

APPEARANCES: (Cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
SHARON D. BELLAMY, HEARINGS AND MEETINGS ASSISTANT
CYNTHIA TRAINOR, INVESTIGATOR
RAYMOND CANTRELL, INDUSTRY ANALYST
CATHERINE DEFILIPPO, ECONOMIST
CHARLES YOST, ACCOUNTANT/AUDITOR
MARK REES, ATTORNEY
GEORGE DEYMAN, SUPERVISORY INVESTIGATOR

In Support of Continuation of Antidumping Duty Order:

On behalf of The Committee for Fair Ammonium Nitrate
Trade (COFANT):

MATT GREEN, Director, Agricultural Sales, Terra
Industries, Inc.
GARY ELLIOTT, Consultant to Terra Industries, Inc.
PHIL GOUGH, Senior Vice President, El Dorado
Chemical
PAUL RYDLUND, Vice President, El Dorado Chemical
Company
DANIEL W. KLETT, Principal, Capital Trade, Inc.

VALERIE A. SLATER, Esquire
ANNE K. CUSICK, Esquire
TATMAN RYDER SAVIO, Esquire
Akin Gump Strauss Hauer & Feld, LLP
Washington, D.C.

I N D E X

| | PAGE |
|---|------|
| OPENING STATEMENT OF VALERIE A. SLATER, ESQUIRE, AKIN GUMP STRAUSS HAUER & FELD, LLP | 5 |
| TESTIMONY OF MATT GREEN, DIRECTOR, AGRICULTURAL SALES, TERRA INDUSTRIES, INC. | 11 |
| TESTIMONY OF GARY ELLIOTT, CONSULTANT TO TERRA INDUSTRIES, INC. | 17 |
| TESTIMONY OF PHIL GOUGH, SENIOR VICE PRESIDENT, EL DORADO CHEMICAL | 21 |
| TESTIMONY OF PAUL RYDLUND, VICE PRESIDENT, EL DORADO CHEMICAL COMPANY | 26 |
| TESTIMONY OF DANIEL W. KLETT, PRINCIPAL, CAPITAL TRADE, INC. | 32 |
| CLOSING STATEMENT OF VALERIE A. SLATER, ESQUIRE, AKIN GUMP STRAUSS HAUER & FELD, LLP | 127 |

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-894 (Review) involving Certain Ammonium Nitrate From Ukraine.

The purpose of this five-year review investigation is to determine whether revocation of the antidumping duty order covering certain ammonium nitrate from Ukraine 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 public distribution table. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Parties are reminded to give any prepared testimony to the Secretary. Do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

Heritage Reporting Corporation
(202) 628-4888

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

5 Madam Secretary, are there any preliminary
6 matters?

7 MS. ABBOTT: Yes, Mr. Chairman. The embassy
8 appearances have not yet arrived at the building.

9 Also, all witnesses on the panel have been
10 sworn.

11 (Witnesses sworn.)

12 CHAIRMAN PEARSON: Very well. Shall we
13 begin then with the opening statement, Ms. Slater?

14 MS. SLATER: Thank you, Mr. Chairman. I
15 think under the circumstances if it's acceptable to
16 the Commission I'll just deliver this from here, and
17 we'll go right into testimony.

18 CHAIRMAN PEARSON: Perfectly acceptable.

19 MS. SLATER: Okay.

20 CHAIRMAN PEARSON: Please proceed.

21 MS. SLATER: Thank you. Good morning, Mr.
22 Chairman, members of the Commission and staff. My
23 name is Valerie Slater. I'm a partner in the law firm
24 of Akin Gump Strauss Hauer & Feld. It's a pleasure to
25 appear here before you this morning on behalf of the

1 Committee for Fair Ammonium Nitrate Trade, or COFANT,
2 in this sunset review of the antidumping order on
3 ammonium nitrate from Ukraine.

4 It's a particular pleasure to appear before
5 Commissioner Williamson and Commissioner Pinkert and
6 particularly congratulate both of you on your recent
7 appointment to the Commission.

8 Although this is the first sunset review of
9 the order on ammonium nitrate from Ukraine, it is the
10 second sunset review the Commission has conducted on
11 ammonium nitrate in just a little more than a year.

12 This review follows on the heels of a review
13 of the suspended investigation of ammonium nitrate
14 from Russia. As you may recall, the industry filed an
15 antidumping action against ammonium nitrate from
16 Russia in July of 1999.

17 In response to the petition, the Russian
18 imports stopped, and the last Russian imports prior to
19 the Suspension Agreement came in in November of 1999.
20 It did not bring much relief, however, because it took
21 no time for the same trading companies that had been
22 dumping the Russian product to flood the market with
23 ammonium nitrate from Ukraine.

24 The Ukrainian imports first entered in
25 January of 2000 -- basically there was a one month

1 break between the last Russian dumped imports and the
2 Ukrainian entries -- and the first 11 months of 2000
3 brought in more than 300,000 tons of ammonium nitrate.
4 This was product that had been virtually absent from
5 the U.S. market in prior years.

6 As Exhibit 1 of the prehearing exhibits that
7 you have before you shows, you get a pretty clear
8 picture if you take a look at that graph of what
9 happened, how quickly Ukrainian products simply
10 displaced what had been coming in from Russia and
11 actually exceeded the very high levels that the
12 Commission had found to be injurious.

13 The Ukrainian product, as the Commission
14 found, significantly undersold the domestic product
15 "by large margins," suppressed prices and took
16 significant market share. They prevented the U.S.
17 industry from recovering from the effects of the
18 unfair trade in Russian nitrate.

19 The Ukrainian imports were, simply put, the
20 second part of a one-two punch that the trading
21 companies inflicted on the industry in very rapid
22 succession. The industry had no choice, therefore,
23 only about two months after the Commission's
24 affirmative ruling in the Russian case to come back to
25 the Commission in October of 2000 and petition for

1 relief against Ukrainian product.

2 The swiftness with which the traders simply
3 shifted sourcing and the quantities of product that
4 they brought in, a product which had never really been
5 present in the U.S. market at all before, were just
6 remarkable.

7 In this five-year review, the Commission's
8 analysis, which is necessarily predictive, should not
9 in our view be a very difficult one. The Ukrainian
10 industry, which is the second largest in the world,
11 second only to Russia, is export oriented and has
12 significant underutilized capacity.

13 Its imports are restricted by dumping
14 measures in other key importing markets, including
15 Europe and Brazil, and China has also closed its
16 borders. In its home market, Ukrainian producers are
17 being faced with an onslaught of imports from Russia,
18 which is also restricted in several key markets and is
19 desperately looking for outlets for its production.
20 Last year, Russian imports were equal to almost half
21 of the Ukrainian market.

22 On the U.S. side, the Commission closely
23 examined this industry just a year ago and made a
24 number of important findings that are applicable in
25 this review. The U.S. industry has consolidated,

1 rationalized and restructured. Of the 10 producers
2 who were in existence in the original POI almost all
3 are gone. Only two are in existence today.

4 Some of those producers of the 10 were
5 unable to withstand the initial three consecutive
6 seasons of unfair imports from Russia and Ukraine and
7 closed their doors even before relief could be
8 granted. Others exited more recently in response to a
9 shrinking of the market.

10 As the Commission recognized just last year,
11 the U.S. nitrate market is shrinking. Distributors
12 and dealers have ceased handling AN in response to
13 increased costs and security requirements.

14 The remaining two U.S. producers, Terra
15 Industries and El Dorado Chemical Company, both of
16 whom will testify this morning, are facing a declining
17 market and continuing high average natural gas prices.

18 Natural gas is the primary raw material that
19 ammonium nitrate is made from. It is a feedstock, not
20 just an energy source, and it is not surprising,
21 therefore, that the Commission found the industry to
22 be vulnerable to material injury from resumed unfair
23 trade given the high price of gas combined with a
24 shrinking market.

25 The U.S. industry has improved its financial

1 condition since the Ukrainian order was imposed in
2 2001. As was the case with the Russian Suspension
3 Agreement, the order has benefitted the consolidating
4 industry by preventing unfairly traded Ukrainian
5 nitrate from underselling, causing price depression
6 and stealing market share in this declining market.

7 U.S. producers' prices and the industry's
8 financial condition have been able to improve despite
9 record high gas prices, contracting demand and
10 increasing nonsubject imports.

11 As the Commission found just a short year
12 ago and for the same reasons, this industry remains
13 vulnerable. A revocation of this order would result
14 in precisely the same situation that existed, or
15 worse, in 2000.

16 Ukrainian imports would promptly flood the
17 U.S. market at prices that undercut U.S. producers, as
18 well as other imports, to gain market share. U.S.
19 producers would again be placed in a cost/price
20 squeeze, and the two remaining U.S. producers would be
21 placed at risk.

22 Based on the extensive information that has
23 been collected by the Commission and discussed in
24 excruciating detail in our prehearing brief, as well
25 as the testimony that you will hear today, we believe

1 that this Commission must reach the same result that
2 you did unanimously just a year ago, and that is that
3 the industry is vulnerable and a revocation of this
4 order would be likely to lead to recurrence of injury.

5 This morning we have witnesses from both
6 Terra Industries and El Dorado Chemical, and we're
7 going to have each of them speak to you. Mr. Klett
8 will make a brief comment on some of the economic
9 parameters, and then what we'd like to do,
10 particularly since most of the Commission has recently
11 looked at the industry, is to leave most of our time
12 for your questions.

13 I'd like to start this morning with Mr.
14 Green from Terra Industries.

15 MR. GREEN: Thank you. Good morning, Mr.
16 Chairman, members of the Commission and Commission
17 staff. My name is Matt Green. I am the Director of
18 Agricultural Sales at Terra Industries, a U.S.
19 producer of ammonium nitrate.

20 I've been with Terra for 12 years and have
21 held my current position since 2000. I am responsible
22 for the North American agricultural sales and
23 marketing of Terra's fertilizer grade ammonium
24 nitrate, all of which is produced in Yazoo City,
25 Mississippi. Terra has owned and operated the Yazoo

1 City plant since acquiring Mississippi Chemical
2 Corporation in December 2004.

3 I appreciate the opportunity to appear
4 before you today to discuss the ammonium nitrate
5 market and why it is so important that the Commission
6 keep the antidumping duty order for Ukrainian ammonium
7 nitrate in place for an additional five years.

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

14 Ammonium nitrate is distinguished from other
15 nitrogen fertilizers such as urea because it has two
16 primary characteristics. First, it rapidly delivers
17 nitrogen to the soil. Secondly, there is less risk of
18 nitrogen loss through volatilization, meaning the loss
19 of nitrogen into the air, when ammonium nitrate is
20 applied directly to the soil.

21 Ammonium nitrate is especially popular in
22 the southeastern United States where its qualities are
23 particularly well suited for the warmer climates and
24 the types of crops planted such as grasses, citrus or
25 where no-till methods are used.

1 In no-till application, fertilizer is
2 applied on top of the soil and is not tilled into the
3 soil. Because fertilizer sits on top of the soil, the
4 qualities of ammonium nitrate are particularly
5 desirable.

6 In regions or in applications in which
7 ammonium nitrate is preferred, the special qualities
8 of ammonium nitrate mean that there is less
9 substitution between ammonium nitrate and other
10 nitrogen products. Ammonium nitrate is used either as
11 a single source fertilizer or is blended with other
12 fertilizers such as phosphate and potash and is then
13 broadcast onto the soil.

14 Farmer demand for ammonium nitrate is
15 concentrated in the spring months, but we are
16 producing and shipping product to the distribution
17 system year round.

18 An important aspect of the ammonium nitrate
19 market is that ammonium nitrate is a commodity product
20 that is manufactured using essentially the same
21 process regardless of where it is produced. Ukrainian
22 ammonium nitrate is a perfect substitute for the U.S.
23 produced product in terms of quality and uses. We
24 know this because the U.S. market absorbed an enormous
25 amount of the Ukrainian nitrate almost overnight.

1 Before 2000, Ukrainian nitrate was virtually
2 unknown to the U.S. market. After the Russian imports
3 became subject to the antidumping case, however, the
4 global trading companies that handled the vast
5 majority of ammonium nitrate exports quickly and
6 easily replaced Russian nitrate with this Ukrainian
7 product.

8 These global traders were able to adjust
9 their sources quickly. In fact, they brought in
10 around 300,000 tons of Ukrainian product in less than
11 a year. That never would have happened if the
12 Ukrainian ammonium nitrate did not meet the quality
13 standards of the U.S. market.

14 Ukrainian product is also identical to U.S.
15 produced ammonium nitrate in terms of marketing and
16 distribution. Importers bring vessels into the
17 coastal ports, including New Orleans and Tampa, and
18 then distribute the product from these ports.

19 As we do, they barge ammonium nitrate
20 through the river system and either sell the product
21 directly in barge quantities to distribution
22 warehouses or distribute by barge or by rail and
23 truck. They compete with product that we distribute
24 from our plant and from our distributors' warehouses
25 by truck and rail.

1 Domestically produced and imported ammonium
2 nitrate are sold through the same distribution
3 channels and compete for the same business. U.S.
4 producers and importers sell to distributors who then
5 resell to dealers or increasingly sell directly to
6 dealers.

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

13 Our customers read weekly publications such
14 as *Green Markets* that publish prices for ammonium
15 nitrate at various locations in the country. They're
16 also aware of imported product that is on the way to
17 the U.S. market and typically purchase this imported
18 product from importers well before it arrives.

19 We change our prices according to our
20 assessment of the market which, depending on the
21 seasonality and the competitive conditions, can be
22 changed daily or monthly. It is also important to
23 keep in mind that every other producer or importer of
24 ammonium nitrate has access to the same information we
25 use to determine price, the prices of one producer or

1 importer, and the effect they have on the entire
2 market.

3 Today the U.S. ammonium nitrate industry
4 faces difficult challenges. As you're certainly
5 aware, natural gas, which is our primary raw material,
6 has been at historically high prices. We can remain
7 profitable only if our prices can rise to levels that
8 reflect our increased cost.

9 In addition, U.S. demand for nitrate is
10 declining. While the market is shrinking, we at Terra
11 believe there will always be a core market for
12 ammonium nitrate, especially in the southeastern
13 United States.

14 Ammonium nitrate will remain the nitrogen
15 fertilizer of choice for certain crops such as bermuda
16 grass, fescue, tobacco, citrus and wheat. It is also
17 well-suited to no-till applications. However,
18 particularly because demand is declining, additional
19 large volumes of unfairly priced supply will seriously
20 disrupt the market.

21 Because Ukraine is a major producer with a
22 capability of shipping large volumes, the antidumping
23 order has been extremely beneficial to the market and
24 continues to adjust to the new demand realities in the
25 United States.

1 Finally, I'd like to repeat that if the
2 order on the Ukrainian ammonium nitrate were revoked I
3 have no doubt that trading companies would begin to
4 import large volumes of unfairly priced Ukrainian
5 ammonium nitrate.

6 They did it in 2000, and since these traders
7 have incentive to move as much volume as possible at
8 any price that covers their cost and yields even a
9 small profit per ton, they would certainly see
10 revocation of the order as a great opportunity of
11 increasing imports of unfairly priced Ukrainian
12 ammonium nitrate.

13 This order is extremely important to Terra
14 Industries, and I urge the Commission to keep the
15 order on ammonium nitrate from Ukraine in place.

16 Thank you.

17 MS. SLATER: I'd like to turn to Mr. Elliott
18 of Terra Industries.

19 MR. ELLIOTT: Good morning. My name is Gary
20 Elliott. I'm currently a market and distribution
21 consultant to Terra Industries, and previously I was
22 Vice President of Marketing and Distribution for
23 Mississippi Chemical Company. I held that position
24 for three years.

25 I have worked in the fertilizer business

Heritage Reporting Corporation
(202) 628-4888

1 since 1968 and in the ammonium nitrate market in
2 various capacities since 1997. I was involved in the
3 market at the time of the Commission's original
4 investigation of both Russian and Ukrainian ammonium
5 nitrate and for most of the period since that time. I
6 currently advise Terra on the ammonium nitrate market.

7 I appreciate the opportunity to appear here
8 today to briefly share with the Commission my
9 perspective on the antidumping duty order and why it
10 continues to be so important.

11 As you may remember from last year's sunset
12 review of Russian ammonium nitrate, Russian imports
13 first appeared in significant quantities in the U.S.
14 market in 1997 and 1998 at prices that were so low
15 that U.S. producers were stunned. We had always had
16 imports in our market, but never imports priced like
17 the Russian product and in such large and growing
18 quantities.

19 All this material was offered by trading
20 companies who wanted to move as much volume as they
21 could. For them, any margin represented a profit, and
22 underselling the market was irrelevant. We had never
23 experienced anything like it in marketing AN.

