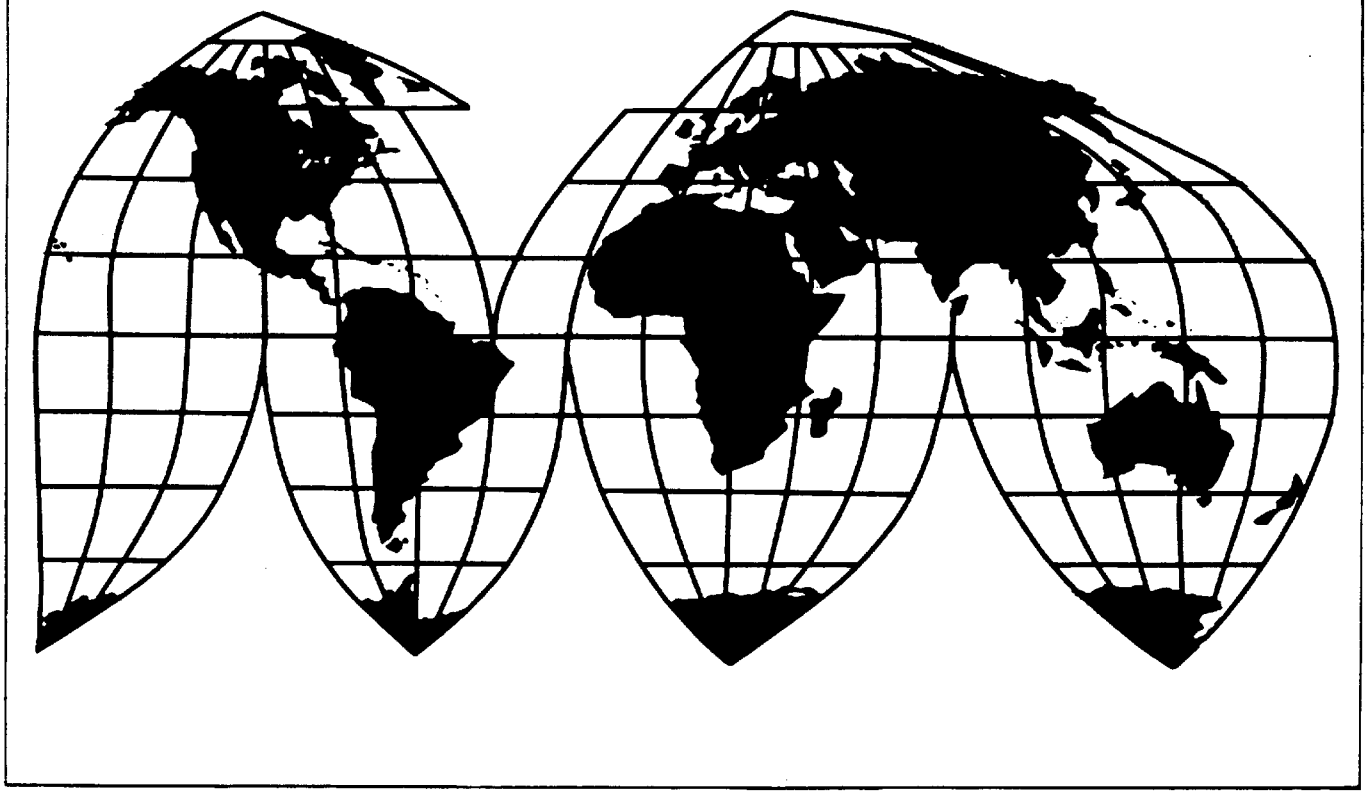
Ammonium Nitrate From Russia

Investigation No. 731-TA-856 (Review)

Publication 3844 **March 2006**

U.S. International Trade Commission



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Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-856 (Review)

AMMONIUM NITRATE FROM RUSSIA

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on March 31, 2005 (70 F.R.16517) and determined on July 5, 2005 that it would conduct a full review (70 F.R. 41426, July 19, 2005). Notice of the scheduling of the Commission's review 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* on September 9, 2005 (70 F.R. 53687). The hearing was held in Washington, DC, on January 19, 2006, 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 this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that termination of the suspended investigation on certain ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In August 2000, the Commission determined that an industry in the United States was being materially injured by reason of imports of ammonium nitrate from Russia that were being sold at less than fair value (LTFV).[1] Commerce had also made a final affirmative dumping finding[2] but did not proceed to issue an antidumping duty order following the Commission's final affirmative determination because Commerce had entered into a suspension agreement with the Ministry of Trade of the Russian Federation. That agreement, which was a condition of the suspension of the investigation, restricts exports of ammonium nitrate to the United States from all Russian producers or exporters and requires that such exports are sold at or above the agreed reference price.[3]

In March 2005, the Commission instituted the present review, pursuant to section 751(c) of the Act, to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[4] [5]

The Commission received three substantive responses to the notice of institution. The Committee for Fair Ammonium Nitrate Trade (COFANT) filed a response on behalf of three domestic producers, Air Products and Chemicals, Inc. (Air Products); El Dorado Chemical Co. (El Dorado); and Terra Industries, Inc. (Terra).[6] A fourth domestic producer, Agrium US, Inc. (Agrium), also filed a response to the notice

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[1] Certain Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 (Aug. 2000) (the original investigation). The cites below to the views in the original investigation are to the confidential version (Views). Ammonium nitrate was also the subject of a section 332 investigation, Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade, Inv. No. 332-393, USITC Pub. 3135 (Oct. 1998). The Commission also investigated ammonium nitrate in Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894 (Final), USITC Pub. 3448 (Aug. 2001) (affirmative determination).

[2] 65 Fed. Reg. 42669 (July 11, 2000).

[3] The agreement is set forth in Appendix 1 to Commerce's original notice of suspension of the investigation. 65 Fed. Reg. 37759 (June 16, 2000) (suspension agreement); see Confidential Staff Report, INV-DD-025 (Feb. 16, 2006) (CR) at I-8-I-10, Public Staff Report (PR) at I-7-I-8 (describing terms).

[4] 70 Fed. Reg. 16517 (Mar. 31, 2005).

[5] In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review. See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

[6] In the original investigation, COFANT's membership consisted of six members: Air Products; El Dorado; Mississippi Chemical Corp. (MCC); LaRoche Industries, Inc. (LaRoche); Nitram, Inc. (Nitram); and Wil-Gro Fertilizer, Inc. (Wil-Gro). Nitram and Wil-Gro have since ceased ammonium nitrate operations; Air Products

(continued...)

of institution but subsequently reported that it did not intend to participate in the review because it had ceased ammonium nitrate production. Six Russian producers and exporters of the subject merchandise (collectively, Russian Respondents) jointly filed the third response received by the Commission.[7]

The Commission found that the domestic interested party group response and the respondent interested party group response were adequate. The Commission therefore determined to conduct a full review.[8]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[9] The Act defines the "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 under this subtitle."[10]

Commerce has defined the scope of the review as

> solid, fertilizer grade 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.[11]

Industrial or explosive grade ammonium nitrate (low-density ammonium nitrate or LDAN) and liquid ammonium nitrate are excluded from the scope. Subject ammonium nitrate is a dry, solid agricultural fertilizer that contains approximately 34 percent plant-available nitrogen by weight. It is used to fertilize certain row crops (corn and tobacco) and for "no-till" farming (that is, on acreage that is not plowed, such as hay, pasture, turf grasses and orchards). Ammonium nitrate is manufactured as a solution that is then used in the production of urea ammonium nitrate (UAN) or concentrated to produce the solid product.[12]

In the original investigation, the Commission found a single domestic like product co-extensive with the subject merchandise: fertilizer grade ammonium nitrate products with a bulk density equal to or

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[6] (...continued)
announced in December 2005 its intention to close fertilizer operations; LaRoche's ammonium nitrate facilities were acquired by El Dorado; and MCC was acquired by Terra. CR at I-2, PR at I-1; CR, PR at Table I-5.

[7] Russian Respondents are JSC Azot Nevinnomyssk Azot, JSC Novomoskovsk, JSC Minudobreniya, JSC Acron, JSC Dorogobuzh, and MCC EuroChem.

[8] 70 Fed. Reg. 41426 (Jul. 19, 2005).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[11] 71 Fed. Reg. 11177 (Mar. 6, 2006). Commerce's scope remains unchanged from the original investigation, with one clarification. On March 11, 2004, Commerce ruled that a particular type of treated ammonium nitrate, NP 33-3-0 (also referred to as "stabilized ammonium nitrate" or "nitric phosphate"), is within the scope because the primary component is ammonium nitrate and the product is purchased and used for the same applications as ammonium nitrate. See 70 Fed. Reg. 41376 (July 19, 2005) (March 2004 ruling inadvertently omitted from prior published lists); CR at I-12 n.17, PR at I-10 n.18. NP 33-3-0 is reportedly not domestically produced. CR at I-11-I-12, PR at I-10.

[12] CR at I-10-I-11, PR at I-9-I-10.

greater than 53 pounds per cubic foot. No party in this review takes issue with the Commission's domestic like product definition from the original investigation, and the record does not contain information warranting a change in that definition. Accordingly, we continue to define a single domestic like product consisting of all ammonium nitrate corresponding to the scope.[13]

B. Domestic Industry and Related Parties

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole 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 the original investigation, the Commission defined the domestic industry as all domestic producers of AN.[15] No party in this review objects to that definition. Consistent with the original determination and our definition of the domestic like product in this review, we continue to define the domestic industry as all producers of AN.[16]

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE SUSPENDED INVESTIGATION IS TERMINATED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[17] The Statement of Administrative Action states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[18] Thus, the likelihood standard is prospective in nature.[19] The U.S.

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[13] Ammonium nitrate within the scope is hereafter referred to as "AN," while ammonium nitrate products that are not included within the scope are referred to by the specific type of product.

[14] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[15] Views at 6.

[16] We find no basis to exclude any producer from the domestic industry pursuant to section 771(4)(B) of the Act. That provision allows the Commission to exclude from the domestic industry, if appropriate circumstances exist, any producers that are related to an exporter or importer of subject merchandise or that are themselves importers. 19 U.S.C. § 1677(4)(B).

[17] 19 U.S.C. § 1675a(a).

[18] Statement of Administrative Action, H.R. Rep. No. 103-316, vol. I (SAA), at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

[19] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed

(continued...)

Court of International Trade has found that "likely," as used in the sunset review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[20] [21] [22]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[23] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis [in antidumping investigations]."[24] [25]

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that

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[19] (...continued)
shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[20] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, 05-1019 (Fed. Cir. Aug. 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[21] Vice Chairman Okun notes that, consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely" to mean "probable." See Usinor Industeel, S.A. et. al. v. United States, No. 01-00006, Slip Op. 02-39 at 13 (Ct. Int'l Trade April 29, 2002). However, she will apply the Court's standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See also Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

[22] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade's interpretation of "likely," but she will apply the Court's standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

[23] 19 U.S.C. § 1675a(a)(5).

[24] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

[25] In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process, including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[26] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the suspended investigation is terminated or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[27]

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[28]

Original Investigation. In the original investigation, the Commission found that demand for fertilizer was mature, and that U.S. producers and importers characterized the demand for AN as "steady to falling," while purchasers characterized it as stable. From 1997 to 1999, apparent U.S. consumption rose from 2.4 million to 2.6 million short tons.[29]

The Commission found that subject import volume declined appreciably after the filing of the petition in July 1999, and subject imports essentially disappeared from the market after November 1999. Prior to the petition's filing, the subject import share of apparent U.S. consumption reached *** percent in the first half of 1999, as compared to *** percent in the first half of 1998. The share of non-subject imports increased from 8.0 percent in 1997 to 10.3 percent in 1998, before declining to *** percent in 1999. The bulk of non-subject imports originated from Canada and the Netherlands.[30]

The Commission found that domestically produced AN and subject imports were relatively substitutable, with U.S. producers, purchasers, and importers indicating that the two, as well as domestically produced AN and non-subject imports, were interchangeable. The Commission also found that price played an important role in purchasing decisions, with more purchasers listing it as the number one factor than any other factor, and over half of responding purchasers listing it as their first or second most important factor.[31]

In addition to the conditions noted in the original investigation, the following conditions of competition during the period of review are relevant to our determination in this five-year review.

Demand. Between 2000 and 2003, apparent U.S. consumption increased from *** million short tons to *** million short tons. In 2004, however, apparent U.S. consumption declined *** percent to *** million short tons. Apparent U.S. consumption is *** percent lower in interim 2005 (*** million short tons) than in interim 2004 (*** million short tons).[32] This trend in apparent U.S. consumption since 2003 contrasts with the 9.9 percent increase in the original investigation between 1997 and 1999. This trend is consistent with reports by market participants of declining demand in the AN market. Three of four responding producers, all five responding importers, and five of 14 purchasers indicated that demand for

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[26] 19 U.S.C. § 1675a(a)(1).

[27] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[28] 19 U.S.C. § 1675a(a)(4).

[29] Views at 9-10.

[30] Views at 11-12 & n.49.

[31] Views at 11-12.

[32] CR, PR at Table C-1.

AN decreased during the period of review. Generally, they cited increased costs associated with the growing security requirements for AN, which we discuss further below, as resulting in the substitution of other fertilizer products for AN.[33]

The reports of declining demand for AN are also consistent with data regarding AN's share of the broader nitrogen fertilizer market. U.S. consumption of nitrogen fertilizers by weight of nitrogen has increased overall by 6.0 percent from 1997 (12.4 million short tons) to 2004 (13.1 million short tons). AN consumption by weight of nitrogen, however, has decreased by 21.3 percent in this same period (from 659,000 short tons in 1997 to 518,000 short tons in 2004).[34]

The data on AN compiled by ***, show ***.[35] Based on all of the available evidence, AN demand appears to have declined since 2003 and will likely experience further declines in the reasonably foreseeable future.[36]

Supply. The U.S. market continues to be supplied by domestic production as well as by subject and non-subject imports. The domestic industry remains the largest supplier of AN to the U.S. market; its share of apparent U.S. consumption was *** percent in 2004.[37]

The domestic industry has consolidated and restructured since the original investigation, when there were ten U.S. producers and a total capacity of 2.7 million short tons.[38] During the period of review, two firms (Wil-Gro in 2000 and Nitram in 2003) went out of business and their capacity was mothballed or eliminated. LaRoche declared bankruptcy in 2000 and was acquired by El Dorado; ***. Coastal Chem was acquired by Dyno Nobel in 2003, and its production shifted to LDAN. PCS ceased AN production in 2004 in favor of LDAN ***. Air Products *** and permanently closed at the end of 2005. Agrium acquired Prodica in 2000 and, in 2005, discontinued all AN production. In 2004, Terra, the newest entrant into the market, acquired MCC, *** during the original investigation.[39]

At present, there are two remaining U.S. producers of AN, Terra and El Dorado. Terra has reported capacity of *** short tons, and El Dorado has reported capacity of *** short tons at two facilities, El Dorado, AR and Cherokee, AL, for a combined reported domestic capacity of *** short

[33] CR at II-7, PR at II-4. Russian respondents' own witness agreed that security issues have created a decline in AN demand. Revised and Corrected Transcript of Hearing (Tr.) at 225-27 (Mr. Adamchak). U.S. producers, importers, foreign producers, and purchasers have indicated that there are substitutes for AN, including anhydrous ammonia, urea, and UAN, although AN's properties make it particularly competitive in the U.S. in warm climate zones and for no-till fertilizer applications. CR at II-10-II-11, PR at II-5-II-6; see Tr. at 22 (Mr. Green).

[34] CR, PR at Table II-1. The trend of AN having a declining share of the overall nitrogen fertilizer market thus appears to have started before the period of review. Solid urea and UAN solutions are the two major nitrogen fertilizers displaying growth patterns in the United States. CR, PR at Table II-1.

[35] Memorandum INV-DD-032 (Mar. 13, 2006) (INV-DD-032) (revisions to staff report) at Table IV-10.

[36] We note that there will always be regions of the country and certain crops for which AN will be the preferred source of nitrogen. CR at II-7, PR at II-4.

[37] CR, PR at Table C-1 (its share was *** percent in interim 2005 as compared to *** percent in interim 2004). The domestic industry's share in 1997 was 84.1 percent, which declined to 80.8 percent in 1999. CR, PR at Table I-1.

[38] CR, PR at Tables I-1 & I-4.

[39] CR at III-1-III-2, PR at III-1; CR, PR at Table I-5.

tons.[40] El Dorado's reported capacity at its El Dorado facility, at which it is currently producing AN, is *** short tons ***.[41] The reported capacity at El Dorado's Cherokee facility is *** short tons.[42]

El Dorado produced AN at Cherokee during most of the period of review, but stated that it suspended AN production in March 2004 based on "***."[43] El Dorado presently produces other products at Cherokee, including ammonia for commercial sale, ammonium nitrate solutions, and UAN – all lower-priced products than AN.[44] El Dorado's president has testified that the company "can and will and [is] anxious to produce AN at Cherokee if and when market conditions permit us to do so."[45] He further represented that "it would take only approximately two weeks for the Cherokee plant to produce solid fertilizer grade ammonium nitrate to capacity. The two-week period would be necessary due to requirements related to worker safety training."[46] With or without the inclusion of the Cherokee facility in domestic industry capacity calculations, it is apparent that U.S. capacity has declined since the original investigation.[47]

Subject imports from Russia, as noted above, have been regulated by the terms of the suspension agreement. The agreement sets export limits and establishes weekly reference prices. The Russian government is responsible for allocating among Russian producers the amounts to be exported within the limits set by the agreement. In order for any Russian producer to export AN to the United States, it must obtain an export license issued by the Russian government. The export limit for 2004 and any subsequent period is 165,345 short tons (150,000 metric tons).[48] There are also provisions in the agreement for carrying over to the next year and carrying back to the previous year 15 percent of each annual export limit.[49]

The reference price in the agreement is intended to reflect an f.o.b. Russian port-of-export price. It is calculated by averaging the four most recent weekly f.o.b. price ranges set by two sources (that may be changed by agreement) – Fertilizer Markets (Midwest) and Green Markets (Mid Cornbelt), converting the average to a per-metric-ton basis, and deducting an amount reflecting freight costs from the Russian port of export to the United States of $55 per metric ton. The agreement sets a floor of $85.00 per metric ton f.o.b. Russian port of export.[50] Russian respondents indicated that they are in negotiations with Commerce to adjust the freight component of the reference price.[51]

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[40] El Dorado has also reported AN capacity of *** short tons for the former Wil-Gro facility that was closed in 2000 and that El Dorado's parent company acquired in 2001, because the facility is ***. CR, PR at Table III-2. ***, and no party claims the Commission's inclusion of it as domestic industry capacity is warranted. COFANT also indicated that ***. CR, PR at Table III-2. Again, no party claims that these facilities should be included in the domestic industry's production capacity.

[41] CR, PR at Table III-2. El Dorado "***." CR at III-4, PR at III-2.

[42] CR, PR at Table III-2.

[43] El Dorado's Producers' Questionnaire Response at Question II-2; COFANT's Posthearing Brief at 2.

[44] COFANT's Posthearing Brief Exh. 2 at 2; CR, PR at Figure II-1.

[45] Tr. at 38 (Mr. Rydlund).

[46] COFANT's Posthearing Brief Exh. 2 at 2.

[47] COFANT and Russian respondents dispute the propriety of counting Cherokee in domestic industry production capacity. For the reasons discussed below, we would reach an affirmative determination under either scenario.

[48] Suspension Agreement at II(A)(2).

[49] CR at I-8-I-9, PR at I-7-I-8; CR, PR at Table I-2. Adjustments to AN limits are also being made during 2004-06 for imports of NP 33-3-0 that Commerce determined were subject to the agreement because they fell within the scope of investigation. See notes to Table I-2.

[50] Suspension Agreement III(C)(3).

[51] CR at I-10, PR at I-8.

Russian AN exports, as well as non-subject AN exports, to the United States during the period of review were usually if not predominantly arranged and transported by global trading companies.[52] A trading company's decision to bring Russian AN into the U.S. market flows from the company's ability to find a U.S. purchaser willing to buy Russian AN at the price established under the suspension agreement.[53] Consequently, the restrictions on Russian AN exports under the suspension agreement affect the ability of trading companies to substitute non-subject AN imports for Russian AN imports in the U.S. market. Additionally, because the trading companies ship Russian and non-subject AN worldwide in accordance with their own best economic interests,[54] the trading companies have an incentive to ship large volumes of AN as possible at any price that would cover the Russian purchase price and their transportation costs.[55]

Based on available data, AN exports to the United States licensed by the Russian government under the suspension agreement have ranged from 82,673 short tons (for 2002, when the actual agreement limit was 121,253 short tons) to 161,487 short tons (for 2003, when the actual limit was this same amount).[56] Imports of subject merchandise generally tracked the license amounts, with Russian AN maintaining a steady presence in the United States throughout the period of review under the suspension agreement.[57] There are also three antidumping duty orders in effect on imports on AN from Russia, imposed by Australia, Brazil, and the European Union.[58]

Non-subject imports have also supplied the U.S. market. Since the imposition of the suspension agreement, the volume of non-subject imports has increased. During the period of the original investigation, non-subject imports' share of apparent U.S. consumption was between 8.0 percent and 10.3 percent.[59] During the period of review, the share of non-subject imports ranged from *** percent (2001) to *** percent (2003).[60]

Security Regulations. Ammonium nitrate transported by truck or rail has long been regulated by Department of Transportation regulations governing the transport of hazardous materials, which include such requirements as affixing hazard warning labels, properly packaging materials, and identifying the class of material being transported.[61] Additional concerns about secure handling and storage of ammonium nitrate began to be raised after the Oklahoma City bombing in April 1995, in which ammonium nitrate was used as an explosive ingredient. Studies were undertaken but did not recommend additional controls on AN. Producers and distributors nonetheless began to adopt security measures voluntarily, sparked in part by joint public awareness campaigns initiated by The Fertilizer Institute, an industry association, and the Bureau of Alcohol, Tobacco and Firearms (ATF), to raise awareness of safety issues among distributors and dealers of ammonium nitrate and in the farming community.[62]

Following the terrorist attacks of September 11, 2001, the federal government and some state governments began to evaluate whether to impose additional controls on ammonium nitrate shipments. In

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[52] Tr. at 27-28 (Mr. Elliott), 127 (Ms. Slater), 250 (Mr. Adamchak).

[53] Tr. at 127-128 (Ms. Slater).

[54] Tr. at 250 (Mr. Adamchak).

[55] Tr. at 27-28 (Mr. Elliott).

[56] CR, PR at Table I-2. We note that, although exports were also licensed during partial-year 2000, data were unavailable. However, the export limit that year was 55,073 short tons, even less than that licensed in 2002.

[57] CR, PR at Tables I-2 & IV-1 (subject imports' share of U.S. consumption has increased from less than *** percent in 2000 to *** percent in 2004, and was *** percent in interim 2005 as compared to *** percent in interim 2004).

[58] INV-DD-032 at Table IV-6. ***.

[59] CR, PR at Table I-1.

[60] CR, PR at Table I-1.

[61] See 49 C.F.R. §§ 171-180.

[62] See COFANT's Posthearing Brief Exh. 1 at 29-30 & Exh. 27.

April 2002, South Carolina promulgated regulations requiring a permit and record keeping for all distributors selling ammonium nitrate. Nevada, Oklahoma, New York, Michigan, and California subsequently followed suit.[63]

In November 2002, Congress enacted the *Maritime Transportation Security Act of 2002* that mandated various security measures for certain facilities in U.S. ports. The Coast Guard promulgated regulations under this act in October 2003 that required owners and operators of these facilities to implement Coast Guard-approved security plans with provisions such as security training for personnel, record keeping related to security issues, controlled access to facilities, and security measures for the handling of cargo.[64]

Although regulations were published in October 2003, they did not apply to ammonium nitrate until August 2004, when the Coast Guard added AN to its "certain dangerous cargo" (CDC) list.[65] The Fertilizer Institute and other groups raised concerns with the Coast Guard that the new regulations created uncertainty as to their scope and burdens. A Coast Guard advisory in March 2005 clarified that a vessel security plan is not required when barges are not carrying AN.[66] Further, in December 2005, the Coast Guard agreed that barge companies are not considered to be carrying CDCs when they carry only AN residue.[67]

These new federal security regulations in effect apply to AN transported on the water, not AN transported by rail or truck. The measures apply primarily to barge companies and distributors of AN with river terminals, including Terra's port facility in Yazoo City, MS. There appear to be fewer barge lines currently carrying AN than prior to AN's designation as a CDC. However, the carriers that handle AN operate over 3,000 covered dry cargo barges, compared to only 600 or fewer movements of AN by barge each year.[68] In addition, relatively few river terminals have ceased handling AN and it appears that some additional terminals began handling AN after the Coast Guard regulations came into effect.[69]

Substitutability. Domestically produced AN and AN imported from Russian and other import sources are at least moderately substitutable.[70] AN is a commodity product, without readily identifiable variations or grades. Responding domestic producers indicated that U.S.-produced AN and imports of AN from Russia are "always" interchangeable. Five of eight responding importers, and seven of nine responding purchasers indicated that the two are "always" or "frequently" interchangeable.[71] Most responding purchasers reported that U.S. product and subject imports were comparable in terms of

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[63] See COFANT's Posthearing Brief Exh. 1 at 29-30 & Exh. 28.

[64] See 33 C.F.R. § 105 (applies to barge fleeting facilities that receive bulk cargoes designated as solid hazardous materials or "certain dangerous cargoes"); 33 C.F.R. § 104 (requiring similar security measures for owners and operators of vessels, including barges carrying designated hazardous or dangerous cargoes and towing vessels engaged in towing barges or other vessels carrying these cargoes).

[65] See 69 Fed. Reg. 51176 (Aug. 18, 2004).

[66] See COFANT's Posthearing Brief Exh. 1 at 30-31 & Exh. 29.

[67] See 70 Fed. Reg. 74663, 74665 (Dec. 16, 2005) (a copy of which appears at Exh. 5 to Russian Respondents' Prehearing Brief). The Coast Guard continues to address issues raised by AN barge companies, suggesting that additional concerns will also be resolved.

We note also that there is a bill pending in Congress (H.R. 3197 and S. 1141), the "Secure Handling of Ammonium Nitrate Act of 2005," that would require a uniform national regulatory system for the handling of AN. See COFANT's Posthearing Brief Exh. 1 at 31.

[68] See COFANT's Feb. 7, 2006 Submission at 5 & Exh. 4.

[69] See COFANT's Posthearing Brief Exh. 1 at 31 & Exhs. 7; see also COFANT's Feb. 7, 2006 Submission at 3-4 & Exh. 3 (noting that there are at least *** river terminals currently handling ammonium nitrate).

[70] CR at II-11-II-17, PR at II-7-II-11.

