

UNITED STATES  
INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
SOLID UREA FROM RUSSIA AND ) Investigation No.:  
UKRAINE ) 731-TA-340-E and H  
(Third Review)

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Antidumping Duty Orders:

On Behalf of Ad Hoc Committee of Domestic  
Nitrogen Producers:

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P R O C E E D I N G S

(9:30 a.m.)

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3 CHAIRMAN OKUN: The hearing of the U.S.  
4 International Trade Commission will now come to order.  
5 I welcome you to this hearing on Investigation No.  
6 731-TA-340-E and H (Third Review), involving Solid  
7 Urea from Russia and Ukraine. The purpose of these  
8 five year review investigations is to determine  
9 whether revocation of the antidumping duty orders  
10 covering solid urea from Russia and Ukraine would be  
11 likely to lead to continuation, or recurrence, of  
12 material injury to an industry in the United States  
13 within a reasonably foreseeable time. Schedule  
14 setting forth the presentation of this hearing, notice  
15 of investigation and transcript order forms are  
16 available at the public distribution table.

17 All prepared testimony should be given to  
18 the secretary. Please do not place testimony directly  
19 on the public distribution table. All witnesses must  
20 be sworn in by the secretary before presenting  
21 testimony. I understand that parties are well aware  
22 of the time allocations. Any questions regarding time  
23 allocations should be directed to the secretary.  
24 Speakers are reminded not to refer in their remarks or  
25 answers to questions to business proprietary

1 information. Please speak clearly into the  
2 microphones and state your name for the record for the  
3 benefit of the court reporter. If you'll be  
4 submitting documents that contain information you wish  
5 classified as business confidential, your request  
6 should comply with Commission Rule 201.6. Mr.  
7 Secretary, are there any preliminary matters?

8 MR. BISHOP: No, Madam Chairman.

9 CHAIRMAN OKUN: Very well. Let us begin  
10 with opening remarks.

11 MR. BISHOP: Opening remarks on behalf of  
12 those in support of continuation of the orders will be  
13 by Valerie Slater, Akin Gump Strauss Hauer & Feld.

14 CHAIRMAN OKUN: Good morning, and welcome,  
15 Ms. Slater.

16 MS. SLATER: Good morning, Chairman Okun and  
17 members of the Commission and Commission staff. It's  
18 a pleasure to appear before the Commission this  
19 morning on behalf of the Ad Hoc Committee of Domestic  
20 Nitrogen Producers. It's not only a pleasure to be  
21 here, but I have to tell you also something of a  
22 surprise. This is a review that I, frankly, did not  
23 expect to be participating in. It is a review that  
24 the ad hoc committee did not expect to request. Five  
25 years ago, both members of the ad hoc committee were

1 extremely hopeful that the situation in Russia and  
2 Ukraine, as in all of the other former nonmarket  
3 economy countries that had been subject to urea  
4 dumping orders, would have evolved to the point where  
5 they believed that the orders were no longer needed.  
6 Unfortunately, that is not the case.

7           We have brought representatives today from  
8 both members of the ad hoc committee to explain to you  
9 why they are seeking continuation and to answer your  
10 questions. The decision to seek continuation was a  
11 difficult one. It was undertaken over a period of  
12 time and with the involvement of senior officials at  
13 both companies. The process was as careful and  
14 deliberate as any that I have ever personally  
15 experienced and was consistent with what I have come  
16 to expect from this industry, which has never filed a  
17 case or sought to continue or to sunset an order  
18 without very careful consideration. The industry  
19 knows that it is doing very well at the moment and  
20 seeking continuation in these circumstances,  
21 particularly given the age of these orders, is  
22 something that must be explained and defended.

23           They are prepared to do that today. As you  
24 listen to the testimony today and the responses that  
25 you will have to what I'm sure will be your excellent

1 questions, I hope you'll keep in mind that you've had  
2 no participation from the vast majority of the  
3 Ukrainian industry. The Russian industry, which  
4 participated in the second sunset review and  
5 vigorously sought revocation, has affirmatively chosen  
6 not to supply any information to the Commission in the  
7 sunset process. Even though there have been shipments  
8 of Russian urea, both prilled and granular, since the  
9 last sunset review, for the first time since the order  
10 has been in place there is no questionnaire  
11 information that the Commission can use for  
12 underselling analyses or to evaluate how Russian  
13 suppliers have actually behaved in this marketplace.

14           There is even very limited information from  
15 purchasers of Russian urea and none of it is complete  
16 enough to permit those responses to be used to examine  
17 specific pricing data. This decision of most of the  
18 Ukrainian and all of the Russian exporters to take a  
19 pass on this sunset process should weigh heavily in  
20 the Commission's consideration in this review. The  
21 Russian Respondents and EuroChem, which has shipped to  
22 the United States in particular, are very familiar  
23 with the Commission's process and also with the impact  
24 that data showing underselling could have on this  
25 case. Moreover, in 2005, the Russian Respondents,



1 none of whom appeared at the Commission's hearing,  
2 told the Commission in their questionnaires, which are  
3 summarized in the public version of the staff report,  
4 that in the event of revocation, "we do not expect any  
5 changes in our operations and response to the  
6 abolition of duty because all plants are producing  
7 solid urea at a high level of utilization".

8 "If the antidumping duty is revoked," they  
9 said, "the U.S. market will become an alternative.  
10 However, we would not supply solid urea to the U.S.  
11 market unless it was sold at a premium price after  
12 accounting for freight". They said, "due to  
13 considerable freightage towards the U.S., we do not  
14 believe that U.S. market prices will be high enough in  
15 the near future to justify substantial shipments".  
16 "Sales opportunities to the U.S. market", they said,  
17 "may also be limited due to U.S. market preference for  
18 granular urea fertilizer. We only produce prilled  
19 urea". Contrast those Russian Respondent  
20 representations with EuroChem's statement in 2006 that  
21 the U.S.A. is "among its target markets", and its  
22 press release just last September indicating that its  
23 new urea granulation facility had the United States as  
24 one of its two primary markets.

25 Contrast this with EuroChem's immediate

1       resumption of significant levels of dumping, pricing  
2       below its home market, after obtaining a new, lower  
3       deposit rate in its first administrative review.  
4       Contrast this with press reports and in what may  
5       determined from your purchaser questionnaires about  
6       how EuroChem has priced into the U.S. market compared  
7       to pricing of other imports and compared to U.S.-  
8       produced urea. The record reflects, among other  
9       things, that three of the four responding purchasers  
10      indicated that imports from Russia were lower priced  
11      than U.S. urea. We urge you to listen very carefully  
12      to what you will hear today, and we know you will, but  
13      to also think about what you're not hearing. Silence  
14      sometimes speaks louder than all of the lawyers in  
15      Washington. Thank you for your attention this  
16      morning, and we look forward to presenting our  
17      testimony.

18                   CHAIRMAN OKUN: Thank you.

19                   MR. BISHOP: Madam Chairman, our panel this  
20      morning in support of continuation of the orders has  
21      been seated. All witnesses have been sworn.

22                   CHAIRMAN OKUN: Thank you. You may proceed.

23                   MS. SLATER: Thank you, Chairman Okun. The  
24      last time that I was before this Commission there also  
25      was no opposition. I'm starting to think it's that

1 I'm just scaring people away and maybe should trade on  
2 that reputation. We've brought with us today  
3 witnesses from CF Industries and from Potash  
4 Corporation of Saskatchewan, which is the owner of PCS  
5 Nitrogen which produces urea in the United States, and  
6 also Mr. Klett, with whom you're familiar, to provide  
7 some economic testimony. I think we'd like to lead  
8 off with Mr. Bohn from CF Industries.

9 MR. BOHN: Good morning, Madam.

10 CHAIRMAN OKUN: If you can make sure your  
11 microphone is closer and on.

12 MR. BOHN: Good morning, Madam Chairman and  
13 members of the Commission and staff. My name is  
14 Christopher Bohn. I am the Vice President of  
15 Corporate Planning at CF Industries. I have held this  
16 position since October of 2010. Prior to that time, I  
17 was CF Industries' director of corporate planning. I  
18 hold a Bachelor's degree in finance from Indiana  
19 University and an MBA from Northwestern University's  
20 Kellogg School of Management. I appreciate the  
21 opportunity to appear before you this morning and to  
22 discuss why CF Industries strongly supports the  
23 continuation of the Russian and Ukrainian urea orders  
24 for an additional five years. In my position at CF  
25 Industries, my job involves every day the type of

1 predictive analysis that this Commission is required  
2 to undertake in its sunset reviews, and believe me, I  
3 appreciate the difficulty of your job.

4 CF Industries' strategic planning and  
5 forecasting functions, which are in my portfolio of  
6 responsibilities, require a careful examination of  
7 current and expected market conditions to help us  
8 determine how CF Industries should best position  
9 itself to bring the best returns to our shareholders.  
10 Because of my role in strategic planning functions at  
11 CF, I was closely involved in the company's decision  
12 to seek continuation of the two remaining urea  
13 antidumping orders. My goal in appearing before you  
14 today is to explain why we have concluded that keeping  
15 these orders is not only desirable, but necessary. I  
16 will tell you that we did not take this decision  
17 lightly or make it quickly.

18 Our assumption had been that we would not  
19 need to be here, so the decision to again request  
20 continuation was a hard one for our company. We are  
21 convinced it was the right one. CF Industries  
22 operates the largest solid urea production facility in  
23 the United States. Our plant is located in Donaldson,  
24 Louisiana, and has a total annual solid urea capacity  
25 of about 1.7 million tons. We also have substantial

1 interest in a urea plant in Medicine Hat, Alberta,  
2 Canada, from which we serve customers in the upper  
3 midwest and Pacific northwest. We also own a plant in  
4 Courtright, Ontario, from which we serve customers in  
5 eastern Canada and the northeastern United States. In  
6 the United States, the primary demand for solid urea  
7 has always been, and continues to be, for use as  
8 nitrogen fertilizer which today accounts for roughly  
9 80 percent of total urea demand.

10 The remaining 20 percent is used in a  
11 variety of industrial applications, such as resins and  
12 as animal feed supplement. For CF Industries, the  
13 vast majority of our solid urea production goes for  
14 fertilizer uses, although a portion of our production  
15 does go to industrial customers. In the United  
16 States, solid urea is the most widely used nitrogen  
17 fertilizer. It has a high nitrogen content of 46  
18 percent and is relatively easy to handle, store and  
19 apply. Unlike UAN solutions or ammonia, the other two  
20 widely used nitrogen fertilizers, urea does not  
21 require any specialized application equipment. It can  
22 be applied using any one of a variety of different  
23 types of equipment designed for the application of dry  
24 fertilizer products.

25 Urea is used on almost every major crop

1 produced in the United States, including corn, wheat,  
2 rice, cotton and pasture. Urea can be spread by  
3 itself onto the field, which we call direct  
4 application, or blended with other dry fertilizer  
5 products, such as phosphate and/or potassium. The  
6 U.S. distribution system for urea has changed very  
7 little since the Commission first examined the urea  
8 market. Urea is moved up the Mississippi in 1,500 ton  
9 barges to distribution terminals owned by U.S.  
10 producers and large distributors. Urea also is moved  
11 into the market by rail and truck. A high percentage  
12 of urea imports enter at gulf ports, particularly  
13 through New Orleans.

14 Urea imports move through the same  
15 distribution channel as U.S.-produced urea with large  
16 vessels unloading urea onto barges or into facilities  
17 from which it is moved into the key consuming regions  
18 largely by rail. The U.S. producers generally sell to  
19 local and regional distributors who, in turn, sell to  
20 dealers or sometimes directly to farmers. These large  
21 customers, particularly regional distributors, also  
22 purchase and sell imported urea. U.S. producers  
23 compete head to head with imports on a day-to-day  
24 basis. Imports are, and will remain, an important  
25 source of supply. In 2010, imports supplied about

1 three-quarters of U.S. solid urea demand. U.S.  
2 producers, such as CF Industries and PCS Nitrogen,  
3 have recognized the role of imports, which has been  
4 growing as U.S. production has declined, and have  
5 invested in production outside of the United States  
6 which is used to supplement our domestic production.