24 We thought that the antidumping case we
25 brought against Russian product would solve the

1 problem of unfairly priced imports, so we were doubly
2 stunned when Ukrainian imports, which had never had
3 any presence in the U.S. market, literally flooded the
4 market in 2000.

5 We were truly amazed at how quickly global
6 trading companies simply switched from Russian product
7 to Ukrainian product. Not only were the trading
8 companies able to switch sources of AN without
9 interruption, but the imports from Ukraine were being
10 sold at prices that were even lower than the earlier
11 Russian AN imports.

12 We had been forced to lower prices to
13 compete with Russian product and were battered on
14 prices yet again by Ukrainian importers. The U.S.
15 industry struggled to survive as unfair imports from
16 Russia and then Ukraine created major losses in three
17 consecutive planting seasons. A number of producers
18 didn't make it.

19 Today, as a result of the efforts of the
20 unfair imports in the 1998 to 2000 period, the
21 shrinking market and concerns about security
22 regulations in handling, the industry is down to two
23 producers.

24 After the order was imposed on Ukrainian
25 importers we saw our prices recover, and profitability

1 has improved in every year since 2001. More
2 importantly, I can tell you one thing that I believe
3 to be absolutely true.

4 Given the volatile and increasing natural
5 gas prices we have experienced in the last five years,
6 U.S. production would not have survived without the
7 order. It allowed our prices to rise to cover
8 increasing cost, something that would not have been
9 possible if Ukrainian prices had continued to depress
10 the market as they did in 2000.

11 Given what I see in the market and our
12 interactions with traders handling imports, there is
13 no question that the situation would be no different
14 today than it was in 2000. The trading companies
15 handling this product, as they did in 2000, will move
16 as much as they can as fast as they can as long as
17 they can cover their costs.

18 With U.S. demand shrinking and the closure
19 of more U.S. plants, the market is coming into
20 balance. Demand is moving closer to the remaining
21 capacity of U.S. production. At the same time,
22 imports continue to come from other countries,
23 including the Netherlands, Bulgaria, Romania and
24 Georgia, as well as Russia under the terms of the
25 Suspension Agreement.

1 The U.S. market is a very attractive market
2 with central Gulf port locations and easy access to
3 the river system and other forms of transportation.
4 The traders love this market and are well-established
5 here.

6 Several major traders have set up offices in
7 Tampa and have their own marketing capabilities. Some
8 have their own distribution systems. There is no
9 question that the traders have the ability to and will
10 repeat their destructive behavior if this order is
11 revoked.

12 The challenges faced by our industry make it
13 just as important today, if not more important, than
14 it was five years ago for relief to be granted from
15 unfairly traded Ukrainian imports.

16 I hope you will take these factors into
17 account. Thank you.

18 MS. SLATER: Thanks, Gary.

19 We're now going to hear from Mr. Phil Gough
20 of El Dorado Chemical Company.

21 MR. GOUGH: Good morning. My name is Phil
22 Gough, and I'm currently the Senior Vice President of
23 Marketing for El Dorado Chemical Company. I have held
24 this position for 23 years. I have been in the
25 ammonium nitrate market for more than 25 years. I am

1 very pleased to be here today to describe how the
2 antidumping duty order has benefitted the U.S.
3 ammonium nitrate industry and my company.

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

11 Thus, a single shipment of low-priced
12 ammonium nitrate can enter the distribution system and
13 have a major impact on prices as word of availability
14 of the product and its pricing spreads. We saw this
15 in 1998 and 1999 with unfairly priced Russian AN and
16 then again in 2000 with even lower priced Ukrainian
17 product.

18 One of the reasons that these imports had
19 such a negative impact on our industry is the way our
20 industry operates. Even though demand for ammonium
21 nitrate is seasonal, we produce ammonium nitrate year
22 round in order to fully utilize our plants. We
23 therefore must move product into the distribution
24 chain in order to continue to produce efficiently.

25 We have limited storage facilities, so we

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

8 Because all ammonium nitrate is sold through
9 the same channels of trade and stored in the same
10 facilities, the large volumes of Ukrainian product
11 shipped to the U.S. further disrupted a market that
12 hadn't recovered from two years of unfairly priced
13 Russian imports.

14 This material caused problems in a number of
15 ways. First, the Ukrainian product was offered for
16 sale at extremely low prices, forcing us to reduce our
17 prices in an effort to maintain our already reduced
18 market share. In many cases, we lost sales.

19 Second, the influx of large volumes of
20 Ukrainian ammonium nitrate were stored in the same
21 facilities as U.S. produced AN. Storage was quickly
22 filled with Ukrainian product, and U.S. producers had
23 difficulty moving product into the distribution chain
24 and thus maintaining production efficiencies. This
25 glut in the system didn't clear up until early into

1 the 2001 season.

2 Third, the huge volumes of Ukrainian imports
3 had a damaging psychological impact on the market.
4 Our customers had already experienced two years of
5 very low-priced Russian product and expected this
6 pattern to continue. Even though Russian imports
7 stopped, we found that our customers expected large
8 volumes of dumped Ukrainian nitrate to be available
9 and so they did not buy as they usually did in advance
10 of the season.

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

17 After the antidumping duty order on
18 Ukrainian ammonium nitrate was in place, prices began
19 to strengthen by the time we moved into 2001 and we
20 got to our more typical production and sales patterns.

21 Last year, based on environmental
22 improvements we have made, the State of Arkansas
23 granted a permit that allowed us to more fully utilize
24 our capacity to produce high density ammonium nitrate.
25 With the market coming more into balance, we have been

1 able to use some of this newly permitted capacity at
2 El Dorado.

3 Although the order has been incredibly
4 helpful to us during the past five years, the
5 situation has not been easy. We have had to deal with
6 extremely volatile and high natural gas prices, which
7 increased our costs significantly. Also, as Matt just
8 mentioned, our market is shrinking. This is an
9 unfortunate but true fact of life.

10 We have also had to deal with the
11 competition from imports from other countries. Even
12 though these imports have not been priced as low as
13 the Russian or Ukrainian imports, they continue to
14 enter the U.S. market in large volumes, and since
15 demand is declining these imports have challenged the
16 U.S. industry, contributing to continuing oversupply
17 and created significant competitive pricing pressures.

18 I want to take a minute also to talk about
19 the impact of additional corn acreage on the demand
20 for AN. I'm sure you've all been reading about how
21 the growing demand for ethanol is leading to an
22 increase in corn production, which is predicted to
23 increase the demand for fertilizers.

24 It is important for this Commission to
25 understand that ammonium nitrate is not used heavily

1 on corn so we do not anticipate much increased demand
2 for nitrate as a result of increased corn acreage.

3 You can see this pretty clearly in the USDA
4 data which show that the major corn growing states
5 such as Iowa, Illinois, Nebraska, Minnesota and
6 Indiana are not major consumers of AN. In fact, very
7 little AN is consumed in these states.

8 Any increase in demand for nitrogen
9 fertilizers hasn't noticeably affected the price of AN
10 either. A few weeks ago *Green Markets* called AN the
11 "dog" and the "quiet nitrogen," and that is a pretty
12 accurate description of what the market looks like.
13 The corn situation is not having a significant impact
14 on AN demand or prices.

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

17 MS. SLATER: I'd like to turn to Mr. Paul
18 Rydlund of El Dorado Chemical Company.

19 MR. RYDLUND: Good morning. My name is Paul
20 Rydlund. I was the president of El Dorado Chemical
21 Company, a wholly owned subsidiary of LSB Industries,
22 for three years and now serve as vice president. I
23 have been with the company for 23 years.

24 For more than 16 years I was responsible for
25 marketing and sales of El Dorado's industrial grade

1 ammonium nitrate, also called low-density ammonium
2 nitrate. I am also very familiar with the production
3 and marketing of El Dorado Chemical's fertilizer grade
4 ammonium nitrate.

5 I am grateful for the opportunity to speak
6 to the Commission today and to explain some of the
7 factors that make continuing relief from unfairly
8 traded Ukrainian imports so important to our company.

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

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

20 Today I would like to address some important
21 factors about ammonium nitrate production and the
22 ammonium nitrate market that I believe will be helpful
23 for the Commission to understand.

24 First, ammonium nitrate plants, like most
25 nitrogen plants, are capital intensive and designed to

1 run at or near full capacity. Even though demand for
2 ammonium nitrate is somewhat seasonal, we run our
3 plants year round in order to ensure adequate supplies
4 at planting season and ideally at close to capacity to
5 maximize production efficiencies.

6 However, U.S. demand for ammonium nitrate is
7 continuing to decline, and currently El Dorado's
8 fertilizer grade ammonium nitrate capacity is
9 underutilized. Therefore, in order to maximize
10 technical production efficiencies we have shifted all
11 of our ammonium nitrate production to our El Dorado
12 plant.

13 We are producing other products at Cherokee,
14 and our capacity to produce fertilizer grade ammonium
15 nitrate at that plant remains idle. The capacity to
16 produce solid fertilizer grade ammonium nitrate at
17 Cherokee is not limited by our production of other
18 products, however.

19 I also want to talk to you today about a
20 very important aspect of ammonium nitrate production,
21 which is natural gas pricing. Natural gas is the raw
22 material used to make ammonia, which in turn is used
23 to make ammonium nitrate.

24 We purchase ammonia as an input at El Dorado
25 and produce it at Cherokee, but for both plants the

1 price of natural gas is a principal determining factor
2 in our cost. Gas costs have been at historic highs
3 over the last five years, and certain U.S. producers
4 have exited from the ammonium nitrate market as it has
5 declined.

6 However, with the relief from the price
7 impacts we have seen in the past first from unfair
8 Russian imports and then from the Ukrainian material,
9 we have been able to move forward toward
10 profitability, and our prices have been able to rise
11 to cover our costs.

12 In our shrinking market, a return to the
13 unfair pricing of Ukrainian imports would have a very
14 serious negative impact on our operations. We believe
15 there will continue to be a market for ammonium
16 nitrate and that it will be largely in the core
17 consuming states, but we also know that in the next
18 few years it is likely to continue to decline.

19 Finally, I would like to briefly comment on
20 the differences between high-density fertilizer grade
21 ammonium nitrate and low-density industrial grade
22 ammonium nitrate. I noted that the questionnaires
23 asked several questions regarding the uses of the two
24 products and whether they are interchangeable, and
25 there was some discussion of this in the staff report.

1 As I testified at the staff conference in
2 the Russian ammonium nitrate investigation, both
3 products contain the same principal raw materials --
4 ammonia and nitric acid. However, there are two major
5 differences in the production of high-density ammonium
6 nitrate and low-density ammonium nitrate that lead to
7 two distinct products.

8 The first major difference is bulk density.
9 Agricultural grade ammonium nitrate has a high bulk
10 density which results from the higher concentration of
11 ammonium nitrate in the solution used for production.
12 When the prill is dried, because there is more
13 ammonium nitrate in the droplet, there is less
14 porosity in the dried prill.

15 In contrast, a weaker solution is used to
16 produce explosive grade or low-density ammonium
17 nitrate, and when it dries the prill has more spaces
18 or porosity. This porosity allows it to absorb fuel
19 oil and be used as an explosive material.

20 The second important difference between
21 high-density and low-density ammonium nitrate is the
22 friability or the crush strength of the prills. High-
23 density ammonium nitrate prills are stronger and
24 withstand shipping and storage better not only because
25 of the higher density, but also due to the strength of

1 the prill from the internal additive. This better
2 integrity of the high-density prills allows them to be
3 shipped, stored and applied as fertilizer without
4 breaking down.

5 Low-density ammonium nitrate, on the other
6 hand, lacks the physical strength to stand the rigors
7 of the high-density distribution chain. In theory you
8 could use low-density as fertilizer because it's
9 chemically identical, but it would be very
10 unsatisfactory.

11 Some of El Dorado's high-density ammonium
12 nitrate is used for explosives, but only in very, very
13 small quantities and for the specialty market. This
14 represents less than one percent of El Dorado's high-
15 density sales, and it has to be further processed to
16 be used as an explosive.

17 High-density ammonium nitrate and low-
18 density ammonium nitrate serve two different
19 commercial markets, are purchased by different end
20 users, are produced on different equipment, and, to
21 the best of my knowledge, with the exception of El
22 Dorado and Terra U.S. low-density producers do not
23 produce high-density ammonium nitrate. In short, the
24 two products are not, practically speaking,
25 interchangeable and are two distinct products in two

1 distinct markets.

2 In closing, while El Dorado's situation is
3 improving, we are still facing record high raw
4 material costs and shrinking demand. We are still
5 adjusting to the new market realities.

6 We ask the Commission to be mindful of the
7 effect that unfairly traded ammonium nitrate had on
8 this industry in the period before the Russian
9 Suspension Agreement and Ukrainian order and to
10 recognize how serious the negative impact of removing
11 the order would be.

12 Thank you.

13 MS. SLATER: Thank you, Paul.

14 Now for a change of pace, Mr. Klett will
15 regale you with data and colorful charts.

16 MR. KLETT: Good morning, Mr. Chairman,
17 members of the Commission. My name is Daniel Klett.
18 I'm an economist with Capital Trade, Inc. testifying
19 on behalf of COFANT this morning.

20 I will address three issues. First, that
21 Ukraine has significant excess capacity and is export
22 oriented; second, that absent the order the United
23 States would be an attractive market for ammonium
24 nitrate from the Ukraine for a variety of reasons;

25 And, third, that the increase in imports

1 from the Ukraine will result in adverse volume, price,
2 revenue and financial effects to the U.S. industry,
3 particularly in light of the projections of decreasing
4 U.S. demand for HDAN and continuing high natural gas
5 prices.

6 That Ukrainian exporters will revert to
7 preorder behavior is supported by the fact that
8 Ukrainian producers have even more HDAN capacity now
9 than during the original investigation and continue to
10 have significant excess capacity and continue to be
11 export oriented.

12 Exhibit 2 summarizes some of these data,
13 which is based on public information. As you can see,
14 in 2006 the yellow represents roughly 600,000 metric
15 tons of excess capacity, and that also is fairly high
16 in relation to total U.S. apparent consumption.

17 More precise data for the last year of the
18 POI, 2000, which is confidential, is in your
19 prehearing staff report at page IV-11 for comparison.
20 The information for 2005 and 2006 in this exhibit are
21 actually from aggregate questionnaire data of the
22 Ukrainian producers.

23 The United States will be an attractive
24 market for Ukrainian HDAN producers for a number of
25 reasons. First, Ukraine's non U.S. prices are much

1 lower than what they could receive by exporting to the
2 United States on a net back to port basis. Exhibit 3
3 shows this analysis.

4 The basis of this analysis is that it looks
5 at the average price Ukrainian producers are getting
6 for their sales to non U.S. markets at the port of
7 exportation from official Ukrainian export statistics
8 and compares that to potential net back U.S. prices
9 based on *Green Markets'* New Orleans price levels minus
10 ocean freight back to the export port.

11 In this way we can see what Ukrainian
12 producers might have been able to net if they had
13 shipped to the U.S. in recent periods and the relative
14 price attractiveness of U.S. and alternative export
15 markets.

16 As the Commission correctly noted in its
17 sunset review involving Russia, this is a strong
18 financial motivation for trading companies to redirect
19 their shipments from non U.S. export markets to the
20 U.S., particularly with the large potential export
21 volumes involved.

22 Second, the United States is one of the
23 largest ammonium nitrate consuming and importing
24 countries in the world, as shown in Exhibit 6 of our
25 prehearing brief. As long as trading companies are

1 covering their costs, potentially large volumes of
2 exports available by shipping to the U.S. will make it
3 an attractive market with respect to maximizing their
4 total profits.

5 Again, the Commission found this fact to be
6 important in the prior Russian sunset review, and it
7 applies equally to trading companies dealing in
8 Ukrainian ammonium nitrate.

9 Third, Ukrainian ammonium nitrate producers
10 are facing increasingly intense competition from
11 Russian ammonium nitrate in their home market where
12 imports reached almost 390,000 short tons in 2006 as
13 shown in Exhibit 4.

14 Fertecon data in our prehearing brief at
15 Exhibit 6 show Ukrainian apparent consumption. You
16 can see from this that the import volume from Russia
17 accounts for a large share, almost 50 percent, of the
18 Ukrainian market in 2006.

19 Fourth, import restrictions in important
20 export markets, particularly the European Union and
21 Brazil, make the U.S. that much more attractive to
22 Ukraine as an export market.

23 As shown in Exhibit 5, Ukraine exported
24 significant volumes to the EU-15 countries through
25 2000, but virtually none thereafter as the EU order

1 came into effect in 2001.

2 The 10 countries that joined the EU in May
3 2004 continued to import significant quantities
4 through the first five months of 2005. However,
5 starting only in May 2005 where the HDAN duties
6 applied to Ukraine imports into the EU-10 countries,
7 you can see the decline in import volume from that
8 point to the EU-10.

