

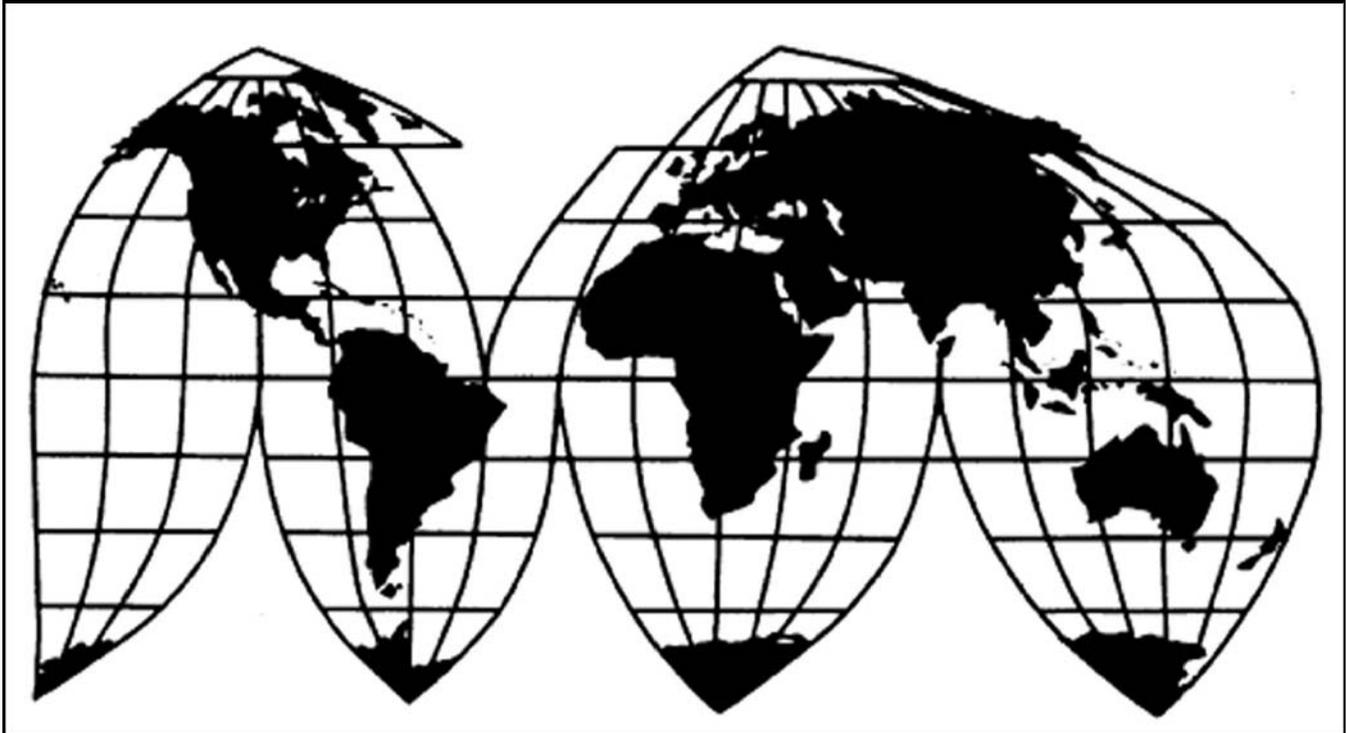
Solid Urea from Russia and Ukraine

Investigation Nos. 731-TA-340-E and H
(Second Review) (Remand)

Publication 4059

November 2007

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

VIEWS OF THE COMMISSION

By decision and order dated August 28, 2007, the U.S. Court of International Trade remanded the Commission's affirmative sunset determination in Solid Urea From Russia and Ukraine, Inv. Nos. 731-TA-340-E&H (Second Review), USITC Pub. 3821 (Dec. 2005).¹ Nevinnomysskiy Azot v. United States, Slip Op. 07-130 (Aug. 28, 2007) (hereinafter "Slip Op."). Upon consideration of the Court's remand order, we determine that, under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), revocation of the antidumping duty orders covering solid urea from Russia and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.^{2 3}

I. BACKGROUND

A. The Commission's Original Injury Determination and Its Sunset Review Determinations

In July 1987, the Commission determined that an industry in the United States was being materially injured by reason of imports of urea from the German Democratic Republic ("GDR"), Romania, and the Union of Soviet Socialist Republics ("USSR") that were being sold at less than fair value.⁴ On July 14, 1987, the Department of Commerce ("Commerce") issued antidumping duty orders on imports of solid urea from the GDR, Romania, and the USSR.⁵ On June 29, 1992, following the division of the USSR in December 1991 into 15 independent states, Commerce divided the original antidumping duty order on solid urea from the USSR into 15 orders applicable to each independent state.⁶

On April 3, 1998, Commerce revoked the antidumping duty order on solid urea from the former GDR, because the Ad Hoc Committee of Domestic Nitrogen Producers ("Ad Hoc Committee"), the petitioners in the original investigation, expressed no further interest in the order against the former GDR.⁷ In May 1999, Commerce issued its determinations in its first five-year reviews of the orders on

¹ In these views, we cite to the public version of the Commission's original sunset views and staff report as "USITC Pub. 3821." We cite the confidential version of these views as "CD."

² Chairman Daniel R. Pearson, Commissioner Charlotte Lane, Commissioner Irving A. Williamson, and Commission Dean A. Pinkert join the Commission's views on remand. Commissioners Williamson and Pinkert were not members of the Commission at the time of the original five-year review determinations in 2005 and did not participate in those determinations. Accordingly, for purposes of these remand views, they have reviewed the record of that proceeding and make affirmative determinations now. As discussed below, they adopt the findings made in the Commission's original sunset views in this proceeding, as supplemented and revised below.

³ Vice Chairman Shara L. Aranoff and Commissioner Deanna T. Okun dissenting. Commissioners Aranoff and Okun note that the Court's remand order did not address their dissenting views from the original investigation and did not require them to provide additional analysis on remand. Accordingly, they adopt their prior views as their determination on remand. See Solid Urea From Russia and Ukraine, Inv. Nos. 731-TA-340-E&H (Second Review), USITC Pub. 3821 (Dec. 2005) at 27 et seq.

⁴ Urea From the German Democratic Republic, Romania, and the Union of Soviet Socialist Republics, Inv. Nos. 731-TA-338-340 (Final), USITC Pub. 1992 (July 1987) ("Original Determination"). The petition was filed on behalf of the Ad Hoc Committee of Domestic Nitrogen Producers, which was comprised of seven domestic producers of solid urea. Final Staff Report, OINV-CC-186, ("CR") (Oct. 28, 2005) at I-2, Public Staff Report (PR) at I-2.

