Certain Ammonium Nitrate From Russia

Investigation No. 731-TA-856 (Final)

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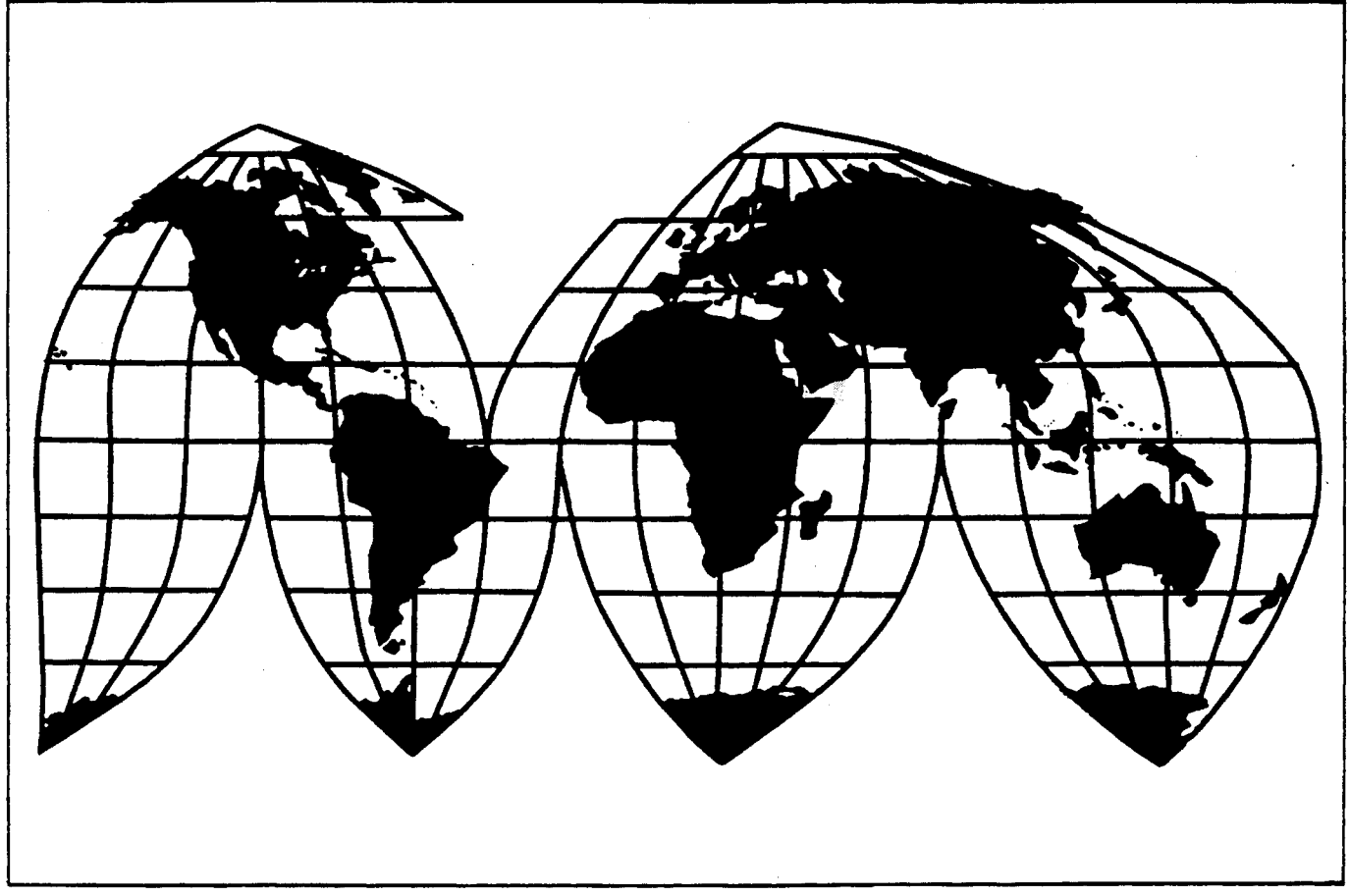
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-856 (Final)

CERTAIN AMMONIUM NITRATE FROM RUSSIA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Russia of certain ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with respect to the subject imports.

BACKGROUND

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

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

[2] Commissioner Jennifer A. Hillman not participating.

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

[4] Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing notice in the *Federal Register* of January 18, 2000 (65 FR 2643).

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that an industry in the United States is materially injured by reason of imports of certain ammonium nitrate from Russia that the Department of Commerce ("Commerce") found to be sold in the United States at less than fair value ("LTFV").[1] We also determine that critical circumstances do not exist with respect to the subject imports.

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

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

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[7] Although the Commission must accept the determination of Commerce as to the scope of the imported

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[1] Commissioner Hillman did not participate in the final phase of this investigation.

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10).

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

[6] *See, e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

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

merchandise that has been found to be sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

Commerce defined the scope of subject merchandise as follows in its final determination:

> solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate).[9]

Ammonium nitrate is one of several fertilizers that deliver nitrogen to the soil.[10] Ammonium nitrate is produced by the direct reaction of ammonia (NH_3) with nitric acid (HNO_3).[11] Depending on the producer, ammonium nitrate may be produced in granular or in prill form.[12]

In its preliminary determination, the Commission found a single domestic like product coextensive with the scope and consisting of solid, fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.[13] The Commission considered whether low density (industrial) ammonium nitrate – ammonium nitrate with a bulk density less than 53 pounds per cubic foot – should be included in the domestic like product, and concluded that it should not be.[14]

No party has challenged the Commission's domestic like product determination in the final phase of this investigation and the record contains no new evidence that would call into question the Commission's reasoning in its preliminary determination.[15] Consequently, for purposes of this final

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[8] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] 65 Fed. Reg. 42669, 42670 (July 11, 2000).

[10] Confidential Report ("CR") at I-7, Public Report ("PR") at I-5. In these Views, the term "ammonium nitrate" refers to high density ammonium nitrate unless otherwise specified.

[11] CR at I-5, PR at I-4.

[12] Granules are formed by layering molten ammonium nitrate onto seed particles in a rotary pan or drum granulator, and prills are formed by spraying molten ammonium nitrate droplets into specially designed towers and allowing the molten droplets to free-fall through an upward current of cool air and solidify into small spheres. CR at I-5, PR at I-4.

[13] Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Preliminary), USITC Pub. 3232 at 3-7 (Sept. 1999) (hereinafter "Preliminary Determination").

[14] Preliminary Determination, USITC Pub. 3232 at 5-7 (finding some similarities between high and low density ammonium nitrate (*e.g.*, raw materials used and nitrogen content), but concluding that they are outweighed by the differences, particularly with respect to physical characteristics and uses, interchangeability, producer and customer perceptions, and channels of distribution).

[15] In the preliminary determination, the Commission stated that it would revisit in any final phase investigation the issue of whether the Commission should include any nitrogen-based fertilizers other than ammonium nitrate in the domestic like product. Preliminary Determination, USITC Pub. 3232 at 5 n.17. Respondents did not identify in the preliminary phase of the investigation what, if any, nitrogen-based fertilizers should be included in the domestic

(continued...)

determination we again define the domestic like product coextensively with the subject merchandise: fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.

B. Domestic Industry

1. Generally

The domestic industry is defined as "the producers as a [w]hole of a domestic like product . . . ."[16] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[17] We define the domestic industry in this investigation as all domestic producers of high density ammonium nitrate.

2. Related Parties

We also must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry a producer that is related to an exporter or importer of subject merchandise, or which is itself an importer.[18] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[19]

The related party issue in the final phase of this investigation is the same as the one discussed in the preliminary determination: whether two domestic producers, LaRoche Industries, Inc. ("LaRoche")

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[15](...continued)
like product. They likewise failed to do so in the final phase. The record in the final phase investigation, as that in the preliminary phase, indicates clear distinctions between ammonium nitrate and other nitrogen-based fertilizers with respect to product characteristics, *see* CR at I-5, PR at I-3, Hearing Transcript ("Tr.") at 15 (Baumes); customer perceptions, Table II-1, CR at II-13-15, PR at II-8-10; and price, *see* Petitioner's Prehearing Brief, exhibit 7.

[16] 19 U.S.C. § 1677(4)(A).

[17] *See* United States Steel Group v. United States, 873 F. Supp. 673, 681-684 (Ct. Int'l Trade 1994), *aff'd*, 96 F. 3d 1352 (Fed. Cir. 1996).

[18] 19 U.S.C. § 1677(4)(B).

[19] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14 n.81 (Feb. 1997).

and El Dorado Chemical Co. ("El Dorado"), are subject to exclusion as related parties by virtue of their purchases of subject ammonium nitrate from Russia during the period of investigation. In previous investigations, the Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where a domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial.[20]

LaRoche purchased *** short tons of subject merchandise in 1997, *** short tons in 1998, and *** short tons in 1999.[21] Its purchases were from three different sellers: ***.[22] El Dorado's purchases of subject merchandise amounted to *** short tons in 1997, *** short tons in 1998, and *** short tons in 1999.[23] El Dorado ***.[24] ***.[25]

In its preliminary determination, the Commission concluded that neither LaRoche nor El Dorado was a related party because neither firm controlled a large share of subject imports and because the purchases were either from several sellers (in the case of LaRoche) or constituted a *** (in the case of El Dorado).[26] The record in the final phase of this investigation warrants a similar conclusion. Accordingly, we find that no domestic producers are related parties in the final phase of this investigation.

II. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of an antidumping investigation, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation. In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[27] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[28] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[29] No single factor is dispositive, and all relevant factors are

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[20] *See, e.g.*, Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (Apr. 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (Apr. 1997).

[21] CR at III-7, PR at III-5.

[22] LaRoche Producer's Questionnaire.

[23] CR at III-7, PR at III-5.

[24] El Dorado Producer's Questionnaire.

[25] Investigator's Telephone Notes.

[26] Preliminary Determination, USITC Pub. 3232 at 8; *see also* Confidential Preliminary Determination at 11-12.

[27] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). *See also* Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[28] 19 U.S.C. § 1677(7)(A).

[29] 19 U.S.C. § 1677(7)(C)(iii).

considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[30]

For the foregoing reasons, we determine that the domestic ammonium nitrate industry is materially injured by reason of LTFV imports from Russia.

A. Conditions of Competition

There are several conditions of competition that are relevant to our analysis in this investigation. First, ammonium nitrate is used principally to fertilize certain types of row crops (such as corn, soybeans, wheat, cotton, barley, sorghum, oats, and rice), pastures and forage crops, and cash crops such as tobacco and citrus. Ammonium nitrate is also the preferred nutrient for "no-till" planting. Demand for ammonium nitrate is affected principally by planted acreage and application rates; these factors are in turn influenced by crop prices and weather.[31] Demand for fertilizers is generally considered to be mature.[32] In questionnaire responses, most U.S. producers and importers characterized demand for ammonium nitrate as being steady to falling and most purchasers characterized demand as stable.[33]

Apparent U.S. consumption of ammonium nitrate rose slightly during the period of investigation. Apparent consumption increased from 2.4 million short tons in 1997 to 2.5 million short tons in 1998, and then to 2.6 million short tons in 1999.[34]

Consumption of ammonium nitrate is seasonal, with large shipments typically moving to the farmer during the spring planting season. Nevertheless, product is produced throughout the year; traditionally, producers offer ammonium nitrate at lower prices during off-season periods to stimulate demand. Purchasers that purchase ammonium nitrate during off-season periods, such as the "fall fill" period, store it in preparation for sales to farmers during the next planting season.[35]

Ammonium nitrate is one of several nitrogen-based fertilizers; others include anhydrous ammonia, urea, UAN solutions, ammonium sulfate, calcium ammonium nitrate, and sodium nitrate.[36] Ammonium nitrate is distinguished from these other nitrogen-based fertilizers by its fast action, good solubility, and low volatility at ambient temperatures.[37] Purchaser responses concerning the conditions under which they substitute other fertilizers for ammonium nitrate varied widely. A substantial minority of purchasers (10 of 28) indicated they do not substitute other fertilizers for ammonium nitrate. Of the purchasers that indicated they do substitute, some indicated that they substituted between fertilizers freely, but half indicated that substitution was infrequent or was limited by factors such as weather conditions.[38]

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[30] 19 U.S.C. § 1677(7)(C)(iii).

[31] CR at II-8, PR at II-5.

[32] CR at II-8, PR at II-5.

[33] CR at II-10-11, PR at II-7.

[34] Table IV-3, CR at IV-5, PR at IV-4.

[35] CR at II-4-5, PR at II-3.

[36] CR at I-7, PR at I-5.

[37] CR at I-5, PR at I-3; *see* Tr. at 15 (Baumes).

[38] Table II-1, CR at II-13-15, PR at II-8-10.

Price is an important factor in purchasing decisions for ammonium nitrate. More purchasers listed price as the number one factor in their purchasing decisions than any other factor, and over half the responding purchasers listed price as their first or second most important purchasing factor.[39]

All responding U.S. producers, purchasers, and importers responded that the domestic like product and the subject imports can be used interchangeably.[40] A plurality or majority of purchasers surveyed found that the domestic like product and the subject imports were comparable on 10 of 14 factors.[41]

Producers, purchasers, and importers also uniformly responded that the domestic like product and nonsubject imports can be used interchangeably.[42] The bulk of these nonsubject imports originated from Canada and the Netherlands.[43] A plurality or majority of the responding purchasers found the nonsubject imports comparable to U.S.-produced ammonium nitrate with respect to all product characteristics except availability and transportation network.[44]

The quantity of nonsubject imports increased from 189,289 short tons in 1997 to 262,214 short tons in 1998 and then to *** short tons in 1999.[45] The market penetration of nonsubject imports, measured by quantity, increased from 8.0 percent in 1997 to 10.3 percent in 1998, and then declined to *** percent in 1999.[46]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[47]

The quantity of subject imports increased from 198,701 short tons in 1997 to 261,545 short tons in 1998 and then to *** short tons in 1999.[48] Subject import market penetration, measured by quantity, also increased throughout the period of investigation, rising from 7.9 percent in 1997 to 9.0 percent in 1998 and then to *** percent in 1999.[49] We find this volume of subject imports to be significant.[50]

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[39] Table II-3, CR at II-20, PR at II-14.

[40] CR at II-21, PR at II-15.

[41] Table II-4, CR at II-22, PR at II-15. A majority or plurality of purchasers, however, found that the domestically-produced product was superior in product quality, product consistency, and reliability of supply. *Id.* There were reports that the Russian-produced product did not hold up as well in storage as domestically-produced ammonium nitrate and that it is subject to more degradation because it is handled more during transportation. CR at II-21, PR at II-15.

[42] CR at II-22, PR at II-16.

[43] CR at IV-1 n.1, PR at IV-1 n.1.

[44] Table II-5, CR at II-23, PR at II-16.

[45] Table IV-1, CR at IV-2, PR at IV-2.

[46] Table IV-3, CR at IV-5, PR at IV-4.

[47] 19 U.S.C. § 1677(7)(C)(i).

[48] Table IV-1, CR at IV-2, PR at IV-2.

[49] Tables IV-2, IV-3, CR at IV-4-5, PR at IV-3-4. The annual data to some extent understate the increase in subject import volume and market penetration during the latter portion of the period of investigation. Subject

(continued...)

Subject imports increased at a faster rate than did domestic shipments. Consequently, while market penetration of the subject imports was rising, the domestic producers' share of U.S. apparent consumption, measured by quantity, declined from 84.1 percent in 1997 to 80.7 percent in 1998 and then increased to 80.8 percent in 1999.[51]

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether -- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[52]

Prices for both the subject imports and the domestic like product declined sharply during the period of investigation. Prices were lower in 1998 than in 1997, and lower in 1999 than in 1998, although within each year prices generally rose in the spring, the period of peak demand for ammonium nitrate. During the last month for which pricing data were collected, December 1999, prices for domestically-produced ammonium nitrate were 32.4 percent lower and prices for the subject imports were *** percent lower than they were in January 1997, the first month for which data were collected.[53] The subject imports undersold the domestic like product in 33 out of 35 monthly pricing comparisons, with substantial underselling margins that exceeded 15 percent in 29 months.[54]

As previously stated, price is an important factor in purchasing decisions for ammonium nitrate. Moreover, domestically-produced ammonium nitrate and the subject imports, which purchasers generally considered comparable in most respects, are relatively substitutable. In these circumstances, we conclude that the underselling by the subject imports has been significant. Indeed, the record provides many instances of confirmed lost sales and lost revenue allegations.[55]

We also conclude that the substantial volumes of subject imports that entered the U.S. market substantially depressed and suppressed prices for the domestic like product during the period of investigation, as evidenced by the sharp declines in the prices for both the subject imports and

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[49](...continued)
import volumes declined appreciably after the filing of the petition on July 23, 1999, and subject imports essentially disappeared from the market after November 1999. *See* CR at IV-3, PR at IV-1. Prior to the filing of the petition, subject import penetration reached *** percent in the first half of 1999, as compared to *** percent in the first half of 1998. See Letter from Valerie Slater to Donna R. Koehnke, Attachment at 1 (July 28, 2000).

[50] Commissioner Askey does not find the overall volume of subject imports to be significant. Moreover, based on her review of all data on the record, including official import statistics, she finds that the increase in the subject imports' market share is not significant, particularly given that the majority of the 1997-99 increase in subject imports took place between 1997 and 1998. CR and PR at Table IV-1; CR at IV-3, PR at IV-1.

[51] Table IV-3, CR at IV-5, PR at IV-4.

[52] 19 U.S.C. § 1677(7)(C)(ii).

[53] Table V-1, CR at V-10-11, PR at V-6-7. *See also* CR at V-8-9, PR at V-9-10.

[54] Table V-1, CR at V-10-11, PR at V-6-7.

[55] CR at V-15, E-13-26, PR at V-10, E-3-10.

domestically-produced ammonium nitrate. Industry witnesses testified that, because of the low-priced subject imports, they were forced to cut prices to retain market share.[56]

We also examined several exogenous factors to determine whether they could have been responsible for the price declines. We conclude that they cannot, either individually or in conjunction, explain the magnitude of these declines.

One factor we examined was raw material costs. Ammonia is the basic raw material used in the production of ammonium nitrate. In turn, natural gas is the basic feedstock for producing ammonia.[57] Natural gas and ammonia prices fluctuated over the period of investigation; per unit prices of each product declined from 1997 to 1998, and then increased from 1998 to 1999 to a level below that of 1997.[58] By contrast, prices for the domestic like product declined throughout the period of investigation, including from 1998 to 1999. Consequently, the decline in prices for the domestic like product did not simply reflect changes in raw material costs.[59]

Another factor we examined was nonsubject imports, which during the period of investigation came principally from Canada and the Netherlands. As previously discussed, nonsubject import volumes increased throughout the period of investigation, and nonsubject import market penetration was higher in 1999 than in 1997. Additionally, nonsubject imports are generally good substitutes for domestically-produced ammonium nitrate.[60] Nonsubject imports from Canada, however, sold at average unit values (AUVs) that were consistently above those for the domestic like product.[61] Although the AUVs for the imports from other nonsubject sources, most notably the Netherlands, were below those for domestically-produced ammonium nitrate, they were above those of the subject imports and declined by considerably less than the AUVs for the subject imports during the period of investigation.[62] Moreover, a majority of responding purchasers found nonsubject imports from the Netherlands and domestically-produced ammonium nitrate comparable in terms of price.[63] In light of these considerations, we cannot conclude that the sharp declines in prices for domestically-produced ammonium nitrate during the period of investigation were a function of nonsubject imports.

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[56] Tr. at 9 (Porvaznik), 69 (Ewing).

[57] CR at V-1, PR at V-1. The cost of natural gas represents approximately 70 to 80 percent of the cost of producing ammonia and about 30 to 50 percent of producing ammonium nitrate. *Id.*

[58] CR at V-1-2, PR at V-1.

[59] Commissioner Bragg did not restrict her analysis to an examination of raw material costs alone, but instead examined the cost of goods sold as a whole. Commissioner Bragg notes that although the per unit cost of goods sold for domestic producers declined *** percent between 1997 and 1999, the average unit value of domestic producers' U.S. shipments declined 27.4 percent and the average unit value of subject imports declined *** percent during the same period; pricing data depict similar declines, with reported prices for domestic producers declining 32.4 percent between January 1997 and December 1999, while subject import prices declined *** percent during the same period. *See* CR and PR, Tables V-1 and C-1. Commissioner Bragg concludes that any price based competition arising from modestly declining production costs among domestic producers does not account for the dramatic and significant declines in U.S. price levels evidenced on the record.

[60] *See* CR at II-22-23, PR at II-16.

[61] *Compare* Table III-3, CR at III-4, PR at III-3 *with* Table IV-1, CR at IV-2, PR at IV-2. Because there are no significant problems of variation of "product mix" with ammonium nitrate, we believe AUV data provide reasonably probative information on the relative price levels and price movements of nonsubject imports.

[62] Table IV-1, CR at IV-2, PR at IV-2. Between 1997 and 1999, AUVs for imports from nonsubject sources other than Canada declined by *** percent, while AUVs for subject imports declined by *** percent. *Id.*

[63] Table II-5, CR at II-23, PR at II-16.

We have also considered pricing trends for other nitrogen-based fertilizers. It is true that during the period of investigation, U.S. prices for fertilizers such as urea, ammonia, and UAN also declined, although the magnitude of price fluctuations varied to some degree from product to product.[64] However, many purchasers consider these products' substitutability with ammonium nitrate to be either limited or non-existent. As previously discussed, of 28 purchasers who responded to the Commission's questionnaire, a majority stated that they either did not substitute other fertilizers for ammonium nitrate or substituted other fertilizers only under limited conditions.[65] Ammonium nitrate's share of the total U.S. market for nitrogen-based fertilizers has been relatively steady since 1990, suggesting that relative price shifts between types of fertilizers is unlikely to significantly affect ammonium nitrate demand relative to other fertilizers.[66] Moreover, most domestic ammonium nitrate producers indicate that they do not reference prices for other nitrogen-based fertilizers in establishing prices for ammonium nitrate, and that their customers do not reference prices for these fertilizers in making decisions to purchase ammonium nitrate.[67] In light of these considerations we cannot conclude that price changes in other nitrogen-based fertilizers provide a sufficient explanation for the sharp drop in ammonium nitrate prices during the period of investigation.

D. Impact of the Subject Imports on the Domestic Industry

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry." These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[68] [69] [70]

The subject imports, because of their significant effects on prices for domestically-produced ammonium nitrate, adversely affected the domestic industry's revenue and financial performance. The domestic industry's U.S. shipments rose during the period of investigation, increasing from 1.99 million

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[64] *See* Figure I-1, CR at I-9, PR at I-6.

[65] Table II-1, CR at II-13-15, PR at II-8-10.

[66] Petitioner's Prehearing Brief, ex. 17.

[67] Petitioner's Posthearing Brief, tab H, exhibit 2.

[68] 19 U.S.C. § 1677(7)(C)(iii). *See also* Uruguay Round Agreements Act Statement of Administrative Action (SAA), H.R. Rep. 103-316 at 851, 885 (1994); Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[69] As part of its consideration of the impact of imports, the statute specifies that the Commission is to consider "the magnitude of the margin of dumping" in an antidumping proceeding. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination, Commerce determined the weighted-average dumping margin was 253.98 percent for both JSC Nevinnomyssky Azot, the one exporter/manufacturer that received a firm-specific margin, and for all other exporter/manufacturers. 65 Fed. Reg. 42669, 42673 (July 11, 2000).

[70] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

short tons in 1997 to 2.05 million short tons in 1998 and then to 2.10 million short tons in 1999.[71] Because of the significant declines in domestic prices, however, the domestic industry's sales revenues declined from *** million in 1997 to *** million in 1998 and *** million in 1999.[72]

Although domestic producers' costs did decline somewhat during the period of investigation, the cost declines were nowhere as steep as the declines in sales revenues. On a per short ton basis, cost of goods sold declined from *** in 1997 to *** in 1999, and sales, general, and administrative expenses declined from *** in 1997 to *** in 1999. By contrast, net sales values declined from *** per short ton in 1997 to *** in 1999.[73]

As a consequence, notwithstanding increasing shipments, domestic producers' operating performance deteriorated significantly during the period of investigation. Domestic industry operating income declined from *** in 1997 to *** in 1998, and in 1999 the domestic industry sustained a *** operating loss, with six *** domestic producers submitting data reporting operating losses.[74] One domestic ammonium nitrate producer, Wil-Gro Fertilizer, Inc., ceased producing the domestic like product in December 1999. Another producer, LaRoche, filed for protection under Chapter 11 of the U.S. Bankruptcy Code in May 2000.[75] At the hearing, a LaRoche official testified that revenue losses attributable to the subject imports contributed to his firm's decision to file for bankruptcy protection.[76]

Several other industry indicators also showed declines during the period of investigation. Employment declined from 499 production and related workers in 1997 to 449 in 1999.[77] Capital expenditures declined from *** in 1997 to *** in 1999.[78]

The domestic industry's declines in performance indicia during the period of investigation were attributable to lower prices, which caused sales revenues to decline notwithstanding that shipments and apparent consumption were increasing. As previously explained in the discussion on price effects, these lower prices were attributable to the significant price-depressing and -suppressing effects of the subject imports. We therefore conclude that the subject imports had a significant adverse impact on the domestic ammonium nitrate industry.

III. CRITICAL CIRCUMSTANCES

In its final determination, Commerce made affirmative critical circumstances findings with respect to all subject imports.[79] Because we have determined that the domestic ammonium nitrate industry is materially injured by reason of subject imports, we must further determine "whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[80] The SAA

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[71] Table III-3, CR at III-4, PR at III-3.

[72] Table VI-1, CR at VI-3, PR at VI-2.

[73] Table VI-2, CR at VI-4, PR at VI-3.

[74] Table VI-1, CR at VI-3, PR at VI-2.

[75] CR at III-1, PR at III-1.

[76] Tr. at 9-10 (Porvaznik).

[77] Table III-5, CR at III-6, PR at III-5.

[78] Table VI-5, CR at VI-11, PR at VI-5.

[79] *See* 65 Fed. Reg. at 42670.

[80] 19 U.S.C. § 1673d(b)(4)(A)(i).

indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[81]

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

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[82]

Consistent with Commission practice, in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petition with those subsequent to the filing of the petition.[83] The record contains monthly official statistics from Commerce on subject import volume. Because sales of ammonium nitrate tend to be seasonal, we compared monthly subject import volumes for the post-petition period with subject import volumes for both the period immediately preceding the petition and the period from the prior year.[84] No matter what period of measurement is used, subject import volume was substantially lower in the post-petition period than in the pre-petition period.[85] The available information indicates that there was not a buildup of inventories during the post-petition period.[86]

Because the record indicates that there was no increase in subject imports from Russia subject to Commerce's affirmative critical circumstances finding immediately following filing of the petition, nor was there any substantial increase in inventories of these imports, we conclude that these imports will not undermine the remedial effect of any antidumping duty order that may be issued with respect to unliquidated entries should the current suspension agreement between the United States and the Russian Federation be terminated. Accordingly, we determine that critical circumstances do not exist with respect to the subject imports.

CONCLUSION

For the foregoing reasons, we have determined that the domestic ammonium nitrate industry is materially injured by reason of LTFV imports from Russia.

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[81] SAA at 877.