9 Imports of Ukrainian HDAN into the EU-25
10 totalled just 15,000 metric tons in 2006, less than a
11 boatload. This compares to imports into the EU-25
12 totaling over 379,000 metric tons in 2000 and over
13 122,000 metric tons as recently as 2003. This was a
14 major export destination for Ukrainian imports that
15 has been virtually eliminated.

16 Similarly, there are import restrictions
17 into Brazil. As recently as 2003, Ukraine had
18 exported 216,000 metric tons to Brazil, yet in 2006
19 Ukraine exported just 13,000 metric tons as shown in
20 Exhibit 13 of our prehearing brief.

21 Both the EU and Brazil are important major
22 importers of HDAN on a worldwide basis with the EU
23 ranking first in the aggregate and Brazil ranking
24 seventh. For all these reasons, the United States
25 will be an attractive market for Ukrainian HDAN absent

1 the antidumping duty order.

2 During the original investigation, Ukraine
3 increased its export volume to the U.S. through
4 underselling. During the original POI, the margins of
5 underselling compared to U.S. producers' prices were
6 found by the Commission to be significant with
7 underselling up to 24 percent in the most recent
8 period of the POI during 2000.

9 In addition, HDAN imports from the Ukraine
10 into the U.S. during the POI undersold nonsubject
11 imports. There have been no ammonium nitrate imports
12 from Ukraine since the order was imposed. However,
13 based on prevailing U.S. price levels, ocean freight,
14 importer markups and prices charged by Ukrainian
15 producers in non U.S. export markets, it is possible
16 to estimate likely margins of underselling absent the
17 order.

18 The data are confidential because part of
19 the analysis relied on import markup data from your
20 questionnaires. However, the analysis is contained in
21 our prehearing brief at Exhibit 18 and shows likely
22 underselling.

23 The adverse price and volume effects that
24 would result from revocation will have serious adverse
25 consequences to the U.S. industry's profitability.

1 The U.S. producers' financial position has improved
2 steadily since 2001. However, in the original
3 investigation U.S. producers' prices declined in
4 tandem with the decline in HDAN prices from Ukraine,
5 and purchasers confirmed multiple lost revenue
6 allegations.

7 The income statement model in our brief at
8 Exhibit 23 demonstrates that if U.S. producers' prices
9 decline by the level of price suppression found in the
10 original investigation and volume is lost due to
11 market share losses, the result will be significant
12 gross and operating profit losses.

13 As discussed by our witnesses, high and
14 volatile natural gas prices, as well as declining
15 aggregate demand, will continue to be a challenge for
16 the U.S. industry in the future, which makes the
17 industry that much more vulnerable to these adverse
18 effects.

19 Thank you, and I'd be happy to answer any
20 questions.

21 MS. SLATER: Thank you, Mr. Klett.

22 Mr. Chairman, I think in light of the fact
23 that the Commission has so recently taken a look at
24 this industry and the market and also we've given you
25 a very detailed prehearing brief, your staff has done

1 an absolutely fabulous job of putting together a first
2 rate and extremely detailed prehearing report, I think
3 we will end our affirmative presentation at this point
4 and take your questions.

5 CHAIRMAN PEARSON: Thank you very much.
6 Permit me to welcome all of you to the Commission
7 today. I know you have other things that you could be
8 doing -- running business and that sort of thing -- so
9 I appreciate very much that you've traveled here to be
10 with us.

11 I also would like to acknowledge the
12 presence of Mr. Storozhuk and Mr. Mikheyev -- pardon
13 for the pronunciations -- both with the Trade and
14 Economic Mission of Ukraine to the United States.
15 They've joined us to observe.

16 Let's see. The questioning this morning
17 will begin with Vice Chairman Aranoff.

18 VICE CHAIRMAN ARANOFF: Thank you, Mr.
19 Chairman, and I want to join the Chairman in welcoming
20 this panel here today. Thank you for taking time away
21 from your businesses to travel to be with us. I hope
22 your flight into town wasn't too bumpy.

23 Let's see. Mr. Green, let me start with a
24 question for you if I may. Back in the summer of
25 2005, Terra had put out a press release saying that it

1 had agreed to provide up to 50 percent of AN synthesis
2 solution from Yazoo City to Orica for explosive use by
3 2008.

4 Can you update us on what's going on with
5 that relationship and tell us what effect this
6 agreement will have on the availability of domestic AN
7 and whether it leaves an opening for increased
8 imports?

9 MR. GREEN: Ms. Commissioner, I'd like to
10 address the question regarding the change in the
11 relationship with Orica.

12 When Terra acquired the Yazoo City,
13 Mississippi, facility the plant wasn't running at full
14 capacity or being fully utilized, and upon taking that
15 asset Terra had the capital and the ability to make
16 some expansions and try to increase its utilization
17 and efficiencies.

18 In doing so, we felt it necessary to expand
19 our product mix leaving that facility. Orica was in
20 the low-density nitrate business, and Terra, being a
21 newcomer to the industry, faced with security issues,
22 a declining marketplace, we felt it best as a business
23 decision to go ahead and expand and produce, like I
24 say, two to three products and increase our product
25 mix from Yazoo City.

1 In the fall of 2006 we went through the
2 actual changes and modifications to the plant of
3 upgrading the prill tower at that facility to enable
4 us to produce low-density nitrate. At the same time,
5 that capacity of HDAN had not been fully tested
6 because of lack of demand for HDAN in the U.S. At
7 this time we are able to produce HDAN and low-density
8 nitrate through the two prilling towers at that
9 facility.

10 Currently as far as availability, the
11 capacity of HDAN at that facility has not decreased.
12 However, when you are producing HDAN and low-density
13 nitrate the same day the prilling tower has only so
14 much capacity that it can handle so there are days and
15 times in which the product mix at that facility does
16 change, and, without really getting into some
17 confidential information between Orica and Terra, it
18 is reviewed monthly the production volumes that will
19 come from that facility for LDAN, and then Terra looks
20 at the product mix on HDAN.

21 So the product mix can vary monthly, and at
22 this point in time we've been able to supply our ag
23 customer base, the HDAN, what we feel is meeting their
24 requirements. At the same time, production could
25 possibly decrease of HDAN depending on the take of the

1 low-density nitrate by Orica.

2 MS. SLATER: We can provide more detail
3 posthearing. Mr. Green is dancing around it a little
4 bit because of the confidentiality, but we can give
5 you posthearing, Commissioner Aranoff, the details on
6 the current relationship and what the levels of LDAN
7 production look like compared to HDAN and also talk
8 about how it compares to traditional levels of HDAN
9 production there.

10 VICE CHAIRMAN ARANOFF: That would be very
11 helpful. Thank you.

12 This question actually goes off of Mr.
13 Klett's charts and so, Mr. Klett, I'll start with you,
14 but then if the business representatives want to
15 comment on their experience in the market that would
16 also be helpful.

17 If you look at Exhibit 1 and also if you
18 look at the official import statistics in the record,
19 you see that import levels of the Russian product have
20 declined over the last several years and that Russia
21 is not filling its quota under the Suspension
22 Agreement.

23 Given your argument about the desirability
24 of sales in the U.S. market, and indeed that sort of
25 underlies the whole case that domestic producers have

1 put forward that prices are better and, more
2 importantly, that both Russia and Ukraine need to find
3 open markets to move product into, how is that
4 consistent with what we're seeing and can anybody
5 explain why Russian imports are not only not filling
6 the quota, but actually declining?

7 MR. KLETT: This is Dan Klett. I think with
8 Russia with respect to why imports are declining,
9 there's a reference price, and due to the reference
10 price and the prevailing price in the U.S. that has
11 some effect on what Russia exports to the U.S. under
12 the Suspension Agreement.

13 I think another issue with respect to the
14 attractiveness of the U.S. market, and it's not on
15 this graph, but I think it is relevant, is if you look
16 at nonsubject imports from other countries and in
17 particular Romania, Georgia, Netherlands, Bulgaria,
18 from 2005 to 2006 imports from the other nonsubject
19 countries increased by roughly 60 percent.

20 I know in the Russian case we heard an
21 argument that there were some infrastructural
22 constraints to allowing nonsubject imports into the
23 U.S. market. I think based on what we see in 2006
24 with respect to nonsubject imports other than Russia
25 that does show that the U.S. is an attractive market

1 because those imports have increased significantly.

2 Russia is a little bit of a different
3 situation due to the effects of the Suspension
4 Agreement and how that affects exports from Russia to
5 the U.S.

6 VICE CHAIRMAN ARANOFF: Okay. I continue to
7 struggle with that a little bit because, as you know,
8 there has been a significant increase in nonsubject
9 imports from other parts of the former Soviet Union
10 and eastern Europe and yet you've also all testified
11 this morning that the orders have had a price benefit,
12 so these producers under that theory can't be as low
13 priced. It doesn't all quite fit together if Russia
14 is lower priced and Ukraine is lower priced.

15 MS. SLATER: If I can clarify, Commissioner
16 Aranoff, the Suspension Agreement is a rather unusual
17 formulation. It was one of the first of its kind.

18 It has both pricing and volume provisions
19 and so it actually establishes a floor price and a
20 minimum export price that Commerce sets out weekly.
21 Every Monday we get faxes from the Commerce Department
22 indicating what the weekly price acts will be. The
23 price of Russian exports to the United States are
24 controlled entirely by that agreement.

25 The drop that you see in the Russian exports

1 in 2005 and 2006 is partly a function of the operation
2 of the agreement and some particular terms of the
3 agreement, I think as you heard during the Russian
4 review, that are currently under discussion to be
5 revised because with certain changes in the market
6 we've been very actively engaged in Commerce on that
7 score.

8 We do believe, however, that when you begin
9 to see the import data from 2007 that situation is
10 reversing. Some of the particular issues that have
11 arisen under that agreement have been resolved because
12 of some changes in the market recently.

13 We've had imports in February and there have
14 been market reports that the Russian quota for 2007 is
15 fully subscribed. We won't know until we actually see
16 it hit the ports, but with respect to Russia it's an
17 anomaly that has to do with the pricing under the
18 agreement.

19 Absent the Russian order, we would certainly
20 have seen what's happened with the nonsubject imports
21 would have characterized Russia. I will say the
22 pricing from Russia and Ukraine absent -- put aside --
23 the order has always been significantly below these
24 other countries.

25 We see it in third country markets, and we

1 saw it here during the periods when they were coming
2 in outside of the antidumping agreement and before the
3 order on Ukraine.

4 VICE CHAIRMAN ARANOFF: Okay. I appreciate
5 those answers, and whatever you can do confidentially
6 to add more detail would be helpful.

7 I'll wait until my next round. Thanks, Mr.
8 Chairman.

9 CHAIRMAN PEARSON: Commissioner Okun?

10 COMMISSIONER OKUN: Thank you, Mr. Chairman,
11 and I join my colleagues in welcoming all of you here
12 today, including our visitors from the embassy. I
13 appreciate you being here.

14 If I could just continue along the lines of
15 the Vice Chairman with regard to the role of
16 nonsubjects?

17 Maybe the producers could comment on how
18 they've seen the nonsubject pricing in this market
19 because one of the things that I think we'll need to
20 take into account is when we look at what we've said
21 in the original investigation versus here and even in
22 the Russian when we talked about the extent of
23 Ukrainian underselling, including underselling during
24 the original investigation of other nonsubject
25 producers.

1 Here we do have new entrants in the market,
2 Romania. As I said, it looks like there's a lot of
3 new entrants from the nonsubjects if you put aside
4 Russia. I'm interested in how the nonsubjects are
5 priced in this market and whether you have any sense
6 of the nonsubjects, how they perform in other markets,
7 because to the extent your Exhibit 20 doesn't really
8 cover these new entrants.

9 You talked about the Ukrainians underselling
10 other producers in other markets. When I was looking
11 at it it seemed to me that with Romania and a couple
12 of these others it's not clear to me how the
13 Ukrainians perform against them.

14 So maybe first to the producers. In terms
15 of the market right now, a lot of nonsubject in here.
16 Can you give me any sense of how you see their product
17 or their pricing or anything else we should take into
18 account?

19 MR. GOUGH: Well, I guess as we've stated,
20 you know, we have had competition, and they do make it
21 tougher, but they haven't brought it in at the pricing
22 levels that we had seen with Russia or Ukrainian
23 product.

24 You know, I think Romania, Bulgaria and
25 product from Yara, those have been there. I guess

1 really the only new entry country that we have seen in
2 the past two years is from Georgia.

3 Again, you know, I guess when we started
4 this six or seven years ago we always stated that
5 we're not against imports. We're just against
6 unfairly traded imports. While yes, these are in the
7 marketplace, they have just never been at the levels
8 we saw with Russian and Ukrainian product.

9 Now, as far as the rest of the world, and
10 maybe Dan can sit there and have some figures on this,
11 but I think why those nonsubjects come here is because
12 they find it hard to sit there and go compete with
13 Russia and Ukrainian product in other parts of the
14 world.

15 COMMISSIONER OKUN: Okay. Any other
16 comments on that?

17 (No response.)

18 COMMISSIONER OKUN: Okay. Let me just go
19 back briefly with regard to the reference price. I
20 know you're going to submit some more information
21 posthearing, but just remind me.

22 You're saying the reason they're not in here
23 is because the reference price is above? I guess
24 they're not in here because the reference price is
25 above what the U.S. market price is even with prices

1 rising? I was a little confused by that.

2 MS. SLATER: It begins to make a little more
3 sense if you start from the basic premise that almost
4 all of the exports that are brought into this market
5 are handled through trading companies and so when a
6 trader is out there looking for sources he wants two
7 things: He wants the best price he can get at the
8 foreign port, and of course volume is always an
9 important factor in figuring out what his profit is
10 going to be.

11 For a trader to go back to Russia, which is
12 constrained at this point by the Suspension Agreement,
13 if he can get a better price that's going to yield him
14 a better net back somewhere else he will go there in
15 part because the Suspension Agreement was designed at
16 a time when we had a particular ocean freight
17 component so we calculate the -- I don't know how much
18 of this you really want to hear, but we calculate the
19 reference price under the Russian Suspension Agreement
20 by starting with a Midwest U.S. price, and we back it
21 down all the way to the Russian port in essence.

22 We had set components for ocean freight, for
23 inland transportation and even a very generous
24 provision in there for trader markup because, of
25 course, we didn't exactly know what it would be. The

1 notion was to make sure that the Russians could ship,
2 so we put in amounts and even agreed to amounts that
3 frankly we thought were pretty generous because we've
4 all learned over the years if agreements don't work
5 for both sides they're not going to last.

6 That was done, and as you can see it was
7 actually extremely successful. There was a change in
8 the ocean freight component, which we've actually been
9 negotiating and talking to the Commerce Department
10 about for some time. I think it became clear after a
11 while, correctly so, there needed to be some
12 adjustment.

13 Commerce has put changes on the table. I
14 mean, they've affirmatively proposed changes which
15 were not acceptable, and my understanding is the
16 Russian industry is now seeking a shift to an entirely
17 different market economy agreement.

18 Not to get off point, because the ocean
19 freight went up -- I mean, looking at this chart you
20 can see it sort of in the 2004 period when freight,
21 and generally you heard that in a lot of your reviews
22 I think. That began to cut into trader markups and so
23 they started looking elsewhere.

24 COMMISSIONER OKUN: Okay. They're looking
25 for a lower price nonsubject?

1 MS. SLATER: The traders. Exactly. Other
2 even fairly traded, and this was the problem that the
3 Russians saw, and frankly we hate to say these things
4 on the record, but I have said it to the Russian
5 counsel. The industry has also seen that things have
6 shifted, and there was some need for adjustment.

7 We would have thought, to be honest with
8 you, it would have been fixed some time ago, but the
9 Russians weren't happy with the proposal that Commerce
10 put on the table.

11 COMMISSIONER OKUN: Okay. I appreciate
12 that, and I will look forward to the additional
13 confidential --

14 MS. SLATER: We can give you some details
15 confidentially.

16 COMMISSIONER OKUN: That would be helpful.
17 Okay. Help me out also going to the demand
18 question. I think it was you, Mr. Gough, who talked
19 about the fact that there's been an increase in
20 ethanol use and the corn planting isn't really
21 affecting demand for this particular product because
22 that's not where most of the corn is grown.

23 I think maybe you covered this in your
24 brief. To the extent we see fast growing states I
25 guess on a percentage basis like Mississippi and

1 Arkansas where corn plantings are increasing, your
2 point is still that they're just not large corn
3 producing states overall and therefore won't be
4 driving demand. I just want to make sure I
5 understand.

6 MR. GOUGH: Well, yes. It's not that the
7 increase of corn acres isn't significant. Those
8 aren't significant on a percentage basis in some of
9 these states, but in Texas we have 13 retail centers
10 ourselves, and of those, eight are in areas where we
11 have corn, milo, cotton, but we also have Bermuda
12 grass, we have rye grass, we have wheat, and I can
13 speak from our own personal experience with our ag
14 centers that the increase in corn acres hasn't
15 resulted in an increase in ammonium nitrate use.