⁵ 52 Fed. Reg. 26367 (July 14, 1987).

⁶ 57 Fed. Reg. 28828 (June 29, 1992).

⁷ 63 Fed. Reg. 16471 (April 3, 1998).

solid urea.⁸ Because Commerce received no notice of intent to participate by domestic interests in the reviews concerning solid urea from Azerbaijan, Georgia, Kazakhstan, Krygyzstan, Latvia, and Moldova, it revoked its orders with respect to these countries. Commerce issued affirmative sunset review determinations with respect to the subject imports from Armenia, Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

On March 1, 1999, the Commission instituted its first five-year reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on Armenia, Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan would be likely to lead to continuation or recurrence of material injury.⁹ The Commission expedited its reviews because the respondent responses for all subject countries were inadequate.¹⁰ The Commission determined that revocation of the orders covering solid urea from Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. However, it also determined that revocation of the antidumping duty order covering solid urea from Armenia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹¹

On October 1, 2004, the Commission instituted second reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on solid urea from Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan would likely lead to the continuation or recurrence of material injury.¹² Because the domestic interested parties chose not to participate in Commerce's reviews of the orders on solid urea from Belarus, Estonia, Lithuania, Romania, Tajikistan, Turkmenistan, and Uzbekistan, Commerce revoked all the orders covering imports from these countries, effective November 17, 2004.¹³ This left only Russia and Ukraine in this case.

The Commission issued its final determinations in its second sunset reviews on December 16, 2005.¹⁴ By a three-to-three vote,¹⁵ the Commission determined that revocation of the antidumping duty orders on solid urea from Russia and Ukraine would likely lead to material injury to an industry in the United States within a reasonably foreseeable time. Chairman Pearson, Commissioner Koplán, and Commissioner Lane were the members of the majority; Commissioners Okun, Hillman, and Aranoff were in the minority.¹⁶

⁸ 64 Fed. Reg. 24137 (May 5, 1999); 64 Fed. Reg. 28974 (May 28, 1999).

⁹ 64 Fed. Reg. 10020 (March 1, 1999).

¹⁰ See Solid Urea from Armenia, Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, Inv. Nos. 731-TA-339 and 340-A-I (Review), USITC Pub. 3248 (Oct. 1999) (hereinafter "USITC Pub. 3248"), App. B, Commission Statement on Adequacy.

¹¹ USITC Pub. 3248 (Chairman Bragg and Commissioner Koplán dissenting).

¹² 69 Fed. Reg. 58957.

¹³ 69 Fed. Reg. 77993 (Dec. 29, 2004).

¹⁴ 70 Fed. Reg. 74846 (Dec. 16, 2005).

¹⁵ A tie vote of the Commission is considered to be an affirmative determination by the Commission. 19 U.S.C. §1677(11).

¹⁶ Commissioners Koplán and Hillman are no longer members of the Commission. Commissioners Williamson and Pinkert succeeded to these positions in early 2007.

B. The Court of International Trade's Remand Opinion

In January 2006, the Russian respondents Nevinnomysskiy Azot, Novomoskovsk Azot JSC, JSC MCC Eurochem, Kuybyshevazot JSC, JSC Azot Berezniki, and JSC Azot Kemerovo (the "Russian Respondents") appealed the Commission's affirmative determination to the Court of International Trade.

On August 28, 2007, the U.S. Court of International Trade (Judge Judith M. Barzilay) issued a decision affirming the Commission's sunset determinations in part and remanding them in part. In its opinion, the Court affirmed a number of the Commission's findings, including its finding that there was a reasonable amount of competition between granular and prilled urea, its finding that the U.S. market was an attractive market for the subject producers because of its relatively high prices, its finding that the subject producers had the ability and incentive to direct significant exports to the U.S. market upon revocation of the orders, and the finding of Commissioners Koplan and Lane that there was likely to be an oversupply of solid urea in the global market within the reasonably foreseeable future. Slip Op. at 14, 21-25. The Court also affirmed the Commission's findings that the subject imports were likely to undersell the domestic like product significantly upon revocation and that the subject imports would displace domestic shipments in the market. Slip Op. at 15, 27-28.

The Court found, however, that the Commission had not provided an adequate analysis of (1) the impact of third-country trade barriers on the likely export patterns of the subject imports, (2) the impact of non-subject imports on domestic pricing in the market, and (3) the condition of the industry. Slip Op. at 19-21, 28-30, 31-33. Accordingly, the Court remanded the Commission's determinations. Slip Op. at 33-34. The Court ordered the Commission to provide it with a "more rigorous analysis of its assessment of the effects of third-country barriers"; to address "the likely price effects of subject imports in light of the already substantial presence of low-cost non-subject imports in the domestic market"; and to "reassess the likely impact of subject imports on the domestic industry to account for the difference between the first sunset reviews' findings and the findings of the current reviews within the context of the domestic industry's recent improved performance." *Id.*

We address the Court's instructions below.

II. REVOCATION OF THE ANTIDUMPING DUTY ORDERS ON SOLID UREA FROM RUSSIA AND UKRAINE IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. The Domestic Like Product, the Domestic Industry, and Cumulation

In their appeal, the Russian Respondents did not challenge the Commission's determinations concerning the domestic like product and the domestic industry, or its determination to cumulate the subject imports for purposes of its sunset analysis. We have therefore adopted the Commission's views on these issues in their entirety and incorporate them into these remand views.¹⁷ We also incorporate the Commission's previous discussion of the background information for these reviews and the legal standards governing its sunset review analysis.¹⁸

¹⁷ See USITC Pub. 3821 at 5-13; CD at 5-14.

¹⁸ See USITC Pub. 3821 at 5-15; CD at 5-13.

B. Conditions of Competition

We also adopt in their entirety the Commission's original findings concerning conditions of competition in the U.S. market for solid urea, including its finding on the degree of competition between granular and prilled urea and the finding by Commissioners Koplán and Lane that there was likely to be an oversupply of solid urea in the global market within the reasonably foreseeable future.¹⁹ We note that the Court affirmed both findings in its opinion and remanded no other aspects of the Commission's conditions of competition analysis. Slip Op. at 14 & 23-25.

C. Likely Volume of Subject Imports

We adopt in its entirety the Commission's analysis supporting its finding that imports of solid urea from Russia and Ukraine will enter the U.S. market in significant volumes upon revocation of the antidumping orders, except to the extent they are supplemented and revised below.²⁰ As previously discussed, we note that the Court affirmed a number of the Commission's likely volume findings on appeal, including its findings that the U.S. market would be attractive to subject producers because of its relatively high prices, that the subject producers had the ability and incentive to direct significant exports to the U.S. market upon revocation of the orders, and that the subject imports would displace domestic shipments upon revocation. Slip Op. at 14, 15, 17, 25. The Court also affirmed the finding by Commissioners Koplán and Lane that there was likely to be an oversupply of solid urea in the global market within the reasonably foreseeable future. Slip Op. at 23-25.