[82] 19 U.S.C. § 1673d(b)(4)(A)(ii).

[83] *See, e.g.*, Certain Preserved Mushrooms from China, India, and Indonesia, Inv. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 at 24 (Feb. 1999).

[84] *Compare* Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 34 (Apr. 1997).

[85] CR at IV-3, PR at IV-1.

[86] Table VII-1, CR at VII-1, PR at VII-1.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by counsel for the ad hoc Committee for Fair Ammonium Nitrate Trade (COFANT) including Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co. (El Dorado), Oklahoma City, OK; Nitram, Inc., Tampa, FL; LaRoche Industries, Inc. (LaRoche), Atlanta, GA; and Wil-Gro Fertilizer, Inc., Celina, TX, on July 23, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of certain ammonium nitrate,[1] hereinafter referred to as high-density ammonium nitrate (HDAN), from Russia.

On May 19, 2000, before the Commission reached a final determination in this investigation, Commerce entered into a suspension agreement with Russia and suspended the investigation. On June 29, 2000, the petitioner requested a continuation of the investigation and both Commerce and the Commission resumed their investigations.

Information relating to the background of the investigation is provided below.[2]

Effective date	*Action*
July 23, 1999	Petition filed with the U.S. Department of Commerce (Commerce) and the Commission; institution of Commission investigation
August 19, 1999	Commerce's notice of initiation
September 7, 1999 ...	Commission's preliminary determination
November 5, 1999 ...	Commerce's preliminary determination of critical circumstances (64 FR 60422)
January 7, 2000	Commerce's preliminary determination; (65 FR 1139);[3] scheduling of final phase of Commission investigation (65 FR 2643, January 18, 2000, as revised by 65 FR 11080, March 1, 2000; 65 FR 15353, March 22, 2000; and 65 FR 34232, May 26, 2000)
May 19, 2000	Commerce enters into suspension agreement with Russia (65 FR 37759, June 16, 2000)
June 16, 2000	Commission suspends its investigation (65 FR 40126, June 29, 2000)
June 29, 2000	Commission continuation and scheduling of the final phase of the investigation in response to a request by the petitioner for a continuation of the investigation (65 FR 41489, July 5, 2000)

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[1] For purposes of this investigation, subject ammonium nitrate is solid, fertilizer-grade ammonium nitrate products, whether prilled, granular, or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial-grade or explosive-grade ammonium nitrate). Subject ammonium nitrate is provided for in statistical reporting number 3102.30.00.00 of the Harmonized Tariff Schedule of the United States (HTS) with a normal trade relations tariff rate of "Free" applicable to imports from Russia.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] Commerce calculated preliminary LTFV margins to be 264.59 percent *ad valorem*, for JSC Azot Nevinnomyssk and Russia-wide. On February 11, 2000, Commerce published notice in the Federal Register of the postponement of its final determination (65 FR 6983). The notice is presented in app. A.

Effective date	*Action*
July 11, 2000	Commerce final determination (65 FR 42669)[4]
July 11, 2000	Commission's hearing[5]
August 2, 2000	Commission's vote
August 14, 2000	Commission determination sent to Commerce

Previous Investigations

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

Commerce's Final Determination

Commerce has treated Russia as a nonmarket economy because no party has sought revocation of nonmarket economy status in its investigation. When Commerce investigates imports from a nonmarket economy, it bases normal value on the nonmarket economy producer's factors of production, valued in a surrogate market economy country. Only one Russian producer, JSC Azot Nevinnomyssk, provided a complete response to Commerce's request for information and qualified for a separate rate. Normal value was calculated using publicly available information from Poland and Russia to value JSC Azot Nevinnomyssk's factors of production except for (1) one input valued using Venezuelan data, since there were no Polish data available, and (2) the market economy price provided by JSC Azot Nevinnomyssk for one catalyst, since there were no other record catalyst data available. Export price was based on JSC Azot Nevinnomyssk's f.o.b. prices to an unaffiliated trading company. The weighted-average amount by which the normal value exceeds the export price was calculated as 253.98 percent. The Russia-wide rate applicable to all other exporters/manufacturers is also 253.98 percent.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of *** that accounted for over *** percent of U.S. production of HDAN during 1999. ***. U.S. imports from Russia are based on questionnaire data and account for virtually all Russian imports; U.S. imports from other sources are based on official statistics from Commerce which have been adjusted by Commission staff to eliminate, as much as possible, imports of explosive grade ammonium nitrate and to correct classification errors by importers.

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[4] Commerce calculated final LTFV margins to be 253.98 percent *ad valorem* for JSC Azot Nevinnomyssk and Russia-wide. Critical circumstances were found also with respect to JSC Azot Nevinnomyssk and Russia-wide.

[5] A list of witnesses appearing at the hearing is presented in app. B.

THE PRODUCT

HDAN, a solid form ammonium nitrate with a density of 53 pounds or more per cubic foot,[6] is a bulk commodity product used primarily as an agricultural fertilizer. HDAN is the only form of ammonium nitrate that is subject to this investigation. Specifically excluded from this scope is solid low-density ammonium nitrate (LDAN), which has a bulk density less than 53 pounds per cubic foot and is used primarily as an explosive.[7] Also excluded is liquid ammonium nitrate, also known as ammonium nitrate liquor, which is predominately used as an intermediate product to produce solid HDAN and LDAN and/or is added to urea to produce urea-ammonium nitrate (UAN) liquid fertilizers.

HDAN is a solid crystalline product having the chemical composition NH_4NO_3, which assays at about 34.0 percent minimum plant-available nitrogen (N) by weight.[8] It is typically produced either in spherical shapes called prills that range from 1.5 to 2.5 millimeters (mm) in diameter or in somewhat larger more irregularly shaped granules. Both forms (prills and granules) are equally effective as a fertilizer and roughly equivalent in price, but, because they require different processing equipment, producers tend to make one or the other exclusively. Worldwide, HDAN is produced to similar specifications, and exhibits similar physical and chemical characteristics.[9]

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

HDAN is unique as a chemical fertilizer because 50 percent of its nitrogen is immediately available to plants as nitrate (NO_3) nitrogen.[10] This fast acting property, along with good solubility and low volatility at ambient temperatures, is responsible for HDAN's popularity as a direct application fertilizer in a specialty niche market. HDAN is most competitive in warm climate zones where early-fall and spring temperatures do not fall below 50°F for extended periods and where application is not combined with plowing or tillage; i.e., HDAN is a "no-till" fertilizer. Hay, pasture, turf grasses, corn, tobacco, and citrus are examples of crops that use no-till fertilizer application.

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

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

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

[9] Available information from the Commission conference and questionnaires indicates that virtually no HDAN product imported from any source and sold in the United States has been rejected for use. All imports from Russia have reportedly been in prill form with a density of 55-62 pounds per cubic foot. In some instances the prills have been smaller in size than the typical domestic average range of 1.5-2.5 mm and "dustier" than their domestic counterparts. There is no evidence suggesting a major deterrent to effectiveness or ease of application, although some purchasers may regard Russian product as somewhat inferior in quality. LaRoche and El Dorado have purchased Russian prilled product to supplement their own production, and LaRoche has blended Russian product with in-house product.

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

Manufacturing Facilities, Production Process, and Production Employees

The process of manufacturing HDAN is relatively standard throughout the industry and involves the direct reaction of ammonia (NH_3) with nitric acid (HNO_3) to form ammonium nitrate (NH_4NO_3). Ammonia, the primary feedstock, is either purchased or derived from natural gas and atmospheric nitrogen. A portion of the ammonia is combined with oxygen to form a nitric acid solution,[11] which is then combined with ammonia in a neutralization chamber to form an aqueous ammonium nitrate solution (otherwise known as liquid ammonium nitrate or ammonium nitrate liquor).[12] The ammonium nitrate solution is then heated and evaporated up to a molten concentration, or melt, of 99 percent ammonium nitrate or greater.

Depending on the producer, the molten ammonium nitrate is either made into granules by layering the material onto seed particles in a rotary pan or drum granulator, or made into prills by spraying molten ammonium nitrate droplets into specially designed towers and allowing the molten droplets to free-fall through an upward current of cool air and solidify into small spheres. Stabilizers, typically clay for granules and magnesium oxide (MgO) for prills, are added to the ammonium nitrate melt prior to prilling and granulation. The stabilizers limit moisture absorption, expansion, and contraction at selected temperatures. To further prevent moisture absorption and caking, the solid HDAN granules and prills may be coated with a liquid surface-active agent, fine powders, or other anticaking agents.[13] [14]

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

Plants that produce not only HDAN but other products (e.g., liquid ammonium nitrate, UAN liquid fertilizer) as well, may use production employees for multiple purposes.[15] Only 4 of the 10 HDAN producers reported that they also produced LDAN on site;[16] however, 7 of the 10 producers also isolate

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[11] This reaction is accomplished by passing the ammonia over a platinum-rhodium catalyst under elevated pressure and temperatures to form nitric oxide (NO) and nitrogen dioxide (NO_2), which are then passed through a countercurrent absorption tower with water to form an aqueous solution of about 55 percent nitric acid.

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

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

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

[15] Responses to Commission producer questionnaires.

[16] Two of the four LDAN producers manufacture LDAN interchangeably with HDAN on the same equipment

(continued...)

the ammonium nitrate liquor or produce UAN fertilizer solutions using the same or associated production equipment and related workers.

Like Product Issues

Although it is possible to use LDAN as a fertilizer and HDAN as an explosive, their physical differences make it impractical and inefficient to do so. Besides selling at a higher average price, LDAN's porosity and friability make it more difficult to spread evenly on fields.[17] Similarly, with stronger moisture inhibiting agents and without the porosity for adequate fuel oil absorption, HDAN is much less effective as an explosive. Despite being produced with similar raw materials and equipment, and sometimes in the same plant, HDAN and LDAN are made for distinctly separate uses and are sold to distinctly different customers through different channels of distribution.[18] In the preliminary phase of the investigation, the Commission determined that LDAN is not part of the domestic like product.[19]

During the preliminary phase, respondents suggested that the Commission consider expanding the like product to include nitrogen fertilizers other than HDAN, but they did not identify which of these other fertilizers the Commission should consider. In the questionnaire drafting stage during this final phase of the investigation, no party recommended the inclusion of any additional nitrogen fertilizer products in the Commission's questionnaires, nor has any party advocated in briefs in the final phase of the investigation the inclusion in the domestic like product of additional nitrogen fertilizer products.

HDAN is only one of several single-nutrient fertilizers based on nitrogen.[20] Other nitrogen-based fertilizers include anhydrous ammonia, urea, UAN solutions, ammonium sulfate, calcium ammonium nitrate (CAN), and sodium nitrate. Their substitutability with HDAN depends on a host of factors, including the intended crop, soil characteristics, climatic conditions (particularly temperature), regulatory factors, relative prices, nitrogen content,[21] and means of application.

Price

Nitrogen fertilizers are large-volume bulk commodities whose prices tend to rise and fall in tandem, at least in part as a result of changes in supply availability and market demand. Prices for all major nitrogen fertilizers have usually trended up and down in tandem. This trend is typical of the large-volume nitrogen fertilizer commodity industry where price fluctuations are commonly dependent on the

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[16] (...continued)
using related workers.

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

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

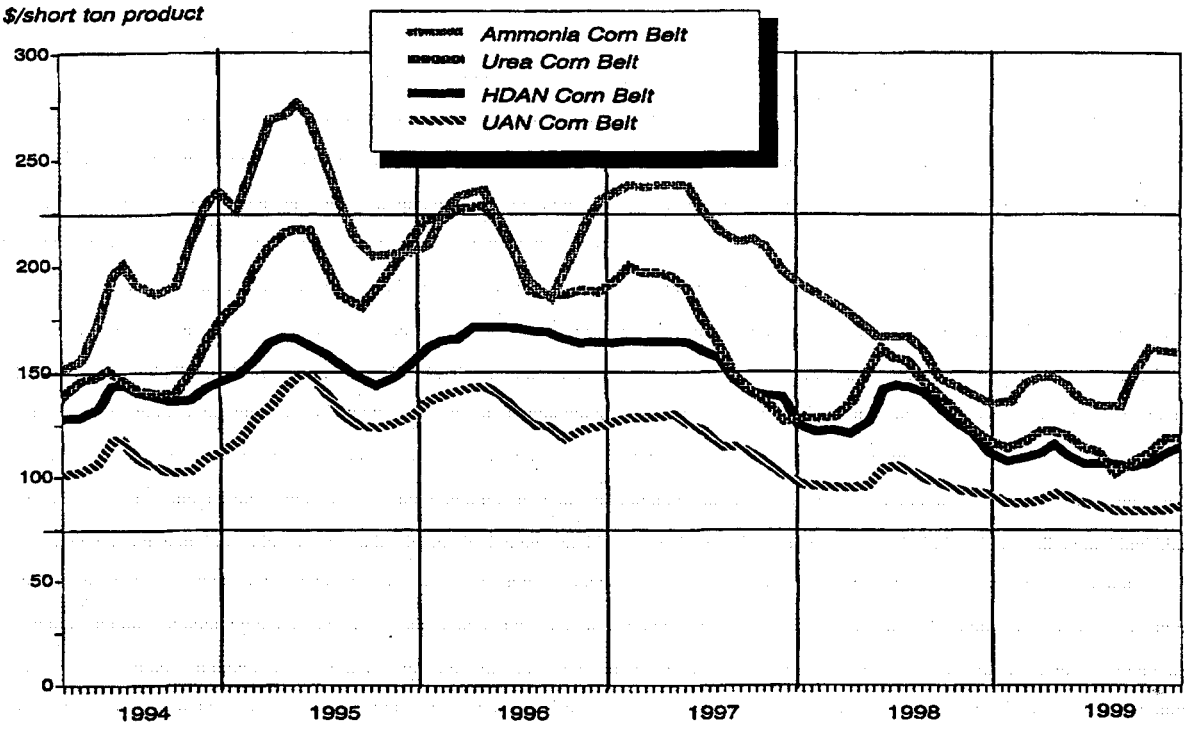
[19] The petitioner argued that LDAN should not be included in the like product. Respondents did not challenge petitioner's position.

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

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

relative changes between supply capability and market demand. Although constantly fluctuating,[22] U.S. HDAN, ammonia, urea, and UAN solution published prices generally trended up in 1994-95, were relatively stable during 1996-mid 1997, began a downward trend in the second half of 1997, and remained lower throughout 1999, as shown in figure I-1. In 1998-99, nitrogen fertilizer published prices were generally lower than at other times during the period examined. Average annual HDAN published prices, f.o.b. Cornbelt, fell from $170 per short ton in 1996 to $111 per short ton in 1999, a decline of 35 percent, while published urea[23] and ammonia prices, f.o.b. Cornbelt, declined by 44 percent and 33 percent, respectively, during the same period. UAN solution prices (32 percent N equivalent)[24] fell by 34 percent between 1996 and 1999.

Figure I-1
U.S. nitrogenous fertilizer price trends, 1994-99



Source: *Green Markets*, Pike & Fischer, Inc.

[22] Ammonia and urea exhibited more extreme price fluctuations than HDAN and UAN solutions.

[23] Urea price trends are based on an average of prilled and granular forms, as reported in *Green Markets*.

[24] UAN solution prices are reported on a per-unit nitrogen basis; therefore, to obtain the price per ton of a typical 32 percent nitrogen UAN solution, the unit price must be multiplied by 32.

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

CHANNELS OF DISTRIBUTION

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

Retailers may purchase HDAN directly from U.S. producers. Some U.S. producers, as well as importers, own or lease distribution warehouses to which HDAN is moved after production or import. The Mississippi River system serves as an important means for distributing HDAN, particularly the imported product,[1] and many distribution facilities are along the river system.

Retailers also purchase HDAN from wholesale distributors, who also operate distribution facilities. Wholesale distributors purchase HDAN from domestic and imported sources.[2]

Importers of Russian HDAN generally bring it in by vessel to the U.S. port, usually to New Orleans. Some importers also maintain distribution warehouses from which they sell to retailers.[3]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. producers of HDAN are likely to respond slowly to changes in demand with little initial change in the quantity of shipments of U.S.-produced HDAN to the U.S. market. The main contributing factors to the low degree of responsiveness of supply are relatively limited amounts of available excess capacity and limited on-site storage facilities, and limited alternate markets. However, plants that produce not only HDAN but other products (e.g., liquid ammonium nitrate, UAN liquid fertilizer) as well, may use production employees for multiple purposes. Only 4 of the 10 HDAN producers reported that they also produce LDAN on site;[4] however 7 of the 10 producers also isolate the ammonium nitrate liquor or produce UAN fertilizer solutions using the same or associated production equipment and related workers. Rising inventory levels, however, could affect the domestic producers' responsiveness through production cutbacks.[5]

According to Wharton Econometrics Forecasting Associates (WEFA), fertilizer producers must manage production schedules and inventory volumes effectively. If inventories build too rapidly, prices will weaken. If material is not available in the field or in specific markets when needed, prices will strengthen in those areas but sales tonnage will be lost. Producers have a fine line to walk and must

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[1] Although importers ship primarily by barge, producers ship a majority of their product by truck.

[2] Some distributors compete with manufacturers or importers for sales to the same customers.

[3] Petition, pp. 10-11.

[4] Two of the four LDAN producers manufacture product interchangeably with HDAN on the same equipment using related workers.

[5] As an example of production cutback, Wil-Gro ceased production of HDAN in December 1999.

provide incentives to downstream markets to fill inventories so product will be available when needed by farmers.[6]

Several purchasers have noted that a timely supply of HDAN is critical for the functioning of their businesses. Demand peaks during the spring planting season, usually between February and June. Supply shortages have developed over the last several springs and were particularly acute in the spring of 1998.[7] Four domestic producers reported having difficulty supplying their customers with HDAN. *** reported that production was not available to meet demand, but did not provide dates when this occurred. *** reported that the supply shortages are a result of some customers carrying less inventory in anticipation of purchasing Russian HDAN and when supplies of Russian HDAN ran out, the customers looked to domestic producers to fill their requirements. If *** could not meet a request during a high demand period, *** was blamed for the shortage. *** discussed a short period of time from mid-April through the first part of June 1998 when it could not fill orders placed by dealers who were not its regular customers. It could fill orders placed by its regular customers. It stated that the dealers that were looking for product had little loyalty to any particular manufacturer. It did help some of these dealers, however. *** listed several reasons for dealers difficulty in sourcing HDAN: first, dealers were expecting a plentiful amount of Russian imports to be available in the spring and did not stock up in the fall; second, transportation problems developed that affected barge and rail deliveries; and because barge and rail deliveries were delayed, there were product shortages. *** reported having difficulties meeting requests for HDAN from the second week of April 1998 to the third week of May 1998. *** listed several reasons that a shortage developed. First, the firm had a build-up of inventories in 1997 because, it alleges, purchasers were expecting to purchase Russian imports in the spring of 1998 and were not taking advantage of "fall-fill" programs. In addition to inventory build-up, extreme weather patterns delayed agricultural activity in the southern and southwestern regions of the country. This weather pattern delayed planting in these regions until planting occurred in the Midwest. Planting times are supposed to occur sequentially, not simultaneously. This left the distribution system temporarily short on product. Transportation problems, coupled with weather patterns, led to a shortage. Some purchasers were placed on allocation, which allowed them to purchase some of the required amount of product but not all of it. The petitioner argues that in 1998 the significant transportation and weather problems that affected the fertilizer distribution system were out of the direct control of the domestic producers.[8]

Industry capacity

The production of HDAN is capital intensive and facilities must be operated at as close to full capacity as possible in order to maintain production efficiencies. Producers operate their plants year round to maintain efficiencies and ensure adequate production.[9]

Although U.S. producers' capacity to produce HDAN increased by 203,658 short tons between 1997 and 1999, production decreased by 106,362 short tons, resulting in capacity utilization rates that declined from 83.4 percent in 1997 to 73.3 percent in 1999.[10]

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[6] WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 5.

[7] Conference transcript, p. 87.

[8] Petitioner's postconference brief, pp. 32-33.

[9] Petitioner's postconference brief, p. 15.

[10] There is disagreement over capacity utilization rates. According to the USITC Publication 3135 (October 1998): *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, p. 3-4, capacity utilization rates were 97 percent in 1996, 99 percent in 1997, and 88 percent in 1998. Petitioner states that the estimates in the 332 investigation use publicly available data and that the questionnaire estimates in this

Export markets

*** exported a small amount of HDAN in 1998 and 1999.[11] Two reasons were suggested for the relative lack of alternate markets. According to petitioner, domestic demand has been sufficient to absorb all of domestic capacity.[12] Respondents contend that due to the higher natural gas prices in the United States, U.S. producers cannot compete in the world market.[13]

Inventory levels

The HDAN industry is seasonal, with large shipments moving to the farmer during the spring planting season, followed by fill-up or inventory buildup programs during the summer, fall, and winter months.[14]

According to ***, a domestic producer, the extremely seasonal nature of HDAN demand in pasture grass and row crop areas requires the use of significant on-site and off-site storage to accommodate production during non-demand periods. Historically, off-site storage has been provided through storage agreements at warehouses, barge sales to wholesalers with warehouses, or sales to retailers who have on-site storage to service peak farm demand.

Traditionally, off-season periods resulted in lower prices to wholesalers and retailers to stimulate demand. Prior to import of significant volumes of Russian HDAN, wholesalers and retailers reportedly found value in lower off-season prices and filled their storage areas in preparation for the upcoming planting season.

Petitioner contends that much has changed as a result of imported Russian HDAN marketing practices. It states that wholesalers and dealers have been encouraged by the expectation of large quantities of low-priced Russian HDAN in the peak season to forego purchases of domestically produced product in the fall. As a result, it says, much less product was placed into the distribution system to prepare for spring demand and significant back pressure was placed on producers to contain inventory. *** believes that this change in the prior purchasing and distribution pattern caused by Russian import pricing and import practices has created the environment for wholesalers and retailers to choose to reduce the amount of their on-site product necessary to prepare for spring demand.[15]

In figure II-1, U.S. producers' monthly quantities of HDAN sold during the "fall-fill" months are presented by year.[16] Monthly trends are consistent between 1997 and 1998. Sales increased during October-December 1999 compared with the October-December period in the two previous years, particularly in December. *** accounts for most of this increase. Several explanations exist for the spike in December 1999 sales. Commerce made its preliminary affirmative critical circumstances

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investigation are more recent and precise. Postconference brief, p. 15.

[11] These exports were inadvertantly left out *** in the preliminary phase of the investigation.

[12] Conference transcript, p. 50.

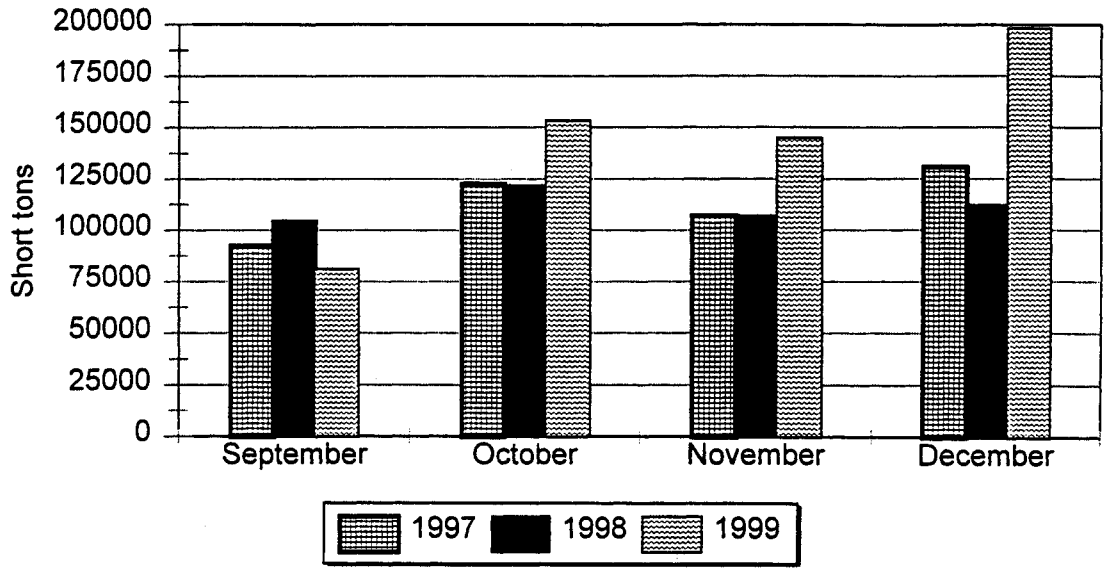
[13] Conference transcript, p. 82, and ConAgra's postconference brief, exhibit 7.

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

[15] *** and *** agree with ***'s assessment.

[16] The petitioner provided sales data from *** for the "fall-fill" months in 1996. This data showed continual sales declines from 1996 to 1998, prehearing brief, exhibit 8. However, according to data provided in attachment 2 of the prehearing brief, it shows that consumption in 1996 was much higher compared with previous years and the years following.

Figure II-1
Trends of HDAN sales by U.S. producers during the "fall-fill" months, September-December 1997-99



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

determination on November 5, 1999, and imports from Russia dropped to nearly nothing in December and subsequent months.[17] Although Commerce did not make an affirmative preliminary dumping determination until January 7, 2000, it is possible that purchasers were expecting Russian imports to be unavailable in the spring of 2000. Another factor leading to an increase in December 1999 sales might have been the fact that Wil-Gro, a domestic producer, exited the HDAN market at the end of 1999.[18] Purchasers of Wil-Gro's HDAN could have possibly been searching for alternate sources. Wil-Gro's geographic market consisted of ***. ***[19] and other domestic producers sell HDAN in these states as well. A third factor that could have led to this increase in sales is that nitrogen prices were expected to increase in the spring of 2000. Purchasers wanting to lock-in lower prices might have stocked up before the expected price increases. Prices generally increase in the spring due to demand and supply conditions, but prices in spring 2000 were predicted to be 10 percent higher than in the spring of 1999 due to higher natural gas prices,[20] and indeed prices did increase for nitrogen fertilizers. When the prices are compared between January to June 1999 and January to June 2000, ammonia prices increased an average of 18.1 percent, urea prices increased an average of 21.7 percent, UAN prices increased an average of 9.9 percent, and HDAN prices increased an average of 11.8 percent.[21]

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[17] 64 FR. 60422, November 5, 1999.

[18] ***.

[19] *** sold *** from inventory in 1999.

[20] WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 1.

[21] Green Markets mid-cornbelt price data.

The level of end-of-period inventories increased by 36 percent during 1997-98 and then dropped by 31 percent from 1998 to 1999. The ratio of end-of-period inventories to total shipments increased from 14.2 percent in 1997 to 18.7 percent in 1998[22] and decreased to 12.7 percent in 1999.

