UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of: AMMONIUM NITRATE FROM RUSSIA

Investigation No.: 731-TA-856 (Review)

REVISED AND CORRECTED COPY

Pages: 1 through 310
Place: Washington, D.C.
Date: January 19, 2006

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888
THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )
) Investigation No.: ) 731-TA-856 (Review)
AMMONIUM NITRATE FROM RUSSIA )

Thursday,
January 19, 2006

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at
9:30 a.m. before the Commissioners of the United States
International Trade Commission, the Honorable STEPHEN
KOPLAN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

CHAIRMAN STEPHEN KOPLAN
VICE CHAIRMAN DEANNA TANNER OKUN
COMMISSIONER JENNIFER A. HILLMAN
COMMISSIONER CHARLOTTE R. LANE
COMMISSIONER DANIEL R. PEARSON
COMMISSIONER SHARA L. ARANOFF
APPEARANCES: (cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
KAREN TAYLOR, INVESTIGATOR
ELIZABETH NESBITT, INDUSTRY ANALYST
RAYMOND CANTRELL, INDUSTRY ANALYST
ROBERT HUGHES, ECONOMIST
CHARLES YOST, ACCOUNTANT/AUDITOR
MARK REES, ATTORNEY
GEORGE DEYMAN, SUPERVISORY INVESTIGATOR

In Support of Continuation of Antidumping Duty Order:

On behalf of 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 Company
PHIL GOUGH, Senior Vice President, El Dorado Chemical Company
DANIEL W. KLETT, Senior Economist, Capital Trade, Inc.
ANDREW SZAMOSSZEGI, Economist, Capital Trade, Inc.

VALERIE A. SLATER, Esquire
ANNE K. CUSICK, Esquire
CARRIE A. RHOADS, Esquire
Akin Gump Strauss Hauer & Feld, LLP
Washington, D.C.
APPEARANCES:  (cont'd.)

In Opposition to Continuation of Antidumping Duty Order:

On behalf of MCC EuroChem, JSC Azot Nevinnomyssk, JSC Novomoskovsk, JSC Minudobrenyia, JSC Dorogobuzh and JSC Acron:

NICHOLAS ADAMCHAK, Managing Director, Ameropa North America
MIKE WARD, Regional Sales Manager, Ameropa North America

FRANK H. MORGAN, Esquire
JAY C. CAMPBELL, Esquire
White & Case, LLP
Washington, D.C.
<table>
<thead>
<tr>
<th>INDEX</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPENING STATEMENT OF VALERIE A. SLATER, ESQUIRE, AKIN GUMP STRAUSS</td>
<td>7</td>
</tr>
<tr>
<td>HAUER &amp; FELD, LLP</td>
<td></td>
</tr>
<tr>
<td>OPENING STATEMENT OF FRANK H. MORGAN, ESQUIRE, WHITE &amp; CASE, LLP</td>
<td>12</td>
</tr>
<tr>
<td>TESTIMONY OF VALERIE A. SLATER, ESQUIRE, AKIN GUMP STRAUSS HAUER &amp;</td>
<td>17</td>
</tr>
<tr>
<td>FELD, LLP</td>
<td></td>
</tr>
<tr>
<td>TESTIMONY OF MATT GREEN, DIRECTOR, AGRICULTURAL SALES, TERRA</td>
<td>18</td>
</tr>
<tr>
<td>INDUSTRIES, INC.</td>
<td></td>
</tr>
<tr>
<td>TESTIMONY OF GARY ELLIOTT, CONSULTANT TO TERRA INDUSTRIES, INC.</td>
<td>26</td>
</tr>
<tr>
<td>TESTIMONY OF PHIL GOUGH, SENIOR VICE PRESIDENT, EL DORADO CHEMICAL</td>
<td>30</td>
</tr>
<tr>
<td>COMPANY</td>
<td></td>
</tr>
<tr>
<td>TESTIMONY OF PAUL RYDLUND, PRESIDENT, EL DORADO CHEMICAL COMPANY</td>
<td>35</td>
</tr>
<tr>
<td>TESTIMONY OF DANIEL W. KLETT, SENIOR ECONOMIST, CAPITAL TRADE, INC.</td>
<td>39</td>
</tr>
<tr>
<td>TESTIMONY OF ANDREW SZAMOSSZEGI, ECONOMIST, CAPITAL TRADE, INC.</td>
<td>67</td>
</tr>
<tr>
<td>TESTIMONY OF FRANK H. MORGAN, ESQUIRE, WHITE &amp; CASE, LLP</td>
<td>160</td>
</tr>
<tr>
<td>TESTIMONY OF NICHOLAS ADAMCHAK, MANAGING DIRECTOR, AMEROPA NORTH</td>
<td>163</td>
</tr>
<tr>
<td>AMERICA</td>
<td></td>
</tr>
<tr>
<td>TESTIMONY OF JAY C. CAMPBELL, ESQUIRE, WHITE &amp; CASE, LLP</td>
<td>172</td>
</tr>
<tr>
<td>TESTIMONY OF MIKE WARD, REGIONAL SALES MANAGER, AMEROPA NORTH</td>
<td>187</td>
</tr>
<tr>
<td>AMERICA</td>
<td></td>
</tr>
</tbody>
</table>
INDEX

CLOSING STATEMENT OF VALERIE A. SLATER, ESQUIRE, AKIN GUMP STRAUSS HAUER & FELD, LLP  
293

CLOSING STATEMENT OF FRANK H. MORGAN, ESQUIRE, WHITE & CASE, LLP  
301
CHAIRMAN KOPLAN: Good morning. On behalf of the United States International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-856 (Review) involving Ammonium Nitrate From Russia.

The purpose of this five-year review investigation is to determine whether the revocation of the antidumping duty order covering 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.

Notice of investigation for this hearing, list of witnesses and transcript order forms are available at the Secretary's desk. I understand the parties are aware of the time allocation. Any questions regarding the time allocation should be directed to the Secretary.

As all written material will be entered in full into the record it need not be read to us at this time. Parties are reminded to give any prepared non-confidential testimony and exhibits to the Secretary. Do not place any non-confidential testimony or
exhibits directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

Finally, if you will be submitting documents that contain information you wish classified as business confidential, your requests should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Mr. Chairman.

CHAIRMAN KOPLAN: Very well. Let us proceed with the opening remarks.

MR. BISHOP: Opening remarks in support of continuation of the order will be made by Valerie A. Slater, Akin Gump Strauss Hauer & Feld.

CHAIRMAN KOPLAN: Good morning.

MS. SLATER: Good morning. Good morning, Mr. Chairman, members of the Commission, Commission staff, and Happy New Year. My name is Valerie Slater. I'm appearing this morning on behalf of the Committee for Fair Ammonium Nitrate Trade. It's a pleasure to be here this morning in this five-year sunset review of the suspended investigation of ammonium nitrate from Russia.

In a sunset review, as you know, the
Commission is asked in effect to predict the future. You're supposed to look in your crystal ball and determine as best as you possibly can what's likely to happen if relief from unfair imports is removed.

You look at what happened in your original investigation period, you look at what has changed, and you look at what's likely to happen with respect to the volume pricing and then the impact of the subject imports. Of course, you know this because by now the Commission has carried out more than 400 sunset reviews or reviewed orders covering more than 400 different cases. Thankfully, many of them have been grouped.

I think that in this sunset review of a rather remarkable suspended investigation, you're going to find that very little has changed in terms of the factors and conditions that led you to vote unanimously in favor of relief only five years ago. This should be a relatively straightforward sunset review, in our view.

Russia is by far the world's largest exporter of ammonium nitrate and has tremendous unutilized capacity. That's true no matter how you measure that unutilized capacity. All the different slicing and dicing the Respondents will ask you to do

Heritage Reporting Corporation
(202) 628-4888
really don't change the bottom line.

During the investigation, Russian exports were found to significantly undersell U.S. producers and other imports and to depress U.S. prices. The suspension agreement, which is a relatively novel exercise, has imposed pricing and quantity requirements on Russian exports to the market, but Russian exports elsewhere have continued to undersell in those markets and have continued to depress prices there.

In addition, Russian exports continue to be shut out of China, which is one of the world's largest consumers. They are now excluded by antidumping measures from the expanded European Union, and they are severely restricted in Brazil.

The United States remains one of the largest importing markets for ammonium nitrate, and without relief it would be the largest market completely open to those products. Prices here are also much stronger than in other markets where Russia can freely export. This continues to be an extremely attractive market.

You know, Albert Einstein once said that insanity is defined as doing the same thing over and over again, but expecting different results. If we were to terminate the suspended investigation here and
take us back right where we were and expect that
anything different would happen, that would be frankly
-- well, I'll leave that to Professor Einstein to
describe the results.

In some respects the results today would be
even worse than in the investigation period. The
industry is faced with high and volatile natural gas
prices and has been reduced to the two core producers
while the rest have exited the industry in the face of
a rapidly shrinking market.

Apparent consumption during this period of
review has declined dramatically. It was almost 2.5
million tons during your period of investigation. By
the end of this review period, it was somewhere in the
neighborhood of 1.5 million tons, and it's predicted
to drop further to about a million tons in the short
term. Nevertheless, the suspension agreement has
allowed this industry to improve its financial results
over this period and to become profitable despite
higher costs.

Russian Respondents are faced with a set of
facts which are not favorable, and they've come up
with a pretty creative set of arguments, arguments
that are based on an utterly erroneous premise. You
know, I had a great law school professor who said

Heritage Reporting Corporation
(202) 628-4888
once, and this is probably the only thing I remember from law school, let me make the premise, and I'll beat you every time.

Well, in this case the Russian Respondents have come up with a premise that is just so wrong we're not going to let them get away with making it. It's just wrong. They suggest there's a shortage of supply in the U.S. market that can only be filled if more Russian imports are permitted. It's the foundation for their entire case in this review.

You're going to hear today that there is not and has not been any type of a shortage despite the contraction of the domestic industry. U.S. producers continue to have substantial underutilized capacity, imports continue to flow from the variety of non-subject sources and from Russia, and the market is shrinking. In addition, your questionnaire responses from purchasers, producers and importers make clear that there's no shortage of product.

Ladies and gentlemen, you know a market involving a shortage when you see one, and this case does not involve a shortage of any sort. Not even close.

You will hear today from our industry witnesses about the state of the market, about the

Heritage Reporting Corporation
(202) 628-4888
very positive effects of the suspension agreement and why a resumption of the price depression caused by Russian imports in the original investigation period would be so devastating for the remaining producers at this time.

We believe you can reach one reasonable conclusion in this case, and we urge you to do so.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Mr. Secretary?

MR. BISHOP: Opening remarks on behalf of those in opposition to continuation of the order will be made by Frank H. Morgan, White & Case.

CHAIRMAN KOPLAN: Thank you.

Good morning, Mr. Morgan.

MR. MORGAN: Good morning, Chairman Koplan, Commissioners, Commission staff. My name is Frank Morgan. I'm with White & Case. I'm joined by my colleague, Jay Campbell. We represent EuroChem and its affiliated Russian AN producers, Nevinnomyssk and Novomoskovsk, along with JSC Acron and its affiliated company, JSC Dorogobuzh, and finally JSC Minudobrenyia.

We're pleased to have Nicholas Adamchak and Mike Ward of Ameropa here with us today. Ameropa is a
Russian importer of ammonium nitrate.

The case for termination is a simple one. It does not involve a great deal of facts, and it does not require a deep gaze into a crystal ball. A significant gap exists between U.S. AN supply and U.S. demand. I have no doubt that my friends on the other side, as we've already heard, will do a wonderful job of brushing this issue aside, but at bottom make no mistake. Perpetuation of the suspension agreement jeopardizes supply to the growers whose crops require nitrate nitrogen.

On this I note at the outset that the distinction between consumption and demand is meaningful, and the terms cannot be used interchangeably in this case. While there may have been a slight decline in consumption, none of the exogenous factors that would show a decline in demand, such as acreage planted for crops that use AN, indicate that there has been any decline.

In terms of U.S. produced supply, I don't think you'll hear any disagreement today from the only two domestic AN producers. U.S. supply falls short of demand. This is not new. Imports have been a vital part of the U.S. market since well before the original investigation.
What is new and what is clear from the import statistics, no matter how you slice and dice them, is that non-subject imports have declined and cannot be expected at previous levels. Even when prices were rising in the U.S. market, non-subject imports declined, and they did so rapidly.

Why? Would your non-subject import volume shrivel in the face of increasing prices? The answer is simple. Security regulations, logistical limitations and limited offshore availability of supply.

As you'll hear from Mr. Adamchak this afternoon, measures designed to safeguard ammonium nitrate have had a dramatic impact on the market. Many of these measures are recent, and all postdate the original investigation. Altogether, these measures have had a disproportionate impact on imports because they severely restrict access to the domestic distribution system.

Domestic producers, on the other hand, have escaped a great deal of this impact because they ship the majority of their AN by rail or truck. There's nothing exceptional about Russian AN that will allow it to escape these same impediments should the Commission terminate the suspended investigation.
Like all other imported AN, Russian product primarily moves through the Mississippi River system via barges. Consequently, even if importers had an incentive to increase their volume of AN shipments, of Russian AN shipments, there are insurmountable impediments to their ability to do so.

I do not think you will hear anyone today dispute the fact that the security measures on AN are here and will last indefinitely. If anything, I think you'll find general agreement that more measures are coming, primarily with the likely passage by Congress of the Secure Handling of Ammonium Nitrate Act.

In such an environment, a niche product like AN is sure to command a price premium in the U.S. market. Without intending to, I believe the U.S. industry has proven this point in its prehearing brief. The domestic industry's general theme is that Russian AN prices to every other market in the world are lower than they are to the United States.

We intend to examine the underlying data further in our posthearing brief because there seems to be some gross distortions and internal inconsistencies, but for the moment and for the sake of argument we will accept that the United States market offers the most attractive pricing.
Why? Why does a commodity product command a higher price in the U.S. than anywhere else in the world? Lack of adequate supply, logistical limitations and security regulations. These three factors combine to ensure that AN is and will remain a price premium product in the U.S. market irrespective of termination.

As you will hear from Mr. Adamchak later, importers that handle this product have no incentive to undercut prices to move volume on the one hand because the market is undersupplied and on the other because security regulations restrict the volume of imports that can be sold. Absent a neater incentive to undercut prices to move volume, importers that do continue to handle the product thus can be expected to command a price premium.

In an undersupplied market, even with the U.S. industry operating at full capacity where limited incentives and ability to increase volume by underselling exists, it does not require a crystal ball to see that termination will not have an adverse impact on the domestic industry.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Mr. Secretary?
MR. BISHOP: Would the first panel, those in support of continuation of the antidumping duty order, please come forward and be seated?

Mr. Chairman, all witnesses have been sworn.

(Witnesses sworn.)

CHAIRMAN KOPLAN: Thank you.

I can definitely see the light. You may proceed.

MS. SLATER: Good morning, Mr. Chairman, members of the Commission. Once again, my name is Valerie Slater of Akin Grump Strauss Hauer & Feld representing the domestic ammonium nitrate industry, the Committee for Fair Ammonium Nitrate Trade.

We've brought before you this morning representatives of the two remaining ammonium nitrate producers who are the largest core producers in this industry. Let me introduce them briefly, and then we'll have testimony.

On my left, Mr. Gary Elliott and Mr. Matt Green from Terra Industries. On my right, Mr. Phil Gough of El Dorado Chemical. Behind me is Mr. Paul Rydlund, the president of El Dorado Chemical Company.

We'll also hear testimony this morning from our economist, Dan Klett, and we also have my colleagues, Anne Cusick and Carrie Rhoads, and Andrew,
whose last name I can't pronounce, who works with Mr. Klett.

Let's start this morning since I think before you heard my opening remarks, I think we'll go right to the witnesses. I'd like to open with some testimony from Mr. Green.

MR. GREEN: Good morning, Mr. Chairman, members of the Commission and the Commission staff. My name is Matt Green. I'm the Director of Agricultural Sales at Terra Industries, a U.S. producer of ammonium nitrate.

I have been with Terra for 11 years and have held my current position since 2000. I'm responsible for North American sales and marketing of Terra's fertilizer grade ammonium nitrate, all of which is produced at Yazoo City, Mississippi. Terra has owned and operated the Yazoo City plant since it acquired Mississippi Chemical Corporation in December 2004.

I appreciate the opportunity to appear before you today to discuss the ammonium nitrate market and why it is so important to Terra that the Commission permit the suspension agreement on Russian ammonium nitrate to continue for another five years.

First I'd like to start with a description of ammonium nitrate and how it differs from other
nitrogen fertilizers. First, it is important to recognize that ammonium nitrate serves a niche market and has characteristics that make it extremely desirable in certain regions and applications.

Ammonium nitrate is distinguished from other nitrogen fertilizers such as urea because of two characteristics. One, it rapidly delivers nitrogen to the soil. Secondly, there is less risk of volatilization, meaning the loss of nitrogen into the air, when AN is applied directly to the soil.

Ammonium nitrate is especially popular in the southeastern part of the United States where its qualities are particularly well-suited for the warmer climates and the type of crops planted, such as grass or citrus, or where no-till methods are used.

In no-till applications, fertilizer is applied on top of the soil and not tilled into the soil. Because the fertilizer sits on top of the soil, the qualities of ammonium nitrate are particularly desirable. In regions or in applications for which ammonium nitrate is preferred, special qualities of ammonium nitrate mean that there is a limited substitution between ammonium nitrate and other nitrogen fertilizers.

AN is used as a single source fertilizer, or
it is blended with other fertilizers such as phosphate and potash and is broadcast to the soil surface. Because it is most frequently applied at time of planting, farmer demand for ammonium nitrate is concentrated in the spring months, but we are producing and shipping to customers in the distribution system year-round.

An important aspect of the ammonium nitrate market is that ammonium nitrate is a commodity product that is produced using essentially the same process regardless of where it is produced. Russian produced ammonium nitrate is a perfect substitute for U.S. produced ammonium nitrate of quality and uses.

Last year when our production was temporarily interrupted -- our gas supplies were cut off due to Hurricanes Katrina and Rita -- we made a one-time purchase of some Russian nitrate. The product was of excellent quality, and we delivered it to some of our customers without any problems.

Russian product is also identical to U.S. produced ammonium nitrate in terms of marketing and distribution. Importers bring vessels into the Gulf Coast ports, including New Orleans and Tampa, and distribute this product through these ports. Like U.S. producers, they barge ammonium nitrate up the...
Mississippi River and either distribute the product directly in barge quantities to distribution warehouses or distribute by rail and truck.

Both domestically produced and imported nitrate are sold to the same distribution channels and would compete for the same business. U.S. producers and imports typically sell to distributors who then resell to dealers, although some product we sell is sold directly to dealers.

It is important for the Commission to realize that competition in the ammonium nitrate market is almost entirely based on price. While we also strive to provide good customer service and reliability, they will not buy our product if they can get an equivalent product for less.

Our customers read weekly publications such as Green Markets which publish prices of ammonium nitrate at various locations. They are also aware of imported product on its way to the United States market and can typically get quotes from importers who are bringing product well before it arrives.

We change our prices according to our assessment of the marketplace in which we sell and the season and the competitive conditions, and these can be changed daily or monthly. It is also important to
keep in mind that every other producer or importer of ammonium nitrate has access to the same information we use to determine price, so the prices of one producer or importer affect the entire market.

Today the U.S. industry faces some difficult challenges. As you are certainly aware, natural gas, which is a principal raw product in making ammonium nitrate, is at historically high prices. We can only remain profitable if our prices can rise to a level that reflects our increased cost.

In addition, U.S. demand for nitrate is unquestionably declining. While the market is shrinking, at Terra we strongly believe that there will always be a core market for ammonium nitrate. Especially in the southeastern United States, ammonium nitrate will remain the nitrogen fertilizer of choice for no-till crop agriculture because its particular qualities are suited both to the climate and farming methods in that region.

However, particularly because the demand is declining, additional large volumes of unfairly priced supply will seriously disrupt the market. Because Russia has such a huge producer with the capacity of shipping large volumes, the suspension agreement has been extremely beneficial since the market knows that
only a fixed volume of ammonium nitrate from Russia will enter the market during a given year at a price that is tied to the market.

Even though it has given Russian producers a growing quota in a declining market, the suspension agreement has prevented the market disruption and price declines that led to the initial request for relief.

I want to briefly address some of the incredible arguments that the Russians are making. As someone who is in the ammonium nitrate market every day and every week, I know that there is no shortage of ammonium nitrate in the United States.

There are always times in the height of the season particular customers may not have the product when and where they want it largely as a result of inability to predict weather patterns, distribution and logistics issues and planning the schedule with accuracy. There is not an insufficient amount of supply of ammonium nitrate in the United States.

We at Terra have capacity that is significantly underutilized. Ammonium nitrate finds its way to our markets with a variety of sources, and trading companies who handle ammonium nitrate make sure that import supply is available. The notion that...
there's not enough supply in the shrinking market is just not correct.

I also want to comment briefly on Terra's turnaround of our ammonia plant at Yazoo City and our addition of capacity for low-density, industrial grade ammonium nitrate. The ammonia plant at Yazoo City is currently down for what we call a turnaround. This is routine maintenance that is normally done every year or two.

While the turnaround had been scheduled for February, given high natural gas prices we decided to extend the time of the turnaround and begin in January. This has resulted in cost savings as we were able to perform the turnaround using our own workers.

It has not stopped our production of ammonium nitrate because our plant at Yazoo City has the ability to bring in ammonia from elsewhere in the Terra system to produce ammonium nitrate. Let me emphasize this. We have never stopped producing ammonium nitrate during this turnaround.

In that regard, I must tell you that the suggestion by the Russian producers that Terra will only be selling ammonium nitrate to customers who we already committed to sell is incorrect. We are producing nitrate and selling it today to all
customers and will continue to have product for sale. Our turnaround is scheduled to be completed in late February, and we expect our Yazoo City ammonia plant to be up and running at that time. The addition of some low-density capacity to one of the prilling towers in Yazoo City does not reduce or diminish our capacity to produce fertilizer grade ammonium nitrate. Particularly given that the market for fertilizer grade ammonium nitrate is shrinking, having the capability to produce some explosive grade nitrate provides us with an option which we hope will allow us to more fully utilize our capacity and improve the economics of our production of fertilizer grade nitrate in this extremely competitive market.

Finally, I must comment on the argument of the Russian producers that they will not lower their prices if the suspension agreement is removed. I know from personal experience this past summer that this is not the case.

The ammonium nitrate market in eastern Canada is similar to the U.S. market. Normally prices in eastern Canada are somewhat higher than in the U.S. due to logistics and transportation expenses. Last summer we offered some ammonium nitrate for sale in the eastern Canada market. We found ourselves
competing with an importer selling Russian product
that was priced below the prevailing U.S. market.  

As compared with prices of Russian product
brought into the U.S. under the suspension agreement,
this product was offered at a substantially lower
price. We were forced to walk away from several
sales. One which we did make gave us one of our
lowest net backs for the fall season. I have no doubt
that the trading companies will behave in the same way
in their sales of Russian nitrate to the U.S. market
without this suspension agreement.

Thank you.

MS. SLATER: We're now going to hear from
Gary Elliott.

MR. ELLIOTT: Good morning. My name is Gary
Elliott. I'm currently a marketing and distribution
consultant --

CHAIRMAN KOPLAN: If you could move that
just a little closer to you? Thank you.

MR. ELLIOTT: Is that better?

CHAIRMAN KOPLAN: That's better.

MR. ELLIOTT: I was previously Vice
President of Marketing and Distribution for
Mississippi Chemical Company. I held that position
for three years.
I've worked in the ammonium nitrate market in various capacities and was involved in the market at the time of the Commission's original investigation and for most of the period since that time. One of the items I currently advise Terra on concerns the ammonium nitrate market. I appreciate the opportunity to appear here today to briefly share with the Commission my perspective on the suspension agreement and why it continues to be so important.

When Russia ammonium nitrate first appeared in significant quantities in the U.S. market in 1997 and 1998, product that had almost never before been in the market, prices were so low that U.S. producers were stunned. We were forced to meet the Russian prices or lose sales.

I personally participated in many of the transactions in which we were forced to lower our prices in response to offers of Russian product. We did this because we had no choice, and our profitability was negatively affected. We had always had imports in our market, but never imports priced like the Russian product and in such large and growing quantities.

All of this material was offered by trading companies who wanted to move as much volume as they
Heritage Reporting Corporation  
(202) 628-4888

could. For them, any margin represented a profit, and underselling the market was irrelevant. We had just not experienced anything like this in marketing AN.

The decisions of the Commerce Department and the Commission were extremely helpful. Notwithstanding the second wave of dumping of Ukrainian product, the suspension agreement, while allowing the Russian producers significant and growing quotas, tied the price of Russian product to the U.S. market.

Russian product quickly came back into the market, but at prices that reflected the market and in volumes that were defined and known. We were, frankly, skeptical about whether the agreement would work and whether the Russian government would really cooperate in carrying out their agreement and the licensing scheme it set up. We were pleasantly surprised at how well it has worked. In particular, after the Ukrainian issue was addressed we saw our prices recover. Profitability has improved in every year since 2001.

More importantly, I can tell you one thing that I believe to be absolutely true. Given the volatile and increasing natural gas prices we have experienced since we were last before the Commission,
U.S. production would not have survived at all without the suspension agreement. It allowed our prices to rise to cover increasing costs, something that would not have been possible if Russian prices had continued to depress the market as they did in 1998 and 1999.

Given what I see in the market and our interactions with traders handling Russian product, there is no question that the situation would be no different today if the suspension agreement were terminated. There is still an enormous amount of Russian ammonium nitrate available to export to the United States. Russian producers would love to send it here, and traders would love to take it.

ConAgra's attempt to bring in so-called 33-3-0 outside of the agreement is just one example. Today, the Russians want to bring in 27-5-0, another effort in our view to work around the agreement.

Let me add one more thought. The market does not need more Russian nitrate. In a market which is shrinking, the closure of some of the smaller U.S. plants has given the market an opportunity to finally come into balance.

U.S. capacity will be closer to balancing U.S. demand, and in any event imports will continue to come from many countries, including places like
Bulgaria, Romania and now Georgia. There have been no shortages, and there are not likely to be shortages. The U.S. market is a very attractive market with the Central Gulf port locations and the easy access to the river system and other forms of transportation. In Tampa, Ameropa has opened an office and established its own marketing distribution capability. Trading companies have arrangements with some of the largest distributors and will bring them products.

The challenges faced by our industry make it just as important today, if not more important, than it was five years ago to be granted relief from unfairly traded Russian imports. I hope you'll take these factors into account.

Thank you.

MS. SLATER: Thank you. I especially want to thank Mr. Elliott for coming today since it's his birthday, and I know there were just a couple of other things he'd prefer to be doing.

We'll now hear from Mr. Gough of El Dorado Chemical.

MR. GOUGH: Good morning. My name is Phil Gough, and I am currently the Senior Vice President of Marketing for El Dorado Chemical Company. I have held
this position for 22 years. I have been in the ammonium nitrate market for almost 25 years. I am very pleased to be here today.

CHAIRMAN KOPLAN: Could you move that microphone closer to you?

MR. GOUGH: I am very pleased to be here today to describe how the suspension agreement has benefited the U.S. ammonium nitrate industry and my company.

As you have heard from Matt Green, ammonium nitrate is a commodity product sold primarily on the basis of price. Most sales are spot sales or very short-term contracts. Because of that market dynamic, information concerning pricing offers is quickly spread through the market by word of mouth and through trade publications that track the market closely.

Before the suspension agreement was put in place, a single shipment of Russian ammonium nitrate could enter the distribution system and have a major impact on prices as word of the availability of the product and its pricing spread.

One of the reasons that Russian nitrate imports had such a negative impact on our industry is the very nature of the industry. Even though demand for ammonium nitrate is seasonal, we produce ammonium
nitrate year round in order to fully utilize our
plants. We therefore must move product into the
distribution chain in order to continue to produce
efficiently.

We have limited storage facilities, so we
sell product to our customers, who are usually
dealers, in the off season and transfer product to
their storage facilities. This is also beneficial to
the market and end users as a whole since nitrate will
be already in place and available to the farmers when
the spring planting season begins, which can vary from
year to year according to weather patterns.

Because all ammonium nitrate is sold through
the same channels of trade and stored in the same
facilities, the large volumes of Russian product that
were shipped to the U.S. market before the suspension
agreement was entered quickly disrupted the market.
First, the Russian product was offered for sale at
extremely low prices. We had to lower our prices to
meet Russian competition just to maintain market
share.

Second, since the influx of large volumes of
Russian ammonium nitrate were stored in the same
facilities as U.S. produced ammonium nitrate, storage
was quickly filled with Russian product, and U.S.
producers had difficulty moving their product into the distribution chain and thus maintaining production efficiencies.

Third, the huge volumes of Russian imports had a damaging psychological impact on the market. We found that because they expected large volumes of dumped Russian nitrate to be available, our customers did not buy as they usually did in advance of the season.

There was a sense in the market that prices would fall when the Russian product arrived and so purchasers were hedging their bets and not buying since they were sure that all prices in the market would decline further. This disrupted our normal production patterns even further.

The situation with Russian ammonium nitrate was fixed once the suspension agreement was put in place, but, as you know, large volumes of cheap Ukrainian nitrate quickly followed in 2000 and continued to disrupt prices and production. However, after the antidumping duty order on Ukrainian ammonium nitrate was in place prices began to strengthen, and we got back to our more typical production and sales patterns.

Although the suspension agreement has been
incredibly helpful to us during the past five years, the situation has not been easy. We have had to deal with extremely volatile and high natural gas prices, which increased our cost significantly. Also, as Matt Green just mentioned, our market is shrinking. This is an unfortunate but true fact of life.

We have also had to deal with competition from imports from other countries. Although these imports have not been priced as low as Russian or Ukrainian imports were, they have nonetheless challenged the U.S. industry and contributed to continuing oversupply.

In this regard, I want to speak just briefly to two points raised by the Russian producers. They suggest that imports from other countries have dried up and won't be coming back. Well, they know better and so do we. Imports did slow down in late 2004 and early 2005, but imports at the end of 2005 were higher than the same period in 2004, and 2006 promises to continue an upward trend.

Fertecon reported in its world fertilizer review for 2006 that ConAgra has loaded two ships in the Republic of Georgia and two from Bulgaria. Key Trade was sending a third Bulgarian vessel. Yara was bringing a shipload from the Netherlands, and
Transammonia was bringing product from Romania. Seven boatloads, and it's only January.

I wish the Russians were right about the other imports, but they are not. This fits with my experience in the market. There has been plenty of import supply, and the traders are resourceful. It is also simply incorrect to say there has been a shortage of any sort. Nothing could be further from the truth. There has been no shortage.

El Dorado Chemical has always had product to sell, and we have not turned anyone away for lack of product to deliver. The fictional shortages that the Russians suggest are just that.

Thank you for your attention, and I would be pleased to answer any questions.

MS. SLATER: Thank you, Mr. Gough.

We will now hear from Mr. Rydlund, president of El Dorado Chemical.

MR. RYDLUND: Good morning. My name is Paul Rydlund. I am the president of El Dorado Chemical Company, a wholly owned subsidiary of LSB Industries. I have been with the company for 22 years.

I am very familiar with the production and marketing of El Dorado Chemical's fertilizer grade ammonium nitrate. I am grateful for the opportunity
to speak to the Commission today and to explain some
of the factors that make our continuing relief from
unfairly traded Russian imports so important to our
company.

El Dorado Chemical is today one of the two
remaining producers of fertilizer grade ammonium
nitrate in the United States. We produce fertilizer
grade ammonium nitrate presently at our plant in El
Dorado, Arkansas, and serve customers throughout the
ammonium nitrate market in the United States.

We also own and operate a plant in Cherokee,
Alabama. This plant, which was owned by LaRoche
Industries at the time of the Commission's original
investigation, was purchased by El Dorado Chemical in
November 2000.

Today I would like to address some important
factors about the ammonium nitrate production and the
ammonium nitrate market, which I believe will be
helpful for this Commission to understand. I also
want to discuss with you the status of our plant in
Cherokee, Alabama.

First, ammonium nitrate plants, like most
nitrogen plants, are capital intensive and are
designed to run at or near full capacity. Even though
demand for ammonium nitrate is somewhat seasonal, we
run our plants year round in order to ensure adequate 
supplies in the planting season, but also to maximize 
our efficiency. Ideally we would be running our 
plants all year at close to capacity.

In this regard, I noted with some interest 
the suggestion that somehow running at 75 percent of 
capacity or lower is normal for an ammonium nitrate 
plant. This is not true. The utilization rate is not 
optimal for running efficiently, and no producer in 
the U.S. or elsewhere would choose to run its plants 
at this rate.

Our two plants have the capacity to produce 
421,000 tons of fertilizer grade ammonium nitrate 
annually, but presently that capacity is only about 50 
percent utilized. We have shifted all of our ammonium 
nitrate production to our El Dorado plant for the time 
being in order to maximize production there.

While we are producing other product at 
Cherokee, our capacity to produce fertilizer grade 
ammonium nitrate remains idle. The capacity to 
produce fertilizer grade ammonium nitrate at Cherokee 
is not limited by our production of other products. 
It is not an either/or proposition. If market 
conditions warrant, we could and would produce solid 
fertilizer grade nitrate to capacity without
diminishing our production of other products.

I also must comment on the suggestion that our recent decision to temporarily suspend producing ammonia at Cherokee somehow suggests that we will not resume ammonium nitrate production. This could not be further off the mark. As an initial matter, the Commission should know that ammonia production at Cherokee has already restarted. Our decision to cease ammonia production was related to a number of factors, including inventory control for an industrial product.

Most important, that decision had no impact at all on our ammonium nitrate production and has no relationship whatsoever to our ability to resume ammonium nitrate production at Cherokee. We can and will and are anxious to produce ammonium nitrate at Cherokee if and when market conditions permit us to do so.