7 A significant portion of imports is  
8 therefore associated with companies which, like CF  
9 Industries, also have U.S. production. Most other  
10 imported urea, however, is brought into the United  
11 States by large trading companies, such as  
12 Transammonia. These same traders help to move large  
13 quantities of urea from Russia and Ukraine to other  
14 markets outside the United States. Today, as was the  
15 case in your last sunset review, only six solid urea  
16 producers are operating in the United States, although  
17 one producer, Agrium, has now closed its largest U.S.  
18 plant in Kenai, Alaska. This compares to the two  
19 dozen or so that were operating when the case was  
20 filed in 1986. The remaining producers are the most  
21 efficient producers and those best positioned to  
22 compete.

23 All remaining plants serve the U.S. market  
24 and generally do not serve customers outside of the  
25 United States. It is important for the Commission to

1 recognize that while world supply and demand  
2 conditions do affect the U.S. market, a number of  
3 different factors result in price differences between  
4 the U.S. market and urea markets in other part of the  
5 world. These include transportation costs, both ocean  
6 freight and inland, delivery time and foreign  
7 government policies, such as tariffs, import  
8 limitations or export restrictions. Because different  
9 prices typically exist in different countries and  
10 because urea is a fungible commodity, exporters and  
11 traders will generally take urea to the locations that  
12 not only offer the best net-back, but also can take  
13 the largest volume.

14 A trader's total profit is affected both by  
15 his margin and his total sales volume. Russia and  
16 Ukraine continue to be the world's largest exporters.  
17 The United States is the largest single importing  
18 country. Our market will be very attractive to  
19 Russian and Ukrainian supply, just as it is for other  
20 imports. The attractiveness of our market is based on  
21 a number of factors. First, as I just noted, the  
22 United States is the single largest importing country  
23 worldwide. Second, the United States has a favorable  
24 business climate, a transparent market and no duties  
25 at all on urea as compared with significant import



1 duties imposed in many other markets. Third, payment  
2 is in U.S. currency.

3 Fourth, unloading delays and port  
4 congestions, which are frequent in Latin American and  
5 Asian ports and which can result in significant emerge  
6 charges and delays, are not as common here. Finally,  
7 buyers in the United States are better capitalized and  
8 have consistent access to funding, making the U.S. an  
9 even more attractive destination when market  
10 conditions are difficult. In fact, as you may recall,  
11 in the last sunset review we called to your attention  
12 the rapidity with which traders and importers moved  
13 urea from Belarus, Estonia and Romania into the United  
14 States almost immediately after the antidumping orders  
15 on urea from those countries were revoked. To us,  
16 this was a clear demonstration of the continued  
17 attractiveness of the U.S. market and the ability of  
18 traders to rapidly move product here.

19 In this review, the Commission has another  
20 example of that phenomenon. China's role in the  
21 global urea market has changed significantly over the  
22 last five years. China has gone from being a major  
23 importer of solid urea in the late 1990s to a net  
24 exporter. China banned urea imports starting in 1998  
25 in order to establish its own industry and now impacts

1 the global market each year by its fluctuating export  
2 tax policies which operate to increase or  
3 significantly reduce Chinese supply. Since the  
4 Commission last examined the U.S. urea industry one  
5 development is China's presence in the U.S. market.  
6 Available Chinese supply, both prilled and granular,  
7 has been moved into the United States in significant  
8 quantities when it has been available.

9 In 2010, China was the largest source of  
10 import supply outside of Canada. Much of this was  
11 moved by large trading companies, and neither product  
12 form nor shipping distances were a barrier to the  
13 ability of Chinese product to be rapidly made  
14 available. The same would be true of Russian and  
15 Ukrainian product which could be offered below the  
16 prices that we have seen even from China. That brings  
17 me to CF Industries' reasons for asking this  
18 Commission to continue the Russian and Ukrainian  
19 orders for another five years. You know, and it is a  
20 matter of public record, that CF Industries is doing  
21 extremely well. The last two years have been very  
22 good for us, to say the least.

23 We have had the convergence of a number of  
24 extraordinary factors which not even the most talented  
25 corporate planner could have predicted. The global

1 supply/demand balance has been extremely favorable in  
2 recent periods. While there has been a significant  
3 addition of global capacity, as we had told the  
4 Commission there would be in this most recent five  
5 year period, what we could not have predicted was that  
6 demand would be substantially strengthened as the  
7 result of: 1) high farm commodity prices leading to  
8 increased acreage and increased use of nitrogen to  
9 boost crop yields; 2) significantly increased import  
10 demand from India; and 3) adjustment to the renewable  
11 fuel standard, or RFS, that required the increased use  
12 of ethanol in gasoline blends.

13           These demand side factors have led to a  
14 favorable supply/demand balance which, in turn, has  
15 brought about construction and imminent addition of  
16 more global supply. Much of the new export supply  
17 will come from the Middle East and North Africa. As  
18 the Commission has seen, industry experts and the  
19 International Fertilizer Association expect this  
20 additional new supply to soften the current balance  
21 considerably over the next five years. In addition to  
22 a market which is favorably balanced at the moment,  
23 our performance has been positively impacted in the  
24 last two years by a period of stable natural gas  
25 pricing. As you will remember, natural gas is our

1 feedstock and accounts for about half of our solid  
2 urea production cost, depending on the price of the  
3 gas.

4           The availability of natural gas from shale  
5 using fracking technology has added to major gas  
6 supplies and moderated gas prices. It is important  
7 for the Commission to understand two things about our  
8 current gas situation. First, even in relative  
9 stability we have experienced recently, there's no  
10 guarantee that prices will be flat or stable in the  
11 future. The EIA similarly projects natural gas price  
12 increases over this period in the range of about 15  
13 percent. Second, while we believe that the natural  
14 gas situation should remain stable, as our annual  
15 reports and 10ks make clear, the volatility of natural  
16 gas pricing is one of the significant risk factors in  
17 our business.

18           As the Commission has seen even during this  
19 most recent five year review period, the price of  
20 natural gas has swung wildly from a high of \$8.76 per  
21 MMBTU, and \$12.61 in 2006 and 2008, respectively, to a  
22 low of \$2.90 in late 2009 based on Henry Hub pricing.  
23 While the availability of natural gas from shale  
24 sources should mean stable natural gas supply and  
25 pricing in the near term, there are a variety of

1 factors which could change the situation over a  
2 relatively short period. These include government  
3 policies or regulations concerning the use of  
4 fracking, policies that would artificially increase  
5 the demand for natural gas by encouraging or requiring  
6 the use of natural gas rather than other energy  
7 sources, and natural disasters, such as the successive  
8 Gulf hurricanes experienced in 2005 and in 2006.

9           In deciding to seek continuation of the  
10 Russian and Ukrainian antidumping orders we took into  
11 account, however, not only our own natural gas pricing  
12 and business cycle situations, we looked carefully at  
13 what has transpired in the last five years in Russia  
14 and Ukraine. Russia, which quite promisingly  
15 announced in 2006 a plan to liberalize its domestic  
16 industrial natural gas prices by January of 2011, has  
17 not fulfilled that plan. Today, Russian industrial  
18 natural gas prices remain at about half the level that  
19 the Russian government's own liberalization plan  
20 defined as a market tide price. The liberalization of  
21 natural gas prices that should have occurred by the  
22 beginning of this year has been postponed and pushed  
23 down the road and it is not clear to us when, or if it  
24 will actually occur.

25           Russia has even stopped publishing the

1 quarterly indications of what the liberalized price  
2 would be if it were in effect. This published price  
3 was made available each quarter starting in early  
4 2007, even though it was not yet in effect, to help  
5 the Russian industrial users anticipate and adjust for  
6 the changes. It appears that even that promising step  
7 has been abandoned. The continuing nonmarket basis  
8 for urea production in Russia means that factories,  
9 which otherwise are outdated and inefficient, continue  
10 to produce and export. The Russian suppliers continue  
11 to bring product to the export market at prices which  
12 are consistently the lowest in the world and that  
13 Russian producers, in some cases, are able to invest  
14 in new plants, including granulation facilities that  
15 might not otherwise be built.

16           Moreover, the natural gas price increases  
17 that have occurred have not impacted Russia's export  
18 capabilities significantly due in part to Russia's  
19 devaluation of the Ruble. In Ukraine, the situation  
20 is murky at best. We saw a number of years in which  
21 it appears that the government of Ukraine was  
22 assisting Ukrainian suppliers by reducing the gas  
23 price to Ukrainian plants. In recent periods it  
24 appears that some arrangements have been made to  
25 supply favorably priced natural gas to Ukrainian

1 plants through arrangements made with Gazprom Invested  
2 Joint Ventures. Gazprom is of course the Russian  
3 natural gas producer and supplier.

4           What is clear is that Ukraine has continued  
5 to produce and export enormous quantities of urea  
6 despite significant increases in the price of natural  
7 gas supplied to Ukraine from Russia, natural gas  
8 prices which are clearly not be reflected in Ukrainian  
9 production costs or in export prices. Another  
10 important factor for us in deciding to request  
11 continuation has been our experience over the past  
12 five years with Russian producer that has been active  
13 in selling urea in the United States. EuroChem, now  
14 one of the largest producers in Russia, entered the  
15 U.S. market beginning in 2006. Once it reduced its  
16 cash deposit rates, its subsequent shipments were  
17 dumped by significant margins.

18           More importantly, however, its shipments  
19 were at low prices that caused more than a ripple in  
20 the market, as reflected in industry publications.  
21 The commodity nature of the urea market and wide  
22 dissemination of pricing information means that even a  
23 single shipment of low priced product will cause  
24 buyers to seek price reductions. That is what  
25 happened with the EuroChem shipments, and we can share

1 our company's experience with EuroChem's activities on  
2 a confidential basis if that would be of interest to  
3 the Commission. Our experience with continued  
4 dumping, its behavior in the market and its self-  
5 proclaimed targeting of the U.S. market, combined with  
6 expected conditions over the next five years led us to  
7 conclude that these orders are still needed and that  
8 is why we are here today. I thank you for your time  
9 and attention, and I look forward to answering your  
10 questions.

11 CHAIRMAN OKUN: Thank you.

12 MS. SLATER: I'd like to turn now to Mr.  
13 Mulhall from Potash Corporation in Saskatchewan.

14 MR. MULHALL: Good morning, Madam Chairman,  
15 members of the Commission and staff. My name is Al  
16 Mulhall. I'm the Senior Director of Market Research  
17 of Potash Corporation of Saskatchewan, Inc., of which  
18 PCS Nitrogen Fertilizer LP and PCS Nitrogen Ohio LP  
19 are indirect wholly owned subsidiaries and U.S.  
20 producers of solid urea. I've been with PCS for 43  
21 years and have spent a total of 43 years working in  
22 the fertilizer industry. I have a Bachelor's degree  
23 in chemistry and have completed MBA coursework. I've  
24 published numerous articles on fertilizer markets and  
25 serve on a number of task forces and committees of the



1 International Fertilizer Industry Association, which  
2 is also known as IFA.

3 I'm a board member of the Fertilizer  
4 Roundtable and previously served as the chairman of  
5 the Fertilizer Institute's Economics Council. I've  
6 been granted the honor of appearing here today given  
7 the recent retirement of Jim Dietz, our Chief  
8 Operating Officer who appeared before you in the last  
9 review. The continuation of the antidumping orders on  
10 solid urea from Russia and Ukraine is very important  
11 to PCS Nitrogen and will continue to have a pivotal  
12 role in the future of our U.S. urea operations. Today  
13 we are asking the Commission to allow the antidumping  
14 orders on urea from Russia and Ukraine to remain in  
15 effect for another five years.

