2.

⁷⁸ Production, trade, and financial data on the domestic industry are based on questionnaire responses for eight domestic producers that accounted for approximately *** percent of domestic ammonium nitrate production in 2000. CR at III-1, VI-1; PR at III-1, VI-1. There were no subject imports of ammonium nitrate from Ukraine during interim 2001, yet the domestic industry's condition remained poor in the interim period relative to interim 2000. The record indicates that Ukrainian ammonium nitrate imported in 2000 continued to be found in the distribution chain and continued to have adverse effects on domestic prices and other performance indicators in interim 2001. See, e.g., Petitioners' Prehearing Brief at 3 & nn. 5 and 8, 37, 39, 40-43, 53-54; Hearing Tr. at 20, 41, 65-68; CR at II-5, II-7; PR at II-3, II-4; CR/PR at Table V-1.

⁷⁹ The capacity of domestic producers increased 3.1 percent between 1998 and 2000, from 2.6 million short tons in 1998 to 2.7 million short tons in 1999 and was 2.7 million short tons in 2000. Because actual production of ammonium nitrate decreased by 21.0 percent between 1998 and 2000, from 2.1 million short tons in 1998 to 2.0 million short tons in 1999 and 1.7 million short tons in 2000, capacity utilization decreased by 19.3 percentage points during the same period. Production capacity in interim 2001 was higher than in interim 2000, but both production and capacity utilization were lower in interim 2001 than in interim 2000. CR/PR at Table III-2, CR at III-1; PR at III-1.

⁸⁰ One domestic producer, Mississippi Chemical, reported that it has purchased natural gas futures contracts on the New York Mercantile Exchange and has sold them every month since 1990 as part of its normal gas hedging practices in an attempt to reduce production cost uncertainty inherent in the volatile spot market for natural gas. Mississippi Chemical reported that it does not take delivery of gas purchased under hedged contracts, but it separately purchases physical quantities of gas for production. In December 2000, Mississippi Chemical decided to sell all of its future hedged gas contracts earlier than normal because it believed that natural gas prices were at or near a peak level, ***. See, e.g., Mississippi Chemical's Producers' Questionnaire Response at Attachment to II-11; Petitioners' Prehearing Brief at 45-54; Hearing Tr. at 25-26, 56-58, 96-97; CR at VI-9; PR at VI-4.

the year to maximize production efficiencies.⁸¹ Rather than accept lower prices to maintain market share and continue production at higher capacity utilization levels, the record indicates that several domestic producers opted to cease ammonium nitrate production for extended periods due to the presence of low-priced subject imports and increasing gas costs.⁸² One domestic producer, Wil-Gro, ceased production in December 1999, and domestic producer LaRoche filed for protection under Chapter 11 of the U.S. Bankruptcy Code on May 3, 2000.⁸³ Two of LaRoche's plants were acquired by domestic producer El Dorado, but only one of those plants remains in operation today.⁸⁴

Domestic producers were able to reduce their end-of-period inventories during the period of investigation,⁸⁵ but their overall shipments and net sales quantities declined.⁸⁶ These declines were due to competition from lower-priced Ukrainian product not only during the regular spring planting season, but also during the domestic industry's off-season fall-fill period.⁸⁷ Although net sales value rose slightly from 1999 to 2000, it remained down from 1998 levels,⁸⁸ as the domestic industry faced the cost-price squeeze discussed earlier. Consequently, the domestic industry suffered operating losses in 1999 and 2000.⁸⁹

⁸¹ See, e.g., CR at II-3; PR at II-2.

⁸² See, e.g., Petitioners' Prehearing Brief at 21, 38-41 & n.135, 46-47; Hearing Tr. at 18, 37; CR at II-5 to II-6, II-7, VI-7; PR at II-3, II-4, VI-4.

⁸³ See, e.g., Hearing Tr. at 22; CR/PR at Table III-1; CR at III-1; PR at III-1.

⁸⁴ See, e.g., Hearing Tr. at 22; CR/PR at Table III-1; CR at III-1; PR at III-1.

⁸⁵ The domestic producers' end-of-period inventories declined from 352,614 short tons in 1998 to 247,435 short tons in 1999 and 97,376 short tons in 2000, and end-of-period inventories in interim 2001 were 238,766 short tons as compared to 322,720 short tons in interim 2000. CR/PR at Table III-5.

⁸⁶ Domestic shipments increased from 1,959,789 short tons in 1998 to 2,014,854 short tons in 1999, and then decreased to 1,807,145 short tons in 2000; domestic shipments were 392,489 short tons in interim 2001 as compared to 503,650 short tons in interim 2000. CR/PR at Table III-3. The domestic industry's net sales increased from 1,996,912 short tons in 1998 to 2,039,952 short tons in 1999, before decreasing to 1,821,094 short tons in 2000; net sales in interim 2001 were 382,354 short tons compared to 474,906 short tons in interim 2000. CR/PR at Table VI-1.

⁸⁷ The low-priced Ukrainian ammonium nitrate in fall 2000 prevented domestic producers to a significant degree from being able to sell their product at price levels that would cover their production costs, causing them to lose significant sales revenues during the off-season. See, e.g., Petitioners' Prehearing Brief at 14-15; Hearing Tr. at 29-30, 76-79, 84-85.

⁸⁸ Net sales value declined from \$240 million in 1998 to \$209 million in 1999, and then recovered to \$220 million in 2000. However, net sales were valued at \$62 million in interim 2001 as compared to \$56 million in interim 2000. CR/PR at Table VI-1.

⁸⁹ Of eight domestic producers, the number reporting operating losses increased from three in 1998 to five in 1999 and four in 2000. CR/PR at Table VI-1. Five of the seven domestic producers that provided data for the interim periods reported operating losses in interim 2001 as compared to two in interim 2000. Id. Overall, the domestic industry had operating income of \$16.8 million in 1998, an operating loss of \$8.3 million in 1999, and an operating loss of \$5.5 million in 2000; the domestic industry had an operating loss of \$5.9 million in interim 2001 as compared to operating income of \$5.7 million in interim 2000. CR/PR at Table VI-1. The ratio of the domestic industry's operating income or (loss) to its net sales was 7.0 percent in 1998, (4.0) percent in 1999, and (2.5) percent in 2000; the ratio was (9.6) percent in interim 2001 as compared to 10.3 percent in interim 2000. CR/PR at Table VI-1.

Other domestic industry performance indicators also declined.⁹⁰ The average number of production and related workers employed industry-wide declined steadily between 1998 and 2000 and was lower in interim 2001 than in interim 2000.⁹¹ The total wages paid to those workers during these periods followed a similar pattern.⁹² Average worker productivity likewise fell between 1998 and 2000.⁹³ Capital expenditures also declined dramatically in the three-year period and the interim period,⁹⁴ and at least three U.S. producers reported that they currently are having, or anticipate that they will have, difficulty raising capital to finance needed capital improvement projects.⁹⁵ Specifically, Mississippi Chemical's credit rating was downgraded in 2001.⁹⁶

In sum, the record indicates that there have been significant increases in both the absolute and relative volumes of ammonium nitrate imported from Ukraine and these imports significantly undersold and suppressed prices of the domestic like product. The record also shows that these volume increases and their negative price effects were directed at a domestic industry that had not yet recovered from the injury previously inflicted by unfairly traded imports of ammonium nitrate from Russia and they coincided with unprecedented increases in the cost of natural gas. Accordingly, we find that the subject imports are having a significant adverse impact on the domestic industry.

III. CRITICAL CIRCUMSTANCES

In its final determination, Commerce made affirmative critical circumstances findings with respect to ammonium nitrate produced and/or exported by Ukrainian producer Stirol and other Ukrainian

⁹⁰ We also examined the decline in apparent domestic consumption during the period of investigation to determine if it could have been responsible for the declines in the performance indicia of the domestic industry. As previously noted, apparent domestic consumption measured in short tons declined in 2000 and was lower in interim 2001 than in interim 2000. CR/PR at Tables IV-2, IV-3. While this decline may have influenced domestic performance indicia in 2000 and interim 2001, its effects alone are not sufficient to explain the magnitude of the overall decline in the domestic industry's performance. *See, e.g.*, CR at II-3 to II-4, II-9 to II-12 & n.30, II-21 to II-22, II-28; PR at II-1 to II-2, II-5 to II-8 & n.30, II-14, II-18; CR/PR at Tables IV-2, IV-3; Petitioners' Prehearing Brief at 42, 58-60, 61-64, Exhibits 2-C, 17, 27; Hearing Tr. at 41-44, 46-47, 58-59, 63-65, 69-70, 74-75, 150-51. The industry's condition in 1999 reflected the significant adverse impact of imports from Russia. The fact that important aspects of the industry's condition deteriorated further in 2000 despite the near-absence of imports from Russia in 2000 indicates that the declining state of the industry cannot be explained by reduced demand alone.

⁹¹ The average number of production and related workers employed industry-wide decreased from 426 workers in 1998 to 422 workers in 1999 and 389 workers in 2000, and was 387 in interim 2000 as compared to 362 in interim 2001. CR/PR at Table III-6; CR at III-8; PR at III-7.

⁹² The total wages paid to production and related workers remained virtually unchanged at \$18.8 million in 1998 and 1999, but decreased to \$17.4 million in 2000, and was \$4.5 million in interim 2000 as compared to \$4.3 million in interim 2001. CR/PR at Table III-6.

⁹³ Average worker productivity fell from 2.3 short tons per hour in 1998 to 2.1 short tons per hour in 1999, and 1.9 short tons per hour in 2000, but remained constant at 2.5 short tons per hour from interim 2000 to interim 2001. CR/PR at Table III-6.

⁹⁴ Capital investment dropped from \$34.8 million in 1998 to \$19.3 million in 1999 and \$10.4 million in 2000, and was \$2.4 million in interim 2000 as compared to \$392 thousand in interim 2001. CR/PR at Table VI-4.

⁹⁵ *See, e.g.*, CR at F-3, F-4, F-7; PR at F-3, F-4.

⁹⁶ *See, e.g.*, Petitioners' Prehearing Brief at 44; CR at F-5; PR at F-3, F-4.

producers.⁹⁷ Because we have determined that the domestic ammonium nitrate industry is materially injured by reason of subject imports, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”⁹⁸ The SAA indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”⁹⁹

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.¹⁰⁰

Consistent with Commission practice,¹⁰¹ in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding subject import volume from Stiro and all other Ukrainian producers.¹⁰² We do not find any significant increase in import volume after the filing of the petition,¹⁰³ particularly in light of the seasonal nature of this industry where higher volumes would be expected in advance of the peak planting season (February to June) and during the fall-fill period.¹⁰⁴ The available information also does not indicate a significant buildup of inventories during the post-petition period.¹⁰⁵ Further, the record does not indicate a drop in subject import prices after the petition was filed. The record indicates that the average unit value of subject imports rose

⁹⁷ Solid Agricultural Grade Ammonium Nitrate from Ukraine, 66 Fed. Reg. 13286, 13291-92 (Mar. 5, 2001).

⁹⁸ 19 U.S.C. § 1673d(b)(4)(A)(i).

⁹⁹ SAA at 877.

¹⁰⁰ 19 U.S.C. § 1673d(b)(4)(A)(ii).

¹⁰¹ See, e.g., Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, at 12-13 (Aug. 2000); Certain Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777 to 79 (Final), USITC Pub. 3159, at 24 (Feb. 1999).

¹⁰² CR/PR at Table I-1.

¹⁰³ Subject imports declined based on a comparison of the three- or five-month period prior to and subsequent to the filing of the petition. Total imports from Ukraine between July and September 2000 were *** short tons compared to *** short tons between November 2000 and January 2001; likewise, total imports from Ukraine between May and September 2000 were *** short tons compared to *** short tons between November 2000 and March 2001. CR/PR at Table I-1. (We have excluded October 2000 because the petition was filed near the middle of that month).

¹⁰⁴ See, e.g., CR at II-7, V-12 to V-13; PR at II-4, V-7; compare, e.g., Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, at 12-13 (Aug. 2000); Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034, at 34 (Apr. 1997).

¹⁰⁵ U.S. importers’ end-of-period inventories of ammonium nitrate from Ukraine in 2000 were *** short tons, or ***, and end-of-period inventories in interim 2001 were *** short tons, or ***. CR/PR at Table VII-3. Although end-of-period inventories of subject imports in 2000 were higher than end-of-period inventories in 1999 (***), we do not find the absolute quantity of end-of-period inventories in 2000 to be consistent with a finding that subject imports of ammonium nitrate from Ukraine would undermine seriously the remedial effect of the order, given our findings of no significant increase in import volume after the petition was filed.

between January and November 2000, although these price increases occurred during a time of historically high gas prices where the market price for ammonium nitrate would have been expected to be higher.¹⁰⁶

Because the record indicates that there was no significant increase in subject imports from Ukraine subject to Commerce's affirmative critical circumstances findings immediately following the filing of the petition, and there was no substantial increase in inventories of these imports, we conclude that these imports will not undermine the remedial effect of the forthcoming antidumping duty order. Accordingly, we determine that critical circumstances do not exist with respect to the subject imports.

CONCLUSION

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of imports of ammonium nitrate from Ukraine that are being sold in the United States at less than fair value. We also determine that critical circumstances do not exist with respect to subject imports as to which Commerce made affirmative critical circumstances findings.

¹⁰⁶ CR/PR at Table I-1; CR at V-1; PR at V-1.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by counsel for the ad hoc Committee for Fair Ammonium Nitrate Trade (“COFANT”) including Air Products & Chemicals, Inc. (“Air Products”), Allentown, PA; El Dorado Chemical Co. (“El Dorado”), Oklahoma City, OK; LaRoche Industries, Inc.¹ (“LaRoche”), Atlanta, GA; Mississippi Chemical Corp., Yazoo City, MS; and Nitram, Inc., Tampa, FL, on October 13, 2000, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of certain ammonium nitrate from Ukraine. For purposes of this report, the subject product is referred to as high-density ammonium nitrate (“HDAN”).² Information relating to the background and schedule of the investigation is provided in the following tabulation.³

Effective date	Action
October 13, 2000	Petition filed with Commerce and the Commission; institution of Commission investigation
November 8, 2000	Commerce’s notice of initiation
November 27, 2000	Commission’s preliminary determination
March 5, 2001	Commerce’s preliminary determination
March 5, 2001	Commission’s scheduling of the final phase (66 FR 14933, March 14, 2001)
May 22, 2001	Commission’s revised schedule (66 FR 29344, May 30, 2001)
July 25, 2001	Commerce’s final determination (66 FR 38632, July 25, 2001) (received from Commerce on July 23, 2001)
July 24, 2001	Commission’s hearing ¹
August 23, 2001	Commission’s vote
August 31, 2001	Commission’s determination sent to Commerce

¹ App. B contains a list of witnesses who appeared at the hearing.

STATUTORY CRITERIA AND ORGANIZATION OF THIS REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of material injury to an industry in the United States, the Commission—

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States

¹ On November 1, 2000, El Dorado acquired the LaRoche nitrogen plants at Crystal City, MO and Cherokee, AL.

² A complete description of the imported product subject to investigation is presented in the section of this report entitled *The Product*.

³ *Federal Register* notices cited in the tabulation are presented in app. A.

for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . . In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

. . . In examining the impact required to be considered under subparagraph (B)(I)(i)(III), the Commission shall evaluate [(within the context of the business cycle and conditions of competition that are distinctive to the affected industry)] all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in [an antidumping investigation], the magnitude of the margin of dumping.

Information on the subject merchandise, margins of dumping, and domestic like product are presented in Part I. Information on conditions of competition and other factors are presented in Part II. Part III presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise is presented in Parts IV and V, respectively. Part VI presents information on the financial experience of U.S. producers. The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury are presented in Part VII.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of eight producers that accounted for approximately *** percent of U.S. production of HDAN during 2000. U.S. imports from Ukraine, Russia, and Canada are based on questionnaire data, except as noted, and account for most of the imports from those countries; U.S. imports from other sources are based on official statistics from Commerce

which have been adjusted by Commission staff to eliminate, as much as possible, imports of explosive grade ammonium nitrate and to correct classification errors by importers.

PREVIOUS INVESTIGATIONS

The subject product was included in an investigation of all ammonium nitrate that the Commission instituted on April 27, 1998. That investigation, No. 332-393, was instituted under section 332(g) of the Tariff Act of 1930 in response to a request from the Committee on Finance of the U.S. Senate. The results are contained in *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998).

In August 2000, the Commission completed an antidumping investigation on certain ammonium nitrate from Russia (Inv. No. 731-TA-856 (Final)) and determined that an industry in the United States was materially injured by reason of the subject imports from Russia.⁴

COMMERCE'S FINAL DETERMINATION

Following past practice, Commerce treated Ukraine as a nonmarket economy in its investigation.⁵ When Commerce investigates imports from a nonmarket economy, it bases normal value on the nonmarket economy producer's factors of production, valued in a surrogate market economy country. Only one Ukrainian producer, J.S.C. "Concern" Stirol ("Stirol"), demonstrated its eligibility for a separate rate. Effective July 25, 2001, Commerce determined that solid agricultural-grade ammonium nitrate from Ukraine is being, or is likely to be, sold in the United States at LTFV. The weighted-average amount by which the normal value exceeded Stirol's export price during April-September 2000 was calculated as 156.29 percent. The Ukraine-wide rate applicable to all other producers/exporters is also 156.29 percent.

CRITICAL CIRCUMSTANCES

In its final determination, Commerce found that critical circumstances exist for all producers/exporters in Ukraine. If the Commission makes an affirmative final determination of material injury to a domestic industry, it must make an additional determination as to whether the imports subject to Commerce's final affirmative critical circumstances determination are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.⁶ In making its determination, the Commission is to consider, among other factors it considers relevant, (1) the timing and the volume of the imports, (2) a rapid increase in inventories of the imports, and (3) any other circumstances indicating that the remedial effect of the antidumping duty order will be seriously undermined. Available monthly import data for the periods before and after the filing of the petition on October 13, 2000 are presented in table I-1. Available data on inventories of the subject merchandise are presented in Part VII of the report.

⁴ The Commission's final determination was made after Commerce entered into a suspension agreement with Russia (May 19, 2000) and petitioner requested a continuation of the investigations at Commerce and the Commission (June 29, 2000). *See* 65 FR 50719, August 21, 2000.

⁵ No party formally sought revocation of nonmarket economy status.

⁶ If the Commission finds either no material injury or only a threat of material injury, it need not reach a critical circumstances determination.

Table I-1

Ammonium nitrate: U.S. imports from Ukraine, by source and by month, January 2000-March 2001

* * * * *

THE PRODUCT

Commerce has defined the imported product subject to the scope of this investigation as⁷

(S)olid, fertilizer-grade ammonium nitrate products,⁸ whether prilled, granular, or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate).

HDAN, a solid form of ammonium nitrate with a density of 53 pounds or more per cubic foot,⁹ is a bulk commodity product used primarily as an agricultural fertilizer. HDAN is the only form of ammonium nitrate that is subject to this investigation. Specifically excluded from this scope is solid low-density ammonium nitrate (“LDAN”), which has a bulk density of less than 53 pounds per cubic foot and is used primarily as an explosive.¹⁰ Also excluded is liquid ammonium nitrate, also known as ammonium nitrate liquor, which is predominantly used as an intermediate product to produce solid HDAN and LDAN and/or is added to urea to produce urea-ammonium nitrate (“UAN”) liquid fertilizers.

Physical Characteristics and Uses

HDAN is a solid crystalline product having the chemical composition NH_4NO_3 , and assaying at about 34.0 percent minimum plant-available nitrogen (“N”) by weight.¹¹ It is typically produced either in spherical shapes called prills that range from 1.5 to 2.5 millimeters (“mm”) in diameter or in somewhat larger, more irregularly shaped granules. Both forms (prills and granules) are equally effective as a fertilizer and roughly equivalent in price, but, because they require different processing equipment, producers tend to make one or the other exclusively. Worldwide, HDAN is produced to similar specifications, and exhibits similar physical and chemical characteristics.¹²

⁷ 66 FR 38632, July 25, 2001.

⁸ Subject ammonium nitrate is provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States (“HTS”), with a normal trade relations tariff rate of “Free” applicable to imports from Ukraine and all other sources with normal trade relations; the column 2 rate of duty is also “free.”

⁹ Typically, fertilizer-grade ammonium nitrate ranges in density between 55 and 62 pounds per cubic foot.

¹⁰ LDAN is effective as an explosive because its higher porosity and oil absorption properties dramatically increase detonation sensitivity. LDAN generally ranges in density between 45 and 52 pounds per cubic foot.

¹¹ Pure ammonium nitrate is 35 percent nitrogen by weight. However, HDAN typically has additives to prevent absorption and to prevent expansion and contraction of the particles; the addition of these additives reduces the amount of nitrogen available as a nutrient for plants to just over 34 percent.

¹² During the investigation of ammonium nitrate from Russia the purchasers reported to the Commission that virtually no HDAN product imported from any source and sold in the United States had been rejected for use. In the current investigation, petitioners have argued that imports of HDAN from Ukraine are interchangeable with

(continued...)
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HDAN either is applied to crops alone as a direct application fertilizer or is applied to crops after being mechanically blended with other major fertilizer nutrients, phosphorus (“P”) and potassium (“K”), to produce free-flowing bulk blends known as NPKs. HDAN is typically marketed in bulk prilled or granular forms, both of which may be used for direct application or NPK consumption; however, granular HDAN is popular in NPKs because its irregular surface and larger particle size minimize segregation of blends with other fertilizer nutrients.