The other aspect of ammonium nitrate production that I want to mention to you today is the importance of natural gas prices. Natural gas is the raw material used to make ammonia, which in turn is used to make ammonium nitrate. We purchase ammonia as an input at El Dorado and produce it at Cherokee, but for both plants the price of natural gas is the principal determining factor in our cost.
While gas costs have been at historic highs over the last five years and certain producers have exited ammonium nitrate with a rapidly declining market, with the relief from the price impacts we have seen in the past from Russian imports we have been able to move toward profitability, and our prices have been able to rise to cover our costs.

In our shrinking market, a return to the unfair pricing of Russian imports would be devastating for us. We believe there will continue to be a market for ammonium nitrate and that it will be largely in the core consuming states, but we know that in the next five years it is likely to continue to decline.

While we had a good year in 2005, we are in a tough spot with record high raw material costs and the shrinking demand. We ask the Commission to be mindful of the effect that unfairly traded ammonium nitrate had on this industry in the period before the suspension agreement and to recognize how devastating the impact of removing this relief would be.

Thank you.

MR. KLETT: Good morning, Mr. Chairman, members of the Commission. My name is Daniel Klett. I'm an economist with Capital Trade, Inc. testifying on behalf of COFANT.
I will address six issues. First, the suspension agreement has reduced ammonium nitrate import volume from Russia with positive effects on U.S. ammonium nitrate prices;

Second, that Russia continues to have significant excess capacity available for export to the United States;

Third, that the United States will be an attractive market for Russia's excess capacity because of its size, U.S. price levels being higher relative to alternative markets and import restraints and other markets;

Fourth, that demand increases in Russia will not absorb enough excess capacity in Russia to eliminate the threat;

Fifth, I will address the arguments stated by the Russian Respondents that there will be no adverse volume or price effects if the suspension agreement is revoked;

Finally, adverse financial effects for the U.S. industry.

The suspension agreement has both volume and price elements, which have contributed to Russia's ammonium nitrate volumes being lower and import prices higher into the United States since the investigation
As shown in Exhibit 1, in the last year of the period of investigation, 1999, the import volume of Russian AN into the United States was about 261,000 short tons, an increase of 30 percent over 1997 levels.

Moreover, the Department of Commerce's preliminary determination was in September 1999, which constrained the subject imports in the last four months of that year. In the first half of 1999 alone, AN imports from Russia were 200,000 short tons, more than two and a half times higher than import volumes in the first half of 1998.

The quota element of the suspension agreement restricted imports from Russia to 110,000 short tons in the first full year of the suspension agreement, 2001, and this has increased to 165,000 short tons in 2005.

Because of carryover and carryback provisions, the actual quota can be higher or lower in any particular year. However, as shown in Exhibit 2, from 2000 to 2004 the quota has been close to 94 percent filled based on a comparison of Census imports and quota levels.

Russian Respondents reported in May of this
year that they have exported 93 percent of their quota
level, so our analysis comports with the ammonium
nitrate volumes Russia itself says that it has
exported.

Regarding the effects of the suspension
agreement on price, as shown in Exhibit 3, during the
period of investigation the average unit value of
imports from Russia had decreased significantly. In
each year since the suspension agreement has been in
effect, the import price from Russia has exceeded this
level by a wide margin.

I recognize that this increase cannot be
attributed only to the suspension agreement since
other supply/demand factors, including rising natural
gas prices, have contributed to higher ammonium
nitrate prices.

However, the following fact demonstrates
that there has been a positive effect on price from
the suspension agreement. As shown in Exhibit 4,
Russia's average export price to the United States was
only slightly higher than to alternative export
markets in the last year of the period of
investigation by about $6 a metric ton based on
official Russian export statistics.

After the suspension agreement there was a
significant increase in Russia's export price to the U.S. relative to other export markets with the price premium at the foreign port at about $50 a metric ton or $45 a short ton in 2004 and 2005.

I note the data collected through your foreign producer questionnaires for a subset of the Russian AN industry reported at page IV-7 of your staff report also shows significant price premiums for Russian exports to the U.S. relative to alternative export markets and the home market.

That Russian exporters would revert to pre-suspension agreement behavior is supported by the fact that those Russian producers responding to the Commission questionnaire have roughly the same amount of excess capacity now as was reported in the original investigation as shown in Exhibit 5 with the same financial pressures to export.

You have heard testimony from our witnesses regarding the production economics for ammonium nitrate and why operating at capacity utilization rates of 75 percent or below is not normal from an operational perspective as claimed by Respondents.

The United States will be an attractive market for Russia's excess capacity regardless of how imports are calculated, the questionnaire responses or
Census data, and despite a reduction in U.S. consumption the U.S. continues to be one of the largest import markets for ammonium nitrate in the world. Moreover, as you saw in an earlier exhibit, the U.S. ammonium nitrate price is significantly higher for Russian producers than in alternative export markets.

Import restrictions in important export markets, particularly in the EU, will make the U.S. that much more attractive as an export market for Russia. Respondents claim that the EU undertakings have had no significant effects because Russia continued to export over 508,000 metric tons to the EU in 2004.

As shown in Exhibit 6, Russia exported significant volume to the EU-15 countries in 2001, but the EU increased the duties significantly in April 2002, and AN imports from Russia into the EU-15 decreased significantly in this year and have remained at low levels thereafter.

The EU continued to import significant quantities from countries that were to be included in the EU-10, and these volumes remained large through 2004, in part explaining the 2004 508,000 tons. However, only starting in May 2005 were the AD duties
applied to AN imports from Russia into the EU-10 countries.

As you can see from this exhibit, imports of Russian ammonium nitrate into the EU-25 total just 36,000 metric tons, less than two boatloads, over the five month period May to September. This compares to imports from Russia totaling over 650,000 metric tons as recently as 2004 based on Eurostat import statistics. This was a major export destination for Russian exports that has been virtually eliminated.

Respondents assert that home market demand is a priority for Russian producers and that growth in home market consumption will act as a constraint on exports to the U.S. However, as shown in Exhibit 7, for those Russian producers that responded to the Commission's questionnaire, sales to the home market increased by only 152,000 metric tons between 2000 and 2004 or about 38,000 metric tons annually and declined slightly in interim 2005.

To put this growth into perspective, these same Russian producers reported excess capacity of 1.65 million metric tons in 2004. For these producers, growth in home market demand did not put a dent in their excess capacity.

For the entire Russian ammonium nitrate
industry, Fertecon projects growth of about 124,000 metric tons annually between 2005 and 2010. Russian producers responding to the Commission questionnaire accounted for just 38 percent of home market sales, and if the growth in home market demand is prorated on this basis there will exist over 1.3 million metric tons of excess capacity for these producers as far out as 2010.

Exhibit 8 shows that Russian excess capacity exceeds total U.S. apparent consumption based on 2005 data annualized. Russian Respondents assert there will be no adverse volume or price effects if the suspension agreement is revoked.

Key to their position is that U.S. ammonium nitrate demand will exceed available supply from U.S. producers and non-subject imports so that the U.S. market can absorb additional volume from Russia with no adverse effects to the U.S. industry.

There are serious flaws with the facts, methodology and economics of their argument. First, Respondents' calculation excludes the El Dorado Cherokee plant capacity, stating that resumption is unlikely to recur. However, you heard from Mr. Rydlund that this assumption is incorrect.

Second, they use 2004 apparent consumption...
as a proxy for 2006 demand, even though demand is declining.

Third, they assert that unavailability of supply led to the reduction in U.S. apparent consumption in 2004 and 2005, yet your purchaser questionnaires contradict this assertion.

In response to Question to Question III-8, only six of 15 purchasers who responded reported having difficulty procuring U.S. produced ammonium nitrate, and of these six one said its difficulty was resolved when Terra took over Mississippi Chemical. Two reported only short-term seasonal availability problems.

Conversely, eight of 14 purchasers who responded to Question III-11 said they expected future declines in U.S. demand for ammonium nitrate with six of these citing to increased security regulations.

Your questionnaires demonstrate that any observed reductions in U.S. apparent consumption were more the result of a decrease in demand for ammonium nitrate rather than purchasers being forced to buy other nitrogen fertilizers because of unavailability of supply from U.S. producers.

Respondents assert that the decreased non-subject import volumes in 2003 is the result of 2004
Coast Guard regulations. However, there is no solid evidence of a reduction in non-subject import supply. As shown in Exhibit 9, most of the reduction in non-subject import volume in 2005 was in the first four months of this year. From May through November, non-subject import volume was higher than in 2004 over the same period. In addition, PIERS reports through December of this year show an additional 80,000 metric tons of non-subject ammonium nitrate not yet reported in the Census data for 2005.

Also I think you should look at the responses to Question III-B-20 of your importer questionnaires regarding what they say about availability of non-subject import supply.

Regarding the economics, at any point in time in a competitive market the intersection of supply and demand determines the equilibrium between market price and volume. There is no such thing as a persistent supply/demand gap. Absent the quota restrictions, there will be additional import volume into the U.S. market, and there must be a corresponding price effect.

We provide an analysis of underselling in our prehearing brief at Exhibit 23, the results of which are summarized in Exhibit 10. The analysis
starts with Russia's average export price to non-U.S. markets, adds ocean freight from Census statistics and an importer mark-up from your questionnaire data for an estimate of a landed Russian price to the U.S. without the discipline of the suspension agreement pricing formula.

We compare this price to Green Markets' NOLA price. As you can see, if the Russian producers' price to the U.S. market is anywhere near the pricing levels to non-U.S. markets, there will be significant underselling, and, as we've shown earlier in Exhibit 4, prior to the suspension agreement Russian exporters' price to the U.S. market was only slightly higher than to non-U.S. markets.

Russian Respondents contend that they have no incentive to price below the levels now set by the suspension agreement price formula because they assert they will maximize profits by selling at prevailing U.S. price levels. These assertions contradict their pricing behavior in other markets where trade restrictions are not in place.

Also, Russian producers carry significant excess capacity so there is a financial incentive to reduce prices for sales to the U.S. to move volumes as long as the price covers their variable cost. Because
Russian ammonium nitrate producers have access to low-cost regulated natural gas from Gazprom, these variable costs are likely to be relatively low, which explains why Russian producers sell at such low prices in all other unrestricted export markets.

In addition, Russia's assertion that it will not price below the prevailing market price in order to maximize profits is at odds with your staff's elasticity estimates. Based on the staff's aggregate demand inelasticity and inelasticity of substitution estimates and market shares, the demand elasticity for Russian ammonium nitrate in the U.S. can be calculated, and it is elastic ranging from negative 2.9 to negative 4.8.

This is significant because it means that even at the low end of this range for every one percent reduction in their export price to the U.S. their export volume will increase by 2.9 percent. That is, Russian exporters can significantly increase their sales revenue by lowering their price.

If Russian producers are profit maximizers as they claim in their brief, they would have every incentive to cut prices to increase their sales volumes, revenues and profits. Price maximization is not the same as profit maximization.
Moreover, in September 2003, Russia exported to the U.S. into the Port of New Orleans 22,000 metric tons of what is known as 33-3-0 ammonium nitrate, which is stabilized ammonium nitrate. At the time of exportation, Russia assumed this product was outside the suspension agreement scope, and the price charged was outside the suspension agreement price formula discipline. Subsequently the Department of Commerce determined that this product was within the suspension agreement's scope.

The Commission should look at the price charged for this entry as compared to non-subject ammonium nitrate imports entered through the same port in the same month and the price for subject ammonium nitrates that were set by the suspension agreement in the following month.

Finally, the adverse price and volume effects described above will have a devastating impact on the U.S. industry's profitability. Although U.S. producers' financial position has improved steadily since 2001, its operating income was positive only in 2005 at just 2.3 percent of sales.

In the original investigation, U.S. producers' prices declined in tandem with the decline in ammonium nitrate prices from Russia, and purchasers...
confirmed multiple lost revenue allegations. As the income statement model in our brief demonstrates, if U.S. producers' prices decline at only 50 percent of the expected decline in import prices from Russia with revocation, their fragile profitability will be reversed to significant growth in operating losses.

As discussed by our witnesses, high natural gas prices have been a challenge to the industry over these last few years and have constrained profits. In this regard I'd like to comment on the assertion in Respondents' brief that, "The impact of termination on the domestic industry is not connected to natural gas costs." This is just not true.

In considering the impact of termination, the Commission also considers the vulnerability of the industry. High natural gas costs make the U.S. industry's financial condition that much more sensitive to any adverse effects of depressed prices that will result if the suspension agreement is eliminated.

Thank you.

MS. SLATER: Thank you, Mr. Klett. I want to just comment very briefly on a couple of points and then maybe reserve some other comments and observations for questions and rebuttal.
Picking up on where Mr. Klett left off, one of the things that I think is very important for the Commission to keep in mind in this investigation is the particular adverse impact that was found in the investigation period, and that was largely a pricing impact.

The Russian product had depressed the prices of domestic product. It had actually not had a significant impact on market share so much or a large impact on market share, but it was principally a pricing effect, and it had a very serious, negative impact on profitability.

I have found it very interesting to look at some of the arguments that the Russian producers are making, keeping in mind what the impact was of the imports during the investigation period. Keep in mind that the financial performance of the industry was hurt at a time during the investigation when U.S. producer costs were significantly lower, to the tune of $2 to $3 a unit for natural gas.

Today, with gas prices somewhere in the $8 or $9 range -- I haven't looked at it since yesterday morning -- the industry, as you've heard from some of our witnesses, is highly vulnerable to price depression, and in this regard I find it astonishing
that the Russian producers are arguing at the same
time that the U.S. industry is not vulnerable because
it's been able to operate profitably with high gas
costs, but in the very next argument suggest that the
industry is not going to be viable if gas costs remain
high.

Take a look at page 35 and 16 of their brief
and the two arguments which are actually juxtaposed.
How is it that you can be on the verge of not being
viable if gas prices remain high, but yet you're not
vulnerable?

I submit to you that this is a very strange
combination of positions, and it's a result of the
Russian Respondents not recognizing that the health of
this industry depends, like every industry, frankly,
on the ability of prices to cover sufficient operating
cost.

The U.S. industry has been able to operate
profitably, especially in the last year, despite high
natural gas costs. Why? Because prices have been
able to rise to cover those costs. There has not been
the suppression of the Russian product.

The suspension agreement, while giving very
generous quotas, and I'd be happy to talk to you about
how that agreement works, has made sure that the
export prices from Russia are connected and tied to
the U.S. market and will not suppress.

If that discipline is removed, there will be
absolutely nothing to constrain Russian prices from
being set exactly as they are to other export markets,
and with gas prices high the result will be
devastating. The Russian statement that, "The impact
of termination is not connected to natural gas costs,"
and that's a quote, is simply amazing in this context.

There are a number of arguments that the
Russian producers have made that I would like to
address. I think I'll have the opportunity during
questions and rebuttal and so I will conclude my
comments, and we'll be happy to take your questions.

Thank you.

CHAIRMAN KOPLAN: Thank you all very much
for your testimony. I also appreciate the fact that
you had provided us with copies of your statements in
advance of your testifying.

We'll begin the questioning with
Commissioner Hillman.

COMMISSIONER HILLMAN: Thank you, and I
would join the Chairman in thanking all of you very
much for taking the time to be with us this morning.

We very much appreciate it, as well as all the
information in the brief.

Let me start first with trying to understand what's going on in terms of demand for the product. All of you have commented that demand is down, and if we look at that we see that. On the other hand, Mr. Green, your comments in your testimony to the effect that there is limited substitutability into other nitrogen based fertilizers

I'm trying to put those together. Maybe if I could just hear from the industry's perspective. If AN provides unique things that farmers need, why is demand down?

MR. GREEN: Commissioner, the demand for ammonium nitrate has continued to decrease we believe because of security reasons. We have customers, dealers, distributors that handle small quantities of the product who have got out of the business due to regulations by state and federal levels. Mainly it's a cost issue.

COMMISSIONER HILLMAN: Okay. Help me then to understand and to quantify, if you can, the increased cost and to whom. I mean, what are the increased costs as a result of the security regulations, and who really bears them?

If you can add into that, help me understand
whether the new requirements affect the domestic producers the same as they affect imports, or is there any distinction in how the security regulations affect different parts of the overall chain of sales and distribution of the product?

MR. GREEN: Commissioner, as far as distribution expenses, as a domestic producer we encounter the same Coast Guard regulations that importers encounter when they import vessels into the U.S.

We also encounter the higher truck freight and rail freight the same as importers that bring the product into the U.S. It's just a continuation of higher costs that are trying to be passed on to the marketplace.

COMMISSIONER HILLMAN: Okay. Help me understand when these various regulations went in and how different they are for barge traffic.

The argument to some extent that we hear is that there is a differential cost, if you will, for barge traffic than there is for rail or truck, or maybe it's differing levels of enforcement, but there is something different in terms of the nature of the transportation system and the degree of the cost or burdensome nature of the regulation.
Maybe you could sort of walk me through when these regulations came on, when you first felt them, how they got implemented for each of the various modes of production and distribution.

MS. SLATER: Do you want to take a crack at that?

COMMISSIONER HILLMAN: Any of you. Mr. Elliott?

MS. SLATER: We have a little bit of a problem in that we've got largely marketing people here who are a little bit different than some of the plant personnel, for example, who would be dealing with some of these things, but maybe let me give you a background.

COMMISSIONER HILLMAN: I had understood that the majority of the implications of the regulations were not on the production as much as it is on the sale and distribution of the product, but perhaps I'm wrong.

At a minimum let's start with were there significant changes in production -- I mean from a producer standpoint -- imposed as a result of the security regulations?

MR. GREEN: Commissioner, I'll make a comment on that. As a U.S. producer, we load barges
at our plant in Yazoo City just like vessels discharge
into barges at New Orleans with imported product.

We have invested to meet Coast Guard
regulations at our plants with cameras, wire fence,
better tracking of all personnel in and out of the
facility. Those were costs that we absorbed.

COMMISSIONER HILLMAN: Okay. And those were
as a result of Coast Guard regulations?

MR. GREEN: That is correct.

COMMISSIONER HILLMAN: Again, if you were
only complying with railroad or truck regulations,
would you have done the same thing?

MR. GREEN: As far as for Terra, we
encounter rail freight, and we have seen significant
increases in the past year of rail freight across the
country on ammonium nitrate shipments.

To say that we have strict regulations, we
don't have. We have taken steps on our own measure to
ensure all the openings on rail cars to secure that
they are in good condition and safe when leaving our
plants, but it's mainly a --

COMMISSIONER HILLMAN: But anything in the
last year? So the rail issue in terms of increased
security for rail transport has been within the last
calendar year? When are we talking?
MR. GREEN: My involvement goes back to December 2004.

COMMISSIONER HILLMAN: Okay. So rail,

December 2004.

Mr. Gough, did you want to add something?

MR. GOUGH: I was just going to mention on the trucking side of the industry there is, and I think it was put in place six to eight months ago that anybody that is going to handle or be a driver for HAZMAT material now has to go through extra stringent filings to sit there and get a HAZMAT endorsement on their license.

In fact, I know we had one driver that when this was first implemented he spent three months waiting to get his license before he could get behind the wheel of a truck, so there have been numerous.

COMMISSIONER HILLMAN: And that is a HAZMAT requirement for all hazardous material, not unique to AN?

MR. GOUGH: No.

COMMISSIONER HILLMAN: But am I not correct that in light of Oklahoma City and other things that there are specific security regulations that are unique to AN that would not be affecting other nitrogen-based fertilizers? Again, help me understand
the breadth of these security regulations.

MR. RYDLUND: Commissioner, let me try. Many of the costs that are incurred with respect to security have been voluntary, taken on by the company; voluntary to the extent there was no regulation in place to do this. I believe Mr. Green spoke to that.

Yes, with respect to the Coast Guard ammonium nitrate was placed as certain dangerous cargo and there were regulations that happened with that, but many of the production regulations, whether it be fencing, whether it be recordkeeping, whether it would be tracking the trucks, identifying the drivers, many of those were voluntary, and many of those came into place after 9/11.

COMMISSIONER HILLMAN: After 9/11?

MR. RYDLUND: Yes.

COMMISSIONER HILLMAN: Okay.

MR. RYDLUND: But again there is no set schedule because they were voluntary by the different companies.

COMMISSIONER HILLMAN: Okay. And from your perspective are they different -- more stringent, more lenient -- in terms of what you feel the need to do if it's voluntary, whether you're moving the goods on water or whether you're moving the goods by either
rail or truck?

MR. RYDLUND: The regulations as with respect to how we distribute the product, I think the regulations in all cases -- whether by water, by truck, by rail -- carry the same stringency. Can I say that? Carry the same stringency as far as being effective.

There is not a material difference between the effort that has to go in between barge, rail or truck.

COMMISSIONER HILLMAN: Okay. Let me get back to how this has affected demand because that's really what I'm trying to understand is obviously I'm hearing you that this resulted in both cost and, if you will, hassle to producers, I presume also to your distributors. I assume.

I'm trying to understand again sort of when this happened and what do you think that meant for demand? I mean, at what point and does whom decide it's just too much hassle. I'm going to use urea. I'm going to use liquid. I'm going to do something else other than using AN.

That's what I'm trying to understand. Is it the individual farmer? Are they the ones that are feeling this is too much hassle; I'm switching? I'm
trying to understand. You know, did that happen? Who went through this thought process and when in terms of shifting out of AN into something else?

MR. GOUGH: Commissioner, you know, I think it's more so individual dealers. You know, as they see what's coming down from individual states and what's being proposed and they're going to have to sit there and do more recordkeeping, get identity, keep a record of a person's driver's license.

I mean, it's like Agrium in their announcement. They said they're not going to handle it. They quickly took 30,000 tons out of the marketplace, Simplot's, and some others.

You know, there are some big companies that have made the decision for basically a liability standpoint not to handle the product, and we have the same thing day in and day out with numerous independent dealers that are going through the same process.

COMMISSIONER HILLMAN: So it's the distribution in essence --

MR. GOUGH: It's more the distribution.

Yes, it is.

COMMISSIONER HILLMAN: -- that is saying this is too much hassle?
MR. GOUGH: Yes.

COMMISSIONER HILLMAN: And this hassle is unique to AN, or are there any other nitrogen fertilizers that are subject to this same kind of security restriction?

MR. GOUGH: At this point in time, you know, it's just strictly AN.

COMMISSIONER HILLMAN: Okay. All right. Given that the red light is on, I will come back to other issues on this. Thank you very much.

CHAIRMAN KOPLAN: Thank you.

Commissioner Lane?

COMMISSIONER LANE: Good morning, and welcome to the Commission. I have a few questions. Ms. Slater, I'll start with you. Maybe I misunderstood what one of your witnesses, and maybe it was you, said. I thought I heard several references to this being a profitable industry, and the staff report indicates otherwise.

Could you tell me what I should be looking at to determine if this is a profitable industry?

MS. SLATER: Interim 2005, Commissioner Lane. I think we're seeing things looking much better in interim 2005 in your data than previously.

We can see a consistent increasing financial
picture. Not necessarily profitability, but, if I'm not mistaken, by the time we get to the interim period we're actually showing a number of producers in the black.

As to the industry as a whole, I believe Mr. Klett can comment.

CHAIRMAN KOPLAN: You need to stay with your microphone, Ms. Slater.

MR. KLETT: The industry as a whole had a positive operating result in interim 2005.

COMMISSIONER LANE: Okay. Is that all that you think we should be looking at?

MS. SLATER: No. I think the key, and we've gone into some detail on this in the brief. I want to be careful because I'm never sure of what's public, so I apologize if I appear to be vague, but I think the key really is -- two. There are two things.

One is what's happened to prices in the interim? The ability of prices to actually rise and begin to cover costs I think is very important, and you can see not only in the absolute price increase, but when you look at the variance analysis that the staff did and a slightly different one which we did covering a little bit different period of time, I think you can see very clearly that the suspension
agreement made a huge difference in the cost/price relationship.

COMMISSIONER LANE: Okay. Thank you for clearing that up.

In Mr. Klett's testimony he argued that Russia continues to have significant excess AN capacity available for export to the U.S. However, on page 27 of the Russian Respondents' prehearing brief they state that, "Although capacity utilization rates suggest available capacity exists, as a practical matter it is evident that full capacity is not attained in the manufacture of ammonium nitrate in Russia or the United States."

Can any industry witness or anyone else explain to me whether it is possible and practical to attain full capacity utilization rates when manufacturing AN and what is the ideal capacity utilization rate?

MS. SLATER: I'm going to ask Mr. Rydlund, who touched on that in his testimony, to maybe give you a more complete response.

COMMISSIONER LANE: Okay. Thank you.

MR. RYDLUND: It is practical to expect to achieve full capacity utilization. We would expect a capacity of 95 percent.
Many of the costs to manufacture ammonium nitrate are fixed and so typically in the chemical industry high utilization rates at those levels are what is necessary to achieve efficiency.

COMMISSIONER LANE: Okay. Thank you.

MR. SZAMOSSZEGI: I'd like to make a brief comment for the record.

COMMISSIONER LANE: Okay.

MR. SZAMOSSZEGI: My name is Andrew Szamosszegi.

COMMISSIONER LANE: Thank you.

MR. SZAMOSSZEGI: I think if you look at the individual questionnaires -- we'll go into this more posthearing, but if you look at the individual questionnaires -- on the Russian side you'll see that it is certainly not impossible to achieve reasonable capacity utilization rates for individual companies in this industry.

MS. SLATER: Let me just add to that, Commissioner Lane. I think we've got a situation where facing a capacity utilization rate which is very low for an industry of this type, the Russian Respondents have no choice but to come up with something, which was basically that two sentence argument which says well, that's what it is, and
that's how this industry operates.

That is certainly not the case. You've seen
that in other nitrogen cases where significantly
higher capacity utilization can be achieved. And the
Commission actually in some of its earlier decisions
has recognized that these plants need to or are
designed to and need to operate at relatively high
utilization rates to achieve maximum efficiency and to
really cover their full costs.

COMMISSIONER LANE: Okay. Thank you.

I'm not sure who should answer this one, but
as I understand natural gas pricing in Russia, gas is
delivered to the domestic market at state-controlled
regional prices. Is there any public data that shows
what those government-controlled regional prices are
for industrial customers in Russia?

MS. SLATER: There is information, and we'd
be happy to supply it for the record. There is some
information included in our prehearing brief, and
we'll see if we can supplement that for you. It's
presently slightly over about $1 a unit, minimum BTU,
which has increased. It has been increasing, but it's
still quite low.

I would refer you to the Fertecon study that
was attached to our prehearing brief, and I'll also
endeavor in the posthearing to see what additional information we can supply.


It's a recurring theme that natural gas prices are increasing. Information published by the Energy Information Administration shows that the average wellhead price of natural gas has gone from an average of $5.49 per decatherm in 2004 to $7.05 per decatherm average for the first 10 months of 2005, and futures prices into next winter remain in excess of $10.

Where do you see gas prices going over the next year or two?

MR. RYDLUND: I am not an expert in the natural gas market, but nevertheless the advent of the hurricanes took out some natural gas production and contributed to the current levels of natural gas. As we look to natural gas with respect to El Dorado Chemical over the next few years, we do not believe natural gas will return to the earlier levels of $3, $4, $5 or even $6 that we had seen before.

COMMISSIONER LANE:  Okay.  Thank you. How much of the AN that is produced in Russia is used in Russia? Then I want you to explain
to me why in this country AN is used primarily in the
southeastern warmer states, and my recollection of
what Russia is like, it's not exactly warm so would
you please clarify that for me?

MR. KLETT: This is Dan Klett, Commissioner
Lane. In terms of how much Russian production is
consumed in Russia, at page IV-6 of your staff report,
and these are public numbers, home market consumption
in 2004 was 1.4 million. Total production was 3.8
million, so that's the relationship in terms of total
production and how much of that total production is
consumed internally.

By contrast, total exports were 2.2 million,
so even though the home market is not insignificant
they still export more than they import.

COMMISSIONER LANE: Okay. Now would
somebody explain to me why it is conducive for use in
Russia in their climate and it's confined to the
warmer southeastern states in this country?

MR. ELLIOTT: The benefits of nitrate, the
chemical benefits of nitrate, have great bearing on
the volatility of it under high temperatures. That's
primarily why it's used in the core area in the
southeast.

To go back to one of the earlier questions,
as you get away from that core area where the
temperature tends to be more moderate, that's the area
that probably will switch to another product because
of security reasons and additional cost.

As far as the temperatures in Russia, I'm
obviously not going to be an expert on that. A lot of
that production was built under the Soviet era, and
why they picked ammonium nitrate versus urea or other
products, I'm unable to answer that.

MS. SLATER: If I could follow up,
Commissioner? You've raised a very interesting
question. Part of it we can answer today, and part
maybe we'll offer to follow up with posthearing.

Ammonium nitrate has been the fertilizer of
choice, the most popular, widely used fertilizer first
in the Soviet era, as Mr. Elliott mentioned, when a
very large number of plants were built throughout the
Soviet system in essence to service that market.

The oversupply that we've experienced in the
world market has been by and large, and this is
something we discussed in the original investigation,
a result of the tremendous fall off of the
agricultural economy in Russia and in the rest of the
Soviet Union.

Some of that has begun to return, which is a
very good thing both for the nitrate market and for the Russian economy, but there still remains this tremendous capacity out there which has been directed outward.

Much of it was going into the EU, which also has a strong preference --

COMMISSIONER LANE: Okay. My time is up, and nobody has still answered my temperature question.

MS. SLATER: But we're going to get you an answer to that because I don't know.

COMMISSIONER LANE: Okay. Thank you.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Mr. Chairman. I also am pleased to welcome the panel.

I'll put confessions out there right at the start. Although I have some direct experience with urea and UAN solutions and my favorite, anhydrous ammonia, I don't believe I've ever directly worked with ammonium nitrate, so let me just confess my ignorance, which then licenses me to ask questions.

There's been some discussion that Commissioner Hillman began regarding the demand situation for ammonium nitrate, and I think I understood correctly that more than one of the
panelists has said that apparent consumption for this product is falling; that demand is falling. Yet just looking at the information that we have on apparent consumption during this period of review, it's not at all clear to me that that's the case. We see a pattern of some ups and downs in consumption.

If we had been having this hearing early in 2002 following a 300,000 drop between consumption in 2000 and 2001 you could have said the same thing. Demand is disappearing. The world has changed, and yet in agriculture weather events can have a tremendous effect on the consumption of a product like anhydrous. Ammonium nitrate. Excuse me. I've got the wrong habits.

For instance, right now we have quite dry weather in the hard red winter wheat belt, in a big chunk of it. I don't know whether ammonium nitrate is used on hard red winter, but certainly if it is that would be affecting demand.

Can you comment in more depth than you have so far why you think demand for this product is going down?

MR. GOUGH: Commissioner, I think this is something if need be we can set there and supply

Heritage Reporting Corporation
(202) 628-4888
numerous dealers that have already made the switch, so it's not just a weather pattern or anything like that. Back to the main and the fringe area, when we talk about nitrate is used maybe back to the cooler climates it's because of the fact that half of the nitrate nitrogen is in the nitrate form.

So usually like urea or any other source it has to have micro-organisms to break down the ammoniacal nitrogen into nitrate form for the plant to use, so its temperatures are cooler this activity is slowed. That's why in some areas to the northwest, these fringe areas, nitrate has set there and had a presence. Not a big presence, but has a presence.

We can supply numerous dealers that have made the switch and would be happy to do so in the posthearing.

COMMISSIONER PEARSON: Mr. Green, did you want to add?

MR. GREEN: I think that with the ammonium nitrate as we talked about the security issues that's one of them, but in this country urea is coming in and we had more people promoting the sale and distribution of urea to this country than what you do with nitrate. As you can see you've got two producers and maybe a handful of importers that are selling nitrate,
but it's much more of a magnitude in the marketplace of the promotion of urea to gain market share and to gain market share on ammonia, nitrogen solution and ammonium nitrate where those cropping patterns are such that you can use those products in lieu of nitrate.

COMMISSIONER PEARSON: Ms. Slater?

MS. SLATER: Commissioner Pearson, if I can follow-up on that just for a moment. You raise a very good question. How do we know that this is just not some short-term seasonal fluctuation? I would comment on a couple of things.

One is start with the apparent consumption levels that we saw during the original period of investigation which were roughly I think in the 2.5 million ton range, and Mr. Klett will correct me on numbers if I'm wrong. We're now looking at consumption that's somewhere in a million tons less, 1.6, 1.5, something like that and shrinking.

In 2004 we were looking at that. We also have data that tracks very carefully by state and then we can aggregate it the use of nitrogen in different forms. So in any given year we can look back at the data collected by USDA and see of all the nitrogens -- and I'm sure you're very familiar with this -- and put
down how much was as ammonium nitrate, how much was as
urea, how much was as ammonia.

Over the years, as the Russian Respondents
have recognized and tried to use I think incorrectly,
it's been a very consistent market share in part
because it is a niche market. The fact that you
hadn't dealt with it I think is symptomatic of the
fact that it's this little niche market that is pretty
limited, but it's been fairly consistent over the
years.

We have seen a tremendous drop-off in that
data. For the first time it was well under five
percent. I think four and a half percent of total
nitrogen consumption in 2004?


MS. SLATER: Fertilizer year 2004. It had
never been below about five or six percent, typically
six to seven, over the last several years, so we know
there's something dramatic that started happening in
fertilizer year 2004.

In addition what we're seeing is -- and
you've seen this very interestingly at confirmation in
all of your questionnaires -- you see purchasers --
and these purchasers are not the farmer, these
purchasers are the dealers or the distributors -- are
Heritage Reporting Corporation
(202) 628-4888

telling you this in the questionnaires: people are getting out. People are moving away from those products largely because of the hassle.

These regulations and the liability associated with having storage of ammonium nitrate where they've got to track who buys it, you know, who's taking it, where are they taking it, have they been sold to before?

It's not worth it, not for everyone. As Mr. Green just said in those areas where you can really switch and not lose that much that's where people are moving away. So you get out of these core consuming states and out in less damp and hot regions, people are switching away.

We see that, these fellows see it in the market. As Mr. Gough said we could give you a list of dealers if it would be helpful and there's other evidence of that as well that we'll be happy to supply you.

COMMISSIONER PEARSON: My impression is that retail fertilizer is a fairly competitive market and in most communities there's more than one supplier, well, a community of any size. I would think that if a smaller distributor decides to stop handling this product that his competitor would happily go ahead and
make the needed investments to handle it and take some of the other guy's business.