16 PCS, like CF, remains convinced that the  
17 United States is an appealing market for Russian and  
18 Ukraine in urea and it is likely that revocation of  
19 the orders would result in a significant influx of low  
20 priced Russian and Ukrainian urea. Today I will try  
21 and explain why. One of the big issues the Commission  
22 wrestled with in its 2005 review of this order was the  
23 relationship between granular and prilled urea. The  
24 Commission closely examined whether prilled imports  
25 from Russia and Ukraine would really compete with the

1 U.S. solid urea market which more heavily uses  
2 granular urea. As a U.S. producer with both prilled  
3 and granular urea production, PCS Nitrogen would like  
4 to share some of its experience in producing and  
5 marketing both forms of solid urea.

6 PCS Nitrogen, and its affiliate PCS Nitrogen  
7 Ohio LP, which I will refer to collectively as PCS  
8 Nitrogen, each operate a urea production facility in  
9 the United States with a combined capacity of nearly  
10 one million short tons of urea per year and most of  
11 our solid urea capacity is for prilled urea. Our  
12 plant in Lima, Ohio produces both prilled and granular  
13 urea. PCS Nitrogen was very pleased to host  
14 Commissioners Lane and Pinkert, along with a  
15 representative from Commissioner Pearson's office and  
16 Commission staff on a tour of its granular and prilled  
17 production facilities in Lima, Ohio this past summer.  
18 Our facility in Augusta, Georgia produces prilled urea  
19 only.

20 When it comes to solid urea production,  
21 there are two important facts for the Commission to  
22 keep in mind. First, and most important, solid urea  
23 is made using natural gas as the primary feedstock and  
24 only nominally as an energy source. It is the basic  
25 raw material and accounts for at least half the cost

1 of production of solid urea. Accordingly, the cost of  
2 natural gas in relation to urea prices will always  
3 drive industry performance. Secondly, as we hoped the  
4 Commissioners learned at their visit to our Lima plant  
5 this summer, most of the solid urea production  
6 process, whether prilled or granular, is the same up  
7 until the stage where the urea melt is solidified  
8 either through prilling or through granulation.

9           Accordingly, the processes for producing  
10 prilled and granular urea are more similar than they  
11 are different. As to the products themselves, there  
12 are, of course, differences between prilled and  
13 granular urea. There always have been. Granular has  
14 certain advantages in certain agricultural operations,  
15 and prilled has been favored by other applications.  
16 At PCS we sell nearly all of our granular and a  
17 substantial portion of our prilled production for use  
18 as a nitrogen fertilizer which includes sales to both  
19 the agricultural and lawn and garden markets. Of our  
20 total prilled production, less than half is sold into  
21 the industrial markets for nonfertilizer use.

22           These markets include animal feed, adhesives  
23 and other specialty applications. While the  
24 prevalence of granular urea in the U.S. market has  
25 unquestionably grown, there are two relatively simple

1 reasons. The first is the granular urea has certain  
2 advantages in some applications, including use in bulk  
3 blending of urea with other solid fertilizers which  
4 accounts for only about 20 percent of the urea applied  
5 by American farmers. Another very important reason  
6 why use of granular urea has grown in relation to  
7 prilled urea is that as older U.S. plants have closed,  
8 the supply that has been removed from the market was  
9 primarily prilled. This is because the older plants  
10 tended to have older prilling technology.

11 Similarly, as new capacity has come  
12 on-stream around the world, it has been granular  
13 capacity. We can see that even now in Russia and  
14 Ukraine where a number of granulation facilities are  
15 now in operation or under construction. The IFDC  
16 capacity report provided in Exhibit 6 of our  
17 prehearing brief, this is Russia's granulated urea  
18 capacity totalling 2.5 million metric tons urea with  
19 an additional one million metric tons for Ukraine.  
20 Together, this capacity is close to 60 percent of the  
21 current U.S. urea import level. At the time of the  
22 last review all Russian and Ukrainian capacity was  
23 prilled. Indeed, the majority of new capacity in  
24 these two countries since the last review has been  
25 granular.

1           Likewise, more granular supply is available  
2           in the United States and from countries supplying the  
3           U.S. market. The next question then is how and  
4           whether prices for prilled and granular urea affect  
5           one another. Although the U.S. market has shifted to  
6           granular, this does not mean that U.S. purchasers  
7           could not, or do not, or would not purchase prills  
8           when they are available, and particularly if they are  
9           significantly cheaper than granular product. Buyers  
10          of urea are price sensitive, and with sufficient  
11          availability of prills at a price discount, many  
12          customers will switch to prills or force their  
13          granular suppliers to reduce prices. As I mentioned,  
14          PCS Nitrogen produces both prilled and granular urea.

15                 Nearly all of our production, both prilled  
16          and granular, is highly sensitive to market price  
17          fluctuations and to competition from imports. Pricing  
18          for urea to many of our industrial users is linked to  
19          published prilled and granular prices that appear in  
20          *Green Markets* and similar fertilizer trade  
21          publications. Our industrial customers follow these  
22          prices and reference them in negotiations. Without  
23          going into details in this public forum, certain of  
24          our contracts for sales of prilled urea to industrial  
25          customers are tied to published prices, including

1 prices for granular urea. Similarly, much of the  
2 prilled product that we sell into the ag market for  
3 fertilizer use is priced by reference to the published  
4 granular price.

5 We compete with imports every day and one  
6 Russian producer has actually sold both prilled and  
7 granular urea in the U.S. market since the last sunset  
8 review in 2005 demonstrating that the U.S. market is  
9 attractive for both forms of imported urea. Our  
10 customers are savvy and cost conscious. We must be  
11 keenly aware of the published prices in the ag markets  
12 and be prepared to remain competitive with market  
13 pricing production. In the first eight months of 2011  
14 the price for Russian and Ukrainian product exported  
15 from the Black Sea is at about \$405 per metric ton,  
16 which translates into a delivered U.S. Gulf price of  
17 about \$440 per metric ton based on current ocean  
18 freight rates over this period.

19 If Russian and Ukrainian urea began to be  
20 shipped into the U.S. market based on expected market  
21 reaction, our prices would likely be impacted given  
22 that the average price of prilled imports into the  
23 Gulf in this same period has been \$466 per metric ton.  
24 When the antidumping orders on urea from Estonia,  
25 Romania and other FSU countries were revoked in

1 December 2004, trading companies began to quickly move  
2 prilled urea from those countries into the U.S. market  
3 and the Romanian and Estonian prilled urea was being  
4 sold into the United States for all applications,  
5 including feed, industrial, lawn and garden and  
6 fertilizer.

7 Today, prilled urea imports from China and  
8 Romania, among others, are being sold into the U.S.  
9 market for both agricultural and industrial  
10 applications. In the fertilizer market, prilled  
11 imports compete with granular. Revocation of the  
12 antidumping orders would likely result in increased  
13 shipments from Russia and Ukraine which could include  
14 prilled and/or granular urea with resulting pressure  
15 on U.S. prices due to underselling and volume  
16 additions. One thing that has not changed since 1986  
17 is the willingness of the Russian and Ukrainian  
18 exporters and the traders who market their urea to  
19 undercut the market to move volume. They're doing it  
20 in third country markets today.

21 It is likely that they will do it again to  
22 gain market share here, resulting in likely negative  
23 effects on the U.S. industry's sales and volumes.  
24 Here, in the United States, we have been experiencing  
25 a relatively stable period of natural gas pricing. Of

1 course cost is important, but it is the relationship  
2 between cost and product price that is critical. High  
3 and volatile natural gas prices forced a number of  
4 U.S. solid urea plants to close starting in 2003.  
5 Indeed, in 2003, increasing natural gas prices led PCS  
6 to indefinitely close its urea prill plant in Memphis,  
7 Tennessee. That plant remains shut today.  
8 Nevertheless, many U.S. plants remain competitive and  
9 they continue to produce today.

10 U.S. producers in general have the advantage  
11 of being close to their markets. For the remaining  
12 efficient U.S. producers, that advantage has allowed  
13 them to continue to operate in an environment marked  
14 by highly volatile natural gas prices and weather the  
15 price effects of increasing levels of imports.

16 However, moderation of natural gas prices in the  
17 United States produces results in our bottom line only  
18 if product prices permit positive margins. Even  
19 though a significant share of PCS's production is sold  
20 into the nonagricultural markets, the negative effects  
21 of Russian and Ukrainian imports on published prices  
22 to which many of our industrial sales are tied would  
23 threaten to erode our profitability.

24 We remain concerned about the future  
25 performance of PCS Nitrogen if the orders on Russian



1 and Ukrainian product are revoked. In closing, we  
2 recognize that the U.S. industry appears strong in the  
3 snapshot provided in this five year review, but given  
4 the cyclical nature of the urea industry, the  
5 historical unpredictability of U.S. natural gas prices  
6 and the likelihood of substantial volumes of  
7 aggressively priced Russian and Ukrainian imports of  
8 solid urea that will enter the U.S. market if the  
9 orders are revoked, we respectfully request that the  
10 Commission continue the orders for another five years.  
11 It is our sincerest hope that within that time period  
12 Russian and Ukrainian domestic natural gas prices will  
13 become market-based prices and that the success or  
14 failure of Russian and Ukrainian urea exporters will  
15 be determined by their efficiencies and not by their  
16 government-manipulated gas prices. At that point, we  
17 will welcome fairly traded urea imports from Russia  
18 and Ukraine to join those from other exporting  
19 countries. Thank you for your attention. I'll be  
20 glad to answer your questions.

21 CHAIRMAN OKUN: Thank you.

22 MS. SLATER: Now that everyone is completely  
23 awake, we'll turn to Mr. Klett for some discussion of  
24 the numbers. Dan?

25 MR. KLETT: Good morning, Chairman Okun and

1 members of the Commission. My name is Daniel Klett.  
2 I'm an economist with Capital Trade Incorporated,  
3 testifying on behalf of the U.S. urea industry in this  
4 sunset review. I will be addressing three issues.  
5 First, prilled versus granular urea and changes since  
6 the prior sunset review. Second, an analysis of  
7 prices on a net-back basis and implications for the  
8 attractiveness of the U.S. market for urea exporters  
9 in Russia and Ukraine. Third, information relevant to  
10 the likelihood of underselling. Mr. Mulhall discussed  
11 prilled and granular urea competition. I want to  
12 discuss a few additional points on this issue. First,  
13 there's now significant existing and planned granular  
14 urea capacity in Russia and an existing granular urea  
15 plant in Ukraine.

16 IFDC's latest urea capacity listing by  
17 plant, which is in Exhibit 6 of our prehearing brief,  
18 shows granular urea operating capacity in Russia in  
19 the 2007/2008 fertilizer year of 1.8 million short  
20 tons, increasing to 2.3 million short tons in the  
21 2010/2011 fertilizer year. Additional granular urea  
22 capacity under construction stands at 1.2 million  
23 short tons projected for the 2012/2013 fertilizer  
24 year, for a total of 3.5 million short tons of  
25 granular urea capacity by that year. The Americas is

1 a significant export region for both Russia and  
2 Ukraine. There is no doubt that absent an order a  
3 portion of the granular urea capacity in these  
4 countries will be directed to the United States.

5 In Exhibit 22 of our prehearing brief, you  
6 will find a EuroChem press release indicating that the  
7 United States is one of the two primary markets for  
8 Russian granulated urea. Second, although some U.S.  
9 prilled urea goes to specialized industrial  
10 applications, this constitutes a small share of  
11 prilled urea consumption in the United States. Most  
12 U.S. prilled urea consumption is still for direct  
13 fertilizer applications or for standard industrial  
14 applications where contract pricing is tied to  
15 published *Green Market* prices for fertilizer grade  
16 urea in New Orleans.