[71] CR, PR at Table II-4.

quality.[72] Subject and nonsubject imports are also interchangeable, with responding domestic producers indicating that the two are "always" interchangeable, while most responding importers reported that the two are at least "sometimes" interchangeable, and most purchasers reported that the two are "always" or "frequently" interchangeable.[73] The quality of nonsubject imports is generally comparable to the quality of AN available from Russia.[74]

Price remains an important factor in purchasing decisions for this commodity product. Price was ranked as the first or second most important factor by 13 of 14 purchasers, with quality identified as the next most important purchasing factor (listed by 8 of 10 purchasers).[75] All but one of the responding purchasers indicated that price is "very important" in making AN purchase decisions.[76]

We find that these conditions in the AN market provide us with a reasonable basis on which to assess the likely effects of termination of the suspended investigation.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[77] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) 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.[78]

In the original investigation, the Commission found the volume of subject imports to be significant. The quantity of subject imports increased from 198,701 short tons in 1997 to 261,545 short tons in 1998, and then to *** short tons in 1999, an overall increase of *** percent. Subject import market penetration also increased from 1997 to 1999, from 7.9 percent in 1997 to *** percent in 1999. Subject imports increased at a faster rate than did domestic shipments, taking market share from the domestic industry. Thus, while market penetration of subject imports was rising, the domestic producers' share of apparent U.S. consumption declined from 84.1 percent in 1997 to 80.8 percent in 1999.[79]

Under the discipline of the suspension agreement, subject import volume declined significantly. The Russian government, as noted above, is responsible for allocating the yearly quota among Russian exporting firms. The allocations received by the reporting firms were ***.[80] However, the Russian producers responding to the Commission questionnaire collectively and consistently ***. For 2003 and

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[72] CR, PR at Table II-6.

[73] CR, PR at Table II-4.

[74] See, e.g., COFANT's Feb. 14, 2006 Submission at Exhs. 1-6; Tr. at 254 (Mr. Adamchak) (noting comparability of Bulgarian product). Cf. Tr. at 194 (Mr. Adamchak) (noting that the importer Ameropa no longer handles AN from Georgia due to quality issues).

[75] CR, PR at Table II-2.

[76] CR, PR at Table II-3.

[77] 19 U.S.C. § 1675a(a)(2).

[78] 19 U.S.C. § 1675a(a)(2)(A-D).

[79] Views at 12-13.

[80] CR at IV-9, PR at IV-5.

2004, the ***.[81] Given the demonstrated ability of the Russian industry to increase imports in the U.S. market rapidly, the ongoing presence of subject imports in the U.S. market, and the experience demonstrated with the suspension agreement in place, it is apparent that Russian producers are willing and able to supply the U.S. market with volumes in excess of existing quota volumes and, if the suspended investigation were terminated, would likely supply the U.S. market at levels equal to or exceeding those found significant by the Commission in the original investigation.

Russia is the largest producer and exporter of AN in the world. In 2004, Russia accounted for *** percent of world production and *** percent of world exports of AN.[82] The questionnaire data collected by the Commission, which came from six producers accounting for *** percent of total AN capacity in Russia, shows that capacity overall has remained fairly constant between 2000 and 2004 at 6 million short tons, and that production at the beginning and end of the period was 4.2 million short tons, with a high of 4.5 million short tons in 2001 and 2002.[83] The Russian industry's capacity utilization during the period of review has ranged from approximately two-thirds to three-quarters of reported capacity, leaving significant unused capacity that, in 2004, for example, was equivalent to *** percent of apparent U.S. consumption in that year.[84] Forecasts are for *** production in the Russian AN industry in 2006 and 2007.[85]

The Russian AN industry is also export oriented. As noted above, it leads the world in AN exports. As a share of total shipments, shipments for exportation during the period of review ranged from a low of *** percent (2004) to a high of *** percent (2002).[86] Russian respondents contend that there is an export bias in the reporting of foreign producer data that overstates the share of shipments for exportation, but the figure they would use, *** percent, still demonstrates the industry's significant export orientation.[87] While Russia's home market also appears to have grown during the period of review,[88] the Russian industry's considerable size and unused capacity indicates that export markets remain an important part of the industry's commercial future.

In addition, the U.S. market is an attractive market for foreign producers and exporters because of its size and the prices it commands. In fact, Russian respondents concede that Russian imports will increase due to the attractiveness of the U.S. market.[89] In 2004, the U.S. market was the third-largest import market in the world.[90] A comparison of average unit values (AUVs) for commercial shipments of the Russian product demonstrates that AN prices in the United States were much higher than prices in alternative Russian export markets on an f.o.b. Russia basis throughout the period of review. In 2004, for example, AUVs for Russian product shipped to the United States were $128.65 per short ton; the next

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[81] CR, PR at Table IV-5.

[82] INV-DD-032 at IV-11; INV-DD-032 at Tables IV-7 & IV-9.

[83] CR at IV-4, PR at IV-2; CR, PR at Table IV-4. Capacity was reportedly 4.7 million short tons in interim 2004 as compared to 4.6 million short tons in interim 2005; production was 3.1 million short tons in interim 2004 as compared to 3.3 million short tons in interim 2005. CR, PR at Table IV-4. End-of-period inventories for the Russian industry increased irregularly between 2000 (41,089 short tons) and 2004 (60,300 short tons), and were 43,487 short tons in interim 2005 as compared to 58,196 short tons in interim 2004. CR, PR at Table IV-4.

[84] CR, PR at Tables IV-4 & I-6. ***. See CR at IV-5, PR at IV-3 & INV-DD-032 at IV-11.

[85] INV-DD-32 at Table IV-7.

[86] CR, PR at Table IV-4 (the share of exports for interim 2005 was *** percent as compared to *** for interim 2004).

[87] Russian Respondents' Prehearing Brief at 26-27 & Exh. 20.

[88] E.g., CR, PR at Table IV-4; INV-DD-32 at Table IV-10.

[89] See, e.g., Tr. at 215 (Mr. Ward) ("I think there is a likelihood that we will see more Russian product . . ."), 222 (Mr. Adamchak) ("Of course we are not alleging that the Russian producers aren't going to export at significant levels.")

[90] INV-DD-32 at IV-19.

highest AUV was $100.90 per short ton for shipments to the EU; at other times, the U.S. premium reflected in the shipment AUVs was approximately *** that of other export markets for the Russian product.[91] Moreover, exports of subject merchandise from Russia are subject to antidumping duty orders in Australia, Brazil, and the EU, which further increases the attractiveness of the U.S. market as a target for increased imports from Russia.[92]

Russian Respondents, as noted, have conceded that subject import volumes will increase if the suspended investigation were terminated. In their view, however, the increases will not reach significant levels within the meaning of the Act because subject imports will simply displace non-subject imports as a source in the U.S. market and, further, because the infrastructure or "bandwidth" to import AN into the United States has become significantly reduced since the original investigation due to security-related restrictions.[93] Neither argument is persuasive.

The prediction that subject imports will only replace non-subject imports is not supported by the current record and is inconsistent with the experience of the original investigation, in which increases in volumes of dumped Russian imports came at the expense of the domestic industry's market share. As identified under conditions of competition, we reject the premise that most non-subject imports are inferior to the Russian AN. Subject imports and non-subject imports of this commodity product are sufficiently comparable such that competition between the two, as between the U.S. product and subject imports, will largely be price based.[94] Further, were the suspended investigation to be terminated and the trading companies that currently ship Russian AN to the U.S. market to be freed from the reference price and volume restrictions, we find that the trading companies would likely increase shipments of Russian AN to the U.S. market consistent with import patterns during the original investigation. We see no basis upon which to discount the significance of likely increased volumes of subject imports given the competitive conditions of the U.S. market.

The premise of Russian Respondents' alternative argument – the "bandwidth" argument – is that subject imports, in the event of termination of the suspended investigation, will be unable to reach significant levels due to infrastructure constraints created by new security regulations. They point to declines in non-subject imports in 2004 and interim 2005 as reflective of the impact of these constraints on the market. Non-subject imports declined from *** short tons in 2003 to *** short tons in 2004, and were *** short tons in interim 2005 as compared to *** in interim 2004.[95] However, the monthly data for 2004 and full year 2005 show that, as the uncertainties surrounding the new Coast Guard regulations were clarified, non-subject import volumes rebounded to historical levels.

The decline in non-subject import volumes started in the second half of 2004, when the Coast Guard regulations were applied to AN. In January to April 2005, non-subject import volume ebbed, and the total for the first half of 2005 was 93,541 short tons, as compared to 305,046 short tons for the same period in 2004. With the subsequent regulatory clarifications, however, non-subject imports rebounded. Non-subject import volume for the second half of 2005 was 211,960 short tons. In December 2005, there were over 99,000 short tons of non-subject AN imported into the United States, the highest monthly level of AN imports into the United States since January 2004.[96]

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[91] CR, PR at Table IV-4 (in 2001, for example, shipment AUVs for exports to the U.S. were $*** per short ton as compared to $43.81 per short ton for exports to the EU). Russian Respondents acknowledged at the hearing that they sell at higher prices in the United States than elsewhere. Tr. at 262 (Mr. Adamchak).

[92] INV-DD-032 at Table IV-6 (a safeguard measure imposed in Bulgaria on imports of Russian AN expired in July 2005; ***).

[93] See, e.g., Russian Respondents' Final Comments at 5-8.

[94] See, e.g., CR at II-11-II-17, PR at II-7-II-11; COFANT's Feb. 14, 2006 Submission at Exhs. 1-6.

[95] CR, PR at Table IV-1.

[96] Official Commerce Monthly Import Statistics, USITC (EDIS) doc. no. 248504. Imports from Canada are not included because they include LDAN as well as AN.

The level of imports in 2005 since the Coast Guard clarifications suggests that any constraints in the distribution system are not significantly impeding imports. In addition, as we noted in our discussion of conditions of competition, the record does not demonstrate a shortage of available barge supply or warehouse storage capacity. To the contrary, the record shows that imports in the distribution system have lately increased and barge supply and storage are sufficient. All of these factors lead us to conclude that subject producers from Russia have the ability and incentive to increase exports to the United States to significant levels if the suspended investigation were terminated.

Accordingly, based on the continued presence of Russian AN in the U.S. market during the period of review, the demonstrated ability of the Russian AN industry to increase imports into the U.S. market rapidly during the original investigation, the experience of Russian producers and exporters under the suspension agreement, the substantial production capability and unused capacity of the Russian industry as the world's largest producer and exporter of AN, the Russian industry's reliance on export markets (despite numerous barriers), and the incentives that exist to increase imports into the United States in the absence of the suspension agreement, we find that the likely volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would be significant.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[97]

In the original investigation, the Commission found that subject imports undersold the domestic like product in 33 out of 35 monthly pricing product comparisons, with substantial underselling margins that exceeded 15 percent in 29 months. Given the relative substitutability of domestically produced AN and subject imports and the importance of price in purchasing decisions, the Commission determined that the underselling by subject imports was significant. Numerous instances of confirmed lost sales and lost revenue allegations also supported this conclusion.[98]

The Commission further found that prices for both subject imports and the domestic like product declined sharply between 1997 and 1999. Prices for subject imports and domestically produced AN were lower in each year than in the previous year, although within each year prices generally rose in the spring, the period of peak demand for AN. During the last month for which data were collected, December 1999, prices for the domestic product were 32.4 percent lower and prices for the subject imports were *** percent lower than they were in January 1997, the first month for which data were collected.[99]

Based on the sharp declines in prices for both products, as well as witness testimony that the domestic industry was forced to cut prices to retain market share, the Commission concluded that the substantial volumes of subject imports that entered the U.S. market substantially depressed and suppressed prices for the domestic like product.[100]

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[97] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[98] Views at 14.

[99] Views at 13-14.

[100] Views at 14. The Commission also considered whether other factors – raw material costs, non-subject imports, and the price of other nitrogen-based fertilizers – explained the magnitude of the price declines. The Commission concluded that none of these exogenous factors provided a sufficient explanation for the sharp drop in

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The record continues to show that price for this commodity product is an important factor in purchasing decisions, and that domestically produced AN and subject imports from Russia remain substitutable products. Subject import prices throughout the period of review were regulated by the reference price in the suspension agreement discussed above. Russian Respondents complained that this reference price, which sets a floor beneath which prices may not fall, has artificially inflated subject import prices.[101] They also claim that the deduction for freight in the reference price calculation does not reflect the increase in transportation costs in the current market.[102]

Natural gas is the most important cost component in the production of AN.[103] Natural gas prices in the United States have increased during the period of review and exhibited considerable volatility.[104] Russian producers, on the other hand, have access to low-priced natural gas because Russian law requires Gazprom, the state-run natural gas monopoly, to supply gas to the domestic market at regulated prices that are below gas costs in the U.S. market.[105] Unit values for natural gas in the United States increased from $2.08 per MMBTU in 1998 to $8.84 per MMBTU in 2005, and were $10.92 per MMBTU as of January 2006.[106] Although, natural gas prices in Russia increased during the period of review, they remain very low relative to prices in the United States during the period of review. Natural gas prices in Russia ranged from $*** to $*** per MMBTU.[107] While Russia's natural gas sector might ultimately undergo liberalization, any such changes do not reflect current or reasonably foreseeable market conditions.[108]

For the period of review, the Commission collected price data for AN in the U.S. market on three bases – f.o.b. plant (or port for importers), f.o.b. other-than-plant (or f.o.b. other-than-port for importers), and on a delivered basis. AN imported from Russia was priced lower than domestic AN in 24 of 33 possible comparisons, with margins ranging from 0.5 percent to 21.1 percent. In the remaining 9 instances, AN imported from Russia was priced above domestic AN, with margins ranging from 0.4 to 9.0 percent.[109]

The prices for domestic AN and subject imports generally followed a similar trend, although data for subject imports were not reported in all periods. Prices increased irregularly to an interim peak in March 2001, before irregularly declining and then leveling off until February 2003, when they began

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[100] (...continued)
AN prices during the period examined. Views at 14-17.

[101] See, e.g., Tr. at 194 (Mr. Adamchak).

[102] CR at I-10, PR at I-8.

[103] E.g., CR, PR at V-1.

[104] CR at III-19-III-20, PR at III-8-III-9; CR, PR at Figure V-1.

[105] E.g., COFANT's Posthearing Brief Exh. 18 (U.S. Energy Information Administration's "Russia Country Analysis Brief") at 12.

[106] CR, PR at V-1.

[107] CR at V-1, PR at V-2. See also COFANT's Posthearing Brief Exh. 1 at 2 & Exh. 20 (noting that the average price in the United States for natural gas to industrial consumers for the period January to October 2005 was $282.76 per 1,000 cubic meters, whereas regional wholesale natural gas prices in the most recent period in Russia range in price from the equivalent of $23.57 to $45.08 per 1,000 cubic meters).

[108] Russian Respondents argue that Russia's future WTO accession and stipulations that would be agreed to as a condition of that accession would result in Russian AN producers incurring higher natural gas costs. E.g., Russian Respondents' Prehearing Brief at 21-22. COFANT counters that the fact and specific terms of Russia WTO accession are speculative on this record. See Tr. at 94-95 (Ms. Slater). We note that even under a recent bilateral agreement that Russia concluded with the EU to increase natural gas costs to Russian industrial users, increases were scheduled to be phased in over many years, and prices by 2010 would reportedly range from $49 to $57 per 1,000 cubic meters. See Russian Respondents' Prehearing Brief Exh. 18 at 2 (compare note 107 *supra* and accompanying text). See also Tr. at 95 (Mr. Szamosszegi) (describing Russia-EU pricing agreement as not promising a liberalization of Russia's natural gas prices).

[109] CR at V-6, PR at V-5; CR, PR at Table V-1.

gradually, irregularly increasing again. Prices reached their highest level in the last reported period of September 2005.[110]

The price trends during the period of review reflect the discipline of the suspension agreement and its reference price. Subject import prices moved with the established reference price, which is based on U.S. prices. For a significant portion of the period of review, the reference price was at or about the floor price.[111] The discipline of the reference price notwithstanding, subject imports continued to undersell U.S. product. The record demonstrates that, absent this discipline, subject import prices would repeat the trends of the original investigation, and would continue to undersell U.S. product and depress or suppress U.S. prices. For the global trading companies that drive the flow of imports, profit is a function of total margin and total volume, so they have a strong incentive to move as much volume as feasible so long as their margins that cover their purchase price and transportation costs are maintained.[112] Russian prices for natural gas, which are lower than global market levels and provide a raw material cost advantage to Russian AN producers, help maintain these margins and may allow for profitable trading operations at prices that undersell U.S. product.

Given the likely significant volume of imports, the importance of price in the AN market, artificially low Russian natural gas costs, the substitutability of subject imports and the domestic like product, the price effects of low-priced imports in the original investigations, the underselling by subject imports during the period of review, and the incentive that exists for subject imports to enter the U.S. market, we find a likelihood of significant negative price effects from the subject imports.[113] We conclude that, if the suspended investigation were terminated, significant volumes of subject imports from Russia likely would enter the United States and significantly undersell the domestic like product. Since AN is a bulk commodity product, those volumes would likely have a depressing or suppressing effect on domestic prices.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[114] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[115] As instructed by the statute, we

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[110] CR, PR at Table V-1.

[111] CR, PR at App. A (Reference Prices Pertaining to Suspension Agreement).

[112] Tr. At 28 (Mr. Elliott).

[113] Commissioner Pearson does not join in the remainder of this paragraph. He concludes that if the suspended investigation were terminated, significant volumes of subject imports from Russia likely would enter the United States. Since AN is a bulk commodity product, those volumes would likely have a depressing or suppressing effect on domestic prices regardless of the degree of underselling. Any underselling would tend to magnify the negative effects related to subject imports.

[114] 19 U.S.C. § 1675a(a)(4).

[115] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title."
(continued...)

have considered the extent to which any improvement in the state of the domestic industry is related to the suspension agreement and whether the industry is vulnerable to material injury if the suspended investigation is terminated.[116]

In the original investigation, the Commission found that the industry's revenue and financial performance deteriorated significantly during the period examined. Although domestic producers' U.S. shipments increased between 1997 and 1999, the industry's sales revenues declined from $*** million in 1997 to $*** million in 1999. The Commission attributed this decline to the sharp drop in domestic prices, which outpaced any declines in costs during this period: the cost of goods sold (COGS) declined from $*** per short ton in 1997 to $*** in 1999 (a decline of $***), and sales, general, and administrative expenses declined from $*** per short ton in 1997 to $*** in 1999 (a decline of $***). Net sales values, on the other hand, declined from $*** per short ton in 1997 to $*** in 1999 (a decline of $***). [117]

As a consequence, notwithstanding increasing shipments and increasing apparent U.S. consumption, the domestic industry's operating income declined from $*** million in 1997 to $*** million in 1998, and then to an operating loss of $*** million in 1999, a year in which six *** producers reported operating losses. One producer also ceased production in this period; another filed for bankruptcy. Employment declined industry-wide, and capital expenditures also declined.[118]

The Commission found that these performance declines were attributable to lower U.S. prices, which in turn were driven by the price depressing and suppressing effects of LTFV imports from Russia. The Commission concluded that subject imports had a significant adverse impact on the domestic industry.[119]

During the period of review, the structure of the U.S. AN industry changed significantly. Five firms discontinued production completely and either shut down or sold their AN production assets. Several continue to produce other types of nitrogen fertilizers but have ceased producing AN, and a new firm entered the market, purchasing an existing producer that had gone into bankruptcy.[120] Production and shipments declined irregularly between 2000 and 2004, while capacity utilization increased irregularly in the same period.[121] Capacity declined with the consolidation, and employment declined steadily between 2000 and 2004.[122]

Total net sales quantities declined irregularly between 2000 and 2004, but total net sales values increased irregularly in this same period, attributable to increases in average unit sales values.[123] Average unit net sales values increased *** percent, from $*** per short ton in 2000 to $*** per short ton in

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[115] (...continued)
19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its investigation, Commerce found that termination of the suspended antidumping duty investigation on AN from Russia would likely lead to continuation or recurrence of dumping at the following percentage weight-average margins: JSC Azot Nevinnomyssky, 253.98 percent; Russia-wide, 253.98 percent. 71 Fed. Reg. at 11178.

[116] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, 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 may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[117] Views at 17-18.

[118] Views at 18-19.

[119] Views at 19.

[120] CR at III-11, PR at III-6.

[121] CR, PR at Table III-1 & Table III-3.

[122] CR, PR Tables III-1 & III-5.

[123] CR, PR at Table III-6.

2004.[124] Increasing raw material costs during this same period led to an overall increase in COGS, which increased roughly in tandem with sales values.[125] The industry reported ***.[126]

Between interim 2004 and interim 2005, sales quantity and value rose. Although COGS increased as well, due to rising raw material costs, AUVs of net sales increased more, resulting in the industry reporting ***.[127]

The suspension agreement has benefitted the consolidating domestic industry during the period of review by limiting the volume of unfairly traded imports from Russia and inhibiting the price depressing effects of Russian AN exported to the United States, as took place during the investigation period. Increased prices have allowed the domestic industry's financial condition to improve in the most recent period despite challenges from falling demand, rising gas prices, and rising third-country imports. However, the industry, which at present consists of El Dorado and Terra, remains vulnerable to material injury from subject imports, particularly given the high price of open-market natural gas evidenced in this investigation, and current declining demand trends.[128]

Russian Respondents have argued that the consolidated domestic industry would be insulated from adverse effects of increased subject imports because of increased market power as a "duopoly." However, the two domestic producers – one of which ***[129] in the most recent period – compete for business with each other and with the large importers that source from a number of countries producing AN. Although domestic prices have risen faster than COGS toward the end of the period of review, we do not find evidence of market coordination by domestic producers or enhanced market power.

Russian Respondents have also argued that a significant shortfall of U.S. supply compared to demand will render increased Russian imports non-injurious. We note that there is no "short supply provision" in the statute; the fact that the domestic industry may not be able to supply all of the demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports.[130] Given the demand declines since 2003 and current demand trends, the reported capacity of Terra and El Dorado, with or without the inclusion of the Cherokee plant, and the availability of other sources of AN to the U.S. market, we do not find any gap in supply in the U.S. market that would necessitate additional imports from Russia, nor that would insulate the domestic industry from the likely adverse effects of terminating the suspended investigation.

Based on the record in this review, we conclude that termination of the suspended investigation would likely lead to a significant increase in the volume of subject imports that would undersell the domestic like product and would significantly suppress or depress U.S. prices. We find that these volume and price effects of the subject imports have an adverse impact on the production, shipments, sales values, employment, and market share of the domestic industry, and would necessarily have a significant adverse impact on the likely revenues of the domestic industry. These reductions, in turn, would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the suspended investigation were terminated, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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[124] CR, PR at Table C-1.

[125] CR, PR at Table III-6.

[126] CR, PR at Table III-6.

[127] CR, PR at Table III-6.

[128] We note that the two remaining producers experienced *** from 2000 through 2003. CR, PR at Table C-2.

[129] CR, PR at Table III-7.

[130] See, e.g., Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 (Final), USITC Pub. 3838 (Mar. 2006) at 20 n.143.

CONCLUSION

For the above-stated reasons, we determine that termination of the suspended investigation on AN from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On March 31, 2005, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted a review to determine whether termination of the suspended investigation on ammonium nitrate ("AN")[1] from Russia would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective July 5, 2005, the Commission determined that it would conduct a full review pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the review is provided in the following tabulation.[2]

Effective date	Action
May 19, 2000	Commerce suspends its antidumping investigation (65 FR 37759, June 16, 2000)
August 14, 2000	Commission's affirmative final determination (65 FR 50719, August 21, 2000)
March 31, 2005	Commission's institution of review (70 FR 16517)
July 5, 2005	Commission's decision to conduct a full review (70 FR 41426, July 19, 2005)
September 2, 2005	Commission's scheduling of the review (70 FR 53687, September 9, 2005)
January 19, 2006	Commission's hearing[1]
March 6, 2006	Commerce's final results of full review (71 FR 11177)
March 14, 2006	Commission's vote
March 27, 2006	Commission's determination sent to Commerce
[1] A list of witnesses appearing at the hearing is included in app. B.	

The Original Investigation

On July 23, 1999, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of AN from Russia.[3] On May 19, 2000, before the Commission reached a final determination, Commerce entered into a suspension agreement with Russia and suspended the antidumping investigation. On June 29, 2000, the

[1] For purposes of this investigation, subject ammonium nitrate is solid, fertilizer-grade 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-grade or explosive-grade ammonium nitrate). 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 Russia.

[2] The Commission's notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission's web site (internet address *www.usitc.gov*). Commissioners' votes on whether to conduct an expedited or full review may also be found at the web site.

[3] The petition was filed by Air Products & Chemicals, Inc. ("Air Products"), Allentown, PA; Mississippi Chemical Corp. ("MCC"), Yazoo City, MS; El Dorado Chemical Co. ("El Dorado"), Oklahoma City, OK; Nitram, Inc., Tampa, FL; LaRoche Industries, Inc. ("LaRoche"), Atlanta, GA; and Wil-Gro Fertilizer, Inc., Celina, TX.

petitioners requested a continuation of the investigation and both Commerce and the Commission resumed their investigations. On July 11, 2000, Commerce made a final affirmative dumping determination, with margins as follows: 253.98 percent *ad valorem* for JSC Azot Nevinnomyssk ("Nevinka") and Russia-wide. Critical circumstances were found also with respect to Nevinka and Russia-wide. The Commission made its final affirmative injury determination on August 14, 2000, and also determined that critical circumstances did not exist with respect to the subject imports. Commerce did not issue an antidumping duty order because of the suspension agreement.

Previous Investigation

The subject product was included in an investigation of all ammonium nitrate that the Commission instituted on April 27, 1998. This 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 USITC Publication 3135 (October 1998): *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade.*

Table I-1 presents a summary of data from the original investigation and from this review; figure I-1 shows U.S. imports of AN from Russia since 1997.

Table I-1
AN: Summary data from the original investigation and the current review, 1997-2004

(Quantity=*1,000 short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit financial data are *per short ton*)

Item	1997	1998	1999	2000	2001	2002	2003	2004
U.S. consumption quantity: Amount	2,362	2,547	2,595	***	***	***	***	***
Producers' share[1]	84.1	80.7	80.8	***	***	***	***	***
Import share: Russia[1]	7.9	9.0	***	([2])	***	***	***	***
Other sources[1]	8.0	10.3	***	***	***	***	***	***
Total imports[1]	15.9	19.3	19.2	***	***	***	***	***
U.S. consumption value: Amount	327,485	298,997	258,670	***	***	***	***	***
Producers' share[1]	85.0	82.1	82.5	***	***	***	***	***
Import share: Russia[1]	7.1	8.9	***	([2])	***	***	***	***
Other sources[1]	7.9	9.0	***	***	***	***	***	***
Total imports	15.0	17.9	17.5	***	***	***	***	***
U.S. imports from–[3] Russia:								
Quantity	187	230	***	0.29	96	115	162	126[4]
Value	23,131	26,531	***	37	11,859	11,085	18,239	21,039
Unit value	$123.43	$115.17	$***	$128.80	$123.31	$96.68	$112.28	$166.37
Nonsubject countries:								
Quantity	189	262	***	***	***	***	***	***[4]
Value	25,968	26,932	***	***	***	***	***	***
Unit value	$137.19	$102.72	$***	$***	$***	$***	$***	$***
All countries:								
Quantity	377	493	499	***	***	***	***	***
Value	49,099	53,463	45,326	***	***	***	***	***
Unit value	$130.34	$108.54	$90.76	$***	$***	$***	$***	$***

Table continued on next page.