Aren't those pressures likely to work in such a way to provide more support to the demand base for ammonium nitrate than might be anticipated based on the statements so far?

MR. GOUGH: Commissioner, we would hope some of what you're saying is true, but the fact is as you get in some of these areas -- now, if you're talking the Midwest or heavy cropping areas you may have two or three dealers within 15 miles of each other, but as you get into other states be it Montana, some of these fringe areas, there may be one dealer within 40 miles.

So geographically it depends on what part of the country you're talking.

COMMISSIONER PEARSON: That's fair enough. That's well taken. Well, let me ask a related demand question. There are people who think that the world is warming up. If we do see a trend toward global warming would that have implications for the demands for ammonium nitrate perhaps not within the reasonably foreseeable future, but looking forward a little bit beyond that?

Is that something that's been considered within the industry?
MS. SLATER: I wonder as a result of that question whether anyone's stock prices will go up.

Mr. Rydlund, did you want to take it?

MR. RYDLUND: Well, really the gentleman up front would be better prepared to answer that with respect to the use of ammonium nitrate in warmer climates even though I guess as we do experience global warming it probably will take quite a while for that to occur.

COMMISSIONER PEARSON: Okay. So we shouldn't worry about it for purposes of this review?

(No response.)

COMMISSIONER PEARSON: Okay. It was mentioned that some firms voluntarily have taken steps to improve security and as I understood that those were steps not required by some specific government regulation or requirement. Were those steps taken in part due to concerns about legal liability?

MR. RYDLUND: Those steps were taken I just think with respect more so to the care of the ammonium nitrate, to the threat of an illegal bombing. I guess you could say that legal liability might be an issue, but I don't think it went that far. It was just a case of trying to prevent misuse of ammonium nitrate, preventing ammonium nitrate from getting into the
COMMISSIONER PEARSON: That really took place according to the testimony following September 11, 2001 --

MR. RYDLUND: Yes, it did.

COMMISSIONER PEARSON: It surprised me just a little bit that we didn't see some affect after the bombing Oklahoma City some years earlier which I believe that was a device built around ammonium nitrate wasn't it?

MR. RYDLUND: Well, there were some -- excuse me. Yes. That is correct. The Oklahoma City bombing, ammonium nitrate was -- it wasn't agricultural ammonium nitrate by the way. Yes, there was a lot of incentive and many of the programs began after the Oklahoma City bombing. You are correct.

COMMISSIONER PEARSON: Thank you very much.

Mr. Chairman, my time has expired.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

I want to join my colleagues in welcoming the panel here this morning. I wanted to start with a few questions following-up on some of the testimony
First I wanted to ask Mr. Elliott, you were
testifying about the stabilized ammonium nitrate
product which had come into the country and then been
classified by Congress as falling within the scope and
then you mentioned another product. I think you said
like a 21-5-0. Could you go back to that and explain
to us what that product is and whether we've seen it
in the market?

MR. ELLIOTT: Yes. I would like to turn
that answer over to Phil Gough. I think he's been
more affected by that product and has actually seen --

COMMISSIONER ARANOFF: Okay. Mr. Gough?

MR. GOUGH: Commissioner, it's a 27-5-0.

Again, another high nitrogen content based off nitrate
nitrogen and so our feeling is this is just another
attempt to try to bring ammonium nitrate in with an
additive. I don't know where that one stands right
now. I think there's been a request to try to bring
it in.

MS. SLATER: Just to clarify, Commissioner,
when the 33-3 came in -- and we can talk more about
those products if it's helpful -- a shipment just came
in and at that point we requested a scope ruling from
the Commerce Department. In the case of 27-5 the
Russian Government has made a request for a ruling prior to importation, we understand.
So that is currently pending there and the product we understand has not yet actually been imported.

COMMISSIONER ARANOFF: Okay. So the Russians are waiting to hear from Commerce about whether they think it would be within the scope?

MS. SLATER: We hope so.

COMMISSIONER ARANOFF: Okay. Is that product, the 27-5 product, this is something brand new that the market hasn't seen before?

MS. SLATER: Yes. Actually, the industry witnesses I think can testify to this. The market has been very familiar for many years with what we call nitric phosphates or NPs, but those products tend to have much, much lower nitrogen content and much higher phosphate content.

These little bits of phosphate that are being added into basically ammonium nitrate are designed in our view to get around these trade measures. They cropped up just as the Russian producers were beginning to face trade measures in Europe, and Brazil and here.

The market, that little bit, three percent,
four percent, five percent, is so small it doesn't
have much agronomic affect, so people would have to
add other phosphate anyway if they were trying to put
down phosphate.

COMMISSIONER ARANOFF: As far as you know
these products with the small amounts of phosphate in
them are only being made by the Russian industry or
are they shipped elsewhere in global commerce?

MS. SLATER: As far as we know that's where
it's coming from. I would see if anyone else knows
differently. There are certain very specialty
products that are produced in bags for use in kind of
home and garden and things like that, but not bulk
products like this.

COMMISSIONER ARANOFF: Because my
understanding from looking at our staff report was we
were under the impression that at least the stabilized
product actually is being sold by the Russians in
other export markets other than the United States.

MS. SLATER: Yes, but again, this came up
only after the orders were put in place in Europe, and
following on the Commerce Department the European
Commission has also included most of that product now
within their measures, so it has been a reaction and
then a counter-reaction I think on the part of the
regulators.

COMMISSIONER ARANOFF: Is there any validity

to the claim that the product has been made more
stable and less hazardous and that these changes were
made to make the product more attractive in light of
the security atmosphere?

MS. SLATER: There are many, many pages of
filings at the Commerce Department I think debating
this topic. The industry witnesses maybe can talk
about the fact that years ago phosphate was actually
used as an additive in certain domestic production as
a stabilizer, so this is not anything new.

More recently I think other stabilizers and
preferred stabilizers have been used.

COMMISSIONER ARANOFF: Okay. Let me --

MR. RYDLUND: With respect to the
stabilization of phosphate into ammonium nitrate at
low levels the affect of reducing the ability of
ammonium nitrate to explode, the difference would be
very slight; not at these low levels of phosphate.

COMMISSIONER ARANOFF: Thank you. I
appreciate that answer. Let me turn to some other
questions that have to do with non-subject imports.

We recently had a hearing here reviewing our
order on urea and one of the things that we discovered
about urea is that the non-subject imports were largely coming in from countries that have substantial natural gas reserves and in fact had lower cost natural gas than Russia or Ukraine.

In this case by contrast it doesn't seem as though that's true. If you look at some of the non-subject countries I think that are listed: Bulgaria, Romania, the Netherlands, I think someone mentioned Jordan which I'm not sure we saw -- Georgia. Okay, Georgia. Do any of these countries have low-cost natural gas, and if not what has brought them into the AN business?

I'm particularly interested also in are there actually AN producers in the European Union? I know we've seen shipments coming from the Netherlands. I don't know if there's a producer there.

MR. KLETT: I can take a first cut at that. You're right that the non-subject countries are largely Romania, Bulgaria, Estonia, Georgia. They don't have the low natural gas prices or costs that Russia has or that the non-subject producers in the urea investigation had which were primarily Middle Eastern sources.

In terms of why they produce even if they don't have the low natural gas I think these are
plants that have been around many, many years and so
their decision to produce or to put that capacity in
place goes back a way and they want to continue to
produce and fill that capacity notwithstanding that
perhaps their natural gas prices have increased
recently.

With regard to Europe, Yara is I think the
largest producer, it's a Dutch company. But I think
there was and I don't know if there still exists, but
you've also seen imports from countries like Spain. I
don't know if they any longer produce, but we can look
at Fertecon data and we can tell you specifically who
still produces in Europe in our posthearing brief if
you wish.

COMMISSIONER ARANOFF: Okay. I guess my
question obviously ties back into Commissioner Lane's
question of trying to figure out just what the allure
is of ammonium nitrate in the former Soviet Union and
how we got to where we are. To some extent the same
question applies to western Europe.

Why are there AN producers there? Why is it
popular there? I guess in the southern parts of
Europe maybe they have the same climate issues that we
do, but maybe there's some other factors going on
there as well, so anything that you can add on that in
your brief will be helpful.

Mr. Klett, in your Chart No. 9 where you're showing us the pattern in non-subject imports and saying look they're not really declining there is of course that really big spike right in late 2003/early 2004 and I guess I have two questions for you. One is what accounts for that spike, and the second is if I looked at a longer time series of data on non-subject imports what would I see as the pattern?

MR. KLETT: With respect to the spike I think Mr. Elliott can comment on that because we actually did discuss that yesterday, but in part I think it has to do with the timing of the MissChem bankruptcy and uncertainties in the market at that time.

With respect to longer term trends I will have to look at that. I'll have to look at data going back a few more years and I can give you that information in the posthearing brief in terms of what the longer term trends have been for non-subject imports.

COMMISSIONER ARANOFF: Thank you. I'd appreciate that.

Before my time runs out did anybody else want to talk about the spike?
MR. ELLIOTT: Maybe I can help a little bit in that regard. Mississippi Chemical, who owned the facility at Yazoo City at that point in time, declared bankruptcy in May of 2003 and actually shut production down in June and did not restart until late September or October, so the marketplace perceived an undersupply that we believe was filled by a spike in the imports.

COMMISSIONER ARANOFF: I appreciate that answer. So there was a perceived supply shortage that brought that in?

MR. ELLIOTT: During that time because of the shut down and the bankruptcy.

COMMISSIONER ARANOFF: Okay. Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Ms. Slater, the Respondents argue at pages 16 to 18 of their brief that the domestic industry as a whole is not vulnerable to subject imports. They argue that the Commission was focused on the two remaining U.S. producers, Terra and El Dorado, to evaluate future vulnerability and in support of their argument they provide a bracketed table at page 17 of Terra's and El Dorado's key performance indicators.
I also refer you to Table III-6 at pages III-13 and III-14 of the prehearing staff report which reports the results of operations of U.S. firms by firm for the POR. Table III-6 contains BPI information available to you but not to your clients obviously, but without revealing the details it does appear to me that it reflects a disparity in financial performance among the five domestic firms.

How do you respond to their argument?

MS. SLATER: I think, Mr. Chairman, that no matter how you view this industry even if you do look at the two remaining producers, which is not an unreasonable approach frankly, the others were smaller, were more marginal or have dropped out of the industry, there still is a serious vulnerability issue and I would harken back to my comments of just a little while ago.

The Russian producers are arguing this industry is not vulnerable because these remaining producers were doing well in the interim period, but on the other hand they say let the imports in because the industry might not even be viable if natural gas prices go up again.

The vulnerability is not determined by the financial performance in the last period, but I think
vulnerability can be found in the very important
effect of natural gas pricing on the ability of the
industry to be profitable, and the important
relationship of prices to costs and affecting
profitability and your previous finding that the
impact of Russian imports was price depression.

CHAIRMAN KOPLAN: Thank you for that
response.

Mr. Green and Mr. Rydlund, on pages 30 and
31 of their brief Respondents argue that subject
imports are not likely to have adverse price effects
if the order is revoked. I know you all have dealt
with this issue in your direct presentation by
pointing to their export practices in other markets
such as Canada, but I'm wondering if there's anything
else you might want to add?

I'm asking because they point out that
during the period under review Russian AN oversold the
U.S. product in a large majority of possible
comparisons 26 out of 39 by margins as high as 34
percent. There are tables that break that down, but I
can't get into that with you because they're BPI, but
your counsel has access to that.

I'm asking the question because I see what
the trend is on those tables. So I'm just wondering
is there anything else you want to add besides the anecdotal response that you gave in your direct presentation?

MS. SLATER: If I can repeat your question just for the witness. I think the question is, "Is there anything else you would like to add about your knowledge of Russian pricing other than the data that's been gathered by the Commission?"

CHAIRMAN KOPLAN: Well, their argument is that they're not going to come back if the orders are lifted. You have been dealing with talking about their pricing practices elsewhere and I'm wondering if there's anything else.

MS. SLATER: You're talking about the volumes then?

CHAIRMAN KOPLAN: Yes.

MS. SLATER: Sorry. I misunderstood as well, Chairman Koplan.

CHAIRMAN KOPLAN: That's my fault.

MS. SLATER: I think in our brief there is, and again, so much of this is confidential, but there is substantial evidence of the likely volume impacts that will occur and you see it in light of what's happened under the suspension agreement with everything from quota requests to the export behavior
that's happened elsewhere, the underutilized capacity
that's there, the exercises that have been happening
in this country and worldwide with these attempts to
circumvent orders.

I think also, and maybe I'll ask that of the
other witnesses, what we've been seeing in other
markets and what for example Mr. Green has experienced
in Canada is a pretty good example.

There are also, and you'll hear it from your
witnesses this afternoon, importers that are setting
themselves up here with permanent offices, and
distribution facilities and setting themselves up to
be long-term suppliers of this product on a large
scale basis.

MR. GOUGH: Well, I think they talk on one
hand about how hard it is to get this product into the
U.S., but in just the past two years we've seen two
importers start bringing product into the Tampa market
which was not an access point before; we've got
another importer that is opening a new facility, a
river terminal, in Blytheville, Arkansas; we know of a
facility in Catoosa that is either opening, has
opened, or is going to open shortly, so we hear one
thing, but that's not what we're seeing.

CHAIRMAN KOPLAN: Thank you.
Mr. Klett, were you reaching to your microphone?

MR. KLETT: I just wanted to make one comment in terms of responding to their argument that because you see in your data overselling that they have no incentive to price below those levels.

I think if you look at their behavior for the 33-3 with respect to pricing that tells you a lot about what their behavior would be absent the suspension agreement price discipline because that was not subject to the pricing mechanism.

I think just the basic economics that when you have such a large amount of excess capacity and the pricing in your other markets there's a huge financial incentive to price below where they're pricing now to maximize volume, revenue and profitability.

CHAIRMAN KOPLAN: Thank you.

Ms. Slater, if I can come back to you. On pages 21 and 22 of Respondents' brief they indicate that "Although the Russian Government regulates the prices of the Gazprom Russia's state run natural gas firm may charge on the domestic market the government is expected to liberalize Russia's natural gas sector as a condition for excision to the WTO."
"As a result Russian AN producers will incur a higher natural gas cost." They claim on page 22 that the excision is likely to happen this year. How should I factor that into my analysis? Is it likely that would happen this year?

MS. SLATER: Well, it's like gas prices. If I knew the answer to that question I probably wouldn't have to sit here, but seriously I think that there have been a number of deadlines at which we would have expected the excision to be completed. My understanding is that's the latest target. Whether it will actually happen or not remains to be seen.

There are many very substantial issues that are outstanding on a whole range of things in addition to gas pricing. Very fundamental market access questions on aircraft and chickens, issues dealing with branch banking services and IP is still a tremendous issue as it always has been.

So whether this will get done or not this year I think is anybody's guess. More importantly it is less than certain what types of commitments will be obtained on the gas pricing.

The EU agreement which has been cited is a separate bilateral agreement between the EU and the Russian Federation, it is not my understanding and
will not be at this point anyway part of the excision documents.

So I think that agreement was very good, I think it is important recognition by the Russian Government that the current situation is not in line with commercial considerations, but whether we get firm and forcible commitments in the excision remains to be seen, so I wouldn't yet take it to the bank.

CHAIRMAN KOPLAN: Thank you. Let me stay with you.

MR. SZAMOSSZEGI: Can I make, I'm sorry, just one quick comment? Andrew Szamosszegi. The Russian pricing agreement with Europe is such that it's not really promising a liberalization of natural gas prices, it's basically trying to ensure that internal prices at the very least cover Gazprom's costs with little in there for profit.

Even if that agreement comes to fruition it doesn't require Gazprom to charge the same level of prices in Russia that Gazprom would charge on exports of gas to Europe or that those internal gas prices would exactly reflect the world market price points for gas.

CHAIRMAN KOPLAN: Thank you. Thank you for that. I have one short one I think I can get in.
Ms. Slater, Respondent interested parties state in their brief on page 25 that ocean freight rates that transport AN from Russia to the United States have risen dramatically particularly in the last few years. Further down the page they add these trends indicate that ocean freight rates at such levels will limit the volume of Russian AN likely to enter the United States. How do you respond?

MS. SLATER: I think two responses. One, Mr. Chairman, is that freight rates vary over time as you know. More recently they've come down again, so that's one thing. Secondly, what we experienced previously is that the extreme flexibility of Russian exporters -- and you'll see this when you look at the export data -- from Russia to other countries don't seem to vary tremendously with freight rates.

The Russians are significantly and surprisingly insensitive in terms of their general export activity to freight rates to third countries. They have flexibility I think to adjust their FOB export price to allow the traders to take it.

They have been complaining to the Commerce Department about wanting to redo the suspension agreement pricing formula to allow them to lower their export prices here under the suspension agreement at
those points in time when the freight rates have
gotten high indicating a willingness to do that. In
other words to lower the prices to keep shipping.
That's what they'd like to do here and
certainly are doing it elsewhere.

CHAIRMAN KOPLAN: Thank you.

VICE CHAIRMAN OKUN: Thank you, Mr.

Chairman.

I join my colleagues in welcoming all of you
here today, and appreciate your willingness to answer
our questions.

Ms. Slater, let me start with you and what
you described as the false premise of the Russian
Respondents with regard to whether there would be a
supply shortage in the market.

I just want to make sure I understand your
argument on that which is, again, I understand the
supply shortage number that the Respondents calculate
in their brief is based on different demand
projections than what you use, so I understand where
the different spread is, but my question is is it your
view then that the two remaining producers would be
able to produce for the entire U.S. market going
forward without non-subjects in or just that you don't
think they need anymore Russian above what they've had with the quota level?

MS. SLATER: I think frankly you can do a calculation which shows a very close balance between U.S. capacity and demand, but what I've heard from these witnesses and I'll ask them to supplement if they disagree is that there have always been non-subject imports in this market. There have always been imports in the market and the market will probably always need imports to some extent.

There has always been too much in the way of imports frankly, but I don't think that the issue is we don't need any.

If anyone would disagree with that pop in, but the calculations that the Russians have undertaken are so extremely wrong and out of line both with respect to domestic production and supply capacity and with respect to what will come from outside. The premise is just silly. The gap that they posit is just not realistic.

VICE CHAIRMAN OKUN: Okay. I wanted to make sure that I understood that.

Then if I could turn to the company witnesses just to help me a little bit on capacity utilization numbers and the amount of product that you
have and one thing that I would ask you to comment on
which is are you facing any further environmental
restrictions on plant production at any of your
facilities? If you could comment on that?

MR. RYDLUND: With respect to El Dorado
Chemical the answer is no.

VICE CHAIRMAN OKUN: For Terra?

MR. ELLIOTT: I believe it's the same for
Terra that no, we're not.

VICE CHAIRMAN OKUN: Then, Mr. Green, if I
could just go back because I wanted to understand one
thing on Terra's capacity utilization rate.

If it's anything you needed to do for
posthearing please do it there, but in terms of -- I
understand that it's public information that Terra is
currently importing ammonia from Trinidad to use as
feed stock and it's AN production rather than
producing the ammonia directly from natural gas.

I want to make sure that I understand that.

Does that affect the capacity utilization rate you're
reporting for AN? Use your mic, please.

MR. GREEN: Excuse me, Commissioner. We'd
have to report that to you in the posthearing.

VICE CHAIRMAN OKUN: Okay. I appreciate
that.
MS. SLATER: I'm not sure that's absolutely correct in terms of the source of the ammonia. What is public is that Terra does have the ability to produce nitrate either from its self-produced ammonia at Yazoo City or with ammonia that's imported meaning carried there, brought into the plant from another place within the Terra system that may or may not be from Trinidad, so I just want to be clear about that.

VICE CHAIRMAN OKUN: That's fine, and I'm using a public source which may not have accurate information as opposed to the information you're giving me. If you can just be sure that for posthearing that I understand how the capacity utilization rate is figured on that I appreciate that.

Then I wanted to just ask a few further questions regarding the security restrictions.

I think a lot of it was covered by Commissioner Hillman, but with regard to the pending legislation -- and pieces of not the actual legislation, but references to it were included in both briefs -- is there anything, and I'm not sure there are any more reasonably foreseeable than the global warming of whether such legislation would pass, but the question was whether that legislation if you're aware of it impacts imports any more than it
would domestic?

Is there anything in there that would affect the imports differently than it would domestic production?

MR. RYDLUND: The answer from El Dorado Chemical's standpoint is no. We don't see a significant difference whether it be on the impact of security regulations, whether it be imports or product produced domestically.

VICE CHAIRMAN OKUN: Anyone else have comment from the legislation?

MR. ELLIOTT: Terra would concur with that.

It's the same for everything.

VICE CHAIRMAN OKUN: Okay. Then just so that, again, we have a complete record for this final staff report you talked a lot about the fact that it is the distribution network that is reacting and maybe deciding not to handle the material which is affecting in your view the demand and apparent consumption and you reference what the purchasers had to say.

There had been in Green Markets October 11, 2004, a report on two St. Louis-based suppliers who were getting Lang Stedman who had been involved in transportation and warehousing had decided to stop handling AN and that Nemco Barge Line also in St.
Louis had also cut back its handling of AN except for a customer willing to pay a premium.

My question is if there's any other information out there that you could submit in terms of who has stopped handling it and where they're located? Again, I'm just trying to understand whether that's an advantage for someone in Yazoo or is it equally affecting everybody running these things. You can comment here, but any specific thing put in the posthearing brief.

MR. GOUGH: Well, first of all in the case of Lang Stedman, and they did get a lot of press out of this, they are the marketers of a product called Agrotain, which is an additive that you put with urea in UAN to reduce volatilization. So I will say they did a good job. They did get a lot of press.

As far as the other locations they're very limited. In fact like I said we're actually seeing some places handle nitrate on the river and in Tampa that didn't handle it two years ago. So yes, we can sure come up with a list of places that do not handle it anymore, but it's not near what people thought it might have been two years ago when the Coast Guard regulations were initially being put in place.

VICE CHAIRMAN OKUN: Okay. I appreciate
that. I think that would be very helpful for posthearing to make sure we understand how you view that in the market.

Now, Ms. Slater I guess or Mr. Klett, I guess it might be a question for you with regard to you talked about the original investigation and the focus that there was on prices, and you've talked about where you think prices would be absent the discipline of the suspension agreement.

I guess one of the questions I have is whether you view looking forward that the bigger issue would be the volume or the price because I might be wrong in this and producers can tell me, I'm sure the producers would have liked to have seen lower quotas for the Russians than what you got out of the suspension agreement.

I don't know that, but it seems like it might be likely. While I want to ask some questions about the quota fill rate because I understand they're varied numbers on what the quota fill rate is my question is looking forward you've cited to the third country export restrictions, the quota requests that exceed what they've actually shipped, the circumvention issue, tell me about what you see volume going for?
You see the Russians coming in in a very big way or you think that they're coming in at the numbers of Mr. Klett's chart? Are they going to be up here replacing non-subjects, or down here, or both?

Mr. Klett? He looks like he wants to jump in there.

MR. KLETT: Well, I think in terms of relative volume and price affects we believe that as in the original investigation there's going to be more of a price effect than a volume effect in terms of the impact of revocation.

With regard to the likely volume that will come in, I mean, at least in the original investigations import volumes peaked in 1999 even with Commerce having a preliminary determination in September of 1999 to 260,000 tons. So I think something more than 260,000 tons, maybe 300,000 tons, is a conservative estimate of the additional volume that might come in.

In other words roughly double what the quota level is now. There's a few things that have changed since the original investigation and that is there's roughly 900,000 tons in Europe that Russia had been exporting to that they no longer export to because of the restrictions, and I had a chart on that, as well
as China and Brazil.

So the increased exports to the U.S. could exceed 300,000 tons just because some of their other markets are no longer there and that they have excess capacity. At least the producers that reported to you have excess capacity of roughly 1.5 million tons. I don't know if that's responsive to your question, but just in terms of the relative price volume and the likely volumes that's my best estimate.

VICE CHAIRMAN OKUN: Okay. That's very helpful. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. I hope just a couple of quick follow-ups on this issue of these security regulations and how they've affected demand for the product.

First, Ms. Slater, if you can and I'm not asking for an entire encyclopedia on this, but just if you can help me in a posthearing walk through a little bit of a timeline of sort of who did what in terms of these security regulations. I mean, who promulgated them?

Again, I realize that a lot of this is state
and even local and I'm not asking you to drill down in
that level of detail, but I'm trying to understand
from market participants sort of what were the big
things that required you to do something to come into
compliance with this, and was it you or was it the
distribution system that had to do the complying?

Then, again, whether any of this had any
impact on the actual farmer? I mean, was the farmer
having to do anything in order to continue to use AN?
Again, I'm just trying to ask for a little bit of a
timeline and a general sense of help me put this issue
of security regulations into some perspective so that
we can figure out sort of more broadly what was going
on with this.

MS. SLATER: We will endeavor in
posthearing, Commissioner Hillman, to provide you not
only this timeline but a summary of the requirements
and upon whom they were imposed at each particular
time.

COMMISSIONER HILLMAN: Again, I'm not asking
for absolutely every little thing as much as just to
get it from a perspective of what moves the market.

MS. SLATER: Absolutely.

COMMISSIONER HILLMAN: Okay. Then more to
the industry participants is it your view that it is -
- again, I appreciate the data in Exhibit No. 3 of your brief.

    It helps us understand what was happening to AN versus the other nitrogen fertilizers and they are as you describe, Ms. Slater, a downward percentage of the total amount -- I mean, that AN is a decreasing percentage, again, dipping in the end below five percent of the total of the nitrogen fertilizers out there.

    From the industry's perspective is that totally a response to these security issues or is there something in terms of the crops, the price of the crops for which various fertilizers would be used? I mean, it's my understanding that of the nitrogen fertilizers this would be among the high-priced ones.

    Was there something out there in terms of what was happening to farm prices for the products for which you would use this versus other things or something else that would have contributed to this downward percentage of the amount of nitrogen fertilizer that is consumed in the form of AN as opposed to urea, or liquid, or anhydrous ammonium?

    MR. ELLIOTT: As pointed out both in this brief and the original brief ammonium nitrate has always or does command a premium per unit of nitrogen.
That has always been the case and crop price volatility has always been there and nitrate has been able to maintain that difference.

So I don't think there's anything that you can identify in crop prices or anything like that that has any basic affect that hasn't been there historically.

COMMISSIONER HILLMAN: So your sense is that all of the shift out of AN and arguably into urea liquid, AA is all due to the security requirements?

MR. ELLIOTT: I'd say very definitely the bulk of it is security.

COMMISSIONER HILLMAN: All right. Anybody else have any differing view on that?

MR. GOUGH: Commissioner Hillman, I would have to concur that I think the majority of it is because of regulations.

COMMISSIONER HILLMAN: Okay. If I can then go to a couple of data issues. One of the issues that we're struggling with is the best way to look at imports. Because as you know, Ms. Slater, we do not have a clean HTS number here our census data would include the liquid product as well as the LDAN product as I understand it. Wait a minute. There's some non-subject product within the same --
Heritage Reporting Corporation  
(202) 628-4888

MS. SLATER: The industrial grade.

COMMISSIONER HILLMAN: The industrial grade.

What would be your sense of the best way to look at this data? Questionnaire data or official import statistics?

MS. SLATER: Let me answer briefly and then I'm going to ask Mr. Klett --

COMMISSIONER HILLMAN: Part of it is I'm trying to understand whether there has been any shift over time in terms of how much industrial grade would be included within the statistics. Low-density product.

MS. SLATER: This is an issue that was presented in the original investigation and your very excellent staff some of whom we have the benefit of also having on this review very carefully took a look at this and figured out I think what was the right thing.

Basically there is low-density -- I'm going to qualify this in one second -- meaning the industrial grade product comes from almost nowhere outside the United States other than Canada and so the real question in terms of the mix of the HTS numbers is how much in that Canadian category is low-density?

We were able actually in the original
investigation to come up with -- we meaning all of the parties collectively -- a reasonable way of estimating the amount of that. We've done that as well in our brief and I suggest that methodology is the same one that probably ought to be used in this review.

As to the other source countries everything that's reflected in your data should be to the best of our knowledge -- and Mr. Rydlund, who is very involved also in the industrial market has confirmed this -- high-density ag grade product. Explosive grade product is generally not imported. Now, I do want to --

COMMISSIONER HILLMAN: So is a liquid AN also part of the same HTS?

MS. SLATER: No. I believe it's only the solid product which is in that, and we will confirm that.

COMMISSIONER HILLMAN: Okay. You're saying there is no low-density product made in any of the other countries --

MS. SLATER: No, no, no. None imported into the United States. I do want to qualify that because Mr. Rydlund provided in our posthearing brief an affidavit saying that he was unaware of anything particularly with respect to Russia.
We have learned in the last few days that there has been actually a very unusual shipment of some bagged low-density explosive product from Russia to an explosives producer. This was apparently a one time deal. Very unusual. We have the information on that particular product which we'll supply.

That would be relevant only -- it hasn't been reflected in the census data yet, but that was an unusual sort of one time thing.

COMMISSIONER HILLMAN: I would appreciate anything you want to add on that for the posthearing, but then let me go to the pricing issue because, Mr. Klett, you priced several comparisons of Russian product in the U.S. market versus Russian product in other markets.

As I understand it you're relying on shipment AVs to do those price comparisons. I'm just trying to make sure that they are in fact a valid proxy for market prices because if some of the Russian shipments to other markets, not to the United States but to other markets, were this low-density product or were a liquid AN presumably that would affect the validity of those comparisons.

So do we have any reason to believe that all of the Russian shipments to non-U.S. markets are
basically all subject product?

MR. KLETT: The reason I relied on the Russian export statistics for that analysis is that I needed to go back to 1999 or pre-POI levels so that I could see what that relationship was during the original investigation and this investigation to see whether that relationship had changed.

In the original investigation as opposed to this investigation the Commission did not collect from your questionnaires in your foreign producer questionnaires volume and value data, so you cannot calculate an AUV for the POI for exports to the United States from your original questionnaires.

You did that in this investigation, so you can see during the POR what Russia's export prices to the United States versus other export markets and you see a substantial price differential. The price differential is not exactly the same, but it's similar to the price differential from the Russian --

COMMISSIONER HILLMAN: Do you know or have any way of knowing whether the Russian sales to the non-U.S. markets which are significant in volume include non-subject product?

MS. SLATER: I think the answer, Commissioner Hillman, to that is that if you look at
the data in our Fertecon report, which I believe
counsel for the Russian producers should be able to
confirm for you, there is very, very little commercial
production in Russia of a low-density product and so
we believe that everything that's included there and
exported into those markets is high-density.

Now, if in fact some of those exports were
low-density they're in a position to actually tell you
exactly to which market and what -- so I think they
should be asked probably.

COMMISSIONER HILLMAN: Last quick sort of
data question. Would you agree with Respondents that
in evaluating the condition of the industry that we
should focus on the data for the two remaining
producers rather than focus on all responding
producers that have during this period of review
ceased production? Which data set do we focus on?

MS. SLATER: I frankly think that for
different purposes you need to be looking at both. I
think that the experience of the industry as a whole
can be very instructive for you, and I think that the
experience of the remaining producers can also be
instructive, and I'll in the posthearing be happy to
sort of outline in which circumstances it would be
relevant.
COMMISSIONER HILLMAN: Appreciate those answers.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Lane?

COMMISSIONER LANE: Thank you.

Ms. Slater, I think that I heard Mr. Morgan say in his opening remarks that consumption was down, but there was no decrease in demand. I'm having a hard time reconciling that with the data that I have looked at. Do you agree with that statement, and if so or if not would you care to elaborate on that?

MS. SLATER: I would care to. Thank you, Commissioner Lane. I hate to disagree with my friend, Mr. Morgan, but I think --

COMMISSIONER LANE: Did I hear him right?

MS. SLATER: You heard him right.

COMMISSIONER LANE: Okay.

MS. SLATER: It's sort of symptomatic I think of the very difficult argument that they're trying to make. Consumption is down, but no decrease in demand.

The premise of his argument is that the demand is really out there, there just hasn't been adequate supply to provide it which aside from problems of general economic theory would suggest that
there would be U.S. producers running full out, that there would be purchasers who are tearing their hair out looking for products, that there would be all kinds of things happening.

There is no demand that's simply gone away because the product's not there. That's their premise. Consumption is down they say, but it's really not because demand is gone. It makes no sense. In fact demand is declining and there's really no evidence otherwise.

COMMISSIONER LANE: So there is no data in the records that would support that statement?

MS. SLATER: None whatsoever. In particular your purchaser questionnaires I think are very helpful in that regard.

COMMISSIONER LANE: Okay. Thank you.

Mr. Green, I want to talk about your company switching from producing ammonia at its, is it the Yazoo City, and bringing it in then to your Cherokee facility or maybe it's vice versa. How much money per unit are you saving by buying the ammonia rather than producing it yourself, and what is the affect upon the employees at your facilities when you do this? Are you having to lay off employees because you're doing this switch or what is the affect on your
company?

MR. GREEN: Commissioner, let me explain. Terra has only the Yazoo City --

COMMISSIONER LANE: Okay. I'm sorry.

MR. GREEN: Terra has only the Yazoo City, Mississippi, production facility, not affiliated with the Cherokee plant. As far as savings and what we're doing at the present time is we're importing ammonia into the Yazoo City production site.

That product can be from our Donaldsonville facility and we can bring product from Trinidad, which is their own, we can also purchase product or we can bring product from one of our other existing facilities to meet the needs at Yazoo City on ammonia.

COMMISSIONER LANE: Have you done a calculation that you are actually saving money by doing that rather than producing it yourself at the same facility that you're using it?

MR. GREEN: We haven't ceased producing ammonia at the facility in the long-term. It's just a turnaround for January and February here that the ammonia plant is down. So once the plant repairs are done to the ammonia plant it will be up and operating as it was in December.

COMMISSIONER LANE: At the same level as
before?

MR. GREEN: We hope to. Yes. No reason to believe that it would be less.

COMMISSIONER LANE: Okay. Thank you.

MR. GREEN: You made comment regarding employees.