17 Third, if there's any question regarding the  
18 ability of prilled urea to be substituted for granular  
19 urea in applications, consider that, as noted in your  
20 staff report, many purchasers reported availability of  
21 prilled urea to be a major factor limiting the  
22 potential for prilled urea to be substituted for  
23 granulated urea. It follows an increased availability  
24 of prilled urea imports from Russia and Ukraine with  
25 the revocation of the order will result in greater

1 potential to substitute prilled for granular urea, and  
2 consequently, adverse volume and price effects for  
3 U.S. producers' granular urea sales, as well as  
4 prilled urea sales. Moreover, it is clear that the  
5 U.S. market is very attractive for Russian and  
6 Ukrainian exporters.

7           We have prepared a net-back analysis that is  
8 in our prehearing brief at Exhibit 19. Slide 1, which  
9 you should have in front of you, summarizes the  
10 methodology. The starting point for the analysis are  
11 averaging values for Russian and Ukrainian urea  
12 exports derived from GTIS data presented in the staff  
13 report. I have access to the same database and  
14 analyzed the data on a monthly basis during 2005  
15 through June 2011 for exports to all markets, and  
16 separately for Brazil. I analyzed Brazil alone  
17 because it is the Americas, shipments are by ocean  
18 going vessel and ocean freight rates from Black Sea or  
19 Baltic ports to Brazil are similar to ocean freight  
20 from those same ports to the U.S. Gulf.

21           In addition, Brazil is the single largest  
22 export market for both Russia and Ukraine. The  
23 analysis compares average FOB export prices from  
24 Russia and Ukraine to all markets in Brazil  
25 separately, with a calculated net-back price for

1 exports to the United States based on prevailing U.S.  
2 prices at New Orleans from *Green Markets* for both  
3 prilled and granular urea, less ocean freight from  
4 Russia and Ukraine to the U.S. The ocean freight rate  
5 used in the analysis is Black Sea to Brazil from  
6 FERTECON. The ocean freight rate is very similar to  
7 Black Sea to east coast Mexico ocean freight rates and  
8 to ocean freight rates for actual imports from Russia  
9 from census data for the few months where we do have  
10 direct comparisons.

11 Slide 2 summarizes the results. The U.S.  
12 provided a favorable net-back price based on prilled  
13 urea prices in NOLA compared to the average unit value  
14 for total exports from Russia. The U.S. market  
15 provided a more favorable net-back in 72 of 77 months.  
16 The higher U.S. net-back increased from \$54 per short  
17 ton on average in 2008 to \$81 per short ton on average  
18 in the first six months of 2011. Comparing NOLA  
19 prilled urea prices to Russia's average export price  
20 to Brazil, more favorable net-back for exporting to  
21 the U.S. increased from \$54 per short ton in 2008 to  
22 \$87 per short ton in the first six months of 2011.

23 The U.S. consistently provided more  
24 favorable net-back prices than alternative markets for  
25 Russia, with the exception of a limited number of

1 months in 2008 when the trade press reported that non-  
2 U.S. markets provided more favorable pricing, and some  
3 imports into the U.S. Gulf were, in fact, diverted to  
4 non-U.S. destinations. This occurrence in 2008  
5 demonstrates just how sensitive trade flows are to  
6 differences in regional pricing. For Ukraine, the  
7 U.S. market provided a more favorable net back in 70  
8 of 77 months based on prilled urea prices in NOLA  
9 compared to the average unit value for total exports  
10 at \$44 per short ton in 2008 and \$75 per short ton in  
11 the first six months of 2011.

12 Comparing NOLA prilled prices to Ukraine's  
13 average price to Brazil, the more favorable net-back  
14 price for exporting to the U.S. increased from \$39 per  
15 short ton in 2008 to \$79 per short ton in the first  
16 six months of 2011. Regarding underselling, there is  
17 no importer questionnaire from EuroChem and the  
18 Commission has no sales price information into the  
19 U.S. market for the 165,000 short tons of urea  
20 imported from Russia in 2010 and the first half of  
21 2011. However, three or four purchasers did report  
22 that urea imports from Russia and Ukraine were lower  
23 priced than the U.S. produced urea. In the second  
24 sunset review, the Commission compared Black Sea and  
25 Middle East prices at their ports of exportation and

1 average unit values in imports into non-U.S. markets  
2 as indicators of likely underselling.

3 We have provided similar comparisons on this  
4 basis for the current period of review. Black Sea FOB  
5 export prices have been lower than Middle East FOB  
6 prices in 76 of the 80 months from 2005 through August  
7 2011. During 2010 and through August 2011, these  
8 Black Sea prices at the port averaged \$15 per short  
9 ton lower than Middle East prices. Russian urea also  
10 may be exported from Baltic ports and Baltic FOB  
11 prices averaged \$21 per short ton lower than FOB  
12 Middle East export prices over the same period. These  
13 comparisons are irrelevant for likely underselling for  
14 two reasons. First, the Middle East is a major non-  
15 U.S. supplier of urea to the United States.

16 Second, ocean freight from the Middle East  
17 to the U.S. Gulf is comparable to Black Sea or Baltic  
18 port ocean freight to the U.S. Gulf. We can also  
19 compare average unit landed values for Russian,  
20 Ukrainian and other urea imports into the EU 15  
21 countries, into Brazil, Peru and Canada. The EU 15  
22 comparisons are of particular interest because Russia,  
23 Ukraine and the Middle East are major suppliers to  
24 these countries and import value data are available on  
25 a CIF basis. The average unit value of imports from

1 Russia and Ukraine combined was lower than for imports  
2 from Middle East countries in 75 of 77 months examined  
3 since 2005 and averaged \$29 per short ton less in 2010  
4 and \$22 per short ton less in the first five months of  
5 2011.

6 Imports into Peru are also on a CIF basis  
7 and Russia and Ukraine accounted for 70 percent of  
8 imports into Peru, followed by imports from other  
9 Eastern European and FSU countries. Comparisons were  
10 available in only eight of the 17 months during 2010  
11 through May 2011. However, in seven of those eight  
12 months, the average unit value of imports from Russia  
13 and Ukraine was lower than imports from Eastern  
14 European and FSU countries. Import values for Brazil  
15 and Canada are available only on an FOB basis so are  
16 not as useful as proxies for likely underselling.  
17 Nonetheless, Brazil is a major export market for both  
18 Russia and Ukraine and one of the few markets into the  
19 Americas where Middle Eastern countries also have a  
20 significant presence.

21 Imports from Russia and Ukraine were lower  
22 priced than imports from Middle Eastern countries in  
23 21 of the 26 months for which comparisons were  
24 available, with the price differential being \$13 per  
25 short ton or greater. There are even fewer



1 comparisons on a monthly basis for Canada where Russia  
2 and Ukraine accounted for 16 and a half percent of  
3 total urea imports into Canada in the first seven  
4 months of 2011. There are four months in 2010/2011  
5 where there were commercially significant import  
6 volumes from both Middle Eastern countries and Russia  
7 and Ukraine, and underselling by Russia and Ukraine  
8 was present in all four comparisons. Thank you, and I  
9 will be happy to answer any questions you may have.

10 CHAIRMAN OKUN: Thank you.

11 MS. SLATER: Thank you, Madam Chairman.  
12 That will conclude our testimony. Thank you for your  
13 attention, and we will be happy to answer your  
14 questions this morning.

15 CHAIRMAN OKUN: All right. Well, let me  
16 take this opportunity to thank all of you,  
17 particularly the industry witnesses who have taken the  
18 time to join us today and for all the information that  
19 you've provided. Extremely helpful as we proceed. We  
20 will start our questions this morning with Vice  
21 Chairman Williamson.

22 VICE CHAIRMAN WILLIAMSON: In a recent  
23 review of an order on ammonium nitrate, we heard a  
24 testimony that demand for ammonium nitrate was  
25 declining in part because of concern over new or

1 proposed handling requirements for security purposes.

2 Are you aware of any users that have  
3 recently switched from ammonium nitrate to urea?

4 MR. BOHN: Chris Bohn, CF Industries. I am  
5 not aware of that.

6 VICE CHAIRMAN WILLIAMSON: Okay. Do you  
7 anticipate that it might become a problem in the  
8 future?

9 MR. BOHN: There could be a potential that,  
10 as regulatory gets more, gets tighter on it, that it  
11 may see some switching from AN to any type of other  
12 nitrogen, urea being one of them.

13 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

14 MR. MULHALL: Al Mulhall from Potash Corp.  
15 Up until a couple years ago we produced ammonium  
16 nitrate as both an industrial product for use in, in  
17 mining operations and similar uses, as well as in  
18 agricultural applications. Because of the concerns  
19 over security, we found that additional handling of  
20 the product was no longer justified, and we  
21 discontinued sales of ammonium nitrate as a fertilizer  
22 product.

23 Subsequent to that, people who had been  
24 purchasing ammonium nitrate from us as a fertilizer  
25 switched to use of other products, which could include

1 direct application of ammonia or urea, in addition to  
2 UAN solutions.

3 VICE CHAIRMAN WILLIAMSON: Okay. Would you  
4 agree that this is not a significant factor going  
5 forward? It is not likely to be a significant factor  
6 in terms of uses of urea, uses of urea over ammonium  
7 nitrate?

8 MR. MULHALL: From our point of view, we  
9 have, we have discontinued it, and we don't anticipate  
10 it being a factor in any way going forward.

11 VICE CHAIRMAN WILLIAMSON: Thank you. Mr.  
12 Bohn?

13 MR. BOHN: Chris Bohn, CF Industries. The  
14 ammonium nitrate market from an agricultural side is  
15 only, it's less than a million tons a year of direct  
16 application for agricultural purposes. So we do not  
17 necessarily see a significant decline or switching to  
18 urea based on that.

19 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
20 As you know, three Commissioners voted in the negative  
21 in the last sunset review. In a post-hearing  
22 submission, could you address the main points cited by  
23 the dissent, and explain why these points are not  
24 applicable or otherwise not persuasive? You sort of  
25 hinted at that in your opening testimony.

1 MS. SLATER: We would be very pleased to do  
2 that in post-hearing. And thank you for that  
3 opportunity, Commissioner.

4 VICE CHAIRMAN WILLIAMSON: Thank you. Mr.  
5 Mulhall, could you please describe your relationship  
6 with your Canadian affiliates and the extent to which  
7 their operations are coordinated?

8 MR. MULHALL: We have operating facilities  
9 in the United States and in Trinidad, and in Canada.  
10 In Canada we have potash operations in the Province of  
11 Saskatchewan and in New Brunswick. We have no  
12 nitrogen operations or phosphate operations in  
13 Saskatchewan, in Canada.

14 We have nitrogen operations in the United  
15 States, and also in Trinidad, and we have phosphate  
16 operations in the United States.

17 VICE CHAIRMAN WILLIAMSON: Okay. So can we  
18 sort of, I guess you could almost say that NAFTA has  
19 resulted in, there is a common market, it sounds like,  
20 the way you're operating our --

21 MR. MULHALL: Our Canadian potash operations  
22 do export a substantial, a significant quantity of  
23 their production into the U.S. market. So yes,  
24 that's, we have a very, very good relationship between  
25 our Canadian producers of potash and the U.S. market.

1           The nitrogen operations in the U.S. do  
2 export minor quantities of nitrogen into Canada.

3           VICE CHAIRMAN WILLIAMSON: So does that mean  
4 most of -- okay. So the imports are a more  
5 significant source?

6           MR. MULHALL: Yes. Yes, the potash is much  
7 more significant.

8           VICE CHAIRMAN WILLIAMSON: I'm sorry, but  
9 I'm thinking, you talked mostly about potash. What  
10 about in terms of urea? This is what we're focused on  
11 today.