In its opinion, however, the Court concluded that the Commission had not adequately explained the impact of third-country barriers to trade on the subject exporters' likely export patterns. Slip Op. at 19-20. The Court noted that the Commission "had cited the existence of {four} third-country barriers to trade to support its volume analysis" and stated that the Commission "seem{ed} to imply that the mere presence of these third-country barriers would cause a likely increase in the volume of the subject imports" if the orders were revoked. Slip Op. at 19. The Court concluded that the Commission should have examined these third-country barriers to "determine whether they 'may encourage product-shifting' of the subject merchandise to the {U.S.} market." *Id.* (citing *Siderca S.A.I.C. v. United States*, 29 CIT ___, 391 F. Supp. 2d 1353, 1367-68 (2005)). After noting that one of the third-country barriers, the antidumping order imposed by the European Union (the "EU") on urea from Russia, did not appear to have caused a shift of Russian imports away from the EU market, the Court stated that the record relating to the EU order led to an "ambiguous conclusion" about the order's likely effect on Russian imports. Slip Op. at 20. Accordingly, the Court remanded this issue so that the Commission could further explain whether existing third-country barriers to trade were likely to encourage shifting of the subject imports to the U.S. market if the orders are revoked. *Id.*

After reviewing the record in light of the Court's instructions, we find that, while two of the existing third-country barriers (the EU's antidumping measure on Russian urea and the Mexican order on Ukrainian urea) are unlikely to cause a significant shift of subject imports away from those markets to the United States, two other barriers (the Chinese restriction on urea imports and the EU's order on Ukrainian

¹⁹ See USITC Pub. 3821 at 15-18; CD at 16-20. Chairman Pearson again notes that he gives little weight to the IFA and *** world urea capacity and production capability projections in his analysis, given the inherent difficulty in predicting urea production capacity levels. CD at 19, n. 146, & 21, n. 173. He notes, however, that the record otherwise provides strong support for his finding that the subject imports will enter the U.S. market in significant volumes upon revocation, will significantly undersell the domestic merchandise and have significant adverse effects on domestic prices, and will have a significant adverse impact on the industry if the orders are revoked.

²⁰ See USITC Pub. 3821 at 18-21; CD at 20-23.

urea) are likely to continue diverting shipments of subject urea to other markets, such as the United States, in the reasonably foreseeable future. We first note that we agree with the Court that the EU's antidumping measure on Russian urea does not appear to have caused a significant shift of Russian urea away from the EU market and into other markets. As the Commission stated in its original sunset views, the EU imposed an antidumping measure against imports of urea from Russia in 1995.²¹ Although the EU's measure initially "divert{ed} Russian exports to other countries,"²² imports of urea from Russia into the EU have grown rapidly since 2000, when urea prices strengthened and Russian urea could be sold in the EU at prices that were above the minimum import price specified in the measure.²³ The record indicates, moreover, that prices would have to fall considerably in the EU for Russian urea again to be hindered by the minimum pricing provision of the measure.²⁴ Given this record evidence, we find that the EU's order on Russian urea has not caused the subject Russian producers to shift significant volumes of urea away from the EU market and that it is unlikely to do so in the reasonably foreseeable future.

We also find that the Mexican antidumping order on Ukrainian urea has had little impact, to date, on imports of Ukrainian urea into Mexico. Mexico imposed an antidumping order on imports from Ukraine in March 2003.²⁵ Despite the imposition of the order, imports from Ukraine into Mexico increased from *** metric tons in 2003 to *** metric tons in 2004, the last year of the period of review.²⁶ While this is a limited time frame for analyzing the impact of the order on Ukraine's export patterns, it does suggest that the Mexican order has not caused the Ukrainian producers to shift significant volumes of urea away from the Mexican market during the short time the order has been in place. Accordingly, we find that the Mexican order is not likely to have such an effect on these imports from Ukraine in the reasonably foreseeable future.

Nonetheless, we do find that the two other third-country barriers to trade have had a significant impact on the export patterns of the Russian or Ukrainian producers. In 1998, China imposed a virtual embargo on its imports of urea, apparently in order to help the Chinese urea industry develop.²⁷ Until that year, China was the largest export market for both Russian and Ukrainian urea,²⁸ with the total volume of imports of urea from Russia and Ukraine into China totaling over 4 million metric tons in 1996.²⁹ In 1999, after the imposition of the import restriction, the subject producers' imports into China fell to only 5,000 metric tons.³⁰ Since 2000, Russian urea has continued to be shipped into China in relatively small volumes, as have imports from Ukraine generally.³¹ In other words, the closure of the Chinese market in

²¹ CR at IV-10.

²² CR at IV-10.

²³ CR at IV-10; Ad Hoc Committee's Prehearing Brief at Ex. 2, p. 8.

²⁴ CR at IV-10.

²⁵ CR at IV-13.

²⁶ See Ad Hoc Committee's Prehearing Brief, Ex. 2, at 22.

²⁷ CR at IV-10.

²⁸ CR at IV-10 & IV-12.

²⁹ Ad Hoc Committee's Prehearing Brief, Ex. 17.

³⁰ Ad Hoc Committee's Prehearing Brief, Ex. 17.

³¹ Ad Hoc Committee's Prehearing Brief, Ex. 2, at 9 & 22. The only exception to this pattern was 2001 and 2002, when Ukrainian exports to China increased above a minimal level to *** tons and *** tons. Ad Hoc Committee's Prehearing Brief, Exhibit 2, at 22. Ukrainian exports to China fell to *** tons in 2003 and 2004, however. Id.

1998 represented the loss of a significant export market for both the Russian and Ukrainian exporters.³² It also caused the Russian and Ukrainian exporters to shift significant volumes of urea away from the Chinese market to other export markets.³³ The record data on the export patterns of the Russian and Ukrainian exporters suggest that China's imposition of the import restriction in 1998 was a significant factor in the substantial and rapid growth of exports of Russian and Ukrainian urea to such markets as the EU and Latin America after the restriction was imposed. Accordingly, we find that China's decision to restrict urea imports is likely to continue causing the subject producers to ship their production to other markets within the reasonably foreseeable future.