COMMISSIONER LANE: Yes.

MR. GREEN: What we're doing is we're utilizing Terra's own employees to do the maintenance during this turnaround. We're not hiring outside or third-party contractors to come in to do this required work as a cost saving measure.

COMMISSIONER LANE: Thank you. Since the level of non-subject imports of ammonium nitrate is well-above that of subject imports to what extent would imports of the Russian product simply displace non-subject imports if the suspended investigation were terminated?

MR. KLETT: Commissioner Lane, this is Dan Klett. I mean, there will be displacement of non-subject imports as well as domestic production in my view and typically the best way to evaluate how much of non-subject is displaced versus domestic production is the relative shares of both during your most recent period.
So based on those shares that would be my expectation of the relative displacement. I think there's another element and that has to do with the pricing. To the extent there's displacing of non-subject imports we believe it will come in at prices lower than non-subject imports in order to attain that end, so there will be pricing affects in the market as well.

COMMISSIONER LANE: Thank you.

I'd like to go to the industry representatives to talk about your natural gas purchasing practices. How important are spot and futures prices of natural gas to your operations, and what share of your gas costs depend upon long-term contracts?

MR. RYDLUND: With respect to El Dorado at El Dorado the production of ammonium nitrate comes from ammonia that we purchase, so the natural gas impact on what we purchase at El Dorado is not as great. With respect to Cherokee, Alabama, we do purchase natural gas to manufacture ammonia. Again, at this point because of the lack of demand we do not produce ammonium nitrate at Cherokee.

I will tell you, though, that our natural gas purchases at Cherokee for other industrial

Heritage Reporting Corporation
(202) 628-4888
products are a combination of futures or hedges and
spot pricing as well some of which is hedged against
long-term sales contracts, but to effect we have no
long-term commitments other than, for instance, one,
two, three years out as far as purchase of natural
gas.

COMMISSIONER LANE: Does anybody else care
to respond to that?

Mr. Green?

MR. GREEN: Commissioner, regarding Terra's
gas purchasing and indexes we use hedges, swaps and
other financial tools to secure gas to cover our
obligations. I think it best that we supply you with
more detail for the posthearing of those tools and our
parameters and covenants of the company.

COMMISSIONER LANE: Thank you. To what
extent do Russian and U.S. producers have the ability
to produce alternative products with the same
equipment and workers that they use to manufacture AN?

MS. SLATER: We certainly can't speak for
the Russian producers, but Mr. Rydlund can answer for
EDC. Could you repeat the question, though,
Commissioner, for his benefit?

COMMISSIONER LANE: To what extent do
Russian and U.S. producers have the ability to produce
alternative products with the same equipment and workers that they use to manufacture ammonium nitrate?

MR. RYDLUND: I will speak of course to the U.S. producers and particularly El Dorado. The equipment that we have in place to manufacture ammonium nitrate cannot be used to manufacture other products.

Now, that's equipment to produce. Ammonium nitrate is made from ammonium nitric acid and obviously nitric acid can be used for other products, but with respect to the ammonium nitrate equipment per se, no. It can only be used to make ammonium nitrate.

COMMISSIONER LANE: Thank you.

Anybody else have a response to that?

(No response).

COMMISSIONER LANE: Okay. Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: That question knocked the lights out. Okay. They just came back on. Thanks. Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Mr. Chairman.

Mr. Gough, in your prepared statement you indicated that there were seven vessels currently being loaded in combination of Georgia, Bulgaria,
Netherlands and Romania. Do you know the destinations for those vessels? Are they expected to come to the United States?

MR. GOUGH: Commissioner, yes. These are as Fertecon has reported destined to come to the United States.

COMMISSIONER PEARSON: Okay. I know in some bulk commodities it's not unusual for a vessel at sea to have its destination changed. Is that something that happens with some degree of frequency in the ammonium nitrate marketplace?

MR. GOUGH: I'm not going to say it's never happened, but it would be probably fairly unlikely. Unlike urea, UAN and some other sources, in the end there's very limited places that ammonium nitrate is traded in the world today.

COMMISSIONER PEARSON: Well, but our staff report indicates it's quite a number of countries that use ammonium nitrate as part of their fertilizing programs. Clarify if I'm wrong.

MR. GOUGH: Well, I think when we see -- it's not a world traded commodity like urea, so I guess when you look at the destinations -- I don't know. I mean, it's just been our experience that if something is reported to come to the United States I
would say that this is going to be the final
destination.

COMMISSIONER PEARSON: Ms. Slater?

MS. SLATER: I wanted to add two thoughts.

One is that these reports are generally very reliable
and these are specific loadings headed for the United
States now.

I mean, these are real time reports, but
more importantly there's been confirmation -- and I'll
see how much these fellows are willing to say -- in
the marketplace that some of this is showing up
because the people who are bringing it are already
actively marketing some of it.

COMMISSIONER PEARSON: Mr. Gough?

MR. GOUGH: I guess one other comment.

Typically what we've seen on a lot of the importers is
that they will not usually bring a vessel unless at
least probably half of it is already committed. I
mean, they're not in the market to just speculate
bringing a vessel this direction, so a lot of times a
portion of these cargos are already presold before
they head this direction.

COMMISSIONER PEARSON: Okay. Good. Thanks
for that clarification. You made a reference to the
urea market and I think you were making the point that
there are differences between the global market for urea and the global market for ammonium nitrate. Could you elaborate further?

MR. GOUGH: Well, I think one of the things, around the world there's been a growth of nitrogen consumption and of course urea has been the main leader in that market, so you'll see cycles where there may be a shortage of urea for a year or two, some more plants get built, all of a sudden there may be excess capacity, so you have some cycles on the urea side where there's a limited number of countries that do utilize ammonium nitrate in comparison to urea.

So we really have never seen those cycles in the past decade or two because basically the world at this time has overcapacity of ammonium nitrate and really that I'm aware of there has been no new ammonium nitrate capacity come on in the world.

COMMISSIONER PEARSON: Without going back and looking at the relatively recent staff report on urea are you suggesting then that there's a smaller tonnage of ammonium nitrate trading in global commerce than there is for urea?

Mr. Klett? Mr. Gough?

MR. KLETT: I think that's fair to say. We
can confirm that, but I believe there is significantly less ammonium nitrate traded globally than urea.

COMMISSIONER PEARSON: Those of you who work commercially in the market do you see ammonium nitrate as a less liquid market, more of a specialty product?

MR. ELLIOTT: It has a much more limited market than urea, and urea as far as volume -- world traded urea volume is many multiples of world traded nitrate.

COMMISSIONER PEARSON: Okay. Good. So we're talking as you say many multiples, so several times more urea being traded than ammonium nitrate?

MR. ELLIOTT: Yes.

COMMISSIONER PEARSON: Okay. Thank you for that clarification. Why didn't more of the Russian quota for shipment to the United States to get used. It would appear the Russian exporters would be able to obtain a relatively favorable price in the United States compared to other countries when they're selling under the suspension agreement.

What was it that kept the quotas from being filled 100 percent every year?

MS. SLATER: The way that the suspension agreement works, Commissioner Pearson, it's very difficult to look at the quotas annually. They are...
what we call carryforward. Only the Commerce Department could design such a creature, but there are carryforward and carryback provisions each year which allow tonnages that are unused to be carried forward and similarly to be borrowed from the year to follow. So we tend to look at it over time rather than year to year.

As Mr. Klett mentioned, we are calculating about 94 percent of the quota has been used to date. The Russians have carried over a portion of last year's quota into this year, so at the end of the day when this is all done, how much will be used is hard to say.

It's been a fairly high utilization rate. What we did see was a small drop in the Russian shipments at the same time that we saw other imports drop off, which was right after that tremendous jump in imports that you saw on the chart that was there and in large part we think that the drop off in imports generally had something to do with the fact that the market was fairly well saturated and the distribution situation was saturated from that big bump that you saw.

Whether it's related to that, the Russians have complained that at that particular time they were
having trouble because of the freight rates but,
frankly, all importers are subject to issues of
freight rates and so for them to have been sensitive
at that particular point in time to the same
commercial concerns would have made some sense, but by
and large it's been a very successful exercise and the
Russians have generally filled or actually on an
annual basis exceeded the quotas.

COMMISSIONER PEARSON: From the staff report
I get the impression that we're looking at about
85 percent utilization of the quotas. You're saying
93. I won't quibble about the difference.

MS. SLATER: The Russians also say about 93,
94 percent.

COMMISSIONER PEARSON: The real question is
what are the economics behind a decision by someone in
the marketing system to leave either 7 or 15 percent
of the potential earnings on the table from what must
be one of the highest priced markets available to the
Russians?

MS. SLATER: I think what's interesting is
that the decisions are being made, and I have to be a
little bit careful. If you don't mind, I'd like to
answer some of this post-hearing with reference to
some of your questionnaire responses, but I think if
you look at how this market is working and how the
Russian producers are dealing in the market, it's
still through trading companies.

You've heard this story before, but traders
are moving this product, and so the decision of the
trading company whether to purchase -- and it's the
trading company's decision whether to purchase from
the Russian producer that makes the producer able to
sell or not sell for shipment to the United States --
depends on the trader's ability to place this product
into the market.

There was a period, I think, when everything
was falling down, suggesting that not only was demand
falling here but the marketplace here was somewhat
saturated.

The patterns that we see with Russian
imports, as they should be, given a properly
functioning suspension agreement, reflect not a
decision of Russian producers to walk away because
they would have liked to lower their prices, we know
that from public statements they've made, we would
like to lower our prices to be able to fill the quota,
but because of the pricing restraints, they, like
other exporters, couldn't make the sale to the trading
companies.
COMMISSIONER PEARSON: Now, at the end of your comment, I think you got to a point that might be relevant.

Are you asserting that the reason that they did not fill the quota is that they were unable at the reference price to find someone in the United States to purchase the product?

MS. SLATER: They were unable to find a trading company, right, to purchase the product for bringing it here.

MR. KLETT: Commissioner Pearson, this is Dan Klett. There is a floor price in the suspension agreement and I think early on in this period, and I don't know if it was 2000 or 2001, the market price actually fell below the floor so that the floor price put a pricing constraint on what they could ship here, just because it was priced uncompetitively out of the market. I can give you the exact periods when that occurred, but that would have been another element of why they didn't fill the quota.

COMMISSIONER PEARSON: That would explain why the fill rate in 2001 was the lowest of any year during the period.

MR. KLETT: Either 2000 or 2001. I'll have to go back and look at when that occurred. Since
2001, the fill rate has been significantly higher.

COMMISSIONER PEARSON: My time has expired.

Mr. Chairman?

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you,

Mr. Chairman.

I wanted to follow on with Commissioner Pearson's questions and ask another question about the operation of the suspension agreement.

In particular, my understanding -- and this is probably based on what I learned when we were doing the urea review recently -- was that the Russian producers sell their product to the trading companies and don't necessarily know what market it's going to end up in and yet my understanding in this case is in order to get the export license the Russian producer has to actually know where it's going, if it's coming to the United States, and has to make some representations about complying with the terms of the suspension agreement.

Can you explain how that works as between what the Russian producer has to do and what the trading company does?

MS. SLATER: That's a terrific question and
I think you've hit on a really important point. The suspension agreement really does change things up quite a bit and it was one of the, I think, very positive aspects of it for the industry, even though the quotas got fairly hefty.

The operation of the suspension agreement requires an export license to be issued by the Russian government. The Russian producer, as I understand it, and I think probably our witnesses this afternoon, your witnesses, will be able to tell you a little more from their end how much they really have to do, but our impression, looking through the curtain there, is that there is a process in Russia.

Actually, you have a very good example of what's happening, the Russian producers have given you the public version of Commerce's verification of their processes under the agreement.

Russian producers will apply for a quote, they get quota allocated. We don't know a lot about that, exactly who's applied and how the decisions are made for allocations, but once they have secured a sale, they must get an export license. They must present, as we understand it, copies of all the documentation showing that the reference price, the appropriate reference price, which is issued weekly by

Heritage Reporting Corporation
(202) 628-4888
the Commerce Department, attaches to that sale.

Once that export license is granted, then I assume the producer working in conjunction with the trading company, the exporter, will schedule the shipment to leave and it has to leave -- there is only a limited amount of time between getting your contract done and getting your export license and shipping it out.

Why? You wouldn't want all the contracts to be made at a point in the season when the prices are typically lowest and then shipped at the height of the season. These reference prices are determined weekly based on what's happening here in the U.S. market.

So they are applying for the license, getting the export license and then promptly arranging for exportation.

It is definitely a different type of arrangement than I think we have seen in the past with any of the products that are coming out of Russia.

COMMISSIONER ARANOFF: So is this a change from what the pattern was like in terms of the relationship between the Russian producer and the trading company prior to imposition of the suspension agreement? It sounds as though the producers have to become much more involved in the part about figuring
out what market the product is going to and on what
terms than they may have been previously.

MS. SLATER: I'm not sure that's true. I do
know that they would have to be aware that this was
coming into the U.S. market. In other words, there
would be no way that they would be able to make a sale
for the U.S. market or have product wind up in the
U.S. market legally without knowledge of its
destination.

Whether they generally know the destinations
of other exports, Commissioner, I just couldn't tell
you.

COMMISSIONER ARANOFF: Okay. I will
certainly ask Respondents this afternoon.

If by some chance I forget or don't get
around to it, I still invite you to answer the
question in your post-hearing brief, Mr. Morgan.

Let me turn to another issue which I don't
think anyone has touched on, some questions about
capacity and the ways that we are measuring capacity
and capacity utilization, both domestic and Russian,
in this case.

First, with respect to the Russian industry,
one of the arguments that Respondents make in their
brief is that some of the Russian producers are
located too far from a port to be viable exporters. They don't appear to be exporting now, but do you have any comment on that argument?

MS. SLATER: The argument that Russian producers are located too far from the port I think says a little too much. If you look at the distance from the port of some of the producers who we know are exporting, it gives you a clear indication -- I believe this is not in the public staff report, but you have a chart which lays out the distance from the port -- it's clear that producers who are substantial distances from the port are managing to export, so I wouldn't accept the premise that because you are far from the port, particularly given what we know about continuing subsidized rail transportation and so on within Russia that that would not be possible.

More importantly, there's no affirmative evidence that those producers absolutely do not export, so I think that's something to take into account.

The produces who have responded to your questionnaire do account for a significant portion of Russian exports, but they also do not account for a very significant portion of Russian exports to the rest of the world.
We couldn't tell you precisely which producers are exporting into where. I think that I would be reluctant to accept the distance from port as any reason to discount that capacity.

More importantly, though, even if you take the best argument concerning capacity, the underutilized capacity from the responding producers and the core producers they would like you to look at, it's so great compared to the size of this market that I think it doesn't even -- you can take the argument on their best light and they still have tremendous unutilized capacity to direct here.

COMMISSIONER ARANOFF: Okay. That sort of answers my next question, which was going to be to have you comment on what you think is the best source of data that we should be relying on in our final staff report to measure capacity in Russia and I guess you're telling us it almost doesn't matter which we choose, whether we use the questionnaire data or some public source.

MS. SLATER: I think if you look at it properly, what you see is even these responding producers, and I believe this number is public, account for capacity that is unutilized capacity at the moment that's large enough to basically fill
demand in the U.S. market. So we're not quibbling here over small slices of capacity. There's tremendous under utilized capacity out there.

COMMISSIONER ARANOFF: Okay. Let me turn then to some capacity questions about the domestic industry.

We obviously have an unusual situation in this case where there is a certain amount of domestic capacity to produce this product which is on the ground, but has been closed, people have exited the business, announced their exit from the business but not disposed of the assets. Some of them may be being used to produced other products, but some of them clearly are just sitting idle.

Since we are making a determination looking forward to the reasonably foreseeable future, how should we be considering that capacity? Should we be considering that as unutilized domestic capacity that lowers the capacity utilization for the whole industry? Or should we be simply discounting that because the owners of that capacity have said that they've permanently exited the business?

MS. SLATER: Let me answer and then maybe you can ask some other witnesses to respond.
I think you almost would have to take it plant by plant. It's a little bit difficult to generalize. There are a number of plants which have been down for quite some time and there are others which are just out and I think, unless I am misunderstanding your question, I don't think you can generalize with that. But I do think that, again, there is so much unutilized capacity, even in the operating plants with the producers held by the producers who are before you that the issue is really not whether some of those other plants might come back into operation.

We could certainly go through post-hearing and give you an indication of whether we think any of those plants could be once again operating, but you probably don't need to go that far to see how much under utilized capacity is here.

COMMISSIONER ARANOFF: I appreciate that answer and I would in fact appreciate in your post-hearing if you could look plant by plant and give us some sense of the extent to which capacity which has been nominally removed from production is still there and what effect, if any, you think that has on the market, that would be helpful.

I'm particularly interested in if I'm
looking, let's say, at interim 2005 and I want to look at what is capacity utilization in the industry in the most recent period, should I only be counting the capacity utilization rates of the two companies that are present here today, or is there anything else that I should be looking at?

And I take your point that it may not matter to the outcome, but it's still worth considering.

All right. Since my yellow light is on, I won't ask another question.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you, Commissioner.

I have one very short question remaining that I don't think will take much of our time on this round and it's this:

When acknowledging the fact that consumption has declined significantly at pages 10 and 11 of your brief, you state as a reason, and I'm quoting this sentence, "One frequently cited reason for this decline is the increase in security requirements associated with handling ammonium nitrate in the United States."

I am not going back into a discussion of the security requirements because I think that's been covered fully this morning, but my question is do you
have any other reasons contributing to the decline in
current domestic demand for AN other than that one?

If not, I'm done, but I wanted to make sure
I hadn't missed something that you had included in
your materials.

Mr. Gough?

MR. GOUGH: Commissioner, you know, I guess
we ourselves have not participated and I can't speak
for Terra, but when you get out to the fringe areas,
say, the northwest, the Pacific Northwest, California,
you know, I'm not sure if there's a different
underlying factor there.

We have vigorously -- we're pursuing
customers in that area, El Dorado Chemical Company
ourselves. We have acquired more rail equipment, we
have put on more trucks in our trucking fleet to cover
potential sales, but I guess it's too early at this
point to say in the fringe area if there's an other
underlying factor.

CHAIRMAN KOPLAN: Yes, Mr. Rydlund?

MR. RYDLUND: My only comment would be that
we've talked about security regulations in place, but
there is a sizeable amount of apprehension regarding
what will be new security regulations and how will
they affect insurance and things like this. So when
we talk about the decline and demand because of
security, some of it may be what's in place, but much
of it is apprehension.

CHAIRMAN KOPLAN: I appreciate that.

Mr. Klett, were you reaching?

MR. KLETT: No, Mr. Chairman, I was not.

CHAIRMAN KOPLAN: Okay. Well, then, I think
that covers it for me. I have no further questions
and I'll turn to Vice Chairman Okun.

Thank you all very much.

VICE CHAIRMAN OKUN: Thank you,
Mr. Chairman. I think I just have a couple of things.

I wanted to return briefly, Ms. Slater, on
the issue you were discussing with Commissioner
Pearson and Commissioner Aranoff on the fill rates of
quotas and what that does or doesn't mean in looking
towards future volume.

The other thing I had wanted to ask on that
is just in terms of you've asked us to look more to
the rate overall, the fill rate overall, as opposed to
each year, as I understand it.

MS. SLATER: Well, I think that's probably a
better way to view the agreement and certainly in
their submission to the Commerce Department and
possibly even something that was submitted here, the
Russians have done the same thing. It's the operation of the agreement itself that makes it a little bit difficult to look year by year.

VICE CHAIRMAN OKUN: And the only reason I ask that is it struck me when looking at Exhibit 9, Mr. Klett's exhibit, and the industry talking about there was a perceived shortness in the market in this period which drew in non-subjects and if that is also the case for the Russians whether I should be looking to that as what volume will do in the normal case or that the Russians would behave the way other non-subjects would behave, which is more would come in when market conditions demanded it as opposed to just sending stuff in regardless of what's going on in the market. That would be my specific question, to look at that period.

MS. SLATER: Obviously, that's a good question, but I want to be clear about the comment concerning how the Russians are shipping. There have been efforts to fill this quota throughout and it's not so much the market conditions. Only two things have in our experience, and Mr. Klett has a better memory, he's just a little bit younger, so if he wants to add anything, but what we've seen is with the exception of very early on when -- and I had actually
forgotten that period of time, it's bad memory -- the floor price kicked in, the agreement has a floor price, so if the reference price falls below a certain point it's basically you've got to stick with the floor price.

When that floor price kicked in early in the agreement, which frankly was a period of time during which we were coping with the Ukrainian problem, there were no shipments and it was simply a price, the reference price set by the agreement at the floor was too high to be attractive, given what was happening here to the traders. And that happened again for a very brief period of time because of freight issues.

But other than that, we've never seen a reluctance of the Russians to ship and they've repeatedly made submissions to the Commerce Department that their feeling is that they need to be able to ship the full quota all the time, every day, every year, and that's been the approach, I think sort of -- I don't want to say entitlement, but we should be able to fill the quota and something is wrong if we can't, as opposed to realizing that the market may have differences there.

VICE CHAIRMAN OKUN: I appreciate those comments and I had noted Mr. Klett's comments about
the floor price and that period as well.

And then just finally, with regard to
prices, and I know we just had the urea case as well, so we're all thinking about that, but I just want to make sure, we know this is another product where we have seasonality and I just wondered if you could comment at all in looking at the pricing over the period where we have a fair amount of material in the market whether seasonality, whether we should get those same trends on seasonality in judging pricing or is there something else going on in this market that we didn't see in urea that I should think about when looking at the pricing data we have collected.

Mr. Klett, you could do that post-hearing.

MR. KLETT: I'd be happy to do that post-hearing, Commissioner Okun.

VICE CHAIRMAN OKUN: I appreciate that.

With that, I have no further questions.

Mr. Elliott, I want to wish you a happy birthday. I hope you will get out of Washington in time to celebrate it.

CHAIRMAN KOPLAN: Commissioner Hillman?

COMMISSIONER HILLMAN: I have just a couple of follow-ups.

One, Mr. Klett, you had asked the commission
Heritage Reporting Corporation
(202) 628-4888

to consider, as you term it, low price of the Russian exports of the stabilized AN to the U.S.

I just wanted to make sure, could you submit the price data for this product if it hasn't been submitted yet?

MR. KLETT: Commissioner Hillman, we will do so.

COMMISSIONER HILLMAN: All right.

I appreciate that.

Secondly, Ms. Slater, just to follow up on the question I was asking earlier about import statistics versus the use of official statistics for import data versus questionnaire data, I didn't want to say because I wanted to check, I think our staff views that included within the HTS is this liquid AN, which I understand is imported to then convert into UAN.

I would only ask for post-hearing if you could just clarify whether you think that's the case and whether it has any impact on the data. In other words, if there isn't any actually being imported, then it doesn't make any difference to me, but whether it would change in any way your sense of how comfortable we should be looking at official statistics understanding the Canadian situation or
whether there's anything that you would add on this
issue, if I'm right that liquid AN is included within
this single HTS number.

MS. SLATER: We'll definitely do that, Commissioner Hillman.

COMMISSIONER HILLMAN: Okay. Then I guess
the third issue for the post-hearing for me would be
whether just stepping back from it whether there is
anything about the fact that this period of review
covers a time in which there was a suspension
agreement in effect as opposed to an antidumping order
that would cause us to look in some way at what our
task is in assessing whether revocation of the order
would result in a recurrence of material injury, given
we haven't had an order, we've had a suspension
agreement, we've talked a lot about how it's been
administered, but as a sort of legal policy matter, is
there anything about the way in which the commission
should approach its task here that you would think is
different in light of the fact that what we're looking
at is a suspension agreement that has had very
specific controls on the volume that were knowable in
advance -- everybody knew ahead of time what the
volume and, to some extent, what the prices would need
to be for the imports, whether that affects how we
should look at.

MS. SLATER: That's something I would love to also have the opportunity to respond more fully to post-hearing, but I think it is an important question because, unlike a situation with an order where the foreign producers and exporters and importers have had the opportunity to interact differently in the market, in theory, this is not a punitive antidumping order, it's not a punitive exercise. The idea is to bring about fair pricing and we sometimes see how exporters adjust their pricing and actually can eliminate dumping margins and develop fair pricing. That's not what's happened here.

In this situation, we do have this imposed discipline, which is, I think, the best way to think of it, both in terms of volume and price, and I think you do need to look at it in terms of, number one, understanding that the experience with the Russian producers has been a result that discipline. The pricing data that you have, for example, is not going to tell you anything what will happen absent the agreement because every price every week has been dictated by the suspension agreement, those are reference prices.

Unlike a dumping order then, you really
can't look and see how the foreign producers and exporters and importers and approach the market, so I think that's not an insignificant piece of it.

COMMISSIONER HILLMAN: If there are further comments in the post-hearing, I would welcome them as well to help us understand how to look at this.

Another issue that I would ask again for you to discuss a little bit in your post-hearing brief and I would welcome comments from the producers here, I remember being struck in your opening statement that very little has changed and on the other hand I look at this and say, okay, we've gone from 10 producers down to two, we've gone to production at the level of whatever it was, 2.7 million tons, down to something closer to a little over one something.

I'm curious from the domestic producers' perspective how much you change you feel in terms of price competition, given that in the original investigation you were competing with imports and with nine other competitors; you are now down to competing with only two, you've got a domestic duopoly here. How do we take that into account in terms of thinking about the nature of the market today and how different it is from the nature of the market at the time of the original investigation in terms of sort of
intra-domestic competition?
Do you want to answer that in the post-hearing?

MS. SLATER: I think it's such a good question that everyone is either getting hungry or wanting to think about it.

COMMISSIONER HILLMAN: Okay. My last, and I hope very quick question.

For those farmers who had been using AN, I'm still trying to make sure I understand it, whose distributors who are no longer carrying AN because of the security hassle factor, what are they doing for their nitrogen?

MR. GOUGH: Commissioner, where we run into these cases, you know, it's a sad fact, there's farmers that do not have access to AN that would like to have it and we don't see this in a wide area, it happens to be like one of my workers that he's from Oklahoma, you know, you happen to be back home, talk to a guy. You know, they've either had to switch in a lot of cases, mainly probably more to urea than UAN because a lot of times when a person makes a switch, he's a dry blender that also handles phosphate and potash. So the typical switch is usually to urea, but, you know, it get backs to as you get out into
some of these areas where you don't have two or three
dealers, say, within a 15, 20 mile radius, where they
may be 30 miles apart, 40 miles, the guy gets resigned
to use what's available from his dealer.

COMMISSIONER HILLMAN: Mr. Green or
Mr. Elliott, would you have a comment on that?

MR. GREEN: Commissioner, my comment on that
is that the retail dealer sells programs to farmers
that usually align with his business and with supply
or distribution or another mode of application. So he
is the middle person that is able to swing the demand
at the farmer level. He can either stop selling
ammonium nitrate and convert them to some other
product that suits his system or he might lose the
business. But in most instances, they've converted to
some other product.

COMMISSIONER HILLMAN: Okay. All right.
I appreciate those responses.

With that, I have no further questions, but
I would like to thank this panel very much for your
answers. Thank you.

CHAIRMAN KOPLAN: Thank you.
Commissioner Lane?

COMMISSIONER LANE: Commissioner Hillman
asked the one question that I wanted to ask, but I'm
not sure that I understood the answer and that is if
you are a user of AN and it's not available, what are
the substitutes for that product that are available
out there for the people to use.

I understood what Mr. Gough said, but
I wasn't quite sure what Mr. Green said.

MR. GREEN: Commissioner, the alterative
nitrogen sources at the farm level would be anhydrous
ammonia, nitrogen solution or urea. There's also
ammonium thiosulfate, but to a lesser extent would
farmers convert to that product.

COMMISSIONER LANE: Okay. Thank you.

Anybody else want to respond to that?

MR. ELLIOTT: Just a little more detail.

Mr. Green mentioned anhydrous ammonia, UAN, which take
different application equipment than the switch to
urea, which is a dry product similar to ammonium
nitrate.

As Mr. Gough said earlier, I suspect most of
that switch is to urea just for the simple fact that
it's the same type of application equipment as was
needed for ammonium nitrate.

COMMISSIONER LANE: Okay. Thank you.

That's all I had, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.
COMMISSIONER PEARSON: I'd like to ask the industry witnesses a question to try to understand how important to your support for this continuation of this suspension agreement, how important is the low pricing of natural gas in Russia?

Let me ask the question this way. If during the period of review Russia had made policy changes to allow natural gas for the production of ammonium nitrate to be priced at market levels, commercial levels, something related to what they're selling gas into Western Europe for, if that had happened, would you still be here supporting continuation of this agreement, of this suspension agreement?

Mr. Green, do you want to start?

MR. GREEN: Commissioner, if that would have been the case, we would have seen those prices change; there would have been a direct relationship of increased prices of ammonium nitrate from Russia throughout the world that we haven't seen today. Therefore, we have cause here or reason to believe that prices would not increase to those levels. So the world market is what it is and until we see higher prices coming out of the Black Sea, we would have hesitation.
COMMISSIONER PEARSON: I'm not criticizing you for being here in any sense, I just was trying to set up a hypothetical situation in which we could talk about how important is the natural gas pricing in Russia to this whole case.

Mr. Rydlund, do you have anything to add?

MR. RYDLUND: I believe the issue is that where we're at is the price of the Russian products being brought into the United States. What effect the price of natural gas would have on the price that the product is sold into the United States, that I am not sure of. Granted, you would think it would have to be higher, but to what extent?

COMMISSIONER PEARSON: Okay. Well, then let me approach it this way. What other factors are there about the Russian industry that would give you an expectation that they would continue to dump aggressively if they were having to pay a market price for their natural gas?

MR. RYDLUND: They have a large amount of excess capacity and so there is a need to run those plants.

MS. SLATER: Let me, if I may, just follow on. It's something that we actually talked a little bit about yesterday. In addition, in this particular
sector of ammonium nitrate, in addition to the gas
pricing problem which I think as Mr. Green sort of
recognizes, if gas prices in the next five years or in
the last five years had been reformed and we saw an
impact in product prices, I do think the industry
would feel differently.

There's an additional factor and that is
Gazprom has a very substantial ownership in Russian
ammonium nitrate production, both directly and
indirectly.

Now, what does that mean?

That means that in addition to the
government, and this is laid out very nicely in the
little Fertecon report that's attached to our brief,
in addition to the state control of gas pricing,
Gazprom has in addition the ability to manipulate some
of the gas supply and pricing into its affiliated
plants.

Whether that would be reformed, you could
make an argument for why that would happen, although
I could argue it either way. Whether that would also
happen with general domestic industrial gas pricing
reform in Russia, Commissioner, I don't think we know,
but I don't think that anyone here based on
discussions we've had previously would disagree that
that's the root of the problem, the tremendous
capacity which continues to exist because production
is still economic with quotes around it, based on the
pricing of gas there today.

COMMISSIONER PEARSON: Let me put the
question in the context of what we heard a number of
weeks ago from the U.S. urea industry.

There, they had come in in support of a
continuation of the agreement in regard to Russia and
Ukraine and they had made a conscious decision to
exempt several countries that previously had been
under the order from still having the order apply and
they made that decision, based on my understanding of
their testimony, largely on the basis that those
countries had in the preceding years adjusted to a
more market based pricing for natural gas and so they
said if they're going to have to pay world price for
their gas, then let them compete.

So what I'm trying to understand is is the
situation different for ammonium nitrate than for urea
in terms of the importance of natural gas and, if so,
I'd like to understand why a little better than I do
right now.

MS. SLATER: My impression, and I apologize
for jumping in, I think that some of the other company
people I would want to consult with and maybe also
answer you post-hearing, but my impression is very
strongly that it's the same. The root of the issue is
very much the same and it really does relate to gas
and real gas pricing reform with the footnote of that
troubling Gazprom control of such a high portion of
the industry, understanding that Gazprom is still
controlled by the Russian government, really is the
root cause of this problem and getting reform of
Russian gas pricing is going to help in this regard as
well.

COMMISSIONER PEARSON:  Well, please go ahead
and think about this a little bit and respond in
post-hearing because I'd be curious to know what your
views might be.

One other quick question. In 1998, the
commission did a Section 332 study regarding ammonium
nitrate and I wasn't here to participate at the time,
but I've had a chance to review it briefly. A couple
of issues that were kicked around in that study had to
do with the relatively higher regulatory burdens on
U.S. producers compared to the Russians and so maybe
for purposes of the post-hearing, unless you have
something you want to say extemporaneously, how would
you contrast the regulatory burden in the U.S. now
1. with the regulatory burden in Russia?

And we should look at that, I think, in the
light of what new investments or new costs would be
required in the United States to meet the changing
regulations here compared to what new outlays might be
required by the Russians to meet whatever change they
might have in their standards.

MS. SLATER: We'll certainly take a look at
that, Commissioner. I'm not sure how much information
we will have today on the requirements for the Russian
industry. It's our understanding that the types of
legal and regulatory schemes that we have pervasively
in this country are not yet in place in the Russian
Federation, but we'll do our best to look it up and
I'm sure the Respondents will also be able to help
with that.

COMMISSIONER PEARSON: Okay. Because it's
at least plausible that the U.S. industry is much
better positioned to deal with whatever additional
tightening of the regulatory environment we might have
here than the Russian industry might be to deal with
whatever they might have to do to come up to what we
might see as a world standard in terms of the
operation of their plants.

Mr. Green, you're shaking your head. Is it
at least a reasonable question?

MR. GREEN: Commissioner, I believe so.

COMMISSIONER PEARSON: Okay. Thank you.

Ms. Slater, anything final?

MS. SLATER: Well, I do want to note that
the Russian -- and I sort of hark back to this and it
really relates to your question about gas pricing and
what's happening with the Russian industry. That
industry is not -- relic is the wrong word, but it
gives you the right impression. It is really a relic
of the Soviet agronomic system which set up these
plants in all kinds of places, as you've seen from
your own listing of locations, places that I have had
trouble finding, frankly, on a map in some cases. I
know Mr. Morgan will repeat that back to me. But the
existence of this industry which continues to this day
is really a function of the absence of not only the
gas pricing, but a need of these plants to modernize
and compete on a world basis. And so your questions
go really to the heart of it.