16 You know, our bread and butter in our
17 industry, just like our locations in Texas, one of the
18 core states for ammonium nitrate, 60 percent of our
19 sales happen in April, May, and June. Basically, once
20 the summer grasses kick in down there, that's when we
21 see our big usage. In our own case, and where we
22 market, we just haven't seen nitrate capture any of
23 those corn acres.

24 COMMISSIONER OKUN: Okay. Do you have any
25 sense -- I'm not sure we have a lot of information

1 about this in Chapter 4, but just on a global basis,
2 the demand for HDAN, where it's going? I think we had
3 it kind of going up some places and going down in the
4 staff report, and I wondered if the producers here
5 have any sense, in reading these industry
6 publications, what things look like going forward, or
7 what their sense of it is in terms of where demand is
8 increasing and where it's not, if there is anything
9 else you could add.

10 MR. ELLIOTT: The last numbers that I've
11 seen, put together by the International Fertilizer
12 Association, kind of reflects a flat market, like you
13 said. It's up in some countries but has fallen
14 overall, on a world-demand basis, it's been flat to
15 slightly declining.

16 COMMISSIONER OKUN: Okay. Mr. Klett, I'm
17 not sure if this question should go to you. In the
18 staff report, on 5-24, we have Figure 5-6, which is
19 that single nutrient, nitrogenous fertilizers tracking
20 urea HDAN, UAN, and anhydrous ammonia. I seem to
21 recall an earlier case where we spent a lot of time on
22 this particular chart because you see them tracking so
23 closely.

24 It would be helpful for me to hear what you
25 think this chart tells us, looking forward, with

1 regard to whether there is any difference in what we
2 see, an increase in corn plantings for some of these
3 other products and how that's going to affect prices
4 vis-à-vis for the HDAN product. Is there anything in
5 particular we should be looking at when --

6 MR. KLETT: I don't have the staff report,
7 but I think you're looking at the price relationships
8 of the various nitrogen fertilizers.

9 COMMISSIONER OKUN: Yes, the price
10 relationships.

11 MR. KLETT: With the increased corn acreage,
12 that may result in increased demand for the other
13 nitrogen fertilizers: urea, ammonia, and UAN. Over
14 time, there has been a correlation between the various
15 nitrogen fertilizer prices, but, first of all, it's
16 not all demand driven. Part of that is they are all
17 subject to the same natural gas cost inputs, so that's
18 a supply side factor that results in some of the
19 correlations we see.

20 On the demand side, to the extent there is
21 not a whole a lot of substitutability between HDAN and
22 the other nitrogen fertilizers, and demand increases
23 for the other nitrogen fertilizers, due to corn, may
24 result in price increases for these other nitrogen
25 fertilizers.

1 There may be a slight, indirect effect on
2 HDAN, to the extent that, in the fringe markets, some
3 customers that might have been thinking about
4 switching from HDAN to other nitrogen fertilizers
5 because of the security issues with HDAN, as you
6 recall from the Russian case, you may not have some of
7 that switching going on at the margin.

8 But I don't think there is going to be a
9 huge effect, and I think also, if you look at these,
10 it's not quite clear from this exhibit, but there is
11 an exhibit in our prehearing brief that, I think, goes
12 through March of '07, where we've looked at the
13 premium of HDAN versus urea, and from about July '06
14 through the present, you actually see a sharp fall-off
15 in the HDAN premium, on a dollar basis, relative to
16 urea.

17 COMMISSIONER OKUN: Okay. Mr. Klett, I
18 should not have posed that question with the yellow
19 light on because I did have some more follow-up, and
20 my red light has been on for some time.

21 MR. KLETT: Okay. Thank you.

22 COMMISSIONER OKUN: I will come back because
23 I have some other questions, and I apologize for that,
24 Mr. Chairman.

25 CHAIRMAN PEARSON: That's okay. We're

1 unlikely to be here late into the evening tonight, so
2 we can cut a little slack there.

3 Commissioner Lane?

4 COMMISSIONER LANE: Good morning. I, too,
5 welcome the panel to today's hearing.

6 I want to follow up on some questions that
7 Commissioner Okun discussed about the trading
8 companies. In previous ammonium nitrate
9 investigations and sunset reviews, the Commission
10 found that HDAN exports were typically arranged by
11 trading companies and Mr. Elliott talked about that
12 this morning.

13 Have these trading companies continued to
14 evolve in recent years since the original
15 investigations, and do they continue to play a
16 predominant role in the global distribution of HDAN?

17 MR. GOUGH: Well, when you say "evolve," are
18 you talking the number of traders that are out there
19 today?

20 COMMISSIONER LANE: Are they just getting
21 more and more involved in this particular global
22 market for the product?

23 MR. GOUGH: I don't know that it's any more
24 or less than it has been. It's pretty much the same
25 trading companies that have been in this market for a

1 number of years. I think we saw, over the past two
2 years, the new entry into this was Ameropa, but, for
3 the most part, it's the same five, six, seven traders
4 that bring the majority of the product over here.

5 COMMISSIONER LANE: Are they the same
6 trading companies that were bringing or continued to
7 bring the product from Russia, and then when the order
8 went on Ukraine, these same trading companies then
9 just switched to Russia.

10 MR. GOUGH: Yes, they did.

11 COMMISSIONER LANE: So are you testifying,
12 then, that because of the way the product is sold,
13 that if these orders come off, these trading companies
14 will then go back to the Ukraine and start bringing
15 more into this country?

16 MR. GOUGH: Yes. That's exactly what we
17 expect to happen.

18 COMMISSIONER LANE: And do these trading
19 companies, do they handle other products other than
20 ammonium nitrate?

21 MR. GOUGH: Yes, they do.

22 COMMISSIONER LANE: And they operate
23 globally.

24 MR. GOUGH: Yes, they do.

25 COMMISSIONER LANE: Okay. Thank you.

1 MS. SLATER: Commissioner Lane, I would just
2 add to that. We have to be, obviously, careful. The
3 foreign producer questionnaires asked the Ukrainian
4 producers to identify their largest export customers,
5 and I would refer the Commission to those responses.
6 I think that would also be helpful to your question.

7 COMMISSIONER LANE: Okay. Thank you. I
8 have sort of a long question here, and you may not be
9 able to answer it because it contains confidential
10 information, but I will pose it to you.

11 At page 39 of your prehearing brief, you
12 discuss the expected pricing for imports from Ukraine
13 if the order is revoked. In that discussion, you
14 refer to Exhibit 18, which includes 2005 and 2006
15 prices for nonsubject imports and the United States
16 production. The prices shown on your Exhibit 18 are
17 stated on a per-metric-ton basis, and the unit values
18 in the staff report are on a short-ton basis.

19 In comparing the prices per ton shown on
20 your Exhibit 18, both for nonsubject imports and
21 domestic sales, with the unit values shown in the
22 status report on Appendix C-1, there appears to be a
23 significant difference in unit values.

24 If I convert the Appendix C-1 nonsubject
25 import unit values or the domestic shipment unit

1 values to a metric-ton basis, I'm not getting the same
2 numbers that compare with your Exhibit 18. I won't
3 mention the numbers, since some of them are
4 proprietary, but can you explain why the comparison of
5 the unit values from your Exhibit 18 and staff's Table
6 C-1 should not, at least, be fairly close?

7 MR. KLETT: Commissioner Lane, this is Dan
8 Klett. I prepared that exhibit, so I'll answer. They
9 should be very close, and I would have to actually
10 look at the numbers to explain why there may be some
11 disparity.

12 One possible explanation would be I excluded
13 Canada from my nonsubject imports. I don't know if
14 that's the explanation or not, but Canada is a large
15 importer in Exhibit E, based on census data, and most
16 of that is nonsubject load density. So that could be
17 one explanation, but I would have to actually look
18 into the data, and I would be happy to try to explain
19 the disparity in the post-hearing brief.

20 COMMISSIONER LANE: Okay. Thank you.

21 Domestic industry productivity has increased
22 between 2001 and 2006, with a significant increase in
23 productivity occurring between 2004 and 2005. Am I
24 correct to conclude that market restructuring drove
25 much of this increase, and what factors, if any, also

1 contribute to this trend?

2 MR. GOUGH: Well, I think what we've done,
3 you know, with the elimination of some other producers
4 in this country, we've seen some consolidation, and
5 we've kind of seen this marketplace, over the past few
6 years, come back into some balance. You know, that's
7 really why El Dorado Chemical made the investment they
8 did on sitting there trying to get a permit to produce
9 more product to better utilize our facilities.

10 As I stated earlier, we have seen some
11 benefit to this capital that we spent and would be
12 more than happy to go back from even January 1st this
13 year through April and show this increase.

14 COMMISSIONER LANE: Okay. Thank you.

15 USDA is forecasting a record increase in
16 coarse grains of 12.8 million acres in fertilizer year
17 2007, ending June 30, and wheat acreage is projected
18 to be up five percent. Are your respective firms
19 experiencing relatively heavier demand for subject
20 ammonium nitrate this spring as a result?

21 MR. GREEN: Yes, Commissioner. In the
22 marketplace in which Terra is distributing our HDAN,
23 currently we are not seeing a significant increase in
24 2007 on wheat or these other coarse grains that you
25 might anticipate.

1 COMMISSIONER LANE: Okay. Thank you.

2 Does anyone else want to respond?

3 MR. GOUGH: Well, the area we have seen the
4 increase, and, again, our marketing area is a little
5 bit different on the west side of the Mississippi than
6 what they may experience on the east side. We went
7 through two years of drought. Forage, throughout a
8 lot of the states, has been depleted. So the increase
9 we have seen is on forages, such as rye grass, grazing
10 wheat, fescue.

11 Some of these growers are trying to sit
12 there and get as much forage produced now as they can
13 to restock for this next coming year, especially given
14 the forecast, say, for Texas for April through June.
15 They are still forecasting drier-than-normal
16 conditions, so we have seen a push by a lot of the
17 forage producers to sit there and try to grow some
18 forage, not coarse grains, no.

19 COMMISSIONER LANE: Are you going to be
20 expecting any shortages?

21 MR. GOUGH: Shortages on --

22 COMMISSIONER LANE: -- on the product.

23 MR. GOUGH: On product, I don't think any
24 more than you're going to see in a typical year where
25 logistics -- all products, at some point in time, may

1 sit there and find a time period where products may
2 sit there and be tight for a while.

3 COMMISSIONER LANE: Okay. I'm going to try
4 to ask a short question here.

5 What effect, if any, has the movement toward
6 growing organic products impacted your business?

7 MR. GOUGH: Again, boy, we're so much forage
8 related. I know in our trade areas, we have a few
9 dairies that have gone organic, but, boy, I guess it's
10 such a small percentage, I really haven't seen any
11 impact.

12 COMMISSIONER LANE: Okay. Thank you.

13 Mr. Green?

14 MS. GREEN: Yes, Commissioner. Likewise,
15 from Terra, it would be such an insignificant amount,
16 it's not measurable.

17 COMMISSIONER LANE: Okay. Thank you.

18 Mr. Chairman, I will wait until my next
19 round.

20 CHAIRMAN PEARSON: Commissioner Williamson?

21 COMMISSIONER WILLIAMSON: Thank you, Mr.
22 Chairman. I do want to welcome the panelists, and
23 I've appreciated the testimony they have given us and
24 the time they have taken to give it.

25 I just want Mr. Gough to clarify something

1 for me. He mentioned the fact that AN is the dog and
2 the quiet nitrogen. Now, I do recognize the
3 expression, "This dog doesn't bark," and that relates
4 to the quiet nitrogen, but a dog is often something
5 that's more negatively talked about, and I wanted to
6 get clarification as to what you meant in terms of the
7 role of AN in the market.

8 MR. GOUGH: Well, in Green Markets
9 reference, what they were referencing is that while
10 the other nitrogen products, in particular, urea and
11 UAN, have escalated rapidly over the past couple of
12 months, ammonium nitrate hasn't made the same move.

13 If you go back to, say, a year ago, and just
14 look at the March pricing in the Gulf for urea and
15 UAN, nitrate was trading around six cents per unit
16 higher than those two products, and the same time
17 period, just the Monday edition, nitrate was one to
18 two cents cheaper on a per-unit N basis than those two
19 products.

20 So, basically, they were just referring to
21 the ammonium nitrate market had not escalated like the
22 other two nitrogen sources had, and it was just
23 lagging behind.

24 COMMISSIONER WILLIAMSON: For the customer
25 base that you described, it's still a good product.

1 MR. GOUGH: Oh, yes. It has nothing to do
2 with --

3 COMMISSIONER WILLIAMSON: Okay. I just
4 wanted to make sure. Thank you.

5 I was also wondering about -- there has been
6 quite a bit of reference to the traders, and
7 Commissioner Lane has also asked several questions on
8 that, but do these trading companies handle the
9 products from Romania, the Netherlands, and some of
10 the other places that are fairly traded that remain
11 significant in the U.S. market?

12 MR. GOUGH: Could you repeat that again?

13 COMMISSIONER WILLIAMSON: There was a lot of
14 reference to traders and the importance that they play
15 in terms of bringing in the imports from Russia and
16 the Ukraine, and I was just clarifying, are they the
17 ones that mainly handle the products coming in from
18 the fairly traded, nonsubject imports like Romania?

19 MR. GOUGH: Yes, they are. They buy the
20 product from these nonsubject companies, set up the
21 freight, bring the product over, and then disburse it
22 once it's here.

23 COMMISSIONER WILLIAMSON: Okay. So, in a
24 sense, they can handle fairly traded as well as
25 nonfairly traded products.

1 MR. GOUGH: Yes, they sure do.

2 MR. KLETT: Commissioner Williamson, this is
3 Dan Klett. In one of our exhibits in our prehearing
4 brief, we have excerpts from the Piers Report, which
5 actually names the importer into the U.S. from these
6 fairly traded countries, and it does include traders
7 such as Transammonia, Oakley, Ameropa, Key Trade,
8 ConAgra, which are the trading companies that deal
9 with subject imports outside the U.S. in non-U.S.
10 markets as well.

11 COMMISSIONER WILLIAMSON: Thank you.

12 There are some new rulings that are expected
13 out from Homeland Security, and they are going to
14 probably cover ammonia, ammonium nitrate, and urea and
15 potassium nitrate. How will these new rulings affect
16 the ammonium nitrate industry, in particular?

17 MR. RYDLUND: This is Paul Rydlund. The
18 rulings will have a significant cost impact on
19 ammonium nitrate, and the rulings will also impair the
20 ammonium nitrate market in terms of volumes and
21 quantities.

22 COMMISSIONER WILLIAMSON: I'm sorry, I just
23 that I lost my place here; just a second. Given the
24 downsizing and the consolidation in the industry as
25 described at page 18 of your pre-hearing brief, I was

1 just wondering, isn't the market -- isn't the domestic
2 industry in a much stronger financial position than it
3 was during the underlying investigation or even during
4 the Russian review that was conducted last year?

5 MS. SLATER: Let me take a quick answer, but
6 I think you probably want to hear more from the
7 industry. Definitely, you can see there's been an
8 improvement consistently over the period since the
9 Ukranian order went into place. A key factor -- and
10 there's no question that things are better now than
11 even a year ago. But, a key factor, if you take a
12 look at it, has been the ability of prices to rise to
13 cover the natural gas costs. You can see in the very
14 nice analysis that your staff put in showing the
15 changes that have occurred over the period, the
16 variance analysis, what's been key is this ability of
17 prices to rise.

18 So, the answer is, yes, the industry is in a
19 better position, but the vulnerability that was there
20 a year ago remains, because of the fact that gas
21 prices remain so high. Downward pricing pressure from
22 the imports would put us right back where we were a
23 year or two years and certainly five years ago.

24 Anybody else?

25 MR. RYDLUND: I think the comment is that

1 the -- and, again, it's basically what I said, was
2 that the industry has gotten better simply because of
3 the supply has become more in balance with the demand
4 of the market.

5 COMMISSIONER WILLIAMSON: Anyone else want
6 to add to that?

7 MR. KLETT: Commissioner Williamson, this is
8 Dan Klett. I just might also add, even with the
9 decline in the industry in the consolidation and the
10 reduction in U.S. capacity, and a corresponding
11 decline in demand, so that even though things are
12 better, it's not such that you've had a consolidation
13 of the industry such that things are so tight that it
14 could pull imports in. I mean, essentially, capacity
15 reductions and demand reductions since 2000 have been
16 roughly the same.

17 COMMISSIONER WILLIAMSON: Thank you. I was
18 curious about -- and employment doesn't seem to be --
19 I mean, these plants have taken and employ a great
20 deal, a great number of workers, but I was just
21 curious about the employment trends in the industry
22 and what impact, say, if the orders were lifted, what
23 impact that might have on that. It seems like wages
24 may have improved a little bit, but that's not a major
25 thing I saw. Anyone want to address that?