We also find that the EU's order on Ukrainian urea has caused the subject Ukrainian producers to shift significant volumes of urea away from the EU to other markets. The EU imposed an antidumping duty order on Ukrainian imports of solid urea in January 2002.³⁴ As a result of the order, EU imports of Ukrainian urea fell from *** tons in 2001, the year before the order was put in place, to *** tons in 2004, a drop of more than *** percent.³⁵ Moreover, the record indicates that, during the period that Ukrainian exports to the EU were declining precipitously, Ukraine's exports to Latin America grew by *** percent from 2002 to 2004.³⁶ In light of these trends, we find that the EU's order on Ukrainian urea caused the Ukrainian producers to shift their urea shipments away from the EU and to other markets, such as Latin America. We also find that the order will likely have the effect of continuing to cause the Ukrainian producers to shift production to other export markets within the reasonably foreseeable future.

In sum, as instructed by the Court, we have reviewed the record evidence relating to third-country barriers to determine whether they are likely to encourage shifting of the subject urea from other markets into the United States if the orders are revoked. As noted above, we find that two of the measures, the Mexican antidumping measure on Ukrainian urea and the EU's antidumping measure on Russian urea, are unlikely to have such an effect. However, we also find that the import restriction adopted by China and the EU's antidumping measure on Ukrainian urea will likely encourage the Russian and Ukrainian exporters to continue shipping increased volumes of urea to other markets, including the U.S. market if the orders are revoked. Accordingly, we find that these two third-country trade barriers are likely to encourage the subject producers to shift exports to the United States upon revocation, a finding that supports our conclusion that the volume of the subject imports is likely to be significant if the orders are revoked.

In making this determination, we also reaffirm the Commission's original finding that the trade patterns exhibited by exporters in response to these measures also help establish that the subject producers are likely to be able to shift exports rapidly between countries in response to changing conditions of competition in particular markets.³⁷ As noted above, after China imposed its restriction on imports of urea in 1998, the Russian and Ukrainian exporters diverted exports from China to other export markets.³⁸ Similarly, after the EU imposed its measure on Ukrainian products, imports from Ukraine into the EU fell dramatically at the same time that the Ukrainian producers were increasing their shipments to other markets, such as Latin America.³⁹ Further, when the EU's price for urea rose above the minimum sales

³² USITC Pub. 3248 at 19.

³³ See, generally, Ad Hoc Committee's Prehearing Brief, Ex. 2, at 8-10, 21-22.

³⁴ CR at IV-13.

³⁵ Ad Hoc Committee's Prehearing Brief, Ex. 2, at 21.

³⁶ See Ad Hoc Committee's Prehearing Brief, Ex. 2, at 22.

³⁷ USITC Pub. 3821 at 20; CD at 22.

³⁸ See CR at IV-10 and IV-12, PR at IV-8 to IV-9.

³⁹ CR at IV-13, PR at IV-9.

price contained in the EU measure on Russian urea in 2000, Russian imports surged rapidly into the EU market.⁴⁰ The record also shows that trading companies began importing meaningful volumes of solid urea from Estonia, Lithuania, and Romania into the United States shortly after revocation of the orders covering those countries.⁴¹ Given that the subject Russian exporters have indicated that they are interested in resuming their shipments to the U.S. market if the orders are revoked,⁴² and that importers can quickly resume shipments into the market because they typically sell on a spot basis,⁴³ we find it likely that the subject importers would be able to quickly re-enter the market in significant volumes if the orders were revoked.

Finally, we note that, in remanding the Commission's analysis of third-country barriers for further explanation, the Court stated that the Commission had "failed to find three statutory factors for assessing the likely volume of the subject imports if Commerce revokes the orders." Slip Op. at 25. As noted above, we believe the record evidence concerning the subject producers' response to third-country barriers provides support for our finding that the volume of the subject imports is likely to be significant upon revocation of the orders. Moreover, as noted previously, we have adopted here the Commission's finding relating to the subject producers' excess capacity levels, which also provides support for the Commission's affirmative likely volume finding. In other words, our findings on two of the four statutory factors provide support for our likely volume finding.⁴⁴

Further, as the Court noted, the Commission "is not limited to the consideration of the four delineated {statutory} factors" in its sunset analysis. As a result, "it is thus permissible for the {Commission} to place more emphasis on some economic factors than others because its 'decision does not depend on the 'weight' of the evidence, but rather on the expert judgment of the Commission based on the evidence of record.'" Slip Op. at 25-26 (quoting *Matsushita Elec. Indus. Co. v. United States*, 750 F.2d 927, 933 (Fed. Cir. 1984)). The statute provides that "{t}he presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance . . ." 19 U.S.C. § 1675a(a)(5). Accordingly, consistent with the statute, we have relied not only on our affirmative findings with respect to third-country trade barriers and the foreign industry's excess capacity levels as support for our likely volume finding, but on a number of other economic factors, including the large size and export-oriented nature of the subject producers, the attractiveness of the U.S. market, and the likelihood of global oversupply. We believe that the evidence we have cited provides ample record support for that finding.

Accordingly, we conclude that the likely volume of cumulated subject imports of the subject merchandise, both in absolute terms and relative to production and consumption in the United States, would be significant if the antidumping duty orders were revoked.

⁴⁰ CR at IV-10; Ad Hoc Committee's Prehearing Brief at Ex. 2, at 8.

⁴¹ See Ad Hoc Committee's Posthearing Brief at Ex. 7; CR at Table C-2 (imports entering January-August 2005). The orders on these three countries were lifted as of November 17, 2004. CR at I-5, PR at I-5.

⁴² CR at D-11 and D-12, PR at D-11 (***) indicated it would return to the U.S. market to obtain a "premium price" net of transportation costs); CR at D-13, PR at D-13 (***) may export to the United States); CR at D-13, PR at D-13 (***) has received inquiries from the big trading companies (***) regarding their interest in selling into the U.S. market).

⁴³ See CR at V-3.

⁴⁴ As the Court indicated, Slip Op. at 25, the Commission found that two other statutory factors (*i.e.*, inventory levels and the likelihood of using existing production facilities to shift production from other products to the subject merchandise) did not provide significant support for its likely volume finding.