HDAN is unique as a chemical fertilizer because 50 percent of its nitrogen is immediately available to plants as nitrate (NO_3) nitrogen.¹³ This fast acting property, along with good solubility and low volatility at ambient temperatures, is responsible for HDAN’s popularity as a direct application fertilizer in a specialty niche market. HDAN is most competitive in warm climate zones where early-fall and spring temperatures do not fall below 50°F for extended periods and where application is not combined with plowing or tillage; i.e., HDAN is a “no-till” fertilizer. Hay, pasture, turf grasses, corn, tobacco, and citrus are examples of crops that use no-till fertilizer application.

HDAN is one of several single-nutrient fertilizers based on nitrogen.¹⁴ Other nitrogen-based fertilizers include anhydrous ammonia, urea, UAN solutions, ammonium sulfate, calcium ammonium nitrate (“CAN”), and sodium nitrate. Their substitutability with HDAN depends on a host of factors, including the intended crop, soil characteristics, climatic conditions (particularly temperature), regulatory factors, relative prices, nitrogen content,¹⁵ and means of application.¹⁶

Manufacturing Facilities, Production Process, and Production Employees

The process of manufacturing HDAN is relatively standard throughout the industry and involves the direct reaction of ammonia (NH_3) with nitric acid (HNO_3) to form ammonium nitrate (NH_4NO_3). Ammonia, the primary feedstock, is either purchased or derived from natural gas and atmospheric

¹² (...continued)

domestic product (conference transcript, p. 14). Respondents have argued that “(a)lthough quality levels of Ukrainian AN have improved to a point that U.S. buyers will consider purchasing Ukrainian AN, there are intractable quality issues because of the trans-Atlantic voyage. It is not correct that the products in the U.S. are indistinguishable and interchangeable.” November 8, 2000, postconference brief of White & Case, p. 8, fn. 33.

¹³ The remaining nitrogen in the ammonium molecule (NH_4) is slowly converted to available nitrogen by the action of soil microflora.

¹⁴ In addition to single nutrient nitrogen-based fertilizers, there are several compound and NPK fertilizers based on various chemical or mechanical combinations of nitrogen, phosphate, and potassium.

¹⁵ Nitrogen fertilizers differ in nitrogen content by weight. HDAN ranks third (34 percent nitrogen by weight) behind anhydrous ammonia (82 percent nitrogen by weight) and urea (46 percent nitrogen by weight).

¹⁶ Fertilizers are typically applied to the soil by two separate and distinct methods: solid (broadcast) and liquid (direct) application. Solid fertilizers such as HDAN and urea are commonly broadcast by mechanically distributing solid particles (prills or granular) onto the soil surface in a uniform manner. Liquid fertilizer is applied predominantly by spraying the solution over the field, providing uniform application of nutrient over the field surface area, and a more responsive flow of fertilizer to the root zone compared to solid broadcast fertilizer application. Additionally, herbicides and pesticides may also be mixed with the fertilizer solution, thus providing for a highly cost effective single application. Conversely, solid fertilizer broadcast application is a relatively simple method in no-till applications, and free from the potential problems of plugged spray nozzles and fouled metering equipment which may occur with liquid fertilizer application equipment. Additionally, liquid fertilizers are difficult to apply on hilly terrain when the slope of the land is severe enough to cause the supply vehicle booms (extended large pipes) to touch the ground.

nitrogen. A portion of the ammonia is combined with oxygen to form a nitric acid solution,¹⁷ which is then combined with ammonia in a neutralization chamber to form an aqueous ammonium nitrate solution (otherwise known as liquid ammonium nitrate or ammonium nitrate liquor).¹⁸ The ammonium nitrate solution is then heated and evaporated up to a molten concentration, or melt, of 99 percent ammonium nitrate or greater.

Depending on the producer, the molten ammonium nitrate is either made into granules by layering the material onto seed particles in a rotary pan or drum granulator, or made into prills by spraying molten ammonium nitrate droplets into specially designed towers and allowing the molten droplets to free-fall through an upward current of cool air and solidify into small spheres. Stabilizers, typically clay for granules and magnesium oxide (MgO) for prills, are added to the ammonium nitrate melt prior to prilling and granulation. The stabilizers limit moisture absorption, expansion, and contraction at selected temperatures. To further prevent moisture absorption and caking, the solid HDAN granules and prills may be coated with a liquid surface-active agent, fine powders, or other anticaking agents.^{19 20}

HDAN plants, which are strategically situated to serve major market areas, have access to economic barge traffic of the Mississippi and other major rivers and/or have access to truck and rail connections. Plants are also situated near economic sources of natural gas and ammonia, which serve as feedstocks to produce HDAN.

Plants that produce not only HDAN but other products (e.g., liquid ammonium nitrate, UAN liquid fertilizer) as well, may use production employees for multiple purposes.²¹ Only three of the eight HDAN producers reported that they also produced LDAN on-site;²² however, five of the eight producers also isolate the ammonium nitrate liquor or produce UAN fertilizer solutions using the same or associated production equipment and related workers.

¹⁷ This reaction is accomplished by passing the ammonia over a platinum-rhodium catalyst under elevated pressure and temperatures to form nitric oxide (NO) and nitrogen dioxide (NO₂), which are then passed through a countercurrent absorption tower with water to form an aqueous solution of about 55 percent nitric acid.

¹⁸ At this point, instead of further processing into HDAN, the liquid ammonium nitrate can be mixed with urea to form UAN liquid fertilizers.

¹⁹ HDAN is sensitive to moisture absorption from the atmosphere (hygroscopic) and also is sensitive to expansion and contraction (phase changes) with temperature fluctuations which eventually lead to caking (the lumping or agglomeration of individual free-flowing particles into a solid mass) and degradation, respectively; the addition of stabilizing agents reduces degradation caused by expansion and contraction, and coating with moisture-barrier agents prevents caking, thus circumventing interference with fertilizer application. Prills are more susceptible to caking than granules and are usually more heavily coated.

²⁰ LDAN is also prilled, but from an ammonium nitrate melt that had different moisture inhibiting agents added and was evaporated to only about a 95-percent melt concentration. The remaining water is evaporated from the prills after they are formed, leaving them more porous (i.e., less dense) than HDAN prills. Their low density allows them to readily absorb fuel oil, which producers add (in a quantity equivalent to 6 percent by weight) to make them a more effective explosive. The difference in processing and the added fuel oil result in a product that is generally 10-20 percent more costly to produce than HDAN and is priced accordingly.

²¹ Responses to Commission producer questionnaires.

²² Two of the three LDAN producers manufacture LDAN interchangeably with HDAN on the same equipment using related workers.

Channels of Distribution

U.S. producers and importers of HDAN sell mainly to wholesale distributors and retailers of farm products, which in turn sell to individual farmers. The farmer, or in some cases the retailer, applies the HDAN either directly or as a mix with other solid fertilizers.

Price

Ammonium nitrate and other nitrogen fertilizers are large-volume bulk commodities. For information concerning prices of HDAN produced in the United States and Ukraine, see Part V of this report.

DOMESTIC LIKE PRODUCT²³

In the final phase of the investigation of ammonium nitrate from Russia, the Commission found a single like product when it defined “the domestic like product coextensively with the subject merchandise: fertilizer-grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.”²⁴ In that investigation, the Commission considered whether LDAN should be included in the domestic like product. Although it is possible to use LDAN as a fertilizer and HDAN as an explosive, their physical differences make it impractical and inefficient to do so. Besides selling at a higher average price, LDAN’s porosity and friability make it more difficult to spread evenly on fields.²⁵ Similarly, with stronger moisture-inhibiting agents and without the porosity for adequate fuel oil absorption, HDAN is much less effective as an explosive. Despite being produced with similar raw materials and equipment, and sometimes in the same plant, HDAN and LDAN are made for distinctly separate uses and are sold to distinctly different customers through different channels of distribution.²⁶

In the preliminary phase of this investigation, petitioner urged adoption of the same like product determination as in the Russian investigation,²⁷ and respondents indicated that they did “not take issue with that definition.”²⁸ Accordingly, the Commission once again defined the domestic like product as

²³ The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

²⁴ See *Certain Ammonium Nitrate from Russia*, Inv. No. 731-TA-856 (Final), USITC Publication 3338, August 2000, p. 5.

²⁵ The mechanical shear associated with fertilizer application equipment breaks down the friable LDAN prills into small particles which can cake and clog application machinery.

²⁶ U.S. producers and importers of HDAN sell mainly to wholesale distributors and retailers of farm products, which in turn sell to individual farmers. The farmer, or in some cases the retailer, applies the HDAN either directly or as a mix with other solid fertilizers. In contrast, LDAN is sold primarily to mining and construction companies for use in blasting and excavation.

²⁷ November 8, 2000, postconference brief of Akin, Gump, pp. 2-3.

²⁸ November 8, 2000, postconference briefs of Blank, Rome on behalf of ConAgra (p. 4) and White & Case on behalf of Stirol (p. Q-7).

HDAN, coextensive with the scope of the investigation.²⁹ The parties have not raised any like product issues in the final phase of this investigation.

²⁹ See *Certain Ammonium Nitrate From Ukraine*, Inv. No. 731-TA-894 (Preliminary), USITC Publication 3374, December 2000, p. 5.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

Importers and domestic producers sold nearly all of their shipments of HDAN to distributors and retailers. HDAN is used by farmers for direct application to their crops, either by itself or blended with other solid fertilizers. Farmers purchase HDAN from retailers who may also provide blending and/or application services. Retail facilities are typically located near farming areas. Retailers normally store HDAN in bins before it is delivered to farmers. Retailers may purchase HDAN directly from U.S. producers. Retailers also purchase HDAN from wholesale distributors, who also operate distribution facilities. Wholesale distributors purchase HDAN from domestic and imported sources.¹

The Mississippi River system² serves as an important means for distributing HDAN, particularly product imported from Ukraine.³ A substantial amount of product is sold directly off of river barges,⁴ and many distribution facilities are located along the river system. Much of the HDAN sold in the United States is sold in areas within relatively close proximity to the Mississippi River, in the Southeast, mid-South, and the Plains states. Product is also sold in the upper Midwest, in citrus growing areas, California, and the Northwest.

Some U.S. producers, as well as importers, own or lease distribution warehouses to which HDAN is moved after production or import. Five U.S. producers reported utilizing a total of 22 warehouses to distribute product, mostly in the Southeast, the mid-South, and the upper Mississippi River system. ***.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, U.S. producers of HDAN are likely to respond relatively slowly to changes in demand with little initial change in the quantity of shipments of U.S.-produced HDAN to the U.S. market. Over time, however, the responsiveness of the industry to changes in demand is likely to rise such that the long term responsiveness is likely to be moderate. The main contributing factors limiting the degree of responsiveness of supply are relatively high levels of fixed costs and limited alternate markets.⁵ The mismatch of timing between supply and demand contributes further to limiting

¹ Some distributors compete with manufacturers or importers for sales with the same customers.

² The Mississippi River system includes the Mississippi River itself, and other navigable rivers feeding into the Mississippi (e.g., the Missouri, Ohio, Illinois, and Arkansas Rivers).

³ Importers of Ukrainian HDAN bring it in by vessel exclusively to the U.S. port of New Orleans, according to p. 45 of the petition, and use the river as the starting point of the distribution process.

⁴ According to data obtained in questionnaire responses, U.S. producers ship 62 percent (by weight) of their product by truck, 26 percent via rail, and 12 percent on barges. Barge shipments account for *** percent of imports from Ukraine, with rail and truck shipments accounting for *** percent and *** percent, respectively. Comments by firms on the effect of the differences in shipping methods on competition between U.S. and Ukrainian product are presented later in this part in the *Substitutability Issues* section.

⁵ One alternative to producing ammonium nitrate is to sell the rights to the natural gas which the producer would have bought to produce the ammonium nitrate. While this is not necessarily a common practice, it can occur. In December 2000, Mississippi Chemical sold all its natural gas futures early when it thought the price of natural gas

(continued...)

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the degree of responsiveness in the short term. A factor that would tend to increase domestic supply responsiveness is the availability of production of alternative products and the existence of inventories.

Domestic Production

Because of the seasonal nature of demand for HDAN, domestic producers must plan well in advance in order to manage production schedules and inventory volumes effectively. If inventories build too rapidly, prices will weaken as producers attempt to create incentives to move product. If material is not available in the field or in specific markets when needed, prices will strengthen in those areas but sales tonnage will be lost. Under such circumstances, producers may lose the trust or goodwill of customers if it is perceived that shortages are the result of inadequate planning by producers. According to petitioner, the production of HDAN is capital intensive and facilities are operated at as close to full capacity as possible in order to maintain production efficiencies.⁶ Producers operate their plants year round to maintain efficiencies and ensure adequate production. This necessitates storing large quantities of product over the fall and winter months. Some of the storage is done by the producers themselves. However, producers do not control sufficient storage capacity to handle the requisite quantities on their own. To supplement their own storage capacity, they typically attempt to induce their customers to take part in product storage by offering more favorable pricing during the off-season. One of the respondents in the 2000 Russian antidumping investigation suggested that purchasers may not all wish to participate in seasonal product storage. Rather, they may expect to be able to obtain the product from the supplier at the time it is needed.⁷

As is true for other fertilizers, a timely supply of HDAN is critical for the functioning of the businesses of the distributors, retailers, and end users of HDAN. Demand peaks during the spring planting season, usually between February and June. Supply tightness occurs relatively frequently during spring planting. Comments reported from the 2000 Russian antidumping investigation indicate that tightness was particularly acute in the spring of 1998, such that an actual shortage occurred for a period of weeks. This shortage was attributed variously to the effect of Russian imports on inventory accumulations during the previous off-season, an unusual weather pattern that limited peak demand to a relatively small window of time, and distribution difficulties experienced during this peak demand window.

Four domestic producers reported in the Russian antidumping investigation having difficulty supplying their customers with HDAN during the 1998 planting season.⁸ Two producers repeated this in questionnaires in the instant investigation. *** discussed a short period of time from mid-April through the first part of June 1998 when it could not fill orders placed by dealers who were not its regular customers. It stated that the dealers that were looking for product at this time had little loyalty to any particular manufacturer. It did help some of these dealers, however. *** listed two reasons for dealers' difficulty in sourcing HDAN: first, dealers were expecting a plentiful amount of Russian imports to be

⁵ (...continued)

natural gas had reached its maximum. Typically, activity in the natural gas futures market is used to hedge against price fluctuations. Mississippi Chemical usually does not take physical delivery of the gas on which it has purchased futures.

⁶ Petition, pp. 43-44.

⁷ See postconference brief of Committee for a Competitive AN Market, pp. 5-6 (Inv. No. 731-TA-856 (Russia)), for example.

⁸ *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), p. II-2. Also see party briefs submitted as part of the Russian antidumping investigation (Inv. No. 731-TA-856).

available in the spring and did not stock up in the fall; and second, transportation problems developed that delayed barge and rail deliveries, causing product shortages.

*** reported having difficulties meeting requests for HDAN from the second week of April 1998 to the third week of May 1998. *** listed several reasons that a shortage developed. First, the firm had a build-up of inventories in 1997 because, it alleges, purchasers were expecting to purchase Russian imports in the spring of 1998 and were not taking advantage of “fall-fill” programs. In addition to inventory build-up, extreme weather patterns delayed planting in the southern and southwestern regions of the country to a period that coincided with planting in the Midwest. Planting times typically occur sequentially, not simultaneously. This left the distribution system temporarily short on product. Transportation problems coupled with weather patterns led to a shortage. Some purchasers were placed on allocation, which allowed them to purchase some of the required amount of product but not all of it.

While less severe difficulties have occurred in some other years, most domestic producers reported that shortages did not occur at all in 2000.⁹ Several domestic HDAN producers, including ***, reported that production levels were actually cut during the spring of 2000.

During late fall 2000 through early spring 2001, the price of natural gas, a major component in producing ammonium nitrate, spiked. Purchasers noted this may have had an impact on availability of product for 2001. One purchaser noted that the decreased production of Mississippi Chemical (due to the combination of a price of natural gas over \$10 per MMBtu and a low price for HDAN) caused a ripple effect in the industry, with *** having to use alternate sources of supply for HDAN.¹⁰ This, in turn, made ammonium nitrate relatively scarce for smaller customers. *** noted, “This year, nothing was available *but* Ukrainian product.”^{11 12 ***.}¹³ In April 2001, USDA suggested that nitrogen availability was less than normal in several key consuming states, including Ohio, Missouri, Iowa, Nebraska, and Wisconsin.¹⁴

However, all five responding producers replied in their questionnaires that natural gas pricing had no effect on the availability of their HDAN. *** added that it reduced its production in ***, having made its decision on the basis of the cost of production (including the price of natural gas), demand for HDAN, and its customer commitments. Further, it stated that it had lower capacity utilization during ***. Also, it replied that a significant portion of the Ukrainian imports came in after the spring 2000 planting season, and therefore continue to depress HDAN pricing. It has further stated that it has “had no problem meeting our customer commitments at any time.” During the hearing, Mr. Ewing of Mississippi Chemical noted that if HDAN prices were at \$190 or \$205 per ton during that time of peak natural gas prices, it still would have been possible to produce and sell HDAN profitably.¹⁵ Prices that high, however, came months after the natural gas price spike.

In all, domestic production in 2000 was down from 1999. U.S. producers’ interim 2001 production level was lower than during interim 2000.

⁹ However, *** reported that production cannot keep up with demand during each planting season, presumably including the most recent. Additionally, *** reported that logistical transportation problems were experienced during the spring of 2000 and that equipment problems resulted in some delays ***.

¹⁰ Telephone conference with ***.

¹¹ Telephone conference with ***.

¹² Petitioner notes this is instead evidence that Ukrainian product clogged the distribution system and “satisfied spring demand that could normally have been filled with domestic shipments.” Petitioner’s posthearing brief, p. 3.

¹³ Telephone conference with ***.

¹⁴ DRI-WEFA, Fertilizer Market Assessment, Executive Summary, June 5, 2001, p. 2.

¹⁵ Hearing transcript, pp. 56 and 82.

Industry Capacity

Although U.S. producers' capacity to produce HDAN increased slightly between 1998 and 1999, production decreased. Between interim 2000 and 2001, capacity increased by a small margin even though production volume fell. The resulting capacity utilization rates declined from 1998 to 2000. Capacity utilization fell between interim 2000 and 2001 as well.

Alternative Markets

*** exported a small amount of HDAN in 1998 and 1999. However, these quantities were *** of industry production. Two reasons were suggested in the Russian antidumping investigation for the relative lack of alternative markets. According to petitioner, domestic demand had been sufficient to absorb all of domestic capacity.¹⁶ Respondents in the Russian investigation contended that due to the higher natural gas prices in the United States, U.S. producers cannot compete in the world market.¹⁷

Inventory Levels

The level of end-of-period inventories held by U.S. HDAN producers decreased by 29.8 percent during 1998-99 and then dropped precipitously from 1999 to 2000 and continued to decline from interim 2000 to interim 2001. The ratio of end-of-period inventories to total shipments decreased steadily from 1998 to 2000. Mississippi Chemical noted that it can store roughly one to two months' supply of HDAN in its warehouses at any one time, and also can store another month's supply on barges.¹⁸

As noted earlier, the HDAN industry is seasonal, with large shipments moving to the farmer during the spring planting season, followed by fill-up or inventory buildup programs during the summer, fall, and winter months.¹⁹ Traditionally, off-season periods resulted in lower prices to wholesalers and retailers to stimulate demand and lessen the need for domestic producers to undertake the entire burden of storage themselves. In most years, wholesalers and retailers reportedly found value in lower off-season prices and filled their storage areas in preparation for the upcoming planting season. However, petitioners in the Russian antidumping investigation asserted that these fill-up programs, in particular the fall fill-up program, had been undermined by the availability (both immediate and anticipated springtime) of Russian product.²⁰ Circumstances improved in this regard towards the end of 1999, reportedly as a response to anticipation of restrictions on HDAN imported from Russia.²¹ More recently, *** has noted that it curtailed production in spring 2001 because its storage facilities were full, even though it was a time when it expected its product to be moving rapidly along the distribution system. It alleged that the reason for this is the huge volume of Ukrainian imports that were imported in 2000 and were still clogging the system.

¹⁶ Conference transcript, p. 50 (Inv. No. 731-TA-856 (Russia)).

¹⁷ Conference transcript, p. 82 (Inv. No. 731-TA-856 (Russia)), and ConAgra's postconference brief, exhibit 7 (Inv. No. 731-TA-856 (Russia)).

¹⁸ Hearing transcript, pp. 78 and 84.

¹⁹ *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), pp. 3-10.

²⁰ For more on this topic, see petitioner's postconference brief, pp. 10-11 and exhibit 7; and *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), pp. II-3-4.

²¹ Other possible reasons discussed in the Russian investigation were the exit of Wil-Gro, a domestic HDAN producer, and anticipation of higher HDAN future prices due to expectations that natural gas prices would rise.

Production Alternatives

HDAN and LDAN are produced using the same raw material--ammonia. Several U.S. producers of HDAN have separate production facilities for LDAN, while two U.S. producers make LDAN at the same plant where HDAN is produced. However, the production of LDAN requires additional equipment, such as a pre-dryer, dryer, and coater drums, along with a higher prill tower.²² In general, a large investment in equipment would have to be made in order to be able to produce LDAN in a facility currently producing only HDAN.