1 MS. SLATER: Certainly, the employment
2 that's been lost over the last six or seven years as
3 plants have closed has been significant and a lot of
4 that employment, Commissioner, was lost early on, as a
5 result of the first -- the onslaught over those three
6 seasons. I mean, that was a tremendous loss of
7 employment. We're down now to the two -- basically,
8 the two producers that are most efficient frankly and
9 best positioned to serve the markets, the niche market
10 for ammonium nitrate. The employment, I think, you
11 know the best comment we can make and maybe we can put
12 something in more detailed, because of the
13 confidential nature, post-hearing, but certainly if
14 you're looking at putting those plants at risk, you
15 know, those plants are -- have a significant number of
16 workers that are dedicated to the production of this
17 particular product. And I think I'm just reluctant
18 because of the confidential nature, but we can give
19 you a little bit more on the particular effects for
20 each plant post-hearing.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.
22 I'll appreciate seeing that. I'm more curious about
23 the impact that it's having in the towns where the
24 plants are located.

25 I was wondering about the role of calcium

1 ammonium nitrate. Given the impact, I guess security
2 is not an issue in the usage of this product. And I
3 guess it's also widely used in these other places like
4 the EU. So, I was wondering what impact is that going
5 to have on them? Is it likely to grow in usage in the
6 U.S.? Is that a potential threat for you?

7 MR. GREEN: Mr. Commissioner, regarding the
8 calcium ammonium nitrate, in the southeast part of the
9 U.S., we saw only a very little product used in the
10 past few years and just more recent in the last, I
11 guess, the first half of 2007, we've already seen some
12 calcium ammonium nitrate come into the east coast and
13 southeast. It's being distributed, displacing some
14 ammonium nitrate. I can't say 100 percent that it was
15 due to security. It might have had something to do
16 with price. But, it's probably a combination factor
17 knowing the party that purchased this vessel.

18 COMMISSIONER WILLIAMSON: Okay. Thank you.
19 That's all.

20 CHAIRMAN PEARSON: Commissioner Pinkert?

21 COMMISSIONER PINKERT: Thank you, Mr.
22 Chairman. I would like to join my colleagues in
23 welcoming this panel and thanking you for your
24 testimony and for being here. I would like to start
25 with Mr. Klett, if I could. I'm looking at Exhibit 3,

1 which is entitled, 'U.S. price premium over Ukraine
2 prices.' And I note that Ukraine prices, as reflected
3 in Exhibit 3, are export price based. Do you have any
4 sense of where Ukrainian domestic prices are?

5 MR. KLETT: We have from the Ukrainian
6 foreign producer questionnaires average unit values
7 for their home market sales and the data are
8 confidential. We can provide that in our post-hearing
9 brief. But, my recollection generally is that the
10 home market prices are -- Val tells me to cut it off.
11 But, we do have the information. We can provide that
12 in the post-hearing brief. It is available in the
13 foreign producer questionnaires as AUVs for their home
14 market sales.

15 COMMISSIONER PINKERT: Okay. Well, just one
16 follow-up on that point and I hope you can talk about
17 this without revealing any proprietary information.
18 But, is it your testimony that the Ukrainian exporters
19 cannot sell into the United States without dumping in
20 a price-to-price sense?

21 MS. SLATER: Let me just if I might answer
22 that. We've seen in the five years that the order has
23 been in place, Commissioner, we have seen no
24 shipments, no requests for administrative review and
25 that's -- even though Ukraine has been, as you know,

1 graduated to market economy status, there simply has
2 not been that opportunity that, frankly, we would have
3 expected had it been possible. When the Commerce
4 Department does its sunset review, one of the
5 standards that it looks at is whether there have been
6 the absence of imports. If so, they will draw a
7 conclusion, as a regular matter in their reviews, if
8 there's been an absence of imports, that that implies
9 the inability to ship without dumping.

10 COMMISSIONER PINKERT: Mr. Klett, would you
11 like to add anything to that answer?

12 MR. KLETT: Yes, I would. I mean, I don't
13 know if on a price-to-price basis, if you mean
14 comparing their export price to their home market
15 price, which is the first part of your question, which
16 I wasn't able to answer. But, I think the relevant
17 point is that they wouldn't be able to export to the
18 U.S. without significantly undercutting current
19 prevailing U.S. price and they would have an incentive
20 to do so, given that their export price to non-U.S.
21 market and in the home market is just quite a bit
22 lower than prevailing U.S. price on a net-back basis.

23 COMMISSIONER PINKERT: I appreciate that
24 answer. I would now like to go to some questions
25 about cost of product, and this can be for Mr. Klett

1 or anybody else on the panel. Do the largest non-
2 subject exporters of the subject merchandise to the
3 United States benefit from lower natural gas prices
4 than those of U.S. producers?

5 MR. KLETT: I think outside the United
6 States, gas to some of these other non-subject
7 producers is somewhat lower than the gas that U.S.
8 producers can get. Although, I've read recently, I
9 haven't look at it over the last few months, but I
10 know even gas prices to some of the non-subject
11 producers has been going up. So, the difference
12 between what U.S. producers pay for gas versus what
13 non-subject producers pay for gas probably has
14 narrowed over the last three or four years. But you
15 also have to take into account, from a competitive
16 cost standpoint, that in addition to the cost of the
17 natural gas, U.S. producers versus non-subject
18 producers, that foreign producers also have to
19 transport the ammonium nitrate to the U.S. So,
20 there's an additional transportation cost component
21 that they face that U.S. producers face, at least with
22 respect to getting it to the border.

23 COMMISSIONER PINKERT: Do they have any
24 natural competitive advantage in the non-subject --
25 among the non-subject exporters?

1 MR. KLETT: Do U.S. producers have a
2 competitive advantage?

3 COMMISSIONER PINKERT: The non-subject
4 exporters, you said that they face at transportation
5 cost --

6 MR. KLETT: Right.

7 COMMISSIONER PINKERT: -- that's in addition
8 to what the U.S. producers might face. They have this
9 natural gas price, which is moving toward the same
10 level that is experienced in the U.S. So, is there
11 some other competitive advantage that they might have?

12 MR. KLETT: Not that I'm aware of. This is
13 -- I mean, this is a commodity, so there's no
14 advantage with respect to the nature of the product,
15 itself. I know from talking with Mr. Gough yesterday,
16 and he can go into this maybe a little bit more, that
17 even with -- once the product hits the U.S. port,
18 there are certain differences in terms of the inland
19 transportation costs to get the product to the market
20 that may give imports versus domestic producers an
21 advantage or disadvantage depending on where the
22 ultimate customer is located and whether you're moving
23 the product by river or over land. But, that could
24 differ depending on where the customer is located in
25 terms of who has the competitive advantage, in that

1 sense, in terms of the cost to the customer.

2 COMMISSIONER PINKERT: Moving back to the
3 Ukraine, do you have any projections or current
4 estimates of natural gas prices in the Ukraine?

5 MR. KLETT: I think in Fertecon, one of the
6 most recent Fertecon reports we have, talked about the
7 situation with respect to gas pricing to Ukraine.
8 It's been a fairly significant political issue, as
9 well, over the last few years. And I think the
10 pricing in the Fertecon report had prices from Russia
11 to Ukraine in the five dollar to \$5.31 per MMBTU
12 basis. U.S. prices are even to eight dollars per
13 MMBTU and I think EIA forecast next year it will be
14 roughly eight dollars MMBTU.

15 But, I think another important element is
16 that the Ukrainian government is also considering
17 measures to insulate the nitrogen fertilizer industry
18 from some of these cost increases through VAT tax
19 rebates and things of that nature. I don't know if
20 these have gone through or if they're still being
21 considered. But, at least in Fertecon, these are
22 measures being considered by the Ukrainian government
23 to insulate the nitrogen fertilizer producers from at
24 least a portion of the natural gas cost increases from
25 Russia.

1 MS. SLATER: If I could just add to that,
2 Commissioner. In our pre-hearing brief, we gave you a
3 couple of recent articles. But, this is a situation
4 we're watching very closely. One would have expected
5 that the increase in the price from gas into the
6 Ukrainian market would have resulted in different
7 production economics, in Ukraine on nitrogen. But, a
8 couple of things have happened and we're watching to
9 see what will happen. As Mr. Klett mentioned, one is
10 we know already that historically last year, the
11 Ukrainian government has given a 20 percent -- a
12 rebate of the 20 percent VAT on nitrogen for exports
13 specifically and there's a list of measures that
14 Fertecon discusses in the page that we put into our
15 pre-hearing brief that are before the Ukrainian
16 parliament, everything from pegging the price of gas
17 to the nitrogen plants based on the export price of
18 nitrogen, to similar types of VAT rebates and other
19 kinds of relief, essentially, for the Ukrainian
20 producers. So, we're watching that carefully, as
21 well. This is going to be, I think, a key issue for
22 whether, frankly, this order is going to be needed in
23 five or 10 years down the road. I mean, that's
24 obviously a key factor for this industry to watch.

25 MR. RYDLUND: Excuse me, if I could just --

1 with respect to the competitiveness of the ammonium
2 nitrate, gas, obviously, is a major factor bearing on
3 the cost between the non-subject imports and the
4 United States. But other costs that go into the
5 production of ammonium nitrate are energy,
6 environmental, and labor, and those are all costs we
7 experienced. Now, I cannot comment on what those
8 costs are overseas, but they are -- gas by far is the
9 biggest, but these other costs are involved in the
10 competitive nature of the product.

11 COMMISSIONER PINKERT: Thank you. Thank
12 you, Mr. Chairman.

13 CHAIRMAN PEARSON: I would like to get a
14 little better sense of the size of the domestic market
15 and domestic production for low density ammonium
16 nitrate, particularly because some of the production
17 facilities can switch back and forth between the two.
18 If I look at the public staff report, Table 3-1, it
19 would indicate that in 2005, the production of high
20 density product domestically was a little over a
21 million tons, 1.06. And then Table 3-2, production of
22 low density, it's about 1.8 million tons. So, you add
23 them up -- excuse me, 1.8 million was the production
24 for 2006. I was using 2005 data, so we're 1.6, 1.7
25 million. You add the two together, it's somewhere

1 around 2.7 million tons of production. Do those
2 numbers seem about right?

3 MR. RYDLUND: Yes, sir.

4 CHAIRMAN PEARSON: Okay. Then a question
5 for Ms. Slater. I can't square those numbers with the
6 table in the staff report, that's in the confidential
7 staff report, Table 4-4, which shows a very much
8 different figure for U.S. production of ammonium
9 nitrate products. That's a table that shows data for
10 a number of countries around the world. And the gap
11 was so significant that I wondered whether you could
12 shed light on it. I would mention that I did ask too
13 late in the day yesterday whether our staff could
14 clarify that and they were not within the time
15 available able to explain that discrepancy. Do you
16 have any comment --

17 MS. SLATER: Yes.

18 CHAIRMAN PEARSON: -- now or for the post-
19 hearing?

20 MS. SLATER: Actually, Commissioner, there's
21 a long explanation, a comment on that Table 4-4 in our
22 pre-hearing brief and a footnote. Maybe somebody will
23 identify it while I'm speaking and we can point you to
24 it. But, basically, that data in 4-4 comes from the
25 International Fertilizer Industry Association. Their

1 data includes, when they look at nitrate, they include
2 not only low density and high density, but the liquid
3 ammonium nitrate that goes into UAN, which is a whole
4 additional very large amount, plus other forms of
5 nitrate. So, this is -- that go into downstream
6 products. So, this is a comprehensive number that
7 doesn't -- it's not very probative for purposes of
8 this exercise. But, actually, you can find it. In
9 the data set, itself, there's an explanation of --
10 which the staff has on the record, there's an
11 explanation of all the things that are included in
12 there and it is principally going to be that liquid
13 that goes into the UAN that's going to really bump
14 this number up.

15 CHAIRMAN PEARSON: Okay, good. Well, thank
16 you for that. That's --

17 MS. SLATER: That was an easy one.

18 CHAIRMAN PEARSON: -- just the type of
19 clarification I was looking for, because I always
20 wonder when the numbers don't seem to add up. Are
21 there any other data issues on which you would care to
22 comment now? I know from doing my preparation that
23 there were some issues. Are they adequately addressed
24 or would you care to elaborate on any of them?

25 MS. SLATER: Again, in the pre-hearing

1 brief, we've laid out some concerns with just some of
2 the overall apparent consumption tables. There was an
3 importer questionnaire that didn't report as
4 requested. The response didn't correspond with the
5 instructions. And I think once you make those
6 corrections -- I think it's easier to just leave it to
7 the brief, but there are some adjustments that need to
8 be made to the data on apparent consumption and
9 principally flowing from the import information. Dan,
10 did you have anything? Okay.

11 CHAIRMAN PEARSON: Thanks. Is the
12 manufacture of ammonium nitrate a less efficient way
13 to convert natural gas to nitrogen fertilizer than the
14 production of other fertilizer products? And the
15 reason I'm asking this is we see that ammonium nitrate
16 costs more. So, what's driving that?

17 MS. SLATER: Costs more to produce, you're
18 asking, or cost more?

19 CHAIRMAN PEARSON: It appears to, yes.

20 MR. RYDLUND: Obviously, the size of the
21 facilities that are producing and the production
22 efficiencies are a part of it; steps that we have to
23 go through to arrive at nitrate nitrogen, as opposed
24 to just only nitrogen, are costly, chiefly in the
25 production of nitric acid. And those, I think, are

1 probably two differences we see.

2 CHAIRMAN PEARSON: Okay. So, it's not as if
3 some nitrogen is being lost in the process and you're
4 having a cost because of escaping material. It is a
5 matter of additional processing that needs to get done
6 to get ammonium nitrate into the -- the form of
7 nitrate and producing some simpler forms of nitrogen
8 fertilizer is less expensive. Is that what you --

9 MR. RYDLUND: Yes.

10 CHAIRMAN PEARSON: Okay. Does calcium
11 ammonium nitrate have the same cost issues or more
12 relative to simpler forms of nitrogen?

13 MR. RYDLUND: I could not comment on that.
14 We are not a manufacturer of calcium ammonium nitrate.
15 I'm not experienced in that manufacture.

16 MS. SLATER: We can offer to try and get
17 some information for you post-hearing. I think the
18 witnesses are just not as familiar with the
19 manufacturer of that product, Commissioner Pearson.

20 CHAIRMAN PEARSON: Okay. Well, I'm not
21 familiar with it either, which is why I'm asking. It
22 just had occurred to me that given that there appear
23 to be no security issues raised with calcium ammonium
24 nitrate, if it was a relatively simple and
25 straightforward process to manufacture that at a cost

1 that would not be too different from ammonium nitrate,
2 then why wouldn't the marketplace favor calcium
3 ammonium nitrate? And so if anybody can say anything
4 about that, I would be real pleased to know.

5 MR. ELLIOTT: My only experience with
6 looking at that briefly several years ago at the Yazoo
7 City facility implied that there's additional costs to
8 do that. Again, as we mentioned, we can give you more
9 information about that. But just my brief memory was
10 when we looked at it, there is additional cost
11 involved.

12 MS. SLATER: And I seem to recall,
13 Commissioner, again, we're not as familiar with that
14 product, it is a different product and has certain
15 advantages and disadvantages, which have limited its
16 use with the exception of pretty specific markets in
17 the United States. But, we can give you post-hearing,
18 I think pretty easily, an overview of the differences
19 in the products and maybe any cost of manufacturing
20 issues there.

21 CHAIRMAN PEARSON: Is there also an issue
22 with whether the calcium is really an ingredient that
23 one would want to add to certain soils that might have
24 a high pH level to start with? Isn't that a factor in
25 --

1 MS. SLATER: You can see blank looks here.
2 I think you may be correct on that one and that's why
3 I remember when we looked at this some time ago, there
4 are issues that do limit its use. California, for
5 example, is a large user for reasons that had to do
6 with, I think, certain specialty crops and
7 environmental requirements. But, let us give you some
8 chapter and verse post-hearing, if you don't mind.

9 CHAIRMAN PEARSON: Okay. Well, because I am
10 curious about this just because we know from the
11 record that there have been additional costs imposed
12 on the ammonium nitrate industry, because of security
13 concerns and related things. And so, at some point,
14 if those sorts of costs were continue to -- perhaps
15 calcium ammonium nitrate would look better. But, I
16 don't have any idea what the numbers would be. So, if
17 you can provide something in post-hearing that would
18 shed a little light on that, that would be great.