D. Likely Price Effects of Subject Imports

We also adopt in its entirety the Commission’s analysis concerning the likelihood that the subject imports from Russia and Ukraine will undersell the domestic like product significantly and cause significant price suppression and depression if the orders were revoked, except to the extent supplemented below.⁴⁵ In its opinion, the Court affirmed several findings made by the Commission in its pricing analysis, including its findings that the subject imports were likely to undersell the domestic like product significantly if the orders were revoked and that the subject imports would likely gain market share through this underselling, even in the granular portion of the market. Slip Op. at 27-28.⁴⁶ Moreover, plaintiffs did not challenge, and the Court has not remanded, the Commission’s findings that price was an important consideration in purchasing decisions in the U.S. market, that pricing information was rapidly and quickly disseminated throughout the market as a result of industry publications, and that most purchases of solid urea are made in the spot market, which together mean that underselling by the subject imports can easily translate into price declines in the overall market.⁴⁷

In its opinion, however, the Court “question{ed} whether underselling by the subject industries likely would cause U.S. urea prices to decline if Commerce revokes the orders when low-priced urea from the Middle East and Venezuela has not depressed domestic prices.” Slip Op. at 29. The Court noted that “U.S. urea prices doubled, and the domestic industry enjoyed high profits” by the end of the period of review, “despite the fact that imports from these nonsubject countries accounted for a substantial portion of the overall domestic supply during the period of review and were priced lower than the domestic like product.” Slip Op. at 29. The Court stated that the Commission “failed to explain why the subject imports likely would depress U.S. urea prices when the nonsubject imports, in a parallel scenario, have not done so.” *Id.* at 30. As a result, the Court ordered the Commission to analyze “whether the subject imports would likely depress U.S. urea prices” upon revocation, given that non-subject imports had not done so during the period of review. *Id.*

We find that the record indicates that the subject imports are likely to enter the United States and have significant adverse effects on domestic prices if the orders are revoked. As an initial matter, we note that the entry of significant volumes of low-priced urea from Russia and Ukraine into the U.S. market upon revocation of the orders is likely to place additional pricing pressure on all participants in the market, including the domestic and non-subject suppliers currently in the market. In this regard, we would note that it is a fundamental economic principle that the addition of significant additional supply into a market will generally place significant downward pressure on prices, particularly when the products are reasonably substitutable, as they are here. Accordingly, we would expect that revocation of the orders and the entry of these likely significant volumes of low-priced subject imports into the market will have such an effect on prices, regardless of the extent to which non-subject imports have affected prices.

⁴⁵ See USITC Pub. 3821 at 21-23; CD at 22-24.

⁴⁶ Although the statute provides that the Commission shall consider whether there is likely to be significant underselling by subject imports of the domestic like products if the orders are revoked and whether the subject imports are likely to enter the United States at prices that would otherwise have a significant depressing or suppressing effect on domestic prices, 19 U.S.C. § 1675a(a)(3), the statute also provides that the “presence or absence of any factor which the Commission is required to consider under {the sunset provisions of the statute} shall not necessarily give decisive guidance with respect to the Commission’s {sunset} determination.” 19 U.S.C. § 1675a(a)(5). Since we have already concluded that the subject imports are likely to enter the market in significant volumes upon revocation and that the subject imports will undersell the domestic like product to obtain significant market share from the industry, we note that the Commission is not obligated also to find that the subject imports are likely to depress or suppress domestic prices in order to issue an affirmative determination.

⁴⁷ USITC Pub. 3821 at 21-23; CD at 22-24.

Moreover, we find that the record evidence, viewed as a whole, indicates that the subject imports are likely to significantly undersell both the domestic like product⁴⁸ and non-subject imports. There is considerable evidence indicating that Russian and Ukrainian urea was priced considerably below the non-subject imports in global and third-country markets at the end of the period of review. For example, a September 2005 study by the industry analyst *** showed that, during the end of the summer and the beginning of the fall of 2005, the price of bulk prilled urea that was sold on an f.o.b. basis at Black Sea ports (which were likely from Russia and Ukraine) ranged between \$200 and \$212 per ton. The same study showed that the price of bulk prilled urea that was sold on an f.o.b. basis at Middle Eastern ports ranged between \$240 and \$245 per ton, a differential of between \$28 and \$45 per ton.⁴⁹ Similarly, the record contained evidence showing that Russian and Ukrainian urea was priced lower than urea from non-subject countries when entering such third-country markets as Brazil, Canada, and Colombia in 2004, the last year of the period of review.⁵⁰ In that year, imports from Russia and Ukraine, on average, were priced six dollars per ton lower (on an f.o.b. basis) than other imports into Brazil, \$35 per ton lower (on a c.i.f. basis) than other imports into Colombia, and \$40 per ton lower (on an f.o.b. basis) than other imports sold into Canada.⁵¹ Given this record evidence, we find that the subject imports are likely to re-enter the U.S. market at similarly low price levels upon revocation of the orders.⁵²

Moreover, we find the record does not establish that the non-subject imports were significantly lower-priced than the domestic like product during the period of review, as the Court suggested in its opinion. See Slip Op. at 30. Figure V-4 of the Commission's staff report compares the prices of domestic and imported prilled urea at the Gulf Coast during the period of review, based on the Commission's own pricing data and prices reported in Green Markets, an industry publication.⁵³ As the

⁴⁸ We note that the Court affirmed the Commission's finding that the subject imports would undersell the domestic like product upon revocation. Slip Op. at 28.

⁴⁹ Ad Hoc Committee's Prehearing Brief at Ex. 7, at p. 2.

⁵⁰ Ad Hoc Committee's Prehearing Brief at 49 and Ex. 27. The data for Canada and Colombia show increasing underselling in 2004. The data for Colombia are on a delivered (c.i.f.) basis and should eliminate any differences in freight.

⁵¹ Id.

⁵² The Russian Respondents contend that Russian and Ukrainian urea are not, in fact, lower-priced than Middle Eastern and other non-subject urea on the global market. Russian Respondents' Comments on the Remand Proceedings, October 23, 2007 ("Russian Respondents' Comments") at 8. Although the Russian Respondents acknowledge that the record shows that f.o.b. prices for Black Sea urea are lower than f.o.b. prices for urea from the Middle East, they attribute this lower pricing to the freight disadvantage that urea shipped from the Black Sea has when it is shipped to Asia. Id. The Russian Respondents have, however, failed to point to any hard data in the record supporting their assertion that freight costs from the Black Sea to Asian markets are consistently and significantly higher than the costs for shipment from Middle Eastern ports or that this explains the significant price differentials seen in the fall of 2005. Id. Moreover, their argument does not explain why the record shows that there are consistent pricing differentials between the subject merchandise and other countries' exports to markets such as Canada, Colombia and Brazil that reflect freight and transport charges at comparable levels. Finally, if the subject producers are pricing their products at lower prices to offset transportation costs to Asian markets, this indicates that they are willing to compete aggressively on price to compete with other suppliers in export markets.

⁵³ CR at V-11 and V-12, Figure V-5. We note that there were no subject imports during the period, which means that these prices necessarily reflect non-subject pricing. CR at Table I-1.

staff report notes, Figure V-4 shows that, while non-subject prices were somewhat lower than domestic prices at the Gulf Coast, the pricing differential was small.⁵⁴

Finally, we note that the lack of observable price effects from the non-subject imports is due, in part, to the fact that a large and significant share of these non-subject imports were imported into the U.S. market by the domestic producers. As the Russian Respondents themselves concede, the record establishes that the “domestic producers accounted for over *** of reported urea imports” in 2004, the final year of the period of review.⁵⁵ Given that the domestic producers imported a large share of the non-subject imports into the U.S. market at the end of the period of review, it is hardly surprising that the non-subject imports were priced at levels that did not adversely affect domestic pricing during the period of review.⁵⁶

For the foregoing reasons, as well as for the reasons the Commission discussed in its original views, we find that subject imports are likely to significantly undersell domestic urea if the antidumping orders are revoked and that this significant underselling will likely result in significant suppression and depression of domestic prices within a reasonably foreseeable time.