Plants that produce other nitrogen-based products, in addition to ammonium nitrate, may use production employees, and to a lesser extent production facilities, for multiple purposes. Only two of the seven responding HDAN producers reported that they also produce LDAN on site; however, five of the seven producers produce one or several other products including ammonia, urea, UAN, calcium ammonium nitrate, anhydrous ammonia ("AA"), ammonium nitrate liquor, concentrated nitric acid, and sulfuric acid.²³

U.S. Demand

Based on available information, U.S. aggregate demand for HDAN is likely to respond moderately to changes in HDAN prices. This estimate is based on information about demand for nitrogen fertilizers generally in farming applications, and the degree to which other nitrogen fertilizers can substitute for, and be substituted for by, HDAN.

Demand Characteristics

HDAN is a high nitrogen content fertilizer that is used on crops requiring ready access to large amounts of plant-available nitrogen. It can be applied to crops directly, or blended with other dry fertilizers before application. Most direct-application (applied directly on the soil or crops) HDAN is applied to several types of row crops (e.g., corn, wheat, cotton, barley, sorghum, and oats), pastures and forage crops, and niche-market and high value crops (e.g., tobacco, vegetables, citrus, turf grasses, and ornamentals). HDAN is also the preferred nutrient for "minimum-till" and "no-till" planting (i.e., planting for which there is no plowing).²⁴

The overall demand for HDAN depends on a variety of factors. HDAN is just one of a number of nitrogen-based fertilizers used in farming applications. Nitrogen fertilizers, along with potassium and phosphate fertilizers, are the primary fertilizer types. Overall fertilizer demand is considered "mature," with demand primarily affected by planted acreage and application rates. Both of these factors are influenced by weather. Crop prices also have an effect on planted acreage,^{25 26} and are reported by some

²² Petitioner's postconference brief, p. 5 (Inv. No. 731-TA-856 (Russia)).

²³ Two of the four LDAN producers manufacture that product interchangeably with HDAN on the same equipment using related workers. Other than LDAN, other products are generally not produced on the same equipment as that used for HDAN, except in cases where another product (e.g., UAN) uses HDAN as an input or in cases where both HDAN and another product use common inputs (e.g., nitric acid). In a few cases, producers may use the same workers to produce HDAN and other products.

²⁴ *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), p. 1-2; *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), p. II-5.

²⁵ Petitioner observes, however, that changes in crop prices are not necessarily translated directly into changes

(continued...)
II-5

to also affect application rates. In regard to this latter matter, petitioner argues that fertilizer application rates are largely independent of crop prices because once the decision is made to plant on a given acre, the farmers attempt to maximize the yield from that acre, regardless of the level of output prices, by choosing the level of fertilizer consumption that will achieve this aim.²⁷ However, their same source elsewhere noted that “High nitrogen prices adversely affected fertilizer application rates in 2000/2001.”²⁸ Petitioner has stated that HDAN is a niche product,²⁹ so HDAN may not be affected as much as other nitrogen-based fertilizers.³⁰ Studies by the USDA Economic Research Survey have estimated that the short-run elasticity of demand for fertilizer usage is relatively inelastic, between -0.19 and -0.7.³¹

Respondents, on the other hand, argue that crop prices do have an impact on application rates by determining how much fertilizer farmers can afford to purchase.³² In response, petitioner pointed to the fact that in 2001, USDA data show that farm incomes decreased by approximately 6.2 percent, while expenditures on fertilizer increased by more than 17 percent.^{33 34}

Both petitioner and respondents reported that crop prices for several of the crops that use HDAN have fallen since 1997.³⁵ Since 1998, however, the decline in prices has slowed, and 2001 looks to have slightly higher prices for wheat and corn.³⁶ The following passage from the 2000 Russian antidumping

²⁵ (...continued)

in revenue for the farmer due to various governmentally provided agriculture support schemes. Petitioner’s postconference brief, pp. 36-39 and affidavit of Dr. Harry S. Baumes, petitioner’s postconference brief, exhibit 28.

²⁶ There may be some effect of fertilizer prices on the choice of which crops to plant. DRI-WEFA is expecting higher corn plantings in 2002 due to “an expected decrease in the nitrogen fertilizer price and some strengthening in the corn cash price.” DRI-WEFA, Fertilizer Market Assessment, Executive Summary, Dr. Harry S. Baumes, June 5, 2001, p. 7.

²⁷ Petitioner further maintains that in the context of weakness in recent years in crop pricing, consumption of HDAN did not fall, as would be anticipated if demand had been reduced by low crop prices, but rose from 1997 to 1999. Ibid.

²⁸ DRI-WEFA, Fertilizer Market Assessment, Executive Summary, Dr. Harry S. Baumes, June 5, 2001, p. 4.

²⁹ Petitioner’s prehearing brief, pp. 10-13.

³⁰ Petitioner’s prehearing exhibit 2C does show a decline, albeit small, in apparent consumption between interim 2000 and 2001. Contrasting forces, however, cloud this. Petitioner stated at the hearing that planting was somewhat delayed in 2001 due to weather conditions, which may skew the data for 2001 lower. Hearing transcript, p. 59. At the same time, the petitioner’s exhibit counted all nonsubject imports arriving in the first quarter (which were extremely high) as part of apparent consumption, although at the hearing they testified that much of this is still waiting to be sold. Hearing transcript, pp. 150-151. These accounted for *** percent of total apparent consumption in interim 2001.

³¹ Petitioner’s prehearing brief, p. 60.

³² Committee for a Competitive AN Market, postconference brief, pp. 5-6. The argument made in pp. 5-6 also seems to attribute an independent effect on fertilizer demand to crop prices.

³³ Petitioner’s prehearing brief, p. 60.

³⁴ It should be noted, though, that nitrogen fertilizer prices have gone up by between 37 and 74 percent (exhibit 19 of petitioner’s prehearing brief) in the same time period. This means that the quantity of fertilizer applied by farmers has decreased in 2001.

³⁵ Ibid., and petitioner’s postconference brief, p. 36 and exhibit 27.

³⁶ The Fertilizer Institute, *Fertilizer Outlook 2001 Proceedings*, November 14, 2000.

investigation summarizes information presented on crop prices and acreage, and weather during that investigation.³⁷

Prices received by farmers for the eight types of row crops previously mentioned declined considerably from marketing year 1997 to marketing year 1998. The row crops also saw price declines when comparing the prices received by farmers in July 1999 with those received in July 1998.³⁸ According to WEFA (formerly called Wharton Economic Forecasting Associates), a “pessimistic psyche prevails” in the farm sector because agricultural markets remain weak. Supplies and stocks of crops remain ample and commodity prices are low. The U.S. Congress and Administration agreed on a second consecutive year of emergency aid for the farm sector.³⁹

The previously mentioned factors can lead farmers to withdraw acreage from production. Planted acreage declined by 4.1 million acres between 1997 and 1999, and declined still further by 2.8 million acres between 1999 and 2000.⁴⁰ For the year 2000, wheat and cotton acreage declined by 1.1 million acres, although soybean and corn acreage increased by a total of 0.5 million acres. In 2001, corn and wheat acreage declined by 5.6 million acres (with wheat reaching its lowest level since 1973), while soybean acreage increased by 2.9 million acres to a record amount, and cotton added 1.1 million acres.⁴¹ Cattle and other livestock, which primarily graze on hay and pasture grass, are relatively unaffected by grain prices. Hay acreage that was harvested increased by 1.6 million acres, or 4.4 percent, between 1998 and 1999.⁴² The expected net effect of fewer acres planted is less fertilizer use.

Application rates (pounds per acre) of nitrogen per crop vary and are listed below. Application rates remained relatively constant from 1998 to 2000, but dropped slightly in 2001. The application rates for soybeans are much lower than those for wheat, corn, and cotton, as noted in table II-1.⁴³

Table II-1
Application rates of nitrogen for selected crops, on a pounds per acre basis, 1998-2001

Crop	Application rates (<i>pounds per acre</i>) of nitrogen			
	1998	1999	2000	2001
Corn	133.0	133.0	133.0	128.0
Cotton	84.0	85.0	85.0	84.5
Wheat	67.0	68.0	67.9	66.4
Soybeans	23.0	21.0	21.3	20.5

Source: DRI-WEFA, Fertilizer Market Assessment, Executive Summary, June 5, 2001, p. 11.

³⁷ *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), pp. II-5-6.

³⁸ ConAgra’s postconference brief, exhibit 4D (Inv. No. 731-TA-856 (Russia)).

³⁹ WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 2.

⁴⁰ *Ibid.*

⁴¹ USDA and World Agriculture Outlook Board (“WAOB”) data as published in *The Douglas Update Report*, May 31, 2001.

⁴² Petitioner’s postconference brief, exhibit 23 (Inv. No. 731-TA-856 (Russia)).

⁴³ DRI-WEFA, Fertilizer Market Assessment, Executive Summary, June 5, 2001, p. 11.

The weather can also affect the demand for HDAN. In the 1997/98 crop year, demand was reportedly delayed by prolonged rain. The wetness caused by this extended rainy period resulted in delayed planting of fields across the country. In addition, a wet spring planting season can result in soybeans being planted over corn, due to the shorter growing season for soybeans. In 1999, the lack of rain and heat damaged millions of acres of crops across the country, which can also reduce the demand for HDAN.⁴⁴ The flooding experienced in the upper Plains and Midwest states during early 2001 may be a significant cause of the decreased acreage planted for wheat and corn, thus eroding demand for HDAN and other nitrogen-based fertilizers in this area even more.

Substitute Products

Much of the information related to HDAN demand just presented applies to fertilizers (both nitrogen and/or others) generally. In addition, demand for HDAN specifically is affected by the substitutability of HDAN with other fertilizer products. Substitution with other nitrogen fertilizers is most relevant in this context, as non-nitrogen fertilizers provide different sorts of benefits to farmers. Substitutes for HDAN include anhydrous ammonia, urea, and nitrogen solutions. Each of these nitrogen fertilizers has its own advantages and disadvantages and can be a substitute for HDAN depending on the intended crop, soil assay, climatic conditions, regulatory factors, and relative product prices and availability.

HDAN contains 34 percent nitrogen by weight, has a relatively high assay of nitrogen in nitrate form (50 percent of total), and may be blended with other solid fertilizers for broadcast onto fields. HDAN is also considered quick acting and can be readily used by plants.⁴⁵ HDAN is less volatile than other products in hotter weather because it will not evaporate or dissipate as a result of the heat, thereby decreasing the amount of nitrogen actually applied. Prescribed application of HDAN does not burn plants, which can cause a setback in their growth; therefore, it is a preferred source of nitrogen for no-till crops and for top dressing. One disadvantage is that it is generally more costly on a per-unit-of-nitrogen basis.

Urea has the highest nitrogen content of solid nitrogen fertilizers (46 percent), is safe to store, and is easy to handle. It is a dry fertilizer, like HDAN, and is applied with similar broadcasting methods. It has a slower rate of conversion of available nitrogen to the soil. It can also contain manufacturing impurities such as biuret.⁴⁶ Urea can volatilize, that is lose a portion of its nitrogen to the atmosphere. Conditions that affect this volatilization are soil pH, soil moisture, humidity, temperature, and the number of days without rain after the product is applied. Urea is less expensive on a per-unit-of-nitrogen basis.

UAN fertilizer solutions are aqueous mixtures produced from urea and HDAN which have a nitrogen content that can range from 28 to 32 percent. These solutions are easy to handle, can be more uniformly applied to the soil, and are easily stored. The lower nitrogen content makes shipping costs

⁴⁴ Conference transcript, pp. 101-102 (Inv. No. 731-TA-856 (Russia)).

⁴⁵ Some of the remainder of this section comes from *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), pp. II-7-11.

⁴⁶ Biuret is a by-product of the production process of urea. It can be toxic to plants and animals in certain levels. Normally, a ton of urea contains about one percent biuret, which is a safe level. According to Dr. Harry Baumes (petitioner's postconference brief, exhibit 3), however, the presence of biuret in urea, and the associated potential for burning of the plant, lowers the attractiveness of this fertilizer for citrus crops. In particular, young citrus trees are vulnerable to burning from urea.

more expensive on a per-unit-of-nitrogen basis. Different equipment (e.g., tanks, booms, pressure sprayers) is needed to apply this fertilizer.

Ammonium sulfate can also be used as a substitute product. It is useful in sulfur-deficient soils. This is substituted on a limited basis because it is an acid salt and can create additional costs due to its effects on soil pH.⁴⁷

Due to HDAN's lower volatility, it is used primarily in the southeastern quadrant of the United States where volatilization of nitrogen occurs more frequently. Since the volatility of nitrogen is less of an issue in colder climates and during colder portions of the year, HDAN competes more directly in such areas and seasons with urea and UAN, depending on the relative nitrogen prices. Nitrogen fertilizers have more competition with each other for the corn and wheat crops in the Midwest portion of the country because of the moderate climate and organic nature of the soil.

It is generally accepted that some substitution among nitrogen fertilizers takes place depending on the relative prices of fertilizers. (The degree of substitutability, however, is a matter of some disagreement. Petitioner suggests that substitutability is fairly limited, while respondents suggest that it is relatively high.) Numerous factors affect the degree of substitutability among nitrogen fertilizers including crop, soil type, and climate. In the preliminary phase, respondents provided an analysis of situations in which HDAN could be substituted for other nitrogen fertilizer or vice versa. The following summary of this analysis (table II-2) gives a list of crops, by region, for which HDAN is the fertilizer of choice, but could be substituted for by other nitrogen fertilizers, or for which HDAN is not the fertilizer of choice, but could substitute for the fertilizer of choice.

In the 2000 Russian investigation, purchasers were asked how often and under what conditions substitution among other fertilizers takes place. Individual purchaser responses varied widely concerning the conditions under which they substitute fertilizers. Eighteen purchasers reported making substitutions, although two reported making substitutions very rarely among other nitrogen fertilizers, and 10 purchasers reported making no substitutions. Purchaser comments appearing in the Russian report regarding substitutions are listed below.⁴⁸

- When the cost of other nitrogen fertilizers are more economical, we substitute. Our goal is to provide the best products based on the best economics.
- We most generally use urea because it is most cost effective unless user requests HDAN or conditions are not right for urea.
- Urea, anhydrous ammonia, and UAN solution may all be substituted depending on prices and weather conditions.
- We substitute quite often and this involves availability and price.
- It depends on weather and cost per unit of all nitrogen sources.
- Slight substitution due to availability and price of other products.
- If you know for certain that it is going to rain or you are going to run the sprinklers, urea and UAN solution can be substituted.
- We make very few substitutions, but when supplies are short, we use urea.
- Urea can be and is substituted for some crops if cost per unit of nitrogen is too high for HDAN.
- We substitute often. It depends on price and time of year.
- Growers want the least cost formulation.
- If HDAN price is too high, our customers will change to urea, ammonium sulfate, or UAN.

⁴⁷ Discussion of product substitutability can be found in Part I and *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), pp. 1-9 and 1-10.

⁴⁸ *Certain Ammonium Nitrate from Russia*, USITC Publication 3338 (August 2000), pp. II-8-10.

**Table II-2
HDAN substitutability with other fertilizers, by region and by crop**

Region/crop type	Crop for which HDAN is fertilizer of choice - other substitutable fertilizers	Crop for which HDAN can be substituted - fertilizer(s) of choice
Southeast	Cotton - UAN Pasture - none Peanuts - none	Corn - UAN
Midsouth	Pasture - urea, UAN	Corn - UAN ¹ Cotton - UAN ¹ Milo - UAN ¹ Wheat - UAN ¹
Southwest	Pasture - UAN	Corn - UAN ¹ Cotton - UAN ¹ Milo - UAN ¹ Wheat - UAN ¹
Midwest	Pasture - urea, UAN	Corn - urea, UAN, AA Cotton - urea, UAN, AA Milo - urea, UAN, AA Wheat - urea, UAN, AA
Northwest	Pasture - urea, UAN	Corn - UAN ¹ Wheat - AA ¹ Potatoes - UAN ¹ Onions - urea, UAN Apples - urea ¹
West	None	Corn - UAN ¹ Cotton - UAN ¹ Milo - UAN ¹ Wheat - no specific preference ¹ Pasture - no specific preference ¹
Citrus	None	Citrus generally - no specific preference ¹
¹ Denotes cases in which other nitrogen fertilizers are also substitutable for indicated fertilizer of choice. Source: Declaration of Moses Vernon, Jr., UAP Midsouth, ConAgra's postconference brief, exhibit 4.		

- During cool, wet weather, urea can substitute for HDAN. Ammonium sulfate can also substitute if the unit cost is competitive.
- We do not substitute.
- For the crop and location, there are no substitutes.
- We very rarely, if at all, substitute for HDAN.
- We do not substitute.
- Market price - demand from the ag retailer.
- We substitute as demanded by the customer.
- We have not substituted to other nitrogen sources and have lost business because of it.
- None.
- We do not substitute because we are spreading it on top of grass and not plowing it in.

- We do not substitute.
- None - HDAN is the dry fertilizer product of choice for farmers in our area.
- We do not substitute often.
- Do not substitute.
- Use best source of nitrogen based on cost and conditions.
- We do not substitute.

In the instant investigation, 13 purchasers replied that other products could be substituted for HDAN, whereas seven noted that there are no substitutes.

Purchasers in this investigation were also asked the extent to which end users evaluate whether to purchase HDAN based on its price per unit of nitrogen relative to the price per unit of nitrogen of other nitrogen-based fertilizers, and to describe how often and under what conditions this occurs. Some similar responses to the question asked in the 2000 Russian investigation were received. Five of 18 purchasers noted that they always or almost always purchase on this basis, four noted there to be a moderate amount of switching, and three replied that this substitution rarely or never occurs. Six purchasers mentioned that climatic conditions determine whether there is the option for substitution, whereas three stated that the choice to purchase ammonium nitrate is dictated by the choice of crops.

Prices of other nitrogen fertilizers have generally followed similar trends as that of HDAN during the period examined.⁴⁹ Following an increase in all prices except for anhydrous ammonia (AA) during mid-1998, prices continued their descent, which began in early 1996, through the middle of 1999. Around August 1999, prices were at their lowest point during the period examined. Subsequently, prices rose quickly, more so for some products than others. Prices regained their early 1998 levels by early 2000, and by September almost all were back to January 1997 levels. Prices peaked in February 2001, concurrent with the increase in the price of natural gas. The variability in the price of HDAN was the lowest among the four fertilizers. It did not decrease as low as the others in 1999, and was up the least in February 2000 from its 1999 low, at only a 94-percent increase compared to 122 to 167 percent for the other nitrogen fertilizers. HDAN took the longest to start rising, but rose very quickly once it did. Figure II-1 shows prices of these four nitrogen products from 1994 through March 2001 on a per-ton-of-nitrogen basis.

As implied by figure II-1, these prices are highly correlated. Correlation coefficients of other nitrogen prices with those of HDAN range from 0.83 to 0.91 since 1994 using monthly data. An examination of computed correlation coefficients between these prices in subperiods shows some variation, but largely the same overall picture.⁵⁰ Of the three other products, correlation with the price of urea is generally strongest.⁵¹ As noted by petitioner, correlation does not necessarily imply causation, and there are a variety of possible reasons for the observed correlations. Since all of the nitrogen fertilizers have the same ultimate input, natural gas, supply-side factors are certain to be one reason for the correlations.⁵² Similarly, to the degree that common demand-side shocks occur in agricultural markets shared by (or specific to) each fertilizer, correlation should also be expected. Another possible explanation for price correlation is substitutability in use. As noted above, the parties do not concur on the relevance of this factor.

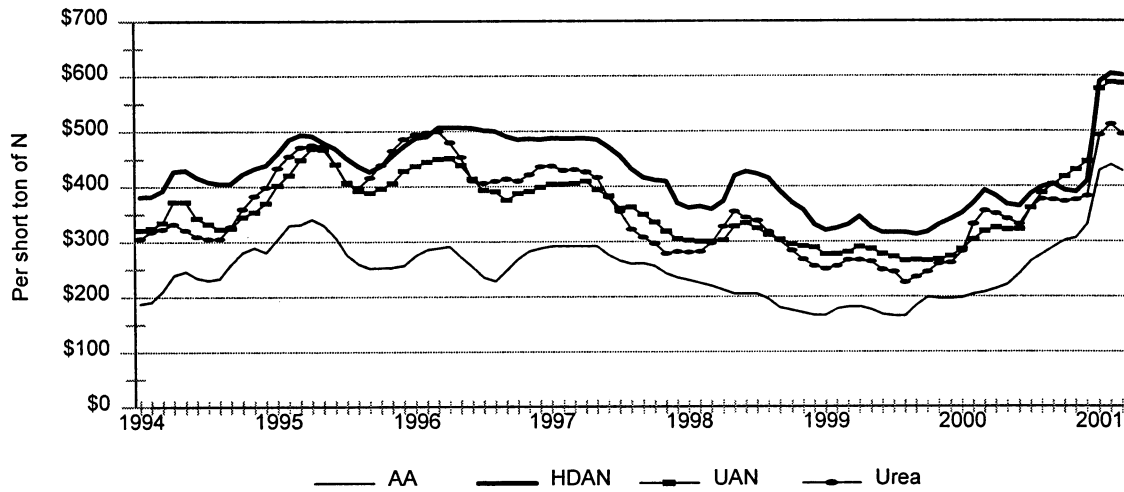
⁴⁹ This discussion uses Green Markets' mid-cornbelt monthly prices for each of the fertilizers discussed.