Table I-1--*Continued*
AN: Summary data from the original investigation and the current review, 1997-2004

(Quantity=*1,000 short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit financial data are *per short ton*)

Item	1997	1998	1999	2000	2001	2002	2003	2004
U.S. producers'--								
Capacity quantity	2,532	2,648	2,736	***	***	***	***	***
Production quantity	2,111	2,174	2,005	***	***	***	***	***
Capacity utilization[1]	83.4	82.1	73.3	***	***	***	***	***
U.S. shipments:								
Quantity	1,985	2,055	2,095	***	***	***	***	***
Value	278,386	245,534	213,344	***	***	***	***	***
Unit value	$140.24	$119.49	$101.82	$***	$***	$***	$***	$***
Ending inventory quantity	282	385	267	***	***	***	***	***
Inventories/total shipments[1]	14.2	18.7	12.7	***	***	***	***	***
Production workers	499	450	449	329	293	290	287	277
Hours worked (*1,000 hours*)	1,102	997	989	716	658	664	636	604
Wages paid (*1,000 dollars*)	22,241	20,872	21,047	15,651	13,898	14,505	13,914	13,870
Hourly wages	$20.18	$20.94	$21.28	$21.86	$21.12	$21.84	$21.88	$22.96
Productivity (*short tons per hour*)	1.9	2.2	2.0	1.7	1.7	2.0	1.8	1.7
Net sales:								
Quantity	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***
Cost of goods sold	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***
Unit cost of goods sold	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***
Cost of goods sold/sales[1]	78.5	85.5	98.6	***	***	***	***	***
Operating income or (loss)/sales[1]	13.7	5.9	(6.3)	***	***	***	***	***

[1] In *percent*.
[2] ***.
[3] During 1997-99, "imports" are shipments of imports; during 2000-04, "imports" are from official statistics.
[4] Domestic interested parties contend that in 2004 an additional 34,000 short tons reported in official Commerce statistics as imports from Ukraine were misclassified and are believed to consist of Russian product.

Note.–Because of rounding, figures may not add to the totals shown.
Note.–***.
Note.–Import data during 1997-99 are of U.S. shipments of imports. Data during 2000-04 are of imports.

Source: Compiled from *Staff Report on Investigation No. 731-TA-856 (Final)*, pp. C-3 and C-4 for 1997-99 (which were compiled from data submitted in response to Commission questionnaires and adjusted official Commerce import statistics for nonsubject imports). Data for 2000-05 were compiled from data submitted in response to Commission questionnaires, adjusted official Commerce import statistics for Canada and Russia, and official Commerce import statistics for all other countries. Official Commerce import statistics for Canada were adjusted by including only *** imports obtained from proprietary Customs data. Staff believes that ***'s imports constitute the majority of AN imports from Canada. Official Commerce import statistics for Russia were adjusted by deducting imports determined by staff to be misclassified (accounting for 23,998 short tons in quantity and $1,883,176 in value) in 2002 and adding imports of nitric phosphate ("NP 33-3-0") provided for under subheading 3105.51 (*see* discussion of NP 33-3-0 later in this chapter in "The Product" section). Staff determined that all imports from Russia under subheading 3105.51 during 2000-05 were of NP 33-3-0. There are small amounts of imports from other countries under the same subheading but it is unknown if these imports consist of NP 33-3-0. Therefore, only imports from Russia under subheading 3105.51 are included.

Figure I-1
AN: U.S. imports from Russia, 1997–2004

* * * * * * *

Summary Data

Information obtained during the course of the review is presented throughout this report. A summary of data collected in the review is presented in appendix C. U.S. industry data are based on questionnaire responses of five firms that accounted for virtually all U.S. production of AN during 2004.[4] U.S. imports from Russia and Canada are based on adjusted official Commerce import statistics[5] and imports from all other countries are based on official Commerce import statistics. Responses by U.S. producers, importers, and purchasers of AN and producers of AN in Russia to a series of questions concerning the significance of the existing suspension agreement and the likely effects of termination are presented in appendix D.

Statutory Criteria and Organization of the Report

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

> *(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*
>
> *(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*
>
> *(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*
>
> *(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*
>
> *(D) in an antidumping proceeding . . ., (Commerce's findings) regarding duty absorption . . ..*

---

[4] Agrium did not supply data for the partial year periods of January-September 2004 and January-September 2005.

[5] Official Commerce import statistics for Canada were adjusted by including only *** imports obtained from proprietary Customs data because staff believes that ***'s imports constitute the majority of AN imports from Canada. Official Commerce import statistics for Russia were adjusted by deducting imports determined by staff to be misclassified in 2002 and adding imports of nitric phosphate ("NP 33-3-0") provided for under subheading 3105.51 (*see* discussion of NP 33-3-0 later in this chapter in "The Product" section).

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) 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.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

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

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy."

COMMERCE'S FINAL RESULTS OF FULL REVIEW

On March 6, 2006, Commerce found that termination of the suspended antidumping duty investigation on AN from Russia would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margin:[6]

Exporter/manufacturer	Weighted-average margin *(percent)*
JSC Azot Nevinnomyssk	253.98
Russia-wide	253.98

COMMERCE'S ADMINISTRATIVE REVIEWS AND DUTY ABSORPTION RULINGS

Commerce has not conducted any administrative reviews or had any duty absorption rulings.

SUSPENSION AGREEMENT

The agreement suspending the antidumping investigation ("Agreement") was signed on May 19, 2000. In the Agreement, Commerce set limits on exports of AN from Russia to the United States and establishes weekly "reference prices."[7] The Russian government allocates the amount to be exported among the Russian producers. In order for a Russian producer to export AN to the United States, the producer must obtain permission from the Russian government and is issued an export license. The export limits set in the Agreement can be adjusted annually. Fifteen percent of each annual export limit can be carried over to the next year or carried back to the last 60 days of the previous export period. These carryovers and carrybacks must be requested by the Russian government in advance. No more than 60 percent of the annual export limit can be exported in the January-June and July-December periods. The export limits during 2000-06 are presented in table I-2.

[6] Commerce's notice is presented in app. A.

[7] The suspension agreement notice providing detailed information on the agreement and a list of the reference prices established during the agreement appear in app. A.

Table I-2
Suspension agreement export limits and licensed exports

Export limit period	Agreement export limit	Actual export limit	Exports licensed by Government of Russia
		(Short tons)	
May 19, 2000 to December 31, 2000	55,073	55,073	([1])
January 1, 2001 to December 31, 2001	110,230	110,230	101,412
January 1, 2002 to December 31, 2002	121,253	121,253	82,673
January 1, 2003 to December 31, 2003[2]	143,299	161,487	161,487
January 1, 2004 to December 31, 2004[3] and all subsequent periods	165,345	159,834	137,923
January 1, 2005 to December 31, 2005[4]	165,345	176,232	([1])
January 1, 2006 to December 31, 2006[5]	165,345	174,653	([6])

[1] Data are unavailable.
[2] Actual export limit adds 18,188 tons carried over from 2002.
[3] Actual export limit deducts a payback of 5,512 tons.
[4] Actual export limit deducts a payback of 11,023 tons and adds 21,910 tons carried over from 2004.
[5] Actual export limit deducts a payback of 13,841 tons and adds 23,148 tons carried over from 2005.
[6] Not applicable.

Note: NP 33-3-0 was shipped to the United States but was not originally included in the product scope of the Agreement. Commerce determined that NP 33-3-0 was within scope of the Agreement and will deduct ("payback") the amount of the NP 33-3-0 shipments. These paybacks will be made in three installments during 2004-06.

Source: Notification by Commerce of the suspension of the antidumping investigation on ammonium nitrate from Russia (65 FR 37759, June 16, 2000), fax from Commerce, January 30, 2006, and staff telephone interviews with Commerce official, January 30, 2006 and February 1, 2006.

The reference price is intended to reflect an f.o.b. Russian port-of-export price and is calculated by taking an average of the four most recent weekly Fertilizer Markets' Midwest f.o.b. price ranges and Green Markets' Mid-Cornbelt f.o.b. price range, converting the average to a per-metric-ton basis, and deducting an amount reflecting freight costs from the Russian port of export to the United States of $55 per metric ton. A price floor of $85 per metric ton f.o.b. Russian port of export was also established under this agreement. If the reference price calculations result in a price below $85.00 per metric ton f.o.b. Russian port of export, the floor price of $85.00 is used. The respondent interested parties stated that the freight costs have increased since 2000 and the freight component in the reference price no longer reflects conditions in the U.S. market. They also said that there are negotiations with Commerce on adjusting the freight component of the reference price.[8]

[8] Hearing transcript, p. 197 (Morgan) and p. 198 (Adamchak).

DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET ACT FUNDS TO AFFECTED DOMESTIC PRODUCERS

No antidumping duties were paid during 2000-05, so there were no distributions of Continued Dumping and Subsidy Offset Act (Byrd Amendment) funds.

THE PRODUCT

As defined in the scope of the suspended investigation, the subject product is solid high-density ammonium nitrate (AN) with a density of 53 pounds or more per cubic foot,[9] primarily used as a fertilizer. Forms of ammonium nitrate specifically excluded from the scope include solid low-density ammonium nitrate ("LDAN") with a bulk density less than 53 pounds per cubic foot, used primarily as an explosive,[10] and liquid ammonium nitrate, also known as ammonium nitrate liquor, used mainly as an intermediate in the production of solid AN and LDAN or, when added to urea, in the production of urea-ammonium nitrate ("UAN") solution fertilizers.[11] On March 11, 2004, the Department of Commerce ruled that an imported product–"NP 33-3-0" (or "stabilized ammonium nitrate" or "nitric phosphate")–is within the scope of the investigation. AN 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 Russia.

AN,[12] which assays at about 34.0 percent minimum plant-available nitrogen (N) by weight,[13] is typically produced either in prills (spherical shapes about 1.5 to 2.5 millimeters in diameter) or granules (slightly larger, more irregularly shaped particles). Although prills and granules are equally effective in use and roughly equivalent in price, manufacturers tend to produce one or the other because they require different processing equipment. As a bulk commodity product, AN produced worldwide generally[14] meets similar specifications and exhibits similar physical and chemical characteristics.[15]

AN prills and granules are either applied to crops directly or, after being mechanically blended with two other major fertilizer nutrients–phosphorus (P) and potassium (K), as bulk blends known as NPKs. Granular AN is usually used in the production of NPKs because its irregular surface and larger particle size minimize segregation of blends with other fertilizer nutrients.

Unlike most fertilizers, 50 percent of the nitrogen in AN is immediately available to plants as nitrate (NO_3) nitrogen.[16] The combination of this rapid availability with good solubility and low volatility

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[9] Most AN has a density of between 55 and 62 pounds per cubic foot.

[10] LDAN's higher porosity and its oil absorption properties increase its detonation sensitivity significantly, making it a highly effective explosive. LDAN's density generally ranges between 45 and 52 pounds per cubic foot.

[11] In this report, "AN" refers to the subject ammonium nitrate, as defined by the scope. The term "ammonium nitrate" refers to both AN and LDAN.

[12] AN's chemical structure is NH_4NO_3.

[13] Whereas pure ammonium nitrate is typically 35 percent nitrogen by weight, the amount of nitrogen declines to almost 34 percent when additives are used to prevent moisture absorption and expansion and contraction of the particles.

[14] Some exceptions were noted during the hearing. For example, imports from Georgia were characterized as being "marginal" (hearing transcript, pp. 250-251 (Ward), and pp. 253-255 (Adamchak).

[15] As noted in the hearing, Russian AN is considered a "perfect substitute for U.S. produced ammonium nitrate of quality and uses" (hearing transcript, p. 20 (Green). Available information from the questionnaires indicates that most imported AN sold in the United States is interchangeable with domestic product. AN imported from Russia is reportedly in prill form (staff telephone interview with ***).

[16] The remaining nitrogen in the product is converted more slowly to available nitrogen by soil microflora.

at ambient temperatures has enhanced AN's competitiveness as a direct application fertilizer in a specialty niche market, particularly in warm climate zones where early-fall and spring temperatures do not fall below 50°F for extended periods. Moreover, as a "no-till" fertilizer,[17] AN can be applied on hay, pasture, turf grasses, corn, tobacco, and citrus, all crops that use no-till fertilizer application. According to various sources, NP 33-3-0, which is reportedly not produced domestically, can be used for the same applications.[18]

Manufacturing Facilities, Production Process, and Production Employees

The AN manufacturing process is relatively standard. Ammonia (NH_3), either purchased or derived from natural gas and atmospheric nitrogen, is directly reacted with nitric acid (HNO_3) to form NH_4NO_3. A nitric acid solution, generally formed from combining a portion of the ammonia with oxygen,[19] is then, in turn, reacted with the remaining ammonia in a neutralization chamber to form an aqueous AN solution (otherwise known as liquid ammonium nitrate or ammonium nitrate liquor).[20] The AN solution is then heated and evaporated to a molten concentration, or melt, of 99 percent AN or greater.

Producers then either produce granules from the molten AN by layering the material onto seed particles in a rotary pan, or drum granulator, or prills by spraying molten AN droplets into specially designed towers in which the molten droplets free fall through an upward current of cool air, solidifying into small spheres as they fall. U.S. and Russian producers produce AN in prilled form; according to industry sources, there is currently no granular production in the United States or in Russia.[21] Stabilizers, typically clay for granules and magnesium oxide (MgO) for prills, are added to the AN 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 AN granules and prills may be coated with a liquid surface-active agent,[22] fine powders, or other anticaking agents.[23]

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[17] The product is not typically used on acreage that is plowed or tilled.

[18] AN is also known as "34-0-0," referring to the percent of the individual nutrients in the formulation (34 percent nitrogen by weight with no added phosphorus or potassium, respectively). In comparison, NP 33-3-0 has 33 percent nitrogen by weight and a phosphorus content of at least 3 percent. According to the ruling by the Department of Commerce, NP 33-3-0 is included in the scope of the investigation given that the product is primarily AN and is bought and used for the same applications as AN. Reportedly, the added phosphorus in NP 33-3-0 is generally considered to be insufficient as a nutrient when the product is applied directly to crops (hearing transcript, pp. 82-83 (Slater)).

[19] 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 (NO_2), which are then passed through a countercurrent absorption tower with water to form an aqueous solution of about 55 percent nitric acid.

[20] The aqueous AN solution can either be further processed into AN or mixed with urea to form UAN liquid fertilizers.

[21] E-mail from *** and staff telephone interview with ***.

[22] AN 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.

[23] LDAN is also prilled, but from an AN melt that has 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 AN prills. Their low density allows them to readily

According to questionnaire responses, the Russian production process for AN GOST 2-85, said to be ***, is *** to that in the United States. The questionnaires cite the following general production steps: ***.[24] In regard to other forms of AN produced in Russia, ***.

U.S. AN plants, 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 AN.

Domestic Like Product

In the original investigation, the Commission found a single domestic like product coextensive with the scope and consisting of solid, fertilizer grade AN products with a bulk density equal to or greater than 53 pounds per cubic foot.[25] The Commission also determined that neither LDAN nor any additional nitrogen fertilizer products were part of the domestic like product.

U.S. MARKET PARTICIPANTS

U.S. Producers

According to domestic interested parties,[26] there were five U.S. firms producing AN during 2000-04.[27] Relevant information on these firms is presented in table I-3. The industry has consolidated since the original investigation when ten firms reported AN production. Information on the producers during the original investigation is presented in table I-4.

absorb fuel oil, which is added (in a quantity equivalent to 6 percent by weight) to make them a more effective explosive. The difference in processing results in a product that is generally 10-20 percent more costly to produce than AN and is priced accordingly.

[24] ***, foreign producer/exporter questionnaire response, section II-5, and ***, foreign producer/exporter questionnaire response, section II-5.

[25] *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Publication 3338, August 2000, pp. 4-5.

[26] Domestic interested parties in this review are Air Products, El Dorado, and Terra, individual members of the Committee for Fair Ammonium Nitrate Trade ("COFANT"), represented by the law firm of Akin Gump Strauss Hauer and Feld LLP. U.S. producer Agrium U.S., Inc., ("Agrium") was represented by the law firm Joel R. Junker and Associates, but on November 14, 2005, withdrew as a domestic interested party.

[27] ***.

Table I-3
AN: U.S. producers, locations, positions on termination of the suspended investigation, shares of reported 2004 production, parent company and country, and production status in January 2006

Producer	Production location(s)	Position on termination of the investigation	Share of reported production *(percent)*	Parent company	Produced AN in January 2006
Agrium	Homestead, NE Kennewick, WA	Oppose[1]	***	Agrium (Canada)	No
Air Products	Pace, FL	Oppose	***	Air Products, Allentown, PA	No
El Dorado	Cherokee, AL El Dorado, AR	Oppose	***	LSB Industries, Oklahoma City, OK	Yes
PCS	Augusta, GA	***	***	Potash Corp. of Saskatchewan (Canada)	***
Terra	Yazoo City, MS	Oppose	***	Terra Industries, Inc., Sioux City, IA	Yes

[1] Agrium, in its Response to the Notice of Institution, stated "Agrium US, Inc. concurs in and adopts by reference in this regard the submission of {domestic interested parties}." In a submission dated November 15, 2005, Agrium states that it has "discontinued production and sales of fertilizer grade ammonium nitrate . . . consequently will no longer participate in this review." It is unclear if Agrium continues to have the same position on termination of the suspended investigation as it had in its Response to the Notice of Institution.

Note.–Agrium provided information on production, U.S. shipments, U.S. sales, capacity, and profit in submissions on January 4 and January 9, 2006.
Note.– ***.

Source: Domestic interested parties' Response to the Notice of Institution, data compiled in response to Commission questionnaires, Air Products, *Air Products Announces Planned Closure of Converted Products Fertilizer Manufacturing Operations at Pace, Florida*, news release dated December 22, 2005, found at http://www.airproducts.com/PressRoom/CompanyNews/Archived/2005/22Dec05.htm, retrieved January 24, 2006; Agrium, *Agrium to switch out of agricultural ammonium nitrate in favor of other nitrogen products,* news release dated June 27, 2005, found at http://www.agrium.com/investor_information/5784_6066.jsp, retrieved January 25, 2006, and hearing transcript p. 18 (Green), and p. 36 (Rydlund).

Table I-4
AN: U.S. producers in the original investigation, U.S. production locations, positions on the petition, shares of reported 1999 production, and parent company and country

Producer	Production location(s)	Position on petition	Share of production	Parent company
Agrium	Homestead, NE	***	***	Agrium (Canada)
Air Products	Pace, FL	Support	***	Air Products, Pace, FL
Coastal Chem, Inc.	Cheyenne, WY	***	***	Coastal Chem, Inc. Houston, TX
El Dorado	El Dorado, AR	Support	***	LSB Industries Oklahoma City, OK
LaRoche	Cherokee, AL Crystal City, MO	Support	***	LaRoche Industries, Atlanta, GA
Mississippi Chemical Corp. ("MCC")	Yazoo City, MS	Support	***	Mississippi Chemical Corp., Yazoo City, MS
Nitram	Tampa, FL	Support	***	Nitram was owned by a statewide cooperative of chemical fertilizer producers.
PCS	Augusta, GA	***	***	Potash Corp. of Saskatchewan (Canada)
Prodica LLC	Kennewick, WA	***	***	Union Oil of California El Segundo, CA
Wil-Gro	Pryor, OK	Support	***	Willard Grain and Feed Celina, TX

Source: *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Publication 3338, August 2000, p. III-1 and *Staff Report on Investigation No. 731-TA-856 (Final)*, July 25, 2000, p. III-2. Data from both reports were compiled from data submitted in response to Commission questionnaires.

Since the original investigation, the industry has contracted, with two producers closing and several acquisitions and capacity reductions. Significant industry events are noted in table I-5.

Table I-5
AN: Important industry events, 2000-05

Year	Company	Description of event (Merger, shutdown, bankruptcy, change in capacity)
2000	Wil-Gro	**Closure, Capacity Loss:** Closed in February after being idle since December 1999.
	Prodica LLC	**Bought Out:** Kennewick, WA facility was acquired by Agrium in October.
	LaRoche	**Bankruptcy, Divestiture, ***:** Filed for Chapter 11 bankruptcy protection in May and sold production facilities in Cherokee, AL and Crystal City, MO to Orica LLC in August. Subsequently, Orica LLC sold the facilities to LSB Industries (parent company of El Dorado). ***.
2001	Coastal Chem	**Bought Out**: Acquired by El Paso Energy Corp. in January.
	Wil-Gro	**Bought Out:** LSB Industries (parent company of El Dorado) acquired Wil-Gro's Pryor, OK facility but did not restart production.
2003	MCC	**Bankruptcy:** Filed for Chapter 11 bankruptcy protection in May.
	El Paso Energy Corp. (Coastal Chem)	**Bought Out, Capacity Loss:** Dyno Nobel ASA acquired the AN facilities of the former Coastal Chem. AN capacity was lost as these facilities now produce LDAN.
	Nitram	**Closure, Bankruptcy, Capacity Loss:** Closed Tampa, FL facility after filing for bankruptcy protection. Capacity permanently lost as facility was liquidated.
2004	MCC	**Bought Out:** Acquired by Terra in December.
	PCS	**Capacity Loss:** Ceased AN production in December and produces LDAN *** instead.
	El Dorado	**Capacity Loss:** Production at Cherokee, AL was shifted from AN to UAN.
2005	Agrium	**Capacity Loss:** Ceased AN production. The Homestead, NE facility will operate as a distribution terminal for ammonia and other nitrogen products and the Kennewick, WA facility will produce nitrogen solutions.
	Air Products	**Capacity Loss:** Air Products announced in December 2005 its intention of permanently closing its fertilizer operations.

Source: United States Geological Survey, *Minerals Yearbook,* 2000-04 annual issues, Nitrogen chapter, found at http://minerals.usgs.gov/minerals/pubs/commodity/nitrogen/, retrieved December 2, 2005; ***; El Dorado, *El Dorado Chemical Manufacturing Facilities*, found at http://www.eldoradochemical.com/acplant.html, retrieved November 30, 2005; Air Products, *Air Products Announces Planned Closure of Converted Products Fertilizer Manufacturing Operations at Pace, Florida*, news release dated December 22, 2005, found at http://www.airproducts.com/PressRoom/CompanyNews/Archived/2005/22Dec05.htm, retrieved January 24, 2006; Agrium, Agrium to switch out of agricultural ammonium nitrate in favor of other nitrogen products, news release dated June 27, 2005, found at http://www.agrium.com/investor_information/5784_6066.jsp, retrieved January 25, 2006; hearing transcript, p. 37 (Rydlund); domestic interested parties' prehearing brief, exh. 8; and domestic interested parties' posthearing brief, exh. 2, affidavit of Paul Rydlund.

Related Party Issues and Imports and Purchases of AN from Russia by U.S. Producers

***.[28] No U.S. producer's questionnaire response reported imports of AN from Russia.

U.S. Importers

Two importers accounted for *** imports from Russia during the original investigation and during 2000-04: ***. Two substantial importers during the original investigation, ***, did not import AN from Russia during 2000-04. However, imports fluctuated among the importers during 2000-04. *** imported in every year except in 2000, and *** only imported in 2003-04. There were two importers during 2000-04 that were not major importers during the entire period but had substantial imports in

[28] U.S. producer questionnaire response, sections II-10 and II-13.

certain years during this period. ***. *** was, ***, the largest importer during 2000-04. No importers reported any affiliations with U.S. or Russian producers.[29]

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-6 presents apparent U.S. consumption for the review period and table I-7 presents U.S. market shares for the same period.

Table I-6
AN: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
	Quantity *(short tons)*						
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from--							
Russia	288	96,171	114,666	162,449	126,464	52,382	72,293
Other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Apparent consumption	***	***	***	***	***	***	***
	Value (*$1,000*)						
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from[1]--							
Russia	37	11,859	11,085	18,239	21,039	8,511	14,147
Other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Apparent consumption	***	***	***	***	***	***	***

[1] Landed, duty-paid.

Source: Compiled from data submitted in response to Commission questionnaires for U.S. producers' shipments, adjusted official Commerce import statistics for imports from Canada and Russia, and official Commerce import statistics for imports from all other countries. Imports from Canada were adjusted by including only *** imports obtained from proprietary Customs data. Staff believes that ***'s imports constitute the majority of AN imports from Canada. Official Commerce import statistics for Russia were adjusted by deducting imports determined by staff to be misclassified (accounting for 23,998 short tons in quantity and $1,883,176 in value) in 2002 and adding imports of NP 33-3-0 provided for under subheading 3105.51. Staff determined that all imports from Russia under subheading 3105.51 during 2000-05 were of NP 33-3-0. There are small amounts of imports from other countries under the same subheading but it is unknown if these imports consist of NP 33-3-0. Therefore, only imports from Russia under subheading 3105.51 are included.

[29] All data in this section were obtained from U.S. importer questionnaire responses.

Table I-7
AN: U.S. market shares, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
Quantity *(short tons)*							
Apparent consumption	***	***	***	***	***	***	***
Value *(1,000 dollars)*							
Apparent consumption	***	***	***	***	***	***	***
Share of quantity *(percent)*							
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from-- Russia	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Share of value (*percent*)							
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from-- Russia	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires for U.S. producers' shipments, adjusted official Commerce import statistics for imports from Canada and Russia, and official Commerce import statistics for imports from all other countries. Imports from Canada were adjusted by including only *** imports obtained from proprietary Customs data. Staff believes that ***'s imports constitute the majority of AN imports from Canada. Official Commerce import statistics for Russia were adjusted by deducting imports determined by staff to be misclassified (accounting for 23,998 short tons in quantity and $1,883,176 in value) in 2002 and adding imports of NP 33-3-0 provided for under subheading 3105.51. Staff determined that all imports from Russia under subheading 3105.51 during 2000-05 were of NP 33-3-0. There are small amounts of imports from other countries under the same subheading but it is unknown if these imports consist of NP 33-3-0. Therefore, only imports from Russia under subheading 3105.51 are included.

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

MARKET SEGMENTS/MARKET STRUCTURE

Two U.S. producers, ***, reported commercial sales of AN throughout the United States. Two producers, ***, reported selling in the southeast region. U.S. producers' shipments accounted for *** percent of apparent U.S. consumption in 2004, U.S. shipments of imports from Russia accounted for *** percent, and shipments of imports from all other sources accounted for *** percent. Of the five reporting producers, ***[1] represented *** percent of total domestic production, *** *** percent, *** *** percent, *** *** percent, and *** *** percent.