What's happening there to date? Not a lot
is happening, other than to the extent particular
Russian producers have chosen to modernize themselves
and to try and compete on a world stage, but even
those producers benefit from this wonderfully priced
gas.

So it's a matter of still dealing with something which is capacity with a very large C headed to our market, which is right at the top of the list of imports. No matter what changes eventually will take place there, it's not going to be tomorrow and it's not going to be next year. This is something that is going to have to work itself out over time, involving legal policies, regulatory policies of the Russian Federation.

Thank you.

COMMISSIONER PEARSON: Thank you very much.

Mr. Chairman, I have no further questions.

CHAIRMAN KOPLAN: Thank you.

Commissioner Aranoff?

COMMISSIONER ARANOFF: One very brief follow-up.

We've discussed at some length this morning some of the arguments concerning whether or not there's a shortage in the market and I would just note -- I note your generalized response that that's just not true. There are some particular purchasers' comments that are quoted in the Respondents' brief and I would just ask in your post-hearing if you would look at those specific purchasers' comments on
shortages and respond with what you think was going on there and whether it signifies anything more broadly in the market.

MS. SLATER: We'll absolutely do that and I do want to note that I think you had something like -- the numbers are in the ballpark of 15 purchaser responses. They were asked a very specific question which I believe the Russian counsel may even have suggested concerning availability of supply. The overwhelming majority of those answers were that there was no problem. As to the ones which have been sort of highlighted by the Russian producers in their brief, I think we could very easily deal with those in post-hearing.

COMMISSIONER ARANOFF: I appreciate that. That would be very helpful. With that, I want to thank the panel and I have no further questions.

CHAIRMAN KOPLAN: Thank you.

Vice Chairman Okun?

Commissioner Hillman?

COMMISSIONER HILLMAN: Only one quick slight follow-up on a broader level on this issue. You cite a number of figures from Fertecon in your brief. Particularly, on page 11 of your brief
you're talking about Fertecon's numbers for domestic
consumption of AN, both now and going forward. I just
want to make sure I understand from you whether you
think it is valid for us to compare Fertecon's
projections of domestic consumption with the projected
production or capacity levels of the two domestic
producers, Terra and El Dorado, in terms of how we
should assess whether there is or is not adequate
domestic supply of the product.

MS. SLATER: Well, let me answer that in two
ways. There are a number of projections out there and
the way that I believe Fertecon has probably built up
their projections -- you're talking about for the U.S.
market?

COMMISSIONER HILLMAN: Correct.

MS. SLATER: It may be, and we'll try and
confirm this, those numbers are not consistent for the
U.S. market with others that we have seen. They may
be looking, as the Commission might do, without
looking in detail, looking at imports into the market
which would include the Canadian non-subject
merchandise, so we'll try and look at that, but we
think probably that number is a little bit on the high
side.

One of Terra's senior executives has
projected moving forward a million ton market. That's looking a little more like some of the other numbers that we see. It's very difficult. Fertecon is probably on the high side for reasons having to do with their methodology and I probably would suggest that that's not the best and most realistic number to use.

COMMISSIONER HILLMAN: Well, if there is more that you want to add in the post-hearing on those particular Fertecon numbers, that would be helpful.

MS. SLATER: We'll do that.

COMMISSIONER HILLMAN: With that, I have no further questions.

Thank you.

CHAIRMAN KOPLAN: Anything else from the dais?

(No response.)

CHAIRMAN KOPLAN: If not, Mr. Deyman, with the amount of material you have in front of you, I have to assume you've got some questions.

MR. DEYMAN: No, Mr. Chairman. I have no questions and the staff has no questions.

CHAIRMAN KOPLAN: All right. Thank you.

Mr. Morgan, do you have questions of this panel before we excuse them?
MR. MORGAN: No, Chairman Koplan.

CHAIRMAN KOPLAN: With that, I want to thank you all for your testimony.

Mr. Elliott, I hope you have enough time left to celebrate today in a fashion other than this. We will come back here at a quarter of two.

I would remind you that the room is not secure, so that anything that's BPI you should take with you.

The commissioners will be back here 15 minutes prior to that because we have an administrative matter to take care of here.

I will see you all back here at a quarter of two.

(Whereupon, at 12:48 p.m., a recess was taken.)
AFTERNOON SESSION

(1:45 p.m.)

CHAIRMAN KOPLAN: We will come back to order.

Mr. Secretary, have the witnesses been sworn?

MR. BISHOP: Yes, Mr. Chairman.

Panel 2, those in opposition to continuation of the antidumping duty order, has been seated. All witnesses have been sworn.

CHAIRMAN KOPLAN: Thank you.
You may proceed, Mr. Morgan.

MR. MORGAN: Thank you, Chairman Koplan.

Good afternoon to the commissioners and staff. I am happy to announce that our testimony should be short, to the point and maybe deliver an early birthday present to Mr. Elliott and get him out of here.

Nicholas Adamchak of Ameropa will begin our presentation by discussing his experience in the U.S. AN market.

My colleague, Jay Campbell, will follow with a discussion of changes in the conditions of competition that have occurred and what they mean going forward and I will conclude with some brief
With that, Nick?

MR. ADAMCHAK: Good afternoon, Commissioners and commission staff. My name is Nick Adamchak. I'm the managing director of Ameropa North America.

Ameropa is a global manufacturer and distributor of chemical fertilizers and the company is headquarters in Basel, Switzerland.

Founded in 1948, Ameropa today employs over 1100 people and has 28 offices in 19 countries around the world. We handle and distribute roughly 10 million tons globally.

In the United States, we import and sell all major fertilizer types, including ammonium nitrate, which we supply primarily to the southeast and mid south.

I've been in this position for two years. I have worked in the fertilizer business for 23. My colleague, Mike Ward, joins me today. Mike is the regional marketing manager of Ameropa North America and Mike has been in the fertilizer business for 26 years. Mike and I thank you for the opportunity to share our views today.

I understand that the commission's task is to decide whether termination of the suspension
agreement would be likely to lead to increased volumes
of low-priced imports that would injure U.S. producers
of ammonium nitrate.

For three key reasons, I believe the reason
to this question is a resounding no.

The first of these issues that I'm going to
speak to is logistical constraints.

In the post-9/11 environment, federal and
state officials have issued strict regulations on the
sale and distribution of ammonium nitrate. The Coast
Guard issued regulations in 2004 that require vessels
and warehouses along the river system to put
substantial security measures in place for the
handling of ammonium nitrate. These and related
measures have increased the cost of handling and
distributing AN, as have rising insurance and
liability costs.

As a result, there is less infrastructure to
enable importers to bring in and distribute ammonium
nitrate from offshore.

We believe that ammonium nitrate can now
enter this country through only two ports, those being
New Orleans and Tampa. Of these two ports, only Tampa
is certified to warehouse ammonium nitrate in the
port.
Conversely, all ammonium nitrate that goes through New Orleans has to be loaded directly onto barges for distribution, but because of the costs and liability stemming from the security issues, there are only two barge lines that continue to transport ammonium nitrate and the prospect of additional barges coming into that service is remote.

As a result, our ability to import through New Orleans is limited. In fact, one of the two barge lines involved is involved in Chapter 11 proceedings and has been wholly unresponsive to our calls and inquiries to barge our nitrate.

The other of the performing barge lines will commit to contracting only 40 percent of our projected import requirement.

In addition, numerous warehouses along the river system have opted not to take the necessary steps to obtain a permit from the Department of Homeland Security that would allow them to store ammonium nitrate. As a result, many customers that used to take product from New Orleans via barge are now taking product predominately by truck and rail, if at all.

At the same time, we cannot supplement our New Orleans distribution system through Tampa. The
Heritage Reporting Corporation
(202) 628-4888

Tampa port has approved only one terminal for the storage of ammonium nitrate. That terminal has a capacity of 30,000 tons, which is shared by ourselves and one other importer and together we are maximizing the throughput of that facility.

Moreover, we cannot economically supply New Orleans based customers with product imported through Tampa because inland delivery costs are prohibitive and rail service has been unreliable.

Because of these constraints, both related to security and otherwise, we could not import substantially greater amounts of ammonium nitrate even if market conditions warranted. I am confident that this holds true for the other fertilizer importers as well.

The second reason a termination in our opinion will not lead to an increase in volume that will harm U.S. producers is because we believe any increase in Russian imports will likely come at the expense of non-subject imports. This is likely because the Russians offer higher quality, superior loading capabilities at their ports and better opportunities to combine ammonium nitrate shipments with other products to reduce overall freight costs.

The third reason that we think that...
termination of the suspension agreement would not injure U.S. producers is that the U.S. market is significantly under supplied by domestic production. At the time of the original investigation, there were ten U.S. producers. Now, we are down to two. This rationalization represents the loss of more than half of the U.S. nitrogen capacity and has occurred after the inception of the suspension agreement and thus could not be driven or contended to be driven by Russian imports.

In the southeast alone, PCS, Nitram and Air Products have all discontinued ammonium nitrate all together or have directed their efforts elsewhere. Agrim and Simplod have exited the business as well. some of these producers have shut down because they could not contend with high U.S. natural gas costs. Others have exited because of security concerns.

Putting the loss of U.S. capacity into context, even before the suspension agreement, U.S. production was unable to meet total U.S. demand. The U.S. market has always relied on imports. Now, with just two U.S. producers, the need for imports has become even more important, but unfortunately imports are insufficient to make up the
shortfall in supply. Despite the decline in U.S. capacity over the years, the imports of ammonium nitrate have generally been static and even have begun to decline because of logistical constraints we spoke to before.

Unlike urea, ammonium nitrate is not produced all over the world. For the most part, ammonium nitrate can be sourced from a few countries in Western Europe, such as the Netherlands and Spain, and from Eastern European countries like Bulgaria and Romania. That's basically it.

Although consumption has decreased due to the decline in availability, core demand remains stable. As Matt said earlier, ammonium nitrate remains an important nitrogen source for farmers because it offers performance that other nitrogen fertilizers cannot match.

Compared to other nitrogen fertilizers, ammonium nitrate is more stable in hot, humid climates and is better suited for the specialty crops and for no-till farming.

Unfortunately, during the past five years, available of ammonium nitrate has decreased dramatically and therefore is no longer sufficient to meet the demand from American farmers.
Because of the insufficient domestic supply and what we perceive to be stable core demand, I do not think that the termination of the suspension agreement would harm U.S. producers as they will still sustain significant pricing power in the marketplace.

The minimum FOB price that Russian exporters must charge under the suspension agreement has recently become too high for Russian ammonium nitrate to be economically viable in the United States. The suspension agreement requires Russian exporters to charge a minimum FOB price called the reference price. Over the past few years, ocean freight and U.S. inland transportation costs have increased sharply, yet the formula for calculating the reference price has not been adjusted to account for these increased costs.

Simply stated, if we had consistent competitive access to either Russian or non-subject imports, we would not be here.

Now, if the suspension agreement were removed, Russian FOB values could be adjusted to the distribution variables and remain competitive the United States, but this does not mean that Russian product would be sold aggressively at low prices into this market and therefore harm U.S. producers.

To the contrary, Russian producers are well
aware of the conditions in the U.S. market and will take advantage of any U.S. price premium, much the same way they have done with UAN and ammonia.

In addition, importers would seek to maximize their returns and since the U.S. market is tight they would have zero business incentive to undercut U.S. market prices.

The fact that the U.S. market is tight is underscored by the fact that according to TFI statistics, the inventory for the domestic manufacturers at the end of December which is on the threshold of the start of the domestic season was just 35,000 tons. This is 60 percent reduced from what it was a year ago and a long way away, in our opinion, of being able to service the capacity that is out there.

We have what we consider to be an excellent relationship with Terra and to a lesser extent with El Dorado and a great deal of respect for both of them. I strongly believe that the American farmer should have a domestic source of supply and I am confident that U.S. farmers will continue to support that production.

From our perspective, this is more about our customers, particularly those in Florida, who have seen their three largest suppliers of ammonium nitrate
go out of business or discontinue production in the
last few years. They grow a significant share of this
country's citrus, strawberries, cucumbers and the like
and desperately need ammonium nitrate to do so. Any
prolonged irregularity of supply could mean that they
will soon be growing condominiums.

I am also here today because the suspension
agreement no longer works and no longer serves the
intended purpose that it was originally put in place
for.

With so many U.S. producers dropping out of
the ammonium nitrate business, American farmers need
access to offshore product. In the aftermath of
Katrina and Rita, this country went several months
without domestic production of any kind. AN is too
important and too strategic to have its supply subject
to such vulnerability.

Russian ammonium nitrate is critical to
maintaining the supply balance in the United States
and there is no longer any sound justification for
restricting its trade.

Thank you again for the opportunity to share
my views. Mike and I will be happy to answer any
questions that you may have.
MR. CAMPBELL: Thank you, Nick.

Good afternoon, Commissioners. My name is Jay Campbell. I am a lawyer at White & Case and I am here today on behalf of the Russian respondents.

In their pre-hearing brief, the U.S. producers argue that market conditions have not changed significantly since the original investigation and thus that Russian imports would again injure the U.S. industry if the discipline of the suspension agreement were removed.

We disagree. The record shows that several fundamental changes have occurred since the commission first investigated the ammonium nitrate market and we submit that these changes support a negative determination in this review.

I will briefly discuss four of these changes and how they affect the commission's perspective analysis in this review.

The first major change, the supply of ammonium nitrate available to the U.S. market has decline markedly since the original investigation. Now and going forward, supply is not sufficient to meet U.S. demand. Mr. Adamchak addressed this earlier and I will not go into detail, but I would like to reiterate the main points.
Again, at the time of the original investigation, there were ten U.S. producers of ammonium nitrate. There are now only two. Notably, U.S. producers have exited for reasons unrelated to Russian imports such as the desire to reduce exposure to security issues.

Because of the shutdowns, U.S. demand now and going forward greatly exceeds the remaining U.S. producers' capacity to produce ammonium nitrate.

At the same time, the availability of imports has also declined. Mr. Adamchak discussed the logistical constraints on importing the ammonium nitrate, particularly those resulting from the new security measures, and data compiled by the commission staff support his assertions.

Table C-1 of the pre-hearing staff report shows that U.S. shipments of all imports decreased by over percent when comparing interim 2004 to interim 2005. Notably, this reduction occurred while U.S. prices for ammonium nitrate were increasing.

This evidence supports the notion that in today's marketplace and going forward there is only so much ammonium nitrate that can be imported into the United States, even when the U.S. market is attractive relative to other markets.
Together, the reduction in U.S. capacity and imports has created a shortage such that available supply no longer meets U.S. demand, today and going forward.

In Sections 2-A and 5 of our pre-hearing brief we have estimated the supply gap and, as explained in the brief, we believe that our estimate is conservative.

Questionnaire responses supported by purchasers also support the finding that there is a supply gap and we cite these responses at page 5 of pre-hearing brief.

The existence of the supply gap weighs strongly against the determination that ending the suspension agreement --

CHAIRMAN KOPLAN: Excuse me. I believe what you referred to in C-1 is bracketed.

MR. CAMPBELL: No, Commissioner. I don't believe so. It's the public version. I'm referring to total imports. I'm looking at page C-3 of the public version of the pre-hearing staff report. There's a line, U.S. shipments of imports from all sources and it has quantity. That's what I'm referring to.

CHAIRMAN KOPLAN: All sources, the quantity
line on all sources?

MR. CAMPBELL: Right.

CHAIRMAN KOPLAN: I stand corrected.

I apologize for that.

MR. CAMPBELL: To conclude, the existence of
the supply gap weighs strongly against a determination
that ending the suspended investigation would be
likely to lead to material injury.

While on the subject of a supply gap,
I would like to encourage the commission not to
confuse declining consumption for declining demand.
The pre-hearing staff report shows that U.S. apparent
consumption of ammonium nitrate is declining and we do
not dispute that finding, but the existence of a
supply deficit means that the decline in consumption
reflects a decline in availability more than a decline
in demand.

Although several importers and distributors
have reported that U.S. demand for ammonium nitrate is
declining, as have the U.S. producers, we believe that
they are confusing consumption for demand.
Ultimately, farmers determine the level of demand for
ammonium nitrate and because of its unique
characteristics, demand historically has been steady.

The considerable drop in U.S. consumption
from 1999 today is thus largely the result of less availability. For instance, none of the crops that use ammonium nitrate have had correspondingly significant declines in the acreage planted that would explain the decline in consumption.

Nevertheless, in estimating the supply gap, consumption is a proxy for demand and this is just one of the reasons we believe the true gap is even larger.

The second major change is that Russian consumption of ammonium nitrate has increased considerably since the original investigation and this has led to a decrease in Russian exports. Ammonium nitrate has always been the fertilizer of choice in Russia and Russian production was primarily designed to serve Russia's vast agricultural sector. But after the dissolution of the Soviet Union, Russia's agricultural production collapsed and Russian producers turned to export markets.

In its Section 332 report, the commission concluded that the pressure on Russian producers to export could soften as the Russian economy improved and domestic consumption of ammonium nitrate increased. Although this had not occurred by the time of the original investigation, the outlook has improved since then. The Russian economy has been
growing at a high rate and Russian consumption of ammonium nitrate has increased considerably. I refer the commission to Section 2(e)(2) of our pre-hearing brief for the supporting figures.

With Russia's ammonium nitrate market recovering, we're beginning to see Russian producers reduce exports in favor of shipments to the home market, just as the commission predicted in its 332 report. Table 4-4 of the pre-hearing staff report shows that over the course of the period of review, the responding Russian producers reduced exports by 12 percent while increasing home market shipments by 12 percent.

Recent trade reports also support the conclusion that Russian producers are limiting exports in favor of home market shipments and we provide examples of these trade reports in Exhibits 14 and 15 of our pre-hearing brief.

This trend of increasing shipments to the Russian home market is likely to continue as Russian home market demand is projected to increase. Thus, the recovery of Russian's ammonium nitrate market reduces the likelihood that subject import volume would be significant after termination of the suspended investigation.
The third major change, that the cost of shipping ammonium nitrate from Russian ports to the United States has increased considerably over the past two years. Ocean freight rates increased 21 percent from 2003 to 2004 and another 42 percent in 2005.

The fourth major change, that the U.S. industry is leaner and stronger than it was during the original investigation. In the original investigation, the U.S. industry consisted of ten producers. Today, the U.S. industry consists only of Terra and El Dorado and those companies' performance is reflected at page 17 of our pre-hearing brief.

Without getting into specifics due to BPI, we submit that the U.S. industry that exists today and going forward is healthy. U.S. producers argue that the domestic industry is vulnerable, however, pointing to high and volatile natural gas costs and declining demand, but the record facts refute this contention.

Regarding natural gas costs, the record shows that the U.S. industry can perform well, despite higher costs, as it did through the first nine months of 2005. During this period, the U.S. industry was able to raise prices to cover rising gas costs.

Notably, U.S. producers were able to raise prices largely because of the reduced availability of
ammonium nitrate, not because of the suspension agreement.

Looking ahead, all parties expect natural gas costs to decline somewhat in 2006, which suggests that the remaining U.S. producers of ammonium nitrate will continue to be able to deal with gas costs. The rapid and recent decline in natural gas spot prices to $8.55 per million British thermal units as of the week ending January 12th supports this declining trend.

Regarding demand, we disagree that the demand is declining at a significant rate. The U.S. producers point to declining U.S. consumption as evidence of declining demand, but, again, the consumption numbers for the most part reflect the reduced availability of ammonium nitrate and not declining demand.

Another point here is that U.S. producers today discussed at length how the U.S. market is declining. They described a shrinking market, shrinking demand. But if demand is shrinking, you would expect prices to fall as well. That's Economics 101. But we haven't seen that. Instead, in fact, in the past year, U.S. prices have been increasing quite a bit. The most reasonable explanation for that is that there is reduced availability to the market.
The reduced availability in turn explains why the U.S. industry has been able to raise prices and return to profitability. Contrary to the U.S. producers' claim, then, the declining consumption data actually show why the U.S. industry is strong and not vulnerable to subject imports.

Frank will now conclude our panel's presentation by discussing a few miscellaneous issues.

Thank you very much.

MR. MORGAN: Thank you, Jay.

I'll just touch on a few issues, hopefully very quickly.

With respect to likely volume, there are a few points we urge the commission to keep in mind.

First, the size and available capacity in Russia must be taken in context. As we discussed at pages 22 to 25 of our pre-hearing brief, only a subset of the Russian industry might export to the United States upon termination and this still depends upon favorable pricing, ocean freight and so forth.

The distances for the two producers that Commissioner Aranoff mentioned earlier which appear in confidential Table 4-3 are simply on a different order of magnitude than distances of other Russian producers in terms of how far they are from the port. There is
just not even a comparison.

And I heard testimony about capacity utilization rates, but when you look at the record over the course of eight years, you do not see full capacity utilization. It's in the original investigation report as well as in the report from this review. There is just not 100 percent utilization rates ever report.

CHAIRMAN KOPLAN: Can you move that microphone a little closer to you?

MR. MORGAN: Certainly.

And, again, and I believe that Ms. Slater mentioned this in her testimony, the Russian producers that have responded to the commission's questionnaire account for the overwhelming majority of Russian exports worldwide, not just the U.S.

Second, the Russian industry is far more oriented towards domestic consumption since the restructuring of the Russian agricultural sector. We provided information on this issue as Exhibit 20 of our confidential pre-hearing brief, which in turn was taken from information the domestic industry itself provided. The domestic producers provided additional information at page 5 of Exhibit 2 to their confidential pre-hearing brief, which, again, we view
as supporting our position this issue.

As Jay addressed in his testimony, and as I believe you'll hear in questions, AN is the dominant fertilizer in the Russian home market. It will continue to be and we believe the evidence shows that demand for it is continuing to strengthen.

Third, while some third country measures on Russian AN exist, we do not believe they will result in a significant shift in exports to the United States. Notably, despite imposition of these measures, the Russian industry's capacity utilization rates have remained fairly steady, owing primarily to increases in home market shipments.

In the context of these factors, the gap between U.S. supply and demand and the limitations on volume resulting from U.S. security regulations, we submit that any increase in the volume of any Russian AN would not be significant upon termination.

Just commenting on a few miscellaneous issues that were present in the domestic industry's pre-hearing brief, they alleged under selling based on levels that we just don't believe are plausible. As Mr. Adamchak testified to, in a market that is under supplied, there is no incentive to undercut prices to move volume.
These incentives are further constrained by security regulations which have increased the cost of distributing ammonium nitrate.

Those companies still willing to handle ammonium nitrate are likely to respond to prevailing prices and market conditions.

Finally, on impact, we believe that the domestic industry's model is deeply flawed and we'll comment on that in our confidential post-hearing brief. Without getting into BPI, suffice it to say that we view it as highly defective, a model that still projects an adverse change in the domestic industry's condition even when no change in the volume or price of Russian AN is input into the model.

This concludes our presentation.

Thank you.

CHAIRMAN KOPLAN: Thank you. We very much appreciate your presentation and we will begin with Commissioner Lane.

COMMISSIONER LANE: Thank you for being with us this afternoon and bearing with us while we had our picture taken.

Mr. Morgan, I would like to start with you.

The same question that I asked Ms. Slater that refers to your opening statement where you said
that consumption is down, but that does not mean that there is a decrease in demand. What statistics do you point to to support this assertion and what exhibits can you refer me to that are already in the record or would you like to provide additional information?

MR. MORGAN: We will be providing additional information in terms of the exogenous factors. The crop acreage plan that uses and has not seen the kind of significant declines that warrant making a conclusion that demand has declined. When we point to the consumption figures, we're pointing to the Plaintiffs' own pre-hearing Exhibit 9, where they include in consumption the volume that should have been present in the commission's report but for Agram not having responded to the commission's questionnaire.

You see very different consumption figures when you correctly account for the fact that part of the reported domestic shipments is missing from the pre-hearing staff report. Staff provided an estimate of what that figure was, but that's confidential.

That is where we are taking the consumption figures, as well as from the Fertecon report that the domestic industry provided, which had projections of consumption.
We view the consumption figures that the domestic industry itself provided, and now they appear to be backing away from because they don't seem to support their case, as the relevant information on projected consumption going forward in the U.S. market.

With respect to the decline in demand, it's a little bit more difficult to point to what demand is, but if you look at the data, the time when availability of ammonium nitrate is greatest corresponds with the greatest periods of apparent consumption, so if you look back in 1999, the availability was at its highest, imports were at their highest and you also had greater apparent consumption.

Absent any declines in the basic needs of farmers who use this product, which there haven't been, and you've heard it's mainly been due to security regulations and that's impacted the distribution system, not the ultimate end user's need for this product.

COMMISSIONER LANE: Do any of the rest of you want to comment on that point?

Mr. Adamchak?

MR. ADAMCHAK: I would just say,
COMMISSIONER LANE: You've got to pull your microphone a little bit closer.

MR. ADAMCHAK: Excuse me. I would just say that there is, in my opinion, more than just a coincidental relationship between the fact that since the inception of the suspension agreement, U.S. domestic production has declined roughly a million tons and U.S. domestic consumption has declined by roughly a million tons. I think there is a causal relationship there.

COMMISSIONER LANE: But do we have anything in the record that shows that people are demanding AN and can't get it?

MR. MORGAN: Commissioner Lane, I would point to -- and I take great umbrage with the fact -- six out of fifteen purchasers responded that they encountered shortages in the market, that's over 40 percent of all responding purchasers. Mr. Klett referenced that and said it wasn't significant. I think 40 percent is a pretty significant number when they're saying there were shortages. I would cite to that evidence.

COMMISSIONER LANE: Mr. Ward and Mr. Adamchak, do you use only Russian imported AN?

MR. ADAMCHAK: No, ma'am, we don't.
COMMISSIONER LANE: So you use domestic production also?

MR. ADAMCHAK: We are a customer -- yes, we do use domestic and we also use imports from non-subject countries as well.

COMMISSIONER LANE: Have you tried to get domestic AN and been refused?

MR. ADAMCHAK: The answer to that question is no, but it's simply because in the market it is fairly well known that the domestic manufacturers are multiple months behind in their shipping, still really recovering from the effects of the storms, and there's no realistic ability -- we've actually sold one of the domestic manufacturers some nitrate. So on the basis of our knowledge of what the supply/demand scenario is, it would be unproductive to specifically formally request domestic ammonium nitrate.

COMMISSIONER LANE: Mr. Ward?

MR. WARD: The critical part of your question is the first, have we tried, the answer is no, we haven't tried, because of the reasons that Nick just pointed out. We've actually been selling to the domestic industry.

COMMISSIONER LANE: Are you familiar with Russian facilities?
MR. ADAMCHAK: In what way? Just the factories themselves?

COMMISSIONER LANE: Yes.

MR. ADAMCHAK: Yes.

COMMISSIONER LANE: How much modernization has taken place with the Russian facilities?

MR. ADAMCHAK: I think it's been considerable. The Russians have much of what we've seen here in the United States. The Russian industry has made substantial amounts of money and in the case of the two largest exporters, they have made substantial improvements, refurbishments to all of their production facilities, both in terms of enhancing their efficiency and in terms of standardizing the products. The two large guys have multiple production units and it's a real goal for them to sort of standardize the quality of the product coming out of those facilities.

COMMISSIONER LANE: What price are the Russian industries paying for natural gas?

MR. ADAMCHAK: I can't say I honestly know the answer to that question.

MR. WARD: None of us could say we know the answer to that question. We simply don't know. I can tell you what we think we know.
COMMISSIONER LANE: Okay. That would be fine.

MR. WARD: We think that that price varies with the price of the commodity and it was pointed out earlier that Gazprom does have various equity interests in producers and it would be obviously in their interests -- they're not going to strangle their own consumer, it would be in their interests to vary the price of the feedstock according to what the net back is on the product.

COMMISSIONER LANE: Do you know, are any of the Russian facilities on curtailment because of lack of natural gas.

MR. WARD: None that I know of.

MR. CAMPBELL: Commissioner Lane, I don't mean to interrupt. I just wanted to add that I believe -- I can't remember the specific question off the top of my head, but I believe in the Russian producers' questionnaire response, I am pretty sure that at least a couple of the Russian producers specifically state how much they have been paying for Russian natural gas and what the trends have been in terms of the costs they've incurred for natural gas. So I would direct you to the questionnaire responses for the Russian producers.
COMMISSIONER LANE: Okay. Thank you.

The other question that I asked this morning and maybe you all could answer it, if AN is the product of choice in the southern eastern states in this country because of climate, what is there about the Russian environment that is conducive to AN?

MR. ADAMCHAK: I think the industry reps earlier this morning started to get to it. Simply, it is a product of the Soviet system and Mike can speak a little bit more knowledgeably to this, but basically the natural form of nitrogen available to the plant is nitrate and the logical initiative, at least in a Russian sense of the term, is to try to replicate that synthetically and that's why initially when they set their industry up they set it up to produce ammonium nitrate.

It was after World War II that there was a change in Europe to move away or to supplement or to create an alternative to ammonium nitrate and still maintain nitrate availability, the availability to the plant in nitrate/nitrogen form, and that's how you derive products like calcium ammonium nitrate, for instance, which is basically an ammonium nitrate that has substantial amounts of calcium in the product to stabilize it.
MR. WARD: The Russian industry didn't develop an ammonium nitrate program based on the agronomic values to the plants that are growing in southern climes. They developed it because that was the form of nitrogen for everything. In other words, it wasn't considered a specialty product, it was the manufactured nitrogen and that derives largely from the original nitrogen that was supplied before it was manufactured and it was taken out of the atmosphere in the form of nitrate. Agronomically, that's what farmers grew up on, that's what they used. Ships used to take sodium nitrate from South America back to Europe and it was a nitrate-based nitrogen source.

So when the era of manufacturing nitrogen came in, they sought to replicate that initial product and so then it grew up around nitrate.

At that point in time, there wasn't urea and there wasn't anhydrous ammonia as a direct application product. I hope that gets to your question.

COMMISSIONER LANE: Yes. Thank you.

MR. WARD: It wasn't meant to be a specialty product.

COMMISSIONER LANE: Okay. Thank you.

CHAIRMAN KOPLAN: Thank you, Commissioner. Commissioner Pearson?
COMMISSIONER PEARSON: Thank you, Mr. Chairman.

Let me extend my welcome to the afternoon panel.

To what degree has the suspension agreement made it difficult to import Russian ammonium nitrate? Has it been a system that works or are there problems with it?

MR. ADAMCHAK: I can really only address that issue, Commissioner Pearson, in terms of where we are within the last 12 months. Really, I guess as much as we said there's a pre-9/11 and a post-9/11, there's almost a pre-Katrina/post-Katrina cause and effect sort of thing going on here, too. The reality is since Katrina, the suspension agreement price has risen over 40 percent and I think the flaws in the system are endemic, but we can't recapture that in the marketplace right now.

So consequently, looking forward, the situation being as it is today, we are planning around importing any product from Russia and, as a matter of fact, we just purchased a cargo the other day from Bulgaria.

We believe right now that the suspension agreement as it's constituted will for the foreseeable
future, anyway, effectively embargo Russian ammonium nitrate from the U.S. market, which in part explains why we see product coming from Georgia and places like that. Georgia is a long ways away from deepwater and the quality of that material is -- well, put it this way, we've handled that product at the company in Europe and we are not allowed to handle it again, just from a quality point of view.

COMMISSIONER PEARSON: So the point you're making is that currently the reference price is set high enough so that U.S. customers aren't willing to pay that amount or more for the Russian ammonium nitrate?

MR. ADAMCHAK: It's set significantly higher than the current prevailing marketplace in the United States, yes. I'm saying exactly that.

COMMISSIONER PEARSON: Mr. Ward, did you have any observations on the operation of the suspension agreement in its earlier years?

MR. WARD: I was aware of the suspension agreement and how it worked. Would you ask a specific question on that? I'm not sure what you're getting at.

COMMISSIONER PEARSON: Well, just following up on the question that Mr. Adamchak has answered,
just to what degree the suspension agreement has made it difficult to import ammonium nitrate from Russia over the life of the suspension agreement.

MR. WARD: Only when those values get upside down does it become a problem. There's no logistical implications about the suspension agreement. All that kind of stuff has worked okay, it's worked fine. And while we had a more robust domestic supply base, the lesser quantities under the quota system didn't seem to be a problem either, but that has changed in recent years, especially the recent two years.

MR. ADAMCHAK: I'd like to add something. We promise not to keep tag-teaming you like this, but the other part of the suspension agreement that makes it a bit cumbersome from a trader's point of view is that you don't set the price. Typically, we negotiate our price. When we commit to purchase the cargo, we know what we're committing to. We know what the price is.

In the case of the suspension agreement, you do not. You are committing to take the tons and then you're basically at the hands of the gods in terms of what your price is. And that is, from our perspective, a very significant disincentive to committing too much production there because the risks
are simply too high. You don't know.

We committed to taking product under the suspension agreement from the Russians prior to the hurricane and I've had to live up to that commitment and deal with the price consequences of that.

I think that feature of the suspension agreement is a bit difficult.

COMMISSIONER PEARSON: Are you able to say in public whether that product that you just referenced actually entered the United States or did you end up having to find another home for it?

MR. ADAMCHAK: No, no, no. The product will enter the United States. It has not entered it yet, but will. The vessel is on the water.

COMMISSIONER PEARSON: Okay. Given the uncertainty that the suspension agreement causes for traders, is the price risk shared by the Russian producers or assumed entirely by the Russian producers or are you paying a flat price to the Russians and absorbing all of the risk that the suspension agreement might trip you up?

MR. ADAMCHAK: By definition, we are paying the suspension agreement price and absorbing the consequences of those prices.

COMMISSIONER PEARSON: Okay. All right.
MR. ADAMCHAK: Living with that price. Yes.

COMMISSIONER PEARSON: In theory, there could be some sharing of the risk with the Russian producers, but as a practical matter that's not happening?

MR. ADAMCHAK: That is not happening.

COMMISSIONER PEARSON: Why didn't more of the quota get used during the period of review? We've had discussion that somewhere between perhaps 85 and 93 percent of the quota got used and the remainder wasn't used.