Production alternatives

HDAN and LDAN are produced using the same raw material--ammonia. Several U.S. producers of HDAN have separate production facilities for LDAN and two U.S. producers make LDAN at the same plant where HDAN is produced. However, the production of LDAN requires additional equipment, such as a pre-dryer, dryer, and coater drums, along with a higher prill tower.[23] In general, a large investment in equipment would have to be made in order to be able to produce LDAN in a facility currently producing only HDAN.[24]

U.S. Demand

Demand Characteristics

HDAN is a high nitrogen content fertilizer that is used on crops requiring ready access to large amounts of plant-available nitrogen. It can be applied to crops directly, or blended with other dry fertilizers before application. Most direct-application (applied directly on the soil or crops) HDAN is applied to eight types of row crops (corn, soybeans, wheat, cotton, barley, sorghum, oats, and rice), pastures and forage crops, and niche markets crops, (e.g., tobacco, citrus, turf grasses and ornamentals).[25] HDAN is also the preferred nutrient for "no-till" planting (i.e., planting for which there is no plowing).[26] [27]

The overall demand for HDAN depends on a variety of factors. Fertilizer demand is considered "mature," with demand primarily affected by planted acreage and application rates, which are in turn influenced by crop prices and weather.[28]

Prices received by farmers for the eight types of row crops previously mentioned have declined considerably from marketing year 1997 to marketing year 1998. The row crops also saw price declines

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[22] ***'s inventories rose significantly from 1997 to 1998 and then fell to lower levels in 1999.

[23] Petitioner's postconference brief, p. 5.

[24] However, plants that produce not only HDAN but other products (e.g., liquid ammonium nitrate, UAN liquid fertilizer) as well, may use production employees for multiple purposes. Only 4 of the 10 HDAN producers reported that they also produce LDAN on site; however 7 of the 10 producers also isolate the ammonium nitrate liquor or produce UAN fertilizer solutions using the same or associated production equipment and related workers.

[25] Petitioner, in its postconference brief, p. 26, states that soybeans and rice crops do not use significant amounts of nitrogen.

[26] USITC Publication 3135 (October 1998): *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, p. 1-2.

[27] According to the CRU International report provided to the Commission by petitioner, ***, p. 38. However, on p. 84 of the same report, ***.

[28] Petitioner asserts that crop prices, in particular, corn prices, do not have an immediate impact on HDAN prices. In the longer term, corn prices and HDAN prices may relate to each other, hearing transcript, p. 88. In addition, according the petitioner's posthearing brief, pp. 11-13, lower crop prices do not lead to lower fertilizer use, or to lower HDAN prices because of Government price support programs. However, according to the CRU International study provided to the Commission by the petitioner, p. 58, ***.

when comparing the prices received by farmers in July 1999 with those received in July 1998.[29] According to WEFA, a "pessimistic psyche prevails" in the farm sector because agricultural markets remain weak. Supplies and stocks of crops remain ample and commodity prices are low. The U.S. Congress and Administration agreed on a second consecutive year of emergency aid for the farm sector.[30]

The previously mentioned factors can lead farmers to withdraw acreage from production. For the year 2000, corn, wheat, and cotton acreage are expected to decline, although soybean acreage is expected to increase. Planted acreage is expected to decline further in 2001, but the trend should reverse in 2002. Planted acreage declined by 4.1 million acres between 1997 and 1999, and declined still further, by 2.8 million acres, between 1999 and 2000.[31] Cattle and other livestock, which primarily graze on hay and pasture grass, are relatively unaffected by grain prices. Hay acreage that was harvested increased by 1.6 million acres, or 4.4 percent, between 1998 and 1999.[32] The expected net effect of fewer acres planted is less fertilizer use.[33]

Application rates (pounds per acre) of nitrogen per crop vary and are listed below. Application rates remained relatively constant from 1997 to 1999. However, the application rates for soybeans are much lower compared with those for wheat, corn, and cotton.[34]

Crop	Application rates (*pounds per acre*) of nitrogen		
	1997	1998	1999
Corn	132.0	131.8	132.6
Cotton	90.0	89.5	88.3
Wheat	67.0	67.8	67.2
Soybeans	26.0	25.7	25.1
Source: WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 10.			

The weather can also affect the demand for HDAN. In the 1997/98 crop year, demand was reportedly delayed by prolonged rain. The wetness caused by this extended rainy period resulted in delayed planting of fields across the country. In addition, a wet spring planting season can result in soybeans being planted over corn, due to the shorter growing season for soybeans. In 1999, the lack of rain and heat damaged millions of acres of crops across the country, which can also reduce the demand for HDAN.[35]

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[29] ConAgra's postconference brief, exhibit 4D.

[30] WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 2.

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

[32] Petitioner's postconference brief, exhibit 23.

[33] However, the fact that WEFA expects acreage to be withdrawn from production favorably affects application rates. It is usually marginal acreage that would not receive as many nutrients. As a result, application rates on acreage that remains in production tend to be higher. WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 3.

[34] WEFA, Fertilizer Market Assessment, Executive Summary, December 31, 1999, p. 5.

[35] Conference transcript, pp. 101-102.

Questionnaire responses were mixed regarding demand conditions in the United States for HDAN. The majority of U.S. producers and importers agree that demand has been steady or falling somewhat.

Seven distributor/retailer purchasers reported that the demand for HDAN has changed since January 1, 1997. Three out of these seven reported that the demand for HDAN has decreased because of some substitution by other forms of nitrogen fertilizers due to their lower cost. Another purchaser reported a decrease in demand due to a decrease in tobacco quotas, and three purchasers reported an increase in their HDAN sales. Eleven distributor/retailer purchasers reported no change in demand for their sales of HDAN.

Despite the several factors suggesting that HDAN use would decline, apparent consumption, as shown in Part IV, increased by 7.9 percent between 1997 and 1998 and by 1.9 percent from 1998 to 1999 on a quantity basis.

Substitute Products

The overall demand responsiveness for HDAN to changes in its price depends on the availability of substitute products. Since HDAN faces competition, to some degree, with other nitrogen fertilizers, price changes will have a moderate effect on the overall demand for HDAN.[36]

Substitutes for HDAN include anhydrous ammonia, urea, and nitrogen solutions. Each of these nitrogen fertilizers has its own advantages and disadvantages and can be substitutes for HDAN depending on the intended crop, soil assay, climatic conditions, regulatory factors, and relative product prices and availability.

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

Urea has the highest nitrogen content of solid nitrogen fertilizers (46 percent), is safe to store, and is easy to handle. It has a slower rate of conversion of available nitrogen to the soil. It can also contain manufacturing impurities such as biuret.[37] Urea can volatilize, that is lose a portion of its nitrogen to the atmosphere. Conditions that affect this volatilization are soil pH, soil moisture, humidity, temperature, and the number of days without rain after the product is applied. Urea is less expensive on a per-unit-of-nitrogen basis.

UAN fertilizer solutions are aqueous mixtures produced from urea and HDAN which have a nitrogen content that can range from 28 to 32 percent. These solutions are easy to handle, can be more uniformly applied to the soil, and are easily stored. The lower nitrogen content makes shipping costs more expensive on a per-unit-of-nitrogen basis. Different equipment is needed to apply this fertilizer.

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[36] According to the CRU International report provided to the Commission by petitioner, ***, p. 147.

[37] Biuret is a by-product of the production process of urea. It can be toxic to plants and animals in certain levels. Normally, a ton of urea contains about 1 percent biuret, which is a safe level.

Ammonium sulfate can also be used as a substitute product. It is useful in sulfur-deficient soils. This is substituted on a limited basis because it is an acid salt and can create additional costs due to its affects on soil pH.[38]

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

Some domestic producers and importers have suggested that some substitution among nitrogen fertilizers takes place depending on the relative prices of fertilizers. Nitrogen fertilizer prices paid by farmers have fallen over the last 3 years. The following tabulation summarizes these price trends:

Nitrogen Fertilizer Prices Paid by Farmers (*in cents per pound*)				
Month/Year	**HDAN (34% nitrogen)**	**Ammonia (82% nitrogen)**	**Urea (46% nitrogen)**	**UAN (28-32% nitrogen)**
April/1997	33.4	18.5	27.9	27.3
April/1998	28.4	15.4	21.2	23.1
April/1999	26.6	12.9	19.1	23.8

Source: ConAgra's postconference brief, exhibit 4A.

Purchasers were asked how often and under what conditions substitution among other fertilizers takes place. Individual purchaser responses varied widely concerning the conditions under which they substitute fertilizers. Eighteen purchasers reported making substitutions, although two reported making substitutions very rarely among other nitrogen fertilizers, and 10 purchasers reported making no substitutions. Purchaser comments regarding substitutions are listed in table II-1.

Table II-1
HDAN: Purchasers' comments regarding substitutability among other nitrogen fertilizers

Purchaser	Purchaser comments
***	When the costs of other nitrogen fertilizers are more economical, we substitute. Our goal is to provide the best products based on the best economics.
***	We most generally use urea because it is most cost effective unless user requests HDAN or conditions are not right for urea.

Table continued on next page.

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

Table II-1--Continued
HDAN: Purchasers' comments regarding substitutability among other nitrogen fertilizers

Purchaser	Purchaser comments
***	It depends on weather and cost per unit of all nitrogen sources.
***	Slight substitution due to availability and price of other products.
***	We make very few substitutions, but when supplies are short, we use urea.
***	We substitute often. It depends on price and time of year.
***	If you know for certain that it is going to rain or you are going to run the sprinklers, urea and UAN solution can be substituted.
***	Urea, anhydrous ammonia, and UAN solution may all be substituted depending on prices and weather conditions.
***	We substitute quite often and this involves availability and price.
***	Urea can be and is substituted for some crops if cost per unit of nitrogen is too high for HDAN.
***	Growers want the least cost formulation.
***	If HDAN price is too high, our customers will change to urea, ammonium sulfate, or UAN.
***	During cool, wet weather, urea can substitute for HDAN. Ammonium sulfate can also substitute if the unit cost is competitive.
***	We do not substitute.
***	For the crop and location, there are no substitutes.
***	We very rarely, if at all, substitute for HDAN.
***	We do not substitute.
***	Market price - demand from the ag retailer.
***	We substitute as demanded by the customer.
***	We have not substituted to other nitrogen sources and have lost business because of it.
***	None.
***	We do not substitute because we are spreading it on top of grass and not plowing it in.

Table continued on next page.

Table II-1--Continued HDAN: Purchasers' comments regarding substitutability among other nitrogen fertilizers	
Purchaser	**Purchaser comments**
***	We do not substitute.
***	None - HDAN is the dry fertilizer product of choice for farmers in our area.
***	We do not substitute often.
***	Do not substitute.
***	Use best source of nitrogen based on cost and conditions.
***	We do not substitute.
Source: Compiled from data submitted in response to Commission questionnaires.	

In addition, purchasers were asked if the prices of these alternate fertilizers have changed, in what direction, and if these changes have caused the firms to switch their purchases from HDAN to the alternate fertilizers. Purchaser responses are listed in table II-2.

Table II-2
HDAN: Purchasers' responses to alternate nitrogen fertilizer price changes

Purchaser	Responses to price change	Shift in purchases
***	Alternate prices have decreased.	We have shifted our purchases to urea because the price declined from $180 a ton to $90 a ton.
***	Alternate prices have decreased.	No shift reported.
***	Nitrogen prices follow each other.	No shift reported.
***	Overall prices for nitrogen products have declined apparently due to world wide over production.	No shift reported.
***	The prices have dropped.	We have shifted our purchases to more urea and nitrogen solutions.
***	Prices have remained the same relative to HDAN.	No shift reported.
***	Prices have remained the same relative to other nitrogen sources.	No shift reported.

Table continued on next page.

Table II-2--Continued
HDAN: Purchasers' responses to alternate nitrogen fertilizer price changes

Purchaser	Responses to price change	Shift in purchases
***	Prices have not changed.	No shift reported.
***	Prices for UAN solution have dropped.	No shift reported.
***	Prices of urea along with UAN are comparatively lower but we have not substituted products. We have lost business because of this.	No shift reported.
***	Price of urea is lower per unit of nitrogen.	We are moving to more purchases of urea.
***	Prices have remained the same relative to other products.	No shift reported.
***	Prices have remained about the same.	No shift reported.
***	Prices are about the same.	We have not shifted purchases.
***	Most other product prices have decreased as well as HDAN, but others are still much cheaper per unit of nitrogen than HDAN.	No shift reported.
***	Prices have not changed.	No shift reported.
***	Prices have remained relatively the same.	No shift in purchases.
***	The prices have fluctuated.	As prices fluctuate, we switch.
***	Prices have remained the same.	No shift reported.
***	Prices shift with market conditions and seasonal demands.	No shift reported.
***	All nitrogen prices have decreased.	We have not changed our products over the last 3 years.
***	Prices of urea and UAN have, at times, declined more than HDAN prices.	No shift reported.
***	Prices of urea, ammonia, and UAN have declined.	No shift reported.

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

Cost Share

The portion of the cost of the farmers' end product accounted for by HDAN is difficult to determine due to the high number of variables associated with farm production. Various U.S. producer estimates for the crops that are grown using their HDAN are listed in the following tabulation:[39]

Crop	Share of the cost of the farmer's end product accounted for by HDAN *(percent)*
Coastal hay	38
Hay	10
No-till corn	16
No-till cotton	7
Cotton	3-7
Corn	8-19
Wheat	14-17
Pasture grass for beef cattle	4-28
Tobacco	1

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported HDAN depends on such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, means of delivery (e.g., barge, rail, or truck), payment terms, product services, etc.). Based on available data, staff believes that there is a moderately high degree of substitution between domestic and imported HDAN.

Domestic producers and importers were asked if any differences existed in product characteristics or sales conditions between U.S.-produced HDAN and imports of Russian HDAN that are significant factors in the firm's sales of HDAN. Three domestic producers responded that imported Russian HDAN availability has historically been more dependent on large shipment arrivals, with pressure to move the material once it arrives. Domestic producers also report that price reductions tend to reflect this need to sell material quickly, with importers typically parking loaded barges at HDAN consuming locations anticipating demand.[40] One domestic producer added that the strategic placement of product, in addition to the established warehousing system used by importers, effectively eliminates the shipping time from Russia to the United States as a factor of consideration in customers' purchasing decisions. According to the domestic producers, quality, supply, and delivery capabilities are essentially the same whether the product is produced domestically or imported. Seven domestic producers reported that differences in product characteristics or sales conditions do not exist between domestic and Russian HDAN.

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[39] These are just estimates. Only four producers provided information and most of these used publicly available data. Most producers do not have this information available to them.

[40] ***.

Importers responded that several differences exist between U.S.-produced and imported Russian HDAN. Four importers reported that the quality of Russian HDAN suffers from more handling, which leads to more degradation; the imported product is reportedly more susceptible to outside contamination from the ship's hold. The Russian product can reportedly deteriorate because it does not have sufficient crush strength and does not contain lilamine to prevent caking. One importer reported that U.S. producers can sell by truckload, barge, or a rail car as requested, and they may also put product into customers' locations on consignment, pay warehouse charges, guarantee a marketing allowance, and price protect against sales declines. This distorts the actual selling price they publish on price lists. Another importer added that large U.S. producers offer extended term arrangements and warehousing payments for exclusive use of dealers' or distributors' limited space, whereas the importer must sell for cash.

Purchasers, importers, and domestic producers were asked if competition between domestic HDAN and imported Russian HDAN is greater for shipments made by barge, by rail, or by truck.

Importers and domestic producers agree that the mode of transportation is not a competitive factor between domestic and imported HDAN.[41] Several producers reported that although the Russian material is initially shipped via barge, it is then distributed by rail and truck. One producer reported that low-priced Russian product has attracted low-priced domestic product into its area.[42] Another producer reported that it is landlocked and generally has transportation advantages, but these advantages are being eroded by low-priced Russian imports.

Purchaser responses, on the other hand, were mixed regarding competition among modes of transportation. Ten purchasers commented that barge shipments are more competitive among the differing modes of transportation. Six purchasers reported that barge shipments are cheaper than rail or truck shipments. Another purchaser reported that it pays for barges immediately while truck and rail payments can be made in 15 or 30 days. Two purchasers reported that they purchase Russian HDAN directly from barges. One purchaser reported that it has river terminals easily accessible to the *** area and most domestic suppliers do not. Another purchaser commented that rail shipments are not a big issue but the truck market was most competitive, while another purchaser reported that Russian imports are most competitive on rail shipments direct from the Gulf of New Orleans. Six purchasers reported that competition does not exist between modes of transportation.

Factors Affecting Purchasing Decisions

Available information indicates that a variety of factors are considered important in purchasing decisions for HDAN. While price has been mentioned as being an important factor in the sale of HDAN, other factors such as quality and availability are also important considerations. Purchasers were asked to list the top three factors that they consider when choosing a supplier of HDAN.[43] Table II-3 summarizes the responses to this question.

While price is important, purchasers reported that the lowest price offered for HDAN would not necessarily win the contract or sale. Four purchasers reported that the lowest price will "always" win a contract or sale, 11 purchasers reported "usually," and 7 purchasers reported "sometimes." Factors other than price that these firms consider include quality (e.g., storability) and availability.

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[41] *** reported that it does not compete with Russian product.

[42] ***, which represented *** percent of its sales in 1997, *** percent in 1998, and *** percent in 1999.

[43] Purchaser questionnaires were sent to 79 firms believed to be purchasers of HDAN; 32 firms provided usable responses to the Commission's questionnaire. These firms included retailers and distributors.

Purchasers were asked what characteristics firms consider when determining the quality of a supplier's HDAN. Purchasers provided many characteristics that are considered important. Eight purchasers responded that storability is an important factor and eight reported that the size of the prill or granule is important. Most purchasers reported that product consistency (i.e., a uniform shape, a dust-free product, and a low percentage of fines[44]) is very important. These characteristics help in blending and spreading applications. Also, it is important that the prills or granules have a hard coating on them which helps the fertilizer withstand changes in humidity.

When purchasers were asked if they knew whether the HDAN they purchase is U.S.-produced or imported, 27 of 29 purchasers answered either "always" or "usually." In addition, purchasers were asked if their buyers are aware of and/or interested in the country of origin of the HDAN that is supplied. Seven purchasers responded that buyers are "usually" interested, 9 replied "sometimes," and 13 purchasers reported that the buyers of their HDAN are "never" interested in the country of origin.

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

Purchase factor	Number 1 factor	Number 2 factor	Number 3 factor
	Number of firms reporting		
Price	10	6	11
Quality	7	14	4
Availability	6	5	12
Pre-arranged contracts	3	2	0
Traditional supplier	1	0	2
Delivery	0	1	0
Reliability of supply	1	0	0
Service	0	1	0

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

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

Comparisons of Domestic Products and Subject Imports

U.S. producers, importers, and purchasers were asked if the domestic and Russian HDAN could be used interchangeably. All responding U.S. producers, importers, and purchasers agree that the products could be used interchangeably. Two U.S. producers purchase Russian HDAN and resell it.

The quality of Russian HDAN has reportedly improved since it first entered the U.S. market in 1995; however, some consumers perceive differences between domestic and Russian HDAN. The particle size of Russian HDAN is reportedly smaller, it is more dusty, and it does not hold up as well in storage. Russian HDAN is subject to more degradation because of more handling during transportation. Lead times for U.S. producers vary, usually ranging from 1 day to 1 week, although rail shipments can take 7-10 days. Importers' lead times range from 0 to 90 days.

Purchasers were asked to compare domestic HDAN with Russian imports based on a number of factors. On average, 17 purchasers provided responses when comparing the U.S. and Russian HDAN and their responses are listed in table II-4.

Table II-4
HDAN: Purchasers' comparisons between products produced in the United States and Russia

Factor	U.S. superior	Comparable	U.S. inferior
	Number of firms reporting		
Availability	8	8	1
Delivery terms	5	10	1
Delivery time	7	8	2
Discounts offered	0	10	4
Price[1]	0	7	10
Minimum quantity	3	12	2
Packaging	2	13	0
Product consistency	10	7	0
Product quality	10	7	0
Product range	7	9	0
Reliability of supply	8	7	2
Technical support	8	8	1
Transportation network	4	11	2
U.S. transportation costs	1	14	1

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Russian price.

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

Comparisons of Domestic Products and Nonsubject Imports

U.S. producers, purchasers, and three importers agree that domestic HDAN is interchangeable with nonsubject imports. One importer stated that HDAN produced in the United States and the Netherlands are perceived to be of a higher quality than Russian HDAN.

Purchasers were asked to compare domestic HDAN with nonsubject imports based on a number of factors. On average, six purchasers provided responses comparing HDAN produced in the United States with that produced in the Netherlands (table II-5). One purchaser compared U.S. and Canadian HDAN and found products from both countries to be comparable in every category. However, this purchaser reported that its purchases of Canadian product declined in 1998 due to availability or competition issues.

Table II-5
HDAN: Purchasers' comparisons between products produced in the United States and the Netherlands

Factor	U.S. superior	Comparable	U.S. inferior
	Number of firms reporting		
Availability	4	1	2
Delivery terms	1	5	0
Delivery time	1	5	1
Discounts offered	0	5	0
Price[1]	2	4	1
Minimum quantity	0	7	0
Packaging	0	6	0
Product consistency	3	4	0
Product quality	3	4	0
Product range	2	5	0
Reliability of supply	3	4	0
Technical support	3	4	0
Transportation network	3	2	0
U.S. transportation costs	1	6	0

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Netherland's price.

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

Comparisons of Subject Imports and Nonsubject Imports

Domestic producers and purchasers do not perceive any differences in nonsubject and Russian imports. Importers, however, reported some differences. Some Russian HDAN can have a pink or beige color and this could be a disadvantage when sold in the U.S. market because customers are used to a white product, which is perceived to be of better quality. Two importers noted that imports from the Netherlands are granular whereas Russian product is prilled, and the Netherlands product may be replacing some of the domestic prill market.

Purchasers were asked to compare imports from Russia and nonsubject sources based on a number of factors. Two purchasers gave responses which are listed in table II-6.

Table II-6
HDAN: Purchasers' comparisons between products produced in Russia and the Netherlands

Factor	Russia superior	Comparable	Russia inferior
	Number of firms reporting		
Availability	3	1	0
Delivery terms	0	4	0
Delivery time	0	4	0
Discounts offered	0	3	0
Price[1]	3	0	0
Minimum quantity	0	3	0
Packaging	0	3	0
Product consistency	1	2	0
Product quality	1	2	0
Product range	0	3	0
Reliability of supply	1	2	0
Technical support	1	2	0
Transportation network	1	2	0
U.S. transportation costs	0	4	0

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "Russia superior," this means that it rates the Russian price generally lower than the Netherlands' price.

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

ELASTICITY ESTIMATES

This section discusses the elasticity estimates that are used in the COMPAS analysis. The results are presented in appendix D.

U.S. Supply Elasticity[45]

The domestic supply elasticity for HDAN measures the sensitivity of the quantity supplied by U.S. producer to changes in the U.S. market price of HDAN. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced HDAN. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 1 to 3 is suggested.

Staff revised the elasticity estimates downward in response to petitioner arguments. The petitioner suggested that the supply elasticity should be in the range of .5 to 1.5.[46] In general, domestic producers would prefer to cut prices in order to maintain market share and use their production plant efficiently rather than scaling back production. However, domestic producers did scale back production in order to reduce inventories in 1999. In the current year, 2000, Mississippi Chemical scaled back production for two reasons: record high natural gas prices (production has been reduced until the company can capture more favorable margins) and recent drought conditions in the southeastern parts of the United States have reduced demand for HDAN and have resulted in higher inventories.[47] This would suggest that the U.S. supply elasticity for HDAN is slightly more elastic than that proposed by petitioners.

U.S. Demand Elasticity

The U.S. demand elasticity for HDAN measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of HDAN. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the HDAN in the production of any downstream products. Based on the available information, the aggregate demand for HDAN is likely to be in the suggested range of -.8 to -1.6.

The elasticity estimates have been revised downward from the range of 2 to 4 suggested in the prehearing report in response to petitioner arguments. Petitioner argues that the original elasticity estimates given were overstated and the estimates should be in the range of -.5 to -1.0.[48] These elasticity estimates suggest that the demand for HDAN is relatively inelastic. Petitioner argues that HDAN is used in a niche market and is unaffected by other nitrogen fertilizer prices. According to data provided by petitioner, overall nitrogen consumption has increased by 2.3 percent from 1996 to 1999.[49] Consumption of urea increased by 11.8 percent and that of HDAN decreased by 10.4 percent. In

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[45] A supply function is not defined in the case of a non-competitive market.

[46] In the prehearing report, staff suggested a supply elasticity in the range of 2 to 4, which is what the petitioner supplied in the preliminary phase; however, petitioner now has additional facts, and thus asserts that the elasticity is more inelastic.

[47] Mississippi Chemical's press release, June 6, 2000.

[48] Petitioner's prehearing brief, exhibit 14.

[49] Petitioner's prehearing brief, attachment 2.

addition, the price premium that the per unit of nitrogen in HDAN commands over urea increased from $0.69 to $1.48, f.o.b. U.S. Gulf, and from $0.16 to $0.90, f.o.b. Mid-cornbelt from 1996 to 1999.[50] Total consumption of urea increased while that of HDAN decreased and the price premium per unit of nitrogen in HDAN increased over that contained in urea in the face of falling urea prices. Staff agrees with the elasticity estimates provided by Dr. Harry Baumes of -.7 to -1.5.[51] However, it is believed that under conditions of dramatically falling urea prices, coupled with an increasing price premium of HDAN over urea, more substitution occurred in the period of investigation than would have occurred under "normal" conditions.[52] Therefore, staff estimates of the demand elasticity were adjusted to reflect current market conditions, in the range of -.8 to -1.6.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[53] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced HDAN and imported HDAN is likely to be in the range of 3 to 5.

Petitioner agrees with staff's estimate of the substitution elasticity, although it believes it is the higher end of this range that most likely reflects the degree of substitution.

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[50] Petitioner's prehearing brief, attachment 2.

[51] Petitioner's prehearing brief, exhibit 2.

[52] According to the CRU International report provided to the Commission by petitioner, ***, p. 147.

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

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of *** that accounted for over *** percent of U.S. production of HDAN during 1999.

U.S. PRODUCERS

During the period reviewed, there were 10 major U.S. producers of HDAN. Although all 10 producers were in operation during the period, Wil-Gro ceased production in December 1999 and LaRoche filed for protection under Chapter 11 of the U.S. Bankruptcy Code on May 3, 2000.[1] Table III-1 presents the positions of the 10 producers on the petition, reported shares of production, locations, and parent companies.

Table III-1
HDAN: U.S. producers, positions on petition, shares of reported 1999 production, U.S. production locations, and parent companies

Firm	Position	Share of reported production *(percent)*	Production location	Parent company and country
Agrium	***	***	Homestead, NE	Agrium (Canada)
Air Products	Support	***	Pensacola, FL	Air Products, Pensacola, FL
Coastal Chem	***	***	Cheyenne, WY	Coastal Chem, Houston, TX
El Dorado	Support	***	El Dorado, AR	LSB Industries, Oklahoma City, OK
LaRoche	Support	***	Cherokee, AL, Crystal City, MO	LaRoche Industries, Atlanta, GA
Mississippi Chemical	Support	***	Yazoo City, MS	Mississippi Chemical, Yazoo City, MS
Nitram	Support	***	Tampa, FL	Nitram is owned by a statewide Florida cooperative of chemical fertilizer producers. ***.
PCS Nitrogen	***	***	Augusta, GA	Potash Corp., Canada
Prodica LLC (formerly UNOCAL)	***	***	Kennewick, WA	Union Oil Co. of California, El Segundo, CA
Wil-Gro[1]	Support	***	Prior, OK	Williard Grain & Feed, Celina, TX

[1] Wil-Gro ceased production in December 1999. ***.