Twelve of 14 responding purchasers indicated that there are price leaders in the U.S. market for AN. Seven of these reported that *** was the price leader. Terra was mentioned as a price leader by five purchasers. *** indicated that, as the largest supplier, Terra was dominant and sets pricing for the U.S market. *** reported that Terra, as one of the few remaining domestic producers, basically controls the market. Transammonia and El Dorado were mentioned by four purchasers, and two purchasers indicated that PCS is the price leader in their region.[2]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

U.S. Producers

Based on available information, U.S. producers of AN are likely to respond to changes in demand with moderate-to-large changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the existence of alternative markets, the availability of production alternatives, and the availability of unused capacity, but is somewhat limited by the low level of inventories.

In their questionnaire responses, three producers, ***, ***, and ***, indicated that they anticipate a decrease in the availability of U.S.-produced AN in the U.S. market in the future. *** indicated that low-priced imports and relatively high natural gas costs in the United States are likely to continue to pressure U.S. producers to decrease the production of AN. *** pointed to *** announcement not to produce agricultural grade AN in *** and ***, and that *** had discontinued production in ***. These reductions represent *** to *** short tons of AN production. *** anticipated ***.

Industry capacity

U.S. producers' capacity utilization rates fluctuated between 2000 and 2004, increasing from *** percent in 2000 to *** percent in 2002, before declining to *** percent in 2004. Interim data indicate that capacity utilization was slightly higher in 2005 (*** percent) compared to 2004 (*** percent). This level of capacity utilization indicates that U.S. producers have substantial unused capacity with which they could increase production of AN in the event of a price change. The reported level of domestic

[1] ***.

[2] Two producers remain in the U.S. market: El Dorado and Terra. Russian respondents discussed the anticompetitive aspects of this concentration in their posthearing brief, pp. 20-21, and app. 20.

capacity decreased by *** percent from *** million short tons in 2000 to *** million short tons in 2004, and is currently even lower.

Alternative markets

Exports of AN fluctuated between 2000 and 2004, increasing from *** short tons in 2000 to *** short tons in 2004, or *** percent of U.S. producers' total shipments. These data indicate that U.S. producers have limited ability to divert shipments to or from alternative markets in response to changes in the price of AN.

Inventory levels

U.S. producers' inventories, as a ratio of their total shipments, fluctuated between 2000 and 2004, increasing from *** percent of their shipments in 2000 to *** percent in 2001, and then falling to *** percent in 2004. These data indicate that U.S. producers have a limited ability to use inventories as a means of increasing shipments of AN to the U.S. market.

Production alternatives

Air Products is not producing as of 2005. ***. El Dorado's facility in Arkansas is dedicated to AN, and it is producing other products at its Cherokee, AL, facility. El Dorado is currently not producing AN at the Cherokee facility. Other producers, such as PCS and Agrium, are producing LDAN at their plants.

Subject Imports

Based on available information, subject imports of AN from Russia are likely to respond to changes in demand with moderate changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the availability of alternate markets and by unused capacity, but limited by relatively low levels of inventories. The current suspension agreement limits imports from Russia to 165,345 short tons.

*** responding foreign producers reported that they anticipated no change in the availability of Russian AN in the U.S. market in the future. *** further commented that they would consider the U.S. market as simply an alternative market and will make shipments to the U.S. market only if warranted by prevailing market conditions, i.e., profitability. *** also indicated that changes in future shipments to the U.S. market will depend on the U.S. market situation and its price appeal.

Three of five responding importers indicated that they anticipate no changes in terms of the availability of AN imported from subject countries in the U.S. market in the future. One importer indicated that it anticipated an increase in the availability of AN imported from Russia, while one importer, ***, indicated that it anticipated a decrease in the availability of AN because the suspension agreement formula inhibits Russian product with a significant price premium over all other imports.

The responding foreign producers indicated that the product range, product mix, or marketing in their home market did not differ significantly from that for export to the United States or to third-country markets. ***.

The responding foreign producers reported that their AN sold in their home market is interchangeable with what they sell in the United States and third-country markets. *** said that fertilizer is used in agriculture and that there are no differences. The other three foreign producers reported that ammonium nitrate was used as agricultural fertilizer or in the manufacture of explosives. *** reported that the principal end use was agricultural, and that *** percent is used in explosives.

Industry capacity

Russian producers' reported capacity utilization rates increased from 70.3 percent in 2000 to 75.6 percent in 2001, before decreasing to 69.7 percent in 2004. It would appear that at these levels of capacity utilization, producers in Russia have available unused capacity with which they could increase production of AN in the event of a price change. However, ***. ***.[3] ***.[4] ***.[5]

Alternative markets

Shipments of AN reported by Russian producers to markets other than the United States were substantial from 2000 to 2004. While exports to the United States were a small share of total shipments, between *** and *** percent of total shipments, total exports were a large share of total shipments, ranging between *** and *** percent of total shipments during 2000-04. ***.[6] Thus, these data indicate that producers in the subject countries can divert shipments to or from alternative markets in response to changes in the price of AN. Further details on alternative markets appear in Part IV.

Inventory levels

Russian producers' inventories, as a share of their total shipments of AN, increased slightly between 2000 and 2004 from *** percent of their shipments in 2000 to *** percent in 2004. These data indicate that Russian producers have a limited ability to use inventories as a means of increasing shipments of AN to the U.S. market.

Production alternatives

*** responding Russian producers indicated that other products cannot be produced using the same equipment and workers as AN. One foreign producer, ***, reported that it could also produce porous AN (LDAN) on the same equipment. This is industrial or explosive grade AN. The ***. The decision to switch is based on buyers' orders, not on the price of LDAN compared with the price of AN. LDAN is intrinsically more expensive, and its production depends on market demand.

Nonsubject Imports

Based on available information, nonsubject imports of AN are not likely to respond to changes in demand with large changes in the quantity shipped to the U.S. market. One of the four responding U.S. producers and three of five responding importers indicated that the availability of nonsubject imported AN has not changed since 2000. Two producers indicated that imports from Ukraine had flooded the U.S. market after the suspension agreement was implemented with Russia. Three producers reported that imports from Romania and Bulgaria have increased and one producer mentioned the Netherlands.[7] Two

[3] Russian respondents' posthearing brief, app. 11, p. 2.

[4] Russian respondents' posthearing brief, app. 10, pp. 2-3, and app. 11, p. 2.

[5] Ibid.

[6] Russian respondents' posthearing brief, app. 10, p. 6.

[7] See staff report, pp. IV-1-2, concerning a substantial decline in imports of nonsubject AN from the Netherlands in January-September 2005.

importers, ***, indicated that the availability of nonsubject imports from Romania and Bulgaria has increased.

Four responding purchasers reported no change in the pattern of purchases from nonsubject countries; three purchasers reported increases; two did not purchase from nonsubject sources; and two purchasers changed their patterns for reasons of demand and cost.

Seven of 14 responding purchasers indicated that new AN suppliers have entered the market in the last three years. Only two purchasers expect new AN suppliers in the future. *** and ***. ***[8] ***.

U.S. Demand

Based on the available information regarding substitute products and the percentage cost of AN in the products in which it is used, it is likely that changes in the price level of AN will result in a moderate change in the quantity of AN demanded. The main contributing factors to the moderate degree of responsiveness of demand is the substitutability of other products for AN and the high cost share of AN in fertilizer.

Demand Characteristics

Demand for AN depends on the level of demand for the intermediate products in which it is used and demand in the end-use industries, such as agriculture. Three of four responding producers, all five responding importers, and five of 14 purchasers indicated that demand for AN has decreased since 2000. This is attributed to the increased costs associated with increased regulation and handling, especially for security reasons. *** did not see reduced demand, but *** and may not have as much current experience with demand in that market. Also, as *** pointed out, there will always be regions of the country and certain crops where AN will be the preferred source of nitrogen. Four purchasers reported that demand fluctuates based on conditions of changing weather, cost, and demand. Five purchasers reported that demand was unchanged. In regions of the country where heat and humidity predominate and there is an emphasis on no-till farming methods, AN is the preferred method of getting nitrogen to the crop. Seven of 13 purchasers anticipated future reductions in demand for AN. Five of these purchasers blamed security problems; *** said there was less farming; and *** thought the price was too high to use AN.

Domestic interested parties and Russian respondents have addressed the issues of changes in security requirements and their costs on both domestic and imported product, the availability of transportation and storage for both domestic and imported product, and the tradeoffs between domestic, subject, and nonsubject imports of AN at length in pre- and posthearing briefs and at the hearing. Russian respondents maintain that limitations on U.S. infrastructure limit any increase in total AN imports, and that security regulations are responsible for the decrease in total AN imports.[9] Domestic interested parties argue that security and transportation restrictions will not prevent significant increases in Russian imports if the investigation is terminated.[10] They maintain that an ample supply of barges and warehouses are available. Russian respondents describe most nonsubject imports as inferior and that if Russian imports do increase, it would be at the expense of nonsubject imports for non-price reasons.[11] Domestic

[8] ***.

[9] Russian respondents' posthearing brief, pp. 7-8.

[10] Domestic interested parties' posthearing brief, pp. 8-11, and posthearing submissions.

[11] Russian respondents' posthearing brief, pp. 9-12.

interested parties argue that Russian imports will have adverse price effects,[12] and that nonsubject imports are acceptable substitutes for Russian imports of AN ***.[13]

U.S. consumption of nitrogenous fertilizers by weight of nitrogen is presented in table II-1. Total consumption increased by 6.0 percent from 12.4 million short tons in 1997 to 13.1 million short tons in 2004. Urea and nitrogen solutions were the nitrogen fertilizers with the highest growth rates. AN consumption decreased by 21.3 percent from 659,000 short tons in 1997 to 518,000 short tons in 2004.

Table II-1
U.S. nitrogenous fertilizer consumption, by product form, 1997-2004[1]

	1997	1998	1999	2000	2001	2002	2003	2004
	(*Short tons of nitrogen*)							
Single-nutrient:								
Anhydrous ammonia	3,977,936	3,638,259	3,828,171	3,649,340	3,014,993	3,177,171	3,147,893	3,336,317
Ammonia aqua	47,058	55,482	72,536	69,749	69,299	55,460	79,428	106,400
Ammonia sulfate	256,938	230,715	230,222	222,807	240,999	221,420	241,256	258,020
AN	659,110	660,997	637,639	578,263	528,312	532,642	521,746	518,491
Urea	1,760,624	2,031,507	2,124,170	2,164,230	2,311,030	2,437,619	2,517,048	2,694,458
Nitrogen Solutions[2]	2,923,558	2,982,890	2,943,166	2,996,310	2,748,558	2,718,564	2.903,330	3,278,978
Multinutrient[3]	2,412,023	2,389,659	2,306,351	2,352,210	2.303,528	2,499,986	2,315,217	2,566,573
Other[4]	314,853	323,091	309,645	300,981	317,981	366,438	366,182	338,363
Total nitrogen	12,352,100	12,312,600	12,451,900	12,333,890	11,534,700	12,009,300	12,092,100	13,097,600

[1] Fertilizer years, ending on June 30 of the indicated year. 2004 data are preliminary and subject to revision.
[2] Primarily urea ammonium nitrate solutions.
[3] Multi-nutrient fertilizers consist of various combinations of nitrogen (N), phosphate (P), and potassium (K); N-P-K, N-P, and N-K.
[4] Data include other single-nutrient nitrogenous fertilizers and natural organics.

Source: Commercial Fertilizers; a cooperative project of the Association of American Plant Food Control Officials, Inc. (AAPFCO), and The Fertilizer Institute (TFI), Washington, DC, May 2005.

All of the responding producers and importers agree that there have been no changes in the end uses of AN since 2000, and they did not anticipate any future changes in the end uses of AN. Ten of 13 responding purchasers also did not anticipate any changes in terms of the end uses of AN. *** anticipated reduced use of AN because of regulations and handling restrictions; *** saw less use because of the increase in price; and *** observed that liability issues will move the production of AN downstream into non-explosive products such as UAN solutions.

Several producers, importers, and purchasers indicated that prices in the United States generally move in line with those in the global market. Several firms indicated that price differences are due to differences in transportation costs. An importer indicated that demand in the United States is more elastic than in most fertilizer markets because of the variety of nitrogen fertilizers available.

Substitute Products

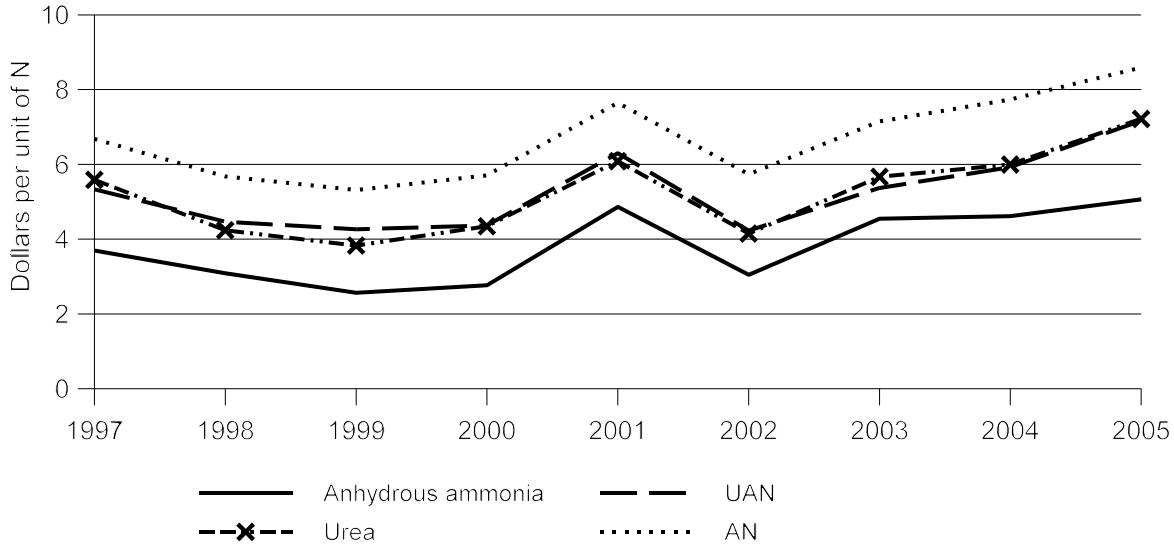
U.S. producers, importers, foreign producers, and purchasers indicated that there are substitutes for AN. These substitutes include anhydrous ammonia, urea, and UAN. However, producers indicated that nitrogen products may not easily be substituted for a number of reasons, including storage facilities and types of applicators, specific nitrogen needs of different crops, and climate and weather conditions. Three of four producers indicated that changes in the prices of substitute products would not affect the

[12] Domestic interested parties' posthearing brief, pp. 11-14.

[13] Domestic interested parties' posthearing submission, February 14, 2006.

price for AN. *** indicated that if urea prices are low enough there may be some substitutability, but that it is limited. Figure II-1 shows changes in the price paid by farmers for anhydrous ammonia, UAN, AN, and urea between 1977 and 2005.[14] Prices for all four products increased in 2001, decreased in 2002, and then increased from 2003 to 2005.

Figure II-1
Prices paid by farmers for anhydrous ammonia, UAN, AN, and urea in April of 1997-2005



Source: Agricultural Prices, National Agricultural Statistics Services, USDA.

All four responding producers indicated that they do not anticipate changes in the substitutability of other products for AN in the future. Four of five responding importers agreed that they do not anticipate changes in the substitutability of other products for AN in the future, but one importer, ***, did anticipate changes in the substitutablity of other products for AN. It reported that several companies are developing products that simulate AN's controlled release characteristics, ***. Two of 13 responding purchasers anticipated changes in the substitutability of other products for AN in the future. *** saw increased use of slow release fertilizers, and in urea ammonium sulfate blends. *** saw an increase in liquid solutions as a method of producing non-explosive fertilizer.

Cost Share

The share of the cost that AN accounts for in the final products in which is it used varies by type of final product. Responding purchasers are not end users and were not able to indicate the share of costs that AN makes up of final products.

[14] The nitrogen content of anhydrous ammonia is 82 percent, urea 46 percent, AN 34 percent, and UAN varies from 28 to 32 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported AN depends upon 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, payment terms, product services, etc.). Based on available data, staff believes that there is at least a moderate level of substitutability between domestically produced AN and AN imported from Russia and other import sources.

Factors Affecting Purchasing Decisions

Purchasers were asked a variety of questions to determine what factors influence their decisions when buying AN. Information obtained from their responses indicates that both quality and price are important factors.

As indicated in table II-2, price was named by six of 14 responding purchasers as the number one factor generally considered in deciding from whom to purchase AN, and as the number two factor by seven responding purchasers. Also, as indicated in table II-3, all but one of the responding purchasers (***) indicated that price was a "very important" factor in their purchase decisions. However, only two of 13 responding purchasers indicated that the lowest-priced AN will "always" win a sale. Five responding purchasers indicated that the lowest-priced AN "usually" will win a sale, three reported "sometimes," and three reported "never." Nine purchasers indicated that, since 2000, there has been a relative change in prices of U.S. and Russian AN. Eight of these purchasers said that the price of U.S.-produced AN was now relatively higher.

Table II-2
AN: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Quality[1]	5	3	2
Availability	3	2	6
Price/discounts/cost	6	7	1
Terms	0	0	1
Reliability of supply	0	1	0
Timely delivery	0	0	4

[1] Consistency of melt.

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

Table II-3
AN: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Reliability of supply	13	1	0
Availability	14	0	0
Price	13	1	0
Product consistency	11	3	0
Quality meets industry standards	11	2	1
U.S. transportation costs	10	4	0
Delivery time	13	1	0
Delivery terms	8	5	1
Discounts offered	8	4	2
Extension of credit	3	7	4
Technical support/service	1	5	8
Quality exceeds industry standards	4	6	4
Minimum quantity requirements	3	7	4
Packaging	1	3	10
Product range	2	4	7

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

Eight of 14 purchasers responded that purchasing AN from a U.S. source was an important consideration for them. While one purchaser referred to environmental and pollution issues, all the other purchasers indicated that their principal concern was government regulations and requirements, especially concerning warehousing and storage at river locations. Fewer warehouses are handling AN and many have eliminated it. Two of these purchasers said that there had been no changes in their purchases because of increased security.

Quality was named by five of the 14 responding purchasers as the number one factor generally considered in deciding from whom to purchase AN, and as the number two factor by three responding purchasers. Eleven responding purchasers indicated that quality meeting industry standards and product consistency were “very important” factors in their purchasing decisions, while four of 14 responding purchasers indicated that quality exceeding industry standards was a “very important” factor. Purchasers named a number of factors they consider in evaluating quality, including: hardness and size of granules, consistency, density, analysis, color, storability, particle strength, cleanliness and dust, guaranteed analyses and government standards, percent of fines, shelf life, and usability to melt.

Comparison of Domestic Products and Subject Imports

Three of 13 responding purchasers purchased AN from Russian sources before 2000, and 10 did not. Two of these three purchasers, ***, had reduced their purchases from Russian sources because of the suspension agreement. As indicated in table II-4, all three responding U.S. producers indicated that U.S.-produced AN and imports of AN from Russia are "always" used interchangeably. Five of eight responding importers indicated that U.S.-produced product and imports of AN from Russia are "always" or "frequently" interchangeable. Most responding purchasers indicated that AN produced in Russia is "always" or "frequently" used in the same applications as AN produced in the United States. As indicated in table II-5, most responding importers and U.S. producers disagree on the perceived significance of differences other than price between AN produced in the United States and in Russia.

Table II-4
AN: Perceived degree of interchangeability of AN produced in the United States and in other countries

Country pair	Number of U.S producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Russia	3	0	0	0	2	3	2	1	3	4	1	1
U.S. vs. other	3	0	1	0	2	1	2	1	3	3	2	1
Russia vs. other	3	0	0	0	2	1	4	1	2	3	2	1

Note.–A=always; F=frequently; S=sometimes; N=never.

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

Table II-5
AN: Perceived significance of differences other than price between AN produced in the United States and in other countries

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. Russia	0	0	1	3	1	3	2	1
U.S. vs. other	0	0	2	2	0	2	6	1
Russia vs. other	0	0	2	3	0	1	3	1

Note.–A=always; F=frequently; S=sometimes; N=never.

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

Eight purchasers usually or always make a purchasing decision based on the country of origin of the AN. Six purchasers sometimes or never make a decision based on the country of origin. These decisions are usually based on quality and issues of storability. Five purchasers reported that their customers usually or always make purchasing decisions based on the country of origin of the AN. Eight reported that their customers sometimes or never make a decision based on the country of origin. Ten of

13 reporting purchasers said they did not specifically order AN from one country in particular. Two of the three purchasers who did order from specific countries reported ordering product from the Netherlands, and one ordered domestic product.

Purchasers were asked for a country-by-country comparison on the same 15 factors (table II-6). For the U.S. product compared to the Russian product, the most frequently reported difference in the factors noted by a majority of responding purchasers was that the U.S. product was superior to the Russian product with regard to availability (3 firms), delivery terms (3 firms), and reliability of supply (3 firms). Half of the firms (2 of 4) reported that the U.S. product was inferior to the Russian product with regard to lower price (i.e., the Russian product is lower priced than the domestic product), while the other half reported that the U.S. product was comparable to the Russian product with regard to lower price. A majority of responding purchasers reported that the U.S. and Russian products were comparable with respect to discounts offered, minimum quantity requirements, packaging, quality exceeding industry specifications, product range, and U.S. transportation network and costs.

Table II-6
AN: Number of purchasers' comparisons of U.S. product and subject imports

Factor	U.S. vs Russia		
	S	C	I
	Number of firms responding		
Availability	3	1	0
Delivery terms	3	1	0
Delivery time	2	2	0
Discounts offered	0	3	1
Lower price[1]	0	2	2
Minimum quantity requirements	0	4	0
Packaging	0	3	0
Product consistency	2	2	0
Quality (meeting specifications)	2	2	0
Quality (exceeding specifications)	0	3	0
Product range	0	4	0
Reliability of supply	3	1	0
Technical support/service	1	2	0
Transportation network	1	3	0
U.S. transportation costs	1	3	0

[1] A rating of "I" on lower price indicates that the U.S. price is higher.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Not all companies gave responses for all factors.

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

Comparison of Domestic Products and Nonsubject Imports

Three of six responding importers and three of four responding U.S. producers reported that U.S.-produced AN and imports from nonsubject sources are at least "frequently" used interchangeably. The three remaining responding importers and the remaining responding producer indicated that U.S.-produced and nonsubject-country AN sources are "sometimes" or "never" used interchangeably (table II-4). Most responding importers and all responding producers reported that differences other than price between AN produced in the United States and in all nonsubject countries were at most "sometimes" a significant factor in their firm's sales of the products (table II-5). Six of nine responding purchasers indicated that AN produced in all nonsubject countries is either "always" or "frequently" used in the same applications as AN produced in the United States (table II-4).

Comparison of Subject Imports and Nonsubject Imports

Most responding importers reported that imports from Russia and imports from nonsubject sources are at most "sometimes" used interchangeably. All three of the responding U.S. producers indicated that imports from Russia and nonsubject sources are "always" used interchangeably. Four of five responding importers and all five responding U.S. producers reported that differences in price between AN imported from Russia and nonsubject countries are at most "sometimes" a significant factor in their firm's sales of the products. Most responding purchasers indicated that AN produced in Russia is "frequently" or "always" used in the same applications as AN from nonsubject sources.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for AN measures the sensitivity of the quantity supplied by U.S. producers to a change in the U.S. market price of AN. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to the production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced AN.[15] Analysis of these factors earlier indicates that the U.S. industry has a moderate-to-large ability to increase or decrease shipments to the U.S. market given a change in price levels. Staff estimates that the supply elasticity is between 4 and 6.

U.S. Demand Elasticity

The U.S. demand elasticity for AN measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of AN. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of AN in the production of downstream products. Based on available information, the demand elasticity for AN is likely to be in the range of -0.8 to -1.6.

[15] Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors affecting increased quantity supplied to the U.S. market also affect decreased quantity supplied to the same extent.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[16] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, surfaces, etc.) and conditions of sale (e.g., service, availability, delivery). Based on this and other available information, the elasticity of substitution between U.S.-produced commercial market AN and subject imported AN is likely to be in the range of 3 to 5.[17]

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

[17] Additionally, the elasticity of substitution between U.S.-produced commercial market AN and nonsubject imports and between subject imports and nonsubject imports are likely to be in the same range.

PART III: CONDITION OF THE U.S. INDUSTRY

Information on the U.S. industry is based on the questionnaire responses of five firms that accounted for virtually all known U.S. production of AN during 2004. Questionnaires were sent to 15 possible producers of ammonium nitrate; 5 provided information. *** did not complete the questionnaire. Nine firms indicated that they did not produce AN.

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

During the original investigation, 10 firms, accounting for virtually all U.S. AN production, responded to the Commission questionnaires. Since the original investigation, two of these firms have gone out of business (Nitram in 2003 and Wil-Gro in 2000) and their production capacity disappeared. Additional capacity closures include the facilities of Coastal Chem which, after being acquired by Dyno Nobel in 2003, switched to LDAN production; the closure of ***; the permanent closure of the Air Products facility at the end of December 2005;[1] the cessation of AN production by PCS in 2004;[2] and the cessation of AN production by Agrium in 2005.[3] *** during the original investigation, MCC, was acquired in 2004 by a new entrant to the AN market, Terra. Additional acquisitions occurred in 2000 when El Dorado acquired LaRoche and Agrium acquired Prodica LLC.

During the original investigation and in this review, *** reported a tolling arrangement with *** whereby *** supplies *** with ammonia which *** converts to AN. *** charged *** a fee for this service. In this review, *** reported a tolling arrangement ***. *** did not complete a producer questionnaire during the original investigation or in the current review. Therefore, the eventual commercial shipment value of the converted product could not be obtained.

In 2005, Agrium announced that it had discontinued AN production.[4] Air Products had planned to sell its AN business as soon as possible. However, it was unable to find a buyer and planned to permanently shut down its AN production facility at the end of December 2005.[5] El Dorado shifted production from AN to UAN at its Cherokee, AL facility and instead is maximizing AN production at the El Dorado facility.[6] PCS ceased AN production in December 2004 in favor of LDAN[7] ***. AN production declined irregularly during 2000-04 (table III-1). U.S. producers' capacity exceeded apparent U.S. consumption of AN during 2000-01, was less than apparent U.S. consumption during 2002-03, and

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[1] Air Products, *Air Products Announces Planned Closure of Converted Products Fertilizer Manufacturing Operations at Pace, Florida*, news release dated December 22, 2005, found at http://www.airproducts.com/PressRoom/CompanyNews/Archived/2005/22Dec05.htm, retrieved January 24, 2006.

[2] Green Markets, *PotashCorp axes ag market AN at Augusta*, December 20, 2004.