MR. ADAMCHAK: Again, I think the morning panel addressed that relatively accurately. I just think it was a period of time when, for whatever reason, the price as determined by the suspension agreement could not be supported in the prevailing domestic marketplace at that time.

COMMISSIONER PEARSON: If you feel that the reference price is out of touch with what's actually happening in the U.S. market, is there a process for discussing that with Commerce, to try to adjust the reference price?

MR. ADAMCHAK: I'm not aware of that. I would assume the answer to that question to be yes, but I am not specifically party to any of those
discussions.

COMMISSIONER PEARSON: Mr. Morgan, are you familiar with that process?

MR. MORGAN: Yes, Commissioner Pearson. In fact, we have been trying to work on that with the Commerce Department. The agency is slow moving and, in fact, the quantity of the agreement is capped at 150,000 metric tons, so that gradually progressed since the inception of the agreement but now that quantity is no longer going to increase, it will stay at that level as long as the agreement is in place.

Also, part of the problem is that the costs of transport are set based on the mechanism that was put in place in 2000, so there is, I believe, a delivery component that's $54 and that's what it is, that will never change. Freight rates could go up to $100 a metric ton and what happens is they calculate a U.S. price and then they simply back out $54. So if it costs you $60 just to move the product here, maybe $60 is not a fair example, but $40 just for the ocean freight, you're looking at maybe only having $10 there to account for everything else. So that's been a major sticking point because it's not -- I think the Russian producers would prefer if they could have a price that actually reflected market conditions.
vis-a-vis all the movement expenses that occur. Nick maybe can fill in any details on it, but it basically puts the prices as uncompetitive in the U.S. market when those fluctuations occur.

MR. ADAMCHAK: Yes. The cost of ocean freight, for instance, when the suspension agreement was first into place, I had my broker look at a nitrate shipment in January of 2000 and the cost of moving 25,000 ton cargo of ammonium nitrate from Usnia, the main Russian port, to New Orleans was $16.75. Our experience in the last 12 months has ranged between $34 and $43. That's one segment of it.

The other segment is barging and, as we referenced, the fact that the barge lines, with the exception of two, have abandoned the haulage of ammonium nitrate has been significantly reflected in the cost of barging the product. Specifically, in 2000, you're talking $8, $9 a ton to go from New Orleans to Tulsa, for instance, which is a main using area. Right now, the spot rate for doing that is $28.50, roughly that. So you can see how quickly -- and then there are the costs for terminaling the product, for stevedoring the product, have gone up significantly as well, so you can see that the numbers that were originally put in place no longer come close
to reflecting the actual costs of moving the product around.

COMMISSIONER PEARSON: Both ocean freight rate and barge rates tend to fluctuate fairly widely. Are those rates currently trending up or have they turned and are starting to come down a little bit?

MR. ADAMCHAK: Well, the barge rates are as of yesterday. The process is such that, as I say, we have probably on any given shipment that's coming to New Orleans maybe 40 percent of our tonnage covered by contracted barge. The rest of the time, you're out spot. This ship was supposed to arrive on the 22nd, today is the 19th, until yesterday, we weren't sure we had barges to cover the product that we have coming in. So I don't think that part of it is going to change unless some of the other barge lines get back into the handling of ammonium nitrate.

As far as ocean freight is concerned, yes, you get ebbs and flows in the marketplace and, as Ms. Slater pointed out this morning, we're currently in a bit of a down tick, but clearly not going down anywhere near to the levels -- I think we've seen a fundamental quantum leap because there's been so much bulk capacity taken out, the global bulk fleet for what we call Handimax vessels and this is a little bit
of conjecture, I've seen these numbers, but I'm going
to say it's down about 20 percent. The high price of
steel, there's a number of other factors that have
taken a lot of the bulk cargo capacity out.

Now, that will be presumably regenerated;
that coupled with the fact that you're seeing
significantly increased demand from places like China
and India for bulk commodities and you've got the
energy component as well that have driven the freight
rates up and, again, it will continue to trade within
a range but we won't again approximate what we saw in
2000, in my opinion.

COMMISSIONER PEARSON: That's those nasty
electric arc mini mills that want those old vessels
for scrap. That's part of the problem.

MR. ADAMCHAK: That's been a big part of it.

COMMISSIONER PEARSON: Mr. Chairman, my
light changed some time ago.

CHAIRMAN KOPLAN: Thank you.
Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you,
Mr. Chairman.

I join my colleagues in welcoming the
afternoon panel.

Mr. Adamchak, I wanted to go back with you
over some of your testimony and just ask you to clarify a few things that I think I heard you say.

You had indicated that there were currently only two ports of entry available for this product and I just wanted to go back to that and ask you is that some kind of a practical limitation or is that a legal limitation that under the security regulations in effect you have to bring this product into these two ports?

MR. ADAMCHAK: I don't know for sure, Commissioner. I think in certain jurisdictions, you're just not going to get approval unless it's kind of grandfathered into the system, you're not going to get approval to handle ammonium nitrate.

COMMISSIONER ARANOFF: Who has to grant approval?

MR. ADAMCHAK: I believe it's the Department of Homeland Security. I don't know if that's -- the Coast Guard, which is under the auspices of Department of Homeland Security.

COMMISSIONER ARANOFF: Okay. So the Coast Guard has to approve bringing product into a certain port and on what basis do they grant that approval, that you can demonstrate to them that you've got some kind of secure facility to it in?
MR. ADAMCHAK: Well, I think they look at various factors. They look at the proximity to populated places. They look at the likelihood like in New York or Washington, the terrorist exposure. And then for you to petition -- and we wouldn't do this, a company like Kinder Morgan or a terminaling company would be the one that would petition the Coast Guard to handle this product. So I think those are the criteria that they would look to evaluate.

In this kind of environment, you're really, really fighting an uphill battle, unless you're grandfathered in, that they're going to allow you on a greenfield project, despite complying with the regulations, with 24-hour surveillance and fully-enclosed storage and all of that, that has got to be a given. That is a precondition. Your willingness to do that has got to be a precondition of your request to the Coast Guard to consider it, but even with that, it's very, very unlikely that there's going to be any new facilities or there don't appear to be any new terminals that are going to be permitted to handle ammonium nitrate.

COMMISSIONER ARANOFF: Now, is this a change? Prior to 9/11, was ammonium nitrate being brought routinely into other U.S. ports or has it just
always been these two ports?

MR. ADAMCHAK: Well, again, a lot of its
driven by where the usage is. The lion's share of all
fertilizer comes into the port of New Orleans and then
you fan out into the river system. In the case of
nitrate, we've got kind of a Florida, deep southeast
specific case. So, yes. I don't think it's something
that's recent, there was just never a need. Again,
the expanded geographical reach of what at that point
in time was the domestic industry, there wasn't the
need except for very, very specific geographies to
import ammonium nitrate to places other than New
Orleans where you can put the product into barges
antidumping move the product around.

COMMISSIONER ARANOFF: Right. I'm trying to
understand, I guess, from your testimony about all
these sort of logistical difficulties in moving the
product into the U.S. what's new and what's always
been there and of what's new which of it is required
by government regulation and which of it has been the
individual actors in the marketplace acting on their
own.

MR. ADAMCHAK: What's new is the fact that
there are only two barge lines that will handle it
and, as we heard earlier today, there are quite a lot
of the river terminals that have not been willing to make the expenditure to comply, again, with the Coast Guard regulations on 24-hour surveillance. There's an expense part of it and then there's the liability part of it, too, and the security part of it. But that is definitely new, both in terms of the barge capacity that you've got and the inland river warehouse capacity.

The other thing that is part and parcel of that is that you've got -- back in 2000, the cost to fleet barges was maybe $100 a day. The cost today to fleet barges is $300 a day. So the ability to import big vessels, relatively big vessels, 25,000-ton vessels, break them down into 17, 18 barges and store them, effectively floating storage, that is becoming cost prohibitive. So that, again, is a disincentive from an importer's point of view to bring significantly more ammonium nitrate than what you can really see.

As Ms. Slater said earlier today, most importers will have some portion of their vessels sold, so you want to know where you're going with this product. You hope like hell you're going to get enough barges and then you pretty well -- unlike urea, for instance, where you'll kind of fleet and float and

Heritage Reporting Corporation
(202) 628-4888
store the material, with nitrate, for a lot of reasons, you want to get the product loaded and you want to get it where it's going. And the infrastructure, the bandwidth, the inbound bandwidth to do that has been sharply reduced.

COMMISSIONER ARANOFF: And just so I understand you, it's not that there's actually been a reduction in the number of companies that are barging other fertilizer products, it's just this product?

MR. ADAMCHAK: That is correct.

COMMISSIONER ARANOFF: Now, is it that everyone except these two companies doesn't want to handle it or they can't get licensed by the Coast Guard?

MR. ADAMCHAK: I think in most cases they made a commercial decision not to do it. Mind you, the barge rates on other products have gone up. We've had the sort of attrition that we've seen in the bulk fleet we've seen in the barge fleet in this country, probably even more dramatically, so barge rates are up. If you're a barge owner, you're making real good money right now and I think a lot of these guys have decided that they don't want to fool with nitrate.

COMMISSIONER ARANOFF: Okay. Thank you.
I appreciate those clarifications.

Let me ask you because you were speaking with one of my colleagues about this, I had asked this morning about the suspension agreement and how the licensing works. If you want to go and buy Russian product and bring it into the U.S. under the suspension agreement, how does that process work? Who approaches whom? Are you approached by the Russian company? Do you approach them for product? Who goes and gets the license? What order is that done relative to when the product is on the water?

MR. ADAMCHAK: Typically, we would approach them, although it doesn't have to be that way. They would apply for the export license and they would do all the paperwork on that side and we would then get the export license. We would get a copy of the invoice along with the shipping documentation and then submit those documents to clear Customs and do all that. I hope that spoke to your question.

COMMISSIONER ARANOFF: Yes, it does. Is that different from the way you would do business with another nitrogen product that you were taking out of Russia?

MR. ADAMCHAK: Not materially, no. You still have to clear Customs, you still have to provide
shipping documentation. The export license, the need for the export license submission to clear Customs I think is unique to the suspension agreement, but otherwise, no. And the other thing that is a little bit different, as I said earlier, is that you're not working off of a negotiated price. You're working off of a suspension agreement price.

The other thing that's different is that you've got specific time lines with which to ship the product. You've got 25 days from issuing a contract to actually shipping the product and then you've got 35 days from shipping that product to its arrival at destination. So there are very specific time lines involved in shipping Russian material that don't necessarily apply for non-subject countries.

COMMISSIONER ARANOFF: Okay. Thank you.

That's helpful.

Normally, when you buy a nitrogen product, either a non-AN product from a Russian producer or any product from a producer in another country, when you buy it, do you know for sure what country you're going to ship it to and does the company that produce it know for sure or is that unique to this situation?

MR. ADAMCHAK: It's unique to this situation. We can purchase other commodities for a
specific country at a specific time. We can also, if we feel like the market is undervalued or that particular commodity is undervalued at the time, we can buy it. As a group, we've got a global system and we'll from time to time buy a cargo of Russian urea. We know it can't come to the United States, but it can go virtually anywhere else and we do that more in a speculative sort of scenario or we'll decide among the various markets that we're involved in that might need that product where it goes.

COMMISSIONER ARANOFF: The licensing scheme that we have under the suspension agreement, there's nothing like that in the other markets where Russian product is restricted, right? It's antidumping duties in the other market?

MR. ADAMCHAK: I believe that to be the case. The suspension agreement is a little bit different than the antidumping duties, although I don't have firsthand knowledge of going through a Customs clearance process or any such thing in Europe, for example.

COMMISSIONER ARANOFF: Okay. Thank you very much.

MR. ADAMCHAK: You're welcome.

COMMISSIONER ARANOFF: I appreciate your

Heritage Reporting Corporation
(202) 628-4888
CHAIRMAN KOPLAN: Thank you, Commissioner.

This is for Mr. Morgan and Mr. Campbell.

Looking at Table 4-4 of the pre-hearing staff report, it's on pages 4-6 and 4-7, which lists the unit values of Russian AN supplied to export markets during the POR, I notice that the Russian subject product is sold at lower unit values in third country markets than in the United States.

Much of the data in the table is BPI, but you have access to it. I'll just reference on segment that is public on page 4-7 to give you an idea of where I'm coming from here.

In 2004, AUVs for Russian exports to the United States was $141.81 per metric ton. However, to the EU, it was $111.22. In that same year, the AUVs for all of their exports was $104.62.

And just one other part of the table that I can refer to, in interim 2005, to the U.S., it was $167.62, but for all other exports, it was $135.11.

Now, I understand that Asian markets have no price restrictions on Russian exports of AN and Petitioners this morning discussed low-priced Russian exports to Canada.

How should I factor the comparative Russian
export patterns into my analysis?

I can't get into all of it, as you know, because it's bracketed, but the parts that I did should give you an idea of why I'm asking the question.

MR. MORGAN: Commissioner Koplan, we will get into the confidential parts of that in our confidential post-hearing brief, but while we have the benefit of Mr. Adamchak and Mr. Ward, they actually have some experience in how export pricing works for various markets, so having the benefit of them being able to speak to the issue of different export pricing, I think we'll supplement, then, on the confidential record in terms of the confidential data.

CHAIRMAN KOPLAN: Okay. Sure.

Who's going to start?

MR. WARD: The question is how are these prices adjusted for various markets? Is that --

CHAIRMAN KOPLAN: I was asking how should I factor these differences in, the export patterns, into my analysis of this investigation.

MR. WARD: Why would the Russians sell at X price for some market and a different price for another market? Is that --

CHAIRMAN KOPLAN: Higher here than there.
MR. WARD: Higher here?

CHAIRMAN KOPLAN: Yes.

MR. WARD: Quite frankly, I think it's as simple as that's what the market will bear. This is a higher cost market, a higher value market, the United States, and they can achieve a much higher net back and that's not unique to ammonium nitrate. The United States right now, this year especially, is, I guess, the best market in the world for nitrogen products.

CHAIRMAN KOPLAN: Mr. Adamchak, do you want to add anything to that?

MR. ADAMCHAK: Not really, Mr. Commissioner.

CHAIRMAN KOPLAN: That's your response?

Thank you.

Mr. Morgan, you were about to say something. I know you're going to elaborate on this in the post-hearing.

MR. MORGAN: Yes. And just in the sense that the notion that Russian AN will be shipped to the U.S. and that the export AUVs for other countries that the Petitioners have put forward would be the same in the absence of the suspension agreement just simply is not correct as a matter of fact.

CHAIRMAN KOPLAN: It would be the same in the absence of it? I thought you might be making that
point.

MR. MORGAN: Yes.

CHAIRMAN KOPLAN: Or sort of attempting to do.

MR. MORGAN: But it's a little bit different than the urea case in the sense that there is different pricing to different markets and so that's what I think you're seeing reflected in that as well. But we will get into that in more detail.

CHAIRMAN KOPLAN: I would appreciate that.

Thank you.

MR. ADAMCHAK: Excuse me, Mr. Chairman. I've rethought that. I will throw something in here. I think in that particular situation, one of the things that we had going on as well is that the combination freight economics kind of work into this and it really is a function in terms of how a trader will apply his freight costs. Those types of cargo that end up in Canada typically come along with product destined for the United States as a parcel, so if you want to take all the freight and apportion it to the U.S. portion and then take a sharply reduced freight and apportion it to the Canadian piece, that's one of the reasons why you may see distortions that aren't necessarily a function of varying prices.
CHAIRMAN KOPLAN: Thank you.

MR. ADAMCHAK: You're welcome.

CHAIRMAN KOPLAN: I thank each of you for your response to that question.

Mr. Adamchak or Mr. Ward, the domestic parties note on page 18 of their brief, and I'm quoting, "Domestic demand in Russia cannot be expected to absorb excess AN capacity in the future."

They go in that paragraph and conclude by saying, "Russia's relatively stagnant domestic consumption will not absorb the significant excess capacity that currently exists, further support for a finding that Russian producers would likely export greater quantities to the United States if the suspended investigation were terminated."

Please respond to that.

MR. ADAMCHAK: There is a clear trend line here that domestic consumption in Russia is improving, but I would not dispute that. I would not conceptually or in principle dispute that contention.

CHAIRMAN KOPLAN: You agree with that contention?

MR. ADAMCHAK: I think so. More or less, yes. You've got a situation where they're producing three and a half million tons roughly, they're
Heritage Reporting Corporation
(202) 628-4888

-consuming one and a half million tons, there will
still continue to be ammonium nitrate exports
available. I don't think we would dispute that.

I would think that any increase in Russian
exports would be at the expense of non-subject
countries. I think it's telling that --

CHAIRMAN KOPLAN: I'm just curious about
something.

MR. ADAMCHAK: Go ahead.

CHAIRMAN KOPLAN: A moment ago you said why
are they selling higher here, because they can get the
price.

MR. ADAMCHAK: Correct.

CHAIRMAN KOPLAN: Now, if they can get the
highest price here, why wouldn't I expect to see more
come if the investigation is terminated? Am I missing
something?

MR. WARD: No, I think you're seeing it
right on. I think there is a likelihood that we will
see more Russian product, but Nick just mentioned a
moment ago, that's going to be at the expense of the
non-subject exporters. It's not going to be more
product in the United States, but I agree with you,
I think there's a likelihood that there will be more
Russian product coming into the United States.
CHAIRMAN KOPLAN: And you don't see any of it at the expense of U.S. product? Only non-subject?

MR. WARD: If you look at what the non-subject producers that are currently shipping to the United States, they're marginal producers and I think that they will be pushed aside.

CHAIRMAN KOPLAN: Okay. Thank you.

Mr. Morgan, on page 19 of the domestic interested parties' brief they argue, and I'm quoting, "For producers," they're referring to the Russian producers, "capacity utilization between 2000 and 2004 never exceeded 75.6 percent and was only 72.1 percent in January to September 2005. What is most telling, however, is that Russian producers responding to the commission questionnaires have an even greater level of capacity and excess capacity now than was reported during the original investigation."

It appears from page 27 of your brief that you are using similar percentages; that is, and I'm quoting, "70 to 75 percent during the POI."

Doesn't this indicate an ability to export more subject product to the United States if the United States market is made more attractive by terminating the suspension agreement and revoking the order?
MR. MORGAN: One thing I would like to just point out is that when they say there's more excess capacity available now, it's because you have more producers responding, so the additional excess capacity argument is not comparing apples to apples. But, yes, there is excess capacity in Russia, but we believe that the very real significant constraints on distribution in the U.S. basically offset the fact that there is excess capacity in Russia.

There just are very real and meaningful limitations on the ability to move increased -- from any country -- ammonium nitrate through the U.S. distribution system. You have to get barges, you have to go through all kinds of hurdles that did not exist at the time of the original investigation. So even taking the excess capacity that exists I do not believe would lead to an increase in total imports and if it leads to some increase in Russian exports, I still think with the security restrictions and also the gap between supply and demand it will not be significant in terms of any impact on the domestic industry.

CHAIRMAN KOPLAN: Do you want to add anything to that, Mr. Adamchak?

MR. ADAMCHAK: Yes, I would, Mr. Chairman.
I think it's telling that since the inception of the suspension agreement prices in the United States against that agreement have increased 160 percent and yet imports into the country, Russian or otherwise, have remained virtually unchanged. So I think that tells you that there is a lot more involved here in getting product into this marketplace than just who's got excess capacity. There is excess capacity in Spain and Spain used to be a primary exporter to this country and now for a variety of reasons they don't export at all. Again, there is some question as to whether they're still even manufacturing, but there are other reasons or other issues than just the excess capacity that play into how much product flows into this country of ammonium nitrate.

CHAIRMAN KOPLAN: Thank you.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman. I join my colleagues, I welcome you to this panel this afternoon. I appreciate your being here and your willingness to answer our questions. Mr. Adamchak, let me just back on one of the things that I heard you say in response to the Chairman with regard to: you say if the Russians come
back, then they would be pushing out what you call
marginal non-subject.

The push-out by the Russians, you see that
because these non-subjects aren't comparable on
quality, aren't comparable on price? I mean why the
push-out of non-subjects?

MR. ADAMCHAK: The quality issue is
certainly one. It's ironic for ammonium nitrate that
while its primary use, as we have already talked
about, is in warm, humid climates. Characteristic of
the product itself is that it is very hygroscopic and
cannot easily tolerate hot, humid climates. It has
got to be very, very good quality.

So if you are going into Florida, or you are
going to into Norwalk (ph), by definition you are
going into a hot, humid environment, so quality if
significant. There are definite variances in quality
out there and I think the consensus is that the
Russian is the best quality import that you can get.
That is number one.

Number two is: loading rate. I made a
reference to load rates. You know when you go to
Bulgaria or Romania, you are loading a ship that is
roughly a 1,000 tons a day. When you go to Russia,
you are loading at 4,000 to 5,000 tons a day. So that
makes a difference both in terms of the effective freight that you have to pay but also your ability to plan into the marketplace.

If you get significantly delayed, then it is sort of throws your program off. As I mentioned, we are importing into Florida. WE have a 10,000 ton space. So the planning is critical. We have to try to get it so that we can maximize the amount of product that we give it without running out. So dialing in that timing is critical, and I think that is another reason that the Russian product will be preferred.

The other thing is that you can combine Russian product with phosphates. So there are combination freight opportunities that could have an advantageous effect on your overall freight costs.

VICE CHAIRMAN OKUN: Okay. The clarification was helpful with regard to which ports were open and whether it was really that the closure of the port to AN or whether it was just the barge line. So now I understand what you were talking about: the barge lines that were willing to carry the AN.

Does it matter in terms of non-subject versus subject who gets in on the barge lines or the inlet transportation that you talked about? Does it
makes any difference there?

MR. ADAMCHAK: Not that I'm aware of, no. I think, from a barge line's perspective, nitrate is nitrate is nitrate. It is almost first-come-first-served. They will, I think, grant a little bit of preference to their contract carriers, but, for the most part, I think that is insignificant.

VICE CHAIRMAN OKUN: Okay. Mr. Morgan or Ms. Campbell, this might be a question for you. But I appreciate it if the other two would like to comment as well, which is: One of the things that you talked about in your testimony was the changes in the domestic industry. You had an industry where you had ten producers and now we have two, and the capacity taken out of the U. S. industry.

Now, I wanted to go to the Russian side and see what you would describe in terms of changes since the original investigation that you would have us point to in looking for in determining what the volume and price would be? What would be a significant change from the original investigations?

MR. ADAMCHAK: Commissioner Okun, I think the main one would be: the Russians' improved economy and its improved home market for ammonium nitrate. This is a major change since the original period of
investigation.

Of course we are not alleging that the Russian producers aren't going to export at significant levels. I mean it is clear that certain Russian producers can export and they are going to continue to do that. But there is no question that Russian's home market has consumed more ammonium nitrate. The trends have been increasing and the forecast is for continued improvement in Russia's home market for ammonium nitrate. For that data, I would point to I believe our Exhibit 3 to our prehearing brief.

Why that is significant: I think it does reduce the likelihood that you are going to have a significant increase in Russian's exports to the United States if the suspension agreement were moved. In fact, that is what the ITC, at least in my understanding, they found in their Section 332 Report, where they noted that there is pressure on Russian producers of ammonium nitrate to export product because of the collapse of Russia's agricultural sector. But they noted that if things change, if Russia's economy improves and Russia's home market for ammonium nitrate improves, then you would see less pressure on Russian producers to export.
I think we are seeing that. I would point you to Exhibits 14 and 15. These are trade reports that actually show that, even with excess capacity, a Russian exporter deciding; Nope, I am going to limit my exports. I am going to favor the home market instead. I think that is a major difference from the period of the original investigation. I don't think you would see that. I think that is the main change in difference. I don't think we would allege that there have been any other major changes on the Russian side.

VICE CHAIRMAN OKUN: Okay. I appreciate that.

Yes, Mr. Ward?

MR. WARD: I think there are two other significant changes that I would just comment on. One is the ownership structure. Back on the onset of the suspension agreement, I think some of the ownership of these plants were not necessarily in Russian hands. We had guys that were based in Switzerland, based in Cypress, or wherever else, and the money necessarily didn't come all the way back to the economy.

But now these plants have largely been rolled up. You have got two predominant entities that are Russian controlled and there is a difference in
the level of enforcement in terms of where the money
goes and how it gets there. That is number one.

Number two, I think the ruble is actually
worth something now; and back at the onset of the
suspension agreement, I am not sure that was the case.

VICE CHAIRMAN OKUN: I appreciate those
comments. You were talking about home-market demand
in Russia. I know that in the Staff Report, they have
probably collected some information and just have to
decide that different export markets are markets for
Russian product currently goes and who the big
consumers are.

I wondered if you would point us to where
you think would be the best global demand and where
the growth is in addition to the Russian home market
that you have cited? Where are the other growth
markets out there, and if we see the U. S. as -- we
might have different numbers on apparent consumption,
but where else is this product going to go?

MR. WARD: There really aren't any.

Ammonium nitrate, for most applications, you can't
improve upon that, is being replaced by urea in most
markets. So you can't say no. There is a little new
capacity that came on stream in Egypt about five years
ago. That is the only new ammonium nitrate capacity
that I am aware of and I am sure that I am up to date.

VICE CHAIRMAN OKUN: I do remember that you have commented on this.

MR. WARD: In the world, so nobody is building to increase the ammonium nitrate demand.

VICE CHAIRMAN OKUN: Okay. Then I want to go back just briefly again on what is going on in the U. S. market and the impact of the security regulations vis-a-vis what the farmers want? One of the things that I am still trying to understand is and you have talked about it: the farmer still wants the stuff. It's whether he can get it.

The panel this morning, I thought in response to similar questions was saying: Well, the farmer may or may not want it but the one who really controls what apparent consumption ends up being is the distributor. If the distributor is saying: Way too much paper work and video cameras and whatever else is going on. I am going to tell my farmer to do something else and he doesn't have much choice.

I amy be overstating what the panel said, but I am just trying to understand if you think that the case as well, or does the farmer still have some authority to say: No, I want AN and I can get it if I go see someone else?
MR. ADAMCHAK: I think the description was largely accurate there. The farmer, to some extent, is beholden to the programs that the dealer put in place. If the dealer just comes back to him and says there is no way in available, then okay, what is Plan B? that is going to be the logical response of the farmer. They don't have the infrastructure. They typically can't take sufficient volumes that you can get even a truck, let alone a rail car, to a given farm. So they have to buy from their dealers, and if the dealer says it is not there, then, from a farmer's point of view, it is not there.

VICE CHAIRMAN OKUN: And then once they would make that switch, would they ever go back if all of a sudden someone said oh, yes? In fact, would they then just switch back if the dealer says it is?

MR. ADAMCHAK: Well, there are different levels of demand, if you will. Some of the nitrate demand was -- like with the agrarian plant for instance out in Nebraska. The agronomic benefits of nitrate are a little bit marginalized, but it is right there. It is literally in the corn fields. Then you get down to cost per unit of AN and distribution. So it made sense for a lot of those guys to use ammonium nitrate.
That demand is likely gone and it is not coming back. But the differences are very much. We both talked about in the citrus areas, the vegetable areas, and the southeastern areas where there is a significant perceived difference. For instance, Florida is a market for about 220,000 tons of ammonium nitrate, and ag use for urea is virtually nonexistent.

VICE CHAIRMAN OKUN: I appreciate having your perspective on that. Thank you very much.

MR. ADAMCHAK: You're welcome.

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

COMMISSIONER KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: I, too, would join my colleagues in welcoming you this afternoon.

If I could follow-up a little bit on the discussion you were just having with the Vice Chairman on this issue of the dealers. Just help me get your perspective. To the extent that you can help me quantity it: How many fewer dealers do you think are out there servicing AN to their farmers?

MR. ADAMCHAK: Chairman, I would be guessing.

COMMISSIONER HILLMAN: A five-percent cut back, ten, fifteen?

MR. ADAMCHAK: Do you have a guess on that?
MR. WARD: I don't know the number of dealers --

COMMISSIONER HILLMAN: Yes.

MR. WARD: -- that had formally --

COMMISSIONER HILLMAN: Yes, that had been servicing it and that are currently not?

MR. WARD: I'm sorry, I --

COMMISSIONER HILLMAN: But you would say that there is some reduction isn't there?

MR. WARD: Well, I think the drive is even further down stream than that. It started at the warehouse level. The dealers are served by the warehouse and the warehouse guy says: I can't stand the liability of this product. I can store all kinds of other things and still make a living. I don't have to put my entire livelihood at stake by storing ammonium nitrate. If it is simply not there, then it may be whether the dealer is willing or not, it doesn't much matter. Availability --

COMMISSIONER HILLMAN: Okay. You are saying that it is more actually at the warehouse level where there is a reluctance?

MR. WARD: It could be both but the step ahead of the dealer would be the warehouse.

COMMISSIONER HILLMAN: Okay. Would you say

Heritage Reporting Corporation
(202) 628-4888
at the wholesale level then? We are going to step
back to the wholesale level. Again, do you have a
sense of whether there has been a significant
reduction in the number of wholesalers willing to
carry AN than used to carry it?

MR. WARD: My sense of it is that that
number is significant.

COMMISSIONER HILLMAN: Significant, 10
percent, 15 percent, 20 percent?

MR. WARD: No, I would say that of those
that routinely carried ammonium nitrate, historically
carried ammonium nitrate say in the '90s, I would say
that probably has been reduced by 50 percent.

COMMISSIONER HILLMAN: Fifty, okay. That is
very helpful.

Then if we go to the issue, and we didn't
talk a whole lot this morning, but I am curious to get
your take on it. As I understand it, this product can
be used either as a single-source nitrogen product or
blended.

If you blend it, does that, in any way,
change the security regulations on it? We had some
discussion about this one particular statewide product
that was coming in from Russia. But, as a general
matter, if you blend it into the standard blends that
you would blend AN into, does that change the security regulations, or the willingness of either wholesalers or distributors to carry it?

   MR. WARD: The product would be blended at the dealer level. It would be very, very unusual for it to be blended at the wholesale or the warehouse level. So it is going directly to farm at that point.

   COMMISSIONER HILLMAN: I had not appreciated that, so I thank you for that answer.

   MR. ADAMCHAK: But I think there is a distinction between the 33-3 that we were talking about earlier. That is not a blended product; that is a chemically homogeneous product.

   In that case, you have to pass certain detonation tests and stabilization tests. But, in terms of what we are talking about, in the market blending ammonium nitrate with phosphate, that does not in any way change the chemical composition or the characteristics of ammonium nitrate.

   COMMISSIONER HILLMAN: Thank you. I understand that.

   All right, if we go to this issue of timing in terms of when these security regulations really started kicking in and affecting things, as I heard you, Mr. Adamchak, I think you said that the Coast
Guard regulations kicked in in 2004. So this issue of which barge lines were willing to carry AN that was pretty much a 2004 onward issue?

MR. ADAMCHAK: That is correct.

COMMISSIONER HILLMAN: Okay. But then if we go to the warehousing issue and I don't mean the port warehouses. I mean, in general, the wholesalers out there. What regulations and when were they affected by this issue of I don't want to put up with security cameras, and the perimeter fence, and the liability, and all of that? When would you say that really hit the market?

MR. ADAMCHAK: That was a 2004 phenomenon as well. This all kind of happened in tandem, and there was tremendous uncertainty about what was going to happen. There was speculation about all sorts of things, and both, so far as the barges were concerned and as far as the warehouses, those were interrelated.

COMMISSIONER HILLMAN: And the barge restrictions came out of Coast Guard regulations. What drove the warehouses?


COMMISSIONER HILLMAN: Okay. Again, so there isn't a distinction in terms of the regulations for

Heritage Reporting Corporation
(202) 628-4888
the warehouses at the ports versus the warehouses. That would be inland somewhere and not connected with a port?

MR. ADAMCHAK: In this case, that is correct. In the context of your question, that is right. I don't know in terms of in-field storage -- again, I think they are all subject to the same regulations, although there may be a federal versus state component. It may be the case that the warehouses in-field as it were, are affected by state regulations as opposed to federal regulations. But I am not totally sure about that.

COMMISSIONER HILLMAN: Okay. All right, how would you though then take that back to the data with respect tot he shift out of AN, if you will, into other nitrogen products? Again, if we look at the data, and Petitioners put a lot of this in their brief, just generally, what percentage, if you will, of all of the nitrogen products laid down or in the form of urea what form are in liquid, what are in AA versus AN?

If you look at that -- I think they gave us 12 years worth of data, you would see -- well, there is some change. It would be a fairly consistent decline, in order of seven some percent going into and
to now less than five; and certainly not a precipitous drop after 2004. So part of me looks at those numbers and listens to your testimony and says that there is something else going on here if the decline in willingness of the wholesalers and/or distributors to carry AN, the 2004 phenomenon, why the shift out of or away from AN in 1993, 1994, 1995 and 1996, et cetera, before any of this would have happened, even before Oklahoma City. So it is not just a post-9/11, Mr. Ward?

MR. WARD: The regulations that Nick spoke to came into effect in 2004, but I think this morning's panel addressed this a little bit as well. There was a voluntary component to this. Insurance rates got too high. You want insurance for your location, you have got to put up a fence or I can't get you insured. Okay, well, what are my choices? Well, don't carry AN any more. This has been a growing phenomena. It didn't just start in 2004 and then it all fell off the table. So, the decline and usage of AN, in my opinion, was driven by a more gradual way by the heightened awareness of the liabilities of handling and storing AN.

COMMISSIONER HILLMAN: Okay. Would that have
come about post-Oklahoma City or --

MR. WARD: That was a big jump start. If you had asked me when did this start, I would have said post-Oklahoma City. You told me that you recognized this in the statistics even earlier than that. I would guess that the amount of AN that has been rationalized, in terms of usage, from 1996 on has been a lot greater than the ten years prior to that. But you were looking at the statistics.

COMMISSIONER HILLMAN: All right. That is extremely helpful. If I can then go again to a couple of data questions perhaps for you, Mr. Morgan.

You heard my discussion with Ms. Slater this morning. When we are thinking about import data here, should we be looking at questionnaire data, or should we be looking at official import statistics?