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

[1] Data concerning Wil-Gro were obtained from a letter from *** to the Commission, March 23, 2000, and petitioner's prehearing brief, p. 28. Data concerning LaRoche were obtained from a press release dated May 3, 2000, and found at Internet site, *http://www.larocheind.conm/English/pr050300.*

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Data relating to U.S. producers' HDAN production, capacity, and capacity utilization are shown in table III-2. For the industry as a whole, capacity continually increased during 1997-99 by 8.0 percent even though production irregularly decreased by 5.0 percent, causing a decrease in capacity utilization of 10.1 percentage points between 1997 and 1999. The increased capacity was largely due to capital improvements by ***. ***.

Table III-2
HDAN: U.S. production capacity, production, and capacity utilization, 1997-99

Item	1997	1998	1999
Capacity (*short tons*)	2,532,406	2,647,710	2,736,064
Production (*short tons*)	2,111,171	2,173,687	2,004,809
Capacity utilization (*percent*)	83.4	82.1	73.3

Note.–***.

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

U.S. SHIPMENTS

There are three firms that produced small amounts of HDAN under conversion arrangements during 1997-99. *** had an arrangement with ***; *** had one with ***; and *** had an arrangement with ***. ***, ***, and *** provided ***, ***, and *** with ammonia which the latter companies converted into HDAN. The latter companies charge ***, ***, and *** fees for the conversion. Neither ***, ***, nor *** completed the Commission's producer questionnaires. The production of the converted product is included in the production data of *** and is presented in table III-3. During 1997-99, shipments of the converted product were small, accounting for between approximately *** and *** percent, by quantity, of total shipments. The quantities of this converted product and the conversion fees charged are not included in the industry's commercial shipments and have instead been combined with internal transfers. This is to minimize the effect that shipments of such converted product would have on the unit value of commercial shipments because the fees charged for conversion per short ton are much less than per-ton commercial shipment values. Due to the lack of questionnaires from ***, ***, and ***, the eventual commercial shipment value of the converted product could not be obtained.[2]

While the volume of U.S. shipments increased during 1997-99 by 5.6 percent, the value of these shipments decreased during this period by 23.4 percent. Export shipments do not play a significant role. ***.

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

Table III-3
HDAN: U.S. producers' shipments, by types, 1997-99

Item	1997	1998	1999
		Quantity (*short tons*)	
Commercial shipments	1,855,989	1,932,973	2,015,867
Internal shipments and tolled shipments	129,131	121,875	79,477
Total U.S. shipments	1,985,120	2,054,848	2,095,344
Export shipments[1]	***	***	***
Total shipments	***	***	***
		Value (*1,000 dollars*)	
Commercial shipments	269,993	236,768	207,934
Internal shipments and tolled shipments	8,393	8,766	5,410
Total U.S. shipments	278,386	245,534	213,344
Export shipments[1]	***	***	***
Total shipments	***	***	***
		Unit value (*per short ton*)	
Commercial shipments	$145.47	$122.49	$103.15
Internal shipments and tolled shipments	65.00	71.93	68.07
Average U.S. shipments	140.24	119.49	101.82
Export shipments[1]	***	***	***
Average, all shipments	***	***	***

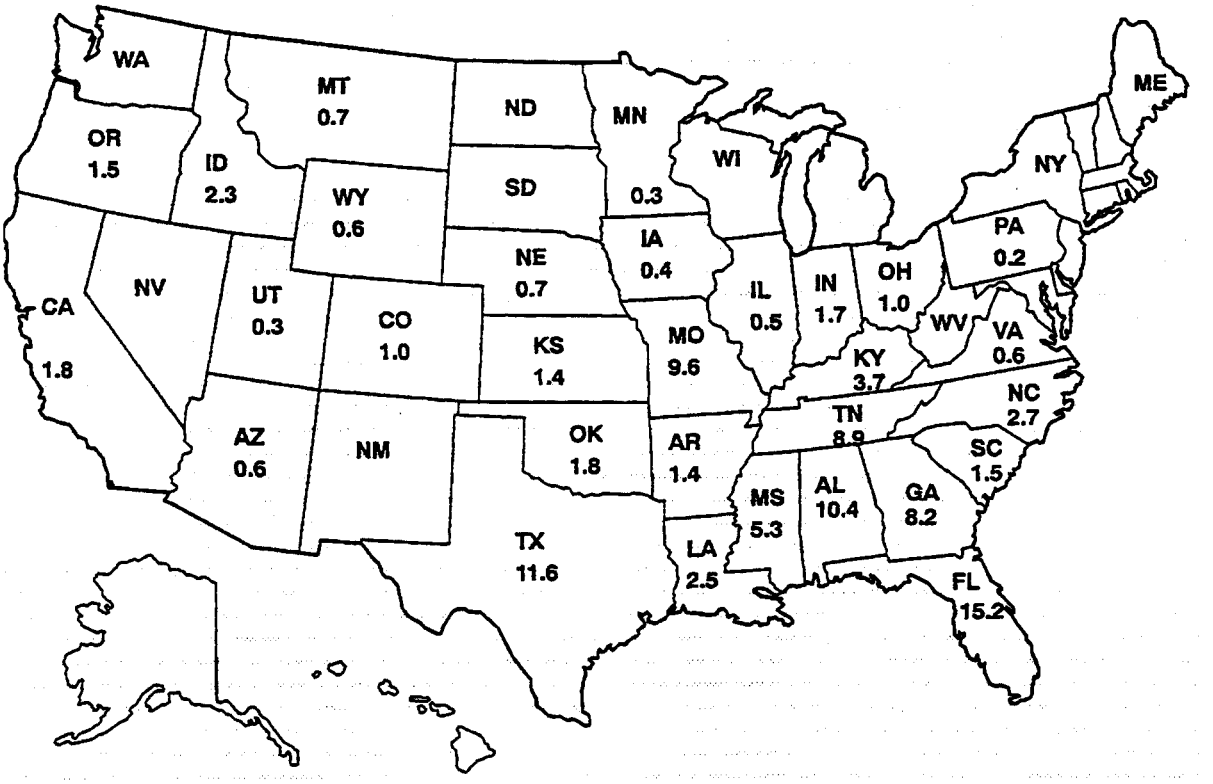
1 ***.
2 ***.

Note.–***.

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

Figure III-1 presents data on the shipment destinations of U.S. producers' commercial shipments.

Figure III-1
HDAN: Location of U.S. producers' customers, by State, as shares (in percent) of 1999 U.S. producers' commercial shipments



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

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

U.S. INVENTORIES

Inventories increased during 1997-98 by 36.5 percent before decreasing during 1998-99 by 30.7 percent (table III-4). During the entire period examined, 1997-99, inventories decreased by 5.4 percent.

U.S. EMPLOYMENT

Employment has decreased during 1997-99, with both the number of production and related workers and hours worked decreasing by about 10 percent (table III-5). There was a large drop during 1997-98 followed by a decrease in 1999 of less than 1 percent.

Table III-4
HDAN: U.S. producers' end-of-period inventories, 1997-99

Item	1997	1998	1999
Inventories (*short tons*)	281,983	384,801	266,670
Ratio to production (*percent*)	13.4	17.7	13.3
Ratio to U.S. shipments *(percent)*	14.2	18.7	12.7
Ratio to total shipments *(percent)*	***	***	***

Note.–***.

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

Table III-5
HDAN: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 1997-99

Item	1997	1998	1999
Production and related workers (PRWs)	499	450	449
Hours worked by PRWs (*1,000 hours*)	1,102	997	989
Wages paid to PRWs (*1,000 dollars*)	22,241	20,872	21,047
Hourly wages	$20.18	$20.94	$21.28
Productivity (*short tons produced per hour*)	1.9	2.2	2.0
Unit labor costs (*per short ton*)	$10.53	$9.60	$10.50

Note.–***.

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

PRODUCERS' PURCHASES AND IMPORTS OF RUSSIAN HDAN

No producer was a direct importer of HDAN during the period examined. Two producers, El Dorado and LaRoche, purchased Russian HDAN during this period. El Dorado purchased *** in 1997; *** in 1998; and *** in 1999. LaRoche purchased *** in 1997; *** in 1998; and *** in 1999. The amounts purchased were minor, representing *** percent of producers' total shipments in 1997, *** percent in 1998, and *** percent in 1999.[3]

[3] As a share of each of these firms' total shipments, the amounts purchased were: *** .

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

U.S. IMPORTS

Russia, Canada, and the Netherlands are the largest exporters of HDAN to the United States. The bulk of Russian HDAN is imported into the port of New Orleans for best access (by barge and rail) to states within the Mississippi River system.

Imports of HDAN from all sources are shown in table IV-1.[1] As a share of total imports, imports from Russia, which accounted for *** percent throughout the period, decreased about *** from 1997 to 1999. The unit values for all imports declined in this period, and those for Russia are strikingly lower than the average of those for all other countries combined, and the decline in unit values is steeper. From 1997 to 1999, the quantity of imports from Russia increased by *** percent and the quantity of shipments of those imports increased by *** percent.

Because critical circumstances have been found by Commerce to exist, official monthly Commerce statistics (in short tons) are provided in the following tabulation:

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1997	23,136	82,783	29,513	0	13,161	0	0	0	14,384	43,201	12,185	0
1998	33,875	15,411	16,124	0	0	16,755	21	0	15,200	12,617	12,124	12,123
1999	45,919	42,258	25,191	79,456	18,769	464	15,905	31	0	15,756	17,649	30
2000	0	0	0	24								
Note.–Data are currently available through April 2000; the petition was filed in July 1999.												

Monthly data on sales of Russia HDAN were collected in Commission questionnaires and are presented in Part V.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Apparent U.S. consumption and U.S. producers' and imports' respective shares of consumption are shown in tables IV-2 and IV-3. The data indicate a continually increasing trend in consumption quantities (9.9 percent during 1997-99) and a continually decreasing trend in consumption values (21.0 percent during the same period). As a share of consumption, shipments of imports from Russia rose from 7.9 percent in 1997 to *** percent in 1999, while nonsubject imports rose irregularly from 8.0 percent in 1997 to 10.3 percent in 1998 and *** percent in 1999. U.S. producers' share fell irregularly from 84.1 percent in 1997 to 80.7 percent in 1998 and 80.8 percent in 1999. Consistent with the lower unit value of its product, Russia's share of the value of U.S. consumption is less than it is for quantity, particularly in 1999.

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[1] The overwhelming bulk of all other imports are from Canada and the Netherlands. Canadian imports were adjusted to eliminate imports of industrial grade ammonium nitrate and misclassified products. Only import quantities and values from U.S. Customs records for importers and manufacturers of HDAN are included in this table, with the following adjustments: ***. Staff also adjusted official Commerce import statistics for Poland by subtracting 20,476 short tons and $1,589,975 for 1997, 67,735 short tons and $5,548,808 for 1998, and 19,588 short tons and $1,476,075 for 1999 to account for a classification error in official Commerce statistics.

Table IV-1
HDAN: U.S. imports, by sources, 1997-99

Source	1997	1998	1999
		Quantity (*short tons*)	
Russia[1]	198,701	261,545	***
Canada[2]	74,546	66,649	***
Other nonsubject sources	114,743	195,565	218,965
Subtotal nonsubject sources	189,289	262,214	***
Total imports	387,990	523,759	527,184
		Value (*1,000 dollars*)[3]	
Russia[1]	21,743	20,810	***
Canada[2]	12,486	9,059	***
Other nonsubject sources	13,482	17,873	20,189
Subtotal nonsubject sources	25,968	26,932	***
Total imports	47,711	47,742	42,410
		Unit value (*per short ton*)[3]	
Russia[1]	$109.43	$79.56	$***
Canada[2]	167.50	135.93	***
Other nonsubject sources	117.50	91.39	92.20
Nonsubject sources	137.19	102.71	***
Average	122.97	91.15	80.45
		Share of quantity (*percent*)	
Russia[1]	51.2	49.9	***
Canada[2]	19.2	12.7	***
Other nonsubject sources	29.6	37.3	41.5
Nonsubject sources	48.8	50.1	***
Total	100.0	100.0	100.0
		Share of value (*percent*)	
Russia[1]	45.6	43.6	***
Canada[2]	26.2	19.0	***
Other nonsubject sources	28.3	37.4	47.6
Nonsubject sources	54.4	56.4	***
Total	100.0	100.0	100.0

[1] Quantities and values of reported imports from Russia are close to those of official Commerce statistics except for 1998. In 1998, reported imports are much greater than those of official Commerce statistics. In reviewing records of the U.S. Customs Service for 1998, imports from ***, which reported imports of ***, do not appear and imports from *** are understated by *** short tons.

[2] The nonsubject data are compiled from official Commerce statistics, which were adjusted by Commission staff to remove industrial grade ammonium nitrate and misclassified product from Canada and to correct for misclassification of Polish material.

[3] Landed, duty-paid value.

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

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

Table IV-2
HDAN: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1997-99

Item	1997	1998	1999
		Quantity (*short tons*)	
U.S. producers' U.S. shipments[1]	1,985,120	2,054,848	2,095,344
U.S. shipments imports from--			
Russia[2]	187,404	230,360	[3]***
Canada[4]	74,546	66,649	***
Other nonsubject sources[4]	114,743	195,565	218,965
Subtotal nonsubject[4]	189,289	262,214	***
All sources	376,693	492,574	499,416
Apparent consumption	2,361,813	2,547,422	2,594,760
		Value (*1,000 dollars*)	
U.S. producers' U.S. shipments[1]	278,386	245,534	213,344
U.S. shipments of imports from--			
Russia[2]	23,131	26,531	[3]***
Canada[4]	12,486	9,059	***
Other nonsubject sources[4]	13,482	17,873	20,189
Subtotal nonsubject[4]	25,968	26,932	***
All sources	49,099	53,463	45,326
Apparent consumption	327,485	298,997	258,670

[1] U.S. producers' shipments do not include shipments of ***. U.S. producers' quantity and value of U.S. shipments are understated by the amount ***. ***.

[2] Quantities and values of imports from Russia reported by those firms providing U.S. shipments of imports are close to those of official Commerce statistics except for 1998. In 1998, reported imports are much greater than those of official Commerce statistics. In reviewing records of the U.S. Customs Service for 1998, imports from ***, which reported imports of ***, do not appear and imports from *** are understated by *** short tons.

[3] Quantities and values for shipments of imports from Russia in 1999 include ***.

[4] The nonsubject data are from imports (not shipments) and are compiled from official Commerce statistics, which were adjusted by Commission staff to remove industrial grade ammonium nitrate and misclassified product from Canada and to correct for misclassification of Polish material.

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

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

Table IV-3
HDAN: Apparent U.S. consumption and market shares, 1997-99

Item	1997	1998	1999
		Quantity (*short tons*)	
Apparent consumption	2,361,813	2,547,422	2,594,760
		Value (*1,000 dollars*)	
Apparent consumption	327,485	298,997	258,670
		Share of quantity (*percent*)	
U.S. producers' U.S. shipments[1]	84.1	80.7	80.8
U.S. shipments of imports from--			
Russia	7.9	9.0	***
Canada[2]	3.2	2.6	***
Other nonsubject sources[2] (imports)	4.9	7.7	8.4
Subtotal nonsubject[2]	8.0	10.3	***
All sources	15.9	19.3	19.2
		Share of value (*percent*)	
U.S. producers' U.S. shipments[1]	85.0	82.1	82.5
U.S. shipments of imports from--			
Russia	7.1	8.9	***
Canada[2] (imports)	3.8	3.0	***
Other nonsubject sources[2] (imports)	4.1	6.0	7.8
Subtotal nonsubject[2] (imports)	7.9	9.0	***
All sources	15.0	17.9	17.5

[1] U.S. producers' shipments do not include shipments of ***. U.S. producers' share of the quantity and value of shipments are understated by the amount ***. ***.

[2] The nonsubject sources market share is from imports (not shipments) and is compiled from official Commerce statistics, which were adjusted by Commission staff to remove industrial grade ammonium nitrate and misclassified product from Canada and to correct for misclassification of Polish material.

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

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

U.S. IMPORTERS

Four large and independent wholesaler/retailers accounted for ***. None adds value to the imported product. ***.[2] Two smaller importers, ***, also completed the questionnaire.

Table IV-4 presents information on the quantities imported from Russia in 1999 for each importer. Four importers, accounting for ***, reported imports in 1999.[3]

Table IV-4
HDAN: U.S. imports, by firms, 1999

* * * * * * *

*** reported expected deliveries of *** of Russian HDAN during 2000.

DESTINATION OF U.S. SHIPMENTS OF IMPORTS

Figure IV-1 presents data on the shipment destinations of U.S. importers' U.S. shipments in 1999. Shipment destination data are not included for 10.5 percent of commercial shipments. ***'s commercial shipments were understated by *** and ***'s commercial shipments were understated by *** and shipment destination data are unavailable for the ***. About 92 percent of commercial shipments were sent to distributors, so the destinations shown in figure IV-1 may not be the final destinations of the product.

NONSUBJECT IMPORTS

According to the petitioner, "Canadian imports are higher priced, the record shows. They are imported into a different geographic region. They come in through the Northern Tier, not through the Gulf area, where the Russian imports enter and where most of the domestic product is sold . . . these producers simply do not see Canadian product in their market. They don't compete with it. They don't quote against it. It's not something that's active in the same markets as the . . . Russian and the U.S. product."[4] [5]

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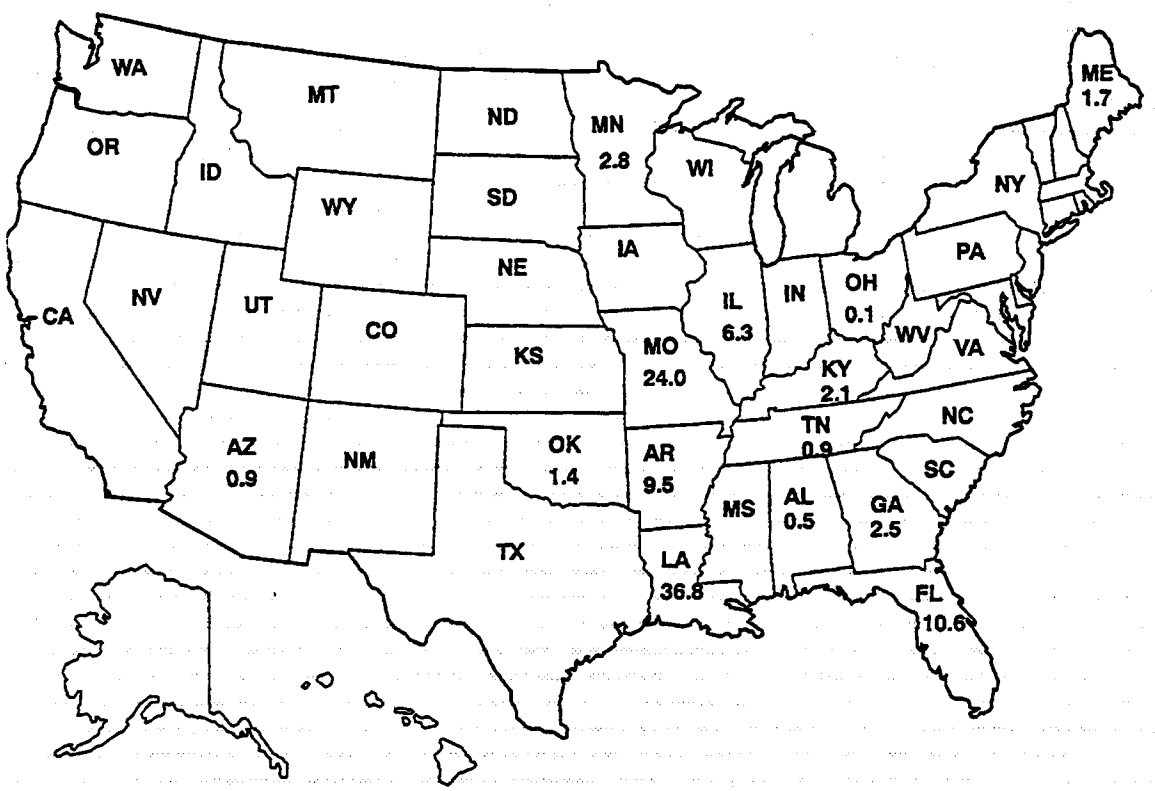
[2] In a telephone conversation during the week of April 17, 2000, ***.

[3] As previously mentioned, ***.

[4] Hearing transcript, p. 57.

[5] Petitioner's assertion seems to be corroborated by Commerce data. Over 90 percent of the imports from Canada of ammonium nitrate (both HDAN and LDAN) enter the United States through four States - Montana, New York, North Dakota, and Washington. See figures III-1 and IV-1 for shipment destinations of domestic and Russian product.

Figure IV-1
HDAN: Location of importers' customers, by State, as shares (in percent) of 1999 importers' shipments of Russian product



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

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

According to WEFA, nitrogen producers are in a fragile environment right now. Agricultural use in the United States is estimated to be stable in the near term and exhibit slow growth in the medium term. Additional global nitrogen capacity coming on-line, weak demand from a global perspective, and the need for Russia to generate exchange earnings, have all contributed to pushing nitrogen prices to low levels. One U.S. producer has ceased HDAN production.[1]

Raw Material Costs

The basic raw material used in the production of HDAN is ammonia. The basic feedstock for producing ammonia is natural gas. Natural gas accounts for a major share of the variable cost of producing HDAN. The cost of natural gas represents approximately 70-80 percent of the cost of producing ammonia and about 30-50 percent of the cost of producing HDAN.[2] The largest producers are vertically integrated, i.e., they purchase natural gas and produce ammonia at their own production facilities. Other producers purchase ammonia.[3]

In the production of ammonia, the average cost per unit of natural gas decreased from $2.22 per million Btu in 1997 to $2.10 in 1998 and then increased to $2.19 in 1999.[4] The weighted-average costs to produce ammonia fell from $96.95 a short ton in 1997 to $87.34 a short ton in 1998 and then increased to $92.67 a short ton in 1999.[5] It was predicted at the end of 1999 that the costs to produce ammonia were going to increase for the year 2000 due to increasing natural gas costs.[6] The cost of natural gas has indeed increased quite dramatically in the past 6 months. The price went from $2.26/million Btu to $3.47/million Btu.[7] The unit value of purchased ammonia fell from $171.18 a short ton in 1997 to $141.65 a short ton in 1998 and remained relatively constant at $141.74 a short ton in 1999.[8]

Producers having captive ammonia facilities enjoy cost advantages when ammonia prices are high in the open market, while producers that purchase ammonia benefit when prices of ammonia are low.[9] Approximately 57-60 percent of HDAN is produced from captive ammonia and the rest is produced from purchased ammonia.

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[1] Wil-Gro has ceased HDAN production.

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

[3] Petition, p. 8.

[4] WEFA conference.

[5] Data compiled from responses to Commission questionnaires.

[6] WEFA conference. *** has temporarily suspended HDAN operations primarily in response to record high natural gas prices until the company can capture more favorable margins.

[7] "Rising Costs Hurting Nitrogen Producers" by Harry S. Baumes of WEFA, p. 3.

[8] Data compiled from responses to Commission questionnaires.

[9] Petitioner agrees with this proposition, but asserts that simply referencing ammonia prices will not provide meaningful information on the relative cost positions of U.S. producers; posthearing brief, exhibit C, response to question posed by Commissioner Bragg.

U.S. Inland Transportation Costs

Transportation costs of HDAN for delivery within the United States vary somewhat and account for a moderate percentage of total cost. U.S. producers reported that U.S. inland transportation costs account for 7 to 21 percent of the total delivered cost. Importers' estimates ranged from 7 to 15 percent. Eight out of 10 producers and all four importers reported arranging for transportation to their customers' locations.

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

Producers and importers were requested to provide estimates of the percentage of their total shipments that were made within specified distances. For the responding producers, the proportion of sales occurring within 100 miles of their storage or production facility ranged from 10 to 40 percent, with five producers estimating 23-25 percent. In addition, domestic producers estimated that between 75 and 100 percent of their sales occurred within 500 miles. The responses from the importers were more varied. One hundred percent of three importers' *** sales are made within 100 miles of the port of entry or their storage facilities. *** and *** sell 15 and 30 percent, respectively, of their imported HDAN within 100 miles and 100 percent of ***'s sales occur within 500 miles. Seventy-five percent of ***'s sales occur within 1,000 miles.

Producers and importers were requested to supply additional information on the various modes of transportation used to transport HDAN and the costs associated with each. In general, domestic producers ship a majority of their product by truck and importers ship primarily by barge. *** and *** shipped 24[10] and 8 percent, respectively, by barge. Three importers ship between 74 and 100 percent of their shipments by barge. One domestic producer ships 91 percent, five producers ship between 21 and 50 percent, and three producers ship below 15 percent of their total shipments by rail. One importer, ***, reported shipping 25 percent of its total shipments by rail. Domestic producers ship primarily by truck, with four shipping between 85 and 98 percent, five shipping between 50 and 75 percent, and one producer shipping 9 percent of its total shipments by truck. Importers' responses varied on sales shipped by truck. The two *** importers ship small amounts, 1 and 14 percent, by truck and two *** importers ship 82 and 100 percent by truck.

The Commission requested domestic producers and importers to provide cost data on loading and shipping charges by mode of transportation. The following tabulation summarizes this data:

[10] *** increased its percentage of shipments shipped by barge from 16 percent in the preliminary phase of the investigation to 24 percent.

Supplier	Barge	Rail	Truck
	Average per ton shipping costs in 1999		
Domestic producers	$7.96[11]	$15.13	$17.64
Importers	$6.58	$20.00	$10.75
	Average per ton loading charges in 1999		
Domestic producers	$4.29	$2.01	$2.06
Importers	$3.50	***	$2.50

U.S. producers and importers were also asked to specify the portion of sales that was actually made f.o.b. plant/port or other shipping point (i.e., customer picked up HDAN at the port/plant/shipping point or incurred the shipping charges) during January 1997 through December 1999. The domestic producers' responses were varied; four domestic producers reported 100 percent, one reported 57 percent, and two reported 13 and 14 percent of their sales, respectively, were made f.o.b. plant or shipping point.[12] One importer reported 100 percent, two reported 32 and 35 percent, respectively, and one reported none of their sales were made f.o.b. port or shipping point.

It is a consensus among domestic producers and importers of HDAN that the product breaks down somewhat the more times it is handled. This breakdown can be tied to the mode of transportation, but other factors contribute to this degradation. For example, barging a product can lead to deterioration due to the fact that it is handled more frequently. Exposure to temperatures that cycle above and below 90°F can also deteriorate the product, as does humidity. There is also more breakdown in rail shipments due to longer transit times and temperature changes.