E. Likely Impact of the Subject Imports

Finally, we adopt in their entirety the Commission’s findings concerning the vulnerability of the industry and the likely impact the subject imports will have on the industry if the orders are revoked, except to the extent they are supplemented and revised below.⁵⁷

In its opinion, the Court noted that the Commission found in its first sunset reviews that the subject imports would likely have a significant adverse impact on the domestic industry if the orders were revoked. The Court added, however, that the Commission found in those reviews that the industry was not vulnerable to injury because the “domestic industry’s profits ‘rebounded’” since the original investigation. In contrast, the Court stated, in the second sunset reviews, Commissioners Lane and Koplan found that the industry was vulnerable, “despite its recently high profits, rising domestic urea prices, and increased productivity.” Slip Op. at 32.⁵⁸ The Court found that the two Commissioners failed to “explain how they could reach this finding in light of the {Commission’s} conclusion {to the contrary}

⁵⁴ *Id.* We note that the Court based its conclusion that non-subject prices were lower than domestic prices on a comparison of urea prices at Middle Eastern ports, on an f.o.b. basis, with U.S. prices at the Gulf Coast. Slip Op. at 30. The Middle Eastern f.o.b. price does not, however, include ocean freight costs, which are necessary to ship from the Middle East to the United States. The U.S. price for these shipments, at the Gulf Coast for example, would therefore necessarily be higher than the Middle Eastern f.o.b. price. Thus, a comparison of f.o.b. Middle East prices with U.S. Gulf Coast New Orleans price is not particularly meaningful.

⁵⁵ Russian Respondents’ Comments at 10.

⁵⁶ The Russian Respondents also argue that the international trading companies that are likely to import from the subject countries did not undersell domestic urea in the United States during the period of review. Russian Respondents’ Comments at 10. However, the record shows that, when the orders against the former FSU countries were revoked, those imports once again were priced lower than domestic urea in the United States. Ad Hoc Committee’s Prehearing Brief at 45-49 and Ex. 23. The behavior of the trading companies in selling this prilled urea from Black Sea ports is indicative of the manner in which the subject urea would be sold if the orders were revoked because it is most comparable to solid urea from Russia and Ukraine.

⁵⁷ *See* USITC Pub. 3821 at 23-26; CD at 25-28. Chairman Pearson does not find the domestic industry to be vulnerable, consistent with his original determination in this proceeding. *See* USITC Pub. 3821 at 25, n. 217; CD at 27, n.217. Commissioner Williamson concurs with Chairman Pearson.

⁵⁸ In the Court’s view, the two Commissioners arrived at this conclusion because several domestic plants closed and one domestic producer declared bankruptcy. Slip Op. at 32.

in the first reviews.” *Id.* Moreover, the Court added, the Commissioners did not explain why they found that “high natural gas prices have weakened the industry when the record evidence indicates that profits increased despite plant closures and domestic urea prices have risen . . . more quickly than raw material costs.” *Id.*

The Court also found unsupported the Commission’s findings that the domestic industry’s sales, production, market share, capacity, and capacity utilization fell during the period of review. Slip Op. at 32. The Court found that the record data “do not substantiate” these conclusions, because the Commission appeared to base them on a comparison of end points for the period of review, without taking into account the rates for all other years. Slip Op. at 32-33. In the Court’s view, the data for these indicia reveal no particular trend. *Id.* Accordingly, the Court instructed the Commission to “reassess the likely impact of subject imports on the domestic industry to account for the difference between the first reviews’ findings and the findings of the current reviews within the context of the domestic industry’s recent improved performance.” Slip Op. at 34.

After reviewing the record in light of the Court’s instructions and specific concerns, we find that the industry is vulnerable to the likely adverse impact of the subject imports upon revocation of the orders.⁵⁹ In making this finding, we acknowledge that the various indicators of the industry’s condition fluctuated throughout the period of review and that several of the indicators improved, some considerably, by the end of the period of review. For example, as the Court correctly noted, the industry’s operating income margins fluctuated between losses and profits over the period of review, but improved to profits of 6.3 percent and 15.2 percent in 2003 and 2004, the final two years of the period of review.⁶⁰ Similarly, the industry’s productivity rates improved over the period, increasing from 2.4 percent in 1999 to 3.3 percent in 2004.⁶¹ Finally, the domestic industry’s average unit prices and net sales revenues improved considerably over the period of review.⁶²

Nonetheless, the industry experienced serious declines in other indicia of its condition over the period of review. The industry lost 15.6 percentage points of market share over the period of review, falling from a majority position of 51.5 percent in 1999 to a minority position of 36.0 percent in 2004.⁶³ The industry’s capacity declined by 12 percent during the last four years of the period of review, falling

⁵⁹ As noted previously, Chairman Pearson and Commissioner Williamson do not find the domestic industry to be vulnerable, given the domestic producers’ operating income margin of 15.2 percent and return on investment of 44.0 percent. See USITC Pub. 3821 at 2, n. 217; CD at 27, n.217. However, Chairman Pearson and Commissioner Williamson note that many of the other indicia of the industry’s condition fell irregularly over the period of review, including its market share, capacity utilization, production, domestic shipment quantities, net sales quantities and employment levels. In their view, the decrease in these other indicia over the period of review make the industry more susceptible to the likely impact of the subject imports than an industry whose operating indicia have generally remained stable or improved over the period of review. Chairman Pearson and Commissioner Williamson agree with the Court that a finding of vulnerability is not a prerequisite to an affirmative likely impact finding in a sunset review. See Statement of Administrative Action for the Uruguay Round Amendments, H.R. Doc. 103-316, 103d Cong., 2d Sess., at 884 (Sept. 27, 1994).

⁶⁰ CR at Table I-1. As the Commission noted in its original sunset views, the industry’s operating income margins fluctuated during the first four years of the period of review, with operating losses of 12.0 percent, 11.2 percent, and 2.0 percent in 1999, 2001, and 2002, respectively.

⁶¹ CR at Table I-1.

⁶² CR at Table I-1. The industry’s average unit values increased more than \$100 per ton over the period of review, and its net sales revenues doubled.