MR. MORGAN: I think we need to look into the issue of whether there is the liquid AN? I simply don't know whether or not that is included. If it isn't, I think they both show the same trends, just in different magnitudes perhaps. It wouldn't be inappropriate to use it provided we are all satisfied that there is no --

COMMISSIONER HILLMAN: Are there significant exports of Russian product other than subject product?
In other words, are there significant exports of
either a liquid product or of a lesser low density
product?

MR. MORGAN: No, not that I am aware of.
The one issue you have sometimes with the statistics
that Ms. Slater has pointed out is that you have some
misclassification between Ukrainian and Russian
merchandise but barring those kinds of issues and
barring it being a vaster category, I think you still
see the same kind of trends with the imports either
way you look at them.

COMMISSIONER HILLMAN: Okay. Mr. Ward, if I
can come back, I apologize, on another issue connected
to this shift out of AN. Would you ascribe 100
percent of the shift to these security liability
handling concerns, or was there anything in the
farming community that certain farmers once they have
invested the money in putting nitrogen down in the
liquid basis would rather do that, or something about
the way in which farmers used price purchased by that
would have contributed in any way to this? Or it just
100 percent security handling concerns?

MR. WARD: No, it is not just 100 percent.
It is unarguable that availability drives demand, all
other things being equal, and I don't care whether
that is granular urea which is now driving the demand for granular urea over here or whether it is UAN solutions in some pocket, or whether it happens to be a plant in Hawaii or Nebraska, the people in the environs of that plant were using an ammonia nitrate. As the availability withdrew then the consumers began to use other products. that is a very big part of this picture. It is not the only part but it goes hand in hand with the security and liability issues.

COMMISSIONER HILLMAN: But not something about the nature of the nitrogen or --

MR. MORGAN: No.

COMMISSIONER HILLMAN: Or it is delivering nitrogen?

MR. MORGAN: No.

COMMISSIONER HILLMAN: Whether it is liquid or something else, you know.

MR. MORGAN: Universities will promote one source of nitrogen over another in some combination. They are constantly studying these issues. I have never heard an argument, and I think this will answer your question: I have never heard an agronomical argument against the use of ammonium nitrate.

COMMISSIONER HILLMAN: All right, I appreciate those answers. Thank you.
CHAIRMAN KOPLAN: Commissioner Lane?

COMMISSIONER LANE: The domestic interested party's prehearing brief on pages 2 and 3 and 19 and 20, and 44 and 47, states that Russia is the world's largest exporter of ammonium nitrate, that its exports are among the lowest priced in the world, and that it has significant excess capacity. Do you dispute any of those statements by the domestic interested party, and if not what is the prevent the resumption of export to the United States if the suspended investigation were terminated?

MR. WARD: No is the simple answer. We don't dispute that. They are low-cost producer and they do have that, the highest capacity. I don't like to use the term of excess capacity but it is the one that is popular today. So we will go ahead and use it. I am not sure how to quantify that excess but anyway we would agree with that.

Trinidad is the largest exporter of hydric symonium (ph), and they also enjoy tremendous net backs on the hydric symonium that they sell. The Arabian Gulf is a huge exporter of granular urea (ph), the Gulf States together are the world's largest exporter of granular urea and are enjoying very nice net backs in granular urea. I am going to get to your
answer. I expect, and I said it earlier, that exports from Russia will increase. I expect them to increase at the expense of non-subject export origin and I do not expect them to cannibalize their pricing.

And I use those other three examples of huge exporters of very low-cost products to defend that.

COMMISSIONER LANE: Does anybody else want to respond to that? Mr. Morgan?

MR. MORGAN: Just to add to -- I will actually ask Jay to chime in because he has looked at this more closely, but the data that they have used to come up; with these export figures, it's this GTIS data. It conflicts with, and is lower than Futercon (ph) data which they have used elsewhere. So I think that there has been -- and because some of this is confidential, I think we will get into it further in our prehearing brief by way of rebuttal. But I have no reason to trust in the total accuracy of this GTIS data. It is not transparent to us how it has been formulated or otherwise put together. It shows prices to the U. S. market which we know what those export prices are because the suspension agreement sets them and somehow the GTIS data consistently understates that by a significant amount. so we will get into it more in terms of the actual data that has been relied
upon to come up with those claims and those exhibits. I think the experience that we see with UAN solution is interesting as well. It speaks as to how the Russians market their product and they are very good at this. They will definitely play one importer against another; and they will demand, extract the highest possible price they can. They are not terribly interested in whether the importer makes money. They are just interested in whether they make money.

MR. CAMPBELL: Commissioner Okun, just to comment further on what Frank was talking about, just to give you a sense of the magnitude of the flaws we think exist in the GTIS data, Petitioner's Exhibit 17 has, and I quote these prices on a metric-ton basis. Exhibit 17 to the Petitioner's prehearing brief for September 2005 for that month, GTIS quotes the price of $102.00 per metric ton. Meanwhile, in their same submission at Exhibit 17, Futercon gives a price for September 2005 of $137.00 per metric ton. These are Russian port FOB prices.

Clearly the GTIS data is aberrational low, and this exists not just for these months but across the board, and we will discuss that further in our posthearing brief. but I just wanted to give you a
COMMISSIONER LANE: Okay. Mr. Adamchak, do you also carry urea?

MR. ADAMCHAK: Yes, we do.

COMMISSIONER LANE: Okay. Have you seen a ship in usage by your customers from going from AN to urea, or vice versa.

MR. ADAMCHAK: In certain circumstances, we have seen customers shift from ammonium nitrate to urea, and the adverse would not be applicable.

COMMISSIONER LANE: I'm sorry.

MR. ADAMCHAK: There is no movement from urea to ammonium nitrate.

COMMISSIONER LANE: Okay. Why are your customers shifting from AN to urea?

MR. ADAMCHAK: Again, not to belabor the point, but it is an availability issue. It is a security issue.

COMMISSIONER LANE: Now, let me just follow through on that. If a customer comes in and you have got AN and urea, are you saying that you have some customers who used to buy AN and are now buying urea?

MR. ADAMCHAK: No, I am not saying that at all. I misunderstood your question. I am addressing the question in sort of a macro sense. In a micro
sense, where we have ammonium nitrate, we have not seen any switching at all, no.

COMMISSIONER LANE: Maybe you can clarify something for me. If I were a farmer, would I be just as happy with urea as AN? Does it do the same thing?

MR. ADAMCHAK: Again, it depends where you are and what you grow but in certain cases, the answer to that question may be yes. If you are a farmer, typically you are going to be happy with what is the lowest price. I say that somewhat facetiously ??

COMMISSIONER LANE: Is urea lower priced than AN?

MR. ADAMCHAK: On a per-unit event basis that is typically the case. But in certain environments for certain crops, there is no perceived substitute ability and AN will drive a significant price premium, will command a significant price premium to urea.

COMMISSIONER LANE: Okay. If you know this: To what extent do Russian producers have the ability to produce alternative products with the same equipment and workers that they use to manufacture AN? Are you aware of any Russian producers switching production from the subject product to other products over the period of review?
MR. MORGAN: We addressed this in our prehearing brief, and I don't think that it is something that the domestic industry --

COMMISSIONER LANE: I am sorry. I can't hear you, Mr. Morgan.

MR. MORGAN: Certainly, Commissioner Lane. We went over this in our prehearing brief. I don't have the pages in front of me but I don't think that there is any dispute on the domestic side, either that there isn't very much potential for product shifting. I believe that one of producers may make a small amount of the low-density, which is the explosive grade, but it is a very small percentage. To my understanding, that would be about it. so you don't have the ability to shift from producing AN to something else, or from something else to AN.

COMMISSIONER LANE: Mr. Ward?

MR. WARD: On a permanent basis, I think what Frank just said is correct. You would have to do a lot of changing to change your product mix. But there is a lot of fine tuning amongst -- these plants, you rarely find an ammonium nitrate plant, a proving plant in isolation. It is in a complex; it is making other nitrogen products by and large.

A plant can change its product mix depending...
on how markets ebb and flow. The two swing products are ammonium nitrate and urea ammonium nitrate solution. So if the market for ammonium nitrate were to be soft or stagnant for whatever reason, and there are literally hundreds of reasons why that might be the case, a producer might attempt to take the pressure off if there is a need to sell more ammonium nitrate by producing more UAN solution, then the opposite would be the case.

COMMISSIONER LANE: Okay, thank you.

In your prehearing brief, you argue that the Russian industry is not export oriented. However, that, in this investigation, seems to contradict that assertion. Please explain how the Russian industry is not export oriented despite fact that the data on Table 4-4 of the prehearing Staff Report indicate the opposite?

MR. MORGAN: Commissioner Lane, I don't have the exact exhibit in front of me, but we were basing that on one of the exhibits that the domestic industry submitted in terms of percentages. The exhibit itself was confidential I believe in its entirety, so I don't want to disclose it but based on the figures presented in that exhibit, that is the reason we concluded as we did and we can certainly address that for you on the
posthearing and point out to you the figures that we were relying on to make that statement.

COMMISSIONER LANE: Okay, thank you.

Mr. Chairman, that is all that I had.

CHAIRMAN KOPLAN: Thank you.

Commissioner Pearson?

COMMISSIONER PEARSON: I have enjoyed listening to both sides today. In some hearings, we have really different perspectives on what is going on in the world. Here there are different views but my sense if that it is not as divergent as we sometimes see.

Let me just summarize briefly and then perhaps take some liberties with both sides. The domestic industry sees declining consumption, poor financials, and a decreased number of U.S. producers. Any additional competition understandably causes them some concern.

In your perspective, you are seeing a demand base that is shrinking but still wants to be served and may no longer have nearby U.S. production. Thus, that demand could be served most effectively by imports. You are seeing, I am guessing, as a trading company limited possibilities to obtain supplies from exporters. I mean the number of exporters who you can
really work with is finite.

Since the Russians have good quality and
good logistics, it is reasonable to want to work with
them. And you are also seeing that without additional
investments, there are genuine logistical limits on
importing ammonium nitrate into the United States and
moving it to the farmers who need it.

Am I close with that description? What
would be your reaction to my characterization?

MR. ADAMCHAK: I think you are very close
except you characterized the need for additional
investment to increase the true growth or the band
width. I think that it is more than just investment.
It is permitting. There may be obstacles that you
can't overcome to increase the infrastructure, the
import infrastructure. Just dollars and cents aren't
necessarily going to get it done. But other than
that, I think you have a pretty good grasp of where
both sides are coming from.

COMMISSIONER PEARSON: And as you see the
logistical constraints in the United States, it is
like I'll funnel it. You can dump as many imports in
at the top as you might want, but you can only get a
certain quantity actually to enter the United States
and effectively enter the distribution system.
MR. ADAMCHAK: I think that's true. There was an observation made earlier about seven vessels that come into this country. On the surface that sounds like a lot, but when you consider the fact we are again on the front end of the Spring season, there is virtually no domestic inventory to speak of and there is a 500-ton import demand here. And seven ships is roughly 140,000 tons. This is the time of annual cycle when this product will have to arrive into the marketplace.

So that volume is not as large and alarming as it might sound at first I think is a point that is worth making.

COMMISSIONER PEARSON: There is some seasonality in the arrival of import shipments?

MR. ADAMCHAK: Very definitely, and in the usage of the end product. Typically, I think rule of thumb is that most of manufacturers -- you would expect to sell to the farmers 70 to 80 percent, depending on the product in the Spring season.

COMMISSIONER PEARSON: So, unlike the domestic industry, which is as I understand from the testimony is to run the plants throughout the year and move product down into the marketing chain and have someone else store it.
MR. ADAMCHAK: Correct.

COMMISSIONER PEARSON: The Russian producers have some considerable capacity to hold inventory so that you can a lot of the shipment now in the winter and move into the U. S. marketing system not quite on a logistic time basis, but on a much shorter time frame than the U. S. --

MR. ADAMCHAK: That is true, Commissioner, but to some extent, it is also a function of how the suspension agreement works. As Ms. Slater said earlier today, of the 150,000 tons, you can export 75,000 tons in the first half, and then there is a kind of a 60-day period I believe where you can make up unused allocations or you can hold back allocations. I think it is a 60-day factor. But, on balance, the way that it is structured, you should have half in the first six months and half in the second six months. But, again, certainly for the non-subject imports, it is not unusual that a majority of those imports would take place in advance of the Spring season.

COMMISSIONER PEARSON: Now, earlier you had discussed various risks that you deal with in importing Russian ammonium nitrate having to do with freight availability and costs and the uncertainties
dealing with the suspension agreement. In that case, as a practical matter, are trading companies finding it necessary to build in a higher margin for Russian product than they would for other product?

As you are wrestling with: Okay, where do we find the supply, do the margins widen out for Russian?

MR. ADAMCHAK: You know there is pricing power in this market but there is a prevailing level to the market as well. So the notion of building in margin, you have to make a projection about what you can sell for and you contrast that to what you feel like you can buy for and what your costs are.

But, yes, certainly I would think that for a lot of reasons we hope to and anticipate making more money on ammonium nitrate than we might on urea, for instance, because of the risks, because of the commitments, you make a five-year commitment to a warehouse base for instance. Those are things that you try to build a risk premium in, but at the end of the day it is not like we are making widgets and we are not making the market either. We have to operate within that market. But, certainly, there is an incentive for us to maximize the revenue that we can obtain for our product, whether it be nitrate or anything else for that matter.
COMMISSIONER PEARSON: As we look at the information on the record over the review, if we see some instances in which the underselling in the United States might be pronounced, could that be an instance in which a trading company, where everything went right for a trading company and some of the anticipated costs simply weren't there, Mr. Ward?

MR. WARD: It is more likely that everything went wrong. It is more likely that they are upside down and they are trying to get out. We can plan it as best we can. We can buy products and then our wits tell us that this is the inclination. The market is on an incline and this is where it ought to be by the time that product gets there and there can be who knows how many intervening factors that the wrong decision.

So, no, in the scenario you just described everything went right. That guy is trying to maximize because he knows that there will be a time when it is all wrong. So when he is really on the right side, he is trying to make a good margin.

MR. ADAMCHAK: You know even if you budget a five-percent margin, if you have the opportunity to make a ten-percent margin, you will take that opportunity.
COMMISSIONER PEARSON: Okay, I guess that's rational enough.

Okay, you have discussed this earlier to some degree but let's go back again to the question of: If the suspension agreement is lifted, what would drive the shift back to Russian product and away from non-subjects? You are making the argument that you would expect to see a shift but it would be away from non-subjects rather than away from domestic production. Could you talk about that a little bit more. I mean is that based on decisions that trading companies would make for their own good reasons or are there other issues that would drive that?

MR. ADAMCHAK: No. I think you hit it right on the read. Those are decisions that would be driven by trading companies. You know the flow of this product, whether it be Russian product or non-subject product, the flow of that material is not really driven by the Russians or the Bulgarians or the Rumanians but they are driven by the traders. These guys all operate through trading companies and the global wholesalers into this market are all trading companies.

So, yes, either those would be projected decisions. We feel like if other trading companies are
using the same criteria that we would use, those are
the factors that would drive that shift.

COMMISSIONER PEARSON: So, what would happen
then to non-subject product that currently is
available to some extent from non-desirable suppliers?
You mentioned the Bulgarians have a slow load out
rate, and Georgia isn't on deep water et cetera, et
cetera. What would happen to product produced at
those plants, or would it simply not be produced, Mr.
Ward?

MR. WARD: There wouldn't be a market for
it. That product in Georgia would never come here
unless there was an obvious void. Con Agra is making
a trading play. They see a void in this market and
they are bringing a very, very marginal product into
it that otherwise wouldn't come.

COMMISSIONER PEARSON: Right.

MR. WARD: Most Rumanian product wouldn't
come and the decision upon the trading companies to
focus on one origin of product versus another is
driven largely by the customer base. There is an
established preference for a Russian product in the
United States.

COMMISSIONER PEARSON: Okay. But the
specific question would you expect that that non-
subject product would go somewhere else? I mean would
the Rumanian product go to Turkey or would it just
never get produced in Rumania because there would not
be a demand for it?

MR. WARD: Rumania is an erstwhile producer. They are up, down, sideways. Georgia never exports. These are just very opportunistic situations. Yes, the answer to your question is no, although some Rumania product will go to Turkey. It always has but that capacity would just be throttled back.

COMMISSIONER PEARSON: Okay. So they would run at a lower capacity utilization.

MR. WARD: They would run and they have, and they historically have, especially in the winter months. Again, not to be flippant, but they are up, down, who knows. You buy a cargo for January, you get loaded in March. You just never know.

COMMISSIONER PEARSON: Just one follow-up question: If there anything that you could put on the record regarding fluctuations in exports and production in some of those marginal supplying countries that might be helpful.

MR. ADAMCHAK: The other point that Mike just touched on is also the availability of natural gas. Natural gas availability in places like Bulgaria
and Rumania will fluctuate, and typically in Georgia for that matter, and typically in the winter months, much more of the gas will get diverted for home heating and power generation and that sort of thing.

So you will have a normal seasonality in production and that seasonality coincides with the most desirable time to import from an U.S. importer's point of view as we have just discussed. Right about now in the dead of winter is the most opportune time to bring product into the United States in advance of the Spring season. That is typically the time when the Bulgarians, and the Rumanians, and whoever else have the most cyclical issues on gas supply, and the difficulty of being in a port.

When you know that you are only going to get loaded at a 1,000 tons a day, you plan on being in that port for two weeks or three weeks. In the wintertime, you can only load in good weather conditions. You can't load during rain or snow or whatever. So, again, that contributes to what Mike was saying that you really don't know when you are going to get that bill of lading cut.

COMMISSIONER PEARSON: And I know how much you love to pay demerits. I am going to start paying demerits now if I don't turn the microphone over to
the Chairman.

COMMISSIONER ARANOFF: Thank you, Commissioner. I just want to follow from where Commissioner Pearson left off. As among the other global producers of this product, my understanding is, you've indicated that the quality of the U.S. product and the Russian product are pretty much comparable and are on the high end. What other producers are out there that are comparable and where are their main markets? And then, there's this second tier that I guess you were describing of sort of marginal producers.

MR. ADAMCHAK: We believe that the Bulgarian product quality-wise is right in that same echelon. But, we feel like that's pretty well where it stops and starts. The remainder of those guys are producing largely - again, this is old production, largely to satisfy their domestic market. That's why that production was originally put in place.

COMMISSIONER ARANOFF: What about European producers, western European producers?

MR. ADAMCHAK: The Dutch material is, again, high quality, a little bit different. It is a granular product, as opposed to a prilled product. So, you have a granulating aid, which takes the
nitrogen content from 34, down to 33, for instance, and that may cause some problems in terms of commingling and so on. And the Lithuanian material is also quite good; but, typically, gets earmarked for Europe. Typically, they - and, you know, we have a similar phenomenon going on in the United Kingdom, for instance, where gas supply has reeked havoc - or gas prices have reeked havoc with domestic manufacture in the United Kingdom. And there are products -- and that has largely gone from a market that was satisfied by domestic capacity only to - and I don't know what the numbers are, but I would think that the production rates on domestic capacity in the United Kingdom are something far away from 100 percent right now and much of that void is being filled increasingly by imports - or much of that market is being supplied increasingly by imports.

COMMISSIONER ARANOFF: And you didn't mention in your list of countries you were discussing, you didn't mention Ukraine. Where do they fit in?

MR. ADAMCHAK: I can honestly say, I don't know if I have any direct experience with Ukranian ammonium nitrate, in terms of handling it and seeing the quality of the material. No, I don't want to assume it's comparable to the Russians, because, as we
stated before, part of the increase in Russian quality
has been a function of investment in Russian plant and
equipment and I don't know that we've seen the same
level of reinvestment in Ukrainian plants and
equipments, as we have in Russia.

COMMISSIONER ARANOFF: Okay. Thank you, very much. Anything that any side can put on the
record in their posthearing to just help us narrow
down. We don't have that much information on capacity
or capacity utilization in these third countries. And
then, of course, on the quality comparable issue, we
have some questionnaire data on that, but it's not
really country specific. It refers to non-subject
imports as a group.

Turning to a different question that would
be related, I raised the question with domestic
producers this morning about your argument that there
are certain Russian producers, who are just located
too far from a port to be viable exporters. If you
put those aside and if you put aside the ones, who we
already know are exporting, that leaves a group in the
middle, who are closer to a port, but it's not clear,
based on the data that we have on the record, whether
or not they're actually exporting now. How should we
treat the capacity and excess capacity and excess
capacity of those producers, when we look at the potential for what could happen to imports, if the suspension agreement were terminated?

MR. MORGAN: Commissioner Aranoff, I think the group in the middle, with maybe one exception, because the exhibit, itself, is confidential, but with one exception, I think you can look to what you had in the original investigation. And, again, our point in making this was not to say, as a legal matter, the Commission can exclude these companies, but to put in context the fact that you have a Russian industry that is the largest in the world. But, that doesn't translate into two million tons of exports to the United States. It doesn't translate into a million tons of exports to the United States. So, it's within that general context that we made the argument. But, for the producers in the middle, I would say to reference back to the original investigation, which does provide an indication of who is likely to export. And we can perhaps uncover some more information for you about what those companies do, in terms of their export behavior. But to our knowledge, the companies in the middle, with I guess one exception, have not exported to the United States and have no history of doing so.
COMMISSIONER ARANOFF: Well, I take your point there; but, I, also, take Mr. Adamchak's point that neither has Georgia got a history of exporting to the United States. But if there's a perceive shortage and if there's available capacity, it's going to come. I'm trying to boil down your argument that you can see that there's capacity out there. You don't know if it has experience in the U.S. market; but, arguably, not any worse or less experience than some of the stuff, which sometimes comes into the market. Does your argument that imports may increase if the agreement is terminated, but not to a level we would consider significant within the statutory meaning, it depends entirely on your assessment of the logistical problems with being product into the U.S. market, or is there more there?

MR. MORGAN: I think Mr. Adamchak and Mr. Ward can speak to this. But, there's a total of, whether it's Russian or Lithuanian or Bulgarian, of imported product that makes sense in the market and the triggers are willing to bring to the market. And that the reason you've had such an off situation with Georgian product coming in is because you have, I believe it's 34,000 tons or something like that in inventory right now - 34,000 tons in inventory with
the spring planting season about to begin, at the producer level. So, that just supports the idea that where there's a perceived shortage in the market, they'll go to whatever lengths there are, because there is demand for the product.

Now, when you can go to Russia, though, and get the supply from the producers that Mr. Adamchak has been discussing, they can provide the product without having to go outside to unknown suppliers in Russia, who have not had experience with the U.S. market. And I don't know if I'm overstating that or if that's accurate.

MR. ADAMCHAK: I think the other thing that we must bear in mind is that there are differences within the quality of the Russian manufacturers. You know, we're kind of using that as sort of a generic term and it really isn't. That's number one.

Number two, I think there's some insight on how the suspension agreement has been executed and how product has been exported under the suspension agreement. And I think predominantly, you've got the two major manufactures, that being EuroChem and Acron, that effectively supply the product. The allocations may, you know - you know, you've got 8,000 or 10,000 tons allocated by Versnicky for instance. These
allocations are prorated against capacity. And it's not viable, it's not economic to ship 8,000 tons, if that's all your allocation is. So, what you do is you commingle that allocation with Akron, who's got a 60,000 ton allocation and EuroChem, who's got a 80,000 allocation. You want to make these shipments happen in 20,000 to 25,000 ton lots.

So, in terms of looking at the capacity, I think it's almost fair to say that you've got the two majors and everybody else following in. And they don't have any experience, direct experience in shipping to the United States and executing under the suspension agreement and really lining up the traders to - that's maybe a little bit of an oversimplification, because some of these traders are dealing in Europe and dealing in other areas, where these guys can ship smaller ships. But in terms of if there is going to be additional Russian volumes coming in, it will predominantly be coming from the two big guys.

MR. CAMPBELL: Commissioner Aranoff, I would just add that in addition to the logistical constraints, a major component of our argument is as to why the likely volume of Russian ammonium nitrate imports into the United States would not be
significant is because of the supply gap. We believe our estimate of the under fall, the shortfall between supply and demand is conservative, we'll defend it to the hills, and we think because of that, there's not going to be - the volumes will not be significant, because it's not going to result in material injury to the United States industry.

COMMISSIONER ARANOFF: Well, I take your point, except it's a little bit inconsistent, I think, with your argument that any additional subject imports that come in are going to displace non-subject imports, as opposed to adding to the total volume of imports in the U.S. market.

MR. CAMPBELL: I see what you're saying. There's a couple of layers here.

COMMISSIONER ARANOFF: Okay. Thank you, very much.

CHAIRMAN KOPLAN: Thank you, Commissioner. I don't want this to come across as argumentative, but I'm struggling with something here, based on my first round. This is for the panel. When I asked on my first round how I factor into my analysis the data in the record that shows the Russian producers are exporting subject products to the U.S. at prices higher than to other countries, your answer was, if I
recollect correctly, your answer was that this is
because they can get higher prices for subject product
in the U.S., if they're selling at what our market
will bear; correct? Microphone.

MR. ADAMCHAK: I think the reason that the
Russians are selling higher in the United States than
they are elsewhere is because they are selling under
the suspension agreement and for the reasons we talked
about. The suspension agreement, because of the
distortions we talked about, the suspension agreement
demands a certain price level and that's not
necessarily consistent with the prevailing level in
the United States and it's certainly not consistent
with the prevailing level elsewhere in the world.

CHAIRMAN KOPLAN: Well, I'm still
struggling. This is a sunset review and not an
original investigation, which I, also, happened to
have participated in. Five years ago, the Russian
producers were underselling here at what was
determined at unfair prices, rather than sell at
higher prices than what the U.S. market would bear.
I'm trying to reconcile your response this afternoon
to that phenomenon with your answer to me today.

MR. CAMPBELL: Chairman Koplan, I think,
again, it comes back, there have been significant
changes that cannot be overlooked. One, the main one
is - one of them is the logistical constraints.

CHAIRMAN KOPLAN: But once the constraints
come off now, why would I not expect to see a
resumption of this in the future? That's my point. I
mean, five years ago, you know what happened. And I
hear your response to me on the first round and I'm
asking myself, why wouldn't I expect to see a
resumption of that, if we revoke the orders and the
suspension agreement is lifted?

MR. ADAMCHAK: Mr. Commissioner, I think the
answer lies largely in the change in the structure and
the ownership of the Russian industry. I think it's -

CHAIRMAN KOPLAN: You're saying the Russian
industry?

MR. ADAMCHAK: Absolutely, absolutely. The
ownership has changed. The quality of the marketing
and - these guys, you know, they did not leave Moscow
and now they're - you know, we have a southwest
fertilizer conference in San Antonio and there's 10 of
them there. I mean, they're a lot more - they're just
a lot more worldly. They're a lot more sophisticated.
And back in the old days, as I say, the money did not
go through proper corporate channels in a lot of it.
So, these guys were - they were ripping off the
government. That does not happen now, as Mr. Korticofsky can attest. So, they really didn't care. You know, as long as they got the money in their Swiss account and it was in U.S. dollars, they weren't terribly concerned about it. That is significantly different now and I think that's the biggest change that we can effect, you know, that will be brought to bear in this situation on the event of a revocation of the suspension agreement.

CHAIRMAN KOPLAN: So, there are different subject producers now than I had five years ago; is that it?

MR. ADAMCHAK: You have different principles. You have different ownership.

CHAIRMAN KOPLAN: Different principles. I thank you for that. Mr. Campbell, if there is anything else you want to add to that, though, posthearing, I would appreciate it on that question. Counsel? Thanks.

Mr. Campbell, on page one of your brief, you state, 'a significant deficit exists between domestically-produced AN supply and U.S. demand, even if the domestic industry operates at full capacity.' Further down the page, you add, 'unless the Commission terminates the suspended investigation, it is likely
that there will continue to be insufficient AN supply to meet demand in the U.S. market.' Your statement, though, does not match data from the prehearing staff report. And, of course, this morning, the parties disputed your premise.

U.S. apparent consumption in 2004, found on Table 1-6, at page 119 of our staff report, is 1,602,184 short tons. On Table 3-1, at page 33 of our staff report, 2004 capacity for domestic producers is 1,592,573 short tons. These numbers reflect that domestic capacity was over 99 percent of consumption. I think it was 99.4. In interim 2005, domestic capacity appears sufficient to supply the entire U.S. market. In addition, there are other non-subject countries that currently supply AN. How do you respond to the argument that the domestic market can be fully supplied without Russian imports, that the domestic industry is shedding capacity in line with decreases in demand?

MR. CAMPBELL: Chairman Koplan, we would refer you to our prehearing brief at Section 2(a) and Section 5, where we explain in detail how we come up with our estimate of the supply gap. Delving into it, we're using some confidential data, so I can't explain it as specifically as I'd like. So, we will certainly
address that in the posthearing brief. But to try to answer a couple of your questions, to try to respond to your question a little bit here, first of all, as for consumption, we realize that what the staff report states, it states about 1.6 million short tons. But, again, I think as Commission staff would concede, that figure is definitely -

CHAIRMAN KOPLAN: That's of apparent consumption.

MR. CAMPBELL: Yes, sir. That figure is understating apparent consumption, because Agrium did not report its shipments and the consumption figure is based on reported import - reported shipments of U.S. imports - reported shipments, U.S. shipments of imports and reported shipments by the U.S. producers. So, already, the number is understated. We use a higher figure for consumption, based on our estimate of what Agrium's likely shipments during 2004 were. In addition, for secondary support to our figure of 2004 consumption, we point to Exhibit 3 of our brief, which is independent information put on - is the estimate by Ferticon of consumption for the United States for 2004 and going forward. And, again, we believe that using 2004 consumption levels is a conservative estimate, because, again, we posit that
that level of consumption reflects the availability of ammonium nitrate more than the level of demand, that the demand would be higher.

Getting to the capacity of the U.S. producers, again, yes, the staff report - I'm going to quote the table wrong - quotes around 1.6 million short tons. But -

CHAIRMAN KOPLAN: What I have here from the table was 1,592,573.

MR. CAMPBELL: Okay, okay, roughly 1.6; right. But, again, we're taking our argument that the Commission - because the likelihood determination requires a perspective analysis, in terms of the capacity that's going to be available from U.S. producers, the Commission should look at only Terra and El Dorado. In addition, we argue that the Commission should look at El Dorado's El Dorado's plant, and not its Cherokee plant, because it is suspended production at the Cherokee plant. It did that in favor of other products and it did that even with the suspension agreement in place. And we would submit that unless the Commission believes that it's likely that El Dorado is going to resume production of ammonium nitrate at Cherokee -

CHAIRMAN KOPLAN: Cherokee is now open,
isn't it?

MR. CAMPBELL: Yes, but it's not producing ammonium nitrate, at least to my knowledge. We can ask El Dorado. But, it's my understanding that El Dorado is producing other products, but it's not producing ammonium nitrate. And barring evidence of which there is none in this review so far that we have seen, that that production is likely to be resumed, we believe the Commission should use as U.S. capacity, Terra's full capacity and the El Dorado plant for El Dorado and not its Cherokee plant. And, again, we think we're being generous by using - building into our supply gap estimate U.S. production capacity, because U.S. producers have never operated to full capacity. It is normal.

Yes, you know, given fixed costs and efficiencies, certainly, probably U.S. producers would like to be closer to 95 percent, which they argued they would like to be. But, in the period of the original investigation and the period of review, they've never been close to that level. So, nevertheless, we're giving them 100 percent of their capacity. So, we think we're being generous in our estimate.

And, finally, as far as non-subject imports,
we built into our estimate, I believe, the levels for 2004. But, again, I refer you to our prehearing brief for the exact estimate, which, we, again, believe it's a conservative estimate.

CHAIRMAN KOPLAN: Okay. I appreciate your response. I would also appreciate, though, for purpose of the posthearing, if you could expand on this using BPI information.

MR. CAMPBELL: Certainly, Chairman, we will do so.

CHAIRMAN KOPLAN: Take into account the numbers in the tables that I referred to. I just have a quick one, simply for posthearing, and that's Mr. Morgan, beginning on page 39 of the domestic parties' brief, they sate, 'Petitioner notes that, in any event, the pricing data reflected in the prehearing staff report, which apparently shows significant margins of overselling, particularly in 2004 and 2005, are not accurate.' The specific reasons that follow are BPI. But, can you respond to this in your posthearing submission?

MR. MORGAN: We will do so, Chairman Koplan.

CHAIRMAN KOPLAN: Thank you, very much.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you. And I just
have one question and that is, if you see in the foreseeable future, if you could give me your sense of what you think the pricing environment would be, if the order were lifted, and I want you to comment on a couple of things. Mr. Adamchak, you had commented on the kind of the post-Katrina shock in the prices, I think is how you described it, there was shortages and production out and how prices respond to that. And if you could talk about how long that takes, even now if it has evened out and whether that would be something that we should take into account.

And the second would be to get your sense of where natural gas prices will be. I know, we all say that's one of the hard things to guess, but as someone, who follows it, I think you're in a better position to give us your advice - or your view of where they are. And so, I'd like to hear that, as well, as you talk about pricing. Thank you.

MR. ADAMCHAK: Commissioner, I'll try to answer the second question first, since I think it probably relates to the original question. Because, I think to a large extent, the price level - nitrogen price levels in the United States will continue to be seriously impacted by gas price levels. Like everybody else, I missed the fight as to how gas
trades and how we get to the levels that we get to. I think it's interesting that when you look at gas right now and you look at the future, the lowest price on the board for the foreseeable 12 months is the price that - it's the month that we're in right now, which is very, very unusual. Typically, as you know, we've got a price premium through the winter months and then it sort of hollow out during the summer and then it picks back up in the fall. But right now, we're - even though the gas has come down to 8.50, and I think maybe about, back earlier in this week, to back above nine. But, even when we were at least low at 8.50, by September, I believe, or certainly October, we were back $10 forward. So, that tells me that the people that actually make a living doing this think that we're going to continue to be in a firm gas environment. I don't know if we're going to see $14-$15 again, but I think - and this is, I think, pretty consistent with the domestic industry response. I don't think that we can plan on seeing six dollars.