⁵⁰ For example, the correlation of the price of anhydrous ammonia with the price of HDAN is lower (0.75) in 2000, and the correlation of the price of urea with the price of HDAN is higher (0.93) during the same period.

⁵¹ Other calculations (not reported here) with yearly data from 1960 to 1994 give a similar result.

⁵² Indeed, including January-March 2001 in the correlations increases the statistics by 0.04 to 0.17.

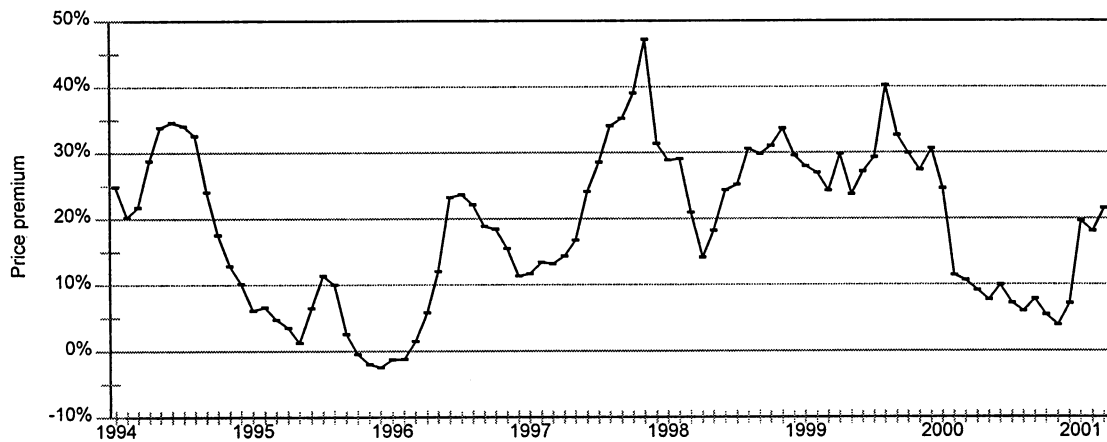
Figure II-1
Nitrogen fertilizer price (mid-cornbelt) per short ton of nitrogen, by month, January 1994-March 2001



Source: Green Markets.

One argument made by petitioner as evidence of a limited degree of substitutability between HDAN and other products is the existence and persistence of the HDAN price premium. That is, per unit of nitrogen, HDAN is generally priced in excess of the other nitrogen sources. Petitioner asserts that this price premium demonstrates that HDAN is a niche product that, for a number of applications, is difficult to substitute for. The price premium for HDAN, relative to urea, is shown in figure II-2. Since 1994, the price premium has varied substantially, from negative values to as much as \$131 per ton of nitrogen. On average, the premium has been \$61 per ton of nitrogen.

Figure II-2
HDAN price premium relative to urea, by month, January 1994-March 2001



Source: Green Markets.

Petitioner argues that the variation of the price premium in the presence of seemingly stable relative consumption shares is an indication of the limited substitutability between the various nitrogen products. In the preliminary phase, petitioner provided yearly relative consumption figures that can be compared to yearly price premiums or relative prices (closely related to price premiums).⁵³ From 1994 to 1999, each year that the price premium for HDAN increased, consumption of HDAN, relative to urea, fell. When the price premium fell, relative consumption of HDAN increased. The correlation coefficient between the price premium and relative quantity is -0.73 over this limited number of years. Quantitatively, the average change in relative prices of 9.4 percentage points⁵⁴ has corresponded to an average change in relative consumption of 8.2 percentage points in the opposite direction (i.e., if HDAN prices rose, the relative quantity of HDAN consumed fell, and vice versa).⁵⁵ Petitioner performed a regression analysis of its own including 1992, 1993, and 2000, using two different regions to increase the sample size.⁵⁶ This analysis resulted in lower implicit elasticities of substitution of HDAN for urea than staff's analysis.

In regard to urea prices, one final feature may be worth noting. As referenced earlier, urea prices historically appear to rise and fall more strongly and rapidly than HDAN prices. That is, when nitrogen prices are trending upward, urea prices generally rise by a larger percentage than HDAN prices. When they are trending downward, urea prices fall by a larger percentage. This can be observed in figure II-1.

Cost Share

The portion of the cost of the farmers' end product accounted for by HDAN is difficult to determine due to the high number of variables associated with farm production. Various purchaser estimates for the crops that are grown using their HDAN are listed in the following tabulation:⁵⁷

⁵³ Exhibits 5 and 26 of petitioner's postconference brief. The former contains yearly prices and price premiums computed from Green Markets data. The latter contains data on direct fertilizer application, both nationwide and in the top HDAN states (Tennessee, Alabama, Mississippi, Missouri, Kentucky, Arkansas, Georgia, Florida, Louisiana, Kansas, Oklahoma, and Texas) from The Fertilizer Institute's "Commercial Fertilizers." The comparisons to be discussed use the data from the top HDAN states (as the alleged effects of imports from Ukraine are reported to be concentrated in these states).

⁵⁴ This is the average of the absolute values of yearly changes in relative price.

⁵⁵ A simple regression gives a similar result; an average change in the relative price of 9.4 percentage points is associated with a change of relative quantities of 7.7 percentage points in the opposite direction. (The t-statistic from this (four degrees of freedom) regression is -2.19. The R-squared statistic is 0.55).

⁵⁶ Petitioner's prehearing brief, exhibit 23.

⁵⁷ Producers provided their own estimates in the preliminary phase.

Crop	Share of the cost of the farmer's end product accounted for by HDAN, as reported by purchasers (percent)
Hay	15,15
Corn	30,33,40
Wheat	6, 20, 30
Pasture grass for beef cattle	10, 10, 20, 20, 20
Potato	40
Grain	10
Oats	15
Peaches	1
Garlic	1

Demand Trends

Questionnaire responses were largely (but not entirely) consistent regarding demand conditions in the United States for HDAN. The majority of U.S. suppliers agreed that demand has been steady since 1998. One firm indicated that demand has fallen somewhat due to the poor farm economy and low commodity prices.⁵⁸ *** indicated a perception that demand has increased, attributing the rise in demand to recommendations to use HDAN by agricultural universities and to stronger cattle markets. One importer indicated that demand has been flat, and two noted that it has been flat to trending downward. The reasons mentioned are the price per unit of nitrogen, crop usage changes (corn to soybean), and pressure from fertilizer suppliers to change the source of nitrogen.

Purchasers noted that, for the most part, there have been no changes in demand for their final goods since 1998. Seven of nine reported no changes, while the remaining two indicated the existence of a change. Only *** answered further, responding that the high natural gas and HDAN costs are driving farmers out of business.

Despite the several factors suggesting that HDAN use would decline, apparent consumption, as shown in Part IV, increased on a quantity basis between 1998 and 1999 but decreased from 1999 to 2000 and during interim 2001. On a value basis, the exact opposite trend is revealed. The value of apparent consumption fell from 1998 to 1999, but rose in 2000 and in interim 2001.

DRI-WEFA expects nutrient demand to improve through 2003/04. This is based on its expectations of increased corn and wheat acreage (at least in 2002), higher application rates, and weakening nitrogen-based fertilizer prices from their highs in early 2001.⁵⁹

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported HDAN depends on such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, means of delivery (e.g.,

⁵⁸ Another producer indicated that demand for domestic product is flat to trending downward, but gave the reason as imported nitrate.

⁵⁹ DRI-WEFA, Fertilizer Market Assessment, Executive Summary, p. 4, June 5, 2001.

barge, rail, or truck), payment terms, product services, etc). Based on available data, staff believes that there is a moderately high though not perfect degree of substitution between domestic and imported HDAN.

Domestic producers and importers were asked if any differences existed in product characteristics or sales conditions between U.S.-produced and Ukrainian imports of HDAN that are significant factors in the firms' sales of HDAN. One domestic producer responded that imported Ukrainian HDAN availability has historically been more dependent on large shipment arrivals, with pressure to move the material once it arrives. Domestic producers also reported that price reductions tend to reflect this need to sell material quickly once it arrives. According to the domestic producers, quality, supply, and delivery capabilities are essentially the same whether the product is produced domestically or imported. Five domestic producers reported that differences in product characteristics or sales conditions do not exist between domestic and Ukrainian HDAN.⁶⁰

Both importers of Ukrainian HDAN responded that several differences exist between U.S.-produced and imported Ukrainian HDAN. These importers reported that the quality of Ukrainian HDAN suffers from more handling, which leads to more degradation; the imported product is reportedly more susceptible to outside contamination from the ship's hold. The Ukrainian product reportedly can deteriorate because it does not have sufficient static strength. HDAN produced by some Ukrainian producers does not contain lilamine, an anti-caking additive. Absence of lilamine (or another similar anti-caking additive) also results in rapid product deterioration.⁶¹

One importer reported that U.S. producers can sell by truckload, barge, or rail car as requested, and they may also put product into customers' locations on consignment, pay warehouse charges, guarantee a marketing allowance, and price protect against sales declines. This distorts the actual selling price they publish on price lists. In the preliminary phase, another importer added that large U.S. producers offer extended term arrangements and warehousing payments for exclusive use of dealers' or distributors' limited space, whereas the importer ***.

Importers and domestic producers were asked if competition between domestic HDAN and imported Ukrainian HDAN is greater for shipments made by barge, by rail, or by truck. These firms generally agreed that the mode of transportation is not a competitive factor between domestic and imported HDAN.⁶² Several producers reported that although the Ukrainian material is initially shipped via barge, it is then distributed by rail and truck. One producer reported that low-priced Ukrainian product has attracted low-priced domestic product into its area.⁶³ Another producer reported that it is landlocked and generally has transportation advantages, but that these advantages are being eroded by low-priced Ukrainian imports.

Factors Affecting Purchasing Decisions

Available information indicates that a variety of factors are considered important in purchasing decisions for HDAN. While price has been mentioned as being an important factor in the sale of HDAN, other factors such as quality and availability are also important considerations. Purchasers were asked to

⁶⁰ While *** indicated that differences do exist in sales conditions or product characteristics, its description of what these are simply stated that low-priced imports are reducing margins and net backs to producers.

⁶¹ Product exported by Stinol and Cherkassy, ***, does contain lilamine (preliminary conference transcript, pp. 86 and 142). With regard to the static strength of the Stinol product, exhibit 4 of petitioner's postconference brief shows ***.

⁶² *** reported that they do not compete with Ukrainian product.

⁶³ ***.

list the top three factors that they consider when choosing a supplier of HDAN. Table II-3 summarizes the responses to this question.

Table II-3

HDAN: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Purchase factor	Number 1 factor	Number 2 factor	Number 3 factor
	<i>Number of firms reporting</i>		
Price	8	4	7
Quality	4	9	3
Availability	7	3	4
Pre-arranged contracts	1	0	0
Credit	0	2	1
Traditional supplier	0	1	2
Timely loading	0	1	0
Reliability of supply	0	0	1
Distribution cost	0	0	1

Source: Compiled from data submitted in response to Commission questionnaires.

While price is important, purchasers reported that the lowest price offered for HDAN would not necessarily win the contract or sale. Only one purchaser reported that the lowest price will “always” win a contract or sale, 10 purchasers reported “usually,” nine purchasers reported “sometimes,” and three reported “never.”

Purchasers were asked what characteristics firms consider when determining the quality of a supplier’s HDAN. Purchasers provided many characteristics that are considered important. Twelve reported that the size of the prill or granule (including consistency) is important, six noted the importance of a low incidence of dust, and four purchasers responded that storability is an important factor. Also mentioned by purchasers as important was the ease of handling, prill hardness, color, bulk density weight, percent nitrogen, uniformity, and the percentage of fines.⁶⁴

When purchasers were asked if they knew whether the HDAN they purchase is U.S.-produced or imported, 21 of 23 purchasers answered either “always” or “usually.” In addition, purchasers were asked if their buyers are aware of and/or interested in the country of origin of the HDAN that is supplied. Three purchasers responded that buyers are “always” interested, two replied “usually,” nine replied

⁶⁴ Fines are very small particles resulting from many variables, including processing and screening, temperature cycling, handling, and other types of shear degradation or all of the above. The normal size of prilled materials ranges from roughly 1.5 to 2.5 mm, so fines would typically be less than 1.5 mm (probably below 1 mm). Fines could range anywhere from very small micro prill sand-like consistency to powder. Fines tend to segregate out toward the bottom of a batch of product and can lead to poor handling and broadcasting characteristics, as well as poor mixing properties in the case of NPK blends. Also, fines can lead to moisture absorption and caking. Fines may be an indication of softer material and less desirable product that has broken down through processing (possibly because of too much water in the melt), handling, temperature cycling, and/or shear.

“sometimes,” and nine purchasers reported that the buyers of their HDAN are “never” interested in the country of origin.

Comparisons of Domestic Products and Subject Imports

U.S. producers and importers were asked if the domestic and Ukrainian HDAN could be used interchangeably. All responding U.S. producers agree that the products could be used interchangeably. Some importers, however, took issue with this characterization. *** reported that for certain applications, Ukrainian product is not well-suited due to prill size variation, and to lack of hardness and storability associated with the number of times it has been handled. *** observed that Ukrainian product is subject to the rigors of greater handling and may sometimes have a pink/beige color that customers disfavor.

Comparisons of Nonsubject Imports with Domestic Products and Subject Imports

U.S. producers all reported that nonsubject HDAN is interchangeable with domestic product and with imports from Ukraine, and that these products are sold under similar conditions. One importer stated that HDAN produced in the United States, the Netherlands, Spain, Egypt, and Canada is perceived to be of a higher quality than Ukrainian, Polish, or Lithuanian HDAN.

Purchasers were asked to compare domestic HDAN with product from Ukraine and from other nonsubject countries based on 14 factors. Five purchasers compared the U.S. and Ukrainian HDAN on these factors. Their responses are listed in table II-4. Two purchasers compared HDAN produced in the United States with that produced in the Netherlands and three compared product from the United States and Norway. One purchaser each compared Ukraine product with product from Netherlands and from Norway. The firm comparing Ukraine and Netherlands HDAN reported that they were comparable in all factors except product consistency, in which the Netherlands product was superior and reliability of supply in which the Ukraine product was superior. The firm comparing Ukraine product with that from Norway reported the products were comparable in all 14 factors.

ELASTICITY ESTIMATES

The elasticity estimates below are those that are used in a COMPAS analysis performed with respect to ammonium nitrate from Ukraine that is presented later in Part II.

U.S. Supply Elasticity

The domestic supply elasticity for HDAN measures the sensitivity of the quantity supplied by the U.S. producers to changes in the U.S. market price of HDAN. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which the producers can alter capacity, the producers’ ability to shift to production from other products, the existence of inventories, and the availability of alternative markets for U.S.-produced HDAN. The domestic producers of HDAN have production alternatives using the same facilities, and can store some inventory. On balance, these factors indicate that the U.S. industry is somewhat able to increase or decrease shipments to the U.S. market when there is a change in price. However, if the domestic facilities are running at full capacity, the only way to purchase additional HDAN is through importation. Therefore, an estimate in the range of 1 to 3 is suggested.

Table II-4

HDAN: Ranking of factor importance and comparison of U.S. product with product from other countries, as reported by U.S. purchasers

Factor	Importance			U.S. vs Ukraine			U.S. vs Norway			U.S. vs Netherlands		
	V	S	N	Su	C	I	Su	C	I	Su	C	I
	<i>Number of firms responding</i>											
Availability	13	2	0	2	3	0	1	2	0	1	1	0
Delivery terms	6	9	0	1	4	0	0	3	0	1	1	0
Delivery time	12	3	0	3	2	0	0	3	0	0	2	0
Discounts offered	7	8	0	2	3	0	0	2	1	0	1	1
Lowest price	6	9	0	1	2	2	0	2	1	0	2	0
Minimum quantity requirements	3	10	2	2	3	0	0	3	0	2	0	0
Packaging	1	7	6	1	4	0	0	2	0	1	1	0
Product consistency	10	4	0	4	0	1	1	2	0	0	1	1
Product quality	14	0	0	2	2	1	1	2	0	0	1	1
Product range	5	6	1	2	1	1	1	1	0	0	1	1
Reliability of supply	12	2	0	1	3	1	1	2	0	1	1	0
Technical support/service	4	5	5	3	2	0	0	2	0	0	1	1
Transportation network	7	6	1	2	3	0	0	2	0	1	1	0
U.S. transportation costs	7	6	1	2	2	1	0	3	0	1	1	0

Note.--V = very important, S = somewhat important, N = not important.

Note.--Su = U.S. superior, C = U.S. and other country comparable, I = U.S. inferior.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. Demand Elasticity

The U.S. demand elasticity for HDAN measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of HDAN. This estimate depends on factors discussed earlier such as the existence of substitutes for HDAN such as urea, the total acreage brought under cultivation, which crops are planted, and the forward-looking price for those crops. Based on the available information, the aggregate demand for HDAN is likely to be in the range of -0.8 to -1.6.

Substitution Elasticity

The elasticity of substitution depends upon the extent of differentiation between the domestic and imported products.⁶⁵ Differentiation in HDAN, in turn, depends upon such factors as quality (e.g., consistency, pill size, etc.) and conditions of sale (availability, sales terms/discounts/rebates, credit, etc.). Although domestically produced HDAN appears to be a more consistent product than HDAN imported from Ukraine, the two still possess somewhat commodity-like interchangeability. All responding purchasers replied that subject and domestic HDAN are used in the same applications. Based on available information, the elasticity of substitution between U.S.-produced HDAN and HDAN imported from Ukraine is likely to be in the range of 3 to 5. Purchasers also noted that imports from other countries are used interchangeably with domestic product. The elasticity of substitution between domestic and nonsubject imports and between subject and nonsubject imports is likely to be in the range of 3 to 5 also.

COMPAS ANALYSIS

Assumptions

The COMPAS model⁶⁶ is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the earlier discussion, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. HDAN market. The model uses these estimates with data on market shares, Commerce's estimated margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry.

Findings⁶⁷

Estimated effects of the LTFV imports on the U.S. HDAN industry are as follows: 6.7 percent to 23.7 percent reduction in revenue, 3.4 percent to 18.4 percent reduction in output, and 2.0 percent to 12.2 percent reduction in price. More detailed effects of the dumping and the full range of scenarios are shown in table II-5.

Table II-5
The estimated effects of LTFV pricing of imports from Ukraine

* * * * *

⁶⁵ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. HDAN to the subject HDAN (or vice versa) when prices change.

⁶⁶ COMPAS version 1.4 (dumping, 6/1/93).

⁶⁷ Estimates are based on 2000 data. Commerce's period of investigation for its investigation was April through September 2000.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Information on capacity, production, shipments, inventories, and employment is presented in this section of the report, and is based on the questionnaire responses of eight firms that accounted for approximately *** percent of U.S. production of HDAN during 2000.

U.S. PRODUCERS

During the period examined, there were 10 major U.S. producers of HDAN. Although all 10 producers were in operation during the period, Wil-Gro ceased production in December 1999 and LaRoche filed for protection under Chapter 11 of the U.S. Bankruptcy Code on May 3, 2000. On November 1, 2000, El Dorado acquired the LaRoche nitrogen plants at Crystal City, MO¹ and Cherokee, AL. On September 30, 2000, Agrium acquired the fertilizer production assets of Prodicta. Table III-1 presents the positions of the 10 producers on the petition, shares of reported production, locations, and parent companies.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data relating to U.S. producers' HDAN production, capacity, and capacity utilization are shown in table III-2. For the industry as a whole, capacity increased during 1998-2000 by 3.1 percent even though production decreased by 21.0 percent, causing a decrease in capacity utilization of 19.3 percentage points between 1998 and 2000. The increased capacity was largely due to capital improvements by ***. ***.

As stated earlier, El Dorado purchased the LaRoche nitrogen plant at Cherokee, AL in November 2000. ***.

¹ The Crystal City plant has not operated since El Dorado purchased it in November 2000. ***.

Table III-1

HDAN: U.S. producers, positions on the petition, shares of reported 2000 production, U.S. production locations, and parent companies

Firm	Position	Share of reported production (percent)	Production location	Parent company and country
Agrium	Support	***	Homestead, NE	Agrium (Canada)
Air Products	Support	***	Pace Junction, FL	Air Products, Pensacola, FL
Coastal Chem	***	*** ¹	Cheyenne, WY	Coastal Chem, Houston, TX
El Dorado	Support	***	El Dorado, AR	LSB Industries, Oklahoma City, OK
LaRoche ²	Support	***	Cherokee, AL, Crystal City, MO	El Dorado ³ Oklahoma City, OK
Mississippi Chemical	Support	***	Yazoo City, MS	Mississippi Chemical, Yazoo City, MS
Nitram	Support	***	Tampa, FL	Nitram is owned by a statewide Florida cooperative of chemical fertilizer producers. The producer with the largest share is *** with a *** percent share. No other producer has a share greater than *** percent.
PCS Nitrogen	***	***	Augusta, GA	Potash Corp., Canada
Prodicta LLC (formerly UNOCAL)	***	***	Kennewick, WA	Union Oil Co. of California, ⁴ El Segundo, CA
Wil-Gro	(⁵)	(⁶)	Prior, OK	Williard Grain & Feed, Celina, TX

¹ Coastal Chem data are based on its questionnaire response in the preliminary phase of the investigation.