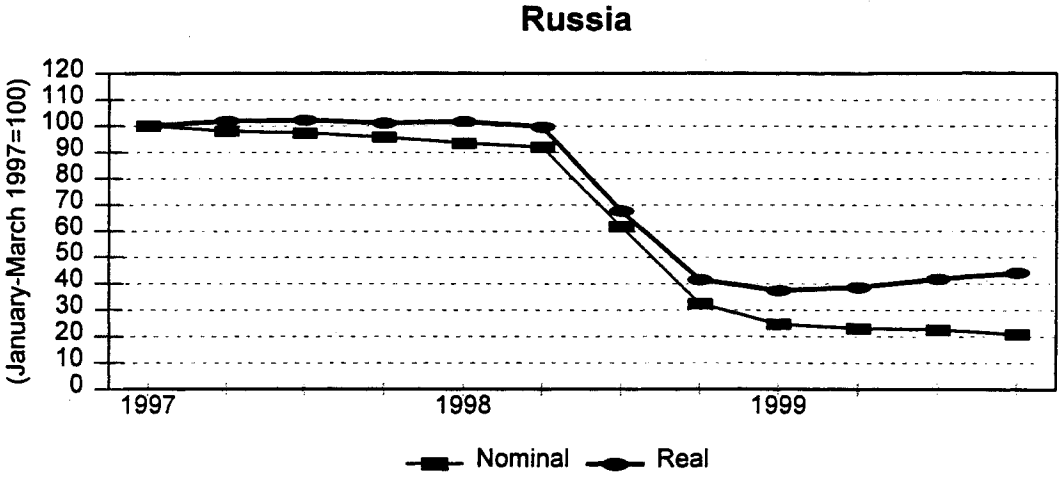
Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Russian ruble depreciated 79.1 percent relative to the U.S. dollar from January 1997 to December 1999, with most of the decline taking place between the second and fourth quarter 1998 (figure V-1). The real value of the Russian ruble depreciated 55.9 percent vis-a-vis the U.S. dollar between January 1997 and December 1999.

[11] The average per-ton costs for barge transportation decreased from the preliminary phase of the investigation because beginning in the spring of 1999, *** required ***'s product to be shipped to other places in order for the product to be loaded onto barges. Shipping costs decreased while loading charges increased.

[12] *** quote delivered prices 100 percent of the time.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the Russian ruble and the U.S. dollar, by quarters, January 1997-December 1999



Source: Russian Economic Trends, Monthly Update, April 13, 2000.

PRICING PRACTICES

Pricing Methods

Five domestic producers use published price lists, which are adjusted by market conditions, three domestic producers establish prices by negotiation, and one producer ties the price of HDAN to a *** to determine the f.o.b. price.[13] Importers establish prices by negotiating on a transaction-by-transaction basis.

The majority of sales of HDAN are on a spot basis. Five out of nine responding domestic producers reported that 100 percent of their sales are on a spot basis. Two responding importers reported that 100 percent of their sales are on a spot basis, while *** and *** reported that 83 and 77 percent respectively, of their sales are on a spot basis. ***, ***, ***, and ***[14] reported that 90, 60, 40, and 13 percent, respectively, of their sales are based on contracts.

Contracts for domestic producers include tolling arrangements with ammonia suppliers. Reported contract terms varied, though most contracts had fixed quantities. The average duration of domestic producers' contracts is 1 year and they are renegotiated either yearly or on an as-needed basis. Domestic producers are more likely to have standard quantity requirements than importers. ***'s contracts are 6 months in duration, fix quantity, and contain a meet-or-release provision. ***'s contracts are 2 months in duration, fix price and quantity, and do not contain a meet-or-release provision.

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[13] *** sets its prices in this fashion. This firm accounted for *** percent of net sales value of U.S.-produced HDAN in 1997, *** percent in 1998, and *** percent in 1999.

[14] ***.

Sales Terms and Discounts

Domestic producers are more likely to give discounts than importers. Eight producers reported giving some kind of discount. Discounts given are generally volume and competitive market discounts. Two domestic producers give $2.00 a ton discounts to purchasers if HDAN is shipped by rail. One importer gives a discount to large-volume contract customers. One domestic producer and three importers do not give discounts.

U.S. producers quote their prices differently from each other. Four U.S. producers quote from 86 to 100 percent of their prices delivered, four quote between 95 and 100 percent of their prices f.o.b. plant, and one quotes both. Importers also quote their prices differently from each other; one quotes f.o.b. port (New Orleans), one quotes both f.o.b. port of entry and delivered, another quotes either f.o.b. barge port of entry or f.o.b. truck, and one importer reported that its price quotes vary. Three producers and one importer require payment to be made within 15 days, six producers require payment within 30 days, and an additional producer requires payment in 45 days. Two importers require cash on invoice[15] and one importer varies its payment terms between 15 and 30 days.

PRICE DATA

The Commission requested U.S. producers and importers of HDAN to provide monthly data for the total quantity and value of HDAN that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 1997-December 1999. The product for which pricing data were requested was solid, fertilizer-grade ammonium nitrate, sold in bulk, with a bulk density equal to or greater than 53 pounds per cubic foot.

*** U.S. producers and five importers provided usable pricing data for sales of the requested product, although not all firms reported pricing for HDAN for all months. Pricing data was collected on a monthly basis due to the frequent price changes that occur from month to month.

Price Trends and Price Comparisons

Table V-1 and figure V-2 show the monthly weighted-average prices and margins of underselling/(overselling) for U.S.-produced and imported HDAN from January 1997 through December 1999. U.S. producers and importers were asked to supply quantity and value data for sales made on an f.o.b. plant or port basis (i.e., product was picked up at the plant/port), f.o.b. shipping point, and, to the extent possible, to supply data for sales made on a delivered price basis, but adjusted by netting U.S. inland freight to the customer. Value and quantity data were combined into one comparison table because for delivered sales, domestic producers and importers were asked to net out freight and other costs from the plant/port/shipping point, which allowed pricing comparisons to be made with f.o.b. plant/port/shipping point.

Table V-2 and figure V-3 show the monthly weighted-average prices of all domestic producers versus those of ***. ***. This data is presented to show price trends.

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[15] *** requires cash on invoice. ***. Another importer, ***, requires some cash payments depending on the mode of transportation.

Table V-1
HDAN:[1] Weighted-average f.o.b. plant/port/shipping point prices and quantities of sales of domestic and imported product and margins of underselling/(overselling), by months, January 1997-December 1999

Period	United States		Russia		
	Price *(per short ton)*	Quantity *(short tons)*	Price *(per short ton)*	Quantity *(short tons)*	Margin *(percent)*
1997:					
January	$161.25	118,089	***	***	***
February	164.21	165,874	***	***	***
March	162.96	230,223	***	***	***
April	163.12	246,911	***	***	***
May	163.78	196,711	***	***	***
June	161.44	156,087	***	***	***
July	152.85	137,921	***	***	***
August	146.63	77,433	***	***	***
September	135.33	92,509	***	***	***
October	136.30	122,437	***	***	***
November	134.43	106,925	***	***	***
December	130.60	130,793	***	***	***
1998:					
January	129.26	125,960	***	***	***
February	128.68	150,654	***	***	***
March	127.44	256,846	***	***	***
April	131.23	344,905	***	***	***
May	145.72	199,059	***	***	***
June	151.49	158,007	***	***	***
July	144.74	93,190	***	***	***
August	144.95	86,724	***	***	***
September	124.85	104,541	***	***	***
October	125.21	121,528	***	***	***
November	120.29	106,827	***	***	***
December	116.46	112,114	***	***	***

See footnote at end of table.

Table V-1--*Continued*
HDAN:[1] Weighted-average f.o.b. plant/port/shipping point prices and quantities of sales of domestic and imported product and margins of underselling/(overselling), by months, January 1997-December 1999

Period	United States		Russia		
	Price *(per short ton)*	Quantity *(short tons)*	Price *(per short ton)*	Quantity *(short tons)*	Margin *(percent)*
1999:					
January	$108.66	136,737	***	***	***
February	105.04	229,590	***	***	***
March	117.10	272,917	***	***	***
April	120.25	224,550	***	***	***
May	116.72	184,812	***	***	***
June	116.48	176,078	***	***	***
July	117.62	95,219	***	***	***
August	109.95	70,170	-	-	-
September	109.51	80,985	***	***	***
October	106.09	153,278	***	***	***
November	105.28	144,912	***	***	***
December	109.00	198,285	***	***	***

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

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

Figure V-2
Weighted-average prices for HDAN, f.o.b. plant/port/shipping point, by months, January 1997-December 1999

* * * * * * *

Table V-2
HDAN:[1] Weighted-average f.o.b. plant/port/shipping point prices of domestic producers versus * and ***, by months, January 1997-December 1999**

Period	***	***	Total domestic industry
	Price *(per short ton)*	Price *(per short ton)*	Price *(per short ton)*
1997:			
January	***	***	$161.25
February	***	***	164.21
March	***	***	162.96
April	***	***	163.12
May	***	***	163.78
June	***	***	161.44
July	***	***	152.85
August	***	***	146.63
September	***	***	135.33
October	***	***	136.30
November	***	***	134.43
December	***	***	130.60
1998:			
January	***	***	129.26
February	***	***	128.68
March	***	***	127.44
April	***	***	131.23
May	***	***	145.72
June	***	***	151.49
July	***	***	144.74
August	***	***	144.95
September	***	***	124.85
October	***	***	125.21
November	***	***	120.29
December	***	***	116.46

See footnote at end of table.

Table V-2--*Continued*
HDAN:[1] Weighted-average f.o.b. plant/port/shipping point prices of domestic producers versus * and ***, by months, January 1997-December 1999**

Period	***	***	Total domestic industry
	Price *(per short ton)*	Price *(per short ton)*	Price *(per short ton)*
1999:			
January	***	***	$108.66
February	***	***	105.04
March	***	***	117.10
April	***	***	120.25
May	***	***	116.72
June	***	***	116.48
July	***	***	117.62
August	***	***	109.95
September	***	***	109.51
October	***	***	106.09
November	***	***	105.28
December	***	***	109.00

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

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

Figure V-3
Weighted-average prices for HDAN, f.o.b. plant/port/shipping point, by months, January 1997-December 1999, of all domestic producers vs. * and ***

* * * * * * *

Prices follow cyclical trends in a year. Prices are higher in the spring due to higher demand and lower in the fall due to lower demand. Domestic producers lower the price to entice purchasers to buy the HDAN in the fall in order to keep product moving and to keep high spring demand under control. Prices, compared in the same months by year, fell from 1997 to 1999. Prices are lowest in the fall months and comparing December prices from year to year shows a declining trend. For example, the domestic price per short ton was $130.60 in December 1997 and declined to $116.46 in December 1998, a 10.8 percent decline. The price fell further to $109.00 a short ton in December 1999, a 16.5 percent decline overall. Prices for HDAN peak in the spring and May prices in different years exhibited similar trends. The May price declined by 11.0 percent from 1997 to 1998 and declined by 28.7 percent from 1997 to 1999. Similar pricing trends exist for Russian HDAN. Using the same month year-to year

comparisons, the December price for Russian HDAN declined by *** percent from 1997 to 1998 and declined by ***percent from 1997 to 1999. May prices declined by *** percent from 1997 to 1998 and declined by *** percent from 1997 to 1999.

Margins of underselling of the Russian HDAN ranged from *** percent to *** percent in 1997, from *** percent to *** percent in 1998, and from *** percent to *** percent in 1999. There are two instances of overselling, *** percent in July 1999, the month the petition was filed, and *** percent in November 1999, the month that Commerce made its preliminary affirmative critical circumstances determination.

Overall, domestic prices declined by 32.4 percent from January 1997 to December 1999. Likewise, ***'s prices declined by *** percent and ***'s prices declined by *** percent over the same time frame. However, it appears that ***'s prices started to rebound in the latter part of 1999 after bottoming out at *** per short ton in June 1999, a *** percent decline from its January 1997 price.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of HDAN to report any instances of lost sales or lost revenues they experienced due to competition from imports of HDAN from Russia during January 1997 through December 1999. Of the 10 responding U.S. producers, 8 reported that they had to either reduce prices or roll back announced price increases because of the imports of Russian HDAN. Staff obtained comments from purchasers covering 117 lost revenue and 56 lost sale allegations. The following tabulation summarizes this information:

Lost Revenue Allegation Summary

Purchaser response	Number	Quantity (*short tons*)	Value
Agree	48	34,516	$483,085
Disagree	62	54,515	554,056
Partly agree	7	13,734	40,057
Total	117	102,765	$1,077,198

Lost Sale Allegation Summary

Purchaser Response	Number	Quantity (*short tons*)	Value
Agree	21	8,987	$952,870
Disagree	22	50,051	4,102,270
Partly agree	13	4,422	377,660
Total	56	63,460	$5,432,800

The specifics of the allegations to which purchasers responded are shown in appendix E, tables E-1 and E-2. Where available, additional purchaser comments based on the allegations are presented following the tables.

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

BACKGROUND

The same *** companies that reported production data provided usable financial data on their operations that produce HDAN.[1] All producers were requested to provide financial data on a calendar-year basis.[2] *** of the *** firms are ***, individually accounting for about *** percent of total industry trade sales, with each registering between $*** and $*** in trade sales in 1999. ***, and its sales of $*** accounted for *** of industry trade sales. At opposite ends of the industry, in terms of size, were ***, which accounted for *** of the total value of industry trade sales as well as the ***, and ***, which accounted for *** percent of the industry's trade sales in 1999.

With respect to production inputs, *** of the *** companies rely on purchased natural gas to produce anhydrous ammonia, a key input for the production of HDAN, and all produce nitric acid (the production process is described in Part I).[3] According to the companies' questionnaire responses, several also sell nitric acid, urea-ammonium nitrate and/or urea, and other forms of ammonium nitrate (e.g., 20 percent and/or 83 percent solutions, and LDAN). These products are produced in the same facilities in which the companies produce HDAN. With respect to the firms' sales, most sell to plant-food distributors, including cooperatives that may distribute the product in bulk or in bags for sale to individual farmers.[4] *** reported *** in each year of HDAN for use in ***, which, reportedly, is not typical for the other U.S. producers.[5]

HDAN OPERATIONS

Income-and-loss data for the *** U.S. producers on their operations producing HDAN are presented in table VI-1, and unit values are shown in table VI-2. As noted earlier, Wil-Gro ceased production in December 1999 and stated its intention to liquidate its HDAN assets. On May 3, 2000, LaRoche Industries filed for protection under Chapter 11 of the U.S. Bankruptcy Code. In a company press release, LaRoche stated it intended to continue to produce HDAN and to operate its plants as debtor-in-possession during its restructuring period.[6]

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[1] ***.

[2] ***.

[3] ***.

[4] *** sells its production ***, and the company reported trade sales only. According to this company's audited financial statements, approximately *** of net sales went to *** customers in 1997 and 1998, respectively. ***.

[5] In 1999, *** reported trade sales of *** of HDAN valued at $*** made through the company's *** and company transfers of *** of HDAN with a value of $*** consumed within the company's ***. The HDAN was reportedly ***. Both the *** are valued at market prices of HDAN. For purposes of this report, the sales to a third party that were made through the company's *** have been included in the company's trade sales, while the transfers of HDAN that were consumed within the company's *** have been included in the company's transfers.

[6] Company officials cited high debt levels, depressed market conditions, and an explosion-related shutdown of its chlor-alkali plant in 1999 as the primary causes of its declining cash situation. Following several quarters of negative earnings, LaRoche defaulted on a bond interest payment due on March 15, 2000, and announced it was pursuing a financial restructuring plan. See "LaRoche Industries Inc. announces third quarter results," found at

(continued...)

Table VI-1
Results of operations of U.S. producers in the production of HDAN, 1997-99

Item	1997	1998	1999
		Quantity (*short tons*)	
Trade sales	***	***	***
Company transfers and conversion[1]	***	***	***
Total net sales	***	***	***
		Value (*$1,000*)	
Trade sales	***	***	***
Company transfers and conversion[1]	***	***	***
Total net sales	***	***	***
Cost of goods sold	***	***	***
Gross profit	***	***	***
SG&A expenses	***	***	***
Operating income or (loss)	***	***	***
Interest expense	***	***	***
Other expense	***	***	***
Other income items	***	***	***
Net income or (loss)	***	***	***
Depreciation/amortization	***	***	***
Cash flow	***	***	***
		Ratio to net sales (*percent*)	
Cost of goods sold	78.5	85.5	98.6
Gross profit	21.5	14.5	1.4
SG&A expenses	7.8	8.5	7.7
Operating income or (loss)	13.7	5.9	(6.3)
Net income or (loss)	12.3	4.4	(10.5)
		Number of firms reporting	
Operating losses	***	4	6
Data	***	***	***

[1] Includes company transfers reported by ***, and conversion toll processing reported by ***.

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

[6] (...continued)
Internet site, *http://www.larocheind.com/English/pr011400.html*, and company press release dated May 3, 2000, and information update of June 2, 2000, found at Internet site, *http://www.larocheind.com/English/pr050300.html*, retrieved on June 16, 2000.

Table VI-2
Results of operations of U.S. producers in the production of HDAN, 1997-99, per short ton

* * * * * * *

Although the quantity of trade sales increased by *** percent between 1997 and 1999, from *** to ***, the value of those sales fell from $*** to $*** (down ***), as the unit values of trade sales fell by *** percent. The quantity and value of company transfers and conversion processing irregularly declined between 1997 and 1999, primarily because conversion processing declined during the period; however, the unit values of total transfers and conversion processing increased irregularly during the period (see discussion later). This is because unit conversion fees are well below unit market prices while unit company transfers are close to, or valued at, market. As the amount of conversion declined and the relative amount of company transfers increased, the average unit price of company transfers and conversion combined, increased.

Between 1997 and 1999, the total cost of goods sold declined by *** percent, led by an ***-percent decline in the cost of raw materials.[7] This ***-percent decline was considerably less than the decrease in the value of sales; as a result the gross profits of the U.S. industry fell from $*** to $*** (a ***-percent decrease) between 1997 and 1999. Although total selling, general, and administrative costs ("SG&A") declined by *** percent between 1997 and 1999, the U.S. industry incurred an operating loss in 1999 of $*** as six U.S. producers reported operating losses. The U.S. industry also incurred a net loss of $*** and a negative cash flow of $*** in 1999.

Three of the companies reported producing HDAN on behalf of other parties, generally distributors of fertilizers.[8] Under these arrangements, the producer converted ammonia, owned and

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[7] U.S. producers were requested to provide a breakout of the costs of their raw materials, but the data do not appear to have been reported consistently. Therefore trends in the data may provide a more accurate reflection of industry conditions than might the absolute numbers. According to questionnaire responses of U.S. producers, the cost of ammonia represented approximately *** to *** percent of the total cost of raw materials consumed in the production of HDAN during 1997-99. Data in these responses indicate that the total quantity of ammonia consumed in the production of HDAN rose by about *** percent, but that the total value of that ammonia declined by almost *** percent, between 1997 and 1999. Data from the *** companies, ***, that reported on their purchases of ammonia indicates that the quantity and cost of purchased ammonia *** between 1997 and 1999, respectively. Data from the *** companies that reported producing ammonia indicate that the quantity ***.

Data compiled from surveys of U.S. plants show a 3.97-percent decline in the weighted average production cost per short ton of ammonia. This decline is based, in part, on a ***-percent more efficient conversion of natural gas to ammonia, from *** to *** million Btu per short ton of ammonia produced, and a ***-percent price decrease in the cost of natural gas, from $*** to $*** per million Btu, between 1997-99. See, The Fertilizer Institute, *Production Cost Surveys for the Year Ended December 31, 1999*, compiled by International Fertilizer Development Center, Muscle Shoals, AL, May 8, 2000, schedule 8, "Ammonia Production Cost," p. 8. As noted in the hearing, prices of natural gas increased significantly, to over $4 per million Btu during the first half of 2000, putting upward pressure on ammonia and HDAN manufacturing costs.

[8] The three U.S. producers that reported converting ammonia into HDAN, together with their partners, are ***. The conversion quantities and values are included in the financial data because this fairly reflects the entirety of company operations (such processing contributes to covering administrative costs, selling costs, and fixed costs of production). The quantities and values of these conversion operations are not included in the industry's trade sales, and have instead been combined with company transfers. This is to minimize the effect on the unit value of the companies' trade sales of such conversion operations because unit conversion fees are much less than unit sales prices. Changes to *** questionnaire response that match conversion sales and their associated costs have been incorporated in this final report. See petitioner's letters of May 4 and May 11, 2000. *** stated that costs

(continued...)

supplied by the outside party, into HDAN and charged a conversion fee for this service. During 1997-99, these three companies, together, converted from *** tons to *** tons of HDAN and received from $*** to $*** in fees. Conversion operations represented *** to *** percent, by quantity, and *** to *** percent, by value, of total industry net sales. According to questionnaire responses, the conversion charge varied from about $*** to $*** per ton of HDAN produced. According to the three companies, imports of Russian HDAN exerted downward pressure on both the fees they could charge and the quantity of HDAN they produced under these conversion contracts.[9] Data on these conversion operations are shown in the following tabulation:

* * * * * * *

Table VI-3 presents financial information on a company-by-company basis for net sales (quantity and value), operating income, the ratio of operating income or (loss) to net sales, and the per-unit values of net sales, cost of goods sold ("COGS"), and operating income.

Table VI-3
Net sales, operating income, operating margins, and per-unit values of sales, COGS, and operating income of U.S. producers, by firms, in the production of HDAN, 1997-99

* * * * * * *

The impact of decreasing sales values is further depicted in the variance analysis for the industry in table VI-4. A variance analysis depicts the effects of prices and volume on the producers' net sales, and of costs and volume on their total cost. The decrease in sales values between 1997 and 1999 of $*** (composed of decreases of $*** and $*** between 1997 and 1998 and between 1998 and 1999, respectively) led to a decline in the industry's operating income in each of the 3 years. The decreased operating income was attributable to unfavorable price variances (lower average prices) that overcame favorable net cost/expense variances (decreasing unit costs) as well as favorable net volume variances (the volume of sales increased).

Table VI-4
Variance analysis for U.S. producers on their HDAN operations, 1997-99

* * * * * * *

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

The responding firms' data on capital expenditures, research and development ("R&D") expenses,[10] and the value of their property, plant, and equipment used in the production of HDAN are shown in table VI-5. Data for capital expenditures on a firm-by-firm basis are shown in table VI-6.

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[8] (...continued)
associated with their conversion operations are included in their reported financial section data.

[9] For example, ***.

[10] ***, reported incurring R&D expenses ***.

Capital expenditures were greatest in 1997 as U.S. producers improved plant and equipment (e.g., improved prilling and reduced drying time) and as several sought to expand production capacity. Capital improvement projects require 1 to 3 years to implement; these expenditures declined during the 3-year period, as projects came to fruition, or were scaled back or halted for financial reasons.

Table VI-5
Value of assets, capital expenditures, and R&D expenses of U.S. producers of HDAN, 1997-99

Item	1997	1998	1999
		Value (*$1,000*)	
Capital expenditures	***	***	***
R&D expenses	***	***	***
Fixed assets:			
Original cost	382,380	418,902	436,331
Book value	187,176	212,736	219,651

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

Table VI-6
Capital expenditures of U.S. producers, by firms, in the production of HDAN, 1997-99

* * * * * * *

CAPITAL AND INVESTMENT

Comments by domestic producers regarding the significance of imports of HDAN from Russia in terms of their actual or potential negative effects on return on investment or their growth, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or scale of capital investments, are presented in appendix F.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

U.S. IMPORTERS' INVENTORIES

Table VII-1 presents data on inventories of Russian-produced HDAN held by U.S. importers. Importers presenting data account for virtually all imports from Russia. Such inventories more than tripled in 1998 and then decreased in 1999, but still remained over *** the 1997 level.

Table VII-1
HDAN: U.S. importers' end-of-period inventories of imports from Russia, 1997-99

Item	1997	1998	1999
Imports from Russia:			
Inventories *(short tons)*	10,714	34,050	***
Ratio to imports *(percent)*	5.4	13.0	***
Ratio to U.S. shipments of imports *(percent)*	5.7	14.8	***
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.			

THE INDUSTRY IN RUSSIA

The Russian HDAN industry, which was privatized in 1993, consists of at least 13 known producers, including the three that have exported to the United States in significant quantities (Acron, Nevinnomyssk, and Cherepovets). HDAN is used extensively throughout Russia, although the dissolution of the Soviet Union resulted in greatly diminished agricultural production, and thus use of HDAN. Capacity for all ammonium nitrate[1] totaled about 10 million short tons in 1997, or nearly 4 times HDAN production in the United States, but utilization has been low in the face of a diminished home market. Table VII-2 presents capacity, capacity utilization, location, and shipping port information of the 13 known Russian producers. Table VII-3 presents production data on the 13 known Russian producers based on capacity and capacity utilization data presented in table VII-2.

Respondents have indicated that a constraint to increasing exports is the fact that most producers are located prohibitively far from a shipping port. Figure VII-1 is a map of Russia with the production facilities and shipping ports marked.

[1] Data include capacity for both HDAN and LDAN.

Table VII-2
Ammonium nitrate: Russian capacity, capacity utilization, plant locations, start-up dates, shipping ports, and transport distances to nearest port, by firms, 1997

Company[1]	Capacity[2]	Capacity utilization	Location	Start-up date[3]	Port	Transport distance to port
Capacity = 1000 metric tons; capacity utilization = percent; transport distance = kilometers						
JSC Acron	900	57	Novgorod	1962; 1979; 1996	St. Petersburg	210
JSC Angarsk Petrochemical Co.	170	15	Angarsk	1962	Nahodka	4,300
JSC Azot – Novomoskovsk	1,125	56	Novomoskovsk	1961; 1973; 1973	St. Petersburg	940
JSC Azot – Berezniki	1,100	58	Berezniki	1975; 1984; 1987	St. Petersburg	1,880
JSC Azot – Kemerovo	900	29	Kemerovo	1980; 1982	St. Petersburg	4,700
JSC Azot – Cherepovets	450	61	Cherepovets	1987	St. Petersburg	500
JSC Dorogobuzh[4]	900	64	Dorogobuzh	1978; 1980	St. Petersburg	780
JSC Kirovo-Chepetsk Kimichesky Kombinat	900	106	Kirovo-Chepetsk	1978; 1982	St. Petersburg	1,360
JSC Minudobreniya-Meluez	450	12	Meleuz	1986	Novorossiysk	2,000
JSC Minudobreniya-Rososh	520	63	Rososh	1979	Novorossiysk	1,100
JSC Azot Nevinnomyssk	600	59	Nevinnomyssk	1972	Novorossiysk	450
JSC Novomendeleyevsk Chemical Plant	450	13	Mendeleyevsk	1989	St. Petersburg	1,600
ZAO Kuybyshevazot – Togliatti	400	78	Togliatti	1966	Novorossiysk	1,770
Total Russia	8,865					

[1] JSC is Joint Stock Company. Translation of Russian terms used in company names: Azot = nitrogen, Kimichesky Kombinat = chemical plant, Minudobreniya = fertilizer, ZAO = Closed Stock Company.
[2] Total ammonium nitrate capacity for the company.
[3] Multiple dates indicate different start-up dates for multiple ammonium nitrate production facilities at the location.
[4] JSC Acron notes in its written submission, dated July 17, 1998, that it acquired a controlling block of shares (i.e., 52 percent) in JSC Dorogobuzh in 1994.

Note.–This table was published in *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, USITC Publication 3135 (October 1998), p. 5-4. Capacity data were checked against those published in International Fertilizer Development Center, *Worldwide Ammonium Nitrate and Calcium Ammonium Nitrate Capacity Listing by Plant* (September 1999). Capacity data have not changed since this table was originally published.