[3] Agrium, *Agrium to switch out of agricultural ammonium nitrate in favor of other nitrogen products*, news release dated June 27, 2005, found at http://www.agrium.com/investor_information/5784_6066.jsp, retrieved January 25, 2006.

[4] Agrium, *Agrium to switch out of agricultural ammonium nitrate in favor of other nitrogen products*, news release dated June 27, 2005, found at http://www.agrium.com/investor_information/5784_6066.jsp, retrieved November 30, 2005.

[5] Air Products, *Air Products Announces Planned Closure of Converted Products Fertilizer Manufacturing Operations at Pace, Florida*, news release dated December 22, 2006, found at http://www.airproducts.com/PressRoom/CompanyNews/Archived/2005/22Dec05.htm, retrieved January 24, 2006. Air Products has permanently closed the AN operations at Pace, FL (staff telephone interview with ***).

[6] Green Markets, *El Dorado, Terra to remain in agricultural AN business*, August 15, 2005; hearing transcript, p. 37 (Rydlund).

[7] Green Markets, *PotashCorp axes ag market AN at Augusta*, December 20, 2004.

exceeded apparent U.S. consumption in 2004. Even with the industry capacity losses since the original investigation, except for 2002, capacity utilization during this review is lower than the capacity utilization at the lowest point during the original investigation.

Table III-I
AN: U.S. producers' capacity, production, and capacity utilization, by producer, 2000-04, January-September 2004, and January-September 2005

* * * * * * *

In their questionnaire responses, *** producers reported production of other products on the same machinery and equipment or using the same workers as for production of AN. ***;[8] ***.

Changes in Character of Operations and Capacity Projections

Agrium announced its decision to end AN production in 2005.[9] Air Products announced its intentions to sell its AN facility but could not find a buyer and closed the facility at the end of 2005.[10] El Dorado ***.[11] PCS "***."[12] In July 2005, Terra announced that it "has entered into a 10-year, renewable agreement to supply LDAN and ammonium nitrate solution ("ANS") to Orica USA Inc. (Orica). Orica will provide technology and other support to Terra as Terra modifies the smaller of its two Yazoo City, MS, AN towers, which is currently limited to converting ANS to AN, a prilled, dry fertilizer product. When modifications are complete, the tower will be equipped to convert ANS to either AN or LDAN."[13] "***."[14]

As mentioned earlier in Part I of the report, several production facilities have ended AN production since the original investigation. Table III-2 presents information on the status of existing AN production facilities.

[8] ***.

[9] Agrium, *Agrium to switch out of agricultural ammonium nitrate in favor of other nitrogen products*, news release dated June 27, 2005, found at http://www.agrium.com/investor_information/5784_6066.jsp retrieved November 30, 2005.

[10] Air Products, *Air Products Announces Planned Closure of Converted Products Fertilizer Manufacturing Operations at Pace, Florida*, news release dated December 22, 2005, found at http://www.airproducts.com/PressRoom/CompanyNews/Archived/2005/22Dec05.htm, retrieved January 24, 2006.

[11] El Dorado's questionnaire response, section II-3a.

[12] PCS's questionnaire response, section II-3a.

[13] Terra, *Terra announces ammonium nitrate supply agreement with Orica*, news release dated July 22, 2005, found at http://www.terraindustries.com/latest/corp_activities/05-07/orica.pdf, retrieved February 7, 2006.

[14] Terra's questionnaire response, section II-3a.

Table III-2
Status of existing AN production facilities, January 2006

Current owner of facility	Production facility	Capacity *(short tons)*	Capable of producing?	Status
Agrium	Homestead, NE	***	***	Discontinued AN production and sales mid-year 2005. Operating as distribution terminal for ammonia and other nitrogen products.
	Kennewick, WA	***	***	Acquired by Agrium in October 2000. Discontinued AN production and sales mid-year 2005. ***.
Air Products	Pace, FL	***	***	Announced that it was unable to find a buyer and permanently shut down its AN production facility at the end of December 2005. ***.
Dyno Nobel ASA	Cheyenne, WY	*** in 1999	***	The former Coastal Chem, Inc.'s facility was acquired by El Paso Energy Corp. in January 2001 and then acquired by Dyno Nobel ASA in 2003. This facility now produces LDAN.
El Dorado	Cherokee, AL	***	***	LaRoche (the former facility owner) filed for Chapter 11 bankruptcy protection in May 2000 and sold production facilities in Cherokee, AL and Crystal City, MO to Orica LLC in August 2000. Subsequently, Orica sold the facilities to LSB Industries (parent of El Dorado) in November 2000. Production suspended in 2005.
	El Dorado, AR	***	Yes	***. Currently producing.

Table continued on next page.

Table III-2--*Continued*
Status of existing AN production facilities, January 2006

Current owner of facility	Production facility	Capacity *(short tons)*	Capable of producing?	Status
El Dorado	Pryor, OK	***	***	The former Wil-Gro facility closed in February 2000 after being idle since December 1999. LSB Industries (parent of El Dorado) acquired facility in 2001 but did not restart production. ***.
PCS	August, GA	***[1]	***	Ceased AN production in favor of LDAN *** in December 2004.
Terra	Yazoo City, MS	***	Yes	MCC filed for Chapter 11 bankruptcy protection in May 2003. Acquired by Terra Industries, Inc. in December 2004. Currently producing.

[1] Includes capacity to produce AN and LDAN.

Source: Compiled from the domestic interested parties' posthearing brief, exh. 33, Coastal Chem's questionnaire response from the original investigation, question II-2, and data submitted in response to Commission questionnaires.

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

U.S. producers' U.S. shipments declined irregularly during 2000-04 (table III-3). Three firms, ***, reported transfers of AN to related companies and internal consumption during 2000-05. ***. Exports accounted for a small share of production, with only two firms, ***, reporting exports *** during 2000-05.

Table III-3
AN: U.S. producers' shipments, by type, 2000-04, January-September 2004, and January-September 2005

* * * * * * *

U.S. PRODUCERS' PURCHASES AND IMPORTS OF AN FROM RUSSIA

No producer reported imports of AN from Russia during 2000-05. *** purchased *** tons of AN from Russia in ***. The reason for *** purchases of AN from Russia was that it "***."[15]

[15] ***'s producer questionnaire response, section II-10.

U.S. PRODUCERS' INVENTORIES

Inventories declined irregularly during the period examined in this review (table III-4). Only two producers, ***, had inventories at the end of the January-September 2005 period. ***.

Table III-4
AN: U.S. producers' end-of-period inventories, 2000-04, January-September 2004, and January-September 2005

* * * * * * *

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Employment steadily declined during 2000-04 (table III-5). ***.

Table III-5
AN: Average number of production and related workers, hours worked, wages paid to such workers, hourly wages, productivity, and unit labor costs, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
Production and related workers *(number)*[1]	329	293	290	287	277	276	170
Hours worked *(1,000)*	716	658	664	636	604	451	275
Wages paid *($1,000)*	15,651	13,898	14,505	13,914	13,870	10,175	6,611
Hourly wages	$21.86	$21.12	$21.84	$21.88	$22.96	$22.56	$24.04
Productivity *(tons per hour)*	1.7	1.7	2.0	1.8	1.7	1.7	2.8
Unit labor costs *(per short ton)*	$13.14	$12.28	$11.08	$12.01	$13.54	$13.09	$8.53

[1] ***.

Note.–Agrium did not provide employment data so employment is understated during 2000-05.

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

EFFECTS OF HURRICANES

Two major hurricanes, Katrina and Rita, hit the United States in 2005. Katrina made landfall in the United States on August 25 and Rita hit the United States about one month later, on September 24. Air Products said that Katrina and Rita ***. El Dorado reported that Katrina and Rita "***." PCS reported that Katrina and Rita ***. Terra said that ***.

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

The same five firms[16] that provided production and shipment data reported usable financial data on their operations on AN. These data accounted for the vast majority of known U.S. production of AN in 2004.

The structure of the U.S. AN industry has changed since the last review when data were gathered from 10 firms. Five firms have discontinued production completely and either shut down or sold their AN production assets. Several continue to produce other types of nitrogen fertilizers but have ceased producing AN, and finally, a firm that previous had not produced AN purchased an existing producer that had gone into bankruptcy. Nitram shut down its plant at Tampa, FL, as noted earlier in this section of the report. Wil-Gro ceased operations and sold its plant at Pryor, OK to LSB Industries (the parent of El Dorado) in 2001, but the plant has been "mothballed" since 1999.[17] Prodica (a subsidiary of Unocal) and LaRoche also exited the market. In 2000, Prodica sold most of its nitrogen fertilizer production assets to Agrium, and LaRoche sold its nitrogen plants at Crystal City, MO, and Cherokee, AL, to El Dorado.[18] ***.[19] El Dorado suspended AN production at its plant in Cherokee, AL *** in order to maximize production of AN at its other plant in El Dorado, AR.[20] PCS ceased producing AN at its plant in Augusta, GA by the end of 2004 in favor of producing UAN and industrial grade ammonium nitrate at that plant.[21] Agrium discontinued production and sales of AN at both of its facilities (Homestead, NE and Kennewick, WA) in mid-year 2005 in favor of other nitrogen products.[22] Air Products closed its AN production unit at Pace, FL, exiting the fertilizer business in 2005.[23] Last, there was a change of ownership of the

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[16] These firms are: Agrium; Air Products; El Dorado (which reported for itself and separately for Cherokee, the plant it acquired from LaRoche on November 1, 2000); PCS; and Terra, which reported for Mississippi Chemical Co. (MCC). ***. Differences between the financial data and the trade data in this report are primarily accounted for by timing differences. Domestic interested parties stated that the timing differences were exacerbated by wide price fluctuations over the periods reviewed. Submission by Akin Gump on behalf of *** and ***, December 7, 2005. Commission staff verified Terra's questionnaire response and the results of that verification are incorporated herein (Verification Report, Memorandum INV-DD-008, January 24, 2006).

[17] Domestic interested parties' posthearing brief, exh. 1, pp. 50-51. El Dorado has been unsuccessful in its efforts to sell the plant. Domestic interested parties' posthearing brief, exh. 3 (transcript of LSB Industries' Third Quarter 2005 Conference Call). Reportedly, the Pryor, OK plant ***. Domestic interested parties' posthearing brief, exh. 2.

[18] LSB Industries' press releases of September 6, 2000 and November 3, 2000, found at www.lsb-okc.com/press_20000906b.html and www.lsb-okc.com/press_20001103.html, retrieved on January 25, 2006.

[19] ***. Reportedly, this plant has ***. Domestic interested parties' posthearing brief, exh. 2.

[20] Hearing transcript, p. 37 (Rydlund). Also, ***. Although the AN production line has been idled, El Dorado has continued to produce other nitrogen fertilizers at its plant in Cherokee, AL, and stated that it could restart AN production at the plant. Hearing transcript, pp. 37-38 (Rydlund), and domestic interested parties' posthearing brief, exh. 2. Company officials have publicly stated they could restart AN production at Cherokee, and continue to monitor input costs against possible sales values to decide whether to do so. Domestic interested parties' posthearing brief, exh. 3 (transcript of LSB Industries' Third Quarter 2005 Conference Call).

[21] Green Markets, "Potash Corp. Axes Ag Market AN at Augusta," December 20, 2004.

[22] Agrium's press release, June 27, 2005. Also, *see* domestic interested parties' posthearing brief, exh. 33.

[23] Air Products announced its intention to exit the fertilizer business "at the end of its contractual commitments." *See*, Air Products 2005 Form 10-K, Notes to the Financial Statements, p. 68. In its press release of December 22, 2005, the firm stated "that it will permanently close its converted products fertilizer operations at Pace, FL by the

(continued...)

production of AN with the bankruptcy of MCC and its purchase in December 2004 by Terra, which produced nitrogen fertilizers other than ammonium nitrate.[24] As a result of these changes, El Dorado (at El Dorado, AR) and Terra (at Yazoo City, MS) are the only U.S. firms producing AN as of January 2006.

Factors that affect the supply of and demand for ammonium nitrate include the availability and cost of feedstock natural gas,[25] and competition with other forms of nitrogen for industrial and agricultural use. For example, a spokesman for Terra noted that AN continues to lose market share to other nitrogen fertilizers, like urea and UAN, and estimated this shift to be on the order of 500,000 tons during 2004-05; the same spokesman stated that the "market should stabilize near 1 million tons per year, primarily in the southeastern and south central United States due to local weather and soil conditions."[26]
Security and liability concerns also affect the market for AN because of its classification as a hazardous material (it is an oxidizing agent and has the potential to be used as an explosive). These include increased U.S. Coast Guard and State safety requirements, rising insurance costs, and the associated liability related to security concerns on transportation, storage, and sale. These concerns were cited by certain producers like Agrium,[27] Air Products,[28] and ***[29] as reasons why they discontinued producing and marketing AN.[30]

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[23] (...continued)
end of December 2005. Air Products has been unsuccessful in finding a buyer to purchase the operation." ***. It continues to produce amines at its plant in Pace, FL.

[24] MCC filed for bankruptcy in May 2003 and disposed of its non-nitrogen assets at the same time that Terra's purchase of the remaining MCC assets was completed in December 2004. *See* MCC's 2004 Form 10-K, p. 4, and Terra's 2004 Form 10-K, p. 3. Terra started producing industrial grade ammonium nitrate in 2005 after installing a production line for that product at its plant in Yazoo City, MS. Hearing transcript, p. 25 (Green).

[25] According to Agrium, "from 2002 to 2004, there were relatively few new nitrogen facilities brought into production following the cyclical downturn in nitrogen prices that began in 1997. In addition, there was a shift to sustained higher North American natural gas prices during this period, accompanied by substantially higher gas price volatility. This forced the permanent closure of a number of U.S. nitrogen {production} facilities." Agrium's 2004 Annual Report on Form 40-F, "Management discussion and analysis," p. 6. *** during December 2000-January 2001 as a result of "unexpected spikes in natural gas prices to unprecedented levels" in those months. ***. A spokesman for Terra estimated that approximately 30 percent of North American ammonia production capacity was shut down during 2000-05 because of volatile and rising natural gas costs. Presentation by Joe Giesler, Senior Vice President, Commercial Operations, Terra Industries, on November 3, 2005 at TFI's 2006 Fertilizer Outlook and Technology Conference.

[26] Presentation by Joe Giesler, Senior Vice President, Commercial Operations, Terra Industries, on November 3, 2005 at TFI's 2006 Fertilizer Outlook and Technology Conference. Also, see domestic interested parties' posthearing brief, exh. 1, p. 5 (long-term usage decrease).

[27] Reportedly, Agrium's decision was made as an ongoing process to optimize returns on its business and to reduce potential exposure related to security concerns. Agrium's press release, June 27, 2005, cited earlier.

[28] Air Products stated in its questionnaire response that ***. In the December 22, 2005 press release, cited earlier, Air Products stated that a changing regulatory environment was a factor that made it difficult for the firm to sustain a profitable business.

[29] ***.

[30] With regard to logistical constraints, *see* hearing transcript, pp. 164-166 (Adamchak), and Russian respondents' posthearing brief, responses to questions of the Commission, pp. 9-13 and exh. 4. Also, see domestic interested parties' posthearing brief, pp. 9-10 (logistical constraints), pp. 5-6 (buyers ceasing to purchase AN due to security concerns), and pp. 29-32 (timeline of security controls).

Operations on AN

Results of U.S. firms' operations on AN are briefly summarized here. Total net sales quantities decreased irregularly between 2000 and 2004. Total net sales values increased irregularly between 2000 and 2004, attributable primarily to increased average unit sales values. Increases in the cost of raw materials led to an overall increase in the industry's cost of goods sold ("COGS"), which increased commensurate with sales values. The industry recorded an operating loss during 2000-04 (the operating loss was greatest in 2001, declining thereafter) and January-September 2004. Between January-September 2004 and the same period in 2005, sales quantity and value rose. Although the average unit value ("AUV") of raw materials increased as did the AUV of total COGS, the AUV of net sales increased more; thus the industry recorded operating income in January-September 2005. These data for the industry are shown in table III-6, while table III-7 provides operating data on a firm-by-firm basis.

Table III-6
AN: Results of operations of U.S. firms, fiscal years 2000-04, January-September 2004, and January-September 2005

* * * * * * *

Table III-7
AN: Results of operations of U.S. firms, by firm, fiscal years 2000-04, January-September 2004, and January-September 2005

* * * * * * *

Raw material costs are a significant factor in industry profitability. Nitrogen is taken from the air and reacted with a hydrogen source, usually natural gas reformed with steam, to produce ammonia, and ammonia is processed with nitric acid to produce AN. Several of these firms have produced AN based on ammonia that they produced or purchased.[31] Natural gas prices have increased during the periods investigated, and have exhibited considerable volatility (as shown by data on a monthly basis from the EIA that are presented in figure V-1). While there is no mechanism to hedge price risk on ammonia, these firms use several pricing mechanisms to smooth or mitigate the price volatility of natural gas including swaps, options, "forward pricing contracts," and hedging using futures contracts.[32] Terra's

[31] When Terra acquired MCC, it acquired a 50-percent ownership interest in an ammonia plant, Point Lisas Nitrogen Limited, located in The Republic of Trinidad and Tobago. Point Lisas Nitrogen purchases its natural gas under contract with Natural Gas Co. of Trinidad and Tobago, which is considered to be a low-cost producer. Terra's 2004 Form-10-K, pp. 3-8. Terra can produce AN based on ammonia that it produces either at its plant in Yazoo City, MS, or that it can bring in from Point Lisas through the firm's terminal at Donaldsonville, LA; Terra can purchase ammonia from other suppliers as well to run its AN facility at Yazoo City, MS. Hearing transcript, p. 116 (Green). El Dorado produces AN from purchased ammonia at the plant at El Dorado, AR, but produces AN at its plant at Cherokee, AL based on purchased natural gas. Hearing transcript, p. 118 (Rydlund). The Cherokee, AL plant experienced natural gas supply disruptions following Hurricanes Katrina and Rita. Domestic interested parties' posthearing brief, exh. 3 (transcript of LSB Industries' Third Quarter 2005 Conference Call). For a discussion of the importance of natural gas, see domestic interested parties' posthearing brief, exh. 2 (El Dorado) and exh. 5 (Terra).

[32] Terra reportedly uses futures contracts, swaps and options, that reference physical natural gas prices or appropriate NYMEX futures contract prices. Contract physical prices are frequently based on prices at the Henry Hub in Louisiana. The contracts are traded in months forward and settlement dates are scheduled to coincide with gas purchases during that future period but are not perfect hedges because of location differences. Terra's 2004

(continued...)

gains and losses from these cost-management activities are estimated to be less than 5 percent of its costs of natural gas.[33]

*** provided data on the cost of natural gas used in its production of ammonia; this cost ranged from *** percent of total ammonia cost in 2000 to *** percent in 2004, and from *** percent to *** percent between January-September 2004 and the same period in 2005. In turn, *** ratio of ammonia cost to its total raw materials cost ranged from *** percent to *** percent. (*** identified *** as cost categories within its direct raw materials, which reduced the cost ratio of ammonia to total raw materials.) Two firms, ***, classified natural gas as their direct raw material, and natural gas accounted for *** percent to *** percent of their total raw material costs during the periods reviewed. For ***, which provided ammonia costs, the ratio of costs of ammonia to the total costs of raw materials ranged from *** percent to *** percent. Other items within the category of raw materials are additives, coating products, and bags. Energy costs are chiefly composed of electricity, steam, and natural gas used as a process gas. These costs are usually classified as part of other factory costs, and as a percentage of the category, they generally rose during the periods reviewed.

*** costs and the average unit values of its sales appear to be higher than that of the remainder of the industry. Its costs are higher because: ***. Its sales unit values appear to be higher because of its ***.[34]

Variance Analysis

The variance analysis showing the effects of prices and volume on U.S. producers' net sales of AN, and of costs and volume on their total expenses, is presented in table III-8. The information for this variance analysis is derived from table III-6, but differs in that only total net sales are shown. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. In this review, certain producers stated they had sold AN in bags and others sold on both a retail and wholesale basis, but these differences are not material to the results as a whole.

Table III-8
AN: Variance analysis on U.S. firms' operations, fiscal years 2000-04, and January-September 2004-05

* * * * * * *

The variance analysis is summarized at the bottom of the table and shows that the decrease in operating income from 2000 to 2004 is attributable to the favorable price variance (higher unit prices) that was lower than the unfavorable net cost/expense variance (higher unit costs). Between January-September 2004 and the same period in 2005, the favorable price variance was greater than the unfavorable net cost/expense variance (higher unit prices outweighed higher unit costs).

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[32] (...continued)
Form 10-K, pp. 12, 22, 37, and 58. PCS reported that its strategy is to purchase approximately half of its needs of natural gas on the spot market or on short-term contracts and to purchase the remainder under fixed-price physical contracts or forward contracts that fix the price of future deliveries. PCS' 2002 Form 10-K, p. I-9.

[33] Estimated by staff based on Terra's 2004 Form 10-K, p. 59. Terra's cost reduction gained by hedging was reported as ***. Domestic interested parties' posthearing brief, exh. 5. MCC also hedged its purchase requirements of natural gas, resulting in cost decreases and cost increases in different years that represented a small portion of its total costs of natural gas. *See* MCC's 2004 Form 10-K, Note 16 to financial statements.

[34] ***.

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of AN to compute return on investment ("ROI") for 2000 to 2004 (table III-9). The data for total net sales and operating losses are from table III-6, ***. Total net sales was divided by total assets, resulting in the asset turnover ratio. The operating income ratio was then multiplied by the asset turnover ratio, resulting in ROI; the expanded form of this equation shows how the profit margin and total asset turnover ratio interact to determine the return on investment.

Table III-9
AN: Value of assets used in production, warehousing, and sales, and return on investment, fiscal years 2000-04

* * * * * * *

Although ROI generally followed operating income (discussed earlier in connection with table III-6), ROI fell more than the industry's operating losses because of decreases in the industry's total assets from 2000 to 2004. Generally, U.S. firms allocated costs, expenses, and assets to AN, which represents one product out of several types of nitrogen fertilizers produced in their multiproduct plants. Hence, the fall in the value of total assets represents an allocation issue in part. Here, the value of *** category of "all other non-current assets" fell by about $*** between 2002 and 2003, accounting for most of the decline in total assets between those years.

Capital Expenditures and Research and Development Expenses

U.S. producers' data on their capital expenditures and research and development ("R&D") expenses for their operations on AN are shown in table III-10.

Table III-10
AN: U.S. firms' capital expenditures and research and development expenses, fiscal years 2000-04, January-September 2004, and January-September 2005

* * * * * * *

*** stated that it ***.[35] *** stated that its recent capital expenditures have been ***.[36] Likewise, other firms reportedly are continuing efforts to improve throughput (efficiency in production operations), conversion ratios of natural gas to ammonia and of ammonia to AN, and/or to reduce environmental discharges and the related potential liability.[37]

[35] ***.

[36] ***.

[37] See, for example PCS' 2002 Form 10-K, p. I-18 and Terra's 2003 Form 10-K, p. 33. Terra stated that its capital expenditures were for air and water quality control equipment to ensure compliance with environmental, health, and safety regulations under the Clean Air Act.

PART IV: U.S. IMPORTS AND THE INDUSTRY IN RUSSIA

U.S. IMPORTS

Adjusted official Commerce statistics were used for the U.S. import data provided in this section of the report. Although import data were also received in response to Commission questionnaires, the official Commerce statistics are likely to be more complete. Interested parties have agreed with the use of official Commerce statistics, which are believed to contain little or no imports of nonsubject product such as LDAN except for imports from Canada for which appropriate adjustments have been made. During 1997-98, AN imports from Russia accounted for nearly half of all AN imports (table I-1). During 2000-04, the share of imports accounted for by Russia was less than the share accounted for during 1997-98 (table IV-1).

Table IV-1
AN: U.S. imports, by sources, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
Quantity *(short tons)*							
Russia	288	96,171	114,666	162,449	126,464	52,382	72,293
All other	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
Value *($1,000)*[1]							
Russia	37	11,859	11,085	18,239	21,039	8,511	14,147
All other	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
Unit value *(per short ton)*							
Russia	$128.80	$123.31	$96.68	$112.28	$166.37	$162.48	$195.69
All other	***	***	***	***	***	***	***
Average	***	***	***	***	***	***	***
Share of quantity *(percent)*							
Russia	***	***	***	***	***	***	***
All other	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
Share of value *(percent)*							
Russia	***	***	***	***	***	***	***
All other	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
Ratio of import quantity to U.S. production *(percent)*							
Russia	***	***	***	***	***	***	***
All other	***	***	***	***	***	***	***
Average	***	***	***	***	***	***	***

[1] Landed, duty-paid.

Source: Compiled from adjusted official Commerce import statistics for imports from Canada and Russia, and official Commerce import statistics for imports from all other countries. Imports from Canada were adjusted by including only *** imports obtained from proprietary Customs data. Staff believes that ***'s imports constitute the majority of AN imports from Canada. Official Commerce import statistics for Russia were adjusted by deducting imports determined by staff to be misclassified (accounting for 23,998 short tons in quantity and $1,883,176 in value) in 2002 and adding imports of NP 33-3-0 provided for under subheading 3105.51. Staff determined that all imports from Russia under subheading 3105.51 during 2000-05 were of NP 33-3-0. There are small amounts of imports from other countries under the same subheading but it is unknown if these imports consist of NP 33-3-0. Therefore, only imports from Russia under subheading 3105.51 are included.

The unit value of imports from Russia was higher than the unit value of nonsubject-country imports in every period except during 2003. This may provide confirmation of statements from importers *** that the Agreement pricing mechanism increased the price of imports of Russian AN to the United States to a level higher than AN from Russia can command elsewhere.[1] Other industry sources have stated that the Agreement pricing mechanism results in prices for AN imported from Russia that do not reflect the U.S. market.[2]

Imports from Russia increased during 2000-02 before decreasing slightly in 2003 and decreasing again in 2004. The two leading sources of nonsubject imports since 2003 are the Netherlands and Romania. Nonsubject imports rose *** during 2000-01, increased *** in 2002, and increased *** in 2003, before decreasing in 2004. Imports from Russia during January-September 2005 were substantially greater than those during January-September 2004, and nonsubject imports decreased *** in January-September 2005 from the level during January-September 2004. Most of the decrease in nonsubject imports during the interim periods is accounted for by the substantial decrease in imports from the Netherlands because the uncertainty over the new AN security regulations dissuaded many purchasers from buying AN during January-September 2005. Also, several warehouses along the Mississippi River no longer handle AN and some barge lines will not handle AN.[3]

No U.S. producer's questionnaire response reported imports of AN from Russia.

Only *** reported plans to import AN from Russia after September 1, 2005. *** arranged for imports of ***.

U.S. IMPORTERS' INVENTORIES

Inventories of AN from Russia were highest in 2004, and declined somewhat in January-September 2005 (table IV-2). Nonsubject AN inventories increased during 2000-03 before decreasing in 2004.