² On October 31, 2000, LaRoche sold its HDAN business to LSB Industries.

³ El Dorado acquired the LaRoche nitrogen plants at Crystal City, MO and Cherokee, AL on November 1, 2000.

⁴ Effective September 30, 2000, Agrium US acquired the fertilizer production assets of Prodicta.

⁵ Wil-Gro ceased production in December 1999. ***.

⁶ Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-2

HDAN: U.S. production capacity, production, and capacity utilization, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Capacity (<i>short tons</i>)	2,585,210	2,673,064	2,666,251	679,569	685,619
Production (<i>short tons</i>)	2,126,197	1,970,942	1,679,379	590,093	535,448
Capacity utilization (<i>percent</i>)	82.2	73.7	63.0	86.8	78.1

Source: Compiled from data submitted in response to Commission questionnaires.

**U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS,
AND EXPORT SHIPMENTS**

Data on U.S. producers' shipments of HDAN are shown in table III-3. There are three firms that produced small amounts of HDAN under conversion arrangements during 1998-2000. *** had an arrangement with ***; *** had one with ***; and *** had an arrangement with ***. ***, ***, and *** provided ***, ***, and *** with ammonia which the latter companies converted into HDAN. The latter companies charge ***, ***, and *** fees for the conversion. Neither ***, ***, nor *** completed the Commission's producer questionnaire. The production of the converted product is included in the production and shipments data of the eight reporting firms and is presented in tables III-2 and III-3. In 1998 and 1999, shipments of the converted product were small, accounting for *** and *** percent, respectively, by quantity, of total shipments. *** were reported in 2000, and *** percent were reported in the first quarter of 2001. The quantities of this converted product and the conversion fees charged are not included in the industry's commercial shipments and have instead been combined with internal transfers. This is to minimize the effect that shipments of such converted product would have on the unit value of commercial shipments because the fees charged for conversion per short ton are much less than per-ton commercial shipment values.²

During the investigation of ammonium nitrate from Russia, information was gathered by the Commission regarding U.S. producers' commercial shipments by geographic destination and is presented in figure III-1.

² The conversion fees for the toll conversion do not include any valuation for ammonia, the primary raw material in HDAN production, since the ammonia was supplied by the tollees.

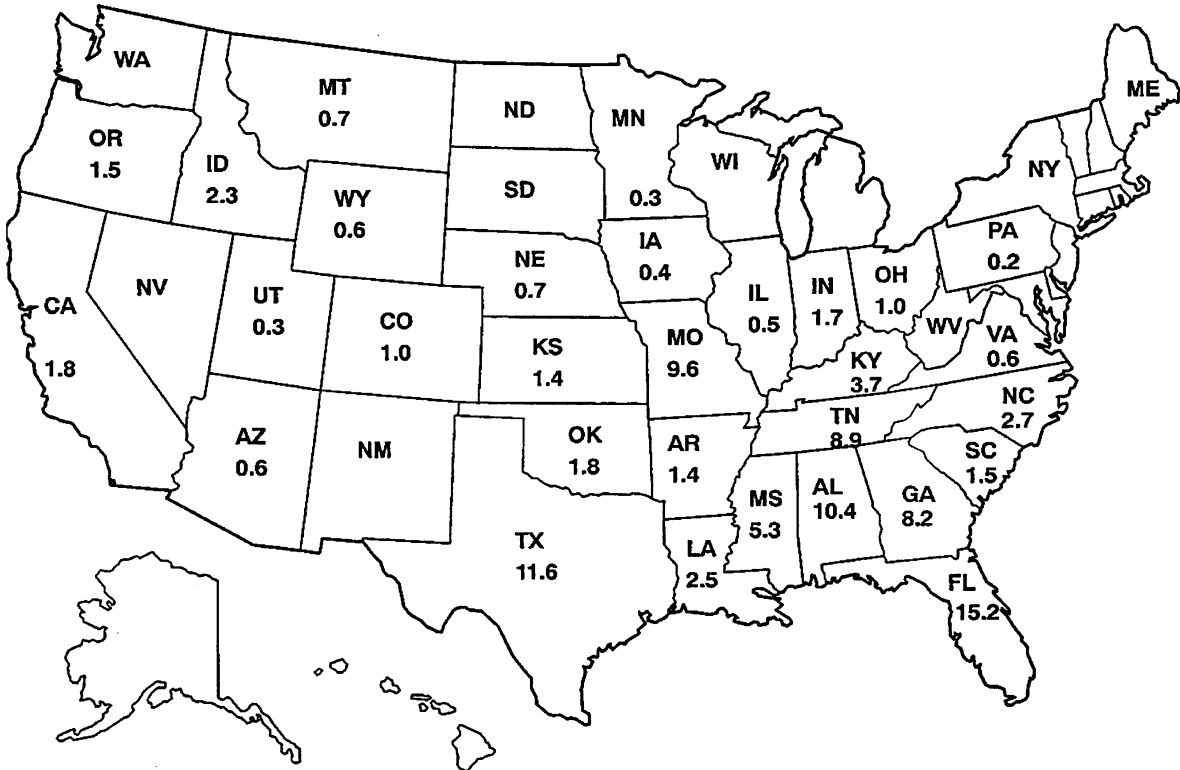
Table III-3

HDAN: U.S. producers' shipments, by types, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Quantity (short tons)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	1,959,789	2,014,854	1,807,145	503,650	392,489
Export shipments ¹	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (1,000 dollars)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	238,321	207,508	218,878	59,745	64,178
Export shipments ¹	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (per ton)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	\$121.61	\$102.99	\$121.12	\$118.62	\$163.52
Export shipments	***	***	***	***	***
Average, all shipments	***	***	***	***	***
1 ***					
Source: Compiled from data submitted in response to Commission questionnaires.					

Figure III-1

HDAN: Location of U.S. producers' customers, by State, as shares (in percent) of 1999 U.S. producers' commercial shipments



Note.—States with a share of shipments less than 0.2 percent are not noted.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PRODUCERS' PURCHASES OF HDAN

Data on U.S. producers' purchases of HDAN are presented in table III-4. No producer was a direct importer of HDAN during the period examined. In general, U.S. producers reported that they purchased imports or domestic HDAN in order to ensure timely delivery to large customer bases.

Table III-4

HDAN: U.S. producers' non-import purchases, by sources, 1998-2000, January-March 2000, and January-March 2001

* * * * *

*** reported that it purchased *** of Ukrainian HDAN in *** 2000, to deliver to a particular retail location. Reportedly, it was offered at a price well below ***'s production cost and less than what it would have cost them to produce and ship the material from their plant. *** reported that it purchased *** of HDAN from Ukraine for delivery in *** 2000. The firm reported that it first sought to purchase domestic product but price quotes were "well above quotes received for the Ukrainian product."

*** purchased Russian HDAN during the period examined. *** purchased *** in 1998; *** in 1999; and *** in *** 2001. *** purchased *** in 1998 and *** in 1999. The amounts purchased were minor, representing *** percent of U.S. production in 1998 and *** percent in 1999.³

Purchases from domestic sources were also minor during the period, ranging from *** percent of production in 1999 to *** percent in 2000.

U.S. PRODUCERS' INVENTORIES

Table III-5 presents U.S. producers' end-of-period inventories of HDAN. Inventories decreased by 29.8 percent during 1998-99, by 60.6 percent during 1999-2000, and by 26.0 percent in the interim periods.

Table III-5

HDAN: U.S. producers' end-of-period inventories, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Inventories (<i>short tons</i>)	352,614	247,435	97,376	322,720	238,766
Ratio to production (<i>percent</i>)	16.6	12.6	5.8	13.7	11.1
Ratio to U.S. shipments (<i>percent</i>)	18.0	12.2	5.4	16.0	15.2
Note.—January-March inventory ratios are annualized.					
Source: Compiled from data submitted in response to Commission questionnaires.					

³ As a share of each of these firm's production, the amounts purchased were: ***.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-6 presents employment data for production and related workers producing HDAN. Employment decreased during 1998-2000, with the number of production and related workers and hours worked decreasing by *** percent and *** percent, respectively.

Table III-6

HDAN: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Production and related workers (PRWs)	426	422	389	387	362
Hours worked by PRWs (<i>1,000 hours</i>)	942	927	852	216	207
Wages paid to PRWs (<i>1,000 dollars</i>)	18,833	18,841	17,442	4,477	4,274
Hourly wages	\$19.99	\$20.33	\$20.48	\$20.75	\$20.64
Productivity (<i>short tons produced per hour</i>)	2.3	2.1	1.9	2.5	2.5
Unit labor costs (<i>per short ton</i>)	\$8.86	\$9.56	\$10.93	\$8.19	\$8.31
Source: Compiled from data submitted in response to Commission questionnaires.					

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Two large and independent wholesalers/retailers accounted for all imports from Ukraine during the period examined: ConAgra International Fertilizer Co., Savannah, GA, and Transammonia, Inc., Tampa, FL.

U.S. IMPORTS

During 2000, Ukraine, Canada, and the Netherlands were the largest exporters of HDAN to the United States. During January-March 2001, Turkey, the Netherlands, Spain, Romania, and Russia were the largest exporters as imports from Ukraine ceased. All HDAN from Ukraine was imported into the port of New Orleans for best access (by barge and rail) to states within the Mississippi River system. Imports of HDAN are shown in table IV-1. Imports of HDAN from Ukraine accounted for *** percent of total imports (based on quantity) during 1998, and *** percent during 2000; *** imports were reported in 1999. During the 12-month period preceding the filing of the petition (October 1999-September 2000), imports of HDAN from Ukraine accounted for approximately *** percent of total imports.

In the first quarter of 2001, nonsubject import volume of HDAN totaled *** short tons compared with *** short tons reported in the year-earlier period. The nonsubject import volume in the first quarter of 2001 exceeded the total for all of calendar year 2000. Turkey, Romania, and Bulgaria entered the U.S. market for the first time during January-March 2001. Spain and Lithuania also shipped significant tonnages in the first quarter of 2001, and have only been shipping to the United States since 1999. The Netherlands, a traditional supplier, also supplied significant tonnage during the period. U.S. imports of HDAN from all sources are presented in appendix D.

Table IV-1

HDAN: U.S. imports, by sources, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Quantity (short tons)					
Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	96,171
Canada ¹	***	***	***	***	***
Other nonsubject sources ³	178,448	218,965	106,798	53,886	196,989
Subtotal nonsubject sources	***	***	***	***	***
Total imports	437,102	564,775	495,950	207,903	307,168
Value (1,000 dollars)⁴					
Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	11,859
Canada ¹	***	***	***	***	***
Other nonsubject sources ³	16,416	20,189	10,338	4,626	25,480
Subtotal nonsubject sources	***	***	***	***	***
Total imports	39,271	43,863	39,355	15,206	39,305
Unit value (per short ton)⁴					
Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	\$123.31
Canada ¹	***	***	***	***	***
Other nonsubject sources ³	\$91.99	\$92.20	\$96.80	\$85.86	129.35
Nonsubject sources	***	***	***	***	***
Average	89.84	77.66	79.35	73.14	127.96
Share of quantity (percent)					
Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	31.3
Canada ¹	***	***	***	***	***
Other nonsubject sources ³	40.8	38.8	21.5	25.9	64.1
Nonsubject sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	30.2
Canada ¹	***	***	***	***	***
Other nonsubject sources ³	41.8	46.0	26.3	30.4	64.8
Nonsubject sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
¹ Compiled from questionnaire data. ² Compiled from questionnaire data, except January-March 2001, which was compiled from official Commerce statistics. ³ The nonsubject import data (except as noted) are compiled from official Commerce statistics, which were adjusted by Commission staff to correct for misclassification of Polish material in 1998 and 1999, and omission of Lithuania data in 2000. ⁴ Landed, duty-paid value. ⁵ Not applicable.					
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission (imports from Ukraine, Russia, and Canada) and from official Commerce statistics (imports from nonsubject countries, except as noted).					

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Apparent U.S. HDAN consumption and U.S. producers' and imports' respective shares of consumption are shown in tables IV-2 and IV-3.

Table IV-2

HDAN: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Quantity (short tons)					
U.S. producers' U.S. shipments ¹	1,959,789	2,014,854	1,807,145	503,650	392,489
U.S. shipments of imports from-- Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	96,171
Canada ¹	***	***	***	***	***
Other nonsubject sources ³ (imports)	177,472	219,360	106,924	52,688	197,000
Subtotal nonsubject	***	***	***	***	***
All sources	421,429	540,200	498,582	211,964	316,172
Apparent consumption	2,381,218	2,555,054	2,305,727	715,614	708,661
Value (1,000 dollars)					
U.S. producers' U.S. shipments ¹	238,321	207,508	218,878	59,745	64,178
U.S. shipments of imports from-- Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	11,859
Canada ¹	***	***	***	***	***
Other nonsubject sources ³ (imports)	16,416	20,189	10,338	4,626	25,480
Subtotal nonsubject	***	***	***	***	***
All sources	40,011	46,363	42,918	16,555	40,864
Apparent consumption	278,332	253,871	261,796	76,300	105,042
<p>¹ Compiled from questionnaire data.</p> <p>² Compiled from questionnaire data, except January-March 2001, which was compiled from official Commerce statistics.</p> <p>³ The nonsubject import data (except as noted) are compiled from official Commerce statistics, which were adjusted by Commission staff to correct for misclassification of Polish material in 1998 and 1999, and omission of Lithuania data in 2000.</p> <p>Note.—Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission (U.S. producers' shipments and U.S. shipments from Ukraine, Russia and Canada) and from official Commerce statistics (imports from nonsubject countries, except as noted).</p>					

Table IV-3

HDAN: Apparent U.S. consumption and market shares, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar years			January-March	
	1998	1999	2000	2000	2001
Quantity (short tons)					
Apparent consumption	2,381,218	2,555,054	2,305,727	715,614	708,661
Value (1,000 dollars)					
Apparent consumption	278,333	253,871	261,796	76,300	105,042
Share of quantity (percent)					
U.S. producers' U.S. shipments ¹	82.3	78.9	78.4	70.4	55.4
U.S. shipments of imports from-- Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	13.6
Canada ¹	***	***	***	***	***
Other nonsubject sources ³ (imports)	7.5	8.6	4.6	7.4	27.8
Subtotal nonsubject	***	***	***	***	***
All sources	17.7	21.1	21.6	29.6	44.6
Share of value (percent)					
U.S. producers' U.S. shipments ¹	85.6	81.7	83.6	78.3	61.1
U.S. shipments of imports from-- Ukraine ¹	***	***	***	***	***
Russia ²	***	***	***	***	11.3
Canada ¹	***	***	***	***	***
Other nonsubject sources ³ (imports)	5.9	8.0	3.9	6.1	24.3
Subtotal nonsubject	***	***	***	***	***
All sources	14.4	18.3	16.4	21.7	38.9

¹ Compiled from questionnaire data.

² Compiled from questionnaire data, except January-March 2001, which was compiled from official Commerce statistics.

³ The nonsubject import data (except as noted) are compiled from official Commerce statistics, which were adjusted by Commission staff to correct for misclassification of Polish material in 1998 and 1999, and omission of Lithuania data in 2000.

⁴ Less than 0.05 percent.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission (U.S. producers' shipments and U.S. shipments from Ukraine, Russia, and Canada) and official Commerce statistics (imports from nonsubject countries, except as noted).

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The basic raw material used in the production of HDAN is ammonia. The basic feedstock for producing ammonia is natural gas. Natural gas accounts for a major share of the variable cost of producing HDAN. The cost of natural gas represents approximately 70-80 percent of the cost of producing ammonia and about 30-50 percent of the cost of producing HDAN.¹ The largest producers are vertically integrated, i.e., they purchase natural gas and produce ammonia at their own production facilities. Other producers purchase ammonia.

According to data supplied by petitioners, natural gas prices were higher in January 2001 than in any other month during the period examined.² After falling irregularly from a January 1998 cost of over \$35 per short ton of HDAN to a low of just above \$25 in September 1998, natural gas costs of HDAN production (constructed using the natural gas price data) rose gently but irregularly until reaching about \$47 per short ton of HDAN in May 2000. For the next 5 months, prices rose at a faster pace. Through December 2000 and January 2001, the price of natural gas skyrocketed, reaching over \$150 per short ton of HDAN, but it then declined in February and March. Since then, prices have come down somewhat, but still are at historically high levels. Monthly constructed natural gas costs in the United States are shown in figure V-1. Also shown in figure V-1 are monthly natural gas costs (calculated using the same conversion factor) for Stirol, a Ukrainian HDAN producer. The unit natural gas costs for Stirol fell irregularly from over \$*** in January 1998 to around \$*** in the first half of 2000. Its natural gas costs increased since then, to \$*** by December 2000. Throughout the period, Stirol's unit costs were always lower than U.S. costs. In January 2001, the unit cost difference rose to over \$***.³

Figure V-1

Constructed natural gas costs, by month, January 1998-March 2001

* * * * *

Ammonia costs (averaging over those U.S. firms that produced ammonia and those that purchased it), like natural gas prices, fell early in the period examined and rose sharply in 2000, according to questionnaire data from U.S. HDAN producers from the preliminary phase. Unlike natural gas prices, however, ammonia costs reached their low in 1998 at \$111 per ton (after a 1997 value of \$129

¹ *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), p. 3-19.

² Petitioner's prehearing brief, exhibit 34. The data reported is the Henry Hub Terminal natural gas pricing series. It has been converted into the natural gas cost required to produce a short ton of HDAN in the discussion that follows. These computed costs may be different than actual costs for a particular purchaser or at a particular point in time for a number of reasons. Among these is the possibility of hedging in natural gas markets.

³ Petitioner also provided quarterly natural gas prices from the Netherlands and Canada since the start of 1999 (postconference brief, exhibit 25). Constructed Dutch natural gas costs were \$58 in the third quarter of 2000, an increase from levels as low as \$39 in earlier quarters. Constructed Canadian costs were only \$30 in the second quarter of 2000 (third quarter prices were not presented), a relatively small decrease from a low of \$34 in the second quarter of 1999.

per ton). They rose slightly to \$112 in 1999 before increasing to \$145 per ton in the first 3 months of 2000. Purchased ammonia values averaged \$*** more per ton than ammonia produced by HDAN producers.⁴ In addition, purchased ammonia costs fell by much more from 1997 to 1998, and rose by slightly less from 1999 to the first 9 months of 2000, than produced ammonia costs.

U.S. Inland Transportation Costs

U.S. producers reported that U.S. inland transportation costs account for a substantial percentage of the total delivered cost. Weighted by reported 2000 production, these costs average 15 percent of total delivered costs.⁵ These costs also vary. Individual producers reported that transportation costs start as low as 5 to 14 percent and can be as high as 21 to 25 percent of total delivered costs. Estimates made by importers of Ukrainian HDAN show that transportation costs averaged *** percent of total delivered costs, with lows of *** percent and highs of *** percent. Purchasers that reported specific sources for their ammonium nitrate and pay on an f.o.b. basis reported an average inland transportation cost of 10.5 percent.⁶ Questionnaire responses from domestic producers indicate that in 63 percent of sales (on a weighted basis), transportation arrangements (though not necessarily freight payments) to the customers' location are made by the producer. For importers of Ukrainian ammonium nitrate, the comparable figure is *** percent.

As noted in Part II, many producers and importers reported that their sales of HDAN are concentrated in the South, Southeast, Southwest, and Midwest. The Mississippi River system serves as an important means of distributing HDAN.

Producers and importers were requested to provide estimates of the percentages of their total shipments that were made within specified distances. For the responding producers, the proportion of sales occurring within 500 miles of their storage or production facility ranged from 25 to 100 percent, and averaged 77 percent on a weighted basis. An additional 15 percent of sales were made between 500 and 1,000 miles, while 9 percent were made at distances over 1,000 miles. The two reporting importers, *** and ***, reported quite different typical sales distances. ***'s sales occur within 500 miles of its storage port or storage facilities. *** reported greater diversity by distance. *** percent of its sales were made within 500 miles of its storage or port facility. *** percent of ***'s sales occurred at distances of 500 to 1,000 miles and *** percent exceeded 1,000 miles.

Part II of this report noted that domestic producers ship their HDAN predominantly by truck, with rail and barge shipments substantially less important.⁷ Importers of Ukrainian product, in contrast, depend heavily on barge shipments. The Commission requested domestic producers and importers to provide cost data on shipping and loading charges for each of these modes of transportation. The following tabulation summarizes these data:

⁴ This average refers to the period January 1997 through September 2000, the period examined in the preliminary phase.

⁵ This excludes ***, which reported its transportation costs as zero.

⁶ Illogical responses such as 90 to 100 percent were disregarded. *** reported on a geographical basis: 20 to 30 percent for the Midwest, Northeast, and Plains, and 20 to 50 percent for the Gulf and Coastal areas shipping to inland points. Two purchasers delineated costs via method of transportation. *** estimated 8 percent transport costs via barge and 10 percent via rail, whereas *** replied 8 percent for rail and 10 percent for truck.

⁷ ***.