19 My light is changing. I think I will go
20 ahead and recognize the Vice Chairman.

21 VICE CHAIRMAN ARANOFF: Thank you. Mr.
22 Green, in your direct testimony this morning, I
23 thought I heard you say that importers are
24 increasingly selling directly to dealers without going
25 through distributors and I wanted to make sure that I

1 understood you correctly. Can you describe to me how
2 that happens? They simply aren't using the kind of
3 riverside distribution network that domestic producers
4 have used?

5 MR. GREEN: Ms. Commissioner, regarding
6 that, we have seen some traders try to align
7 themselves with retailers that have a retail system, a
8 large retail system, and what they'll do is import the
9 nitrate off the vessel, run it through a distribution
10 warehouse, and then go ahead and put it out into the
11 retail or in the farming community and, therefore, it
12 allows them to bring in more product and have that
13 product in place at the time of use. It's really just
14 happened in the last couple of years that we've seen a
15 couple traders just expand here to the U.S. and that's
16 been one of their motives, is to grow their market
17 share by placing this nitrate in the field close to
18 the end consumer.

19 VICE CHAIRMAN ARANOFF: How is that
20 different from the way that you distribute your own
21 production?

22 MR. GREEN: Logistically, there is nothing -
23 - they're not doing it any different. The fact is we
24 don't know the financial ties that may start from the
25 production facility in the foreign country all the way

1 through this distribution system here in the U.S. or
2 what arrangements may be made for that product.

3 MS. SLATER: And, also, Commissioner
4 Aranoff, it's our understanding that the domestic
5 producers have been increasingly moving toward selling
6 directly to dealers, as well. I know El Dorado has
7 done that for some time and you may want to discuss
8 the extent to which Terra has been also moving to
9 direct sales to dealers. It's been not just the
10 importers, but happening on both sides.

11 MR. GREEN: Yes, Commissioner, as far as
12 Terra's strategy, marketing strategy has always been
13 to try to minimize the distribution costs in
14 distributing our product. And any time you have a
15 distributor or a distribution system in the middle,
16 between production and the end consumer, there's
17 additional costs. So, our focus has been to minimize
18 that and try to supply the end user the product, not
19 only for the purposes of financially better rewards,
20 but also for the security and safe handling of
21 ammonium nitrate.

22 VICE CHAIRMAN ARANOFF: Okay. In a related
23 question, let me just ask, I think I had read
24 somewhere that there is a decrease in the tendency to
25 sell ammonium nitrate in bags, as opposed to bulk. Is

1 that, in fact, the case and, if so, can you explain
2 why?

3 MR. GOUGH: Well, you know, I don't know
4 that we have any statistics. We can probably get some
5 from some big -- go back and take a look at that data,
6 say, from Kentucky, Tennessee, the Carolinas. But, I
7 think, yes, in general, there has been a decline in
8 the amount of bagged ammonium nitrate just being made
9 available to the end users out there and all based on
10 security issues.

11 VICE CHAIRMAN ARANOFF: So, this is actually
12 at the retail level?

13 MR. GOUGH: This would be more at the retail
14 level, correct.

15 VICE CHAIRMAN ARANOFF: And is that because
16 it's just more difficult to track where it's going if
17 it's sold by the bagful?

18 MR. GOUGH: Yes. I think some people have
19 just looked at it and say it isn't work the risk to
20 sit there and handle this product anymore in a bag.
21 You know, it's like most locations or states where
22 this has become state law, you know, you have to sit
23 there and get a person's ID, keep records. And so, I
24 think, you know, it's been easy for some people just
25 to move away from the bag and go more to the bulk.

1 VICE CHAIRMAN ARANOFF: Okay. Well, in that
2 vein, I know some of my colleagues have sort of
3 skirted around this issue. But, you've discussed in
4 your brief and today the fact that the increased
5 security challenges associated with this product have
6 been partially responsible for the decline in demand.
7 And yet, we see that the industrial explosives grade
8 sector doesn't appear to be experiencing declining
9 demand despite the fact that that product is every bit
10 as dangerous and more highly regulated. Why do you
11 think that's the case?

12 MR. RYDLUND: The industrial ammonium
13 nitrate has basically been regulated for a number of
14 years and the recordkeeping, the security issues, not
15 only involving -- that would go on with high
16 explosives, et cetera, go down into the plants that
17 even used low density ammonium nitrate. So, the
18 recordkeeping and the work on the low density side of
19 the thing has been, they have been through many of
20 these same security issues that the agricultural
21 market is facing today.

22 VICE CHAIRMAN ARANOFF: Well, if that were
23 the reason, sort of familiarity and kind of a pain in
24 the neck of doing it, you would think that the decline
25 in demand would be short term and then it would come

1 back up, because people would just get used to it.
2 Would you say that there is also at play here the idea
3 that maybe there are not good alternatives for the
4 industrial explosive product, whereas you could switch
5 to other nitrogen sources and avoid this problem?

6 MR. RYDLUND: That is correct. For low
7 density ammonium nitrate and the ease in the explosive
8 material market, that it presents the bias, both in
9 handling and safety, there is no alternative.

10 MS. SLATER: And that's consistent,
11 Commissioner Aranoff, I think, with the testimony
12 you've heard over the last sunset review and this one,
13 which is the shrinking market is happening in those
14 areas where there is the most ability to switch
15 people, who are the fringe users, we've started
16 calling them, of ammonium nitrate and why the demand
17 has really consolidated to these core areas for
18 nitrate use. It's where the alternatives are not
19 really very acceptable or very good. And absolutely
20 fits with that model.

21 VICE CHAIRMAN ARANOFF: Okay. I appreciate
22 that. I know that the spread of increased regulation
23 is still ongoing. So, while we've seen some declines
24 in demand and we've seen some people get used to it
25 and just go on, we might not be done with that

1 adjustment process. In particular, I know there was a
2 Green Market's report just last week, week before
3 last, about the Department of Homeland Security's
4 chemical facility antiterrorism standards. How, in
5 your view, will these additional rulings affect the
6 industry and the level of demand?

7 MR. RYDLUND: Well, again, it will add costs
8 to the product. It will add to our cost and it will
9 continue to -- and it will impair the market in terms
10 of the demand for the product. In particular, the
11 chemical facility antiterrorism standards, and I think
12 we're into the final interim ruling on this particular
13 thing, have a major impact on the cost of the
14 facilities, as far as -- and it will affect a number
15 of other than ammonium nitrate facilities, as well.
16 It will affect the numbers as far as perimeter
17 security, barricades. So, we would expect higher
18 costs, not only in the production, but then in the
19 commerce of ammonium nitrate, as well.

20 VICE CHAIRMAN ARANOFF: Okay.

21 MS. SLATER: And I just wanted to add that
22 that interim final rule is still out for comment. And
23 so at this point, the industry doesn't even really
24 know exactly how it will be implemented with respect
25 to ammonium nitrate or any other particular covered

1 product. But, it's something obviously that people
2 are watching carefully. The Fertilizer Institute, I
3 believe, has been participating and filing comments.
4 But, that is a process ongoing, as we speak.

5 VICE CHAIRMAN ARANOFF: Okay. In light of
6 the fact that that's ongoing, I guess I would ask you,
7 and since my time is almost up, you can certainly do
8 this post-hearing, if you want, in the Russian case, a
9 year ago, a number of us asked the folks from the
10 industry to sort of estimate for us once the market
11 was done settling with the new security issues, with
12 producers moving out of the industry, and all the
13 things that were going on, approximately where they
14 expected U.S. demand, what was the part of demand that
15 wasn't going to move away, as long as they could get
16 this product and the price wasn't so disproportionate
17 to other nitrogen sources that they would keep buying
18 it. If there's anything that you want to tell us to
19 update what you've told us last year, I think that
20 would be really helpful. Thank you, very much. Thank
21 you, Mr. Chairman.

22 CHAIRMAN PEARSON: Commissioner Okun?

23 COMMISSIONER OKUN: Thank you, Mr. Chairman.
24 And this might just be a follow-up to Vice Chairman's
25 question. Mr. Elliott, in your testimony, one of the

1 things that you said, and it might have been said by
2 others, is that with U.S. demand shrinking and the
3 closure of most U.S. plants, the market is coming more
4 into balance. And I wondered if you could just help
5 me understand what that means for you, looking forward
6 as a company, coming into balance meaning that the
7 remaining U.S. production will serve some portion of
8 what is this remaining U.S. demand going forward along
9 with non-subject imports that are already in the
10 market. I mean, is that what you see going forward,
11 in terms of the balance, or are you referring to
12 something else?

13 MR. ELLIOTT: That's basically what I'm
14 referring to. We, obviously, don't know what that
15 balance is going to end up being and exactly how that
16 relationship between other non-subject imports and
17 U.S. production will shake out. But, it's basically
18 that analogy.

19 COMMISSIONER OKUN: Okay. And so to the
20 extent that -- I think several of you had responded
21 earlier to questions about when there -- because of
22 the nature of how the product is produced, when there
23 are shortfalls in U.S. production or shortages by
24 purchasers, non-subjects will play a role -- continue
25 to play a role there, and anything else in regard to

1 that, in terms of regionality or --

2 MR. ELLIOTT: No.

3 COMMISSIONER OKUN: -- anything else?

4 MR. ELLIOTT: No, no.

5 COMMISSIONER OKUN: Okay, okay. I
6 understand that. Then let's see, just another
7 question. You talked a lot about where -- why one
8 might choose to produce the grade for explosive
9 strength. Can you talk or is there any discussion in
10 your industry about whether there would be a move
11 towards calcium ammonium nitrate?

12 MS. SLATER: With respect to the explosive -
13 -

14 COMMISSIONER OKUN: No, no, I'm sorry. I'm
15 back on the fertilizer side.

16 MS. SLATER: Okay. You know, it's
17 interesting, we haven't really heard CAN mentioned
18 until this morning. It's not something that certainly
19 we've heard discussed or any member of the industry.
20 You could sort of see from the blank looks in response
21 to Chairman Pearson's questions, it's not something
22 that has come up and I think it's because ammonium
23 nitrate is a niche product. CAN is probably a
24 niche. I mean, it's a very, very small product
25 used for in particular places, for particular reasons.

1 But, that's not something that I've read or heard or
2 anyone on this panel has heard about.

3 COMMISSIONER OKUN: Okay, I appreciate that.
4 And then I know that, Ms. Slater, you had talked about
5 the information that you had put in your pre-hearing
6 report -- pre-hearing brief with regard to potential
7 policy choices made by the Ukrainian government that
8 may affect their ability to -- well, may affect
9 natural gas prices and prices for the Ukrainian
10 product. I wanted to ask you to comment, in the staff
11 report on page 216 of the public version, the
12 statement in there is 'export selling prices are
13 determined by taking into account the recommended
14 price level by the Ukrainian Ministry of Economy.
15 This recommended price is based on analysis of current
16 conditions in the world market for HDAN.' Do you all
17 have any information about how that's done? I mean,
18 it's obviously something we would be interested in
19 from the embassy, as well, here. But, is there
20 anything else you can add on that or is that
21 consistent with your understanding?

22 MS. SLATER: We really don't have any
23 information on how that happens. I mean, we've only
24 been able to observe from the outside that the
25 Ukrainian price -- where the Ukrainian pricing falls

1 and that it always seems to be priced to move product
2 as much as possible. This was actually a surprise to
3 us, but it's not something we have any, unfortunately,
4 ability to give you any more facts on.

5 COMMISSIONER OKUN: Okay. And then I think
6 just my final question, in terms of -- we've talked
7 about the Russian exports into the Ukrainian market
8 and it was an important point, Mr. Klett, of your
9 charts, of saying that to the extent the Russians are
10 in the Ukrainian market, pushing the Ukrainians back -
11 - pushing the Ukrainians into other markets, if they
12 can't even serve their own market and some of the
13 measures that the Ukrainians may be considering. But
14 do you have any sense on that in terms of pricing? Is
15 there anything in the market about why that's the most
16 attractive place for the Russians to be? This may,
17 again, relate to a little bit to this -- what the
18 suspension price is in the United States. But, I'm
19 curious of whether it's growth in the Ukraine. I
20 mean, it's big numbers.

21 MR. KLETT: One thing I could look at would
22 be the home market prices in the Ukraine relative to
23 what prices Russia can get in non-Ukrainian markets,
24 to see if there's any difference there that might
25 attract Russian to Ukraine. But, in addition to

1 Russia competing in the Ukrainian market, I mean,
2 Russia is also competing with the Ukraine in other
3 export markets, as well, Brazil being an example. So,
4 I mean, Russia took much of the Brazilian market from
5 the Ukraine, and I think Ukraine is losing to Russia
6 in the Ukrainian market. So, that's an export market
7 that's similar to what's happening in the Ukraine.
8 But, I can perhaps by looking at the confidential
9 data, with respect to the internal Ukrainian prices,
10 which is a question Commissioner Pinkert had, with
11 other markets, I can maybe see if I can -- see if
12 there's an explanation for that.

13 COMMISSIONER OKUN: Okay. I appreciate
14 that, very much. And with that, Mr. Chairman, I have
15 no more questions, but I do want to thank all the
16 witnesses for all the information you've provided and
17 for the thoroughness of your pre-hearing brief. Thank
18 you.

19 CHAIRMAN PEARSON: Commissioner Okun, don't
20 think just because you ran a little long the first
21 time that you need to end early on your second round.
22 Commissioner Lane?

23 COMMISSIONER LANE: I'm not sure who to
24 address this question to, so whoever wants to take a
25 shot at it. There are significant amounts of nitrogen

1 emitted from coal-fired power plants in the form of
2 nitrogen oxides, which are not being captured rather
3 than released into the air. Historically, the
4 captured NOX had limited commercial use. Can the NOX
5 captured at coal-fired power plants be used for the
6 manufacture of high quality fertilizer? And if so,
7 given the increases in your natural gas feedstock
8 costs, what are the prospects for recycling nitrogen
9 from coal burning into usable products?

10 MR. RYDLUND: Currently, the NOX that comes
11 out of the coal-fired plants is treated with ammonia
12 or, in some cases, urea, to turn it into nitrogen and
13 water. That's currently where it is. There is, to my
14 knowledge, a process available for taking those NOX
15 gases and creating ammonium sulfate. But, I'm not
16 familiar with the process. I know very little about
17 it and I do not believe it is a factor or even a down-
18 the-road factor in the treatment of NOX in
19 powerplants.

20 COMMISSIONER LANE: Okay, thank you. Some
21 of my colleagues have touched upon this, but I have a
22 different aspect of it. One of the frequently cited
23 reasons for decline in U.S. consumption of high
24 density ammonium nitrate over the past several years
25 has been increased security requirements. How do

1 these increased security requirements impact U.S.
2 producers' day-to-day operations and how do they
3 impact your bottom line?

4 MR. GREEN: Initially, when the security
5 measures were put in, Terra spent some capital at our
6 facilities, at our plant, and also at our port
7 facility, to make sure those places were secure and
8 safe to meet those standards. Since then on a daily
9 basis, truck shipments that leave our plant are all
10 tracked, to make sure that they reach the final
11 destination and the receiver acknowledges receipt of
12 the product and that all the product is in good order.
13 So, we spend time tracking truck shipments.

14 Rail shipments that we have, we've put on
15 larger cables to protect all of the openings or all of
16 the compartments on a railcar. So, we've met -- we're
17 doing those up to standard. And as far as on barge
18 shipments that we have, our port facility, like I say,
19 is intact and meeting Coast Guard regs.

20 To put a value or a dollar per ton value on
21 that, we'd have to provide you that in a post-hearing.
22 But, I don't have that today.

23 COMMISSIONER LANE: I would appreciate that
24 if you could provide that for me. Thank you.

25 When we talk about ammonium nitrate use for

1 industrial explosives, exactly what kind of industrial
2 explosives are we talking about?

3 MR. RYDLUND: It's a term they call blasting
4 agents. Blasting agents, which is an explosive
5 material and what ammonium -- solid ammonium, low
6 density ammonium nitrate is basically mixed with fuel
7 oil, in that particular case, and then it's used as a
8 blasting agent. It will not explode by itself, but
9 requires other high explosives to detonate the
10 material. But, it's predominant in a number of
11 blasting situations, in the mining companies, blasting
12 situations. And, again, its ease in bulk handling,
13 safety with respect to other explosives and explosive
14 materials has made it very popular. But, basically,
15 because of the porosity that we talked about in
16 industrial grade or low density ammonium nitrate, it
17 mixes very -- it absorbs very easily the required
18 amount of fuel oil to make it a blasting agent.

19 COMMISSIONER LANE: So, is it used in
20 addition to the mining industry, the construction
21 industry and road-building industry?

22 MR. RYDLUND: Yes, it is.

23 COMMISSIONER LANE: Okay. Thank you. I am
24 interested to learn exactly why the domestic industry
25 was able to improve its financial indicators in 2006.

1 Obviously, we have the continuation of market
2 consolidation. But, I would think that this alone
3 would not have improved things so significantly. What
4 other factors, such as demand, raw material costs,
5 sale prices, or other factors are responsible for the
6 domestic industry's improved status in 2006, as
7 compared to the rest of the period of review?