Source: International Fertilizer Development Center, *Worldwide Ammonium Nitrate and Calcium Ammonium Nitrate Capacity Listing by Plant* (February 1998); Fertecon, *The Ammonium Nitrate Industry in the Former Soviet Union*, (October 1995); Fertecon, *Russian Ammonium Nitrate Production by Plant*, 1998, p. 1, and official Russian capacity statistics (current as of January 1, 1998) provided by the Ministry of the Economy, Russian Federation.

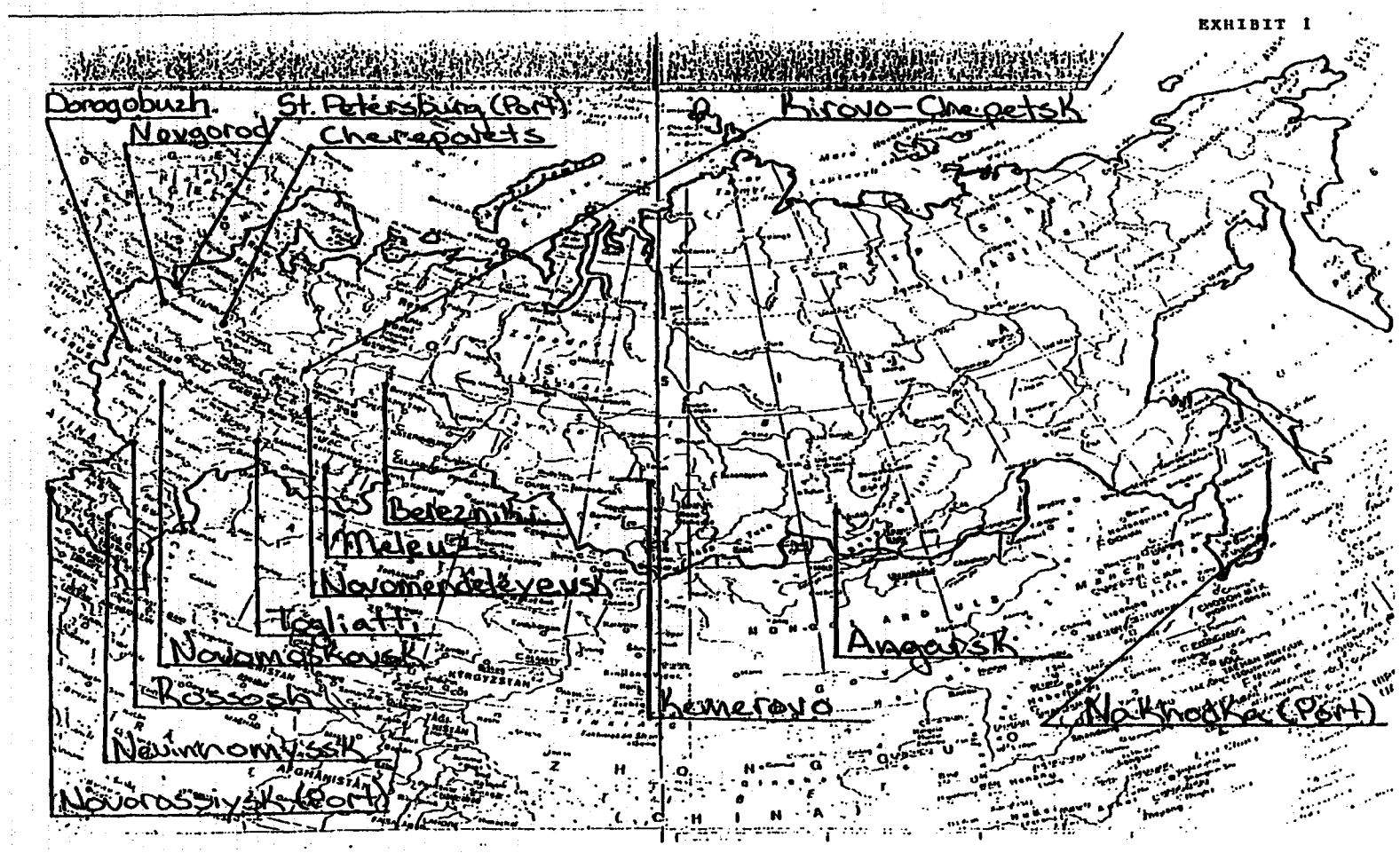
Table VII-3
Ammonium nitrate: Russian production and production shares, by firms, 1997

Company	Production *(1,000 short tons)*	Share of production *(percent)*
JSC Acron	566	10.3
JSC Angarsk Petrochemical Co.	28	0.5
JSC Azot – Novomoskovsk	695	12.7
JSC Azot – Berezniki	703	12.8
JSC Azot – Kemerovo	288	5.2
JSC Azot – Cherepovets	303	5.5
JSC Dorogobuzh	635	11.6
JSC Kirovo-Chepetsk Kimichesky Kombinat	1,052	19.2
JSC Minudobreniya – Meluez	60	1.1
JSC Minudobreniya – Rososh	361	6.6
JSC Azot Nevinnomyssk	390	7.1
JSC Novomendeleyevsk Chemical Plant	64	1.2
ZAO Kuybyshevazot – Togliatti	344	6.3
Total Russia	5,488	100.0

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

Source: International Fertilizer Development Center, *Worldwide Ammonium Nitrate and Calcium Ammonium Nitrate Capacity Listing by Plant* (February 1998); Fertecon, *The Ammonium Nitrate Industry in the Former Soviet Union,* (October 1995); Fertecon, *Russian Ammonium Nitrate Production by Plant*, 1998, p. 1, and official Russian capacity statistics (current as of January 1, 1998) provided by the Ministry of the Economy, Russian Federation.

Figure VII-1
HDAN: Locations of Russian producers and locations of Russian ports



Source: Post-hearing brief in Investigation No. 332-393, Powell, Goldstein, Frazer & Murphy LLP, counsel for JSC Acron, July 17, 1998, exh. 1.

Five Russian producers responded to Commission questionnaires: JSC Acron (JSC Acron's questionnaire response also included data for JSC Dorogobuzh since JSC Acron has a controlling block of shares in JSC Dorogobuzh), JSC Azot Nevinnomyssk, JSC Novomendeleyevsk Chemical Plant, and JSC Kirovo-Chepetsk Kimichesky Kombinat. On the basis of questionnaire data, *** account for virtually all of the imports from Russia during 1997-99. According to estimated production in table VII-3, in 1997 Acron accounted for 10.3 percent of Russian production, Nevinnomyssk accounted for 7.1 percent, Novomendeleyevsk 1 percent, Dorogobuzh 11.6 percent, and Kirovo 19 percent; and all four plants, together, accounted for 49.3 percent. Table VII-4 provides production, shipment, and inventory data for the five responding producers. A comparison of reported production of HDAN by these five firms of 2.7 million short tons and their total ammonium nitrate production shares in table VII-3 indicates that HDAN accounts for virtually all of the ammonium nitrate produced by these five firms.

Table VII-4
HDAN: Russian production capacity, production, shipments, and inventories, 1997-99 and projected 2000-01[1]

Item	Actual experience			Projections	
	1997	1998	1999	2000	2001
	Quantity (*short tons*)				
Capacity	4,087,650	4,087,650	4,087,650	4,087,650	4,087,650
Production	2,701,786	2,361,415	2,978,343	3,043,850	3,016,850
End of period inventories	101,554	67,139	42,202	28,638	28,738
Shipments:					
Internal consumption	0	0	***	0	0
Home market	1,171,924	922,803	***	1,378,425	1,398,325
Exports to--					
The United States	176,900	186,800	278,748	100,000	100,000
All other markets	1,303,370	1,286,489	1,463,458	1,120,125	1,043,125
Total exports	1,480,270	1,473,289	1,742,206	1,220,125	1,143,125
Total shipments	2,652,193	2,396,092	3,003,700	2,598,550	2,541,450
	Ratios and shares (*percent*)				
Capacity utilization	66.1	57.8	72.9	74.5	73.8
Inventories to production	3.8	2.8	1.4	0.9	1.0
Inventories to total shipments	3.8	2.8	1.4	1.1	1.1
Share of total quantity of shipments:					
Internal consumption	0.0	0.0	(2)	0.0	0.0
Home market	44.2	38.5	***	53.0	55.0
Exports to--					
The United States	***	***	***	***	***
All other markets	***	***	***	***	***
All export markets	55.8	61.5	58.0	47.0	45.0

[1] Data are for JSC Acron, JSC Azot Nevinnomyssk, JSC Novomendeleyevsk Chemical Plant, JSC Kirovo-Chepetsk Kimichesky Kombinat, and JSC Dorogobuzh.
[2] ***.

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

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

TRADE RESTRICTIONS IN OTHER COUNTRIES

At least two ongoing trade restrictions outside the United States limit Russian exports of HDAN. In 1997 the European Commission imposed an antidumping duty of ECU 26.3 (about $29.00) per ton on imports of Russian HDAN throughout the countries of the European Union (EU). The effect was to considerably reduce shipments of Russian HDAN to the EU. Also in 1997, China imposed a ban on imports of certain nitrogenous fertilizers, primarily urea, and ceased issuing licenses for HDAN imports. Prior to this time, the EU and China accounted for about two-thirds of Russian exports.[2]

[2] USITC Publication 3135 (October 1998): *Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade*, table 5-1, p. 5-4.

APPENDIX A

FEDERAL REGISTER NOTICES

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

Preliminary Determination of Critical Circumstances: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

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

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: Doreen Chen at (202) 482-0408 or Rick Johnson at (202) 482-3818, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Preliminary Determination of Critical Circumstances

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1999).

Critical Circumstances

On August 12, 1999, the Department of Commerce ("the Department") initiated an investigation to determine whether imports of solid fertilizer grade ammonium nitrate from the Russian Federation ("Russia") are being, or are likely to be, sold in the United States at less than fair value. In the petition filed on July 23, 1999, petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of solid fertilizer grade ammonium nitrate from Russia. On September 3, 1999, the International Trade Commission ("ITC") determined that there was threat of material injury to the domestic industry from imports of solid fertilizer grade ammonium nitrate from Russia.

In accordance with 19 CFR 351.206(c)(2)(i), because petitioner submitted a critical circumstances

allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination no later than the date of the preliminary determination. In a policy bulletin issued on October 8, 1998 (Policy Bulletin Number 98.4), the Department stated that it may issue a preliminary critical circumstances determination prior to the date of the preliminary LTFV determination, assuming adequate evidence of critical circumstances exists (*see Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998)). In accordance with this policy, we are issuing a preliminary critical circumstances decision in the investigation of imports of solid fertilizer grade ammonium nitrate from Russia.

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

History of Dumping and Importer Knowledge

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i), the Department considers evidence of existing antidumping orders on solid fertilizer grade ammonium nitrate from Russia in the United States or elsewhere to be sufficient. To support a finding of history of injurious dumping of Russian ammonium nitrate, the petition states that the European Community ("EC") issued an antidumping order in 1995 on imports of ammonium nitrate from Russia. This order remains in effect today. The existence of an antidumping order on Russian ammonium nitrate in the EC is sufficient evidence of a history of injurious dumping. Accordingly, there is no need to examine importer knowledge.

Massive Imports

In determining whether there are "massive imports" over a "relatively short time period," the Department ordinarily bases its analysis on import data for at least the three months preceding (the "base period") and following (the "comparison period") the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. However, as stated in the Department's regulations at section 351.206(i), if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time.

In this case, petitioner argues that importers, exporters, or producers of Russian solid fertilizer grade ammonium nitrate had reason to believe that an antidumping proceeding was likely before the filing of the petition. The Department examined whether conditions in the industry and published reports and statements provide a basis for inferring knowledge that an antidumping investigation on the subject merchandise was likely. The Department found that, as a result of an investigation on Russian ammonium nitrate imports by the International Trade Commission under section 332(g) of the Tariff Act of 1930, as amended (published on May 6, 1998), there was considerable press coverage discussing concerns of ammonium nitrate producers, among others, concerning the influx of imports of subject merchandise and the likelihood of a remedial trade action, including the filing of an antidumping petition. On December 3, 1998, a coalition of U.S. producers of solid fertilizer grade ammonium nitrate formed the Committee for Fair Ammonium Nitrate Trade ("COFANT"), to monitor developments with respect to the importation of ammonium nitrate and to pursue available remedies, should unfair trade practices be identified. On December 7, 1998, the formation of this coalition was reported in a trade publication. Significantly, this trade publication also reported in the same article that "some of the committee members already have been active in trying to get federal officials to find evidence of Russian AN dumping." *See Petition for the Imposition of Antidumping Duties: Solid Agricultural Grade Ammonium Nitrate from the Russian Federation* (July 23, 1999) at Exhibit 37, p. 5.

The press coverage leading up to the formation of COFANT and the announcement thereof in early December 1998, including the explicit reference to a dumping action against imports of ammonium nitrate from Russia, are sufficient evidence that the Russian producers and importers were on notice that an antidumping proceeding concerning the subject merchandise was likely. Thus, we preliminarily determine that by early December 1998, importers, exporters, or producers knew or should have known that a proceeding was likely concerning solid fertilizer grade ammonium nitrate from Russia (*see* discussion in the *Determination of Critical Circumstances Memorandum*, November 1, 1999).

Therefore, we examined the increase in import volumes during the period of December 1998 through May 1999 as compared to June 1998 through November 1998. The Department found that imports of subject merchandise escalated by over 257.88 percent (*see* Attachment 1 to the *Determination of Critical Circumstances Memorandum*). Furthermore, while the record indicated that seasonality might account for some of that increase, we preliminary determine that the 257.88 percent increase is not simply a function of seasonality, as the actual volume increase from the period December to May compared to the same period in the previous two years indicates an actual volume increase of 88.31 percent (*see* Attachment 2 to the *Determination of Critical Circumstances Memorandum*). Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of solid fertilizer grade ammonium nitrate from Russia over a relatively short time.

Conclusion

We preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of solid fertilizer grade ammonium nitrate from Russia.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at less than fair value in the investigation, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of solid fertilizer grade ammonium nitrate from Russia, as appropriate, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at less than fair value. The Customs Service shall

require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin reflected in the preliminary determination of sales at less than fair value published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Russia when we make our final determination regarding sales at less than fair value in this investigation, which will be 75 days after the preliminary determination regarding sales at less than fair value, unless this investigation is extended.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. This notice is published pursuant to section 777(i) of the Act.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-29062 Filed 11-4-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

[International Trade Administration]

[A–821–811]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

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

EFFECTIVE DATE: January 7, 2000.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Laurel LaCivita, or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0408, (202) 482–4243, and (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1999).

Preliminary Determination

We preliminarily determine that solid fertilizer grade ammonium nitrate ("ammonium nitrate") from the Russian Federation is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on August 12, 1999. *See Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 64 FR 45236 (August 19, 1999). Since the initiation of this investigation the following events have occurred:

On August 17, 1999, the Department requested comments from petitioner and respondents regarding the criteria to be used for model-matching purposes. Petitioner and respondents submitted comments on the proposed model-matching criteria on August 31, 1999, and September 7 and 15, 1999.

On August 17, 1999, the Department issued Section A of its antidumping questionnaire to the Embassy of the Russian Federation, as well as courtesy copies (with the exception of JSC Kirovo-Chepetsk, for which we did not have an address) to the following possible producers/exporters of subject merchandise named in the petition: JSC Angarsk Petrochemical Co., JSC Berezniki Azot, JCS Cherepovets PO Azot, JSC Dorogobuzh, JSC Kemerovo Azot, JSC Kirovo-Chepetsk, JSC Meleuz Prod. Assoc. Minudobreniya, JSC Nevinnomyssky Azot ("Nevinka"), JSC Acron, JSC Novomendeleyevsk Chemical Plant, JSC Novomoskovsk AK Azot, JSC Minudobreniya, and JSC Kuybyshevazot.

On August 31, 1999, the following companies with period of investigation ("POI") shipments to the U.S. submitted information regarding the quantity and value of these shipments of subject merchandise to the United States during the POI: JSC Acron and Nevinka.

We received a complete Section A response from Nevinka. Companies JSC Cherepovets PO Azot, JSC Kemerovo Azot, JSC Minudobreniya, JSC Kubyshevazot, JSC Berezniki Azot, JSC Novomendeleyevsk Chemical Plant and JSC Kirovo-Chepetsk reported that they made no sales to the United States during the POI. On October 27, 1999, we sent a letter to JSC Kirovo-Chepetsk seeking clarification and information on a particular shipment. The due date given for this information was November 24, 1999. We also informed JSC Kirovo-Chepetsk that if it had knowledge that this shipment was destined for the United States, it was required to respond fully to the Department's antidumping questionnaire by the due date of December 2, 1999. JSC Kirovo-Cheptesk failed to provide the requested information regarding the shipment at issue within the provided deadlines. Finally, companies JSC Angarsk Petrochemical Co., JSC Dorogobuzh, JSC Meleuz Production Association Minudobreniya, JSC Novomoskovsk AK Azot and JSC Acron did not respond to the Department's questionnaire.

On September 3, 1999, the United States International Trade Commission ("ITC") preliminarily determined that "there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Russia of solid fertilizer grade ammonium nitrate." (64 FR 50103, September 15, 1999).

On September 20, 1999, Nevinka submitted its complete section A response. On November 15, 1999, Nevinka submitted its response to sections C and D of the questionnaire.

On October 14, 1999, the Department issued a Section A supplemental questionnaire to Nevinka. On November 11, 1999, Nevinka submitted its response to the Department's supplemental section A questionnaire. On November 21, 1999, the Department issued a supplemental section C and D, and second supplemental A questionnaire. On December 14, 1999, Nevinka submitted its supplemental sections C, D, and a second supplemental section A questionnaire response.

On October 22, 1999, we requested publicly-available information for valuing the factors of production and comments on surrogate country selection. On November 5 and 12, 1999, petitioner and Nevinka submitted comments and rebuttals on the surrogate country selection, respectively. On November 30 and December 7, 1999, petitioner and Nevinka submitted comments and rebuttals on surrogate values, respectively.

Petitioner submitted comments regarding Nevinka's questionnaire response on September 29 and November 22, 1999.

On December 17 and 20, 1999, petitioner submitted comments on Nevinka's claim of affiliation and on the supplemental questionnaire sections C and D response. On December 21, 1999, Nevinka provide rebuttal comments to petitioner's December 17 and 20, 1999 submissions. Because of the late dates of these submissions, the Department has not had time to analyze fully this information provided by petitioner and Nevinka. Therefore, the Department has not considered these submissions for its preliminary determination.

Critical Circumstances

On November 1, 1999, the Department issued its preliminary determination that critical circumstances exist with respect to Nevinka. On November 8, 1999, the Department requested information regarding shipments of ammonium nitrate from Nevinka. On November 23, 1999, Nevinka provided the requested information. For a complete discussion of our preliminary analysis of critical circumstances, *see Memorandum to Deputy Assistant Secretary Joseph Spetrini*, dated November 1, 1999, on file in Room B–099 of the Department headquarters and the *Preliminary Determination of Critical Circumstances: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 63 FR 60422 (November 5, 1999). The Department will make its final determination of critical circumstances, on a company-specific basis as appropriate, concurrent with the final determination of sales at LTFV in this investigation.

Scope of Investigation

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

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1999 through June 30, 1999.

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e), the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Nevinka has reported factor usage information for a large number of catalysts used in the production of ammonium nitrate (*see* Exhibit 18 of Nevinka's December 14, 1999 submission). However, there is currently no surrogate value information on the record regarding these catalysts, nor has the Department been able to locate such values independently. However, Nevinka has reported an actual price for ammonia synthesis catalyst purchased from a market economy country and in market economy currency in its supplemental section D questionnaire response. Therefore, as facts otherwise available, we used the actual price for ammonia synthesis catalyst as a surrogate value for all other catalysts for which Nevinka reported usage factors in its supplemental section D questionnaire response.

The Russia-Wide Rate

Respondents that are not entitled to a separate rate are considered to constitute a single enterprise under common control by the government of the Russian Federation. *See, e.g., Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026 (April 30, 1996). Companies that failed to respond to our questionnaires or reported no shipments were assigned the Russia-wide rate. Companies JSC Cherepovets PO Azot, JSC Kemerovo Azot, JSC Minudobreniya, JSC Kubyshevazot, JSC Berezniki Azot and JSC Novomendeleyevsk Chemical Plant reported, and the Department confirmed through an examination of U.S. Customs data, that they had no shipments during the POI. Since these companies did not report any shipments, we have no basis for determining a margin. Therefore, these companies were assigned the Russia-wide rate, the composition of which is described below.

U.S. import statistics indicate that the total quantity and value of U.S. imports of solid fertilizer grade ammonium nitrate from the Russian Federation are greater than the total quantity and value of solid fertilizer grade ammonium nitrate reported by all Russian companies that submitted responses. Given this discrepancy, we have concluded that not all producers/exporters of Russian solid fertilizer grade ammonium nitrate with shipments during the POI responded to our questionnaire. Moreover, on September 15, 1999, JSC Acron, which had notified the Department of its shipment quantities and values, submitted a letter to the Department, stating that it would not participate in the antidumping investigation on solid fertilizer grade ammonium nitrate. Accordingly, we are applying a single antidumping duty deposit rate—the Russia-wide rate—to all producers/exporters in the Russian Federation, other than those specifically identified below under "Suspension of Liquidation."

The Russia-wide antidumping rate is based on the facts available. Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use

information that is adverse to the interests of that party as the facts otherwise available.

As discussed above, all Russian producers/exporters that do not qualify for a separate rate are treated as a single enterprise. Because some exporters of the single enterprise failed to respond to the Department's requests for information, that single enterprise is considered to be uncooperative. In such situations, the Department generally selects as total adverse facts available the higher of the highest margin from the petition or the highest rate calculated for a respondent in the proceeding. In the present case, there is only one calculated margin (which is the highest margin on the record). Because the highest margin on the record is the calculated margin, the Department is assigning this rate as the adverse facts available Russia-wide rate. Accordingly, for the preliminary determination, the Russia-wide rate is 264.59 percent. For the final determination, the Department will consider all margins on the record at that time for the purpose of determining the most appropriate margin.

Nonmarket Economy Country Status

The Department has treated the Russian Federation as a nonmarket economy ("NME") country in all past antidumping duty investigations and administrative reviews (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review*, 64 FR 1599 (January 11, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787 (November 19, 1997); *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 FR 16440 (March 30, 1995). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). The Department is continuing to treat the Russian Federation as an NME for this preliminary determination, because no party has sought revocation of NME status in this investigation.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c) of the Act requires that the Department base normal value ("NV") on the NME producer's factors of production, valued in a surrogate market economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, utilizes, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of individual factor values are discussed in the NV section below.

The Department has determined that Poland, Tunisia, Colombia, Turkey, South Africa, and Venezuela are countries comparable to the Russian Federation in terms of overall economic development. *See Memorandum to Rick Johnson, Program Manager, from Jeff May, Director, Office of Policy; Re: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Nonmarket Economy Status and Surrogate Country Selection.* Petitioner submitted information on the record indicating that Poland, Turkey and South Africa are significant producers of identical merchandise. *See* Submission from Akin, Gump, Strauss, Hauer & Feld, L.L.P., November 5, 1999. Nevinka submitted information in support of its argument that Venezuela is a significant producer of comparable merchandise. *See* Submission from White & Case, November 5, 1999. As noted in the *Surrogate Country Memorandum*, in the event that more than one country satisfies both statutory requirements, the Department has a preference to narrow the field to a single country on the basis of data availability and quality. *See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the Peoples Republic of China*, 59 FR 55625 (November 8, 1994).

Congress provided the Department with broad discretion in selecting surrogate countries in NME cases. *See* section 773(c)(1)(B) of the Act (valuation of factors of production shall be based on the best available information from a market economy country(s) considered to be appropriate); *see also, Lasko Metals* v. *United States*, 43 F3d. 1442, 1443 n.3 (Fed. Cir. 1994). The Department has determined that Poland qualifies as an appropriate surrogate because it satisfies the statutory criteria listed. Furthermore, we were able to obtain publicly available, contemporaneous information on the majority of factor inputs required.

While we have used surrogate prices for certain factors from countries other than the selected surrogate country in previous cases, it is the Department's preference and practice to rely on factor value information from one surrogate country to the extent possible. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, 57 FR 21058 (May 18, 1992). Accordingly, we have calculated NV using publicly available information from Poland to value Nevinka's factors of production, with the exception of one input, monoethanolamine, which we valued using Venezuelan data, since there was no Polish data available for this preliminary determination. For a further discussion of the Department's selection of Poland as the primary surrogate, *see Memorandum to Edward C. Yang; Re: Surrogate Country Selection ("Surrogate Country Memorandum")*, dated December 30, 1999.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for a final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Separate Rates

The Department presumes that a single dumping margin is appropriate for all exporters in an NME country. *See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). The Department may, however, consider requests for a separate rate from individual exporters. Nevinka has requested a separate, company-specific rate. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in NME cases only if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. For a complete analysis of separate rates, *see Memorandum to Edward C. Yang, Re: Separate Rates for Exporters that Submitted Questionnaire Responses*

("*Separate Rates Memorandum*"), dated December 30, 1999.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Nevinka has placed on the administrative record a number of documents to demonstrate absence of *de jure* control. These documents include laws, regulations, and provisions enacted by the central government of the Russian Federation, describing the elimination of export duties and licensing requirements on the export of mineral fertilizers including ammonium nitrate. Nevinka also placed on the record legislative enactments privatizing state-owned enterprises. This information provides a sufficient basis for a preliminary finding that there is an absence of *de jure* government control. *See Separate Rates Memorandum*, dated December 30, 1999.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

There is no evidence on the record to suggest that there is any government involvement in the determination of sales prices. Nevinka has reported that the prices with its U.S. customers cannot be revised or changed by any of the state authorities. Nevinka stated that there are no restrictions on the usage of export revenues and that distribution of profits resulting from export revenue is within the jurisdiction of the meeting of shareholders and the Board of Directors.

Nevinka stated that its company is managed through the joint responsibilities of shareholders, a supervisory board and a general director. Nevinka explained that the general director and members of the supervisory board are elected by a majority vote at an annual general meeting of shareholders and the general director and members of the supervisory board serve at five-year and one-year terms, respectively. Nevinka also noted that it is not required to notify any governmental authorities of the selection or appointment of its managers. Nevinka stated that it has authority to negotiate and sign contracts and other agreements. Nevinka claimed that no external organization reviews or approves any aspect of Nevinka's U.S. sales transactions. This information provides a sufficient basis for a preliminary finding that there is an absence of *de facto* government control. *See Separate Rates Memo*, dated December 30, 1999. Therefore, the Department preliminarily determines that Nevinka is eligible to receive a separate rate.

Affiliation

Nevinka originally reported its U.S. sales as CEP sales. Nevinka claimed that it is affiliated with its U.S. trading company, Transammonia, through Transammonia's stock ownership of Nevinka and a close supplier relationship between Nevinka and Transammonia. The Department issued supplemental questionnaires seeking further information on Nevinka's claim of affiliation with Transammonia. *See* supplemental section A questionnaire (October 14, 1999) , second section A supplemental questionnaire (November 21, 1999) and supplemental sections C & D questionnaire (November 12, 1999). Nevinka responded to our supplemental section A questionnaire on November 11, 1999 and second section A supplemental questionnaire and supplemental sections C & D questionnaire on December 14, 1999.