Supplier	Barge	Rail	Truck
	Weighted-average per-ton shipping costs in 2000 (100-mile shipment)		
Domestic producers	\$***	\$11.38	\$11.27
Importers	***	***	***
	Weighted-average per-ton loading charges in 2000		
Domestic producers	\$***	\$0.58	\$0.62
Importers	***	***	***

U.S. producers and importers were also asked to specify the portion of sales that was actually made f.o.b. plant/port, f.o.b. other shipping point, or delivered. On average, 28 percent of U.S. producers' shipments were made f.o.b. plant and 72 percent were made delivered. Minor percentages of U.S. producers' shipments were made f.o.b. other shipping point (including f.o.b. barge and f.o.b. warehouse/distribution terminal).⁸ Importers made a greater percentage of their sales on an f.o.b. basis, *** percent on average, though they ship f.o.b. from some point other than the port.⁹ The remaining *** percent of sales of imports from Ukraine were made on a delivered basis.

It is generally accepted by domestic producers and importers of HDAN that the product breaks down somewhat the more often it is handled. This breakdown can sometimes be tied to the mode of transportation, but there is not a consensus as to which mode of transportation is most detrimental to the product. Many firms report that other factors tied to improper storage or handling potentially contribute more to possible product degradation. For example, exposure to temperatures that cycle above and below 90°F can lead to deterioration as the product changes phase. High humidity is also a threat to the product.

Exchange Rates

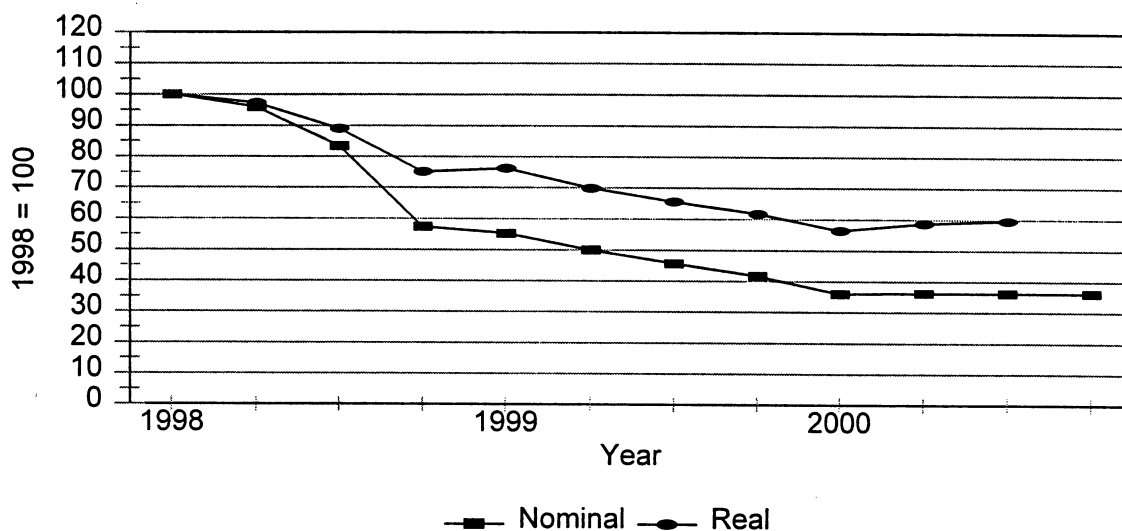
Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Ukrainian hryvnia, relative to the U.S. dollar, fell continuously between January 1998 and June 2000, by a total of 66 percent (figure V-2). Much of this decline occurred between the second and fourth quarters of 1998, when the hryvnia dropped in value by 39 percent. In other quarters, the decline in the hryvnia's nominal value was much less rapid. Since the first quarter of 2000, though, the nominal value has been virtually unchanged, while the real value has somewhat increased relative to the U.S. dollar.

⁸ These averages hide some variability, as each producer favors one method over the others. Four of the producers reported delivered percentages of over 86 percent, whereas two reported f.o.b. plant percentages of 94 and 100 percent, and one reported shipping 73 percent of its HDAN f.o.b. warehouse.

⁹ ***.

Figure V-2

Exchange rates: Indexes of the nominal and real exchange rates between the Ukrainian hryvnia and the U.S. dollar, by quarters, January 1998-December 2000



Source: International Monetary Fund, *International Financial Statistics*, June 2001.

PRICING PRACTICES

Pricing Methods

Five responding domestic producers use published price lists. These price lists are frequently adjusted by market conditions. Additionally, discounts may be made off of price lists to meet competitive conditions without a change in the prices shown on the list(s) themselves. One domestic producer establishes price by negotiation, and one producer prefers to tie the price of HDAN to a *** to determine the f.o.b. price.¹⁰ Importers typically establish prices by negotiating on a transaction-by-transaction basis.

The majority of sales of HDAN are made on a spot basis: approximately 72 percent (on a weighted-average basis) of all U.S.-produced HDAN and *** percent of imports of Ukrainian product. Three out of seven responding domestic producers and *** reported that 100 percent of their sales are made on a spot basis, and one more reported a figure of *** percent or above.¹¹ Four suppliers, ***, ***, ***, and ***, reported that at least a fifth of their sales were made under contract, with proportions of 100, 60, 40, and 20 percent, respectively.

Contracts for domestic producers include tolling arrangements with ammonia suppliers. Reported contract terms varied, though most contracts had fixed quantities. The reported durations of the contracts varied across producers, from several months to two years and more. Contracts frequently

¹⁰ *** sets its prices in this fashion when possible. However, it reported that, at present, it is pricing ***. This firm accounted for roughly *** percent of the sales quantity of U.S.-produced HDAN in 2000.

¹¹ This producer, ***, reported that it only has one contract customer, and this is on a tolled basis.

have standard quantity requirements, but these vary across (and even within) firms. The contracts of one domestic producer, ***, are based on ***. The contracts of another, ***, are based on ***.

Sales Terms and Discounts

Several domestic producers reported giving some kind of discount. In addition to those given to meet market competition, discounts are given according to volume, or given for certain customers (usually national accounts or ***, although one producer limits its discount to wholesalers in three states). Two domestic producers give \$2.00 a ton discounts to purchasers if HDAN is shipped by rail. ***.¹²

Payment arrangements are generally similar for domestic producers and importers. The majority of HDAN suppliers require payment within 30 days. *** requires cash on invoice. Two suppliers vary their payment requirements based on season or method of shipment.

PRICE DATA

The Commission requested U.S. producers and importers of HDAN to provide monthly data for the total quantity and value of HDAN that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 1998-March 2001. The product for which pricing data were requested was solid, fertilizer-grade ammonium nitrate, sold in bulk, with a bulk density equal to or greater than 53 pounds per cubic foot. This product definition is coterminous with the product scope requested in the petition.

Seven U.S. producers and two importers provided usable pricing data for sales of the requested product.¹³ The domestic producers, for the most part, reported pricing for HDAN for all months requested.¹⁴ Coverage for imports of Ukrainian product was, with a small number of exceptions, limited to 2000 and the first quarter of 2001. Pricing data were collected on a monthly basis due to the frequent price changes that occur from month to month. The data presented below account for 96 percent of U.S. producers' reported domestic shipments of HDAN during interim 2000, and *** percent of shipments of HDAN imported from Ukraine during this period.

Price Trends and Price Comparisons

Table V-1 shows the monthly quantities, weighted-average prices, and margins of underselling/(overselling) for U.S.-produced and imported HDAN from Ukraine from January 1998 through March 2001. Figure V-3 also shows monthly prices of U.S.-produced HDAN over this period, as well as prices of product imported from Ukraine since the beginning of 2000, and prices of product imported from Russia prior to that point in time.¹⁵ U.S. producers and importers of Ukrainian product were asked to supply quantity and value data for sales made on an f.o.b. plant or port basis (i.e., product was picked up at the plant/port), or other f.o.b. shipping point, and, to the extent possible, to supply data

¹² *** reported ***.

¹³ ***.

¹⁴ ***.

¹⁵ The inclusion of Russian prices in this figure should not be taken as indicating staff's endorsement of petitioner's position that a seamless transition from Russian to Ukrainian product occurred between 1999 and 2000, and, as such, that the present investigation is largely a continuation of the Russian investigation. Respondents argue that this is a distinct case from the Russian case.

for sales made on a delivered price basis, but adjusted by netting U.S. inland freight to the customer. F.o.b. data are presented in table V-1. Value and quantity data for delivered sales are shown in table V-2 and are shown to be comparable with f.o.b. pricing, since domestic producers and importers were asked to net out freight and other costs from the plant/port/shipping point.

Table V-3 and figures V-4 and V-5 provide more detailed information on U.S. and Ukrainian prices and quantities since January 2000, the month in which Ukrainian imports began to appear consistently in the United States. Price and quantity data are shown by firm for each of the five quarters for which data were reported. In table V-3, the entries for the two firms selling product imported from Ukraine are indicated by bold typeface. In comparing the price relationship across firms, it should be noted that ***. It was noted by counsel for Agrium/Prodicta that indirect pricing pressure from Ukrainian imports was showing up in markets served by (the former) Prodicta even though most Ukrainian imports arrive via the Mississippi River system.¹⁶ Additionally, *** observed in its questionnaire response that its pricing is often based on the price of urea.

Table V-1
HDAN: Weighted-average f.o.b. plant/port/shipping point prices and quantities of sales of domestic and imported HDAN and margins of underselling/(overselling), by months, January 1998-March 2001

* * * * *

Table V-2
HDAN: Weighted-average delivered prices and quantities of sales of domestic and imported HDAN and margins of underselling/(overselling), by months, January 1998-March 2001

* * * * *

Figure V-3
Weighted-average domestic, Ukrainian, and Russian prices for HDAN, f.o.b. plant/port/shipping point and delivered, on a f.o.b. basis, by months, January 1998-March 2001

* * * * *

Table V-3
HDAN: Quantities and f.o.b. plant/port/shipping point prices of domestic producers' and importers' f.o.b. and delivered shipments, by quarters and by firms, January 2000-March 2001

* * * * *

Figure V-4
Weighted-average domestic and Ukrainian prices for HDAN, f.o.b. plant/port/shipping point, by firms, 2000

* * * * *

¹⁶ Agrium's posthearing brief, pp. 1-2. ***.

Figure V-5
Individual company shares of combined domestic and Ukrainian HDAN sales, f.o.b. plant/port/shipping point, by firms and by quarters, January 2000-March 2001

* * * * *

Prices tend to follow seasonal trends each year. Prices are usually higher in the spring planting season (compared to the winter months at the beginning of the year), and lower in the fall once planting activity slows. Domestic producers lower the price to entice purchasers to buy the HDAN in the fall in order to keep product moving and to keep high spring demand under control.

The seasonal effects are only partly evident in data shown in tables V-1 and V-2, as well as figure V-3, as a result of trends in overall prices, which fell slightly in 1998 and 1999, then trended upward in 2000. Most recently, prices jumped greatly in the first three months of 2001. (Overall trends can be noted by comparing monthly prices from one year against prices in the same month from the previous year.) These overall trends correspond, at least in part, to similar trends in terms of natural gas prices and prices of other nitrogen fertilizers (shown in figures V-1 and II-1, respectively). However, natural gas prices are not singularly determinative of HDAN prices. Seasonality is most readily apparent in the quantity of HDAN shipped. Figure V-6 shows monthly sales data for the period examined. Sales are typically highest in spring and lowest in late summer.¹⁷

Figure V-6
Quantity of HDAN sold, by month, January 1998-March 2001

* * * * *

Sales of HDAN from Ukraine were reported in only four months prior to 2000, three months in the spring of 1998, and one month during 1999.¹⁸ In each of the three months in 1998, sales quantities of Ukrainian product were over *** tons. Ukrainian prices were substantially lower than (rising) U.S. prices during these months, but varied widely. The quantity of Ukrainian product sold in July of 1999 was *** of domestic sales that month. These sales in 1999 were made at *** discount relative to U.S. prices.

In each of the months of 2000, Ukrainian sales quantities were larger than in that month in any year prior to 2000. In 10 of these months, Ukrainian quantities were well over *** percent of sales by domestic producers. Between February and October 2000, U.S. prices hovered between \$*** and \$*** per ton for HDAN sold on an f.o.b. basis and \$*** and \$*** for sales made on a delivered basis (with delivery charges netted out).¹⁹ Ukrainian prices hovered between \$*** and \$*** per ton of HDAN sold on an f.o.b. basis (excluding August), and between \$*** and \$*** per ton sold on a delivered basis. Starting in November for f.o.b. sales and October for delivered sales, the price of Ukrainian HDAN

¹⁷ The first three months of 2001 are aberrant. One reason for this might be that the largest producer of ammonium nitrate, Mississippi Chemical, scaled back operations in late 2000/early 2001 because it found it more profitable to sell its natural gas futures than to produce ammonium nitrate. "Mississippi Chemical Announces Pre-Tax Gain of \$16 Million on Sale of Natural Gas Futures Contracts," Mississippi Chemical Press Release, December 11, 2000.

¹⁸ In addition, ***.

¹⁹ ***.

began to rise, reaching a peak of \$*** per ton for HDAN sold on an f.o.b. basis during February 2001.²⁰ The correlation between monthly U.S. prices and Ukrainian prices during the period examined was 0.87 (and 0.92 for 2000-01).²¹ With the exception of June, underselling margins in each month ranged between *** percent. In June 2000 and February 2001, the underselling margin was only *** percent. In February 2001, there was an overselling margin of over *** percent. This appears to be due more to a drop in the U.S. price than a rise in the Ukrainian price (Ukrainian prices were lower, in fact, than in the month immediately previous).

During June 2000, Mississippi Chemical, the largest U.S. producer, lowered its price to ***.²² This enabled Mississippi Chemical to attain ***.

The *** is reflected, in muted form, in table V-2 and figure V-4. With the exception of ***, no domestic producer reported prices as low as either of the importers of Ukrainian product through 2000. In the first quarter of 2001, *** sold at lower prices than ***. Some domestic producers generally sold at prices lower relative to other domestic producers, including ***. *** was the high-price supplier.

Figure V-5 shows the quarterly relative shares during January 2000-March 2001 of firms providing U.S. and Ukrainian HDAN. These relative shares were not static, but varied substantially from quarter to quarter. Mississippi Chemical's share varied between *** percent over the five most recent quarters. *** had higher shares in each of the four quarters after the first quarter of 2000. *** greatly increased its share in the first quarter of 2001. El Dorado bought LaRoche and maintained its operations at one of the two plants, thus ***. *** was the firm with the largest increase in relative share over the first three quarters of 2000, with an increase of *** percentage points, but its share fell in the fourth quarter and ***. The share of *** fell drastically in the second and third quarters, recovered greatly in the fourth quarter, but once again crumbled in the first quarter of 2001.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of HDAN to report any instances of lost sales or revenues they experienced due to competition from imports of HDAN from Ukraine since January 1997. Of the nine responding U.S. producers in the preliminary phase, four reported that they had to either reduce prices or roll back announced price increases because of the imports of Ukrainian HDAN.²³ Three of these provided specific allegations. In the final phase, only two producers reported specific instances of lost sales or lost revenue that occurred after the preliminary phase.

In all, 420 allegations were provided in which 110 separate purchasing firms were involved. The allegations state that revenues were lost on approximately 180,000 short tons of HDAN sales and approximately 118,000 short tons of sales were lost to imports from Ukraine. (By comparison, sales of imports from Ukraine during 2000 and interim 2001 totaled *** short tons.) The comments obtained account for roughly 40 percent of the lost revenue allegations and 70 percent of the lost sales allegations, by quantity. Additional purchaser comments based on the allegations are presented in appendix E. The following tabulations summarize the information obtained from the purchaser responses:

²⁰ Ukrainian product was subject to Commerce's preliminary dumping margin during this period.

²¹ In comparison, the correlation over the same period between the monthly prices of HDAN and urea (using different data sources) was 0.94 (0.97 for January 2000-March 2001). Petitioner's and ConAgra's preliminary postconference briefs both contain an analysis of pricing correlations/timing questions.

²² These events were discussed during the conference both by petitioner and respondents. See conference transcript, pp. 19-21 and 126-127.

²³ Two producers, ***, reported that they had not lost sales or revenues to imports from Ukraine. The three other producers did not respond to the questionnaire item eliciting this information.

Lost revenue allegation summary

Purchaser response	Number	Quantity (<i>short tons</i>)	Value
Agree	71	25,388	\$400,057
Disagree	42	40,109	1,260,023
Partly agree	6	3,112	88,018
Unknown	12	5,951	74,023
Total	131	74,560	1,822,121

Lost sale allegation summary

Purchaser response	Number	Quantity (<i>short tons</i>)	Value
Agree	21	25,450	\$3,856,500
Disagree	15	26,075	4,309,050
Partly agree	16	15,625	2,059,150
Unknown	12	15,850	2,446,050
Total	64	83,000	12,670,750

PART VI: FINANCIAL EXPERIENCE OF THE U.S. INDUSTRY

BACKGROUND

Eight firms, accounting for virtually all known production of HDAN in 2000, provided financial data on their HDAN operations. All producers provided financial data on a calendar-year basis.¹ *** accounted for *** of the total value of industry trade sales in 2000. Out of the eight firms, *** are ***, individually accounting for about *** percent of total industry trade sales in 2000, while *** are also ***, individually accounting for about ***. *** firms purchased ammonia and *** firms produced ammonia to produce HDAN. One firm, ***, accounting for about *** percent of industry trade sales in 2000, produced HDAN from ammonia nitrate solution.

As noted earlier, Wil-Gro ceased production in December 1999 and stated its intention to liquidate its HDAN assets. On May 3, 2000, LaRoche filed for protection under Chapter 11 of the U.S. Bankruptcy Code. In a company press release, LaRoche stated it intended to continue to produce HDAN and to operate its plants as debtor-in-possession during its restructuring period. LaRoche sold all of its four ammonium nitrate manufacturing plants to Orica Nitrogen LLC for about \$44 million at the end of October 2000. ***²

HDAN OPERATIONS

Income-and-loss data for the U.S. producers on their operations producing HDAN are presented in table VI-1; unit values are shown in table VI-2; and selected financial data, by firms, are presented in table VI-3. Three of the companies reported producing HDAN on behalf of other parties, generally distributors of fertilizer.³ Under these arrangements, the producer converted ammonia, owned and supplied by the outside party, into HDAN and charged a conversion fee for the cost of this service. The company transfers and conversion operations represented *** to *** percent, by quantity, and *** to *** percent, by value, of total industry net sales during the period of investigation. *** reported its "trade"⁴

¹ U.S. producers of HDAN and their fiscal year ends are ***.

² Company officials cited high debt levels, depressed market conditions, and an explosion-related shutdown of its chlor-alkali plant in 1999 as the primary causes of its declining cash situation. Following several quarters of negative earnings, LaRoche defaulted on a bond interest payment due on March 15, 2000, and had announced it was pursuing a financial restructuring plan. See "LaRoche Industries Inc. announces third quarter results," found at Internet site, <http://www.larocheind.com/English/pr011400.html>, and company press release dated May 3, 2000, and information update of June 2, 2000, found at Internet site, <http://www.larocheind.com/English/pr050300.html>, retrieved on June 16, 2000. See also company press release dated August 25, 2000. Telephone conversation with Mr. George Porvaznik, Commercial Director, on November 7, 2000.

³ The three U.S. producers that reported converting ammonia into HDAN, together with their partners, are ***. The conversion quantities and values are included in the financial data because this fairly reflects the entirety of company operations (such processing contributes to covering administrative costs, selling costs, and fixed costs of production). The quantities and values of these conversion operations are not included in the industry's trade sales, and have instead been combined with company transfers. This is to minimize the effect on the unit value of the companies' trade sales of such conversion operations because unit conversion fees are much less than unit sales prices.

⁴ ***.

Table VI-1

Results of operations of U.S. producers in the production of HDAN, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar year			January-March ¹	
	1998	1999	2000 ¹	2000	2001
	Quantity (short tons)				
Trade sales	1,876,211	1,961,555	1,788,423	460,018	376,324
Intercompany transfers/conversion ²	120,701	78,397	32,671	14,888	6,030
Net sales	1,996,912	2,039,952	1,821,094	474,906	382,354
	Value (\$1,000)				
Trade sales	231,592	203,587	216,434	54,556	61,477
Intercompany transfers/conversion ²	8,597	5,329	3,191	1,007	677
Net sales	240,189	208,916	219,625	55,563	62,154
Cost of goods sold	203,688	201,592	209,720	46,736	63,869
Gross profit or (loss)	36,501	7,324	9,905	8,827	(1,715)
SG&A expenses	19,675	15,582	15,415	3,090	4,227
Operating income or (loss)	16,826	(8,258)	(5,510)	5,737	(5,942)
Interest expense	6,209	8,630	7,182	998	1,014
Other expense	87	0	389	1,399	0
Other income items	3,328	702	537	108	206
Net income or (loss)	13,858	(16,186)	(12,544)	3,448	(6,750)
Depreciation/amortization	10,110	9,854	9,555	1,718	1,690
Cash flow	23,968	(6,332)	(2,989)	5,166	(5,060)
	Ratio to net sales (percent)				
Cost of goods sold	84.8	96.5	95.5	84.1	102.8
Gross profit or (loss)	15.2	3.5	4.5	15.9	(2.8)
SG&A expenses	8.2	7.5	7.0	5.6	6.8
Operating income or (loss)	7.0	(4.0)	(2.5)	10.3	(9.6)
Net income or (loss)	5.8	(7.7)	(5.7)	6.2	(10.9)
	Number of firms reporting				
Operating losses	3	5	4	2	5
Data	8	8	8	7	7
¹ ***. ² Includes company transfers reported by ***, and conversion toll processing reported by ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-2

Per-unit results of operations of U.S. producers in the production of HDAN, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar year			January-March	
	1998	1999	2000	2000	2001
	Unit value (per short ton)				
Trade sales	\$123.44	\$103.79	\$121.02	\$118.60	\$163.36
Intercompany transfers/conversion ¹	71.23	67.97	97.67	67.64	112.27
Net sales	120.28	102.41	120.60	117.00	162.56
Raw materials	66.21	62.84	76.43	71.76	145.93
Direct labor	6.83	6.80	7.66	6.72	8.39
Other factory costs	28.95	29.18	31.07	19.92	12.72
Cost of goods sold	102.00	98.82	115.16	98.41	167.04
Gross profit or (loss)	18.28	3.59	5.44	18.59	(4.49)
SG&A expenses	9.85	7.64	8.46	6.51	11.06
Operating income or (loss)	8.43	(4.05)	(3.03)	12.08	(15.54)
Net income or (loss)	6.94	(7.93)	(6.89)	7.26	(17.65)
¹ Includes company transfers reported by ***, and conversion toll processing reported by ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-3

Net sales, operating income, operating margins, and per-unit values of sales, COGS, and operating income of U.S. producers in the production of HDAN, by firms, 1998-2000, January-March 2000, and January-March 2001

* * * * *

transactions and *** reported its internal consumption in the shipment section of the questionnaire but neither firm reported these data in the financial section.⁵

The operating income margin dropped from 7.0 percent in 1998 to an operating loss margin of 4.0 percent in 1999 and then improved slightly to an operating loss margin of 2.5 percent in 2000. Such margin fell to a negative 9.6 percent during January-March 2001, compared with a positive margin of 10.3 percent during January-March 2000.