But that said, we've had a situation where consistently the inventory levels of natural gas for the last four or five months have been comparable to where they were year over year and ahead of the five-year average, and, yet, there was a complete
disconnect between relative prices. Last year in the
month December, the average price may have been $6.50.
This year, the average price may have been $13.50 and,
certainly, that kind of differential cannot be
explained or justified given the inventories. I think
that we, like everybody else, I think we feel like
we're going to be between eight dollars and $10 in
gas, although we could - again, I say that knowing
that the fundamental would argue for a case that they
would be lower. You know, maybe we'll get to seven to
10. But, we don't get back to the five- and six-
dollar levels. I would agree with Mr. Gough on that.

In terms of the pricing for ammonium nitrate
going forward, we are in the mix right now of a pretty
significant price correction in urea and largely a
function of - you know, we've got a lot of import
coming in right now and I think the gas situation has
fooled a lot of people. A lot of people loaded up on
imports or went out and bought imports with the
anticipation that gas would continue to render the
U.S. domestic industry incapable of producing it at
these prices and they anticipated a lot of shut downs
and anticipated selling a lot of these import cargoes
back to the domestic industry. As it turns out, it's
looking more and more likely that the domestic
manufacturers will continue to produce. So, there's
an inevitable price correction to that, because I
think the market misjudged how much domestic
production we were going to see in the first quarter.

VICE CHAIRMAN OKUN: You're referring to
urea?

MR. ADAMCHAK: I'm referring to urea.

VICE CHAIRMAN OKUN: Okay. I just wanted to
make sure -

MR. ADAMCHAK: Yes, absolutely. And the
price response to ammonium nitrate will be less, but
we anticipate that there will be some. We feel like
nitrite, as we've talked about today, is less elastic
to price than virtually all the other fertilizer
commodities, because some of its unique
characteristics that we've talked about before. So,
we will see a little bit of price erosion, I would
think, in ammonium nitrate, but we're not conceding
that yet and we're not planning on it. Our posted
price out of our Florida warehouse is firm and our
next move is going to be up, as opposed to down.

VICE CHAIRMAN OKUN: Okay. I appreciate,
very much, those perspectives on price. And my last
request would just be for posthearing and, Mr.
Campbell, I guess that would relate just in terms of
the capacity that you've looked at when determining what you view to be the supply gap. As I understood the testimony this morning from Mr. Rydlund was that the Cherokee plant had started producing ammonia again and that his statement about ammonium nitrate was just we can and will and are anxious to produce ammonium nitrate at Cherokee, if and when marketing conditions permit us to do so. But, he did talk about the shutdown of that. So, I know you'll have a chance to see whatever else they put for posthearing and I would take that into account when you do your response, as well.

MR. CAMPBELL: Okay, Commissioner, we'll do so.

VICE CHAIRMAN OKUN: Thank you, very much. And thank you for all of your answers this afternoon.

CHAIRMAN KOPLAN: Thank you. Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. I guess a couple of things I wanted to follow up a little bit on, one is this issue of price and the effect of the referenced price. Mr. Adamchak, I thought you said during your testimony that always when the Russian product came in during this last period, it came in basically at the reference price. Did it ever come in
above the reference price?

MR. ADAMCHAK: Yes.

COMMISSIONER HILLMAN: Okay.

MR. ADAMCHAK: In certain situations, again, you know, the Russians would say, it's got to be referenced price plus five, I think was - I think there were two cargoes that came in, in excess of the referenced price.

COMMISSIONER HILLMAN: Okay. So, two times above and the rest of the time pretty much at the referenced price?

MR. ADAMCHAK: As far as I know.

COMMISSIONER HILLMAN: In response to similar questions, my sense from your answers was that it was the referenced price that was pushing the Russians to where they came in at, as opposed to market forces or other things in Russia. In other words, they were very much looking to and guided by that referenced price.

MR. ADAMCHAK: Yes. There's no other - I mean, there's no discretion in the pricing.

COMMISSIONER HILLMAN: Right. Do you have a sense, in the absence of the referenced price, what the prices of the Russian product would have been?

MR. ADAMCHAK: It's going to be as high as
they can get away with. As I say, you know, it speaks
to the - I don't want to use the term 'gall'
necessarily, but, again, you've got a mechanism and
these guys are asking you all, it's got to be higher
than that mechanism. And that price would be as high
as it could possibly be, as far as the Russian - you
know, they've gotten pretty good on UAN solution,
absolutely extracting. They see what's going on in
the marketplace and they will extract value.

And the other thing that's a little bit
different is they used to be strictly an FOB seller.
They are more and more a CNF seller. So whereas
before, maybe traders could make some money on the
freight, they can't do that. They're a lot sharper, a
lot more astute in the ocean freight market than they
ever used to be. And just speaking to Chairman
Koplan's observation about what - that's another part
of what has changed within the Russian marketing
dynamics since the inception of the suspension
agreement.

COMMISSIONER HILLMAN: Okay. But if they
only tried it twice above the referenced price and you
were to take away the referenced price, your
presumption is they would be selling it as high as
they can get it for, because then that would be
somewhere at or below the referenced price. Would it be -

MR. ADAMCHAK: It would be -

COMMISSIONER HILLMAN: You would have seen a lot more so above the referenced price over this time period?

MR. ADAMCHAK: It would clearly be below the current referenced price.

COMMISSIONER HILLMAN: Okay.

MR. ADAMCHAK: I mean, part of our argument here is the referenced price is skewed. And that's another reason why the Russians, I think, are interested in at least negotiating or re-negotiating the mechanics of the referenced price, because I think they see accurately that right now, barring something we can't see, they're just not going to make their allocation in 2006.

The other point that we haven't yet made in terms of - we've talked about the freight and the barge freight and all that. The other thing that's interesting as it relates to the specifics of the referenced price is that the focal point, the trigger price is an FOB Midwest price. And I think that price was originally put in place when Agrium was operating at Hoague. Agrium is not operating there. So, that
price, that trigger price has significantly less relevance now than it ever did and is potentially subject to manipulation with the - we call them rags; I guess we should be a little more formal here with it - with the intelligence magazines, the guru markets and what not, that's not necessary as meaningful now, because there's no production there, as it was in 2000, when the suspension agreement was put in place.

COMMISSIONER HILLMAN: Okay. You heard questions this morning about the issue of, okay, a number of these domestic plants have been closed, but the assets are still sitting there. To the extent that you have a view of whether there is any bars out there in the market from rags or not, as to whether or not these plants could, would, at a certain price point come back on line or whether when they say they're closed, they really are not coming back.

MR. ADAMCHAK: You know, I don't know that there's any buzz per se. You know, never is a long time. We've seen certain people that were representing that they may get out of the market, like ConAgra - well, I don't want to name names, but either we've seen people change their mind on this issue, as the economics kind of shift around. So to say that those plants would never come back on stream, I think
the people that made those decisions are typically -
they're not making a decision like that based on three
months, four months, six months. I would think that
it's safe to say that those plants are gone, certainly
in the case of several of them, they are. I think as
Ms. Slater said earlier today, to some extent, you
might need to evaluate it on a case-by-case basis.
But for the most part, those plants, in my opinion,
are gone.

COMMISSIONER HILLMAN: All right. Mr.

Morgan, a couple questions to you. We've heard this
discussion this afternoon on this issue that on the
wholesale level, that there are these large number of
warehouses that have basically said, I'm out of it;
I'm not going to carry AN, because it has all of this
panoply of extra costs associated with it. If there
is anything that you could help us document - again,
we heard a figure in the order of 50 percent - but if
there's anything that could help us get our arms
around some documentation of this issue of these
warehouses that at the wholesale level have decided I
don't want to be in this business anymore, I think it
would be very helpful.

MR. MORGAN: We will see what we can try to
find out for you.
COMMISSIONER HILLMAN: And, similarly, if there's anything at the port level. I mean, we've heard that it's only Tampa and New Orleans that have the ability, again, that have the certifications. If there's anything further on that issue of the certification of the ports, in terms of what we might look at to understand that issue, again, that would be helpful.

And then two other more legal questions that I had posed to the panel this morning that I would ask you to address, as well, and that is whether there is anything about the fact that this is a suspension agreement that's been in place, as opposed to an antidumping order, which is normally what we would be looking at, in terms of our legal analysis of whether revocation of the order would result in a recurrence of material injury, does it matter, as a legal matter or in how we evaluate the factors that the Commission is required to look at, that we've had this suspension agreement in place, which does make the market operate differently than it might had there been a straight forward dumping order and how would you have us look at this case differently, if at all, as a result of that?

MR. MORGAN: I would like to think on that
and respond in writing.

COMMISSIONER HILLMAN: Okay. And then the last question that I also posed this morning that I would ask you to address is this issue that at the beginning of the original period, we had 10 domestic producers. And so, we did have a fair amount of intra-domestic industry price and volume competition that was at work in the market. Now that we're down to two players, I'm wondering what you would have us think about, in terms of how do we assess, again, sort of how prices get set, how we should assess pricing data generally, and the degree of competition between domestic production now that it is a much different number of players out there setting prices than there was in the original investigation and what that should say to us about price effects, if any, of Russian imports in the absence of the suspension agreement.

MR. MORGAN: We would be happy to look at that in the posthearing, as well.

COMMISSIONER HILLMAN: Okay. I appreciate that. And with those questions, I have no further questions. I want to thank you, very much, for the answers. It's been extremely helpful.

CHAIRMAN KOPLAN: Thank you, Commissioner. Commissioner Lane?
COMMISSIONER LANE: I have no further questions.

CHAIRMAN KOPLAN: Commissioner Pearson?

COMMISSIONER PEARSON: A couple of hopefully quick ones. Mr. Adamchak, you had mentioned that you're moving ammonium nitrate in handy-sized vessels, 30,000 tons, maybe some smaller than that. Why is this product moved in handy maxes, rather than in pana maxes?

MR. ADAMCHAK: It's a function of a couple of things. In our case, it's a function, to some extent, of the limitations of the port of Tampa. The way our specific transactions normally move is that we have two ports. We'll go to Tampa first and then we'll, you know, discharge as much as we can, and then go to New Orleans. And there are limitations, in terms of how much product you can discharge in Tampa. And the other limitation, as I've already mentioned, is just the barge availability is a major, major constraint to us. We're really wrestling with trying to, you know, accumulate a vessel of significant enough size, so that you maximize your freight economics without causing some of the complications on the other side, just in terms of being able to move the product around. And,
typically, I think - and that has a lot to do with the
demand in the marketplace. It has something to do
with how, again, the suspension agreement allocates
the timing and allocates the - I've talked a little
bit about the major manufacturers. One major
manufacturer ships from a Black Sea port. The other
major manufacturer ships from a Baltic Sea port. So,
you can't aggregate those volumes very easily.

And the other part of it is just the demand
and the desire, I guess, to maintain some order in the
marketplace. A pana max on nitrate would - at any
given time, given what other importers might be doing,
would have consequences to the market.

COMMISSIONER PEARSON: Too much of a good
thing.

MR. ADAMCHAK: Probably so.

COMMISSIONER PEARSON: Different in the
urea, then? Is urea more easily handled in the larger
vessels?

MR. ADAMCHAK: And, again, bigger demand.

It's just more of a marketplace.

COMMISSIONER PEARSON: That's a perfectly
logical explanation. The last question, you talked
about this a little bit before, you normally would
have a commitment from U.S. customers on some
percentage of a shipment even before the vessel is loading. Can you give me some idea of how much normally would be committed in advance and how much is the flow down sold?

MR. ADAMCHAK: And, again, we probably compartmentalize this. In terms of supplying our warehouse in Florida, we've got customers that are - you know, that's just an ongoing deal and it just will. We really literally don't have to sell the product. We have to put it there and post a price.

COMMISSIONER PEARSON: So, you would consider shipments into Tampa as pretty much committed?

MR. ADAMCHAK: Yes. That's basically captive volume. And then it would go into New Orleans and New Orleans is a little bit different than that. We would probably, on any given ship, of the New Orleans volume, we'd like to have at least 50 percent of that, probably any higher, 75 percent, knowing where we're going with it.

COMMISSIONER PEARSON: Okay. Thank you. It's been a very interesting afternoon, to have a chance to visit with people, who are actually trading in this market. We generally get to hear from producers, as we did this morning. But to talk to

Heritage Reporting Corporation
(202) 628-4888
merchants, who are living day-to-day with ups and downs of moving stuff of where it's produced in some abundance, to where it's in short supply, is very interesting. So, I appreciate that. Mr. Chairman, I have no further questions.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Just one question. This morning, I had asked the domestic industry to talk about some of these variance on the AN product that had started to be seen in the U.S. market, that 33-3 and the 27-5 product. And I guess I wanted to give you your chance to address those products, in the sense of are these sort of serious commercial products that you're seeing? Do you see a demand for them, aside from any motivation of trying to get around the suspension agreement here or the dumping orders in other countries? Do they really meet a commercial need to have a more stable product? Are you aware of them being sold in any other markets?

MR. MORGAN: The EU, the product that's referenced, the 27-5, has already found that that's outside of the scope of the EU suspension agreement. I don't want to say anything more on that, because, as
Ms. Slater noted, and I think in less than a week now, we'll be submitting things to the Department of Commerce, arguing our positions on why that's not properly considered within the scope. And I'm sure she will be taking the opposite position.

On the 33-3, I'm going to turn it over to Nick, because he had some very interesting observations on this supposed shipment that would be representative of pricing, in the absence of a suspension agreement.

MR. ADAMCHAK: First of all, the 33-3 is - or 33-3, 32-5, there's different variations of that. They are viable products. They are - I guess the Russians are attempting to come up with a product that will pass certain detonation tests and be able to ideally be non-yellow label classified for handling purposes. So, yes, and their shipments go to other markets. We've actually had a cargo of that material come into the United States, Bulgarian material, and it's a fine product. I think the DOC ruled properly in the case that it had to rule on, in terms of it being a circumvention of the suspension agreement. But, it's interesting in that that cargo that eventually came to the United States was originally one of three cargoes that were bought simultaneously.
and I think those cargoes - that cargo was originally
destined to Mexico. So, the mechanics of that and how
it was reported, I think it probably came from
Customs' documents and I don't think it necessarily is
a reflection of how the Russians would price for the
United States, nor is it a reflection of how that
product would ultimately get sold into the U.S.
market, in terms of how it would be priced.

COMMISSIONER ARANOFF: Okay. So, if I take
your answer, the Russian industry is not the only
industry that are producing these modified forms of
AN?

MR. ADAMCHAK: That is correct.

COMMISSIONER ARANOFF: Okay. And any
information that you can provide us posthearing on who
else might be making these products and who might be
buying them, that would be really helpful.

MR. ADAMCHAK: It's very - it's increasingly
popular, I guess, in Mexico, Peru. We're seeing a lot
more demand for stabilized material in Central and
South America. Now, they've got - you know, they've
been trying to get more of a premium for the
stabilized material in South America. So, they're
going to have to find an appropriate premium level
over AN for that material ironically enough, because
of the P205 content and the stabilized attributes. In
certain markets, it's commanding a premium.

COMMISSIONER ARANOFF: Okay. Thank you,
very much.

MR. ADAMCHAK: You're welcome.

COMMISSIONER ARANOFF: I want to thank the panel for all of your answers this afternoon. And, Mr. Chairman, I have no further questions.

CHAIRMAN KOPLAN: Thank you, Commissioner. I have one. Mr. Morgan and Mr. Campbell, on page 21 of your brief, you indicate that 'although the Russia government regulates the prices of Gazprom, Russia's state run natural gas firm, they charge on the domestic market, the government is expected to liberalize Russia's natural gas sector, as a condition for accession to the WTO. As a result, Russian AN producers will incur a higher natural gas cost.' I noted this quote of yours in a question this morning and added to the question your prediction that WTO accession will occur in 2006. You've heard the domestic response. Do you really believe that accession is likely this year? Mr. Campbell?

MR. CAMPBELL: I would say, yes. I think we do think it's likely that it is - we submit it is likely that Russian accession will occur in 2006.
Again, we base that on the exhibits we included in our prehearing brief. In those exhibits, there are reports from DNA International Trade Daily. I believe, both Russian - both the Russian trade official and the USTR, at the time, Robert Zelick, expressed optimism that they would have WTO accession for Russia agreed to by the end of 2005. That obviously hasn't happened, but I would speculate, based on that, it's arguable that it's likely that the goal will be achieved in 2006.

CHAIRMAN KOPLAN: As of now, have the Russians done everything they need to do, in order to get this issue resolved?

MR. CAMPBELL: No, Chairman, that's definitely -

CHAIRMAN KOPLAN: Not the case.

MR. CAMPBELL: - not the case. But, at the same time, that was not the case at the time that Russian and U.S. trade officials expressed optimism in a bilateral agreement between the United States and Russia would be agreed to in 2005. At the end of the day - well, I'll just leave it at that.

CHAIRMAN KOPLAN: Okay. Well, thank you.

MR. MORGAN: Chairman, I can't help interjecting some bad trade humor here. I mean, it
depends on what you mean by probable.

CHAIRMAN KOPLAN: I was going to ask if -
actually, I crossed out - I was going to say how would
you define likely, but I decided I wouldn't do that.
But, how do you define probable?

MR. MORGAN: I'm not going on the record
with that. The other important thing, I think, to
note, and you have it in the questionnaire responses,
is that gas prices already have started to creep up.
I mean, it's not a huge part of our argument. It's
not what we're resting on, in any respect. But, you
have had increases in the cost of natural gas to the
Russian producers. So, irrespective of accession,
that underlying point still holds.

CHAIRMAN KOPLAN: Thank you. Vice Chairman
Okun?

(No questions.)

CHAIRMAN KOPLAN: Are there any other
questions from the dais?

(No questions.)

CHAIRMAN KOPLAN: Seeing that there are
none, Mr. Deyman, does staff have questions of this
panel?

MR. DEYMAN: The staff has no questions.

But, I do have one observation and one request. My
observation is that you've mentioned that our apparent consumption data in the prehearing report were understated, because they excluded the U.S. shipments of Agrium. The observation is that that's true, but our capacity data for the domestic industry were also understated, because they excluded the capacity of Agrium. We now have data on capacity and consumption from Agrium. So, in the final report, we will address those numbers. Unfortunately, they may end up being business proprietary, because it's only one company. But, that's my observation.

My request is, as stated earlier, I urge you to, in your posthearing brief, to indicate in your opinion what the best numbers are for import statistics: questionnaires, official statistics, or a combination of both and your reasons why you believe that, because we want to have the best possible data.

MR. MORGAN: We'll be happy to do that, Mr. Deyman.

MR. DEYMAN: Staff has no further questions.

Thank you.

CHAIRMAN KOPLAN: Thank you for that, Mr. Deyman. Before I release the panel, Ms. Slater, do you have questions of this panel? You have 38 minutes left - oh, I'm sorry, you have 11 from your direct.
MS. SLATER: You scared me for a minute there. I have no questions for the panel. Thank you.

CHAIRMAN KOPLAN: Okay, thank you. Well, with that, then, I want to thank you all, very much, for your testimony, your answers to our questions, and I look forward to your posthearing submissions. And we'll go to rebuttal and closing. This panel is excused.

(Panel excused.)

MS. SLATER: Mr. Chairman, may we take a five-minute break before rebuttal?

CHAIRMAN KOPLAN: Yes.

MS. SLATER: Thank you.

(Whereupon, a brief recess was taken.)

CHAIRMAN KOPLAN: Let me review the remaining time, as you're approaching, Ms. Slater. You have 11 minutes left from your direct and Respondents have 38 minutes remaining, plus five minutes for closing for either side. So, how do you want to proceed? Do you have rebuttal?

MS. SLATER: I'm going to combine my rebuttal and closing, if it pleases the Commission, and also try very hard not to use close to the amount of time that's left.

CHAIRMAN KOPLAN: Okay. Because, they have
a total of 43 minutes.

MS. SLATER: I would be very interested to see what they have to say.

CHAIRMAN KOPLAN: All right, okay. Proceed.

MS. SLATER: Let me just start by saying that I think we have also found the comments by the panel this afternoon to be very interesting. I think Commissioner Pearson was correct, there are many things on which - many fundamental points on which the two sides in this sunset review are in agreement and that is not the norm.

Some of those things really are key to this. I mean, what we heard today is that there is significant excess capacity today in Russia. I think that's been conceded. We have heard an agreement that security issues have been a contributing factor, a significant contributing factor to the reduced consumption here in the United States. And we've also heard a recognition that the price of Russian exports are going to be lower without the suspension agreement, something that we certainly know to be the case.

There are another set of facts, however, which are in dispute and I want to take a few minutes this afternoon just to make sure the record is crystal
clear in a couple of key points.

CHAIRMAN KOPLAN: If you could move that mic a little bit closer.

MS. SLATER: Sorry, late in the day. There was a comment made toward the end of the panel this afternoon in the discussion about domestic capacity, about El Dorado's Cherokee plant. And you heard detailed and direct and very clear testimony from the president of El Dorado Chemical this morning, who told you, in no uncertain terms, that Cherokee capacity is available. They would love to run it. They want to run it. It has been down only because the market will not take that product. The market has been in oversupply. They moved the production over to the El Dorado plant, to help the efficiencies there. They're serving the markets that they can served out of El Dorado. They are absolutely dying to get Cherokee up and running again.

He, also, told you, in absolutely no uncertain terms, that that Cherokee facility can produce nitrate to capacity with no effect on - nothing effected by the other products that are being produced there. Those are separate capacities and all of those capacities -- all of those products can be produced to their capacity. So, the notion that
somehow Cherokee should be written off, while it certainly helps the numbers analysis that you've seen in the Respondents' brief, it's just not consistent with the facts. And, frankly, one of the reasons that Mr. Rydlund came here today was to make sure that this Commission understood that point.

Now, I want to just also briefly address the suggestion that I heard on the panel this afternoon about U.S. producer inventories being low. It's really important for this Commission to understand that U.S. producer inventories are typically low; that in the best of all cases, you don't want to be storing a lot of product at your plant. Inventories are typically held in the distribution system. And so part of getting fertilizer made year round, and not just getting somebody else to hold it, but getting it in place to where it needs to be when the farmer puts it on the ground, so he can make hay while the sun shines, because you never quite know when the sun is going to shine, is to get that product made and move it out of the plant. And that's a reason that in the best of all worlds, the holding bins and the distribution - sorry, the inventory holding spots that you'll see around producer plants, some of which are quite large, will never be very full for very long.
They are sometimes quite full, but very briefly. And I think this is not confidential to say that your staff visited the Yazoo City plant last week and saw the holding facilities, the inventory - just the warehouses where normally the finished product would be kept being fairly empty. Ninety days before, they had been full. Now, in preparation for the season, everything has been moving out through rail cars and trucks and, as soon as the river has water in it again, on barges.

The correct way to look at this, in terms of supply capability, is not what inventories are sitting within U.S. producer plant. The correct way to look at it is what capacity does our industry have, what real capacity does the industry have. And what I didn't really hear this afternoon was any serious discussion about why that capacity has been underutilized. So simply say, well, 75 percent is what they run at is just silly. This market has been oversupplied for a long time and we are now getting to a point where perhaps, as demand is declining and supply is declining, maybe it will have the opportunity with domestic supply and certainly some imports to come more into balance. But, to somehow say that that's the right or normal running rate is
simply not correct. And we didn't really hear any
more than an assertion on that particular score.

Mr. Rydlund, also, gave you some very core
testimony concerning what's normal operating rates.
And you know that, yourselves, from other nitrogen
products you've looked at.

I'd like to also take a minute and address
this notion that Russian imports, although they will
increase and they will be at lower prices, what you
heard this afternoon, that ending the suspension
agreement are not going to be a problem, because
they're just going to displace other non-subject
imports. Well, first of all, it doesn't make much
sense to assume that. I mean, there's no magic line
out there in the market. This is a commodity product
and there's nothing that says that we'll stop it from
displacing U.S. production. You've seen enough
commodity products to know that's true.

But more importantly, even if you accept the
premise, which I hate to let them do, but accept the
premise that you would only be displacing non-subject
imports, think back to what you found in your
investigation. You found that the impact of the
imports was a price impact. And so, how are those
Russian imports going to get into this market and
displace non-subject imports in a commodity market? It's going to be on the basis of price and that price throughout the market is going to have an impact, as it did in 1998 and 1999 and 2000 on the domestic industry. So, I think the argument that we would only see non-subject imports displaced proves just a little bit too much.

Finally, I wanted to just take a second and talk about the issue of Russian capacity. You know, there's been a lot of slicing and dicing and we'll certainly respond to this, although there's been, I think, quite a bit brought out today, but respond to this posthearing, a lot of slicing and dicing of Russian capacity and how you should really look at it. As I mentioned in response from a question from Commissioner Aranoff, I think you have to realize that even when you do the slicing and dicing, you're left with some pretty hefty available capacity there, slicing it and dicing it the way they'd like you to do. But more importantly, I would urge you not disregard the producers that the Russian Respondents claim, and I don't know whether it's true, but claim only would be available to serve the domestic market. Because to the extent those producers are serving the Russian domestic market, that means they would have a
disproportional share of any growth in that market and they would then make the exporting producers' capacity even more likely to be available for shipment here and elsewhere. So, it's not an either or situation. I mean, if there are producers, who are not exporting and they have excess capacity, something is happening to that capacity. It's not going to sit idle for the long run.

Finally, I want to take just a minute and mention to you, I know that the Commission will be receiving today a letter from the Agricultural Retailers Association. You had received a letter from them previously in the urea sunset review. This is a group, which is a representative of agricultural retailers and distributors, including, I understand, a couple of significant importers. And the ARA letter, which objects to the continuation of this measure and would like to see the investigation terminated, when the draft letter was sent out to their members yesterday, explained why there were simply sending a letter and not appearing at the hearing or do anything more. And they said from discussions with our members, it appears as if many ag retailers and distributors are getting out of using this product or handling it in smaller, more limited amounts. They
said, well, we support a free trade policy and we're
going to send this letter as a matter of precedent.
We don't basically intend to do anything more than
that.

The Agricultural Retailers Association
recognizes that their members, the retailers, the
dealers, the distributors, are moving away from this
product. It's not a happy fact unfortunately for my
clients, but it is a fact. It's a fact in this
marketplace. And I urge you to recognize it. I'll be
happy to put this correspondence in for the record
with our posthearing. This is a fact of life. People
are moving away from it. It's just become an issue of
difficulty and hassle, I think Commissioner Hillman
said, more than anything. The regulations, which
we'll do our best to detail for you posthearing, are
not terribly onerous regulations. They really have to
do more with notifications. When vessels come in,
you're supposed to notify the Coast Guard, so they
know when you're arriving with a dangerous substance.
And it applies, by the way, to a whole range of
hazardous materials. It has to do with keeping
records, who's buying the stuff, who's taking it away
from your plant, making sure you know who you're
turning it over to, and security measures, logging in,
logging out, things like that, certain fencing, certain security.

But these are not terribly onerous things. But, if you're in the area of the country, as you heard today, where people really don't - aren't really clamoring for ammonium nitrate and you're a dealer, you just might not want to bother, and that's what's happening. People are walking away. And that includes numbers of the Ag Retailers Association, as well, and they recognize this.

So, I want to close by saying to you, I think you need to be very skeptical of the suggestion that it's sort of the build it and they will come. I think the Russians are saying, let us tell you what's best for the domestic industry. Let us bring this product here and the demand will magically appear; again, the demand will appear and we will have people back. It's not that it's disappearing. There are very real things happening in this market, which have nothing to do with availability. There's plenty of supply available, plenty of domestic capacity, plenty of other imports. And we urge you to make sure that this suspension agreement stays in effect. Even though it has a quota based on an older, much larger market, allow it to stay in effect. Allow this
industry to get through this next five years of its
transition period. Thank you.

CHAIRMAN KOPLAN: Mr. Morgan?

MR. MORGAN: Chairman Koplan, I promise not
to use any minutes I have left. But a few points by
way of rebuttal in response to the recent facts. I
thought I was going to not have to burn CDs for this
proceeding, but it looks we're going to have to put on
the record LSB Industries third quarter conference
call, because in that conference call, there have been
statements that put Cherokee, Alabama facility in a
much different light than what we just heard.

Cherokee, based on that conference call,
sounds like it's a fairly marginal plant. It's not
just ammonium nitrate that's driving the decision or
drove the decision to stop ammonia production there.
And based on what Mr. Rydlund said in the conference
call, that company is using all the ammonia that it
had to produce urea ammonium nitrate solution, rather
than dedicating any of that to ammonium nitrate.
There are also some other statements in general in the
conference call that talked about the marginal nature
of Cherokee and having to monitor the economics of
running the plant on a day-to-day basis. So, we think
that's inconsistent with the representations that have
been made on viability of Cherokee. It was, in part, the basis for why we did not include them in our short supply calculation. But, we think even if we include Cherokee's full ammonium production, at the end of the day, you're still going to see a shortage between domestic ability to meet demand and what demand is. But, we'll provide the full conference call for the Commission's benefit and allow you to judge for yourself the statements made therein.

There is a statement about inventories that Ms. Slater just made that I think is interesting, but it doesn't look at the year-to-year comparison, which I think is important. And based on TFI numbers, the inventory levels are 60 percent off of what they were last year. So, it's not that this has moved into the distribution system or is somewhere different than it was. Unless there's something different between this year and last year, at this time, the year-to-year comparison shows 60 percent inventory drop.

Production, again, based on TFI, for 2005, total domestic production 1.1 million tons. That's 16 percent off of what it was year-on-year comparison.

You've also heard - just heard from Ms. Slater that non-subject imports would be displaced because of price. I think it is abundantly clear from
the testimony that price factor actually had nothing
to do with it. You have marginal suppliers in
countries like Georgia and Romania and that those -
and that for a host of reasons, nothing to do with
price, you would have displacement of non-subject
imports by Russian product.

And just in terms of the closing, I think it
is interesting to see a domestic industry attempt to
say that they can meet demand; but, yet, at the same
time, recognize that imports are always in the market.
I think what they're trying to do is a little bit of a
smoke and mirrors. They want to say that demand has
declined to the point where now they have the capacity
to supply full demand. We don't think the data bears
that out. We will certainly elaborate on that in our
posthearing brief. And, unfortunately, because their
data is confidential, I don't think we can get into
the level of detail in this public forum that we,
otherwise, would have been able to. But when we
address it in our posthearing brief, we will do so.
We will include Cherokee, we'll include El Dorado, and
we'll include Terra, and we'll see what that data
shows.

The domestic industry said, no shortages in
this market. But, Mr. Klett, in the same breath, said
six out of 15 purchasers, that's not significant reported shortages. We disagree with the characterization that that's not significant.

With respect to the disparate impact that the security regulations have had on imports, I think it's extremely telling when asked about the security regulations, most of the domestic producers were unable to provide much detail. I don't think that was, in any way, reflective of them not trying to answer the question. I think it reflects the fact that these security regulations fall most heavily on imports and on the river distribution system. Terra, in its 10K, has reported that, in fact, it ships the majority of product by truck and by rail. Those are not effected by the Coast Guard regulations governing barges, warehouses, et cetera. So, it doesn't surprise me that they weren't able to speak to the security regulations and the restrictions on distribution within the U.S. that now exists as of about 2004. But, I think it does illustrate very well the very different impact that those have had on imports and the ability to supply the market by imports relative to domestic production.

And then it's just reiterating a point on the differences between consumption and demand and
what that really means. You can get acetonic, I suppose, but we do think it's important that the
distinction be made that there is demand for the product, consumption may have declined, in part due to
security regulations, but that the demand exists and there's no reason why it isn't there except for supply
availability. Setting aside - you know, once you take into account the impact that the security regulations
have had, it's our understanding that those are already reflected in the data; that what you see, in
terms of the decline in consumption, as a result of the security regulations, is what remains going forward, that the shakeout has already happened, in essence.

So, when you take all of this in combination, what does it mean for the future of the U.S. industry? You have two remaining producers. You have non-subject imports that have declined. And it doesn't matter if you look at the import stats or if you look at the data in the staff report, either way you look at it, the trend is towards declining non-subject imports and huge declining non-subject imports.

The price reflects the important consideration making the U.S. market so attractive, I
would hesitate to see how that reflects itself in the data with respect to the non-subject imports. We believe, and you heard testimony today, that it's not exactly not correct, that price is not what necessarily drives the imports in terms of security, than other factors, but that there is no likelihood of a significant increase in volume. It's because of the significant limitations you have on the distribution system. And to the extent you have increases, it will offset other marginal non-subject supply.

In this environment, there's no incentive for - and I believe the statement was that the referenced price would have been - the price by the Russian producers would have been lower but for the suspension agreement. We're going to take a look at the data and try to give you a clean way of looking at that, in the absence of the suspension agreement.

But, we think that, in fact, the levels of overselling you have seen are reflective of what the importers are selling the product into the U.S. market for. They pay x price, referenced price, then they ultimately sell that product into the U.S. market. And you've heard where there was underselling now is because the market was upside down. Somebody made a mistake. But, it wasn't a situation where underselling was the
intended result of the transaction by the importer, who is the one that sets the price, in terms of where it enters the stream in the U.S.

So, in this environment, we strongly urge the Commission to dig deep into the numbers. It's not the most exciting exercise, but we think, at the end, you will find that there is a huge inability of this industry to meet demand. There's a huge amount of demand that still exists that's not going to be served, if the suspension agreement is not terminated.

Thank you, very much.

CHAIRMAN KOPLAN: Thank you, Mr. Morgan. Again, I want to thank all those, who participated in this investigation today. Your testimony, your answers to our questions was most helpful and look forward to your posthearing submissions. I, also, want to thank staff, who assisted us in this investigation. Thank you, very much.

Posthearing briefs, statements responsive to questions, and request of the Commission and corrections to the transcript must be filed by January 30, 2006; closing of the record and final release of data to parties by March 3, 2006; and final comments are due March 7, 2006. And with that, this hearing is adjourned.
(Whereupon, at 4:50 p.m., the hearing was concluded.)
CERTIFICATION OF TRANSCRIPTION

TITLE: Ammonium Nitrate from Russia

INVESTIGATION NOS.: 731-TA-856

HEARING DATE: January 19, 2006

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 19, 2006

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Bernadette Herboso
Signature of Court Reporter

Heritage Reporting Corporation
(202) 628-4888