12          MR. MULHALL: Could you maybe expand on that  
13 question, please?

14          VICE CHAIRMAN WILLIAMSON: In terms of the  
15 companies, you know, marketing of urea in both the  
16 U.S. and Canada, I'm trying to think, to what extent  
17 are you coordinating --

18          MS. SLATER: Commissioner, if it's helpful,  
19 CF Industries has production of urea in both Canada  
20 and the United States. PCS only produces in the  
21 United States, so is that a question that perhaps CF  
22 could answer for you?

23          VICE CHAIRMAN WILLIAMSON: Yes, okay. Thank  
24 you.

25          MR. BOHN: Chairman, Chris Bohn, CF

1 Industries. Yes, we have operations in Medicine Hat,  
2 Alberta, which produces dry, solid urea, granular  
3 urea. And we also have urea production in Courtright,  
4 Ontario. And we view, we view those markets as a  
5 North America urea market. The Medicine Hat facility  
6 sells into the Pacific Northwest area and into western  
7 Canada, and we see the Courtright facility selling  
8 into the northeastern United States and the eastern  
9 part of Canada.

10 So when we see these imports, we are, as I  
11 mentioned in our testimony, we view this as a North  
12 America operation by CF Industries on the urea  
13 production.

14 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
15 China is the world's largest producer and consumer of  
16 solid urea. Can you both discuss China's role in the  
17 global urea market?

18 MR. BOHN: Chairman, Chris Bohn, CF  
19 Industries. China's role in the urea, global urea  
20 market, is one of some significant influence, due to  
21 the capacity that they have internally, or  
22 domestically, in China.

23 Recently China has addressed, over the last  
24 few years, with export tariff taxes that have had open  
25 windows as to when it's cost-prohibitive to ship urea

1 outside, to export urea from China. During this  
2 particular time period that we're in, this year they  
3 adjusted the open period, which was more tax-  
4 advantageous to ship out, to even higher tax, tax  
5 rate.

6 Where I'm going with this is China can  
7 influence the market significantly with the amounts of  
8 imports and exports they do. For instance, last year  
9 China exported approximately 7 million metric tons.  
10 This year, I believe to date, they have done around  
11 3.5 million metric tons. That's based on the cost-  
12 prohibitive export tax that the government put in.

13 VICE CHAIRMAN WILLIAMSON: So what is their  
14 strategy then? Are they trying to ensure the price of  
15 domestic users stays at a certain level, or what?

16 MR. BOHN: Yes, the latest export tax plan  
17 put in place has a floor domestic urea price, so that  
18 any exports have to, are taxed at a higher rate if  
19 they go out below that floor. And right now that  
20 floor is set approximately, or at least at the end of  
21 second quarter, about \$440 per metric ton. It since  
22 went up.

23 And based on that, that would equate to  
24 about a 28-percent tax rate. After the 440, anything  
25 above that being exported would be on a sliding scale,

1 which could have significant tax implications, where  
2 you could see tax rates rise significantly, into the  
3 40-, 50-percent range.

4 The export tax window, the open window,  
5 which I'm discussing right now, is about to close in  
6 October. It was open from July to the October period,  
7 and now it will close where any exports, regardless of  
8 the floor, will be taxed at 110 percent.

9 VICE CHAIRMAN WILLIAMSON: So what is their  
10 goal again?

11 MR. BOHN: Oh, I'm sorry. Their goal,  
12 essentially, I think, is to be self-sufficient from a  
13 urea production standpoint. And with the rise in both  
14 natural gas and coal costs to them, it's probably to  
15 limit the export of energy.

16 In addition to that, it's probably to create  
17 somewhat more environmentally regulated plants, and  
18 taking off some of their other capacity.

19 VICE CHAIRMAN WILLIAMSON: So they're trying  
20 to keep, well, they're trying to keep supply so that  
21 they can use the cleaner plants, or focus on that?

22 MR. BOHN: Well, I mean, the production  
23 they're bringing on is really, it's a little bit of a  
24 veiled understanding of how much production is  
25 actually coming on in China, and how much is being



1 removed of what is coming on.

2 I think what is certain is that the export  
3 tax that they put in place is to limit the number of  
4 exports this year. And the belief that we have, at CF  
5 Industries, is that that is due to an energy policy in  
6 which, since urea is so energy-intensive with natural  
7 gas, when you're exporting urea, you're effectively  
8 exporting energy.

9 VICE CHAIRMAN WILLIAMSON: And in the  
10 foreseeable future, do you see any changes in these  
11 policies?

12 MR. BOHN: That would be difficult to  
13 comment on, seeing how China has changed their policy,  
14 and even in this past year, last two years, has pulled  
15 up their export tax, and really hasn't let anyone know  
16 about it until the last minute. So I think any  
17 speculation on our part would be improper.

18 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
19 My time has expired, so thank you for those answers.

20 CHAIRMAN OKUN: Commissioner Lane.

21 COMMISSIONER LANE: Good morning. I do  
22 welcome you to this hearing.

23 The subject orders have been on since 1986,  
24 I believe, and one of the oldest orders that we have  
25 here at the Commission. To what extent can the

1 present state of the domestic industry, which is  
2 profitable despite a severe economic downturn, and  
3 it's increasingly concentrated, how much can you  
4 attribute its present, the present state of the  
5 domestic industry to these dumping orders on Russia  
6 and Ukraine?

7 MR. MULHALL: Al Mulhall, Potash Corp. The  
8 dumping order has prevented the imports of urea which  
9 was produced using non-market-based natural gas. And  
10 as a result, would have, from all our evidence, would  
11 have been brought into the country at floor prices.  
12 So the order has supported the market-based situation  
13 we have, we have for the sales in the United States.  
14 And as a result of that, it has contributed in a very  
15 good, to a very good degree to the current situation.

16 COMMISSIONER LANE: And it's your testimony  
17 that all of this would change if the orders came off?

18 MR. MULHALL: I think, as we had indicated  
19 at the last hearing, we hoped that the Russian and  
20 Ukrainian producers would be operating with market-  
21 based natural gas by the time we got to this hearing.  
22 And we strongly thought that that was a good  
23 possibility.

24 As things have turned out, the Russian  
25 producers have not made that change. They made a

1 commitment that they would, by January 1 of 2011, be  
2 in a position to produce with market-based natural  
3 gas. Subsequently, they have indicated that that will  
4 not take place. And I think, as Mr. Bohn indicated in  
5 his testimony, it is uncertain as to when that may  
6 take place.

7           They have indicated the possibility that it  
8 could take place in the 2014/2015 time interval.  
9 However, on the basis of their past performance, there  
10 appears to be no good reason to think that that  
11 actually will happen.

12           So while they're producing with non-market-  
13 based natural gas, it is very difficult to feel  
14 confident in what they might do in exports to the U.S.  
15 market. We have seen, I think, also as we heard in  
16 the previous testimony, that both Russian and  
17 Ukrainian producers do tend to undercut prices in the  
18 markets where they enter.

19           MR. BOHN: Chairman?

20           COMMISSIONER LANE: Yes.

21           MR. BOHN: Chris Bohn, CF Industries. I  
22 would like to also just build on what Mr. Mulhall  
23 suggested there.

24           The market, the industry itself is  
25 experiencing very strong fundamentals right now, which

1 also helps support the market. But in addition to  
2 that, the urea anti-dumping order here has prevented,  
3 in a cyclical market as the one that we're in,  
4 significant imports coming in, as Mr. Mulhall and Mr.  
5 Klett have mentioned, at underselling prices.

6           It is our belief that if this order is  
7 removed, as time goes on, and as our projections  
8 suggest and FERTECON's projections I should say  
9 suggest, that we're going to see some length in the  
10 supply market. You were seeing significantly new  
11 capacity coming on; that's when these orders will  
12 really be beneficial. Because you'll have an  
13 undercut, underselling pricing that won't be occurring  
14 here in the U.S. And in addition to that, you'll  
15 have, you won't be supporting or subsidizing the low-  
16 cost industry that subsidizes and can make capital  
17 expansions to the excess capacity that Russia has to  
18 export 7 million tons, of which about 40 percent of  
19 that goes to Latin America.

20           I think the concern we have is during this,  
21 in any kind of industry, downturn, we would see those  
22 tons find their way to the U.S. due to the  
23 attractiveness of the U.S. market, underselling other  
24 prices.

25           COMMISSIONER LANE: If the orders came off,

1 is it likely that Russia would continue its natural  
2 gas pricing that it has in effect now? Or is it  
3 likely that it might change and let it go to market-  
4 based pricing?

5 MS. SLATER: If I might, Commissioner Lane,  
6 I think that the Russian natural gas pricing situation  
7 is not honestly driven just by fertilizer production.  
8 I mean, this is a very fundamental policy that affects  
9 industries more broadly. It certainly impacts  
10 fertilizer to a much greater extent than any other  
11 product, given, given the use of the gas.

12 I don't think that you could expect any  
13 connection between removal of the order and a decision  
14 by Russia to liberalize gas pricing. On that score,  
15 one of the things I just wanted to follow up on your  
16 first question, if I might.

17 You asked to what extent the current state  
18 of the industry relates to the orders. For this  
19 Commission, having looked at the industry so closely  
20 just even within the last five years, you don't have  
21 to go back to the original period when the orders were  
22 imposed to understand that the industry has faced some  
23 very challenging circumstances. Even in 2005, when  
24 plants were shuttering because of gas supply issues  
25 and natural disasters, we've had very high gas prices

1 due to a range of things related to the gas supply.

2 We've had challenges over the last decade,  
3 and Mr. Bohn can speak to this as well, as can Mr.  
4 Mulhall. But these very, very challenging times have  
5 resulted in the loss of some production, but the  
6 production that has been able to remain has been  
7 there, in part, has been able to survive, and is now  
8 very strong because the order has prevented the  
9 further damage that would have occurred from the  
10 subject imports.

11 COMMISSIONER LANE: Mr. Klett, have you done  
12 any calculations on how much product would have to  
13 come in from Russia and the Ukraine to have a  
14 substantial effect upon this industry?

15 MR. KLETT: I haven't done that  
16 quantification, Commissioner Lane. What I can say is  
17 that when you look at the volume that Russia and  
18 Ukraine exports to Brazil, which is the largest market  
19 for both countries, and you look at the net-back  
20 analysis that I've done in terms of the attractiveness  
21 of the U.S. market based on pricing, as well as the  
22 indicators that Mr. Bohn talked about, that there  
23 would be significant volume that would enter the U.S.,  
24 which would have both adverse price and volume effects  
25 for the U.S. industry.

1           I think that one thing that you have to  
2 understand, too, is that in terms of quantifying  
3 adverse effects, you need to look at the, at the  
4 business cycle. And that as Mr. Bohn and Mr. Mulhall  
5 testified, given projections for a market downturn,  
6 you know, industry price and volume likely will  
7 decrease at some point over the next five years.

8           And that's also indicated by FERTECON. And  
9 under those conditions, I think the likely volume into  
10 the U.S. would have a material adverse effect. But I  
11 haven't, I haven't done a specific quantification to  
12 answer your question.

13           COMMISSIONER LANE: Okay, thank you. Given  
14 that Russia and the Ukraine have been out of this  
15 market for some time, if the orders were revoked, how  
16 difficult would it be for Russia and the Ukraine to  
17 start up channels of distribution to come back into  
18 the market?

19           MR. BOHN: Chairman, this is Chris Bohn from  
20 CF Industries. We do not believe that it would be  
21 very difficult at all. An example of that is when the  
22 orders expired for Belarus and Romania. At that  
23 particular time, it wasn't long after that that we saw  
24 significant quantities of urea from those countries  
25 begin to hit, be imported into the U.S.

1           As I mentioned in my testimony, traders  
2 today, it's a quick way and a very rapid way to make  
3 certain product move to where the pricing can be, and  
4 where the product can be monetized and liquidated.  
5 And the U.S. market being as attractive as it is, it's  
6 our belief that that would occur relatively quickly,  
7 similar to what it has in the past.