From 1998 to 1999, the volume of trade net sales increased by about 4.5 percent; however, on a per-short-ton basis, average selling price fell much faster than the decline in the average cost of goods sold and SG&A expenses, resulting in a lower gross profit and a negative operating income. From 1999 to 2000, the volume of trade net sales decreased by about 8.8 percent; and on a per-short-ton basis, average selling price increased to about the same level as in 1998, but not enough to cover the increased average cost of goods sold, mainly the raw materials costs due to an increase in natural gas prices, and SG&A expenses, resulting in a negative operating income. From January-March 2000 to January-March 2001, the volume of trade net sales decreased by about 18.2 percent; and on a per-short-ton basis, average

⁵ ***.

selling price rose to a level much higher than during 1998-2000, but not enough to cover the more rapid increase in the average cost of goods sold, largely reflecting a jump in raw material costs due to higher natural gas prices, resulting in a negative gross profit and a higher negative operating income.

Out of the eight U.S. producers, four and five firms reported operating losses in 2000 and 1999, respectively, compared with three in 1998. In the interim periods, out of the seven reporting U.S. producers, five firms reported losses in their operating results and two firms' financial performance worsened during January-March 2001, compared with their operating results in January-March 2000.

* * * * *

The Commission asked U.S. producers to provide the quantity and value of either purchased or produced ammonia, the major raw material to produce HDAN, and requested the firms to report the average price of natural gas, the primary feedstock to produce ammonia. These data are presented in the following tabulation:

* * * * *

As shown in above tabulation, the average price of natural gas increased in 2000 compared with 1999 and jumped in January-March 2001. These natural gas price increases are reflected in the average unit value of purchased or produced ammonia.

The Commission asked U.S. producers about the details of their sale of natural gas, rather than using it in the production of ammonia. All reporting producers stated "No" to the sale of natural gas except ***. *** stated that: ***.

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

The responding firms' data on capital expenditures, research and development ("R&D") expenses, and the value of their property, plant, and equipment used in the production of HDAN are shown in table VI-4. Data for capital expenditures on a firm-by-firm basis are shown in table VI-5.

The majority of capital expenditures were spent by ***. ***. Capital improvement projects require 1 to 3 years to implement; these expenditures declined during the 3-year period, as projects came to fruition, or were scaled back or halted for financial reasons. R&D expenses were incurred ***.

Table VI-4
Value of assets, capital expenditures, and R&D expenses of U.S. producers of HDAN, 1998-2000, January-March 2000, and January-March 2001

Item	Calendar year			January-March	
	1998	1999	2000	2000	2001
Value (\$1,000)					
Capital expenditures	34,770	19,338	10,381	2,417	392
R&D expenses	***	***	***	***	***
Fixed assets:					
Original cost	414,454	432,604	438,609	336,569	341,245
Book value	210,219	217,467	208,467	158,790	150,492
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-5

Capital expenditures of U.S. producers in the production of HDAN, by firms, 1998-2000, January-March 2000, and January-March 2001

* * * * *

CAPITAL AND INVESTMENT

The Commission requested comments from domestic producers regarding the significance of imports of HDAN from Ukraine in terms of their actual or potential negative effects on return on investment or on their growth, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or scale of capital investments. Their responses are shown in appendix F.

PART VII: THREAT CONSIDERATIONS

Section 771(7)(F)(I) of the Act (19 U.S.C. § 1677(7)(F)(I)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in appendix F. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" dumping findings/remedies in third-country markets; and any other threat indicators, if applicable, follows.

THE INDUSTRY IN UKRAINE

The Commission sent foreign producers' questionnaires to four producers of HDAN in Ukraine as identified in the petition and industry sources:³ J.S. Co. "Azot" Cherkassy ("Cherkassy"), J.S.C. "Concern" Stirol ("Stirol"), J.S. Co. Rivneazot ("Rivneazot"),⁴ and Severodonetsk State Manufacturing Enterprise "Azot Association" ("Severodonetsk").⁵ Table VII-1 presents data on HDAN capacity during 2000 for the four producers. Table VII-2 presents a full series of data on capacity, production, shipments, and inventories of HDAN for Cherkassy, Stirol, and Severodonetsk. Severodonetsk reported that ***.⁶

The Director of Stirol stated at the Commission's hearing that the firm has worked at improving the quality of its HDAN production through purchasing new equipment and technologies from the United States. Reportedly, such improvements totaled approximately \$10.5 million and allowed Stirol to enter

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

³ International Fertilizer Development Center, *Worldwide Ammonium Nitrate and Calcium Ammonium Nitrate Capacity Listing by Plant* (January 2001).

⁴ A response to the Commission's questionnaire has not been received from Rivneazot; Rivneazot accounted for about 6 percent of total Ukrainian capacity in recent years.

⁵ The Government of Ukraine owns 53.8 percent of Rivneazot and 100 percent of Severodonetsk, while Cherkassy and Stirol have been privatized completely. November 13, 2000, cable from the U.S. embassy in Kiev (#008249).

⁶ ***.

Table VII-1
HDAN: Ukrainian capacity and shares, by firms, 2000

Company	Capacity (1,000 short tons)	Share of capacity (percent)
J.S. Co. "Azot" Cherkassy	1,080	45.3
J.S. Co. "Concern Stirol"	720	30.2
J.S. Co. Rivneazot	132	5.5
Severodonetsk State Manufacturing Enterprise "Azot Association"	450	18.9
Total Ukraine	2,382	100.0

Source: International Fertilizer Development Center, *Worldwide Ammonium Nitrate and Calcium Ammonium Nitrate Capacity Listing by Plant* (January 2001).

Table VII-2
HDAN: Ukrainian production capacity, production, shipments, and inventories, 1998-2000, January-March 2000, January-March 2001, and projected 2001-02

* * * * *

the U.S. market in 2000 with a product that could compete with certain segments of the HDAN market. The representative for Stirol indicated that entering the U.S. market was planned and the absence of Russian HDAN only accelerated it. However, according to Stirol, the quality of the HDAN deteriorates during the transportation of the Ukraine product to the United States, providing U.S. producers with the competitive advantage.⁷

With regard to future shipments to the United States, Stirol maintains that it has many preferable export markets other than the United States and a viable domestic market. It was noted that the reforms in Ukrainian agriculture are structural and will cause demand for HDAN to remain high in the future. Stirol stated that in the first quarter of 2001, its HDAN production increased by 32 percent over the same period in 2000, as shipments to the domestic market plus export shipments increased by 24 percent, returning Ukrainian HDAN demand to its traditional levels.⁸

U.S. IMPORTERS' INVENTORIES

Table VII-3 presents data on inventories of Ukraine-produced HDAN held by U.S. importers.

Table VII-3
HDAN: U.S. importers' end-of-period inventories of imports from Ukraine, 1998-2000, January-March 2000, and January-March 2001

* * * * *

⁷ Hearing transcript, pp. 115-116.

⁸ Ibid., pp. 120-123.

U.S. IMPORTERS' CURRENT ORDERS

No importers reported that they had imported or arranged for importation of HDAN from Ukraine for delivery after March 31, 2001.

DUMPING AND TRADE RESTRICTIONS IN THIRD COUNTRIES

In response to a request for information regarding antidumping findings or remedies in any WTO-member countries, three manufacturers/exporters in Ukraine reported that HDAN from Ukraine is subject to provisional findings of dumping in the European Community. The European Commission has imposed a provisional antidumping duty of ECU 33.25 (about \$29.00) per metric ton on imports of Ukrainian HDAN throughout the 15 countries of the European Community.⁹ Data regarding exports from Ukraine to European Community countries, obtained from *Eurostats*, DSI Data Service & Information, are presented below:

Period	Exports (quantity in short tons)
1998	108,875
1999	279,188
January-August 2000	374,011

Also, in 1997 China imposed a ban on imports of certain nitrogenous fertilizers, primarily urea, and ceased issuing licenses for HDAN imports.¹⁰ Chinese imports of certain nitrogenous fertilizer accounted for approximately 7 percent of worldwide consumption in fertilizer year 1996/97.¹¹

⁹ In 1997, the European Commission imposed an antidumping duty of ECU 26.3 (about \$29.00 at the time) per metric ton on imports of Russian HDAN throughout the European Union (EU). The effect was to considerably reduce shipments of Russian HDAN to the EU.

¹⁰ *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), p. 3-27.

¹¹ *Ibid.*

APPENDIX A

***FEDERAL REGISTER* NOTICES**

3102.30.00 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 5, 2001.

FOR FURTHER INFORMATION CONTACT:

Karen Taylor (202-708-4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain ammonium nitrate from Ukraine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 13, 2000, by the Committee For Fair Ammonium Nitrate Trade ("COFANT") whose members include Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co., Oklahoma City, OK; La Roche Industries, Inc., Atlanta, GA; and Nitram, Inc., Tampa, FL.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-894 (Final)]

**Certain Ammonium Nitrate From
Ukraine**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-894 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) 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 less-than-fair-value imports from Ukraine of certain ammonium nitrate, provided for in subheading

¹ For purposes of this investigation, Commerce has defined the subject merchandise as "solid, fertilizer grade ammonium nitrate ('ammonium nitrate') products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate)."

consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on June 12, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 26, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 18, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 21, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules.

Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 19, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 3, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 3, 2001. On July 18, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 20, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 8, 2001.

Donna R. Koehnke,
Secretary.

[FR Doc. 01-6340 Filed 3-13-01; 8:45 am]
BILLING CODE 7020-32-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-894 (Final)]

Certain Ammonium Nitrate From Ukraine

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202-205-2501), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: On March 7, 2001, the Commission established a schedule for the conduct of the final phase of the subject investigation (66 FR 14933, March 14, 2001). The Department of Commerce notified the Commission on May 17, 2001, that the date for its final determination in the investigation was extended from June 18, 2001 to July 18, 2001. The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 16, 2001; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 19, 2001; the prehearing staff report will be placed in the nonpublic record on July 11, 2001; the deadline for filing prehearing briefs is July 18, 2001; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 24, 2001; the deadline for filing posthearing briefs is July 31, 2001; the Commission will make its final release of information on August 16, 2001; and final party comments are due on August 20, 2001.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 23, 2001.

Donna R. Koehnke,
Secretary.

[FR Doc. 01-13467 Filed 5-29-01; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 27, 2000, Mallinckrodt, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059) ...	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metadone (9250)	II
Metadone-intermediate (9254) ...	II
Dextropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphaacetylmethadol (9648) ..	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 30, 2001.

Dated: May 14, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01-13446 Filed 5-29-01; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

AGENCY: Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 5, 2001, Mallinckrodt, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670) ..	II

The firm plans to import the listed controlled substances to bulk⁵ manufacture controlled substances.

7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Korea OCTG Other Than Drill Pipe (A-580-825)

Oil country tubular goods are hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the following HTSUS subheadings: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Argentina OCTG Other Than Drill Pipe (A-357-810)

Oil country tubular goods are hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The OCTG subject to this order are currently classified in the following HTSUS subheadings: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75,

7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Mexico OCTG Other Than Drill Pipe (A-201-817)

The merchandise covered by this order are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to API or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The OCTG subject to this order are currently classified in the HTSUS under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping order on OCTG from Mexico. See Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

[FR Doc. 01-18565 Filed 7-24-01; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-810]

Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation of solid agricultural grade ammonium nitrate from Ukraine. We determine that sales have been made at less than fair value. The dumping margin for J.S.C. "Concern" Stiroil is 156.29 percent. The Ukraine-wide rate, which is applicable to all other producers/exporters, including the non-responding company, Open Joint Stock Company "AZOT" Cherkassy, is 156.29 percent.

EFFECTIVE DATE: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder, Melani Miller, or Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0189, (202) 482-0116, or (202) 482-3853, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR part 351 (April 2000).

Case History

Since the publication of the preliminary determination in this investigation (see *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 66 FR 13286 (March 5, 2001) ("Preliminary Determination")), the following events have occurred:

On March 5, 2001, the petitioner in this investigation (the Committee for Fair Ammonium Nitrate Trade) alleged certain errors in the preliminary determination. We responded to this allegation on March 16, 2001. See March 16, 2001 memorandum to Richard W. Moreland, Deputy Assistant Secretary, entitled "Ministerial Error Allegations for Preliminary Determination," which is on file in the Import Administration's Central Records Unit ("CRU"), Room B-099 of the main Department of Commerce building.

In March 2001, we conducted a verification of the questionnaire responses submitted by J.S.C. A-6

"Concern" Stinol ("Stinol"). We issued the verification report in April 2001.

Also in March 2001, the Government of Ukraine ("GOU") submitted a draft proposal for an agreement suspending the Department's investigation pursuant to section 734 of the Act. Consultations were held between the Department and the GOU in Washington, DC in June of 2001. No agreement to suspend the investigation was reached.

Supplemental information regarding surrogate values was submitted by Stinol and the petitioner on April 20 and April 23, 2001.

The petitioner and Stinol filed case and rebuttal briefs, respectively, on April 26 and May 1, 2001. The petitioner also submitted a request on May 3, 2001, to strike certain alleged new and untimely information from Stinol's rebuttal brief. The Department did not strike this information because it determined that the information was neither new nor untimely.

No other interested parties to this investigation have submitted any additional information or argument since the *Preliminary Determination*.

Scope of the Investigation

For purposes of this investigation, the products covered are solid, fertilizer grade ammonium nitrate ("ammonium nitrate" or "subject merchandise") products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and for purposes of the Customs Service ("Customs"), the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") for this investigation is April 1, 2000 through September 30, 2000.

Nonmarket Economy Country

The Department has treated Ukraine as a nonmarket economy ("NME") country in all past antidumping investigations. See, e.g., *Notice of Final Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Indonesia, Poland and*

Ukraine, 66 FR 18752 (April 11, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 62 FR 61754 (November 19, 1997). Under section 771(18)(C) of the Act, this NME designation remains in effect until it is revoked by the Department.

No party in this investigation has formally requested a revocation of Ukraine's NME status, and no further information has been provided that would lead to such a revocation. See also "Issues and Decision Memorandum" from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated July 18, 2001, Comment 11 ("*Decision Memorandum*") (which is on file in the Department's CRU). Therefore, we have continued to treat Ukraine as an NME in this investigation.

Separate Rates

Stinol has requested a separate, company-specific antidumping duty rate. (As explained in the *Preliminary Determination*, although Open Joint Stock Company "AZOT" Cherkassy also submitted information relating to separate rates, that information was incomplete.) In our *Preliminary Determination*, we preliminarily found that Stinol had met the criteria for the application of separate antidumping duty rates. See 66 FR 13286, 13288-13289. At verification, we found no discrepancies with the separate rates information provided in Stinol's questionnaire responses. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rate determination with respect to Stinol. We, therefore, determine that Stinol should be assigned an individual dumping margin.

Ukraine-Wide Rate

The four companies named in the petition were Stinol, Open Joint Stock Company "AZOT" Cherkassy ("Cherkassy"), J.S. Co. Rivneazot ("Rivneazot"), and Severodonetsk State Manufacturing Enterprise "Azot Association" ("Severodonetsk"). As stated in the *Preliminary Determination*, information on the record of this investigation indicates that Stinol, the only company that demonstrated its eligibility for a separate rate, did not account for all exports of subject merchandise to the United States from Ukraine during the POI. Therefore, because Ukrainian producers/exporters of ammonium nitrate other than Stinol failed to respond to our questionnaire,

we presume that all other NME producers/exporters do not act independently from the government in their export activities and, therefore, are not eligible for separate rates.

Accordingly, we are applying a single antidumping deposit rate ("the Ukraine-wide rate") to all ammonium nitrate exporters in Ukraine except for Stinol.

Use of Facts Available

Stinol

As discussed in the *Decision Memo*, at Comment 2, and explained below in the *Normal Value* section, in certain instances we used partial facts available for Stinol in calculating a final determination margin.

Ukraine-Wide Rate

As explained in the *Preliminary Determination*, the Ukraine-wide antidumping rate is based on adverse facts available, in accordance with section 776 of the Act.

Section 776(a)(2) of the Act provides that "if an interested party or any other person (A) withholds information that has been requested by the (Department) under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the (Department) shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title." Pursuant to section 782(e) of the Act, the Department "shall not decline to consider information that is submitted by an interested party and that is necessary to the determination, even if that information does not meet all the applicable requirements established by the (Department), if—(1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and (5) the information can be used without undue difficulties." Use of facts available is warranted in this case because all producers/exporters other than Stinol have failed to respond or provide a complete response to the Department's questionnaire.⁷

Section 776(b) of the Act further provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Certain producers/exporters, other than Stiroil, decided not to respond or provide a complete response to the Department's questionnaire. On this basis the Department determined that they failed to cooperate by not acting to the best of their abilities in this investigation. Further, given Ukraine's status as a NME, absent a verifiable response from these firms, we must presume government control of these Ukrainian companies. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted and has assigned them a common, Ukraine-wide rate based on adverse inferences.

In accordance with our standard practice, as adverse facts available, we are assigning to the Ukraine-wide entity (*i.e.*, those companies not receiving a separate rate), which did not cooperate in the investigation, the higher of: (1) The highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan*, 63 FR 40434 (July 29, 1998)). As noted in the *Preliminary Determination*, the rate from the petition, as recalculated by the Department at the time of initiation of this investigation, is 257 percent. *See Initiation of Antidumping Duty Investigation: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 65 FR 66966 (November 8, 2000).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103-316 (1994) ("SAA"), states that "corroborate" means to determine that the information used has probative value. *See SAA* at 870.

In order to determine the probative value of the information used to calculate the Ukraine-wide rate for the final determination, as we did for in the *Preliminary Determination*, we examined evidence supporting the calculations in the petition. The methodology we used to determine the probative value of this information was explained in the *Preliminary*

Determination and in the Department's February 23, 2001, memorandum to the Deputy Assistant Secretary, "Preliminary Determination Adverse Facts Available Rate" ("*Corroboration Memo*"), which is on file in the Department's CRU. As noted in the *Corroboration Memo*, we recalculated the petition margin to 67.20 percent.

Using the methodology discussed in the *Preliminary Determination* and the *Corroboration Memo*, we found that the margin calculated for Stiroil for the final determination, 156.29 percent, continues to be the highest margin on the record of this case. Since this margin is a calculated margin in this investigation, this margin does not represent secondary information, and, thus, does not need to be corroborated. Thus, the Department has determined the Ukraine-wide rate to be 156.29 percent.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Stiroil for export to the United States were made at less than fair value, we compared export price ("EP") to normal value ("NV"). Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in Stiroil's calculation memorandum dated July 18, 2001, which is on file in the Department's CRU.

Export Price and Constructed Export Price

For Stiroil's price to the United States, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation, and constructed export price ("CEP") methodology was not otherwise appropriate. We calculated EP based on the same methodology as in the *Preliminary Determination*.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. Regarding the first criterion, the Department has determined that Pakistan, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to Ukraine in terms of overall economic development

(see memorandum from Jeff May, Director, Office of Policy, to Susan Kuhbach, Office Director, AD/CVD Enforcement, Office 1, dated November 14, 2000, which is on file in the Department's CRU).

We selected Indonesia as our surrogate country for the *Preliminary Determination* and since that time we have not received any other information which would warrant reconsideration of that selection. Thus, we have continued to rely on Indonesia as our primary surrogate country for the final determination. As we noted in the *Preliminary Determination*, when Indonesian values were not available or were determined to be aberrational, we used Indian values. No parties commented on the use of the Indian values.