Table IV-2
AN: U.S. importers' end-of-period inventories of imports, 2000-04, January-September 2004, and January-September 2005

* * * * * * *

THE INDUSTRY IN RUSSIA

Industry sources indicate 13 producers of ammonium nitrate in Russia, which is the same number of producers as during the original investigation (table IV-3). Five producers responded to the Commission questionnaires in the original investigation: JSC Acron, JSC Dorogobuzh, JSC Azot Nevinnomyssk, JSC Novomendeleyevsk Chemical Plant, and JSC Kirovo-Chepetsk Kimichesky Kombinat. Six producers, accounting for *** percent of total ammonium nitrate capacity in Russia, responded to the Commission's questionnaire in this review: JSC Acron ("Acron"), JSC Dorogobuzh ("Dorogobuzh"), JSC Azot Nevinnomyssk ("Nevinka"), JSC Novomoskovsk ("Novomos"), JSC

[1] *** importer questionnaire response, question III-B-26 and *** importer questionnaire response, question III-B-19.

[2] Hearing transcript, p. 197 (Morgan) and p. 198 (Adamchak).

[3] Staff telephone interview with ***.

Minudobreniya Rossosh ("Minudo"), and Azot Berezhniki ("Berezhniki").[4] The reporting firms have not indicated any major capacity changes since 2000.[5] The *** capacity increase of *** tons in 2002 is ***.

Table IV-3
Ammonium nitrate: Producers in Russia, production capacity, and distance to nearest port, 2005

* * * * * * *

Russia's Capacity, Production, Capacity Utilization, Domestic Shipments, Export Shipments, and Inventories

***.[6]

According to proprietary Customs data, four producers accounted for virtually all AN exports from Russia during 2000-04: ***. *** responded to the Commission's questionnaire. ***'s exports to the United States, according to proprietary Customs data, were ***. In 2003, the Department of Commerce ruled that an imported product--NP 33-3-0 (or "stabilized ammonium nitrate" or "nitric phosphate")–is within the scope of the investigation even though it is not covered under the same HTS subheading as AN.[7] No producers reported exporting NP 33-3-0 to the United States during 2000-05. Production was relatively stable during 2000-04 and most production is devoted to export shipments (table IV-4). Russian producers reported that the suspension agreement has had no effect on their production capacity, production, home market shipments, or exports. No producer anticipated any changes in operations or organization or changes to production capacity in the future.

[4] Russian producers and/or exporters Acron, Dorogobuzh, Nevinka, Novomos, and MCC EuroChem are respondent interested parties in this review, represented by the law firm of White and Case LLP. Sidley Austin Brown and Wood LLP is co-counsel for Acron.

[5] ***.

[6] ***.

[7] NP 33-3-0 is covered by HTS subheading 3105.51.

Table IV-4
AN: Data for reporting producers in Russia, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
	Quantity *(short tons)*						
Capacity	5,966,750	5,966,750	6,007,535	6,007,535	6,007,535	4,664,822	4,616,814
Production	4,196,844	4,509,497	4,505,559	4,303,428	4,184,824	3,114,269	3,328,537
End-of-period inventories	41,089	86,161	45,935	46,428	60,300	58,196	43,487
Shipments:							
Transfers[1]	***	***	***	***	***	***	***
Home market	1,398,384	1,652,832	1,339,946	1,437,041	1,565,716	1,280,460	1,204,365
Exports to:							
United States	***	***	117,394	160,794	137,767	***	69,832
EU	868,031	1,039,321	694,011	745,377	560,722	432,912	***
Asia	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
All exports	2,791,243	2,707,833	3,131,362	2,747,330	2,456,574	1,715,266	2,030,241
Total shipments	***	***	***	***	***	***	***
	Ratios and shares *(percent)*						
Capacity utilization	70.3	75.6	75.0	71.6	69.7	66.8	72.1
Inventories/production	1.0	1.9	1.0	1.1	1.4	1.4	1.0
Inventories/shipments	***	***	***	***	***	***	***
Share of quantity of total shipments:							
Transfers[1]	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to:							
United States	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***
Asia	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
All exports	***	***	***	***	***	***	***
	Value *($1,000)*						
Commercial shipments:							
Home market	45,842	73,529	67,339	81,812	141,832	114,821	124,546
Exports to:							
United States	***	***	8,338	14,216	17,723	***	10,619
EU	33,810	45,528	30,344	59,811	56,578	41,477	***
Asia	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
All exports	108,761	120,809	142,127	186,954	233,159	200,908	248,844
All shipments	***	***	***	***	***	***	***

Table continued on next page.

Table IV-4--*Continued*
AN: Data for reporting producers in Russia, 2000-04, January-September 2004, and January-September 2005

Item	Calendar year					January-September	
	2000	2001	2002	2003	2004	2004	2005
	Unit value *(dollars per short ton)*						
Commercial shipments:							
Home market	32.78	44.49	50.26	56.93	90.59	89.67	103.41
Exports to:[2]							
United States	***	***	71.03	88.41	128.65	***	152.07
EU	38.95	43.81	43.72	80.24	100.90	95.81	***
Asia	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
All exports	38.97	44.61	45.39	68.05	94.91	117.13	122.57
All shipments	***	***	***	***	***	***	***

[1] Includes transfers to related firms and internal consumption.
[2] F.o.b., Russian point of shipment.

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

Acron and Dorogobuzh reported *** while Berezhniki and Minudo reported ***. Nevinka and Novomos reported ***.

Reportedly, *** producers *** have been ***.[8]

Export Markets Developed as a Result of the Agreement

Acron and Dorogobuzh state that "***." Berezhniki has "***." Minudo has ***, Nevinka and Novomos say that "***."[9]

All exports to the United States were controlled by the suspension agreement during 2000-05 which limits exports to the United States. The Russian government is responsible for allocating the yearly quota among Russian exporting firms. Table IV-5 presents information on the allocations of reporting producers. The allocations received by the reporting firms were ***.

Table IV-5
AN: Export allocations to producers in Russia, 2000-05

* * * * * * *

[8] International Fertilizer Industry Association, *Global Fertilizers and Raw Material Supply and Supply/Demand Balances: 2005-2009*, June 2005, p. 3.

[9] EuroChem is the holding company for Nevinka, Novomos, and other fertilizer manufacturers.

TRADE RESTRICTIONS IN OTHER COUNTRIES

Domestic interested parties noted trade restrictions on imports of AN from Russia in Australia, Brazil, and the European Union. Antidumping orders in effect on AN from Russia are presented in table IV-6. Respondent interested parties noted restrictions in the same countries as well as in Bulgaria.[10]

Table IV-6
AN: Antidumping duty orders on imports of AN from Russia

Country imposing order	Year imposed	Antidumping duties
Australia	2001	Antidumping duty of AUS$32 per metric ton
Brazil	2002	Antidumping duty of 32.1 percent *ad valorem*[1]
European Union	1994	Antidumping duty increased to 47.07 euros per metric ton in April 2002

[1] ***.

Source: Domestic interested parties' Response to the Notice of Institution, pp. 15-16, and questionnaire responses of the respondent interested parties.

THE WORLD MARKET

Data on world production, imports, exports, and apparent consumption of ammonium nitrate for 2000-04 (actual) and 2005-08 (projected) are presented in tables IV-7, IV-8, IV-9, and IV-10. Russia accounted for *** percent of world production of ammonium nitrate in 2004, up from *** percent in 2000, and accounted for *** percent of world exports in 2004, down from *** percent in 2000. Russia accounted for *** percent of world consumption in 2004, up from *** percent in 2000.

Table IV-7
AN: World production, actual and projected, by principal sources, 2000-08

* * * * * * *

Table IV-8
AN: World imports, actual and projected, by principal sources, 2000-08

* * * * * * *

[10] In 2002, Bulgaria instituted a safeguard measure on imports of AN that expired in July 2005. The measure allocated 25,000 metric tons annually to Romania, 7,000 metric tons to its free trade agreement partners, and 8,960 metric tons to all other countries.

Table IV-9
AN: World exports, actual and projected, by principal sources, 2000-08

* * * * * * *

Table IV-10
AN: World apparent consumption, actual and projected, by principal sources, 2000-08

* * * * * * *

Production of solid AN is said to have accounted for *** of total Russian nitrogen fertilizer production in 2004.[11] ***.[12]

In 2004, world imports of AN amounted to ***. The largest markets for world exports of ammonium nitrate were the countries within Western and Central Europe (*** million short tons or *** percent of the total), the United States (*** million short tons or *** percent of the total), and the former Soviet Union (FSU) (*** short tons or *** percent).[13] The three largest markets in the European countries were Turkey (*** percent of total European imports), the United Kingdom (*** percent), and Hungary (*** percent). China was a major importer of AN in 2002 only.

[11] ***.

[12] ***.

[13] ***.

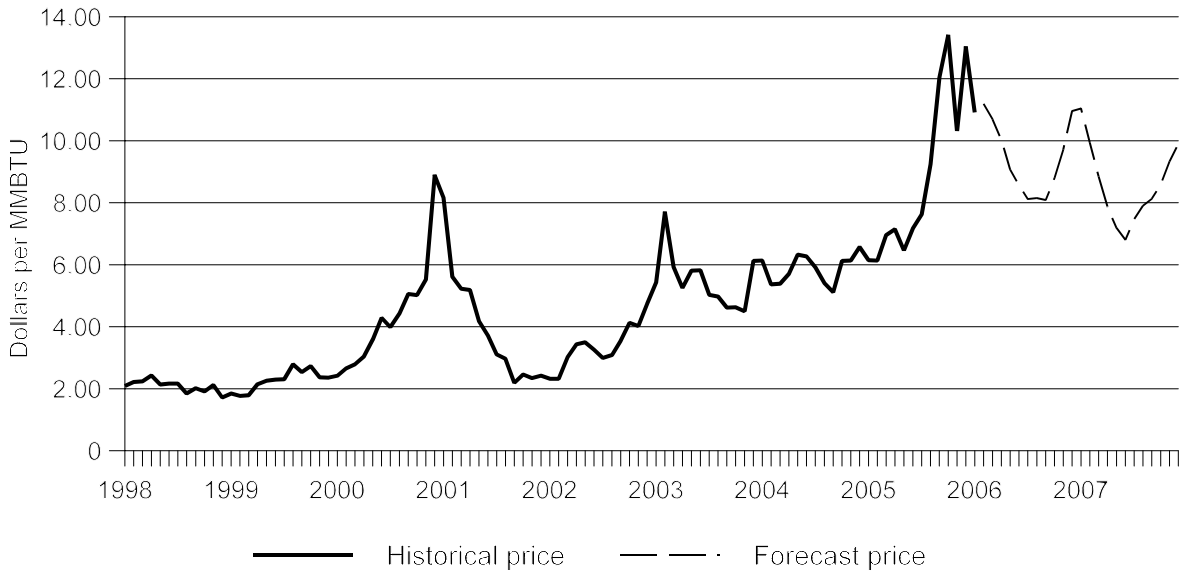
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw materials' share of the cost of goods sold for domestic producers of AN fluctuated between 2000 and 2004, increasing irregularly from *** percent of the cost of goods sold in 2000 to *** percent in 2004. Natural gas constitutes a substantial portion of the raw material costs for producing AN. Unit values for natural gas increased from $2.08 per MMBTU in 1998 to $8.84 per MMBTU in 2005. As seen in figure V-1, the price of natural gas increased by 422 percent from $2.09 per MMBTU in January 1998 to $10.92 in January 2006. The price of natural gas is forecast to fluctuate between January 2006 and December 2007, falling by 9 percent overall, but remaining above the average cost of natural gas during 2002-05.[1]

Figure V-1
Monthly prices of natural gas, historical prices for January 1998-January 2006, and forecast prices for February 2006-December 2007



Source: Henry Hub Spot natural gas price, downloaded from http://tonto.eia.doe.gov/steo_query/app/ngresult.asp on January 31, 2006.

Russian producers have access to relatively low-priced sources of natural gas. ***. This is an increase of *** percent from 2000. ***, an increase of *** percent from 2000.[2] ***, an increase of *** percent from 2000. ***.[3]

[1] Henry Hub Spot natural gas price, downloaded from htttp://tonto.eia.doe.gov/steo_query/app/ngresult.asp on January 31, 2006.

[2] Russian respondents' posthearing brief, app. 10, p. 7.

[3] Ibid., app. 11, p. 3.

Transportation Costs to the U.S. Market

Based on the c.i.f. value of subject AN imported from Russia in 2004 of $21.0 million and the customs value of $18.2 million, transportation costs from Russia to the United States were equivalent to 16 percent of the customs value of the product (based on unrounded data).

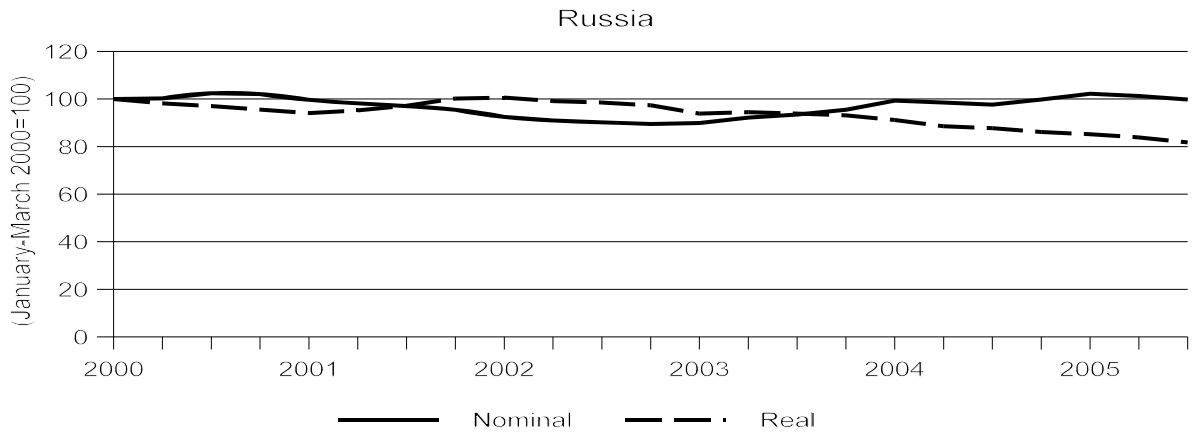
U.S. Inland Transportation Costs

Three of the four responding producers and two of four responding importers indicated that they arrange for transportation to the customers' locations. One responding U.S. producer and two responding importers indicated that purchasers arrange for transportation. Responding producers and importers reported that U.S. transportation costs were between 5 and 20 percent of the total delivered cost of AN. All responding U.S. producers and importers reported that most of their sales were no more than 1,000 miles from their storage or production facilities.

Exchange Rates

Nominal and real values of the currency of Russia from January 2000 to September 2005 are presented in figure V-2. Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Russian ruble depreciated by 0.2 percent relative to the U.S. dollar from the first quarter of 2000 to the third quarter of 2005. The real value of the ruble depreciated by 18.2 percent relative to the U.S. dollar between the first quarter of 2000 and the third quarter of 2005.

Figure V-2
AN: Indices of the nominal and real exchange rate of the Russian ruble relative to the U.S. dollar, by quarters, January 2000-September 2005



Source: International Monetary Fund, *International Financial Statistics*, found at http://ifs.apdi.net, retrieved on December 12, 2005.

PRICING PRACTICES

Pricing Methods

The two responding importers reported making at least *** percent of their sales on a spot basis, and did not offer discounts. One responding producer made *** of its sales on a spot basis. Two producers made *** and *** percent of their sales on a spot basis, while *** made *** percent of its sales with short-term contracts, and the rest on a spot basis. Domestic producers offered a variety of discount programs, mostly to national accounts; *** gave a *** to most accounts and *** percent to ***. *** also offered volume rebates to *** on tons shipped to ***.

Domestic producers reported supplying AN from inventory to varying degrees. *** reported supplying *** percent of its sales in 2004 from inventory. In contact with the staff, *** described their policy of ***.[4] *** supplied only *** percent from inventory and the rest was produced to order. *** supplied *** percent from inventory; *** supplied *** percent. Four of five responding importers supplied 100 percent from inventory, but *** supplied *** from inventory and produced the balance to order with a lead time of *** days.

PRICES IN OTHER MARKETS

Producers and importers were asked to compare prices of AN in U.S. and non-U.S. markets. Two producers provided comments on price comparisons. *** indicated that the United States is the strongest market in the world and would be the target of Russian AN without a suspension agreement in place. ***. ***. ***. ***.

Two importers provided comments on price comparisons. ***. ***. *** did not report any comparisons in response to the question requesting price comparisons. In its posthearing brief, *** provided reasons why the prices of Russian exports vary between markets,[5] including ***. ***.[6]

PRICE DATA

The Commission requested U.S. producers and importers of AN to provide monthly data for the AN that was shipped to unrelated customers in the U.S. market for the period January 2000 to September 2005. Quantity and value of sales were requested for pricing on:

(1) an f.o.b. plant basis (i.e., product that was picked up at the plant), or f.o.b. port for importers;

(2) an f.o.b. other-than-plant shipping point basis (i.e., product that was picked up at a distribution point other than the production plant(s)), or f.o.b. other-than-port for importers; and

(3) a delivered basis.

For sales that were priced on an f.o.b. other-than-plant, or port, shipping point basis, producers and importers were requested also to report the freight and other handling costs necessary to transport the AN from the plant or port to the other-than-plant, or port, shipping point. For sales that were priced on a delivered basis, producers and importers were requested to report the freight and other handling costs

[4] E-mail to staff from ***.

[5] Russian respondents' posthearing brief, app. 10, p. 4.

[6] Ibid., app. 11, p. 2.

necessary to transport the AN from the plant, or port, to the customers' location. The product for which pricing data was requested was:

> ***Product*.--Solid, fertilizer-grade ammonium nitrate, sold in bulk, with a bulk density equal to or greater than 53 pounds per cubic foot.**

Four U.S. producers, ***, provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all months. Price data reported by these firms accounted for *** percent of U.S. producers' commercial shipments of AN in 2004. Four importers, ***, provided usable pricing data for sales of the requested products, although not all firms reported pricing for all months.[7] Price data reported by these firms accounted for approximately *** percent of imports of AN from Russia in 2004.

Price Trends

Price data are presented in table V-1 and figure V-3. Prices are presented net of any freight and other handling costs necessary to transport the AN from the plant or port to the other-than-plant, or port, shipping point, or to the customers' location. Average unit values for U.S.-produced AN were $*** per short ton in January 2000, and increased irregularly to an interim peak of $*** per short ton in March of 2001. Average unit values then fell to slightly more than $*** per short ton by September 2001, and hovered around the $*** per short ton level before beginning to increase in February of 2003. Average unit values fluctuated, but stayed around the $*** per short ton level through the middle of 2004. Average unit values then began to increase again, and reached their highest level of $*** in the last reported period of September 2005. Average unit values of Russian AN generally followed a trend similar to that of domestic average unit values, but data were not reported in all periods.

Table V-1
AN: Weighted-average prices, net of freight and other handling costs, and quantities of domestic and imported product, and margins of underselling/(overselling), by month, January 2000-September 2005

* * * * * * *

Figure V-3
AN: Weighted-average net prices of domestic and imported products, by month, January 2000-September 2005

* * * * * * *

Price Comparisons

AN imported from Russia was priced lower than domestic AN in 24 of 33 possible price comparisons, with margins ranging from 0.5 to 21.1 percent. In the remaining 9 instances, AN imported from Russia was priced above domestic AN, with margins ranging from 0.4 to 9.0 percent.

[7] ***.

APPENDIX A

FEDERAL REGISTER NOTICES, THE COMMISSION'S STATEMENT ON ADEQUACY, AND REFERENCE PRICES PERTAINING TO THE SUSPENSION AGREEMENT

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–811]

Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

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

SUMMARY: The Department of Commerce (''the Department'') has suspended the antidumping duty investigation involving solid fertilizer grade ammonium nitrate (''ammonium nitrate'') from the Russian Federation (''Russia''). The basis for this action is an agreement between the Department and the Ministry of Trade of the Russian Federation (''MOT'') accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT has agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports are sold at or above the agreed reference price.

EFFECTIVE DATE: May 19, 2000.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Maria Dybczak at (202) 482–4037 and (202) 482–5811, respectively, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1999, the Department initiated an antidumping duty investigation under section 732 of the Tariff Act of 1930 (''the Act''), as amended, to determine whether imports of ammonium nitrate from Russia are being, or are likely to be, sold in the United States at less than fair value. On September 3, 1999, the United States International Trade Commission (''ITC'') preliminarily determined that ''there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Russia of solid fertilizer grade ammonium nitrate'' (64 FR 50103, September 15, 1999). On January 7, 2000, the Department published its preliminary determination that ammonium nitrate is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act (65 FR 1139).

The Department and MOT initialed a proposed agreement suspending this investigation on April 20, 2000, at which time we invited interested parties to provide written comments on the agreement. We received comments from petitioner (the Committee for Fair Ammonium Nitrate Trade) and the Committee for a Competitive AN Market on May 10, 2000. We have taken these comments into account in the final version of the suspension agreement.

The Department and MOT signed the final suspension agreement on May 19, 2000. Accordingly the Department has suspended the investigation pursuant to section 734(f) of the Act. Pursuant to section 734(g) of the Act, parties have 20 days from the date of publication of this notice to request a continuation of the investigation.

Scope of Investigation

For a complete description of the scope of the investigation, *see Agreement Suspending the Antidumping Investigation on Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, Appendix III, signed May 19, 2000, attached hereto.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. Based on our review of these comments, we made no changes to the agreement. In accordance with section 734(l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation (*see Memorandum to Troy H. Cribb from Joseph A. Spetrini, RE: The Prevention of Price Suppression or Undercutting of Price Levels in the Suspension Agreement On Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*). Moreover, in accordance with section 734(d) of the Act, we have determined that the agreement is in the public interest, and that the agreement can be monitored effectively (*see Memorandum to Troy H. Cribb from Jeffrey May, Re: Public Interest Assessment of the Agreement Suspending the Antidumping Duty Investigation of Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*). We find, therefore, that the criteria for suspension of an investigation pursuant to sections 734(d) and (l) of the Act have been met. The terms and conditions of this agreement, signed May 19, 2000, are set forth in Appendix I to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of ammonium nitrate from Russia entered, or withdrawn from warehouse, for consumption, as directed in our notice of *Preliminary Determination of Sales at Less than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation* (65 FR 1139 (January 7, 2000)), is hereby terminated.

Any cash deposits on entries of ammonium nitrate from Russia pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: June 5, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix 1.—Agreement Suspending the Antidumping Investigation on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

For the purpose of encouraging free and fair trade in Solid Fertilizer Grade Ammonium Nitrate (''Ammonium Nitrate'') from the Russian Federation (''Russia''), establishing more normal market relations, and preventing the suppression or undercutting of price levels of the like product in the United States, the United States Department of Commerce (''DOC'') and the Ministry of Trade of the Russian Federation (''MOT'') enter into this suspension agreement (''the Agreement'').

MOT will restrict exports of Ammonium Nitrate from all Russian producers and exporters to the United States, as provided below. DOC, pursuant to the U.S. antidumping law (see Appendix II), on the Effective Date of this Agreement, will suspend its antidumping investigation of Ammonium Nitrate from Russia and instruct the U.S. Customs Service (''Customs'') immediately to terminate the suspension of liquidation and release any cash deposit or bond posted for entries of Ammonium Nitrate covered by this Agreement.

Accordingly, DOC and MOT agree as follows:

I. Definitions

For purposes of this Agreement, the following definitions apply:

A. ''Date of License'' shall be the date on which MOT issued the Export License.

B. ''Date of Contract'' means the date on which price and quantity become firm, e.g., the date the contract is signed or the specification date if the price and quantity become firm on that date.

C. ''Effective Date'' of this Agreement means May 19, 2000.

D. ''Export License'' is the document issued by MOT that serves as both an export limit certificate and as a declaration of the country of origin.

E. ''Ammonium Nitrate'' means the solid fertilizer grade ammonium nitrate from Russia described in Appendix III.

F. ''Indirect Exports'' means exports of Ammonium Nitrate from Russia to the United States through one or more third countries, whether or not such exports are further processed, provided that the further processing does not result in a substantial transformation or a change in the country of origin.

G. ''Party to the Proceeding'' means any producer, exporter, or importer of Ammonium Nitrate, union of workers engaged in the production of Ammonium Nitrate, association of such parties, or the government of any country from which such merchandise is exported, that actively participated in the antidumping investigation, through written submission of factual information or written argument, as described in more detail in Appendix II.

H. ''Export Limit Period'' means one of the following periods:

Initial Export Limit Period—-The Initial Export Limit Period shall begin on the Effective Date of the Agreement, and end on December 31, 2000

Subsequent Export Limit Periods—-The Subsequent Export Limit Periods shall consist of each subsequent one-year period, the first of which will begin the day after the Initial Export Limit Period ends and end one year later

I. ''Reference Price'' means the minimum F.O.B. Russian port of export price calculated weekly by DOC for sales of Ammonium Nitrate for export to the United States, as described in Article III.

J. ''Floor Price'' means the fixed price, as designated in Article III, below which the Reference Price may not fall.

K. ''Current Market Price'' means the U.S. domestic price calculated weekly by DOC as described in Article III.

L. ''United States'' means the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located within the territory of the United States.

M. ''U.S. Purchaser'' means the first purchaser in the United States that is not affiliated with the Russian producer or exporter and all subsequent purchasers, from trading companies to consumers.

N. ''Violation'' means noncompliance with the terms of this Agreement, whether through an act or omission, except for noncompliance that is inconsequential, inadvertent, or does not substantially frustrate the purposes of this Agreement.

II. Export Limits

A. No Ammonium Nitrate covered by this Agreement, whether exported directly or indirectly from Russia, shall be entered into the United States unless, when cumulated with all prior entries of Ammonium Nitrate exported from Russia during the Export Limit Period in which that Ammonium Nitrate was exported, it does not exceed the export limits set forth below.

1. The export limit for the Initial Export Limit Period (from the Effective Date of the Agreement to December 31, 2000) shall be 49,962 metric tons of Ammonium Nitrate, for the portion of the year 2000 remaining after the Effective Date of the Agreement.

2. The export limit for each subsequent Export Limit Period shall be as follows:

January 1, 2001, to December 31, 2001—100,000 MT

January 1, 2002, to December 31, 2002—110,000 MT

January 1, 2003, to December 31, 2003—130,000 MT

January 1, 2004, to December 31, 2004 and any subsequent Export Limit Periods—150,000 MT

B. When Ammonium Nitrate is imported into the United States and is subsequently re-exported, or re-packaged and re-exported, or blended and re-exported, the amount re-exported shall be deducted from the amounts of exports that have been counted against the export limit for the Export Limit Period in which the re-export takes place. The deduction will be applied only after DOC has received, and has had the opportunity to verify, evidence demonstrating the original importation, any repackaging or blending, and subsequent exportation.