⁶³ CR at Tables I-1 & C-1.

from 5.44 million tons in 2001 to 4.8 million tons in 2004.⁶⁴ Domestic production levels also fell from 3.9 million tons in 1999 to 3.8 million tons in 2004.⁶⁵ The industry's capacity utilization declined by 13.4 percentage points from 92.2 percent in 1999 to 78.8 percent in 2004.⁶⁶

The industry's U.S. shipment quantities declined by 19.8 percent over the period of review, falling from 3.8 million tons in 1999 to 3.0 million tons in 2004.⁶⁷ Its employment indicators also declined considerably over the period of review, with its workforce falling by 29.2 percent, overall hours worked falling by 30.5 percent, and total wages paid falling by 13.3 percent between 1999 and 2004.⁶⁸ Moreover, by the end of 2005, there were indications that the industry was suffering further cutbacks in its production and capacity levels.⁶⁹ Finally, we note that, although the industry's average unit prices and sales revenues increased considerably over the period of review, these increases were offset to some degree by considerable, but smaller, increases in the industry's costs of goods sold and selling, general and administrative expenses.⁷⁰ In sum, we believe that the declines in these indicia, particularly the industry's loss of market share over the period, outweigh the improvements in the industry's profitability, pricing, and productivity levels over the period of review. Accordingly, we find that the industry's position in the market has weakened to such an extent that it is vulnerable to the likely impact of the subject imports upon revocation.

In making this finding, we first address the Court's concern that there was an inconsistency between the vulnerability finding by Commissioners Koplán and Lane in these reviews and the Commission's finding in the first sunset reviews that the industry was not vulnerable. At the outset, we observe that each Commission investigation and review is *sui generis*, meaning they each involve a unique combination of numerous interdependent variables, even when different investigations or reviews involve the same products and industries.⁷¹ Consequently, a particular circumstance in a prior investigation, such as the profitability of the industry, cannot be regarded as dispositive of the determination in a later investigation.⁷² The fact that the Commission found the industry not to be in a vulnerable condition in the first reviews because, in significant part, the industry was profitable throughout the period examined does not mean the Commission is required to find the industry not to be vulnerable in these reviews simply because it was profitable at the end of the period of review.⁷³

Moreover, we believe that the different findings made in the two reviews reflect the fact that there were significant differences in the condition of the industry between the first and second sunset reviews.

⁶⁴ CR at Tables I-1 & C-1. The industry's total capacity was 4.2 million short tons in 1999, which was lower than its capacity of 4.8 million short tons in 2004. CR/PR at Table III-1. The apparent increase in capacity from 2000 to 2001 appears to reflect the absence of data for *** in 1999 and 2000. See CR/PR at III-1, Table III-1.

⁶⁵ CR at Tables I-1 & C-1.

⁶⁶ CR at Tables I-1 & C-1.

⁶⁷ CR at Tables I-1 & C-1.

⁶⁸ CR at Tables I-1 & C-1.

⁶⁹ See CR at 4-5 & III-13, n. 28.

⁷⁰ CR at Tables I-1 & C-1.

⁷¹ Nucor v. United States, 414 F.3d 1331, 1340 (Fed. Cir. 2005).

⁷² Id.

⁷³ Moreover, each Commissioner is entitled to weigh the evidence differently. United States Steel Group v. United States, 96 F.3d 1352, 1362 (1996) (noting "the indisputable proposition that each Commissioner is free to attach different weight to factual information bearing on, and determinate of, the many statutory tests"). Because Commissioners may weigh the evidence differently, the findings of any current member of the Commission regarding vulnerability do not need to be consistent with the findings made by earlier members of the Commission.

For example, during the period covered by the first sunset reviews, the domestic industry's market share remained large and stable, ranging between 57.2 and 58.3 percent during the period of review.⁷⁴ During the period covered by the second sunset reviews, however, the domestic industry lost 15.5 percentage points of market share.⁷⁵ Similarly, during the first sunset reviews, the industry was operating at a capacity utilization rate of 93.9 percent at the end of the period of review.⁷⁶ During the second sunset reviews, however, the industry's capacity utilization rate fell to 78.8 percent in 2004, a level 13.4 percentage points lower than the first year of the second reviews and 15.1 percentage points lower than 1998, the last year covered by the first sunset reviews.⁷⁷

There were also differences between the two review periods with respect to the industry's production and domestic shipment quantities. During the first sunset reviews, the industry's production level increased by 7.0 percent from 5.5 million short tons in 1996 to 5.9 million short tons in 1998.⁷⁸ During the second sunset reviews, the industry's production levels fluctuated somewhat but fell overall by 119,000 tons, declining from 3.9 million short tons in 1999 to 3.8 million short tons in 2004.⁷⁹ During the first sunset reviews, the industry's domestic shipment volumes grew by nearly one million tons, increasing from 3.9 million tons in 1996 to 4.8 million tons in 1998.⁸⁰ In the second sunset reviews, domestic shipment volumes fell irregularly from 3.8 million tons in 1999 to 3.0 million tons in 2004.⁸¹

Finally, the industry's operating income margins during the first sunset reviews were 34.4 percent in 1996, 15.5 percent in 1997, and 11.7 percent in 1998.⁸² Thus, even though these margins were falling considerably, the industry enjoyed double-digit operating income levels throughout the period covered by those reviews.⁸³ These trends contrast with the significant fluctuations in operating income margins during the second sunset reviews. Although the industry had operating profits of 4.0 percent in 2000, 6.3 percent in 2003, and 15.2 percent in 2004, it also had operating losses in three of the six years of the period, incurring losses of 12.0 in 1999, 11.2 percent in 2001, and 2.0 percent in 2002.⁸⁴ The industry's only double-digit positive operating income margin occurred in the last year of the period of review,⁸⁵ which can be attributed to the industry's ability to mitigate the impact of high natural gas prices through hedging strategies.⁸⁶

In other words, the industry was in a significantly different financial and operating condition in 2004 than in 1998. In 1998, at the end of the period covered by the first sunset reviews, the industry had not lost significant market share, maintained a majority share of the market, and was operating at a

⁷⁴ CR at Table I-1.

⁷⁵ CR at Table I-1.

⁷⁶ CR at Table I-1. We note that capacity utilization data were available only for 1998, the last year of the period of review.

⁷⁷ CR at Table I-1.

⁷⁸ CR at Table I-1.

⁷⁹ CR at Table I-1.

⁸⁰ CR at Table I-1.

⁸¹ CR at Table I-1.

⁸² CR at Table I-1.

⁸³ CR at Table I-1.

⁸⁴ CR at Table I-1.

⁸⁵ CR at Table I-1.