2. Factors of Production and Surrogate Values

In our calculation of NV, we have used the same factors of production and the same surrogate values as in the *Preliminary Determination*, with the following exceptions:

We revised the calculation of our *Energy Prices & Taxes* natural gas value. *See Decision Memo*, at Comment 3. We made adjustments to our calculation of overhead and selling, general, and administrative expenses. *See Decision Memo*, at Comment 5. We valued water as a direct energy input using surrogate values based on information from the Asian Development Bank. *See Decision Memo*, at Comment 2. We valued certain catalysts purchased from market-economy suppliers using verified market economy prices; for other catalysts determined not to have been purchased from a market-economy supplier, we used surrogate values. *See Decision Memo*, at Comment 2.

We also made adjustments to the reported factors of production for one of the catalysts, denatured alcohol, and natural gas energy based on the Department's verification findings. *See Decision Memo*, at Comments 7, 8, and 10, respectively. Moreover, because we find that the indirect labor factor of production information reported by Stiroil is unreliable, as partial facts available, we are using the indirect labor factor reported in the petition. *See Decision Memo*, at Comment 2.

Finally, we valued electricity using 1999 data for Indonesia. *See Decision Memo*, at Comment 9. We also corrected our calculation of the electricity factor based on the clerical error allegation made by the petitioner following the *Preliminary Determination*. *See Decision Memo*, at Comment 2. (*See also Memorandum from Team to Richard W.*

Moreland, "Ministerial Error Allegations for Preliminary Determination," dated March 16, 2001, which is on file in the Department's CRU.)

Critical Circumstances

In the *Preliminary Determination*, the Department issued its preliminary determination that critical circumstances exist for both Stiro and the Ukraine-wide entity. As discussed in the *Preliminary Determination*, our decision was based on the analysis of shipment data submitted by Stiro and available import statistics, as well as the history of injurious dumping of ammonium nitrate from Ukraine. The existence of an antidumping duty order in the European Community on ammonium nitrate from Ukraine is sufficient evidence of a history of injurious dumping. Moreover, as discussed in the *Preliminary Determination*, there is record evidence to support a finding of massive imports over a relatively short period of time. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our critical circumstances determination. Therefore, we continue to find that critical circumstances exist with respect Stiro and the Ukraine-wide entity.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Stiro for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the July 18, 2001, *Decision Memorandum* which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/frnhome.htm>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing Customs to continue to suspend liquidation of all imports of the subject merchandise from Ukraine entered, or withdrawn from warehouse, for consumption on or after March 5, 2001, the date of publication of the *Preliminary Determination* in the *Federal Register*. In addition, we are directing Customs to continue to suspend liquidation of any unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 5, 2000, the date 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*, in accordance with our critical circumstances finding.

Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
J.S.C. "Concern" Stiro	156.29
Ukraine-wide rate	156.29

The Ukraine-wide rate applies to all entries of the subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative

protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777 (i)(1) of the Act.

Dated: July 18, 2001.

Faryar Shirzad,
Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

- Comment 1: Application of Adverse Facts Available
- Comment 2: Application of Partial Facts Available
- Comment 3: Valuation of Natural Gas
- Comment 4: Source of Financial Data for Surrogate Financial Ratios
- Comment 5: Valuation of Overhead and SG&A
- Comment 6: Valuation of Catalysts, Belting, Tosol, and Denatured Alcohol
- Comment 7: Revision of Catalyst Usage
- Comment 8: Revision of Denatured Alcohol Usage
- Comment 9: Electricity Factor
- Comment 10: Revision of Natural Gas Consumed as an Energy Input
- Comment 11: Separate Rates

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BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Stanford University, Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 01-013. *Applicant:* Stanford University, Stanford, CA 94305-5020. *Instrument:* Electron Microscope, Model JEM-1230. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 66 FR 33232, June 21, 2001. *Order Date:* January 4, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent

APPENDIX B

**LIST OF WITNESSES APPEARING AT
THE COMMISSION'S HEARING**

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Certain Ammonium Nitrate from Ukraine
Inv. No.: 731-TA-894 (Final)
Date and Time: July 24, 2001 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, (Room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioners (**Valerie A. Slater**, Akin, Gump, Strauss, Hauer & Feld, L.L.P.)
Respondents (**Roman Kuksenko**, Interpreter, on behalf of **Mykola Spatar**,
JSC "Concern Stirol")

In Support of the Imposition of Antidumping Duties:

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
Washington, D.C.
on behalf of

Committee for Fair Ammonium Nitrate Trade ("COFANT")

Joe Ewing, Vice President, Marketing and Distribution, Mississippi
Chemical Corporation

Phil Gough, Senior Vice President, El Dorado Chemical Company

Larry Holley, Vice President, Nitrogen Production, Mississippi
Chemical Corporation

W.R. Thompson, Jr., Manager, Agronomic Services, Mississippi
Chemical Corporation

Daniel Klett, Principal and Consultant, Capital Trade, Incorporated

**In Support of the Imposition
of Antidumping Duties (continued):**

Valerie A. Slater)
Karen Bland Toliver) – OF COUNSEL
Thomas J. McCarthy)

Joel R. Junker, P.C.
Seattle, WA
on behalf of

Agrium US Incorporated

Joel R. Junker) – OF COUNSEL

**In Opposition to the Imposition
of Antidumping Duties:**

Embassy of Ukraine
Washington, D.C.
on behalf of

The Ministry of Economy of Ukraine

Yaroslav V. Voitko, Chief of the Trade and Economic Mission of Ukraine

JSC “Concern Stirol” (“Stirol”)

Mykola Spatar, Director of the Trade House “Stirol,”
JSC “Concern Stirol”

Roman Kuksenko, Interpreter, JSC “Concern Stirol”

REBUTTAL/CLOSING REMARKS:

Petitioners (**Valerie Slater**, Akin, Gump, Strauss, Hauer & Feld, L.L.P.)
Respondents (**Roman Kuksenko**, Interpreter, on behalf of **Mykola Spatar**,
JSC “Concern Stirol”)

APPENDIX C
SUMMARY DATA

Table C-1

HDAN: Summary data concerning the U.S. market, 1998-2000, January-March 2000, and January-March 2001

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	1998	1999	2000	January-March		1998-2000	1998-1999	1999-2000	Jan.-Mar. 2000-2001
				2000	2001				
U.S. consumption quantity:									
Amount	2,381,218	2,555,054	2,305,727	715,614	708,661	-3.2	7.3	-9.8	-1.0
Producers' share (1)	82.3	78.9	78.4	70.4	55.4	-3.9	-3.4	-0.5	-15.0
Importers' share (1):									
Ukraine	***	***	***	***	***	***	***	***	***
Russia	***	***	***	***	13.6	***	***	***	***
Canada	***	***	***	***	***	***	***	***	***
All other sources	7.5	8.6	4.6	7.4	27.8	-2.8	1.1	-3.9	20.4
Subtotal (nonsubject)	***	***	***	***	***	***	***	***	***
Total imports	17.7	21.1	21.6	29.6	44.6	3.9	3.4	0.5	15.0
U.S. consumption value:									
Amount	278,332	253,871	261,796	76,300	105,042	-5.9	-8.8	3.1	37.7
Producers' share (1)	85.6	81.7	83.6	78.3	61.1	-2.0	-3.9	1.9	-17.2
Importers' share (1):									
Ukraine	***	***	***	***	***	***	***	***	***
Russia	***	***	***	***	11.3	***	***	***	***
Canada	***	***	***	***	***	***	***	***	***
All other sources	5.9	8.0	3.9	6.1	24.3	-1.9	2.1	-4.0	18.2
Subtotal (nonsubject)	***	***	***	***	***	***	***	***	***
Total imports	14.4	18.3	16.4	21.7	38.9	2.0	3.9	-1.9	17.2
U.S. shipments of imports from:									
Ukraine:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Russia:									
Quantity	***	***	***	***	96,171	***	***	***	***
Value	***	***	***	***	11,859	***	***	***	***
Unit value	***	***	***	***	\$123.31	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Canada:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources (3):									
Quantity	177,472	219,360	106,924	52,688	197,000	-39.8	23.6	-51.3	273.9
Value	16,416	20,189	10,338	4,626	25,480	-37.0	23.0	-48.8	450.8
Unit value	\$92.50	\$92.03	\$96.69	\$87.81	\$129.34	4.5	-0.5	5.1	47.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (nonsubject sources):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	421,429	540,200	498,582	211,964	316,172	18.3	28.2	-7.7	49.2
Value	40,011	46,363	42,918	16,555	40,864	7.3	15.9	-7.4	146.8
Unit value	\$94.94	\$85.83	\$86.08	\$78.10	\$129.25	-9.3	-9.6	0.3	65.5
Ending inventory quantity	23,404	56,138	17,242	27,779	46,753	-26.3	139.9	-69.3	68.3

Table continued on next page.

Table C-1--Continued

HDAN: Summary data concerning the U.S. market, 1998-2000, January-March 2000, and January-March 2001

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	1998	1999	2000	January-March		1998-2000	1998-1999	1999-2000	Jan.-Mar. 2000-2001
				2000	2001				
U.S. producers':									
Average capacity quantity	2,585,210	2,673,064	2,666,251	679,569	685,619	3.1	3.4	-0.3	0.9
Production quantity	2,126,197	1,970,942	1,679,379	590,093	535,448	-21.0	-7.3	-14.8	-9.3
Capacity utilization (1)	82.2	73.7	63.0	86.8	78.1	-19.3	-8.5	-10.7	-8.7
U.S. shipments:									
Quantity	1,959,789	2,014,854	1,807,145	503,650	392,489	-7.8	2.8	-10.3	-22.1
Value	238,321	207,508	218,878	59,745	64,178	-8.2	-12.9	5.5	7.4
Unit value	\$121.61	\$102.99	\$121.12	\$118.62	\$163.52	-0.4	-15.3	17.6	37.8
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	352,614	247,435	97,376	322,720	238,766	-72.4	-29.8	-60.6	-26.0
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	426	422	389	387	362	-8.8	-0.9	-7.9	-6.6
Hours worked (1,000s)	942	927	852	216	207	-9.6	-1.6	-8.1	-4.0
Wages paid (\$1,000s)	18,833	18,841	17,442	4,477	4,274	-7.4	0.0	-7.4	-4.5
Hourly wages	\$19.99	\$20.33	\$20.48	\$20.75	\$20.64	2.4	1.7	0.7	-0.6
Productivity (tons/1,000 hours)	2,257.1	2,126.4	1,873.6	2,533.5	2,484.4	-17.0	-5.8	-11.9	-1.9
Unit labor costs	\$8.86	\$9.56	\$10.93	\$8.19	\$8.31	23.4	7.9	14.3	1.4
Net sales:									
Quantity	1,996,912	2,039,952	1,821,094	474,906	382,354	-8.8	2.2	-10.7	-19.5
Value	240,189	208,916	219,625	55,563	62,154	-8.6	-13.0	5.1	11.9
Unit value	\$120.28	\$102.41	\$120.60	\$117.00	\$162.56	0.3	-14.9	17.8	38.9
Cost of goods sold (COGS)	203,688	201,592	209,720	46,736	63,869	3.0	-1.0	4.0	36.7
Gross profit or (loss)	36,501	7,324	9,905	8,827	(1,715)	-72.9	-79.9	35.2	(4)
SG&A expenses	19,675	15,582	15,415	3,090	4,227	-21.7	-20.8	-1.1	36.8
Operating income or (loss)	16,826	(8,258)	(5,510)	5,737	(5,942)	(4)	(4)	33.3	(4)
Capital expenditures	34,770	19,338	10,381	2,417	392	-70.1	-44.4	-46.3	-83.8
Unit COGS	\$102.00	\$98.82	\$115.16	\$98.41	\$167.04	12.9	-3.1	16.5	69.7
Unit SG&A expenses	\$9.85	\$7.64	\$8.46	\$6.51	\$11.06	-14.1	-22.5	10.8	69.9
Unit operating income or (loss)	\$8.43	(\$4.05)	(\$3.03)	\$12.08	(\$15.54)	(4)	(4)	25.3	(4)
COGS/sales (1)	84.8	96.5	95.5	84.1	102.8	10.7	11.7	-1.0	18.6
Operating income or (loss)/ sales (1)	7.0	(4.0)	(2.5)	10.3	(9.6)	-9.5	-11.0	1.4	-19.9

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

(3) Data for all other sources reflect imports.

(4) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission (including imports from Ukraine, Russia, and Canada) and from official Commerce statistics (imports from nonsubject countries, except as noted).

APPENDIX D

U.S. IMPORTS OF HDAN FROM ALL SOURCES

Table D-1
HDAN: U.S. imports, by source, 1998-2000, January-March 2000, and
January-March 2001

Source	1998	1999	2000	January-March	
				2000	2001
Quantity (short tons)					
Ukraine	***	***	***	***	***
Russia	***	***	***	***	***
Canada	***	***	***	***	***
Austria	3	0	0	0	0
Bahrain	0	0	0	0	45
Belgium	12,137	0	11,489	11,489	0
Bulgaria	0	0	0	0	19,854
China	26	0	0	0	0
Costa Rica	489	2,007	1,418	230	392
Denmark	31	0	0	0	0
Egypt	0	17,196	0	0	0
France	421	615	20	0	267
Germany	121	634	1	0	93
Greece	0	0	56	56	0
Japan	3	0	147	1	2
Lithuania	0	27,142	22,491	0	19,937
Netherlands	153,739	151,438	53,945	42,109	44,914
Norway	0	6,058	0	0	0
Pakistan	0	2	0	0	0
Poland	0	0	0	0	0
Qatar	414	477	0	0	22
Romania	0	0	0	0	28,482
Solomon Is	14	0	0	0	0
South Africa	10,994	0	11	0	0
Spain	0	13,395	17,220	0	34,447
Turkey	0	0	0	0	48,501
United Kingdom	53	0	0	0	32
Total	437,102	564,775	495,950	207,903	307,168

Table continued on next page.

Table D-1--Continued

HDAN: U.S. imports, by source, 1998-2000, January-March 2000, and January-March 2001

Source	1998	1999	2000	January-March	
				2000	2001
	Share of quantity (percent)				
Ukraine	***	***	***	***	***
Russia	***	***	***	***	***
Canada	***	***	***	***	***
Austria	0.0	0.0	0.0	0.0	0.0
Bahrain	0.0	0.0	0.0	0.0	0.0
Belgium	2.8	0.0	2.3	5.5	0.0
Bulgaria	0.0	0.0	0.0	0.0	8.5
China	0.0	0.0	0.0	0.0	0.0
Costa Rica	0.1	0.4	0.3	0.1	0.2
Denmark	0.0	0.0	0.0	0.0	0.0
Egypt	0.0	3.0	0.0	0.0	0.0
France	0.1	0.1	0.0	0.0	0.1
Germany	0.0	0.1	0.0	0.0	0.0
Greece	0.0	0.0	0.0	0.0	0.0
Japan	0.0	0.0	0.0	0.0	0.0
Lithuania	0.0	4.8	4.5	0.0	8.6
Netherlands	35.2	26.8	10.9	20.3	19.3
Norway	0.0	1.1	0.0	0.0	0.0
Pakistan	0.0	0.0	0.0	0.0	0.0
Poland	0.0	0.0	0.0	0.0	0.0
Qatar	0.1	0.1	0.0	0.0	0.0
Romania	0.0	0.0	0.0	0.0	12.2
Solomon Is	0.0	0.0	0.0	0.0	0.0
South Africa	2.5	0.0	0.0	0.0	0.0
Spain	0.0	2.4	3.5	0.0	14.8
Turkey	0.0	0.0	0.0	0.0	20.8
United Kingdom	0.0	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table D-1--Continued
HDAN: U.S. imports, by source, 1998-2000, January-March 2000, and
January-March 2001

Source	1998	1999	2000	January-March	
				2000	2001
Value (1,000 dollars)					
Ukraine	***	***	***	***	***
Russia	***	***	***	***	***
Canada	***	***	***	***	***
Austria	10	0	0	0	0
Bahrain	0	0	0	0	9
Belgium	553	0	941	941	0
Bulgaria	0	0	0	0	2,215
China	15	0	0	0	0
Costa Rica	150	609	396	50	45
Denmark	5	0	0	0	0
Egypt	0	1,392	0	0	0
France	81	113	4	0	61
Germany	19	147	3	0	14
Greece	0	0	14	14	0
Japan	15	0	38	6	9
Lithuania	0	2,105	2,343	0	3,338
Netherlands	13,694	14,256	4,842	3,615	6,015
Norway	0	415	0	0	0
Pakistan	0	2	0	0	0
Poland	0	0	0	0	0
Qatar	79	69	0	0	5
Romania	0	0	0	0	2,868
Solomon Is	3	0	0	0	0
South Africa	1,766	0	9	0	0
Spain	0	1,081	1,748	0	4,021
Turkey	0	0	0	0	6,875
United Kingdom	25	0	0	0	4
Total	39,271	43,864	39,355	15,205	39,305

Table continued on next page.

Table D-1--Continued
HDAN: U.S. imports, by source, 1998-2000, January-March 2000, and
January-March 2001

Source	1998	1999	2000	January-March	
				2000	2001
	Share of value (percent)				
Ukraine	***	***	***	***	***
Russia	***	***	***	***	***
Canada	***	***	***	***	***
Austria	0.0	0.0	0.0	0.0	0.0
Bahrain	0.0	0.0	0.0	0.0	0.0
Belgium	1.4	0.0	2.4	6.2	0.0
Bulgaria	0.0	0.0	0.0	0.0	7.6
China	0.0	0.0	0.0	0.0	0.0
Costa Rica	0.4	1.4	1.0	0.3	0.2
Denmark	0.0	0.0	0.0	0.0	0.0
Egypt	0.0	3.2	0.0	0.0	0.0
France	0.2	0.3	0.0	0.0	0.2
Germany	0.0	0.3	0.0	0.0	0.0
Greece	0.0	0.0	0.0	0.1	0.0
Japan	0.0	0.0	0.1	0.0	0.0
Lithuania	0.0	4.8	6.0	0.0	11.5
Netherlands	34.9	32.5	12.3	23.8	20.6
Norway	0.0	0.9	0.0	0.0	0.0
Pakistan	0.0	0.0	0.0	0.0	0.0
Poland	0.0	0.0	0.0	0.0	0.0
Qatar	0.2	0.2	0.0	0.0	0.0
Romania	0.0	0.0	0.0	0.0	9.8
Solomon Is	0.0	0.0	0.0	0.0	0.0
South Africa	4.5	0.0	0.0	0.0	0.0
Spain	0.0	2.5	4.4	0.0	13.8
Turkey	0.0	0.0	0.0	0.0	23.6
United Kingdom	0.1	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission (imports from Ukraine, Russia, and Canada) and from official Commerce statistics (imports from nonsubject countries, except as noted.)

APPENDIX E
LOST REVENUES AND LOST SALES

DETAILS AND COMMENTS

Commission staff attempted to solicit comments from all of the purchasers involved in the lost revenue and lost sales allegations.¹ Some could not be contacted; others did not respond to staff's request(s). Purchasers may have only partly agreed with the allegations for a number of reasons, such as an inability to confirm quantities or rejected or competing price quotes, among others. (Firms that reported different quantities or prices than alleged were counted as agreeing with the allegation but the quantities or prices reported by the purchaser were used in place of those given in the allegation.) Purchasers were also counted as agreeing with an allegation when they were not sure of the source of the competing imports, but suspected that it was likely Ukraine. Firms that considered the allegations, but felt that not enough information was provided to make an informed judgment, classified their responses as unknown. Lost sales allegations for which purchaser comments were obtained are shown in a similar format.

The following are the comments made by purchasers in connection with the allegations (table E-1). Direct quotes are denoted by quotation marks. Comments from other firms are summarized. Many purchasers simply agreed or disagreed with the allegation(s) involving their firms and did not provide additional comments.

Table E-1
Purchaser comments on lost sale and lost revenue allegations

* * * * *

¹ The petition included 237 allegations. Another 37 allegations were received more than two weeks later in an amended petition. From the original 237 allegations, a group of nearly 30 purchasing firms were identified as accounting for over 90 percent of the quantity at issue in the allegations. Staff contacted all of these by phone or fax, following up by phone if the purchasing firm did not respond to a fax request. Upon receipt of the second set of allegations, staff requested fax contact information from the petitioner for those purchasers that had yet to be contacted and those purchasers that appeared for the first time in the second set of allegations. Based on the information provided, an attempt was made to contact another 63 purchasers by fax (up to about a third of these attempted contacts were apparently unsuccessful) along with 6 purchasers from the group originally contacted that appeared in both sets of allegations. No second attempt was made to contact these purchasers when no response was provided. Of this final group of 69 firms, 20 provided comments. The questionnaires sent out in the final phase of the investigation yielded another 146 allegations. Faxes were sent to all companies that had a fax number provided, and telephone calls were made to the remainder. Six more purchasers made comments.

APPENDIX F

**EFFECTS OF IMPORTS ON PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION
EFFORTS, GROWTH, INVESTMENT, AND
ABILITY TO RAISE CAPITAL**

The Commission requested comments from domestic producers regarding the significance of imports of HDAN from Ukraine in terms of their actual or potential negative effects on return on investment or on their growth, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or scale of capital investments. The responses are as follows:

Actual Negative Effects

Agrium

Air Products:

El Dorado

Mississippi Chemical

PCS Nitrogen

Prodicta

Anticipated Negative Effects

Agrium

Air Products

El Dorado

Mississippi Chemical

Nitram

PCS Nitrogen

Prodica