Section 771(33) of the Act defines affiliated persons as including:

> (A) Members of a family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants;
>
> (B) Any officer or director of an organization and such organization;
>
> (C) Partners;
>
> (D) Employer and Employee;
>
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization;
>
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person;
>
> (G) Any person who controls any other person.
>
> For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

The legislative history makes clear that the statute does not require majority ownership for a finding of control. Rather, the statutory definition of control encompasses both legal and operational control. A minority ownership interest, examined within the context of the totality of the evidence, is a factor that the Department considers in determining whether one party is legally or operationally in a position to control another. *See Certain Cut-To-Length Carbon Steel Plate From Brazil*, 62 FR 18486, 18490 (April 15, 1997); *see also* 19 CFR 351.102(b).

The Department has stated that merely identifying "the presence of one or more of the other indicia of control (as per Section 771(33) of the Act) does not end [the Department's] task." *See* Antidumping Duties; Countervailing Duties: *Notice of Proposed Rulemaking and Request for Public Comments*, 61 FR 7310 (February 27, 1996). The Department is compelled to examine all indicia, in light of business and economic reality, to determine whether they constitute evidence of control. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Department will consider the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. However, the Department will not find affiliation on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. *See* section 351.102(b) of the Department's regulations.

In the present case, as discussed below, we do not find the existence of an affiliation, as defined by the statute, between Nevinka and Transammonia. First, we note that Transammonia's ownership of Nevinka is below the five percent requirement under section 771(33)(E). The Department has also found no evidence of (and respondent has not argued for) a basis for affiliation with respect to the statutory definitions under section 771(33), subsections (A) through (D), or (F).

Furthermore, with respect to section 771(33)(G), we did not find that Nevinka's relationship with Transammonia constitutes a "close supplier relationship" which would indicate control by either party over the

other. The Statement of Administrative Action (SAA) defines a close supplier relationship as one where "the supplier or buyer becomes reliant upon another." SAA accompanying the URAA, H.R. Doc. No. 103–316, vol. 1 at 838 (1994); *see also, Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea (Korean Steel)*, 62 FR 18404, 18417 (April 15, 1997). To establish a close supplier relationship, the party must demonstrate that the "relationship is so significant that it could not be replaced." *See Korean Steel*, at 62 FR 18417.

In *Korean Steel*, the Department provided additional guidance regarding close supplier relationships. Specifically, the Department established a threshold requirement that, in order to find a close supplier relationship, actual reliance between the companies must be found:

> Only if we make such a finding [of reliance] can we address the issue of whether one of the parties is in a position to exercise restraint or direction over the other. When the Preamble to our *Proposed Regulations* * * * states that "business and economic reality suggest that these relationships must be significant and not easily replaced," it suggests that we must find significant indicia of control. *Korean Steel*, 62 FR at 18417.

With respect to whether reliance exists in this case, the Department has examined relevant information submitted by Nevinka on the record of this investigation. First, we note that the current record indicates that there are alternative sources of ammonium nitrate supply and distribution. For example, the Petition, at exhibits 6 and 8, indicates that there are 12 additional producers of ammonium nitrate in Russia alone, and five known U.S. importers of Russian-origin ammonium nitrate. Moreover, additional record information, which is proprietary in nature, leads us to the conclusion that there is a lack of actual reliance on Nevinka by Transammonia, and vice versa. In this respect, we also believe that information on the record does not support a finding that Transammonia holds a dominant position in the U.S. market place which might, *de facto*, create actual reliance on Transammonia by Nevinka. *See Memorandum to the File, Re: Analysis Memorandum for the Preliminary Determination for JSC Azot Nevinnomyssky (Nevinka)* ("*Analysis Memo*") (Proprietary Version) at pg. 5.

Second, in examining reliance, we have considered comparative sales statistics of both companies, *e.g.*, the proportion of sales made by the producer through the trading company vis-vis the trading company's total sales, as well as the proportion of sales made by the producer through the trading company to the total sales made by the producer, in accordance with *Notice of Final Determination of Sales at Less Than Fair value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan*, 61 FR 38139, 38157 (July 23, 1996) (*LNPP from Japan*). In this regard, the Department has also determined that a close supplier relationship may occur when a majority of sales are made to one customer. *See Notice of Final Determination of Sales at Less Than Fair Value: Open-End Spun Rayon Singles Yarn From Austria*, 62 FR 43701 (August 15, 1997), citing *LNPP from Japan*.

In this case, we find that the various proportions of sales (of subject merchandise and of all products), both with respect to Nevinka's sales to Transammonia and Transammonia's sales of Nevinka's product, are insufficient to support a determination of reliance. *See Analysis Memo* (Proprietary Version) at pg. 5.

Third, we did not find the length and terms of the contract between Nevinka and Transammonia provides sufficient evidence of reliance. Because this information is proprietary, *see Analysis Memo* (Proprietary Version) at pg. 5.

In sum, we do not find that actual reliance exists with respect to the business relationship between Nevinka and Transammonia. We also do not find that other evidence combined with this supply relationship suffices to find any type of control that would lead to a finding of affiliation. *See Analysis Memo*. Nevinka has not argued for a finding of control under any other aspect of section 771(33)(G) of the Act other than through a close supplier relationship. Therefore, we preliminarily determine that Nevinka and Transammonia are not affiliated as defined by the statute, and have consequently examined Nevinka's sales to the first unaffiliated party (Transammonia) in the United States, which are export price transactions.

Fair Value Comparisons

To determine whether sales of solid fertilizer grade ammonium nitrate products from the Russian Federation sold to the United States by Nevinka were made at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Export Price

Although Nevinka has claimed that its sales through Transammonia should be considered CEP sales, as discussed above, the Department has preliminarily determined that the relationship between Nevinka and Transammonia does not meet the statutory definition of affiliation. Therefore, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and because there is no indication that treatment of CEP is warranted, we have examined Nevinka's sales to Transammonia as EP sales in accordance with section 772(a) of the Act. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the only one NV based on factors of production.

We calculated EP based on FOB prices to an unaffiliated trading company. We made deductions from the starting price for inland freight (plant warehouse to port). These services were assigned a surrogate value based on public information from Poland. *See Memorandum to Edward C. Yang: Re: Factor Valuation for Nevinka* ("*Factor Valuation Memo*"), dated December 30, 1999. We used Nevinka's reported date of sale, which was the date of shipment. The Department normally uses invoice date as the date of sale "absent satisfactory evidence that the material terms of sale were finally established on a different date." *See Canned Pineapple Fruit from Thailand: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 43661, 43668 (October 16, 1997), citing *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27348 (May 19, 1997). Although we have accepted the shipment based date of sale for this preliminary determination, we will continue to review whether the date of shipment is the appropriate date of sale for the final determination.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. We calculated NV based on factors of production reported by Nevinka. For a further

discussion, *see Analysis Memo*. We valued all the input factors using publicly available published information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

Factor Valuations

When possible, we valued material inputs on the basis of tax-exclusive domestic prices in the surrogate country. When we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted import prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using producer or wholesale price indices, as appropriate, published in the International Monetary Fund's International Financial Statistics. For input(s) sourced from a market economy and paid for in market economy currency, we used the actual price paid for the input to calculate the factors-based NV in accordance with our standard practice. *See Lasko Metal Products* v. *United States*, 437 F. 3d 1442 (Fed. Cir. 1994).

To value caustic magnezite, sodium hydrate, diethanolamine, vanadium pentoxide, tri-sodium phosphate, hydrazine hydrate, sulphuric acid and aluminum sulphate, we used public information on Polish prices published by the United Nations Trade Commodity Statistics for 1998 ("UNTCS"). To value technical alumina, we used public information published by UNTCS for 1997. To value monoethanolamine, we used a Venezuelan price using public information published by the UNTCS for 1997 because no Polish data on this input was available.

For catalysts, as noted above in the "Facts Available" section, we used the market economy price for one catalyst provided by Nevinka, since there are no record values for any catalysts other than ammonia synthesis. However, for the final determination, we will attempt to find more appropriate values for these catalysts.

For natural gas, natural gas equivalents and electricity, we used second quarter 1999 values from *Energy Prices and Taxes: Second Quarter 1999*, International Energy Agency, OECD.

We used Polish transport information to value transport for raw materials. For domestic inland freight (truck), we used a price quote from a Polish trucking company. For domestic inland freight (rail), we used freight rates as quoted from the Polish National Railroad.

For labor, we used the Russian regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 1999. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations provides for the use of a regression-based wage rate. The source of this wage rate data on the Import Administration's homepage is found in the *1998 Year Book of Labour Statistics*, International Labour Office ("ILO") (Geneva: 1998), Chapter 5: Wages in Manufacturing.

To value overhead, general expenses and profit, we used public information reported in the 1998 financial statements of Zaklady Azotwe Kedzierzyn S.A., a Polish ammonium nitrate producer.

Verification

As provided in section 782(i) of the Act, we will verify all company information relied upon in making our final determination.

Suspension of Liquidation

In accordance with sections 733(d) and (e) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin [percent]
JSC Azot Nevinnomyssky	264.59
Russia-Wide	264.59

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of solid fertilizer grade ammonium nitrate from the Russian Federation are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: December 30, 1999.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–395 Filed 1–6–00; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

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

Certain Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–856 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Russia of solid fertilizer grade ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States.[1]

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

EFFECTIVE DATE: January 7, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of

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

Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of solid fertilizer grade ammonium nitrate from Russia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 23, 1999, by the ad hoc Committee for Fair Ammonium Nitrate Trade (COFANT) (consisting of Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co., Oklahoma City, OK; Nitram, Inc., Tampa, FL; LaRoche Industries, Inc., Atlanta, GA; and Wil-Gro Fertilizer, Inc., Celina, TX).

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on March 9, 2000, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 23, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 13, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 15, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is March 16, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 30, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 30, 2000. On April 20, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 24, 2000, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

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

Issued: January 12, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–1096 Filed 1–14–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–811]

Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Notice of Postponement of Final Determination in the Antidumping Duty Investigation

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

EFFECTIVE DATE: February 11, 2000.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Laurel LaCivita, or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0408, (202) 482–4243, and (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1998).

Postponement of Final Determination

The Department received a request pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(e)(2) to postpone its final determination to 135 days after publication of the Department's preliminary determination and to extend the imposition of provisional measures from a four-month period to not more than six months from respondent JSC Nevinnomyssky Azot, a producer/exporter of the subject merchandise.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) Our preliminary determination is affirmative, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting respondent's request and are postponing the final determination to no later than May 22, 2000, which is 135 days after the publication of the preliminary determination. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation.* Suspension of

liquidation will be extended accordingly.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: February 2, 2000.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–3153 Filed 2–10–00; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

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

Certain Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–

205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On January 7, 2000, the Commission established a schedule for the conduct of the final phase of the subject investigation (65 FR 2643, January 18, 2000). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 20, 2000, to May 22, 2000 (65 FR 6983, February 11, 2000). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 15, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 17, 2000; the prehearing staff report will be placed in the nonpublic record on May 11, 2000; the deadline for filing prehearing briefs is May 18, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 24, 2000; the deadline for filing posthearing briefs is June 1, 2000; the Commission will make its final release of information on June 20, 2000; and final party comments are due on June 22, 2000.

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

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

By order of the Commission.

Issued: February 23, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–4909 Filed 2–29–00; 8:45 am]

BILLING CODE 7020–02–P

of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: On January 7, 2000, the Commission established a schedule for the conduct of the final phase of the subject investigation (65 FR 2643, January 18, 2000). On March 1, 2000, the Commission published a notice in the Federal Register revising this schedule (65 FR 11080). This revised schedule provided for a public hearing to be held on May 24, 2000.

The Commission now is revising the date of the hearing to May 25, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. No other scheduled dates relative to this investigation are being revised.

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

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

Issued: March 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–7078 Filed 3–21–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Investigation No. 731–1TA–856 (Final)

Ammonium Nitrate from Russia

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: March 15, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office

SUMMARY: On May 19, 2000, the Department of Commerce informed the Commission that a suspension agreement had been signed in the subject investigation. Accordingly, the Commission hereby cancels the hearing on the investigation currently scheduled for May 25, 2000, the posthearing briefs currently due on June 1, 2000, and the final comments currently due on June 22, 2000. The Commission unanimously determined that no earlier announcement of this cancellation was possible.

EFFECTIVE DATE: May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules (19 CFR § 207.21).

Issued: May 22, 2000.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–13267 Filed 5–25–00; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

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

Certain Ammonium Nitrate From Russia

AGENCY: International Trade Commission.

ACTION: Cancellation of hearing, posthearing briefs, and final comments.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

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

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

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

EFFECTIVE DATE: May 19, 2000.

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

SUPPLEMENTARY INFORMATION:

Background

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

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

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

Scope of Investigation

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

Suspension of Investigation

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

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

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

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

Dated: June 5, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

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

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

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

Accordingly, DOC and MOT agree as follows:

I. Definitions

For purposes of this Agreement, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. Export Limits

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

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

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

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

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

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

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

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

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

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

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

III. Reference Price

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

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

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

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

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

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

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

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

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

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

IV. Implementation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. Anticircumvention

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Sequence and timing of the arrangements; and

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

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

VI. Monitoring and Notifications

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

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

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

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

or countries, in the format provided in Appendix I.

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

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

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

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

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

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

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

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

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

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

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

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

VII. Disclosure and Comment

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

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

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

VIII. Consultations

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

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

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

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

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

IX. Violations

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

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

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

X. Duration

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

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

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

XI. Other Provisions

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

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

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

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

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

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

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

Signed on this 19th day of May, 2000.

For DOC

Robert S. LaRussa, Acting Under Secretary for International Trade

For MOT

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

Appendix I

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

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

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

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

A. Exports to the United States

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

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

B. Exports Other Than to the United States

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

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

C. Home Market Sales

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

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

Appendix II

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

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

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

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

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

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

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

(9) Interested Party—The term "interested party" means—

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

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

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

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

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

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

* * * * *

Appendix III

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

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

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

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BILLING CODE 3510–DS–U

suspension of its antidumping investigation on certain ammonium nitrate from Russia (65 FR 37759). The basis for the suspension is an agreement between the Department of Commerce and the Ministry of Trade of the Russian Federation accounting for substantially all imports of ammonium nitrate from Russia, wherein the Ministry of Trade has agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports are sold at or above the agreed reference price. Accordingly, the U.S. International Trade Commission gives notice of the suspension of its antidumping investigation involving imports from Russia of certain ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: June 16, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This investigation is being suspended under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.40 of the Commission's rules (19 CFR 207.40).

Issued: June 23, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–16524 Filed 6–28–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

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

Certain Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Suspension of investigation.

SUMMARY: On June 16, 2000, the Department of Commerce published notice in the **Federal Register** of the

INTERNATIONAL TRADE COMMISSION

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

Certain Ammonium Nitrate From Russia

AGENCY: International Trade Commission.

ACTION: Continuation and scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the continuation and scheduling of the final phase of antidumping investigation No. 731–TA–856 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Russia of certain ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States.[1] The Commission determined that no earlier announcement of this scheduling was possible.

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

EFFECTIVE DATE: June 29, 2000.

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

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being continued and scheduled in response to a request by the Committee for Fair Ammonium Nitrate Trade (COFANT),[2] filed with the U.S. Department of Commerce and the Commission, to continue the investigation. This investigation was initiated on July 23, 1999 (pursuant to a petition filed by COFANT), and suspended by Commerce on May 19, 2000, as a result of a suspension agreement between the United States and Russia (65 FR 37759, June 16, 2000).

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on July 11, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 7, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 10, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than July 6, 2000.

Written submissions.—Parties may file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 17, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 17, 2000. On July 28, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 1, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

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

Issued: June 29, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17044 Filed 7–3–00; 8:45 am]

BILLING CODE 7020–02–P

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

[2] COFANT is an ad hoc committee of U.S. producers of fertilizer-grade ammonium nitrate. Its members are: Air Products & Chemicals, Inc., El Dorado Chemical Co., La Roche Industries, Inc., Mississippi Chemical Corp., and Nitram, Inc.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–811]

Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

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

SUMMARY: The Department of Commerce determines that solid fertilizer grade ammonium nitrate from the Russian Federation is being, or is likely to be, sold in the United States at less than fair value. The estimated dumping margins are shown in the Continuation of Suspension of Liquidation section of this notice. On May 19, 2000, the Department signed a suspension agreement with the Ministry of Trade of the Russian Federation ("the Agreement"). However, pursuant to a request from the Petitioner, we have continued and completed the investigation.

EFFECTIVE DATE: July 11, 2000.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4243 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1999).

Case History

Since the *Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 65 FR 1139 (January 7, 2000) ("*Preliminary Determination*"), the following events have occurred: on February 15, 2000, one importer, ConAgra International Fertilizer Company ("ConAgra"), requested that the Department determine critical circumstances on a company-specific basis with respect to JSC Acron ("Acron"), a mandatory respondent in this investigation. In response to our request pursuant to section 351.301(c)(3)(i) of the Department's regulations, on February 16, 2000, Petitioner, the Committee for Fair Ammonium Nitrate Trade ("COFANT"), submitted additional surrogate factor value information, and Nevinka provided 1998 financial statements of another Polish ammonium nitrate producer. ConAgra provided information and argument concerning surrogate country selection with respect to Poland and Venezuela. Petitioner, JSC Nevinnomyssky Azot ("Nevinka") and ConAgra submitted case briefs on April 28, 2000. On May 3, 2000, all three parties submitted rebuttal briefs. On February 7, 2000, Petitioner requested a public hearing, but withdrew that request on May 2, 2000.

Continuation of Investigation

On May 19, 2000, the Department signed a suspension agreement with the Ministry of Trade of the Russian Federation. On June 29, 2000, we received a request from Petitioner requesting that we continue the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. If the ITC determines that material injury exists, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (l) of the Act, and (3) the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms.

Scope of the Investigation

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

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1999 through June 30, 1999.

Critical Circumstances

On November 1, 1999, the Department issued its preliminary affirmative critical circumstances finding with respect to imports of ammonium nitrate from the Russian Federation. *See Preliminary Determination of Critical Circumstances: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation ("Preliminary Determination of Critical Circumstances")*, 64 FR 60422 (November 5, 1999). Specifically, we determined, pursuant to section 733(e) of the Act, that there was a history of injurious dumping of the subject merchandise and that imports were massive over a relatively short period of time. We also stated that we would make a final determination of critical circumstances on a company-specific basis, as appropriate, in our final determination in this investigation.

As noted in the *Preliminary Determination*, the Department requested information regarding shipments of ammonium nitrate from Nevinka on November 8, 1999. On November 23, 1999, Nevinka provided the requested information, and as discussed below, established its entitlement to a separate rate. Previously, on September 15, 1999, Acron notified the Department that it would not participate in the investigation and, subsequently, did not provide any information regarding critical circumstances or its entitlement to a separate rate. Because there is a history of injurious dumping, in this final determination, we need only determine whether imports were massive over a relatively short period of time. We are making this determination separately with respect to Nevinka and the Russia-wide entity. Our findings are as follows:

Nevinka

We analyzed Nevinka's November 23, 1999 data and found that Nevinka's exports were massive within the meaning of section 733(e)(1)(B) of the Act. Because this information is proprietary, see the proprietary discussion and analysis in our May 22, 2000 memorandum *Antidumping Duty Investigation of Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Final Determination of Critical Circumstances ("Final Determination of Critical Circumstances Memorandum")*.

Russia-Wide Entity

With regard to the critical circumstances finding for the Russia-wide entity, we have determined that massive imports exist. *See* our discussion and analysis of this issue in Comment 3 and Comment 4 of the June 30, 2000. *Issues and Decision Memorandum for the Final Determination in the Antidumping Investigation of Ammonium Nitrate from the Russian Federation for the Period of Investigation ("POI") Covering January 1, 1999 Through June 30, 1999 ("Issues and Decision Memorandum")* (see Analysis of Comments Received section below). We included Acron in the Russian-wide entity because it failed to establish its entitlement to a separate rate.

Nonmarket Economy Country Status

The Department has treated the Russian Federation ("Russia") as a nonmarket economy ("NME") country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review*, 64 FR 1599 (January 11, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787 (November 19, 1997); and *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 FR 16440 (March 30,

1995). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). The Department has continued to treat the Russian Federation as an NME for this final determination, because no party has sought revocation of the NME status in this investigation.

Surrogate Country

When the Department is investigating imports from a NME, section 773(c) of the Act requires that the Department base normal value ("NV") on the NME producer's factors of production, valued in a surrogate market economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, utilizes, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of individual factor values are discussed in the NV section below.

In its *Preliminary Determination*, the Department determined that Poland, Tunisia, Colombia, Turkey, South Africa, and Venezuela were countries comparable to the Russian Federation in terms of overall economic development. *See Memorandum to Rick Johnson, Program Manager, from Jeff May, Director, Office of Policy; Re: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Nonmarket Economy Status and Surrogate Country Selection.* Petitioner submitted information on the record indicating that Poland, Turkey and South Africa are significant producers of identical merchandise. *See* Submission from Akin, Gump, Strauss, Hauer & Feld, L.L.P., November 5, 1999. Nevinka submitted information in support of its argument that Venezuela is a significant producer of comparable merchandise. *See* Submission from White & Case, November 5, 1999. As noted in the *Preliminary Determination of Solid Agricultural Grade Ammonium Nitrate from the Russian Federation; Selection of a Surrogate Country ("Surrogate Country Memorandum")*, in the event that more than one country satisfied both statutory requirements, the Department has a preference to narrow the field to a single country on the basis of data availability and quality. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the Peoples' Republic of China*, 59 FR 55625 (November 8, 1994).

Congress provided the Department with broad discretion in selecting surrogate countries in NME cases. *See* section 773(c)(1)(B) of the Act (valuation of factors of production shall be based on the best available information from a market economy country(s) considered to be appropriate); *see, also, Lasko Metals* v. *United States*, 43 F3d. 1442, 143 n.3 (Fed. Cir. 1994). Consequently, in its *Preliminary Determination*, the Department determined that Poland qualified as an appropriate surrogate country because it satisfied the statutory criteria listed. Furthermore, we were able to obtain publicly available, contemporaneous information on the majority of factor inputs required.

While we have used surrogate prices for certain factors from countries other than the selected surrogate country in previous cases, it is the Department's preference and practice to rely on factor value information from one surrogate country to the extent possible. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, 57 FR 21058 (May 18, 1992). Accordingly, in our *Preliminary Determination*, we calculated NV using publicly available information from Poland to value Nevinka's factors of production, with one exception, monoethanolamine, which we valued using Venezuelan data, since there was no Polish data available at the time of the issuance of the *Preliminary Determination*.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, interested parties were provided the opportunity to place additional publicly available information on the record within 40 days after the date of publication of the *Preliminary Determination*. Petitioner, Nevinka and ConAgra submitted comments on February 16, 2000. In these submissions, Petitioner submitted additional surrogate factor value information; Nevinka provided 1998 financial statements of an additional Polish ammonium nitrate producer; and ConAgra provided argument concerning surrogate country selection. For the final determination, we have continued to rely on Poland as our primary surrogate country in this investigation for the final determination. For a full discussion of the Department's position in this regard, *see* Comment 1 in our *Issues and Decision Memorandum*.

Separate Rates

Nevinka

In our *Preliminary Determination*, we preliminarily determined that Nevinka met the criteria for the application of a separate rate. *See Preliminary Determination* at 1142. At verification, we found no discrepancies with the information provided in Nevinka's questionnaire response that would cause the Department to reverse this determination. In addition, we have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to Nevinka. We, therefore, determine that Nevinka will be assigned an individual dumping margin.

Russia-Wide Rate

As stated in the *Preliminary Determination*, companies that failed to respond to our questionnaires or reported no shipments were assigned the Russia-wide rate.

As noted in the *Preliminary Determination*, U.S. import statistics indicate that the total quantity and value of U.S. imports of solid fertilizer grade ammonium nitrate from the Russian Federation are greater than the total quantity and value of solid fertilizer grade ammonium nitrate reported by all Russian companies that submitted responses. Given this discrepancy, we have concluded that not all producers/exporters of Russian solid fertilizer grade ammonium nitrate with shipments during the POI responded to our questionnaire. Since our *Preliminary Determination*, we have received no information which contradicts the information already on the record. Accordingly, for the final determination, we are applying a single antidumping duty deposit rate—the Russia-wide rate—to all producers/exporters in the Russian Federation, other than those specifically identified below under "Suspension of Liquidation."

As noted in our *Preliminary Determination*, the Russia-wide antidumping rate is based on adverse facts available, in accordance with section 776 of the Act. Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding

under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title." Use of facts available is warranted in this case because the producers/exporters other than Nevinka failed to respond to the Department's questionnaire. Therefore, in accordance with section 776(a)(2)(D) of the Act, we find that use of facts available is warranted with respect to all companies but Nevinka.

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. By failing to respond to the Department's questionnaire and failing to provide any reasoning for not responding, Russian producers/exporters of ammonium nitrate, other than Nevinka, failed to act to the best of their ability in this investigation. Therefore, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. As an adverse inference, the Department has presumed that these producers/exporters are under government control and has assigned them a common, Russia-wide rate based on adverse inferences.

In accordance with our standard practice, as adverse facts available, we are assigning to the Russia-wide entity (i.e., those companies not receiving a separate rate), which did not cooperate in the investigation, the higher of: (1) The highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan*, 63 FR 40434 (July 29, 1998)). Because the highest margin on the record is the calculated margin for Nevinka, the Department is assigning this rate as the adverse facts available Russia-wide rate. Accordingly, for the final determination, the Russia-wide rate is 253.98 percent.

Section 776(c) of the Act requires the Department to corroborate secondary information used as facts available to the extent practicable. Secondary information is information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. Since the margin selected represents Nevinka's calculated margin in this investigation, this margin does not represent secondary information, and, thus, does not need to be corroborated.

Affiliation

Nevinka originally reported its U.S. sales as CEP sales, claiming that it was affiliated with its U.S. trading company, Transammonia, through Transammonia's stock ownership of Nevinka and a close supplier relationship between Nevinka and Transammonia. In our *Preliminary Determination*, we examined the facts on the record and did not find the existence of an affiliation, as defined by the statute, between Nevinka and Transammonia. We noted that Transammonia's ownership of Nevinka is below the five percent requirement under section 771(33)(E) of the Act. In addition, we found no evidence of (and respondent has not argued for) a basis for affiliation with respect to the statutory definitions under section 771(33), subsections (A) through (D) or subsection (F), of the Act. Furthermore, with respect to section 771(33)(G) of the Act, we did not find that Nevinka's relationship with Transammonia constitutes a "close supplier relationship" which would indicate control by either party over the other.

Since the *Preliminary Determination*, we conducted a verification of the information on the record concerning the relationship between Nevinka and Transammonia. We found no evidence that warranted reversing our finding that Transammonia and Nevinka are not affiliated. *See* the proprietary discussion of this issue on page 2 and verification exhibits 11 and 18 of our April 19, 2000 verification report, "*Sales and Factors of Production in the Antidumping Duty Investigation of Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: JSC Nevinnomyssky Azot ("Nevinka")*," and Comment 6 of our *Issues and Decision Memorandum*. Thus, for the final determination, we have continued to treat transactions between Transammonia and Nevinka as EP transactions.