⁸⁶ CR at III-23, PR at III-14.

capacity utilization rate of 93.9 percent. Moreover, it enjoyed significant growth in its production and sales and maintained double-digit operating profits.⁸⁷ Thus, even though the industry experienced declining prices, sales values and operating income margins, the Commission reasonably found that the industry was not in a vulnerable condition in the first sunset reviews. In contrast, during the second sunset reviews, the domestic industry lost 15.5 percentage points of market share, becoming a minority player in the market for the first time since the beginning of the original investigation.⁸⁸ In addition, the industry's capacity utilization, production, shipments, and employment were all lower than they had been at the beginning of the period, indicating that the industry was in a worse position at the end of the period of review than at the beginning.⁸⁹

Moreover, the domestic urea industry had become considerably smaller by the end of 2004. As the Commission observed in its original views, the domestic industry consisted of 24 firms during the original investigations, 12 firms at the end of the first reviews, and just seven firms in 2005.⁹⁰ The domestic industry's production fell by more than one third from 1998 (the last year of the first reviews) to 2004, its overall capacity levels were smaller in 2004 than in 1998, and its market share fell from 57.2 percent in 1998 to 36.0 percent in 2004.⁹¹ As a result, the industry controlled much less of the domestic market and had no ability to dictate domestic urea prices, a fact commented upon at the Commission's hearing.⁹² Given these differences, Commissioners Koplán and Lane reasonably chose not to make the same finding as the Commission did in the first sunset reviews. Further, having reviewed the record in detail, we believe that the vulnerability finding by Commissioners Koplán and Lane reflects a reasoned and valid distinction between the circumstances of the two sunset reviews.

We also note that the Court questioned the Commission's finding that "that the domestic industry's sales, production, market share, and capacity fell, and that the industry operated at lower rates of capacity utilization in 2004 than 1999." Slip Op. at 32. According to the Court, these indicia exhibited "no discernible trends" during the period of review. Slip Op. at 32-33. We agree with the Court that the industry's market share, capacity utilization, production, domestic shipment quantities, and net sales quantities did not decline consistently throughout the period of review. Instead, these indicia generally fell from 1999, the first year of the period of review, through either 2000 or 2001.⁹³ After improving somewhat in the middle of the period, however, the industry's market share, capacity utilization, production, domestic shipment quantities, and net sales quantities all declined in 2004 to levels that were lower than those in 1999.⁹⁴ Thus, while we agree with the Court that these factors may have improved somewhat during the middle of the period of review, we do not view such temporary improvements to be as important as the fact that the overall condition of the industry was weaker at the end of the period of review than at the beginning of the period of review. In this regard, we note that we generally focus our analysis on the most recent data when assessing whether imports have had, or are likely to have, a significant adverse impact on the industry.⁹⁵

⁸⁷ CR at Table I-1.

⁸⁸ CR at Table I-1.

⁸⁹ CR at Table I-1.

⁹⁰ CD at 18.

⁹¹ CD at 18-19.

⁹² See Tr. at 128.

⁹³ CR at Table I-1 & Table III-6.

⁹⁴ CR at Table I-1 & Table III-6.

⁹⁵ Nucor v. United States, 414 F.3d 1331, 1336 (Fed. Cir. 2005).

In accordance with the Court's opinion, we have also considered whether the industry was made more vulnerable to injury by the increase in natural gas costs during the period of review. We note that, in the face of these high costs, the industry would need to maintain high prices to remain profitable. The addition of a large source of low-priced subject urea in the market, which is likely to occur if the orders were revoked, will make it increasingly difficult for the industry to maintain its prices at levels that will allow it to recoup its costs and make a profit, particularly since the industry will no longer be able to use hedging strategies to mitigate effectively its natural gas costs.⁹⁶ Given this, we find it unlikely that the industry will be able to maintain its profits in the face of these costs if the orders are revoked.

In accordance with the Court's instructions, we have also considered whether "plant closures are indicative of overall industry vulnerability," given that these "closures appear to have increased the efficiency and profitability of the industry as a whole."⁹⁷ We note that, in 2005, the domestic industry was no longer able to hedge its natural gas costs, as it had throughout the period of review,⁹⁸ and that it was therefore forced to shut down significant amounts of production capacity.⁹⁹ We also note that the industry was no longer profitable by the second half of 2005.¹⁰⁰ Thus, although the industry may have been able to maintain its profitability and productivity levels while reducing its capacity levels in 2003 and 2004, its situation was much more precarious by the end of 2005.¹⁰¹ In our view, the industry's increased profitability and efficiency in 2004 were not related to the decrease in the industry's capacity; they were simply the result of the industry's temporary ability to stay ahead of its raw material cost increases in 2004.¹⁰²

For the foregoing reasons, as well as for the reasons the Commission discussed in its original views, we find that the domestic industry is vulnerable to the likely adverse impact of the subject imports upon revocation. Moreover, as previously discussed, we find that the subject imports are likely to enter the market in significant volumes and at prices that will have a significant adverse impact on the industry's prices. Accordingly, we find that revocation of the orders would result in the entry of significant quantities of low-priced subject imports into the U.S. market and that these imports would likely lead to material injury to the industry.

⁹⁶ See *infra* n. 100.

⁹⁷ Slip Op. at 32.

⁹⁸ *** in 2004 by hedging the cost of natural gas. CR at III-23. However, CF industries shut down *** its production in 2005. Moreover, PCS Nitrogen announced a 45-day closure of its Lima, Ohio plant even though ***. CR at I-9; CR at III-23.

⁹⁹ See CD at 27 and CR at III-4-5 & III-13 n.28.

¹⁰⁰ Tr. at 128 (Buckley of CF Industries) ("In the last few months, the situation has reversed."); Tr. at 129 (Dietz of PCS Nitrogen) ("{W}e have seen it go the other direction here in the latter parts of 2005. . . . {W}e have a similar experience to what Mr. Buckley described."); Tr. at 129 (McGlone of Agrium) ("{W}e have had margin erosion very quickly, given the natural gas costs."). These three domestic producers (Agrium, CF Industries and PCS Nitrogen) accounted for *** percent of U.S. production of solid urea in 2004. See CR at Table I-5.

¹⁰¹ *Id.*

¹⁰² Russian Respondents' Comments at 13. The Russian Respondents also argue that U.S. producers' urea prices provide a floor for international prices, suggesting that domestic prices will remain strong. *Id.* at 14. However, the *** report cited by the Russian Respondents actually paints a bleak picture for the domestic urea industry: *** Domestic Industry's October 26, 2005 Submission at Attachment 1, ***, Issue 2005-3 (Oct. 2005) at 103 (emphasis added).

CONCLUSION

Accordingly, we determine that revocation of the antidumping duty orders on imports of solid urea from Russia and Ukraine would be likely to lead to continuation or recurrence of material injury to the domestic solid urea industry within a reasonably foreseeable time.