8           COMMISSIONER LANE: Okay, thank you. Madame  
9 Chair.

10          CHAIRMAN OKUN: Commissioner Pearson.

11          COMMISSIONER PEARSON: Thank you, Madame  
12 Chairman. And I know that Commissioner Lane has set a  
13 very good example, I'll try to emulate it.

14          Permit me to extend my welcome to all  
15 witnesses. Mr. Mulhall, I regret that I was unable to  
16 make it to the tour of your facility in Lima, Ohio.  
17 Out of necessity. I was in Ohio, but for another  
18 purpose, taking my favorite son to college, and so I  
19 missed it, but not by much.

20          Ms. Slater in particular will note that it's  
21 not every hearing, review hearing, in which I get to  
22 look back at an order that's in place because I cast a  
23 deciding vote in favor of keeping it. That  
24 affirmative was driven largely by issues of natural  
25 gas pricing, and so that's kind of the focus of much



1 of my questioning.

2           Could I ask you to start by kind of  
3 reflecting on what we've learned about natural gas  
4 markets in the United States, and globally over the  
5 past six years? It seems to me that things have  
6 evolved in a way that, at least to me, is somewhat  
7 counterintuitive. And I'd like to get your thoughts  
8 on what, you know, how things have played out, and  
9 what that means for the business now and looking  
10 forward.

11           And I know the two of you get paid to think  
12 strategically about these things, so please do so.

13           MR. BOHN: Commissioner, Chris Bohn, CF  
14 Industries. The shale gas story is, as we've  
15 described, the game-changer. It has taken the U.S.  
16 reserves from something that was relatively  
17 insignificant to over 100 years' worth of supply.

18           So while we look at the world and where we  
19 are today, based on the natural gas, we're seeing a  
20 stability and less volatility than we had seen in the  
21 past years.

22           I would caution that comment with that, at  
23 the same time, natural gas is still extremely  
24 volatile. And that's why it's our leading risk factor  
25 in our 10K and annual report due to that.

1           There's supply-side impacts, even with the  
2 shale technology, which has allowed for horizontal  
3 fracking that has created an increase in supply.  
4 That's based on environmental concerns with that.

5           There's also a continuation of weather  
6 concerns. Similar to what we saw in the 2005/2006  
7 timeframe were spikes, short term they maybe can  
8 happen in a natural gas market, and really cause a  
9 major impact on our industry.

10           From a demand-side base right now, the  
11 demand side, we're looking at the possibility for some  
12 of the, the down sides that could hit that would be  
13 regulation to move energy to more natural gas rather  
14 than coal-based for some of those.

15           So while we've seen a relative period of  
16 stability and less volatility, we also are very  
17 cognizant of some of the shocks that could hit during  
18 that timeframe.

19           At the same time the U.S. has been  
20 experiencing this, we continue to see in the subject  
21 countries discounting or subsidized pricing of natural  
22 gas that is not at market-based pricing. And due to  
23 that, you know, obviously it is one of the major  
24 reasons why we're here, because we have a lower-cost  
25 subsidized gas in those regions that are creating a

1 profitability that may not be a real market-based  
2 profitability, in allowing these plants in down  
3 periods of over-supply to potentially continue to  
4 produce, and in up periods maybe to even expand their  
5 production, based on that.

6 COMMISSIONER PEARSON: Mr. Mulhall, did you  
7 have any thoughts to add?

8 MR. MULHALL: I basically agree with Mr.  
9 Bohn on what he's said. The technology for production  
10 of gas from shales has been developed in the United  
11 States. Shales are, as I think people can imagine,  
12 they are a very dense type of rock, and it has a very  
13 low porosity.

14 As a result of that, although the formation  
15 can contain natural gas, it's very difficult to remove  
16 the natural gas from the formation. So prior to the  
17 development of the shale gas technology, wells were  
18 typically drilled with a, just a vertical component.  
19 And you would drill down to possibly a sandstone  
20 formation or something like that, which had a high  
21 porosity, and the vertical component, the vertical  
22 well was able to extract the gas over a considerable  
23 area.

24 For shales, because they're a lot tighter,  
25 it was very difficult to extract much gas. And so

1 while the knowledge was there that there were these  
2 very large areas which contained natural gas, and that  
3 if the technology ever was developed it would be an  
4 extremely good resource; because the shales were so  
5 tight and that technology hadn't been developed, it  
6 was not practical to get it.

7           Subsequent to that, two changes were  
8 implemented. One of which was the development of  
9 horizontal drilling, as Mr. Bohn mentioned. So the  
10 horizontal drilling allowed the well to be drilled  
11 vertically down to the formation, and then turn the  
12 corner and drill through the formation. That allowed  
13 the pipe going through the formation to have many  
14 entry points for the natural gas to enter, which was  
15 an extreme advantage.

16           The second technology change was use of  
17 fracturing the formation. This involved injecting a  
18 high-pressure liquid into the formation. The high-  
19 pressure liquid fractured the, fractured the shales,  
20 providing much more of an open area, and that allowed  
21 more natural gas to flow into the pipe.

22           This technology also involved using  
23 materials within the liquid which would keep these  
24 fracture points open after the pressure was applied.  
25 So that was a very good, very good technology.

1           The environmental concerns with it are that  
2           some of the materials that are in the liquid were felt  
3           to be of possible concern to the environment, with the  
4           major concern being that they could migrate into  
5           drinking water formations. So that, of course, is  
6           something that would concern people to a great extent.  
7           And there are people who are looking at whether or not  
8           there should be further concern.

9           So that's the area of uncertainty that Chris  
10          was talking about. At this point in time there are a  
11          number of locations within the U.S. where the use of  
12          fracture technology is not being allowed at this  
13          point. It doesn't mean that it won't be allowed in  
14          the future, and it also doesn't mean that there may be  
15          other places where the use of fracturing may be  
16          discontinued. So that is the uncertainty.

17          So while this new technology has provided  
18          the U.S. with a very substantial good position in  
19          natural gas rate at this point in time, the  
20          uncertainties mean that the future is somewhat murky  
21          and difficult to predict.

22                 COMMISSIONER PEARSON: The future often is  
23          murky. Well, thank you, thank you for those comments.  
24          Let me go a little more specifically.

25                 Would I be correct to assume that the United

1 States now looks like a better place to produce urea  
2 than might have been the case half a dozen years ago?  
3 I mean, you've got fixed-asset investments; they look  
4 better in the United States now than they did before  
5 the development of the shale gas technology, don't  
6 they?

7 MR. MULHALL: Al Mulhall, Potash Corp. Yes,  
8 I would agree that it is more favorable than it was.

9 MR. BOHN: Chris Bohn, CF Industries. I  
10 would agree, based on a stable and lower natural gas  
11 price than we experienced during some of those  
12 volatile periods. And as you mentioned, an asset base  
13 that's already here being able to be utilized  
14 consistently and run at high operating rates.

15 COMMISSIONER PEARSON: And have you noticed  
16 an improvement in the international competitiveness of  
17 U.S. urea production? Or is that washed out by the  
18 subsidized gas that you've made reference to, coming  
19 out of Russia?

20 MR. BOHN: Well, since the U.S. is such a  
21 large importer, with the logistical advantages and the  
22 distribution network that CF Industries has, we'd do  
23 limited to no exports at all because the netback  
24 margin to our plants would be higher keeping it here  
25 domestically.

1                   MR. MULHALL: Al Mulhall with Potash Corp.  
2                   Our U.S. operations export no significant quantities  
3                   of urea.

4                   COMMISSIONER PEARSON: Okay, fair enough.  
5                   Would it be correct to think that there might have  
6                   been some convergence in natural gas prices between  
7                   the United States pricing and Russian pricing, over  
8                   the, over the years? I mean, we've seen from the  
9                   staff report that the U.S. price has come down  
10                  somewhat. We don't have any clear indication of  
11                  whether the Russian price has come up. Could you  
12                  comment?

13                  MR. BOHN: Commissioner, natural gas supply  
14                  is in a regional basis. So the benefit of the U.S.  
15                  that has shale at this current timeframe would not  
16                  have really any impact on many other regions around  
17                  the world.

18                  MS. SLATER: And I would just add,  
19                  Commissioner, than unlike oil, for example, which is,  
20                  you know, can move rapidly from one place to another,  
21                  gas is generally carried by pipeline. And with the  
22                  exception of LNG, and these gentlemen certainly know  
23                  more about that than I do, but LNG can move more  
24                  readily, but a very small portion of the world's gas  
25                  is available in LNG form. So the gas, the gas supply

1 has remained very regional.

2 Just with respect to Russian gas, we have  
3 supplied information on current Russian gas pricing to  
4 the extent that we know it. And I know your time is  
5 up, but if you're interested, we can discuss a little  
6 bit what has happened there and what the history has  
7 been.

8 COMMISSIONER PEARSON: Okay, thank you.  
9 Thank you, Madame Chairman.

10 CHAIRMAN OKUN: Commissioner Aranoff.

11 COMMISSIONER ARANOFF: Thank you, Madam  
12 Chairman. I'd like to join my colleagues in welcoming  
13 all the witnesses here this morning. In the prior  
14 review, the Commission observed that antidumping  
15 remedies were applied to sales of Ukrainian urea in  
16 Mexico and the European Union, and there was also an  
17 EU remedy with respect to Russia, although it wasn't  
18 particularly effective at the time. Can you update us  
19 on the existence of any third country trade remedies  
20 from either Russia or Ukraine?

21 MS. SLATER: I think, Commissioner Aranoff,  
22 the remedies that were in place at that time are no  
23 longer there, and there's at least some discussion of  
24 that in the prehearing brief. But the Mexican  
25 measures have been removed, and the EU measures which



1 were in the nature of a minimum import price have also  
2 been removed, although, as you note, they weren't  
3 particularly effective at the moment we looked at it  
4 last time.

5 COMMISSIONER ARANOFF: Okay. In the last  
6 review, I found that the volume of imports from  
7 subject countries was not likely to increase to  
8 significant levels if the orders were revoked because  
9 subject producers, although clearly export-oriented,  
10 were operating at heights of capacity utilization, had  
11 pools in other markets, had already adapted to the  
12 loss of China as a major export market in the planning  
13 of a modest capacity expansion. I guess this is your  
14 opportunity to tell me what might be different on the  
15 current record.

16 MS. SLATER: I appreciate the opportunity.  
17 I will basically address it here, but I think we will  
18 give you in accordance with Commissioner Williamson's  
19 request a full written response in the posthearing,  
20 but there are a number of factors which have changed,  
21 and I'll make some initial comments, and maybe Mr.  
22 Klett would like to jump in as well.

23 First of all, the capacity utilization  
24 situation is different, and we've seen that the  
25 projections are different there. That's in part in

1 response to some of the new capacity that has come  
2 onstream and displacement from some of the markets  
3 that these countries were previously serving.

4 Another very significant change is the  
5 existence of -- capacity in both Ukraine and in Russia  
6 with additional substantial capacity expected to come  
7 onstream. A very important difference between this  
8 review, Commissioner Aranoff, and what you were  
9 looking at in 2005 is that you have seen, we have seen  
10 in this market Russian imports, and we have a better  
11 understanding of how they move into the market and how  
12 they behave and how they are sold. Unfortunately we  
13 don't have the questionnaire responses to give you the  
14 data which we feel pretty confident would be there,  
15 but that's also a very, very important difference for  
16 what's there.

17 Another additional difference, I think there  
18 was a concern among some of the dissenting opinions is  
19 that the Russian production was largely prilled with  
20 the U.S. market except very interestingly some of that  
21 Russian product which has moved into this market in  
22 the last five years has been prilled. In fact the  
23 initial shipments were largely prilled -- China, which  
24 was virtually not present in the market five years  
25 ago, has moved here and a significant portion of those

1 imports are also prilled. So any concern or doubt  
2 that there might have been about whether significant  
3 quantities of prilled could move quickly into the  
4 market I think should be dispelled by what we've seen  
5 over the last five years.