Fair Value Comparisons

To determine whether sales of solid fertilizer grade ammonium nitrate products from the Russian Federation sold to the United States by Nevinka were made at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Export Price

Although Nevinka claimed, in its questionnaire response, that its sales through Transammonia should be considered CEP sales, as discussed above, the Department has determined that the relationship between Nevinka and Transammonia does not meet the statutory definition of affiliation. Therefore, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and because there is no indication that treatment as CEP is otherwise warranted, for the final determination, we have examined Nevinka's sales to Transammonia as EP sales in accordance with section 772(a) of the Act. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the POI-wide weighted-average EP to NV based on factors of production. Consequently, we calculated EP based on the same methodology as in the *Preliminary Determination*.

Normal Value

For the final determination, we calculated NV as we did in the *Preliminary Determination*, based on factors of production reported by Nevinka. We valued all the input factors using publicly available published information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

Usage Rates and Factor Valuations

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

- We revised our calculations for lilamin and caustic magnesite by using the actual usage rates found at verification to have applied during the period in which Nevinka produced ammonium nitrate for shipment to the United States. *See* Comment 7 of our *Issues and Decision Memorandum*.
- We revised our calculation of ammonia synthesis catalyst to account for the actual purchase price paid for a market-economy input that the Department found to be incorrectly reported at verification. *See* Comment 8 of our *Issues and Decision Memorandum*.
- We revised our valuation of catalysts to include the data submitted by Petitioner on February 16, 2000 concerning catalysts. *See* our proprietary discussion of these catalysts in our *Analysis Memorandum for the Final Determination: JSC Nevinnomyssky Azot ("Nevinka")*, May

22, 2000 ("*Analysis Memorandum*"). In addition, in applying freight calculations for catalysts in accordance with *Sigma* v. *United States*, 117 F.2d 1401 (Fed. Cir. 1997) we used the freight distance from the nearest port to Nevinka as facts available since Nevinka did not report the freight distances for catalysts in its questionnaire response.

• We revised the reported labor factor to account for corrections to the response made at verification. (*See*, page 2 of the April 19, 2000 verification report and verification exhibit 3.) In addition, we revised the wage rate used to account for the updated Russian regression-based wage rate, revised in May 2000, at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, *http://ia.ita.doc.gov/wages/98wages/gdp00web.htm*.

• We recalculated the surrogate depreciation ratio as a percentage of COM plus overhead, as discussed in the *Memorandum from Doreen Chen to Edward Yang re Analysis of Ministerial Error Allegation* ("*Ministerial Error Memo*"), February 1, 2000 and Comment 2 of our *Issues and Decision Memorandum*.

Verification

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

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum* which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Issues and Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the Department. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at *www.ita.doc.gov/import_admin/records/frn*. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

Suspension of Liquidation

On May 19, 2000, the Department signed a suspension agreement with the Ministry of Trade of the Russian Federation. Pursuant to that suspension agreement, we have instructed Customs to terminate the suspension of liquidation of all entries of solid fertilizer grade ammonium nitrate from Russia. Any cash deposits of entries of solid fertilizer grade ammonium nitrate from Russia shall be refunded and any bonds shall be released.

On June 29, 2000, we received a request from petitioner requesting that we continue the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following weighted-average dumping margins:

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

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the Agreement will have no force or effect, and the investigation shall be terminated. *See* Section 734(f)(3)(A) of the Act. If the ITC determines that such injury does exist, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (l) of the Act, and (3) the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. *See* section 734(f)(3)(B) of the Act.

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

Dated: June 30, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix 1—Issues in Decision Memorandum

1. Surrogate Country Selection
2. Correction of Clerical Errors
3. Critical Circumstances for Acron
4. Critical Circumstances for "All Others'
5. Valuation of Market-Economy Freight Services
6. Affiliation between Nevinka and Transammonia
7. Valuation of Lilamin and Caustic Magnesite
8. Valuation of Ammonia Synthesis Catalyst

[FR Doc. 00–17514 Filed 7–10–00; 8:45 am]

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APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

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

Subject:	Certain Ammonium Nitrate from Russia
Inv. No.:	731-TA-856 (F)
Date and Time:	July 11, 2000 - 9:30 a.m.

A session was held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

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

Committee for Fair Ammonium Nitrate Trade ("COFANT")

Joe Ewing, Vice President of Marketing and Distribution, Mississippi Chemical Corp.

George Porvaznik, Commercial Director, LaRoche Industries, Inc.

Phil Gough, Senior Vice President, El Dorado Chemical Co.

Ed McCraw, Senior Vice President, Mississippi Chemical Corp.

Harry S. Baumes, Senior Vice President for Industry and Agriculture, WEFA, Inc.

Daniel W. Klett, Principal, Capital Trade, Inc.

Valerie A. Slater)
)--OF COUNSEL
Karen Bland Toliver)

APPENDIX C

SUMMARY TABLE

Table C-1
HDAN: Summary data concerning the U.S. market, 1997-99

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

	Reported data			Period changes		
Item	1997	1998	1999	1997-99	1997-98	1998-99
U.S. consumption quantity:						
Amount	2,361,813	2,547,422	2,594,760	9.9	7.9	1.9
Producers' share (1)	84.1	80.7	80.8	-3.3	-3.4	0.1
Importers' share (1):						
Russia	7.9	9.0	***	***	1.1	***
Canada (2)	3.2	2.6	***	***	-0.5	***
Other nonsubject (2)	4.9	7.7	8.4	3.6	2.8	0.8
Subtotal nonsubject	8.0	10.3	***	***	2.3	***
Total imports	15.9	19.3	19.2	3.3	3.4	-0.1
U.S. consumption value:						
Amount	327,485	298,997	258,670	-21.0	-8.7	-13.5
Producers' share (1)	85.0	82.1	82.5	-2.5	-2.9	0.4
Importers' share (1):						
Russia	7.1	8.9	***	***	1.8	***
Canada (2)	3.8	3.0	***	***	-0.8	***
Other nonsubject (2)	4.1	6.0	7.8	3.7	1.9	1.8
Subtotal nonsubject	7.9	9.0	***	***	1.1	***
Total imports	15.0	17.9	17.5	2.5	2.9	-0.4
U.S. shipments of imports from:						
Russia:						
Quantity	187,404	230,360	***	***	22.9	***
Value	23,131	26,531	***	***	14.7	***
Unit value	$123.43	$115.17	***	***	-6.7	***
Ending inventory quantity	10,714	34,050	***	***	217.8	***
Canada (2):						
Quantity	74,546	66,649	***	***	-10.6	***
Value	12,486	9,059	***	***	-27.4	***
Unit value	$167.50	$135.93	***	***	-18.8	***
Other nonsubject (2):						
Quantity	114,743	195,565	218,965	90.8	70.4	12.0
Value	13,482	17,873	20,189	49.7	32.6	13.0
Unit value	$117.50	$91.39	$92.20	-21.5	-22.2	0.9
Subtotal nonsubject:						
Quantity	189,289	262,214	***	***	38.5	***
Value	25,968	26,932	***	***	3.7	***
Unit value	$137.19	$102.71	***	***	-25.1	***
All sources:						
Quantity	376,693	492,574	499,416	32.6	30.8	1.4
Value	49,099	53,463	45,326	-7.7	8.9	-15.2
Unit value	$130.34	$108.54	$90.76	-30.4	-16.7	-16.4

Table continued on next page.

Table C-1--Continued
HDAN: Summary data concerning the U.S. market, 1997-99

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

	Reported data			Period changes		
Item	1997	1998	1999	1997-99	1997-98	1998-99
U.S. producers':						
Average capacity quantity	2,532,406	2,647,710	2,736,064	8.0	4.6	3.3
Production quantity	2,111,171	2,173,687	2,004,809	-5.0	3.0	-7.8
Capacity utilization (1)	83.4	82.1	73.3	-10.1	-1.3	-8.8
U.S. shipments:						
Quantity	1,985,120	2,054,848	2,095,344	5.6	3.5	2.0
Value	278,386	245,534	213,344	-23.4	-11.8	-13.1
Unit value	$140.24	$119.49	$101.82	-27.4	-14.8	-14.8
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	281,983	384,801	266,670	-5.4	36.5	-30.7
Inventories/U.S. shipments (1)	14.2	18.7	12.7	-1.5	4.5	-6.0
Production workers	499	450	449	-9.9	-9.7	-0.2
Hours worked (1,000s)	1,102	997	989	-10.3	-9.5	-0.8
Wages paid ($1,000s)	22,241	20,872	21,047	-5.4	-6.2	0.8
Hourly wages	$20.18	$20.94	$21.28	5.5	3.8	1.7
Productivity (short tons per hour)	1.9	2.2	2.0	5.8	13.8	-7.0
Unit labor costs (per short ton)	$10.53	$9.60	$10.50	-0.3	-8.9	9.3
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	78.5	85.5	98.6	20.1	7.1	13.1
Operating income or (loss)/ sales (1)	13.7	5.9	(6.3)	-20.0	-7.8	-12.2

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) The figures shown are imports instead of shipments. Official Commerce import data were adjusted to correct for misclassifications regarding Poland and to remove imports of LDAN from Canada.
(3) Not applicable.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calander year basis.

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics, except as noted.

APPENDIX D

COMPAS PRESENTATION

ASSUMPTIONS

The COMPAS model[1] is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in Part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. HDAN market. The model uses these estimates with data on market shares, Commerce's estimated margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry.

FINDINGS[2]

Estimated effects of the LTFV imports on the U.S. HDAN industry are as follows: *** in revenue, *** in output, and *** in price. More detailed effects of the dumping and subsidies and the full range of scenarios are shown in table D-1.

Table D-1
The estimated effects of LTFV pricing of imports from Russia

* * * * * * *

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

[2] Estimates are based on 1999 data. Commerce's period of investigation was July 1998-June 1999.

APPENDIX E

LOST SALE AND LOST REVENUE ALLEGATIONS

Table E-1
HDAN: U.S. producers' lost sale allegations

* * * * * * *

Table E-2
HDAN: U.S. producers' lost revenue allegations

* * * * * * *

*** confirmed the lost sale allegations.[1]

*** disagreed with the allegation as stated in the petition. It supplied additional information for lost revenue dated ***.[2]

*** partly agreed with the allegations. The firm stated that it did not buy *** short tons in a block. It may have purchased that amount over an entire year and this may have been imports. It stated that the price was not the only factor, the quality and logistics were important also.[3]

*** confirmed the allegation.[4]

*** disagreed with the allegations. It stated that a part of any business is price negotiations. The original price was excessive by any standard. During the main part of the spring fertilizer season, *** refused to let it have even its prepaid fertilizer because it was out of product. It attempted to sell the company Russian product from another facility. The firm bought from another supplier instead. It asserts that the domestic producer has no right to complain about import product when they are selling it and especially when they are out of domestic product and refused to let the company have the product that it had pre-paid for when it needs it.[5]

*** disagrees with the lost revenue allegation, but agrees with the pricing information. It says that pricing is a result of world market conditions. It says that the company was reluctant to participate in fall-fill programs because of unstable market conditions.[6]

*** confirmed the allegations.[7]

*** agreed with the allegation. It does not recall the exact sale to a location but the information is likely accurate. The firm believes that product imported from Russia by *** caused a disruption in the U.S. market that hurt U.S. producers. It continually asks for lower pricing to meet competition.[8]

*** confirmed the allegations, but added that the quality of the Russian product is not as good. It is lighter and more powdery, and does not spread as well.[9]

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[1] Telephone conversation with ***, May 17, 2000.

[2] Letter from ***, August 5, 1999.

[3] Telephone conversation with ***, May 2, 2000.

[4] Telephone conversation with ***, August 2, 1999.

[5] Fax from ***, August 4, 1999.

[6] Telephone conversation with ***, August 19, 1999.

[7] Faxes from ***, July 29, 1999, and August 11, 1999.

[8] Fax from ***, July 28, 1999.

[9] Telephone conversation with ***, August 2, 1999.

*** confirmed the allegations and added that it paid *** less for the Russian product than what was stated in the allegation.[10]

*** disagreed with the lost sale allegation. The firm reported that it rejected a bid from a domestic producer at *** for *** short tons and purchased imports. The firm rejected the bid because the domestic producer would not offer the amount required over the requested time period. It was not a price issue.[11]

*** disagreed with the allegation. It said that it did purchase HDAN for $*** per short ton, however, it never received a quote for Russian product for $*** per short ton. It stated that other domestic competition is lowering prices.[12]

*** confirmed the allegations. The firm added that *** because of low profits. The firm added that *** gets *** percent of its business. It thinks that the smoking gun is in the domestic producers' hands. No one ships from Russia and Egypt in the winter. Before April 1, 1999, nitrate prices were up $*** a ton. It has to be competitive with its product because a $*** profit margin is not enough.[13]

*** disagreed with the allegations. No deliveries or orders of the magnitude mentioned in the allegations were made in ***. The firm usually purchases by the truckload, which is 25 short tons. In addition, the firm does not know the origin of the material it purchases because it is from ***, a broker.[14] *** was contacted and the firm said that, to its knowledge, Russian product was not sold to ***.[15]

*** disagreed with the allegations. The firm stated that it used to purchase *** percent of its HDAN from ***, now it purchases from ***. The other *** percent of its purchases are from brokers and it does not know whether it is imported or domestic product. The firm did report that it has never used the price of other HDAN as a tool to reduce its price from a manufacturer. The firm added that imported product was inferior to domestic product.[16]

*** confirmed the allegations.[17]

*** confirmed the allegations. *** could not remember the specific sales, but the firm did purchase Russian product, sometimes instead of domestic, because of the cheaper price.[18]

*** disagreed with the *** allegations. It prepaid for its fertilizer, *** for *** tons of Russian product, *** for *** tons of domestic, and *** for *** tons of domestic. Later in the season, it purchased *** tons of domestic. The company usually splits its purchases due to supply problems last year. The firm usually asks for price bids, but does not know how the seller determines prices. *** tries to buy domestic when it can.[19]

*** confirmed the allegations.[20]

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[10] Telephone conversation with ***, June 13, 2000.

[11] Telephone conversation with ***, May 2, 2000.

[12] Telephone conversation with ***, August 3, 1999.

[13] Telephone conversation with ***, August 12, 1999.

[14] Telephone conversation with ***, June 13, 2000.

[15] Telephone conversation with ***, June 13, 2000.

[16] Telephone conversation with ***, May 2 and May 16, 2000.

[17] Telephone conversation with ***, May 16, 2000.

[18] Telephone conversation with ***, June 13, 2000.

[19] Telephone conversation with ***, August 11, 1999.

[20] Telephone conversation with ***, August 4, 1999.

*** disagrees with the allegations, stating that the pricing information is incorrect.[21]

*** disagreed with the allegation dated *** because it stated that the prices are correct, but the decrease in price is due to overall nitrogen price declines. It explained that urea and HDAN pricing are similar. Urea has more concentrated nitrogen and is a better bargain. It believes that HDAN prices are falling like other nitrogen fertilizer prices.[22] The company agreed with ***.[23]

*** disagrees with the allegations. It was unaware of the competing import price, and it stated that it prefers domestic product due to the better quality.[24]

*** agreed with the lost revenue allegations. The firm reported that the domestic price fell as a result of competition from imports.[25]

*** confirmed the lost sale allegation, but reported that some of the data are incorrect. The company disagreed with the lost revenue allegation because the *** alleged tons would have been the total amount that the company would have purchased all year. The company did purchase Russian product until April 1999. The quality of Russian product deteriorated and the firm stopped buying it. Russian product was purchased because of its lower price.[26]

*** confirmed the allegation.[27]

*** agreed with the allegations. It states that it is a retailer and it has to buy the cheapest product.[28]

*** disagreed with a lost revenue allegation dated ***, it agreed with the domestic price information but it was unable to confirm why the seller lowered its price. It disagreed with the lost revenue allegation dated *** because it had no records corresponding to the purchase. The firm disagreed with the lost sale allegation because its records do not indicate a purchase of HDAN sourced from Russia on this date.[29]

*** disagreed with the allegations. It said that it is loyal to domestic suppliers and has been for ***. This firm stated that price reductions are due to factors other than imports. Reasons include a drop in other nitrate fertilizers, including urea and anhydrous ammonia. Another factor is the weather conditions. The weather was bad in early spring and the time had passed to top dress the wheat fields. The product was not moving as well as anticipated. Some customers were not using any fertilizer. It also said that there was a shortage in *** and rationing of product occurred in April. It also added that the quality of imported product was not as good as that of the domestic product.[30]

*** confirmed the allegation.

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[21] Telephone conversation with ***, August 3, 1999.

[22] Telephone conversation with ***, August 4, 1999.

[23] Telephone conversation with ***, May 16, 2000.

[24] Telephone conversation with ***, July 30, 1999.

[25] Telephone conversation with ***, May 2, 2000.

[26] Telephone conversation with ***, June 20, 2000.

[27] Telephone conversation with ***, August 3, 1999.

[28] Telephone conversation with ***, August 18, 1999.

[29] Fax from ***, August 4, 1999.

[30] Telephone conversation with ***, August 2, 1999.

*** disagreed with the allegation. It stated that HDAN is used on wheat. It also stated that the domestic product was better in quality.[31]

*** partly agreed with the *** lost sale allegation because it accepted a quote of imported product at ***, not ***. It disagreed with the *** allegation because it did not purchase any product in ***. It disagreed with the *** for the same reasons. It added that it is a retailer and it could not get the material that it required. Its telephone calls were never returned from the domestic producer. It could not sell product if it was not for imports. Domestic producers have had supply problems for the last two or three years.[32]

*** disagreed with the lost revenue allegations. It did state that domestic product is generally $5-$6 a ton more expensive than imports. It was reluctant to give an opinion, however.[33]

*** confirmed the allegation, but opposes the petition.[34]

*** disagreed with *** lost revenue allegations. ***.[35] ***. A lot of product moves to Florida after the high demand season because Florida grows crops 12 months a year because of the climatic conditions there. Prices are generally lower this time of year.[36]

*** disagreed with the lost sale allegation. The firm reported that it did not reject any U.S. bids to purchase lower priced imports. The firm stated that some of its purchasers may have purchased imports instead of *** product and this led to the firm losing sales that may have been as much as *** short tons. The domestic price was higher and it did lead to loss of some of *** sales which would have reduced the firms purchases of domestic product.[37]

*** partly agreed with the allegations. This company is a broker/wholesaler/distributor. It stated that the initial quote was *** rail delivered and it accepted *** delivered. It was not sure if the competing quote was Russian.[38]

*** disagreed with the allegations, stating that it did not buy any product for under ***.[39]

*** disagreed with the allegation, stating that it never buys imported product. It did pay *** per short ton, but knows nothing about imported prices.[40]

*** disagreed with the allegation. It said that the firm shops 7 or 8 suppliers and purchses the cheapest product. It did purchase from ***, but it did not know if it was imported or domestic.[41]

*** disagrees with the allegation. It states that it could not get the product that it had contracted. The domestic producer limits who they sell to. This upsets many people. It used to buy a much larger

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[31] Telephone conversation with ***, August 2, 1999.

[32] Telephone conversation with ***, August 18, 1999.

[33] Telephone conversation with ***, August 5, 1999.

[34] Telephone conversation with ***, May 17, 2000.

[35] Fax from ***, August 4, 1999.

[36] Telephone conversation with ***, May 23, 2000.

[37] Telephone conversation with ***, May 2, 2000.

[38] Telephone conversation with ***, August 18, 1999.

[39] Telephone conversation with ***, August 3, 1999.

[40] Telephone conversation with ***, August 3, 1999.

[41] Telephone conversation with ***, May 17, 2000.

portion of its HDAN domestically until it could not get its product. It added that the farmers are at the mercy of the market and only have control over what they buy. The farmers are having a rough time.[42]

*** confirmed the allegation.[43]

*** confirmed the allegation. It added that in order to compete with imported product, *** was forced to both reduce its price and purchase imported product.[44]

*** confirmed the allegation.[45]

*** confirmed the allegation.

*** partly agreed to the lost sale allegation. It said that it purchased *** of imported material, but it had no way of knowing whether the HDAN was Russian.[46]

*** strongly disagreed with the claim, adding that its records do not reveal a quote from a domestic producer in this time period; it feels that the producer made at least two fictitious claims.[47]

*** confirmed the allegation.[48]

*** confirmed the allegations.[49]

*** disagreed with the allegation. The firm stated that it could not get domestic product in the ***. It also stated that production capacity was added in *** and now the market is saturated. Domestic competition is putting downward pressure on prices. The firm disagrees with the prices stated in the allegation. It also thinks that its rights to purchase from other sources are being taken away.[50]

*** disagreed with the allegations. It stated that it never accepted quotes for Russian product because the quality is not as good. In addition, prices are not *** per short ton, they are more like $105-$110 a short ton. It added that domestic producers would not return its phone calls.[51]

*** disagreed with the lost sale allegation. It stated that it more or less stayed with American product because it was less dusty and did not dry out. It gets most of its product from ***. It has purchased ***.[52]

*** confirmed the allegations.[53]

*** confirmed the allegations.[54]

*** confirmed the allegations.[55]

*** confirmed the allegation. The firm added that the U.S. producers were cutting their prices on more than the quantity reported for ***. The firm stated that imported product was available on the *** areas. Imports did not enter the market in an orderly fashion, so when they arrived, it threw the domestic

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[42] Telephone conversation with ***, August 5, 1999.

[43] Telephone conversation with ***, August 3, 1999.

[44] Fax from ***, August 12, 1999.

[45] Telephone conversation with ***, May 17, 2000.

[46] Telephone conversation with ***, May 16, 2000.

[47] Fax from ***, July, 28, 1999.

[48] Telephone conversation with ***, August 3, 1999.

[49] Telephone conversation with ***, June 16, 2000.

[50] Telephone conversation with ***, July 30, 1999,

[51] Telephone conversation with ***, July 30, 1999.

[52] Telephone conversation with ***, August 12, 1999.

[53] Telephone conversation with ***, August 3, 1999.

[54] Telephone conversation with ***, May 2, 2000 and ***, May 16, 2000.

[55] Telephone conversation with ***, July 29, 1999.

producers out of whack. The firm added that imported product is inferior and therefore the domestic product was more expensive but not *** more. The U.S. producers have to cut their price to the firm in order for it to compete with imports.[56]

*** confirmed the allegations.[57]

*** disagrees with the allegation. The firm stated that it does not accept quotes for imported product. It thinks that it is inferior in quality, contains fines, is powdery, and will not store as well.[58]

*** confirmed the allegation, adding that *** have both lowered prices to meet competition.[59]

*** disagreed with the lost sale allegation. It did not buy from Russia in ***. It has a long-term supply contract with ***. It did purchase HDAN from *** in *** and it was more expensive than domestic HDAN.[60]

*** confirmed the allegations.[61]

*** partly agreed with the allegations. It stated that it purchased product that was cheaper than the quote. It is not sure it came from Russia, but it did not use the same company used in years past due to pricing issues.[62]

*** agreed to the lost sale allegation and disagreed with the lost revenue allegation. The firm did purchase Russian material in 1999 because it was cheaper. It disagreed with the lost revenue allegation because its records show that it paid more for domestic product than what the allegation states.[63]

*** disagreed to the allegation. It says that it is loyal to its domestic supplier and it takes whatever price it is given. It does not negotiate prices.[64]

*** disagreed with the allegations, stating that the prices are incorrect. Freight for Russian product boosts the price of it higher.[65]

*** confirmed the allegation.[66]

*** confirmed the allegation.[67]

*** agreed with the *** lost revenue allegation. It agreed that it accepted a lower quote due to competition from Russian product.[68] It also partly agreed with the second lost revenue allegation, stating that the prices are incorrect, but Russian products are impacting the market to a certain degree, but not as seriously as alleged. It said that generally U.S. producers would lower prices to match the import competing price, except ***.[69]

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[56] Telephone conversation with ***, May 2, 2000.

[57] Telephone conversation with ***, August 4, 1999.

[58] Telephone conversation with ***, May 16, 2000.

[59] Telephone conversation with ***, May 16, 2000.

[60] Telephone conversation with ***, August 19, 1999.

[61] Telephone conversation with ***, May 16, 2000.

[62] Fax from ***, August 10, 1999.

[63] Telephone conversation with ***, June 20, 2000.

[64] Telephone conversation with ***, August 4, 1999.

[65] Telephone conversation with ***, August 4, 1999.

[66] Telephone conversation with ***, July 30, 1999.

[67] Telephone conversation with ***, August 4, 1999.

[68] Fax from ***, August 3, 1999.

[69] Telephone conversation with ***, August 11, 1999.

*** gave mixed responses to the *** lost sale allegations, ***, and disagreed with the lost revenue allegation. ***.[70] ***.[71]

*** agreed with the allegation, stating that the domestic producer later reduced its price to *** and it resumed purchasing domestic product.[72]

*** disagreed with the allegation. It stated that it was looking for a *** short tons of product. It could get imported product less expensively, which is important when transportation costs are factored in. The market price of HDAN was going for *** delivered. If it would have purchased domestic product, it would not have been worthwhile to sell it due to low selling margins.[73]

*** disagreed with the allegation. It stated that prices have decreased because the farmers can not withstand the high fertilizer prices. Domestic competition is also responsible for lower prices. It also stated that farmers in its location in *** and do not have a lot of excess disposable income. Things are tough for farmers.[74]

*** disagreed with the allegations. The firm purchases through a broker and is not sure whether the product is domestic or imported.[75]

*** confirmed the allegation. Although the firm could not agree to the specifics of the allegation, the firm reported that it will pay between *** a short ton more for domestic than Russian product but when the price difference is greater than that, it will buy imported product. The firm will not limit itself to domestic product; it has had frequent problems in the past obtaining domestic product during the growing season. The most important factor in purchasing is availability. The firm stated that it will divide its purchases between domestic and imported purchases to guarantee supply.[76]

*** disagreed with the allegations because it did not buy any HDAN this spring. They did do a blend, but did not use any in the blend.[77]

*** disagrees with the allegations. It states that the domestic product is usually *** more expensive than imported material. It sells product to corn farmers and he would have paid *** per ton.[78]

*** confirmed the lost sale allegation.

*** partly agreed with the allegations. It agreed with the stated prices, but believes that prices are down due to lower demand and excess inventory.[79]

*** confirmed the allegation.

*** disagreed with the allegations, stating that it is a price taker. It buys the cheapest product from three different domestic producers.[80]

*** disagreed with the allegations. It stated that domestic producer will not match imported price. The domestic product is usually *** per ton more expensive than imported product. The firm

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[70] Telephone conversation with ***, August 12, 1999.

[71] Telephone conversation with ***, May 2, 2000.

[72] Fax from ***, July 30, 1999.

[73] Telephone conversation with ***, July 30, 1999.

[74] Telephone conversation with ***, August 4, 1999.

[75] Telephone conversation with ***, June 13, 2000.

[76] Telephone conversation with ***, June 14, 2000.

[77] Telephone conversation with ***, August 12, 1999.

[78] Telephone conversation with ***, August 4, 1999.

[79] Telephone conversation with ***, August 5, 1999.

[80] Telephone conversation with ***, August 4, 1999.

prefers domestic product. It contends that the prices are falling due to domestic competition and excess domestic supply.[81]

[81] Telephone conversation with ***, August 4, 1999.

APPENDIX F

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

Responses of U.S. producers to the following questions:

Since January 1, 1997, has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of high-density ammonium nitrate from Russia (question III-9)?

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Does your firm anticipate any negative impact of imports of high-density ammonium nitrate from Russia (question III-10)?

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