8 MR. GOUGH: Well, probably the biggest thing
9 we saw in 2006 was that because of some situations
10 with hurricanes and some disruption, we saw a strong
11 market in the U.S. beginning in 2006. The importers
12 viewed that products were going to be short. They
13 aggressively brought ammonium nitrate into the U.S.
14 and priced it fairly highly, high. And that's what we
15 usually see, a lot of stuff that comes in from non-
16 subject countries is bought and maybe sold two to
17 three months before the vessel ever arrives in the
18 Gulf. So, the plus we saw in 2006 is this non-subject
19 product that did come in, even though volumes were a
20 lot higher than the year before. It came in at
21 substantially higher prices. And so even though we
22 sit there in a big portion of our marketing area, we
23 saw the drought actually start to affect sales going
24 into May and June. The prices did not soften because
25 the product that came in was already fairly high

1 priced and the distributors did not want to sit there
2 and cut their prices back and take a loss.

3 COMMISSIONER LANE: So, are you saying that
4 the non-subjects coming in after the hurricanes and
5 the drought drove up the domestic prices?

6 MR. GOUGH: No. They just saw -- they saw
7 an opportunity. All markets had escalated price-wise
8 thinking that natural gas prices would remain very
9 high. And, in fact, the opposite happened. Gas
10 prices came down. Not all nitrogen prices actually
11 started to soften. But, because we have -- you know,
12 nitrate is such a small market, those tons come in at
13 a relatively short period of time and they had already
14 been priced into the marketplace at a higher price.

15 MS. SLATER: In short, Commissioner Lane,
16 the trading companies made a call early in 2006 when
17 gas prices spiked. You may recall, we were actually,
18 I think, here during that period. Terra had put its
19 plant -- this is public -- on an extended turnaround.
20 The traders made a bet. They thought that it looked
21 like 2006 was going to be a very tight market and they
22 could get good prices. They brought in some rather --
23 they brought in a lot of product that the distributors
24 paid a healthy price, filled up a lot of the
25 distribution system. And as actually things have got

1 back more to normal, in terms of supply and demand,
2 the people, who had paid a lot to the traders, were
3 not -- were very reluctant to lower their prices and
4 so the market was able to maintain some strength.

5 In addition to that, we had a couple of
6 particular events in 2006, which I know you're aware
7 of, that Terra -- Matt can talk about it a little bit
8 -- there was an extended turnaround, which you heard
9 about when we were here last year. There was also an
10 outage at a nitric acid plant that brought down some
11 production later in the year. So, there was actually
12 a supply side decline in the U.S. supply. That was a
13 temporary situation. So, those two things, coupled
14 with, I think, just the uncertainty that had been
15 created early in the year made it -- enabled prices to
16 stay high.

17 That having been said, there was still a lot
18 of imports in the market. The market was far from
19 balanced, if you take a look at the supply-demand
20 balance in 2006. So, it wasn't as nearly strong as it
21 might have been.

22 COMMISSIONER LANE: Okay, thank you. Mr.
23 Chairman, that's all I have.

24 CHAIRMAN PEARSON: Commissioner Williamson?

25 COMMISSIONER WILLIAMSON: Thank you, Mr.

1 Chairman. If your antidumping orders were revoked, to
2 what extent might imports from Ukraine simply replace
3 non-subject imports and have no effect on the domestic
4 industries? Mr. Klett, whether or not -- could they
5 just cut the prices a little bit and be competitive?

6 MR. KLETT: I think if the antidumping duty
7 order were to be revoked, you would see a significant
8 increase in imports from Ukraine and, to a certain
9 extent, there would be some displacement of non-
10 subject imports. But when you look at Ukraine versus
11 the non-subject imports, I think it's important to
12 look at the capacity in Ukraine versus the capacity in
13 the non-subject -- the other non-subject countries.
14 Ukraine is so much larger -- Ukrainian HDAN capacity
15 is so much larger than capacity in Romania, Georgia,
16 Bulgaria, that it's not going to simply be a
17 displacement of Ukraine for non-subject with kind of a
18 net -- no net difference in the level of total
19 imports. I think you're going to see some
20 displacement of non-subject imports, but you're going
21 to see an increase in total import volume just because
22 Ukraine has so much more excess capacity and there's
23 going to be displacement of U.S. production, as well
24 as an adverse price effect. Because if you look at
25 the pricing that Ukraine is selling outside the U.S.

1 versus the U.S. market, it's much lower. So, they
2 have an incentive to price lower into the U.S. market
3 and the traders would still make a profit at those
4 lower prices.

5 MS. SLATER: Also, Commissioner, the
6 experience in the original investigation was that the
7 Ukrainian imports took market share both from the
8 domestic industry and non-subject imports. That's the
9 history here.

10 COMMISSIONER WILLIAMSON: This leads me to
11 the question, I guess, what's happening in the Ukraine
12 now? I mean, given the fact that there are
13 restrictions elsewhere, competition for Russia is the
14 -- and you mentioned significant capacity there, but
15 what are they doing now if they're not able to ship to
16 many places? Is the industry shrinking rapidly?

17 MR. KLETT: As far as we know, the industry
18 is not shrinking. I mean, the four plants that were
19 in Ukraine in the original investigation continue to
20 be operating. And based on public information, as
21 well as aggregate information in your questionnaire,
22 the Ukrainians have roughly the same level of capacity
23 now than they did then. So, they are facing more
24 pressure. What you're seeing is significant excess
25 capacity. But, we haven't seen any consolidation in

1 the Ukrainian industry, as a result of the increased
2 in competitive pressure from Russia, at least up to
3 this point.

4 COMMISSIONER WILLIAMSON: Okay. I was just
5 wondering, given the increases in the non-subject
6 imports in 2005 and 2006, what efforts El Dorado and
7 Terra made to retain and regain market share and also
8 maybe why aren't you producing other types of nitrogen
9 fertilizer, as they may be more lucrative?

10 MR. GREEN: Mr. Commissioner, as far as what
11 we're doing to try to retain our customer base on high
12 density is focusing on those core long-term customers
13 that plan to stay in the business, that we can
14 logistically and economically serve and are dedicated
15 to the nitrate business. And as we touched on
16 earlier, their price in fringe markets that we're not
17 focusing on or penetrating maybe that we had in the
18 past. So, this fringe market demand continues to
19 diminish.

20 Terra, as we touched earlier, is looking at
21 producing some LDAN at our facility. And like I said,
22 it is diversifying our product mix at that plant. And
23 we're also producing other products there, as well.
24 UAN, which is a liquid nitrogen solution that has
25 about 32 parts nitrogen and we're also producing some

1 ANS that's being sold and also some nitric acid that's
2 also being sold into the market. So, we are doing all
3 we can at our facilities to make sure they can run at
4 capacity and at world scale rates.

5 MR. GOUGH: You know, I guess for El Dorado,
6 we don't have quite as many options. We do not have
7 an ammonia plant there. We purchase all of our
8 ammonia to upgrade to ammonium nitrate. We produce
9 industrial grade, of course ag grade, and like Matt's
10 plant, we do sell some nitric acid. But, our whole
11 thrust the past four or five years is to be as
12 efficient as we can. But, ammonium nitrate, we're in
13 it for the long haul, because that is the only product
14 that we can produce there.

15 Well, yes, if you go to Cherokee now, we sat
16 there and that was a different situation. We do
17 operate an ammonia plant there. And here, a few years
18 ago, because of the weakness in the ammonium nitrate
19 market, we discontinued producing ammonium nitrate to
20 enhance, take all that production that we could and
21 try to make El Dorado Chemical more viable instead of
22 trying to produce nitrate at two different facilities,
23 because the plus we do have at Cherokee, we can also
24 make some other products, one of those being UAN. So,
25 that's what we have done at Cherokee.

1 COMMISSIONER WILLIAMSON: This again is for
2 the producers. I guess with the ammonium nitrate
3 prices being high, and I guess there are some reports
4 that farmers and ranchers who depend their product,
5 are beginning to feel the cost price squeeze.

6 With this in mind, I was wondering how this
7 would affect: Would your customers be able to afford
8 your product going forward?

9 Also, I would just be wondering: What's the
10 current situation in the market? Are you experiencing
11 significant increases in sales probably in the spring;
12 or what's the current situation in terms of the market
13 in the near future?

14 MR. GOUGH: This is Phil Gough. This one's
15 tough because when you look at the cost of producing a
16 roll or a ton of forage, if you take a look back just
17 two years ago, in the Texas market, a roll of Bermuda
18 grass hay was selling for \$25 to \$35 a roll. Today,
19 that same roll is \$80.

20 So, even though you look at the cost of say
21 nitrogen may be up, it is very incremental. So, you
22 know, the cost in producing hay today versus two years
23 ago, is actually less when you look at the input costs
24 from fertilizer, on a percentage basis.

25 COMMISSIONER WILLIAMSON: Okay. How about

1 the near-term forecast? To what extent can you
2 address that question publicly, Mr. Gough?

3 MR. GOUGH: When you say near term --

4 COMMISSIONER WILLIAMSON: For ammonia and
5 nitrate in terms of prices and --

6 MR. GOUGH: Pricing?

7 COMMISSIONER WILLIAMSON: Yes. To the
8 extent that you're able to say it here in public, or
9 just the overall demand?

10 MR. GOUGH: You know, I guess we probably
11 need to supply that information if we could.

12 COMMISSIONER WILLIAMSON: Okay, thank you,
13 that's fine, good.

14 Just one other question: In your pre-hearing
15 brief, you talk about the Ukrainian antidumping case
16 against Russia. I was just wondering: Is there any
17 updated information on where that stands?

18 MS. SLATER: We just don't have any
19 information other than what's in the brief,
20 Commissioner, sorry.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.
22 That's all I have.

23 CHAIRMAN PEARSON: Commissioner Pinkert?

24 COMMISSIONER PINKERT: Thank you, Mr.
25 Chairman.

1 I believe in response to one of my earlier
2 questions, Ms. Slater made reference to the political
3 situation in the Ukraine, particularly in reference to
4 dependence on Russian supplies of natural gas.

5 I'm wondering if you can give me some idea
6 of how you think we should take into account the
7 political situation in the Ukraine in the context of
8 that issue?

9 MS. SLATER: I think it's nothing more than
10 a condition of competition. I think that it's
11 something that helps explain the situation in the
12 Ukraine.

13 As you heard, even though there is this
14 tremendous capacity and in some limited outlets, those
15 plants continue to operate, continue to be in
16 existence. It means that there is a tremendous amount
17 of material that continues to be produced.

18 As Commissioner Williamson asked: What are
19 they doing with all this pressure from Russia? Are
20 the plants closing?

21 No, they're not closing. What they're doing
22 is trying to export by pricing; and you've seen that
23 in some of our exhibits. The situation in the Ukraine
24 is really just a condition of competition that helps
25 you understand some of what's happening there; and why

1 things line up the way they do at the present time.

2 COMMISSIONER PINKERT: But when you talk
3 about Russian pressure, I thought you were talking
4 just now about sales of the subject merchandise, or of
5 ammonium nitrate, in the Ukraine.

6 I'm particularly interested in the natural
7 gas pricing issue.

8 MS. SLATER: Also, with respect to natural
9 gas, I think it really -- in the legal framework of
10 your analysis, that's a condition of competition that
11 helps you understand the situation there and make
12 predictions; or to color, if you will, your color
13 commentary to go along with your volume analysis and
14 likely price-effect scenarios.

15 COMMISSIONER PINKERT: Thank you. Did
16 somebody else have a comment on that issue?

17 (No verbal response.)

18 Okay. My next question has to do with what
19 happened in 2005. I think what we've heard is that
20 the fact that a significant amount of U. S. production
21 left the market that year helped to create a more
22 balanced market.

23 But I'm wondering if you have any anecdotal
24 information, or other information about why that
25 production did leave the U. S. market in 2005?

1 MS. SLATER: I know we've provided to the
2 Commission previously: When a number of these
3 companies went out of business, they issued press
4 releases, explaining that it had to do with security
5 markets and shrinking markets.

6 We can certainly provide that to you. In
7 the course of a couple of years, there were a number
8 of major producers, Agrium, PCS, Air Products, a
9 number of them that went out of the business in some
10 cases, and others went under.

11 But we can provide you, for the record,
12 copies of their press releases, if that's the kind of
13 information that would be helpful.

14 COMMISSIONER PINKERT: That would be
15 helpful, but I'm wondering whether the industry
16 participants have any information about what was
17 occurring at that time, whether in terms of price or
18 cost, or regulation, or whatever, that may have
19 explained what was going on that time?

20 MR. GREEN: Commissioner, referencing
21 Terra's position, through 2005, we had steady
22 production rates; and then reaching into the summer
23 months, in late August, we had the hurricane Katrina
24 that hit New Orleans.

25 As we shared in our information, we were

1 down for a short period of time in which our plant did
2 not produce. I think it was at least ten to twelve
3 days was the number.

4 During that period of time, we continued to
5 ship product from our existing inventories; and in the
6 balance of that year, we saw gas starting to increase
7 in price and we saw the uncertainty I guess in the
8 marketplace as to what the supply of nitrogen was
9 going to be in this country.

10 Then we saw gas prices escalate in December
11 of 2005, and continuing right into 2006, January and
12 February.

13 As I look back, that was the production side
14 of things. The market conditions were fairly
15 favorable throughout much of 2005; but then in the
16 last half of 2005, the increase in gas, and maybe our
17 position was such on gas that it was not financially I
18 guess profitable to be producing some of the nitrate
19 that we did.

20 We struggled in the last half of 2005, and
21 that was mainly due to the effects of the hurricane.

22 COMMISSIONER PINKERT: Any other comments on
23 that issue? If not, I have nothing further, Mr.
24 Chairman.

25 CHAIRMAN PEARSON: Okay. The period of

1 review wasn't a very easy time for the domestic
2 industry. I mean the business climate obviously was
3 not -- it was tough.

4 What I'm wondering is: Why didn't we see a
5 more substantial improvement in the condition of the
6 domestic industry soon after the order went into
7 effect more than five years ago?

8 I ask this because in Exhibit 1 that you
9 brought today, it's so clear that the Ukrainian
10 product left the U. S. market after 2001. And we know
11 that under the Suspension Agreement, the Russian
12 product was fairly traded at that time, throughout the
13 POR.

14 Yet, still, your industry did lousy until
15 quite recently, that's a technical term that we
16 sometimes use here. So how should we see any
17 relationship between this order and what has been
18 happening in this industry?

19 MR. KLETT: Part of the reason that you
20 didn't see an immediate improvement was that the
21 inventories that were in the U. S. market from the
22 original POR continued to have adverse affects for
23 maybe a year or so later. There was inventory in the
24 distribution system. There was so much that had come
25 in, so that might explain maybe a year or so after the

1 Ukrainian order went into effect, why they didn't see
2 a big uptick in U.S. producers' profitability. Also,
3 during this period, you've got other supply-and demand
4 factors going on as well.

5 You've got natural gas prices that went up,
6 and stayed at relatively high levels. Those were cost
7 pressures that the industry was facing during the POR
8 that continued to have an effect on their bottom line.

9 The non-subject imports continued to be in
10 the market. They faced pricing pressure from non-
11 subject imports; and, with the high gas costs, those
12 two things, in combination, continued to put pressure
13 on their bottom line.

14 So I know sometime when you're looking at
15 Sunsets, you look at -- well, one thing you look at
16 anyway is if you put the order in place to the
17 industry's benefit, you see an uptick in performance.

18 Sometimes you see that, sometimes you don't,
19 and sometimes you don't see it because you've got
20 other supply- and demand factors also affecting the
21 industry that may result in the industry not improving
22 immediately.

23 But I think the important thing is that when
24 you look at what happened prior to the order, and the
25 increase in imports from the Ukraine was so

1 significant that, notwithstanding that you didn't have
2 an immediate uptick in the performance of the
3 industry, what would the industry's condition have
4 been if those levels of imports had continued?

5 I think it would have been much worse.

6 MR. GOUGH: Well, I think we've always
7 stated, over these last two reviews, it hasn't been
8 easy. But without these orders in place, I don't
9 think there's any doubt: Phil Gough would not be here
10 today.

11 CHAIRMAN PEARSON: Well, no, of course,
12 because you're here for a hearing on the orders. I
13 understand your meaning, though.

14 Okay. How do you respond to the argument
15 that the two major problems facing the industry have
16 been: excessive capacity, which has been now largely
17 closed down, excessive capacity in the face of
18 declining demand.

19 I mean two fairly strong fundamental factors
20 that have been really weighing heavily on the
21 industry. And that, in the light of those
22 fundamentals, the imports from the Ukraine are less
23 relevant. I mean you've get this big increase in non-
24 subject imports.