C. Notwithstanding any other provision of this Agreement, except Articles II.D. (regarding combined export limit and carried over allowance) and IV.B. (pertaining to volumes licensed but not shipped), up to 15 percent of the export limit for any Export Limit Period may be carried over to the Subsequent Export Limit Period and up to 15 percent of the export limit for any Export Limit Period may be carried back to the last 60 days of the previous Export Limit Period. Any carried over or carried back allowance shall be counted against the export limit for the previous or subsequent Export Limit Period, respectively.

D. Beginning with the first Subsequent Export Limit Period (January 1, 2001, to December 31, 2001), MOT will not issue Export Licenses authorizing the exportation to the United States of Ammonium Nitrate covered by this Agreement in either the first half (January through June) or the second half (July through December) of any Export Limit Period that exceeds 60 percent of the combined export limit volume for that Export Limit Period and the carried over volume from the previous Export Limit Period, as described in Article II.C.

E. If DOC receives information indicating that Ammonium Nitrate from Russia may have entered the United States in excess of the export limits established in Article II.A or below the Reference Price as established in Article III, DOC shall notify MOT of those entries and provide to MOT all information concerning those entries that DOC is able to disclose consistent with U.S. law. MOT shall respond within 15 days. If the information continues to indicate that these entries were in excess of the export limits or below the Reference Price, DOC shall provide MOT an opportunity for prompt consultations, which shall be completed within 60 days after DOC's initial notification. Once the consultations have been completed, unless DOC concludes that the entries were not in excess of the export limits or below the Reference Price, DOC shall count against the export limit for either the current or subsequent Export Limit Period, as appropriate, 125 percent of the volume of the entries in excess of the export limits or below the Reference Price. When a Russian producer or exporter is found responsible for the entries in excess of the export limits or below the Reference Price, MOT shall deny that producer or exporter Export Licenses for six months following the last date of entry. When any other entity was involved with the entries in excess of the export limits or below the Reference Price, MOT shall, for one year after the last date of entry, deny Export Licenses for the distribution of any Ammonium Nitrate involving that entity. The provisions of this section do not supersede the provisions of Article IX of this Agreement if DOC determines that the entries were in excess of the export limits or below the Reference Price.

III. Reference Price

A. The Reference Price will be based on a Current Market Price, adjusted to reflect a F.O.B. Russian port of export price. In addition, there will be a Floor Price below which the Reference Price shall not fall. The Reference Price will be determined on a weekly basis. MOT will ensure that Ammonium Nitrate covered by this Agreement will not be sold at a price below the Reference Price in effect on the Date of Contract.

B. DOC will issue the first weekly Reference Price under this Agreement on the first Monday after signature of this Agreement, utilizing the calculation methodology in Article III.C below. This first Reference Price will be applicable to the week after which the Agreement is signed.

C. On the first business day of each subsequent week, DOC will calculate the Reference Price which will be effective beginning on the next business day and remain in effect until the next Reference Price becomes effective. The Reference Price shall be the higher of: the Current Market Price set forth in section C.1 less the costs detailed in section C.2, and the Floor Price set forth in section C.3.

1. The Current Market Price will be determined as follows:

a. DOC will calculate an average of the weekly Fertilizer Markets' Midwest FOB price range and Green Markets' Mid Cornbelt FOB price range.

b. DOC will calculate a simple average of the four most recent weekly averages derived in subsection 1.a, above. This four week average (converted from a short ton basis to a metric ton basis) will be the Current Market Price.

c. After consultations between DOC and MOT, should they agree that the currently used sources for the valuation of the Current Market Price for Ammonium Nitrate are no longer appropriate, they may agree to select an alternative source. DOC will give parties at least 30 days notice before choosing another source(s) for the purposes of Current Market Price valuation.

2. To express the Current Market Price on an F.O.B. Russian port of export basis, an amount for costs associated with delivering the merchandise from Russia to the United States shall be deducted from the Current Market Price calculated in section C.1. This amount will be $55 per metric ton. Except when section C.3 applies, the result of this calculation shall be the Reference Price. After consultations between DOC and MOT, should they agree that the amount for costs associated with delivering the merchandise from Russia to the United States are no longer appropriate, they may revise this amount. DOC will give parties at least 30 days notice prior to any change becoming effective.

3. The Floor Price is the price below which Ammonium Nitrate subject to this Agreement may not be sold. The Floor Price will be $85 F.O.B. Russian Port. The Reference Price shall not be less than the Floor Price.

D. Reference Prices are F.O.B. Russian port of export. If the sale for export is on terms other than F.O.B. Russian port of export, MOT shall ensure that the F.O.B. Russian port of export price is not lower than the Reference Price by adjusting the relevant costs to ensure compliance with the Reference Price requirements.

IV. Implementation

A. The United States shall require presentation of an original stamped Export License as a condition for entry into the United States of Ammonium Nitrate covered by this Agreement, except where there are multiple shipments under a single license. For multiple shipments at multiple ports or multiple entries at one port, the original license shall be presented with the first entry and the volume entered at that time will be noted on the original license. Customs will provide the importer with a certified copy for presentation to Customs with the importer's next entry under that license. Subsequent entries can be made from copies of the original which reflect all of the deductions made from the original license.

B. Export Licenses must contain the quantity in metric tons, specifications (form (prilled, granular, or other solid form)), coatings, additives, density, contract (or sales order) date and contract (or sales order) number; unit price, and F.O.B. Russian port of export sales value. If necessary, additional information may be included on the Export License or, if necessary, a separate page attached to the Export License. DOC will deduct the quantity listed on each Export License from the export limit for the Export Limit Period in which the Date of License falls. However, if the bills of lading for all of the shipments under an Export License establish that the actual imports into the United States under that license were less than the total volume listed on the license, DOC will reflect the actual amount as having been deducted from the volume listed on the export license, but, notwithstanding the carry-over and carry-back limitations in Article II.C, will authorize MOT to issue a new Export License in the same or Subsequent Export Licensing Period authorizing additional exports equal in volume to the amount by which the volume on the Export License exceeded the actual shipment volume. Exports under such additional licenses will be counted against the Export Limit for the Export Limit Period containing the Date of License of the original shipment. Prior to issuing additional licenses for the amounts below the actual shipment volumes, MOT shall notify DOC of the Export License(s) numbers, the Date of License, and the volumes recorded of the original shipments, and provide DOC with no less than 30 days to confirm the additional licensed volume. The United States will prohibit the entry of any Ammonium Nitrate from Russia not accompanied by an original stamped Export License, except as provided in Article IV.A.[1]

C. MOT will ensure compliance with all of the provisions of this Agreement. In order to ensure such compliance, MOT will take at least the following measures:

1. Ensure that no Ammonium Nitrate subject to this Agreement is exported from Russia for entry into the United States during any Export Limit Period that exceeds the export limit for that Export Limit Period or that is priced below the Reference Price in effect on the Date of Contract.

2. Establish an export limit licensing and enforcement program for all direct and indirect exports of Ammonium Nitrate to the United States no later than August 1, 2000.

3. Require that applications for Export Licenses be accompanied by a report containing all of the information listed in part A of Appendix I (Exports to the United States).

4. Refuse to issue an Export License to any applicant that does not permit full verification and reporting under this Agreement of all of the information in the application.

5. Issue Export Licenses sequentially, endorsed against the export limit for the relevant Export Limit Period, and reference any notice of export limit allocation results for the relevant Export Limit Period. Export Licenses shall be issued no later than 25 days after the Date of Contract. Export Licenses shall remain valid for entry into the United States for 35 days after the date of issuance (Date of License). DOC and MOT may agree to an extension of the validity of the Export License in extraordinary circumstances.

6. Issue Export Licenses in the English language and, at the discretion of MOT, also in the Russian language.

7. Collect all existing information from all Russian producers, exporters, brokers, if applicable, traders of Ammonium Nitrate, and their relevant affiliated parties, as well as relevant trading companies/resellers utilized by Russian producers, on the sale of Ammonium Nitrate, and report such information pursuant to Article VI of this Agreement.

8. Permit full verification of all information related to the administration of this Agreement on an annual basis or more frequently, as DOC deems necessary, to ensure that MOT is in full compliance with this Agreement and that all Russian producers and exporters are in compliance with the requirements that MOT has placed upon them under this Agreement. This requirement applies to both Russian State documents and non-State documents, such as sales contracts. In the course of verification, DOC will examine documents that record the description of the products exported to the United States, including specifications (form, coatings, additives, and density). Such verifications will take place in association with scheduled consultations whenever possible.

9. Ensure compliance with all procedures established in order to effectuate this Agreement by any official Russian institution, chamber, or other authorized Russian entity, and any Russian producer, exporter, broker, and trader of Ammonium Nitrate, their relevant affiliated parties, and any relevant trading company or reseller utilized by a Russian producer to make sales to the United States.

10. Impose strict measures, such as prohibition from participation in the export limits allowed by the Agreement, in the event that any Russian entity does not comply in

[1] The validity of an Export License will not be affected by a subsequent change of an HTS number.

full with the requirements established by MOT pursuant to this Agreement.

V. Anticircumvention

A. MOT will take all necessary measures to prevent circumvention of this Agreement, including at least the following:

1. Require that all Russian exporters of Ammonium Nitrate agree, as a condition of being permitted to export any Ammonium Nitrate, regardless of destination, not to engage in any of the following activities:

a. Exporting to the United States Ammonium Nitrate subject to this Agreement that is not accompanied by an Export License issued pursuant to this Agreement.

b. Transshipping Ammonium Nitrate that is subject to this Agreement to the United States through third countries unaccompanied by an Export License.

c. Exchanging (''swapping'') Ammonium Nitrate subject to this Agreement for non-subject Ammonium Nitrate, so as to cause the non-subject merchandise to be entered into the United States in place of the subject Ammonium Nitrate, thereby evading the export limits under this Agreement. ''Swaps'' include, but are not limited to:

i. Ownership swaps—involve the exchange of ownership of Ammonium Nitrate without physical transfer. These may include exchange of ownership of Ammonium Nitrate in different countries, so that the parties obtain ownership of products located in different countries, or exchange of ownership of Ammonium Nitrate produced in different countries, so that the parties obtain ownership of products of different national origin.

ii. Flag swaps—involve the exchange of indicia of national origin of Ammonium Nitrate, without any exchange of ownership.

iii. Displacement Swaps—involve the sale or delivery of Ammonium Nitrate from Russia to an intermediary country (or countries) which, regardless of the sequence of events, results in the ultimate sale or delivery into the United States of displaced Ammonium Nitrate, where the Russian exporter knew or had reason to know that the export sale would have that result.

2. Require that all Russian exporters of Ammonium Nitrate agree, as a condition of being permitted to export any Ammonium Nitrate, regardless of destination, to require all of their customers to agree, as part of the contract for sale:

a. Not to engage in any of the activities listed in Article V.A.1 of this Agreement. This requirement does not apply to exports to the United States that are accompanied by a valid Export License.

b. To include that same requirement in any subsequent contracts for the sale or transfer of such Ammonium Nitrate, and to report to MOT subsequent arrangements entered into for the sale, transfer exchange, or loan to the United States of Ammonium Nitrate covered by this Agreement.

3. When MOT has received an allegation that circumvention has occurred, including an allegation from DOC, MOT shall promptly initiate an inquiry, normally complete the inquiry within 45 days and notify DOC of the results of the inquiry within 15 days after the conclusion of the inquiry.

4. If MOT determines that a Russian entity has participated in a transaction circumventing this Agreement, MOT shall impose penalties upon such company including, but not limited to, denial of access to export certificates for Ammonium Nitrate under this Agreement.

5. If MOT determines that a Russian entity has participated in the circumvention of this Agreement, MOT shall count against the export limit for the Export Limit Period in which the circumvention took place an amount of Ammonium Nitrate equivalent to the amount involved in such circumvention and shall immediately notify DOC of the amount deducted. If sufficient tonnage is not available in the current Export Limit Period, then the remaining amount shall be deducted from the subsequent Export Limit Period or Periods.

6. If MOT determines that a company from a third country has circumvented the Agreement and DOC and MOT agree that no Russian entity participated in or had knowledge of such activities, then the Parties shall hold consultations for the purpose of sharing information regarding such circumvention and reaching mutual agreement on the appropriate measures to be taken to eliminate such circumvention. If the Parties are unable to reach mutual agreement within 45 days, then DOC may take appropriate measures, such as deducting the amount of Ammonium Nitrate involved in such circumvention from the export limit for the then-current Export Limit Period or a subsequent Period. Before taking such measures, DOC will notify MOT of the facts and reasons constituting the basis for DOC's intended action and will afford MOT 15 days in which to comment.

B. DOC will direct the U.S. Customs Service to require all importers of Ammonium Nitrate into the United States, regardless of the stated country of origin of those imports, to submit a written statement, on the last day of every quarter, indicating that the importer is maintaining a list of all entries of such merchandise and certifying that the Ammonium Nitrate imported during that quarter was not obtained under any arrangement in circumvention of this Agreement. Where DOC has reason to believe that such a certification has been made falsely, DOC will refer the matter to the U.S. Customs Service or U.S. Department of Justice for further action.

C. DOC will investigate any allegations of circumvention which are brought to its attention, both by asking MOT to investigate such allegations and by itself gathering relevant information. MOT will respond to requests from DOC for information relating to the allegations under Article VI.A.4. In distinguishing normal arrangements, swaps, or other exchanges in the Ammonium Nitrate market from arrangements, swaps, or other exchanges which would result in the circumvention of the export limits established by this Agreement, DOC will take the following factors into account:

1. Existence of any verbal or written arrangement leading to circumvention of this Agreement;

2. Existence and function of any subsidiaries or affiliates of the parties involved;

3. Existence and function of any historical and traditional patterns of production and trade among the parties involved, and any deviation from such patterns;

4. Existence of any payments unaccounted for by previous or subsequent deliveries, or any payments to one party for Ammonium Nitrate delivered or swapped by another party;

5. Sequence and timing of the arrangements; and

6. Any other information relevant to the transaction or circumstances.

D. In the event that DOC determines that a Russian entity has participated in circumvention of this Agreement, DOC and MOT shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If DOC and MOT are unable to reach mutual agreement within 60 days, DOC may take appropriate measures, such as deducting the amount of Ammonium Nitrate involved in such circumvention from the export limit for the current Export Limit Period (or, if necessary, the Subsequent Export Limit Period) or instructing the U.S. Customs Service to deny entry to any Russian Ammonium Nitrate sold by the entity found to be circumventing the Agreement. Before taking such measures, DOC will notify MOT of the basis for DOC's intended action and will afford MOT 30 days in which to comment. DOC will enter its determinations regarding circumvention into the record of the Agreement. MOT may request an extension of up to15 days for any of the deadlines mentioned in this Article.

VI. Monitoring and Notifications

A. MOT will collect and provide to DOC such information as is necessary and appropriate to monitor the implementation of, and compliance with, this Agreement, including the following:

1. Thirty days following the allocation of export rights for any Export Limit Period, MOT shall notify DOC of each allocation recipient and the volume granted to each recipient. MOT also shall inform DOC of any changes in the volume allocated to individual quota recipients within 60 days of the date on which such changes become effective.

2. MOT shall collect and provide to DOC information on exports to the United States in the format in Appendix I to this Agreement, and on the aggregate quantity and value of exports of Ammonium Nitrate to all other countries. This information will be subject to verification. This information will be based on semi-annual periods (January 1 through June 30 and July 1 through December 31) and will be provided no later than 90 days following the end of each half-year period, beginning on September 30, 2000.

3. If DOC has reason to suspect non-compliance with the Agreement, and after consultations with MOT, and subject to the provisions of Article VII.A, MOT shall also collect and provide to DOC, within 45 days of the request, transaction-specific data for sales of Ammonium Nitrate within the Russian home market or to any third country

or countries, in the format provided in Appendix I.

4. Within 15 days of a request from DOC for information concerning alleged circumvention or other violation of this Agreement, MOT shall share with DOC all information received or collected by MOT regarding its inquiries, its analysis of such information, and the results of such inquiries.

5. MOT will inform DOC of any violations of any provisions of this Agreement that come to its attention and of the measures taken with respect thereto.

6. MOT and DOC recognize that the effective monitoring of this Agreement may require that MOT provide information additional to that identified above. Accordingly, after consulting with MOT, DOC may establish additional reporting requirements consistent with the U.S. antidumping law, as appropriate, during the course of this Agreement. MOT shall also collect and provide to DOC, within 45 days of the request, any such additional information requested by DOC.

B. MOT may request an extension of up to 30 days of any deadline in this Article.

C. DOC may disregard any information submitted after the deadlines set forth in this Article or any information which it is unable to verify to its satisfaction.

D. DOC shall provide MOT with the following information relating to implementation and enforcement of this Agreement.

1. Semi-annual reports indicating the volume of U.S. imports of Ammonium Nitrate subject to this Agreement, together with such additional information as is necessary and appropriate to monitor compliance with the export limits. Such reports and information shall be provided within 120 days after the end of the last semi-annual period.

2. Notice of any violations of any term of this Agreement.

E. DOC will also monitor the following information relevant to this Agreement, and provide such information that is public to MOT upon request.

1. Publicly available data as well as U.S. Customs entry summaries and other official import data from the U.S. Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

2. U.S. Bureau of the Census computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales, DOC may request the U.S. Customs Service to provide such information. DOC may request other additional documentation from the U.S. Customs Service.

F. DOC may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Importations for entries of Ammonium Nitrate during the period this Agreement is in effect.

VII. Disclosure and Comment

A. DOC shall make available to representatives of each Party to the Proceeding, under appropriately-drawn administrative protective orders consistent with U.S. laws and regulations, business proprietary information submitted to DOC semi-annually or upon request pursuant to this Agreement, and in any administrative review of this Agreement.

B. Not later than 45 days after the date of disclosure under Article VII.A, the Parties to the Proceeding may submit written comments to DOC, not to exceed 30 pages.

C. At the end of each Export Limit Period, each Party to the Proceeding may request a hearing on issues raised during the preceding Export Limit Period. If such a hearing is requested, it will be conducted in accordance with U.S. laws and regulations.

VIII. Consultations

A. If, in response to a request by MOT at any time, DOC determines that the designated Floor Price and/or the calculated Reference Price under Article III prevents Russian producers from participating in the U.S. market, MOT and DOC will promptly enter into consultations in order to review the market situation and the appropriateness of the Floor Price and/or the Reference Price levels.

B. MOT and DOC shall hold consultations concerning the implementation, operation (including the calculation of Reference Prices) and enforcement of this Agreement each year during the anniversary month of this Agreement.

C. Additional consultations on any aspect of this Agreement shall be held as soon as possible, but no later than 30 days, after a request by either MOT or DOC.

D. If DOC receives information indicating that there has been a violation of this Agreement, DOC shall promptly request special consultations with MOT. Such consultations shall begin no later than 21 days after the day of DOC's request, and must be completed within 40 days after commencement. After completion of the consultations, DOC will provide MOT 20 days within which to provide comments.

E. Two years after the effective date of this Agreement, DOC and MOT shall enter into additional consultations to review the extent to which this Agreement is accomplishing the purposes set forth in the preamble and make any revisions consistent with U.S. law that are appropriate in light of their mutual conclusions.

IX. Violations

A. DOC will investigate any information relating to circumvention or other violations of this Agreement which is brought to its attention, both by asking MOT to investigate such allegations and by itself gathering relevant information. Prior to making a determination that a violation has occurred, DOC will engage in consultations with MOT, pursuant to Articles V.D or VIII.D. of this Agreement.

B. DOC will determine whether a violation has occurred within 30 days after the date for submission of comments by MOT upon the allegation under Article VIII.D.

C. If DOC determines that this Agreement is being or has been violated, DOC will take such action as it determines is appropriate under U.S. law and regulations.

X. Duration

A. This Agreement will remain in force until the underlying antidumping proceeding is terminated in accordance with U.S. antidumping law.

B. DOC will, upon receiving a proper request made by MOT, conduct an administrative review of this Agreement under U.S. laws and regulations.

C. MOT or DOC may terminate this Agreement at any time upon written notice to the other party. Termination shall be effective 60 days after such notice is given. Upon termination of this Agreement, the provisions of U.S. antidumping law and regulations shall apply.

XI. Other Provisions

A. DOC finds that this Agreement is in the public interest, that effective monitoring of this Agreement by the United States is practicable, and that this Agreement will prevent the suppression or undercutting of price levels of United States domestic Ammonium Nitrate products by imports of the Ammonium Nitrate subject to this Agreement.

B. DOC does not consider any of the obligations concerning exports of Ammonium Nitrate to the United States undertaken by MOT pursuant to this Agreement relevant to the question of whether firms in the underlying investigation would be entitled to separate rates, should the investigation be resumed for any reason.

C. The English and Russian language versions of this Agreement shall be authentic, with the English version being controlling for purposes of interpreting and implementing the terms and conditions of this Agreement.

D. All provisions of this Agreement, including the provisions of the Preamble, shall have equal force.

E. For all purposes hereunder, the signatory Parties shall be represented by, and all communications and notices shall be given and addressed to:

DOC: Assistant Secretary for Import Administration, U.S. Department of Commerce, International Trade Administration, Washington, DC 20230.

MOT: Department for State Regulation of External Economic Activities, Ministry of Trade of the Russian Federation, 18/1 Ovchinnikovskaya naberezhnaya, Moscow, 1 13324, Russia.

Signed on this 19th day of May, 2000.

For DOC

Robert S. LaRussa, Acting Under Secretary for International Trade

For MOT

Yuri V. Akhremenko, Trade Representative of the Russian Federation to the United States, Minister-Counselor Commercial

Appendix I

In accordance with the established format, MOT shall collect and provide to DOC all information necessary to ensure compliance with this Agreement. This information will be provided to DOC on a semi-annual basis.

MOT will collect and maintain data on exports to the United States on a continuous

basis. Sales data for the home market, and data for exports to countries other than the United States, will be reported upon request.

MOT will provide a narrative explanation to substantiate all data collected in accordance with the following formats:

A. Exports to the United States

MOT will provide all Export Licenses issued to Russian entities, which shall contain the following information with the exception that information requested in item #9, date of entry, item #10, importer of record, item #16, final destination, and item #17, other, may be omitted if unknown to MOT and the licensee.

1. Export License/Temporary Document: Indicate the number(s) relating to each sale and or entry.
2. Description of Merchandise: Include the 10 digit HTS category, and the specifications of merchandise.
3. Quantity: Indicate in metric tons.
4. F.O.B. Sales Value: Indicate value and currency used.
5. Unit Price: Indicate unit price per metric ton and currency used.
6. Date of Contract: The date all essential terms of the order (i.e, price and quantity) become fixed.
7. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
8. Date of License: Date the Export License/ Temporary Document is Issued.
9. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
10. Importer of Record: Name and address.
11. Trading Company: Name and address of trading company involved in sale.
12. Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
13. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated to the Russian exporter.
14. Allocation to Exporter: Indicate the total amount of quota allocated to the individual exporter during the Relevant Period.
15. Allocation Remaining: Indicate the remaining export limit allocation available to the individual exporter during the export limit period.
16. Final Destination: The complete name and address of the U.S. purchaser.
17. Other: The identity of any party(ies) in the transaction chain between the customer and the final destination/U.S. purchaser.

B. Exports Other Than to the United States

Pursuant to Article VI.A, MOT will provide country-specific volume and value information for exports of Ammonium Nitrate to third countries, upon request, regardless of whether MOT licenses exports of Ammonium Nitrate to such country(ies). The following information shall be provided except that information requested in item #6, date of entry, #7, importer of record, and item #10, other, may be omitted if unknown to MOT and the Russian licensee.

1. Export License/Temporary Document: Indicate the number(s) relating to each sale and/or entry, if any.
2. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
3. Date of Contract: The date all essential terms of the order (i.e., price and quantity) become fixed.
4. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
5. Date of License: Date Export License/ Temporary Document is issued, if any.
6. Date of Entry: Date the merchandise entered the third country or the date a book transfer took place.
7. Importer of Record: Name and address.
8. Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
9. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
10. Other: The identity of any party(ies) in the transaction chain between the customer and the final destination.

C. Home Market Sales

Pursuant to Article VII.A, the MOT will provide home market volume and value information for sales of Ammonium Nitrate, upon request. The following information shall be provided with the exception of item #6, other, if unknown to MOT and the Russian producer/exporter.

1. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
2. Date of Contract: The date all essential terms of order (i.e., price and quantity) become fixed.
3. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
4. Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
5. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
6. Other: The identity of any party(ies) in the transaction chain between the customer and the final destination.

Appendix II

Section 734 (1) of the Tariff Act of 1930 as amended, provides, in part, as follows:

(1) SPECIAL RULE FOR NON-MARKET ECONOMY COUNTRIES.

(I) In General.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a non-market economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that

(A)—such agreement satisfies the requirements of subsection (d), and

(B)—will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

(2) Failure of Agreements—If the administering authority determines that the agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (I) shall apply.

Section 771(9) of the Tariff Act of 1930, as amended, provides in part, as follows:

(9) Interested Party—-The term ''interested party'' means—

(A) a foreign manufacturer, producer, or exporter, or the United States importer, of subject merchandise under this title or a trade or business association a majority of the members of which are producers, exporters, or importers of such merchandise,

(B) the government of a country in which such merchandise is produced or manufactured or from which such merchandise is exported,

(C) a manufacturer, producer, or wholesaler in the United States of a domestic like product,

(D) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product,

(E) a trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States,

(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a domestic like product.

* * * * *

Appendix III

For purposes of this Agreement, Ammonium Nitrate is defined as the following:

Solid, fertilizer grade 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).

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 Customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 00–15312 Filed 6–15–00; 8:45 am]

BILLING CODE 3510–DS–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Final)]

Certain Ammonium Nitrate From Russia

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines,[2] 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 from Russia of certain ammonium nitrate, 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 respect to the subject imports.

Background

The Commission instituted this investigation effective July 23, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by the ad hoc Committee for Fair Ammonium Nitrate Trade.[3] The final phase of the investigation was scheduled [4] by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain ammonium nitrate from Russia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). On May 19, 2000, Commerce entered into a suspension agreement with Russia; subsequently both Commerce and the Commission suspended their investigations. On June 29, 2000, the petitioner requested a continuation of the investigation and both Commerce and the Commission resumed their investigations. Notice of the scheduling of the Commission's continuation of the 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 July 5, 2000 (65 FR 41489). The hearing was held in Washington, DC, on July 11, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 14, 2000. The views of the Commission are contained in USITC Publication 3338 (August 2000), entitled Certain Ammonium Nitrate from Russia: Investigation No. 731–TA–856 (Final).

Issued: August 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–21232 Filed 8–18–00; 8:45 am]

BILLING CODE 7020–02–P

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

[2] Commissioner Jennifer A. Hillman not participating.