6 That's just for starters. I know Mr. Klett  
7 probably has a long list and maybe knows more than  
8 others.

9 MR. KLETT: I just have two additional  
10 points. We provided some FERTECON forecasts in our  
11 brief, and for Russia, FERTECON is projecting  
12 increases in capacity in Russia. They're projecting  
13 decreases in exports from Russia to other markets, and  
14 this is through 2013 or 2015 and consequently an  
15 increase in excess supply from Russia over the next  
16 five years. I mean, that's consistent with kind of  
17 global forecasts, but just on a more macro basis,  
18 those are some of the trends that FERTECON is  
19 projecting.

20 COMMISSIONER ARANOFF: Okay. Actually  
21 that's a good segue to my next question. You've made  
22 the point that Russian and Ukrainian exports to  
23 important third country markets are declining, and I  
24 wanted to explore to what extent those declines are  
25 due to the global economic conditions in 2009 and 2010

1 which haven't been very good, which makes those  
2 reduced exports more likely to be temporary versus the  
3 availability of other more favorable sources of supply  
4 to those third country markets.

5 MR. KLETT: I'll have to go back and look at  
6 the 2009, 2010 in terms of Russia's exports to other  
7 markets in terms of those trends. What I was focusing  
8 on was going forward in terms of the trends, and on  
9 that basis, there are projections that Russia will  
10 decrease exports. I think that in part has to do with  
11 declining conditions for Russian exports. Actually  
12 I'm probably not answering your question.

13 MS. SLATER: I think, Commissioner, if we  
14 might, I think that's something that we'd have to look  
15 at, and we will take a look at the data. My guess is,  
16 although I tell people never guess at answers, my  
17 guess is it's probably a combination of factors, but  
18 we'll be happy posthearing to take a look at the  
19 factors and see if we can provide you a direct answer  
20 to that.

21 COMMISSIONER ARANOFF: Okay. To the extent  
22 that the issue that there are more favorable sources  
23 of supply available to some of the markets where  
24 Russia has been exporting raises the interesting  
25 question of why are they more favorable other than the

1 price, which seems inconsistent with the argument that  
2 they're not lower priced.

3 MS. SLATER: No, I think when we talk about  
4 other sources of supply being better positioned to  
5 take markets, it has more to do with their physical  
6 location and some of the shipping distances so that  
7 not necessarily the price of the product but the  
8 logistical issues of supply, but let us take a look at  
9 it. I mean, we know that some of it relates to the  
10 fact that there was supply coming onstream both  
11 internally in some of the importing countries and  
12 export supply that was well positioned, but it does  
13 not appear to be a price-related issue because one  
14 thing that has not changed since 1986 is that the  
15 Black Sea prices are almost always at the bottom. It  
16 sets the bottom of the market.

17 MR. KLETT: There are regional differences  
18 in supply. I mean, the Middle East and North Africa  
19 tend to focus on Europe and Asia, and so the extent  
20 that Russia and Ukraine were shipping to some of those  
21 markets, they're maybe pushed out of those markets for  
22 transportation costs reasons, as Ms. Slater indicated,  
23 and Russia and Ukraine generally tend to focus more in  
24 Latin America.

25 COMMISSIONER ARANOFF: The EU data that we

1 have in Appendix 24 of your brief, it appears in those  
2 data that the gap between Russian and Ukrainian prices  
3 and Middle Eastern prices has narrowed in the most  
4 recent months, beginning in July 2011. Can you  
5 explain what you attribute that to?

6 MS. SLATER: Could you just repeat that? We  
7 lost the last part of it, Commissioner.

8 COMMISSIONER ARANOFF: It's Data Appendix 24  
9 of your brief showing unit value data.

10 MS. SLATER: Uh-huh.

11 COMMISSIONER ARANOFF: And it shows that the  
12 gap between Russian and Ukrainian prices versus Middle  
13 Eastern prices has narrowed in the most recent months,  
14 and I guess I'm asking for what's causing that.

15 MR. KLETT: Yes, you're looking at the  
16 monthly part of the analysis, and I guess April and  
17 May, the gap has narrowed from, I don't know, \$20 or  
18 so, \$30 per short down to \$5 or \$2 per short ton. I  
19 don't have an explanation for that. If you go back  
20 longer term, you can see that the price differentials  
21 have jumped around quite a bit and generally are  
22 greater than \$20 per short ton. And then the most  
23 recent two months have declined. If you look at the  
24 individual, the Russia and the Middle East prices, at  
25 least based on the data, the explanation for that from

1 the data is the Middle East prices have come down  
2 faster than have Russia and Ukraine prices, which  
3 explains the gap, but I don't know what explains that.  
4 We can look into that more in our posthearing brief  
5 and possibly also have some additional month or two of  
6 data to see if maybe those two months were an anomaly.

7 MS. SLATER: And I would just emphasize that  
8 when you look at the monthly data that's behind the  
9 aggregate figures it really is two months of data  
10 which create that. In every other month there's a  
11 very consistent differential.

12 COMMISSIONER ARANOFF: Okay. I appreciate  
13 those answers and your time. Thank you, Madame  
14 Chairman.

15 CHAIRMAN OKUN: Commissioner Pinkert.

16 COMMISSIONER PINKERT: Thank you, Madame  
17 Chairman, and I thank all of you for being here today.  
18 And I also thank Potash Corporation for the plant  
19 tour, which was very informative.

20 I want to begin with a statement that was  
21 made in the opening argument, that the Russian  
22 producers had made a conscious decision not to supply  
23 information in this review. Does anybody on the panel  
24 have any information about why the Russian producers  
25 did not supply information?

1 MS. SLATER: The reference to a conscious  
2 decision was simply -- I want to be a little bit  
3 careful -- about what we know from the staff report  
4 and the very good efforts that the staff has made to  
5 try and obtain information. It's clear that this is  
6 not because EuroChem forgot that this was happening,  
7 when the staff has reached out and tried very hard to  
8 encourage the submission of information.

9 I think we all have theories. I don't think  
10 anybody knows with certainty why EuroChem has made  
11 that decision. And I think I can speak for the panel  
12 on that.

13 Commissioner Pinkert, we can certainly offer  
14 you the theories that we have, if that is helpful.  
15 You know, one is that we feel quite certain that the  
16 questionnaire response, if filled out accurately,  
17 would show underselling, based on what we know has  
18 occurred in the marketplace. So perhaps someone would  
19 make a decision that things might turn out better  
20 without that data.

21 On the other hand, we have watched EuroChem  
22 very proactively be involved in the Commerce  
23 Department administrative review procedures. They  
24 have succeeded in their first review in obtaining a  
25 lower rate. They are in the middle of a third review,



1 in which they're fighting for a lower rate, and  
2 perhaps they feel that they'd be better off taking  
3 advantage of that lower rate, if they're able to  
4 obtain it, in not dealing with the other imports.  
5 Which they, I think apparently like we, must feel  
6 would be coming, in the absence of the order.

7 So that's, you know, those are theories. I  
8 mean, certainly none of us have had a conversation  
9 with EuroChem or their counsel, for that matter.

10 COMMISSIONER PINKERT: Thank you. Mr. Bohn,  
11 did you have a comment?

12 MR. BOHN: Commissioner, Chris Bohn, CF  
13 Industries. No, I did not.

14 COMMISSIONER PINKERT: Thank you. Now, sort  
15 of continuing with some of the thoughts that Ms.  
16 Slater just expressed, I'm interested in what happened  
17 in the 2010 administrative review at Commerce. In  
18 particular, whether Commerce based a normal value on a  
19 constructed calculation.

20 The reason I ask that question is because so  
21 much of the discussion today has been about natural  
22 gas pricing, input pricing. Was that a constructed  
23 calculation by the Commerce Department? Or did they  
24 base normal value on pricing?

25 MS. SLATER: Normal value was based on whole

1 market pricing.

2 COMMISSIONER PINKERT: Thank you. Now, had  
3 this panel given any consideration at any point to  
4 filing a subsidy case related to the natural gas  
5 pricing?

6 MS. SLATER: Commissioner Pearson raised  
7 that same very thoughtful question five years ago.

8 COMMISSIONER PINKERT: I didn't know that.

9 MS. SLATER: No. And I know you haven't.  
10 But I think it's, you know, with your background,  
11 Commissioner Pinkert, I think it's a very good  
12 question.

13 This is, it's something that certainly we've  
14 thought about. The legal issues are difficult.  
15 Beginning a new case is extremely a massive  
16 undertaking, as you know. And dealing with something  
17 like a natural gas pricing policy, even though there  
18 are very strong arguments for specificity here, it is,  
19 it is definitely new ground.

20 So that discussion, which has come up from  
21 time to time over the years, is one which we've left  
22 as a discussion for now.

23 COMMISSIONER PINKERT: Thank you. Now, I'd  
24 like to ask a question about subject merchandise in  
25 prilled form. And don't think I didn't hear the

1 testimony about granular production, but I want to ask  
2 about the subject merchandise in prilled form. And  
3 whether, in the event of revocation, we would expect  
4 subject merchandise in prilled form to be competing  
5 against imports from other countries, rather than  
6 competing against the production of U.S. companies,  
7 the domestic industry.

8 MR. BOHN: Commissioner, Chris Bohn, CF  
9 Industries. I think the prilled and the granular urea  
10 are the same fungible commodity. They both contain  
11 the same nitrogen content. So I believe that the, the  
12 competition between the two would be not other prilled  
13 imports versus the subject imports; but rather, the  
14 urea competition, where the granulated, granulated  
15 urea would be very similar to the prilled urea. In  
16 the sense that there is a certain, a certain  
17 elasticity with the pricing.

18 If the prilled pricing is slightly  
19 discounted, as it has been historically, there's a  
20 certain point where the farmer will use that. There's  
21 really no application difference between the two.

22 The U.S. domestic market has primarily  
23 produced granular urea. So a little bit of the  
24 domestic market's granular usage is due to  
25 availability, not necessarily it's a preference to use

1 the granulated, not a requirement. And at the right  
2 price, and if we were to see underselling or  
3 significant volumes of Russian and Ukrainian imports,  
4 we would expect that the market would start to utilize  
5 prilled product.

6 In addition to that, I would just like to  
7 add one comment; that the capital expenditure to take  
8 prilling, to take a urea plant and put it on  
9 granulation capacity, is pretty minimal when you're  
10 considering the size of a urea plant in general. Some  
11 of our estimates from our engineers have suggested  
12 that you're looking at something in the neighborhood  
13 of maybe \$40 to \$60 million to do that, as compared to  
14 a new urea facility, which could be \$600 to \$800  
15 million.

16 So I don't think, while I don't think  
17 prilled product would compete against other prilled  
18 product, rather than just urea in general; I also  
19 think the move to granulated, granulation of that  
20 product coming in from the subject nations is not  
21 something that couldn't be done relatively quickly.

22 COMMISSIONER PINKERT: Thank you. Mr.  
23 Mulhall, did you have anything to add?

24 MR. MULHALL: I think as I mentioned in my  
25 testimony, we produce and sell both prilled and

1 granular urea from our Ohio operation. And as such,  
2 we can see that there is a degree of substitutability.  
3 We do sell quite a bit of our urea into the fertilizer  
4 market. And as such, we would be concerned with the  
5 new product coming in and affecting that -- the prills  
6 coming in from either, either Russia or Ukraine, and  
7 impacting that market.

8 And as Mr. Bohn mentioned, at the present  
9 time the granular capacity in both Ukraine and Russia  
10 is significant. And as I mentioned in my testimony,  
11 it's close to 60 percent of the current U.S. level of  
12 imports. So we are concerned that that product coming  
13 in, either prills or granular, could impact the U.S.  
14 market.