25 How do we look at the picture, and find some

1 significance in imports from the Ukraine; or, in
2 looking forward, if the order is revoked, what affect
3 do the Ukrainian imports have now that the domestic
4 industry is downsized and rightsized, if you will; and
5 the consumption of ammonium nitrate is shifting to
6 areas and to uses where it is most needed?

7 That is my question.

8 MS. SLATER: Let me take a crack at it.

9 CHAIRMAN PEARSON: Please, yes.

10 MS. SLATER: And then maybe have the
11 industry folks weigh in a bit. I think if you take a
12 look at the market as it sits, it's certainly not --
13 as a premise, I think we have to understand it's not a
14 balanced market.

15 We're talking about moving more into
16 balance. We still have a combination of domestic
17 capacity, and rising non-subject import levels, which
18 more than make up for what's needed in the marketplace
19 today.

20 If you look at the history of what happened
21 with Ukrainian imports, and we're talking 300,000 tons
22 of product that moved in under a year here, very
23 easily, very quickly, very swiftly.

24 Even if you wanted to give the benefit of
25 the doubt and assume that half of that quantity would

1 move in on top of the fairly traded imports that we're
2 seeing today, the remaining domestic production, and
3 given the shrunken size of the market -- I mean if
4 you're looking at a market that's roughly -- I want to
5 be careful not to use confidential numbers.

6 But you know what the market looks like, and
7 you compare the 300,000 tons, or even half of that to
8 the size of the market today, it's a tremendous amount
9 of product that would certainly have a very negative
10 impact.

11 It's not that the market is balanced or
12 tight, but we're looking at a situation where the
13 industry is struggling still. I think you've heard
14 today to deal with the imports that, at least for now,
15 seem to be fairly traded.

16 So, putting on top of that Ukrainian
17 product, which is underpricing as it did here,
18 underpricing everywhere else in the world, and
19 available in tremendous quantities still today, it's
20 not too hard to see what the negative impact might be.

21 Does anybody else want to comment?

22 MR. GOUGH: Well, again, I think basically
23 we only have history to go by, and we saw what
24 happened in one short year. That has to be our
25 biggest fear that that same situation will happen

1 again.

2 CHAIRMAN PEARSON: Okay. But should we
3 assume that the trading companies would handle
4 themselves the same in the future as they did in the
5 past?

6 The reason for asking that is twofold: One
7 is that imports, in the aggregate, now count for a
8 much larger share of the U. S. market. So the major
9 trading companies have, it would seem to me, a vested
10 interest in not doing something to depress the prices
11 in the whole U. S. market because they want to be able
12 to maintain an import program, probably a balanced
13 import program from different origins; and they don't
14 want to do something that undermines their own
15 business.

16 And some of them, I believe, are involved
17 in the distribution business, if I'm correct. Maybe
18 you want to address that?

19 MR. GOUGH: I would say you just go back and
20 look at what happened in 1998 and 1999 with the
21 Russians. As soon we got something put in place
22 there, those same traders jumped to the Ukraine and
23 did the same thing.

24 So we didn't see any market discipline then,
25 and I guess I would struggle to say that there would

1 be market discipline again this time.

2 MR. KLETT: Commissioner Pearson, I think,
3 with respect to the traders, if they're acting
4 rationally, they'd want to maximize their total
5 profits. So, basically, they're looking at their
6 margin times the total volume that they can sell.

7 I don't think that it would be irrational
8 for them to, based on the lower prices available for
9 the Ukrainian product; and also given that there is a
10 lot more volume available in the Ukraine relative to
11 the other non-subject markets to increase their
12 exports to the U. S., sourced from the Ukraine,
13 selling into the U. S. at a lower price to move
14 additional volume; and I think their total
15 profitability under those circumstances, if they're
16 profit maximizers, would exceed what they're moving
17 now from non-subject countries.

18 So I think it would be perfectly rational
19 for the traders to move additional volume from the
20 Ukraine to the U. S. at a lower price, even if it
21 displaced what they're moving from some of the other
22 non-subject countries.

23 CHAIRMAN PEARSON: Yes, but one has to
24 almost assume that the traders didn't learn much from
25 their experience in the year 2000, in which they

1 imported a lot of product and ended in an antidumping
2 action. Wouldn't they rationally anticipate such an
3 occurrence, if they were to engage in the same
4 behavior that they exhibited five years ago?

5 MS. SLATER: Well, they didn't learn from
6 the Russian case, which certainly shifted quickly to
7 the Ukraine.

8 I think again for them, Commissioner, the
9 issue is always: How much money can we make today? So
10 if they can move a great deal of volume very quickly,
11 and make a margin on that great deal of volume,
12 they'll worry about the next shipment down the road.
13 Clearly, they're not making fair-trading assessments
14 when they're finding product and moving it.

15 CHAIRMAN PEARSON: My time has expired. So,
16 vice Chairman, you were done. Commissioner Okun,
17 Commissioner Lane?

18 COMMISSIONER LANE: I do have one question.
19 The ratio of the United States industry's cost of
20 goods to total net sales decreased during the period
21 of investigation, even though the price of natural gas
22 increased considerably.

23 What accounted for the relative decrease in
24 the cost of goods sold?

25 MR. KLETT: Commissioner, this is Dan Klett.

1 Over the whole POR, because there were
2 certain ups and downs from year-to-year, I think what
3 accounted for the decrease, in the cost of goods sold
4 to sales ratio, was prices moving up at a faster rate
5 than costs of goods sold increases.

6 Essentially, even though costs were going up
7 on average, prices moved up at a faster rate. So
8 that's what accounted for the decrease in the costs of
9 good sold to sales ratio.

10 COMMISSIONER LANE: Okay, thank you. Mr.
11 Chairman, that's all I had.

12 CHAIRMAN PEARSON: Commissioner Williamson?

13 COMMISSIONER WILLIAMSON: Mr. Chairman, I
14 have no further questions. but I do want to thank the
15 panel for their presentations today.

16 CHAIRMAN PEARSON: Commissioner Pinkert?

17 COMMISSIONER PINKERT: Gosh, you're stuck
18 with me still having a question or two. I must not
19 have gotten the memo. I guess I'm the only one in
20 here who has ever had the pleasure of applying
21 fertilizer, at least on an agricultural scale.

22 Can you advise the status of the EU order on
23 Ukrainian high-density ammonium nitrate because I had
24 understood, from the materials, in the record, that a
25 decision was contemplated in the EU late in March.

1 MS. SLATER: The deadline is the end of
2 April. There was something that had been submitted by
3 one of the Ukrainian producers that suggested, I
4 think, late March. But the notice that we looked at
5 had a late April date, Commissioner.

6 CHAIRMAN PEARSON: Okay. So, as things
7 stand now, the EU order still is in effect?

8 MS. SLATER: That's right.

9 CHAIRMAN PEARSON: Natural gas has been
10 actually been asked about quite a bit.

11 But I wanted to go back to where we were a
12 year or so ago with the Russian Review. Because
13 there, we had considerable discussion about Russia in
14 negotiations drawing the WTO; and a lot of pressure on
15 the Russians, including from the United States, to
16 being about a rational pricing system for natural gas
17 in Russia.

18 The question is: Do those same issues apply
19 to Ukraine. The Ukraine, also, is in negotiations to
20 join the WTO, is that correct?

21 MS. SLATER: Probably the ministries could
22 answer, but I believe the Ukraine is quite far along
23 in that process. And I think the U. S., we've at
24 least closed out our bilaterals. I'm not positive
25 whether the accession has been completed.

1 The Ukrainian gas situation is a little
2 different, as you can see, because the government is
3 more -- the primary issue is first the gas price from
4 Russia; and, secondarily, whether the government is
5 going to insulate producers.

6 So the issues are a little bit different in
7 the Ukraine.

8 CHAIRMAN PEARSON: Right, I appreciate that.
9 In fact, perhaps the Russians are most eager to prove
10 their willingness to provide market pricing for
11 natural gas, as they sell it to the Ukraine.

12 MS. SLATER: To someone else, right.

13 CHAIRMAN PEARSON: The events of the
14 intervening months, since the last hearing, would
15 suggest that's the case.

16 Let me approach it this way then, and this I
17 think would be for you, Ms. Slater. Could you give a
18 bit more detail to follow up on what was in your pre-
19 hearing brief about natural gas pricing in the
20 Ukraine, where you indicated that Gazprom had
21 increased its natural gas price to the Ukraine to
22 about \$5.15 to \$5.30 U. S. dollars per million BTUs.

23 You stated that this is not necessarily
24 reflected in the price paid by Ukrainian HDAN
25 producers.

1 Can you provide any follow-up, either now in
2 the post-hearing, that would give more evidence or
3 explanation of why those increased prices are not
4 necessarily going to be reflected in the prices paid
5 by the ammonium nitrate producers in the Ukraine?

6 MS. SLATER: We can do that post-hearing,
7 although there is not a lot of information out there
8 publicly. We can certainly have some information to
9 draw from in the Commission's record.

10 The report we've given you concerning
11 pending measures before the Ukrainian Parliament are
12 out there. We don't have anything. I think the most
13 recent thing was about two weeks ago, which we
14 included in our brief. We can see if we can provide
15 some more analysis, based on the Commission's record
16 of the situation.

17 CHAIRMAN PEARSON: Okay. But, at this
18 point, you're not going to take the position that the
19 pricing of natural gas, that the Ukrainian fertilizer
20 industry would have access to, would be similar to
21 what the Georgians might have access to?

22 MS. SLATER: I mean we actually don't know
23 at this point. This is what all the industry analysts
24 are saying. What the Ukrainian plants will be
25 actually paying for gas even in 2007 is something

1 that's in flux.

2 I think the one thing we can say clearly is
3 that there have been -- you know, this is a relatively
4 new thing. The Russian gas prices increased into the
5 Ukraine in general in 2006. We know that there was a
6 VAT rebate put in place for that year.

7 Possibly other things were done, so this is
8 just moving into the second year of experience with
9 the new improved Russian view of gas pricing. We can
10 provide you with what we know, but we don't actually
11 know because no one else knows what the bottom line
12 will be.

13 In fact, it may be the situation that we
14 won't know until later in the year. The pricing may
15 be retroactively determined for the Ukrainian plants.
16 We will tell you anything else that we can find out
17 between now and the post-hearing, and perhaps do a
18 little more analysis for you.

19 CHAIRMAN PEARSON: Okay. I appreciate that,
20 and I recognize fully that we would have an easier
21 time filling in this part of the record if we did have
22 Respondents present.

23 There is only so much that the domestic
24 industry is able to do, but I am curious about it. It
25 is, to me, a material issue as we try to understand

1 what likely would occur in the reasonably foreseeable
2 future?

3 So, to the extent that you can shine some
4 light on it, please do so.

5 MS. SLATER: We will try our best.

6 CHAIRMAN PEARSON: I guess there are no
7 further questions from the dais?

8 Do members of the Staff have any questions
9 for the Domestic Industry Panel?

10 MR. CANTRELL: Yes, just one question. Ray
11 Cantrell with the Industries.

12 Mr. Gough had addressed some improvement in
13 market dynamics for the domestic manufacturers this
14 spring, alluding to an increase in pasture- and hay
15 usage of HDAN.

16 I was wondering if Terra is experiencing
17 similar increases in volume this spring? If not for
18 pasture and hay, for possibly other crops?

19 MR. GREEN: Currently, Terra is experiencing
20 good, steady demand. We haven't seen demand exceed
21 our expectations or any large increases. Like I've
22 said, we've had product available and for sale here
23 throughout 2007.

24 At this point in time, like I said, we don't
25 see any excessive demand coming towards us. Like I

1 said, we have seen some activity of imports in calcium
2 ammonium nitrate coming to the Georgia coast. We've
3 also seen probably a few more tons of imported product
4 arrive into Tampa, which could be impacting or picking
5 up some of that additional business that may be out
6 there.

7 MR. CANTRELL: I was just wondering with the
8 comment that has been made that the coarse-grain
9 increase would not amount to any additional HDAN in
10 consumption.

11 We see a lot in the questionnaires about use
12 of ammonium nitrate on corn, wheat, sorghum, and so
13 forth, especially in no-till areas. So I was
14 wondering with this tremendous increase that we're
15 seeing for the spring if we wouldn't see some increase
16 in HDAN and on those crops; or, if not, for example,
17 in Mississippi, I know that the Delta Farm Press says
18 that corn acreage is tripling this spring
19 unprecedented.

20 If HDAN is not being used as are allowed on
21 the corn in Mississippi, what forms of nitrogen are
22 being used?

23 MR. GOUGH: At this time, as far as other
24 nitrogen products, we're seeing nitrogen solution, as
25 well as urea, to be moving very briskly from the

1 warehouses and distribution centers for this year's
2 crop.

3 MR. CANTRELL: So it's primarily urea and
4 UAN?

5 MR. GOUGH: That's what we see at this
6 point.

7 MR. CANTRELL: Well, I mean a couple of
8 hundred thousand tons increase of HDAN would mean a
9 lot to the domestic producers I know.

10 In either now, or in post-hearing, could you
11 comment on whether you think between El Dorado and
12 Terra that you could experience at least a couple of
13 hundred thousand tons increase this spring?

14 MS. SLATER: We can certainly comment post-
15 hearing, Mr. Cantrell.

16 But, also, I want to clarify. I don't think
17 what you heard is that there is no ammonium nitrate
18 being placed on any of that corn. I think that in the
19 realm of all nitrate use, corn is a relatively small
20 piece of that.

21 So, even an increase in that small piece,
22 wouldn't have a material impact on the demand side of
23 things.

24 MR. CANTRELL: Okay. Thank you for those
25 answers. I have no further questions.

1 CHAIRMAN PEARSON: Anybody else?

2 MR. DEYMAN: George Deyman of Office of
3 Investigations. The Staff has no further questions.

4 CHAIRMAN PEARSON: We have, in terms of time
5 remaining, only the five minutes for closing because
6 there is no one to rebut, so the rebuttal time is
7 forfeited.

8 Would you prefer to just go to closing as
9 you sit now, or would you like to go to the podium?
10 It's your choice.

11 MS. SLATER: I think I'll stay right where I
12 am.

13 CHAIRMAN PEARSON: Excellent.

14 MS. SLATER: And not expend any additional
15 energy.

16 Thank you, Mr. Chairman, and thank you
17 Commission for your time and attention this morning.
18 These witnesses have come at the height of the season.
19 I know that they are being missed from their offices
20 at a very busy time.

21 But this is something that was very
22 important for them and I must confess that I didn't
23 even get the groans that I would have expected with a
24 hearing being scheduled for the height of the planting
25 season. Their presence here today, I think gives you

1 some indication of how important this all is.

2 We've covered a lot of topics this morning,
3 and I don't want to take the time to sort of review
4 the whole case. But I do want to quote back from a
5 very wise Federal Commission that wrote last March,
6 the following: "For the global trading companies that
7 drive the flow of ammonium nitrate imports, profit is
8 a function of total margin and total volume. So they
9 have a strong incentive to move as much volume as
10 feasible as long as their margins that cover the
11 purchase price and transportation costs are
12 maintained." That statement that this Commission made
13 a year ago in the Russian Review remains true today.

14 The trading companies, which compete
15 vigorously with each other and with domestic industry
16 suppliers, would be absolutely delighted to have the
17 opportunity to do what they did in calendar year 2000,
18 that is: To bring a lot of product, even at small
19 margins, whatever they could do to move that in here,
20 and get those margins on product that will be priced
21 below other product available to them, given the
22 situation in the exporting country.

23 We hope you will recall that analysis: The
24 importance of trading companies in this market; and be
25 very mindful of the fact that the industry is still

1 struggling with a market that is shrinking, reaching
2 what, hopefully, will be a stable level at some point
3 in the future, and still grappling with additional
4 security regulations. There is a new law that was
5 introduced into Congress just in the last two weeks,
6 which we've mentioned to you in our brief.

7 These things are still in flux, and
8 repeating the situation of 2000 would have an
9 extremely negative impact on this industry today.

10 Thank you for your attention. And we look
11 forward to answering all of your questions in our
12 post-hearing brief. Thank you.

13 CHAIRMAN PEARSON: Thank you, Ms. Slater.

14 Let's see, the Closing Statement, Post-
15 Hearing Briefs, Statements Responsive to Questions and
16 Requests of the Commission and corrections to the
17 transcript must be filed by April 27, 2007.

18 Closing of the record and final release of
19 data to parties: May 23rd; and Final Comments on May
20 29th.

21 This hearing is adjourned.

22 (Whereupon, at 12:23 p.m., the hearing in
23 the above-entitled matter was concluded.)

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Ammonium Nitrate from Ukraine
INVESTIGATION NO.: 731-TA-894 (Review)
HEARING DATE: April 17, 2007
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: April 17, 2007

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: Christina Chesley
Signature of Court Reporter