[3] The Committee for Fair Ammonium Nitrate Trade consisted of the following companies: Air Products & Chemicals, Inc., Allentown, PA; El Dorado Chemical Co., Oklahoma City, OK; LaRoche Industries, Inc., Atlanta, GA; Mississippi Chemical Corp., Yazoo City, MS; Nitram, Inc., Tampa, FL; and Wil-Gro Fertilizer, Inc., Celina, TX.

[4] 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 notice in the **Federal Register** of January 18, 2000 (65 FR 2643).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Review)]

Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 23, 2005. Comments on the adequacy of responses may be filed with the Commission by June 14, 2005. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–117, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 19, 2000, the Department of Commerce suspended an antidumping duty investigation on imports of ammonium nitrate from Russia (65 FR 37759, June 16, 2000). The Commission is conducting a review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Russia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission 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.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic producers of high density ammonium nitrate.

(5) The Order Date is the date that the investigation was suspended. In this review, the Order Date is May 19, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 23, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is June 14, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the

Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 23, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–6401 Filed 3–30–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Review)]

Ammonium Nitrate From Russia

AGENCY: International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to

continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On July 5, 2005, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (70 FR 16517, March 31, 2005) were adequate. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: July 14, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–14136 Filed 7–18–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Review)]

Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: September 2, 2005.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nesbitt (202–205–3355), 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 review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On July 5, 2005, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (70 FR 41426, July 19, 2005). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review 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, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

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 this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review 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 review will be placed in the nonpublic record on December 21, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on January 19, 2006, 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 January 9, 2006. 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 January 12, 2006, 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), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 9, 2006. 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 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 30, 2006; 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 review may submit a written statement of information pertinent to the subject of the review on or before January 30, 2006. On March 3, 2006, 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 March 7, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 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, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(c) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (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 review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: September 2, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–17885 Filed 9–8–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–821–811

Final Results of Five-year Sunset Review of Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation

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

SUMMARY: On April 1, 2005, the Department of Commerce (''the Department'') initiated a sunset review of the suspended antidumping duty investigation on ammonium nitrate from the Russian Federation (''Russia'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 16800 (April 1, 2005) (''*Initiation Notice*''). On the basis of notices of intent to participate filed on behalf of domestic interested parties and adequate substantive comments filed on behalf of domestic and respondent interested parties, the Department conducted a full (240-day) review. As a result of this review, the Department finds that termination of the suspended antidumping duty investigation on ammonium nitrate from Russia would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: March 6, 2006.

FOR FURTHER INFORMATION CONTACT: Judith Wey Rudman or Aishe Allen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0192, or 482–0172, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Review

The products covered by the sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia include solid, fertilizer grade 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). The merchandise subject to this review 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 customs purposes, the written description of the merchandise within the scope of this sunset review is dispositive.

History of the Suspension Agreement

On August 12, 1999, the Department initiated an antidumping duty investigation under section 732 of the Act on ammonium nitrate from Russia. See Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation, 64 FR 45236 (August 19, 1999). On January 7, 2000, the Department preliminarily determined that ammonium nitrate from Russia is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000). The Department suspended the antidumping duty investigation on ammonium nitrate from Russia effective May 19, 2000. The basis for this action was an agreement between the Department and the Ministry of Trade of the Russian Federation (''MOT'') accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT has agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports are sold at or above the agreed reference price. *See Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 37759 (June 16, 2000) (''*Suspension Agreement*''). Thereafter, pursuant to a request by the petitioner, the Committee for Fair Ammonium Nitrate Trade (''COFANT''), the Department completed its investigation and published in the **Federal Register** its final determination of sales at less that fair value. *See Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000) (''*Final Determination*''). In the Final Determination, the Department calculated weighted–average dumping margins of 253.98 percent for Nevinnomyssky Azot, a respondent company in the investigation, and for the Russia–wide entity. The *Suspension Agreement* remains in effect for all manufacturers, producers, and exporters of ammonium nitrate from Russia.

Background

On April 1, 2005, the Department initiated a sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia, pursuant to section 751(c) of the Act. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 16800 (April 1, 2005). On October 24, 2005, the Department published the preliminary results of the full sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia. *See Preliminary Results of Five-year Sunset Review of Suspended Antidumping Duty investigation on Ammonium Nitrate from the Russian Federation*, 70 FR 61431 (October 24, 2005) (''*Preliminary Results*'') and the accompanying *Issues and Decision Memorandum for the Preliminary Results of the Full Five-year Sunset Review of the Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation (''Preliminary Results Decision Memorandum'')*. In the *Preliminary Results*, the Department preliminarily found that the termination of the suspended antidumping duty investigation would likely lead to continuation or recurrence of dumping (for a full discussion of the Department's preliminary finding see the *Preliminary Results and the Preliminary Results Decision Memorandum*).

On December 7, 2005, the Department received a case brief from the petitioner in this proceeding, the Committee for Fair Ammonium Nitrate Trade (''COFANT''). No other case briefs or rebuttal briefs were received.

Analysis of Comments Received

All issues raised by parties to this sunset review are addressed in the *Issues and Decision Memorandum for the Final Results of the of the Full Five-year Sunset Review of the Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation (''Final Results Decision Memorandum'')* from Joseph A. Spetrini, Deputy Assistant Secretary for Policy and Negotiations, to David M. Spooner, Assistant Secretary for Import Administration, dated February 27, 2006, which is adopted by this notice. The issues discussed in the *Final Results Decision Memorandum* include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the suspended antidumping duty investigation to be terminated. Parties may find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Department of Commerce building. In addition, a complete version of the *Final Results Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Final Results Decision Memorandum* are identical in content.

Final Results of Review

We determine that termination of the suspended antidumping duty investigation on ammonium nitrate from Russia would likely lead to a continuation or recurrence of dumping at the following percentage weighted–average margin:

Exporter/manufacturer	Weighted–average margin (percent)
JSC Azot Nevinnomyssky	253.98
Russia–Wide	253.98

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: February 27, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3086 Filed 3–3–06; 8:45 am]

BILLING CODE 3510–DS–S

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in
Certain Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Review)

On July 5, 2005, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic producer responses, filed by the Committee for Fair Ammonium Nitrate Trade on behalf of three domestic producers of ammonium nitrate, Air Products and Chemicals, Inc., El Dorado Chemical Co., and Terra Industries, Inc., and filed separately by a fourth domestic producer, Agrium US, Inc., were individually adequate. Because these four producers account for the vast majority of domestic production of ammonium nitrate, the Commission further determined that the domestic interested party group response was adequate.

The Commission also received responses to its notice of initiation in a joint filing by six Russian producers and exporters of the subject merchandise, JSC Nevinnomysskiy Azot, JSC Novomoskovsk Azot, JSC Minudobreniya, JSC Acron, JSC Dorogobuzh, and MCC EuroChem. The Commission determined that the responses were individually adequate, and further that they constituted an adequate respondent interested party group response because these firms account for a significant share of the production of ammonium nitrate in Russia and nearly all exports of subject merchandise from Russia to the United States. Accordingly, the Commission determined to proceed to a full review in *Certain Ammonium Nitrate From Russia*.

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

Reference Prices Pertaining to Suspension Agreement

Solid Fertilizer Grade Ammonium Nitrate from Russia

Case number: A-821-811

Weekly Reference Price (FOB Russian port of Export)

Beginning Date	Price Per Metric Ton
09/22/2000	$93.81
10/02/2000	$93.12
10/09/2000	$92.43
10/16/2000	$91.70
10/23/2000	$91.40
10/30/2000	$91.74
11/06/2000	$91.74
11/13/2000	$91.74
11/20/2000	$91.40
11/27/2000	$91.05
12/04/2000	$91.05
12/11/2001	$91.05
12/18/2001	$92.78
01/03/2001	$94.84
01/08/2001	$111.72
01/16/2001	$130.67
01/22/2001	$149.61
01/29/2001	$167.53
02/05/2001	$169.59
02/12/2001	$170.97
02/20/2001	$171.32
02/26/2001	$171.32
03/05/2001	$171.32
03/12/2001	$170.97
03/19/2001	$170.97
03/26/2001	$170.63
04/02/2001	$170.28
04/09/2001	$167.53
04/16/2001	$165.46
04/23/2001	$163.05
04/30/2001	$160.29
05/07/2001	$157.54
05/14/2001	$155.47
05/21/2001	$152.71
05/29/2001	$146.17
06/04/2001	$141.35
06/11/2001	$136.18
06/18/2001	$128.60
06/25/2001	$123.43
07/02/2001	$118.27
07/09/2001	$112.76
07/16/2001	$110.35

07/23/2001	$108.62
07/30/2001	$106.90
08/06/2001	$105.87
08/13/2001	$104.83
08/20/2001	$103.80
08/27/2001	$103.11
09/04/2001	$102.08
09/10/2001	$100.36
09/17/2001	$99.67
09/24/2001	$98.63
10/01/2001	$98.29
10/09/2001	$96.22
10/15/2001	$94.15
10/22/2001	$92.09
10/29/2001	$89.68
11/05/2001	$89.68
11/13/2001	$88.99
11/19/2001	$88.30
11/26/2001	$87.61
12/03/2001	$86.09
12/10/2001	$85.27
12/18/2001	$85.00
01/07/2002	$85.00
01/15/2002	$85.75
01/23/2002	$86.58
01/29/2002	$86.92
02/05/2002	$86.92
02/11/2002	$86.92
02/20/2002	$86.92
03/05/2002	$86.92
03/12/2002	$85.89
03/19/2002	$85.00
03/26/2002	$85.00
04/02/2002	$85.00
04/09/2002	$85.00
04/16/2002	$85.00
04/23/2002	$85.00
04/30/2002	$85.00
05/07/2002	$85.00
05/14/2002	$85.00
05/21/2002	$85.00
05/29/2002	$85.00
06/03/2002	$85.00
06/18/2002	$85.00
06/25/2002	$85.00
07/02/2002	$85.00
07/10/2002	$85.00
07/16/2002	$85.00
07/23/2002	$85.00
07/30/2002	$85.00
08/06/2002	$85.00
08/13/2002	$85.00

08/20/2002	$85.00
08/27/2002	$85.00
09/04/2002	$85.00
09/10/2002	$85.00
09/17/2002	$85.00
09/24/2002	$85.00
10/01/2002	$85.00
10/07/2002	$85.00
10/15/2002	$85.00
10/21/2002	$85.00
10/28/2002	$85.00
11/04/2002	$85.00
11/12/2002	$85.00
11/18/2002	$85.00
11/25/2002	$85.00
12/02/2002	$85.00
12/09/2002	$85.00
12/16/2002	$85.00
12/23/2002	$85.00
01/01/2003	$85.00
01/13/2003	$85.00
01/21/2003	$85.00
01/28/2003	$85.89
02/04/2003	$89.68
02/11/2003	$93.12
02/20/2003	$96.22
02/24/2003	$98.98
03/03/2003	$105.52
03/11/2003	$118.96
03/18/2003	$133.42
03/24/2003	$146.86
04/01/2003	$154.44
04/08/2003	$155.13
04/15/2003	$154.44
04/22/2003	$154.09
04/29/2003	$153.40
05/06/2003	$152.71
05/13/2003	$151.34
05/20/2003	$150.30
05/28/2003	$149.61
06/03/2003	$148.93
06/10/2003	$148.24
06/17/2003	$147.55
06/24/2003	$146.86
07/01/2003	$146.17
07/08/2003	$144.79
07/14/2003	$143.41
07/22/2003	$142.04
07/29/2003	$140.66
08/05/2003	$137.21
08/12/2003	$133.77
08/19/2003	$130.32

08/25/2003	$127.91
09/03/2003	$128.95
09/09/2003	$133.08
09/16/2003	$137.56
09/23/2003	$141.00
09/30/2003	$143.07
10/07/2003	$144.45
10/15/2003	$145.48
10/21/2003	$146.17
10/28/2003	$147.20
11/04/2003	$148.58
11/11/2003	$149.55
11/18/2003	$149.89
11/25/2003	$150.58
12/02/2003	$150.58
12/09/2003	$150.30
12/16/2003	$150.99
12/23/2003	$152.03
12/30/2003	$153.06
01/06/2004	$154.09
01/13/2004	$154.44
01/21/2004	$154.09
01/27/2004	$153.89
02/03/2004	$154.37
02/10/2004	$155.06
02/17/2004	$155.95
03/02/2004	$156.78
03/09/2004	$155.75
03/16/2004	$154.85
03/23/2004	$154.30
03/30/2004	$153.40
04/06/2004	$153.40
04/13/2004	$153.40
04/20/2004	$153.06
04/27/2004	$153.06
05/04/2004	$153.06
05/11/2004	$152.58
05/18/2004	$151.06
05/25/2004	$149.55
06/03/2004	$148.17
06/08/2004	$147.62
06/15/2004	$147.62
06/22/2004	$147.62
06/29/2004	$147.48
07/07/2004	$146.31
07/12/2004	$145.96
07/19/2004	$145.62
07/26/2004	$145.62
08/02/2004	$146.31
08/10/2004	$146.65
08/16/2004	$147.00
08/24/2004	$147.69

08/31/2004	$149.89	
09/08/2004	$153.47	
09/14/2004	$157.40	
09/21/2004	$160.64	
09/28/2004	$162.36	
10/04/2004	$162.36	
10/13/2004	$163.19	
10/19/2004	$163.88	
10/26/2004	$165.60	*
11/02/2004	$167.66	
11/09/2004	$169.25	
11/16/2004	$170.63	
11/23/2004	$170.63	
11/29/2004	$170.28	
12/07/2004	$169.94	
12/14/2004	$169.94	
12/21/2004	$170.28	
12/28/2004	$170.63	
01/04/2005	$170.97	
01/11/2005	$171.66	
01/19/2005	$172.35	
01/25/2005	$173.38	
02/01/2005	$174.07	
02/08/2005	$174.07	
02/15/2005	$173.73	
02/23/2005	$173.38	
03/01/2005	$173.38	
03/08/2005	$174.07	
03/15/2005	$175.11	
03/22/2005	$176.14	
03/29/2005	$178.00	
04/05/2005	$179.38	
04/12/2005	$181.10	
04/19/2005	$182.48	
04/26/2005	$183.17	
05/03/2005	$183.51	
05/10/2005	$183.51	
05/17/2005	$183.51	
05/24/2005	$184.54	
06/01/2005	$185.71	
06/07/2005	$186.89	
06/14/2005	$188.61	
06/21/2005	$189.16	
06/28/2005	$189.71	
07/06/2005	$190.26	
07/12/2005	$190.26	
07/18/2005	$190.26	
07/26/2005	$190.26	
08/09/2005	$190.26	
08/16/2005	$190.26	
08/23/2005	$193.71	
08/30/2005	$197.15	

09/07/2005	$204.04
09/13/2005	$210.93
09/27/2005	$219.54
10/04/2005	$222.03
10/12/2005	$225.40
10/17/2005	$227.81
10/25/2005	$229.88
10/31/2005	$230.56
11/08/2005	$231.25
11/15/2005	$231.60
11/22/2005	$233.66
11/29/2005	$235.39
12/06/2005	$236.77
12/13/2005	$238.49
12/20/2005	$238.49
12/28/2005	$238.49
01/04/2006	$238.49
01/10/2006	$238.49
01/18/2006	$238.83
01/24/2006	$238.83
01/31/2006	$238.83

* revised

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Ammonium Nitrate from Russia

Inv. No.: 731-TA-856 (Review)

Date and Time: January 19, 2006 - 9:30 a.m.

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

OPENING REMARKS:

In Support of Continuation of the Antidumping Duty Order: **Valerie A. Slater**,
Akin Gump Strauss Hauer & Feld LLP
In Opposition to Continuation of the Antidumping Duty Order: **Frank H. Morgan**,
White & Case LLP

In Support of Continuation of Antidumping Duty Order:

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

The Committee for Fair Ammonium Nitrate Trade ("COFANT")

Matt Green, Director, Agricultural Sales, Terra Industries, Inc.
Gary Elliott, Consultant to Terra Industries, Inc.
Paul Rydlund, President, El Dorado Chemical Co.
Phil Gough, Senior Vice President, El Dorado Chemical Co.
Daniel W. Klett, Senior Economist, Capital Trade, Inc.
Andrew Szamosszegi, Economist, Capital Trade, Inc.

Valerie A. Slater – OF COUNSEL
Anne K. Cusick
Carrie A. Rhoads

In Opposition to Continuation of Antidumping Duty Order:

White & Case LLP
Washington, D.C.
on behalf of

MCC EuroChem
JSC Azot Nevinnomyssk
JSC Novomoskovsk
JSC Minudobreniya
JSC Dorogobuzh
JSC Acron

Nicholas Adamchak, Managing Director, Ameropa North America
Mike Ward, Regional Sales Manager, Ameropa North America

Frank H. Morgan – OF COUNSEL
Jay C. Campbell

REBUTTAL/CLOSING REMARKS:

In Support of Continuation of the Antidumping Duty Order: **Valerie A. Slater**, Akin Gump Strauss Hauer & Feld LLP
In Opposition to Continuation of the Antidumping Duty Order: **Frank H. Morgan**, White & Case LLP

APPENDIX C

SUMMARY TABLES

Table C-1
AN: Summary data concerning the U.S. market, 2000-04, January-September 2004, and January-September 2005

(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)

	Reported data							Period changes					
						January-September							Jan.-Sept.
Item	2000	2001	2002	2003	2004	2004	2005	2000-04	2000-01	2001-02	2002-03	2003-04	2004-05
U.S. consumption quantity:													
Amount	***	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):													
Russia	***	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:													
Amount	***	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):													
Russia	***	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. imports from--													
Russia:													
Quantity	288	96,171	114,666	162,449	126,464	52,382	72,293	(2)	(2)	19.2	41.7	-22.2	38.0
Value	37	11,859	11,085	18,239	21,039	8,511	14,147	(2)	(2)	-6.5	64.5	15.4	66.2
Unit value	$128.80	$123.31	$96.68	$112.28	$166.37	$162.48	$195.69	29.2	-4.3	-21.6	16.1	48.2	20.4
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
All sources:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. producers':													
Average capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	329	293	290	287	277	276	170	-15.8	-10.9	-1.0	-1.0	-3.5	-38.4
Hours worked (1,000s)	716	658	664	636	604	451	275	-15.6	-8.1	0.9	-4.2	-5.0	-39.0
Wages paid ($1,000)	15,651	13,898	14,505	13,914	13,870	10,175	6,611	-11.4	-11.2	4.4	-4.1	-0.3	-35.0
Hourly wages	$21.86	$21.12	$21.84	$21.88	$22.96	$22.56	$24.04	5.1	-3.4	3.4	0.1	5.0	6.6
Productivity (tons/hour)	1.7	1.7	2.0	1.8	1.7	1.7	2.8	1.9	3.4	14.6	-7.6	-6.9	62.8
Unit labor costs	$13.14	$12.28	$11.08	$12.01	$13.54	$13.09	$8.57	3.0	-6.6	-9.8	8.4	12.8	-34.6
Net sales:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Increase greater than 1,000 percent.

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 Commission questionnaires.

Table C-2
AN: Summary data concerning remaining U.S. producers El Dorado and Terra, 2000-04, January 2004, and January 2005

* * * * * * *

APPENDIX D

RESPONSES OF U.S. PRODUCERS, IMPORTERS, PURCHASERS, AND FOREIGN PRODUCERS CONCERNING THE SIGNIFICANCE OF THE EXISTING AGREEMENT SUSPENDING THE ANTIDUMPING INVESTIGATION AND THE LIKELY EFFECTS OF TERMINATION

U.S. PRODUCERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE AGREEMENT SUSPENDING THE ANTIDUMPING INVESTIGATION AND THE LIKELY EFFECTS OF TERMINATION

The Commission requested U.S. producers to describe any anticipated changes in their operations or organization relating to the production of AN in the future if the suspended antidumping investigation were to be terminated (Question II-4).

Air Products

***.

El Dorado

***.

*****

***.

Terra

***.

***.

The Commission requested U.S. producers to describe the significance of the existing suspension agreement covering imports of AN from Russia in terms of its effect on their firm's production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values (Question II-14).

Air Products

***.

***.

El Dorado

***.

***.

*****

***.

Terra

***.

***.

***.

The Commission requested U.S. producers to describe any changes in their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of AN in the future if the suspended investigation on ammonium nitrate from Russia were to be terminated (Question II-15).

Air Products

***.

El Dorado

***.

****

***.

Terra

***.

***.

U.S. IMPORTERS' COMMENTS REGARDING THE SUSPENSION AGREEMENT AND THE LIKELY EFFECTS OF THE TERMINATION OF THE SUSPENSION AGREEMENT

The Commission asked importers if they anticipated any changes in their operations or organization relating to the importation of AN if the suspended investigation on ammonium nitrate from Russia were to be terminated (Question II-4).

****

(Unanswered).

****

No.

****

No.

***

No.

***

No.

The Commission requested importers to describe the significance of the existing suspension agreement covering imports of AN from Russia in terms of its effect on their firm's imports, U.S. shipments of imports, and inventories (Question II-8).

***

Because the existing suspension agreement grossly distorts the open market value for Russian AN, it is very difficult to make any long term plans to distribute and sell this material. The transportation costs that were initially used to develop the formula for the Agreement "reference price" are now significantly under valued. As a result, the f.o.b. value in Russian {AN} is over valued and is often uncompetitive in the United States' market. In addition, the restrictions on supply seem counterintuitive since at least four (4) production facilities have discontinued the production of AN since the Agreement went into effect in September 2000.

***

The suspension agreement limited the tons available to the U.S. Prices from domestic suppliers increased while availability was limited. Additional plant closures occurred and reduced tonnage available even more.

***

***.

***

***.
Our imports since the imposition of the agreement have been limited by the quota provisions.

***

Level of imports will remain the same for ***.

The Commission asked importers if they anticipated changes in their imports, U.S. shipments of imports, or inventories of AN in the future if the suspended investigation on ammonium nitrate from Russia were to be terminated (Question II-9a and II-9b).

***

With presumably more consistently and competitively available product, we would have a greater ability to plan and guarantee customers a reliable supply of AN. The termination of the Agreement would greatly assist in our forward planning; specifically sales, storage, and transportation.

We would certainly anticipate an overall increase in our company's total imports. In addition, we feel that the Russian product is of superior quality and this coupled with the logistical capability would lead us to expect that Russian AN would also replace some portion of non-Russian imports in the market overall.

***

No. We are handling less AN now due to the reduction of consumption and the increased handling restrictions.

***

No.

***

Russian AN is selling at approx. $80/MT less in the world market than in the U.S. based on the pricing mechanism imposed by the AN suspension agreement. It is likely that additional Russian product will come to the U.S.

It is difficult to predict the impact that such a change would have on our import volume**.**

***

It would create more supply possibilities. Potentially prices could go down due to more supply options.

U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF THE TERMINATION OF THE SUSPENSION AGREEMENT

The Commission asked the purchasers to comment on the likely effects of terminating the suspended investigation on imports of AN from Russia and asked to discuss any potential effects of terminating the investigation in terms of (1) its future activities and (2) the U.S. market as a whole (Question III-38).

***

(1) Suspending the investigation will have a favorable impact on availability and price.
(2) The same.

***

(1) Eliminate U.S. producers and reduce supply.
(2) The same.

***

***.
***.

***

(1) Will force us to purchase more imported nitrate since its price and availability will drive the market.
(2) Will be difficult for U.S. producers to compete with price and higher U.S. natural gas values.

***

(1) Need to remove the Agreement with Russia. This would stop, or at least reduce the off spec material such as NK 21-0-21 that flooded the market to avoid the tariff.
(2) Unknown.

***

(1) No impact on us as far as terminal supply. We might consider imports for trading.
(2) Barge sales to other distributors. No doubt companies such as *** would increase imports.

***

(1) Opportunity for more supply.
(2) Allow more AN in the U.S. market, AN would be more closely balanced in terms of units of nitrogen (price wise).

***

(1) Due to higher production cost more closures of domestic producers forcing us to buy from importers.
(2) More imported product below production cost of domestic producers forcing plant closures.

***

(1) If ammonium nitrate does not stay at a feasible price range for agriculture, we will discontinue purchase and use.
(2) None.

***

(1) It will allow additional AN tons to enter the U.S. market which could result in lower selling prices.
(2) It will allow additional AN tons to enter the U.S. market which could result in lower selling prices, yet provide additional tons in a market that U.S. production continues to decline.

***

(1) Will be more competition on our business since we compete ***.
(2) Could be beneficial for consumers allowing more low cost product to enter the market, but negatively impact domestic producers.

The Commission asked purchasers to explain whether, and if so how, termination of the suspended investigation on AN from Russia would affect their firm's purchasing patterns. (Question IV-10).

***

We are concerned about domestic producers ability to meet demand.

***

Pressure on U.S. production.

***

Would most likely purchase more Russian origin production.

***

We will continue to purchase from suppliers who import. Market will not be flooded with off specification material to avoid paying tariff.

***

***.

***

I don't know.

***

More imports will enter U.S. at lower cost of production of domestic producer forcing plant closures, thus forcing us to buy imported products.

***

With the U.S.A. net short on Nitrate supply what other choice do we have than to use the Russian's product.

***

It would probably not affect our purchasing pattern.

***

Will not affect.

***

***.

***

Unsure.

***

No change.

FOREIGN PRODUCERS' COMMENTS REGARDING THE LIKELY EFFECTS OF THE TERMINATION OF THE SUSPENSION AGREEMENT

The Commission requested foreign producers to indicate whether they anticipated any changes in their operations or organization relating to the production of production of AN in the future if the suspended investigation on AN from Russia were to be terminated (Question II-3).

Acron and Dorogobuzh

***.

Berezhniki

***.

Minudo

***.

Nevinka and Novomos

***.

The Commission requested foreign producers to describe the significance of the antidumping investigation on imports of AN from Russia in terms of its effect on their firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. (Question II-14).

Acron and Dorogobuzh

***.

Berezhniki

***.

Minudo

***.

Nevinka and Novomos

***.

The Commission requested foreign producers to indicate whether they anticipated any changes in their firm's production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of AN in the future if the suspended antidumping investigation on AN from Russia were to be terminated (Question II-15).

Acron and Dorogobuzh

***.

Berezhniki

***.

Minudo

***.

Nevinka and Novomos

***.

The Commission requested foreign producers to describe how easily their firms can shift their sales of AN between the U.S. market and alternative country markets. (Question III-8).

Acron and Dorogobuzh

***.

Berezhniki

***

Minudo

***.

Nevinka and Novomos

***.

APPENDIX E

PRICE DATA INCLUDING SALES BY ***

Table E-1
AN: Weighted-average U.S. producers' prices, net of freight and other handling costs; weighted-average prices of imports from Russia (including data from *), and margins of underselling/ (overselling), by month, January 2000- September 2005**

* * * * * * *

Figure E-1
AN: Weighted-average net prices of domestic and imported products (including data from *), by month, January 2000-September 2005**

* * * * * * *