15 MS. SLATER: Could I just add one thought to  
16 that? And that is, when we look at what happened at  
17 the time that the case was originally filed, you know,  
18 there were imports literally, I hate to use the term a  
19 flood of imports, but that's what happened in this  
20 particular case back in the late eighties. And the  
21 urea that came in was largely prilled, and there was a  
22 substantial portion of U.S. production which was  
23 granular even at that time.

24 The industry across the board lost market  
25 share, lost revenues. There is no reason to think

1 that would change today. The competition continues  
2 between prilled and granular urea. And we also saw  
3 that there was a displacement both of imports and of  
4 domestic supply. And I think that same proportion  
5 would be expected today; I don't think any suppliers  
6 would be protected from the impact.

7 COMMISSIONER PINKERT: Thank you. For the  
8 post-hearing I'd ask that Mr. Klett look into the  
9 question of what accounts for the pricing discipline  
10 of the non-subject imports in the U.S. market.

11 MR. KLETT: I will do that, Commissioner  
12 Pinkert.

13 COMMISSIONER PINKERT: Thank you. Thank  
14 you, Madame Chairman.

15 CHAIRMAN OKUN: Thank you. And I appreciate  
16 all the responses you have given thus far. And I  
17 would note that I also appreciate, both in your  
18 opening, Ms. Slater, and in the testimony from your  
19 witnesses, you always very much acknowledge where you  
20 are in the case and what issues are before us. And I  
21 appreciate that looking at the condition of the  
22 industry, particularly now, after this economic  
23 downturn, this industry is in a better position than I  
24 would say many that we have seen in a long time. So I  
25 appreciate your willingness to acknowledge that and

1 address it.

2 I had a couple more questions just about the  
3 condition of the industry, and the changes since the  
4 last review. And I know you've had the opportunity,  
5 in responding to the questions, to detail what changes  
6 there have been since the last review that you would  
7 have us take into account.

8 But one of the things I guess I'm still  
9 curious about is looking at the change in the makeup  
10 of the non-subject imports; recognizing Canada is  
11 continuing to be a big part. The industry has done  
12 extremely well, with China entering the market, which  
13 wasn't here before. And Mr. Bohn, you've talked about  
14 sort of the interesting way in which China is  
15 exporting.

16 But I wanted to have the industry respond  
17 to, and maybe it goes along on Commissioner Pinkert's  
18 last question about the non-subject, the role of the  
19 non-subjects in this market, and why we would expect  
20 Ukraine and Russia to displace this group of non-  
21 subjects were the order to be lifted.

22 So again, what role in the last five years  
23 have non-subjects played? And why has the industry  
24 continued to prosper, even though there have been  
25 changes in that composition?

1                   MR. BOHN: Well, Commissioner, Chris Bohn,  
2 CF Industries. I think the one part about the non-  
3 subject competition that has come in as imports to the  
4 U.S. has been that they are basing it on a market-  
5 based pricing. We haven't seen any underselling such  
6 that we've seen historically with the subject  
7 countries, and that has continued.

8                   As I said earlier, even China's export tax  
9 policy has almost helped support the export market,  
10 export-oriented markets, with pricing. And I guess  
11 just to sum it up is that just seeing lower natural  
12 gas prices in the Middle East, as compared to the  
13 subject prices, is really, doesn't have an issue at  
14 all with the pricing that we're seeing from the non-  
15 subject. So we believe they're pricing fairly on  
16 market-based fundamentals.

17                   CHAIRMAN OKUN: Mr. Mulhall, do you have  
18 anything to add there?

19                   MR. MULHALL: I don't have any further  
20 comments at this time.

21                   CHAIRMAN OKUN: Mr. Klett, do you want to  
22 take a shot at that?

23                   MR. KLETT: Yes.

24                   CHAIRMAN OKUN: And if you could, could you  
25 also address just what role you think the fact that



1 this is a very transparent market plays in that  
2 discipline of the non-subject pricing?

3 MR. KLETT: I think one of the things,  
4 Commissioner Okun -- this is Dan Klett -- you have to  
5 take into account, at least over the last five years  
6 during this period of review, is where, where we are  
7 in the business cycle.

8 We've been in the upturn of the business  
9 cycle, and, at least in part for that reason, you see  
10 imports also having increased. And not much in the  
11 way of underselling, as Mr. Bohn indicated, because  
12 the market has been so strong.

13 In terms of the concern in terms of subject  
14 versus non-subject imports is more on the downside of  
15 the business cycle that's being predicted. And that  
16 is, that with marginal producers remaining in the  
17 market that would not otherwise be there because of  
18 the artificial natural gas prices, that in the  
19 downturn you've got additional supply coming into the  
20 market from Russia and Ukraine that would not, would  
21 not be coming into the market.

22 And if you look at pricing, international  
23 pricing, Middle East or Russia or Black Sea Baltic  
24 pricing is always lower than Middle East pricing.  
25 Transportation costs to the U.S. from both sources is

1 approximately the same. So when you look at Russia  
2 and Ukraine versus the Middle East, you'd expect them  
3 to also be lower priced.

4 If you tack on the relatively same ocean  
5 freight of \$30 or \$35 per metric ton to the port  
6 prices in the Middle East and Baltic and Yuzhny ports.  
7 So that's another distinction between the two sources  
8 of supply.

9 In terms of transparency of pricing, this  
10 is, you've seen a lot of markets, but this is one  
11 market where prices are, are published weekly, if not  
12 daily, in Green Markets and FERTECON and other  
13 publications. So that the pricing of a source is  
14 readily transmitted to the market.

15 So therefore, if an order is revoked and  
16 Russia and Ukraine offer lower prices into the market  
17 for a boatload or a boatload or two, that information  
18 would be known, and would have effects on the overall  
19 market price.

20 CHAIRMAN OKUN: Ms. Slater?

21 MS. SLATER: If I may, Chairman Okun, I  
22 think also if you take a look at the data, let's start  
23 with China. I know you hear a lot about Chinese  
24 imports of just about everything, and how they  
25 typically are priced.

1           But as Mr. Bohn was suggesting, because of  
2 the pricing at which urea is coming out of China, you  
3 see in your import data that's in the staff report,  
4 it's been landed here at prices that are comparable to  
5 most of the other sources of import supply.

6           The traders who are -- let me sort of break  
7 this down a little bit. A significant portion of  
8 import supply, both from Canada and places such as  
9 Trinidad, is controlled by or owned by U.S. producers.  
10 So understand that there's a strong incentive for that  
11 to be priced responsibly, in light of the market  
12 conditions.

13           Step aside from that, and what you have  
14 coming out of the Middle East, and even most recently  
15 today China has been priced f/o/b port, in a way that  
16 the trading companies -- and please disagree with me  
17 if I'm saying anything, personnel, that is off base,  
18 but it has to be brought by the traders to the market  
19 in a way that will maximize their return, and also  
20 help them to move volume.

21           But they're paying let's say a market-based  
22 price. The exporters from the Middle East, from China  
23 are pricing that export at a way that reflects  
24 generally what they believe they ought to be able to  
25 get out of the market.

1           When we look at the f/o/b prices out of the  
2 Black Sea, which are always -- and we focused on this  
3 extensively five years ago, and again today -- it's  
4 almost always below, by a significant amount, you can  
5 see that in some of the netback analyses, you can see  
6 those comparisons -- always priced below.

7           What that means is that the traders can take  
8 it. They can actually apply their same markup, and  
9 move that volume very quickly. So it gives them the  
10 ability to get into the market to make the sale,  
11 because they can undersell the other products. This  
12 is something we're not seeing from any other sources,  
13 and certainly not from sources that have that kind of  
14 volume that can move.

15           So I hope that's a bit helpful, but it's a  
16 different dynamic than we have from product coming out  
17 of any of the other importing sources to date. Is  
18 that, have I over-simplified that?

19           MR. BOHN: Chairman, this is Chris Bohn, CF  
20 Industries. Another area is, that was presented in  
21 the last review, is that a lot of these non-subject,  
22 specifically the Middle East, are on index contracts  
23 directly with domestic customers. So that it's a  
24 pricing that's going on between the customers, not  
25 such as Ms. Slater has stated here, where it's

1 traders. And into the testimony I gave, it's really  
2 the traders who have incentive to turn a profit, but  
3 also to monetize it as quickly as they can with as  
4 large of a volume as they can. So that's the  
5 difference between some of the non-subject markets and  
6 what we expect to see potentially with the revocation  
7 of this order.

8 CHAIRMAN OKUN: Okay, let's see. My yellow  
9 light has come on, so I think I'll wait until my next  
10 round to go into this next question. I'll turn to  
11 Vice Chairman Williamson. Thank you for those  
12 responses.

13 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
14 Chairman. Just a few additional questions.

15 The prehearing report notes that plant  
16 closures and consolidations have resulted in increased  
17 company-specific shares and total U.S. production and  
18 sales volume. Please discuss the extent to which this  
19 increase concentration has changed the manner in which  
20 urea has been marketed in the U.S.

21 MR. BOHN: I apologize, Commissioner, I did  
22 not hear the question.

23 VICE CHAIRMAN WILLIAMSON: With the plant  
24 closures there has been something of a consolidation  
25 of the industry in the U.S. And I was just wondering,

1 to what extent has this increased concentration  
2 changed the way, the manner in which urea is marketed  
3 in the U.S.

4 MR. BOHN: Commissioner, Chris Bohn, CF  
5 Industries. I don't think the consolidation has  
6 necessarily changed how urea is marketed in the U.S.  
7 back to the original order. Urea, there was imports  
8 at that particular time; now there's significantly  
9 more imports, but it hasn't changed, changed much of  
10 the dynamics.

11 VICE CHAIRMAN WILLIAMSON: Okay. Mr.  
12 Mulhall?

13 MR. MULHALL: Al Mulhall, Potash Corp. We  
14 have seen U.S. plants shut down, and they shut down  
15 because, because their economics were unable to  
16 compete with the economics of the importers.

17 The change that has made it hasn't made a  
18 change in the marketing of the product; it's basically  
19 done the same way. It has changed the number of jobs  
20 in the U.S. in that those producers that shut down  
21 were no longer able to employ people in the U.S.  
22 industry. It has had a negative impact on U.S. GDP,  
23 and also on the trade balance.

24 But as far as the marketing of product, it  
25 hasn't affected that.

1                   VICE CHAIRMAN WILLIAMSON: Has it shrunken  
2 the remaining firms, or made them -- we've seen that  
3 in other industries, where consolidation has resulted  
4 in a stronger domestic industry. At least for those  
5 who are still there.

6                   MR. MULHALL: The units that were shut down  
7 were of course the highest-cost units. And having  
8 those shut down has meant that the units that remain  
9 are lower-cost units, and they're more stable. And as  
10 a result, they have continued to be able to produce.

11                   The current time, and I think as Mr. Bohn  
12 mentioned previously, the current time is a very good  
13 point of the cyclical market for urea products. And I  
14 think we do know that the market is cyclical; that it  
15 goes through a high point, it goes through a low  
16 point. We're at the high point right now.

17                   And during this point in time things look  
18 quite good. I think also as Mr. Bohn mentioned, that  
19 over the coming down cycle, whenever that occurs, that  
20 the U.S., or the Russian producers are projected to  
21 end up with lower operating rates, significantly lower  
22 operating rates, which will then put pressure on them  
23 to try and, try and enter markets.

24                   So the concern would be that as those  
25 pressures take place, that we could see additional

1 pressure on the U.S. producers, additional operations  
2 impacted, and potential further erosion.

3 VICE CHAIRMAN WILLIAMSON: Mr. Bohn?

4 MR. BOHN: Chairman, Chris Bohn -- excuse  
5 me. Commissioner, Chris Bohn, CF Industries. CF  
6 Industries has continued to market and operate their  
7 particular plants the same way, it's just now  
8 competing against imported product rather than other  
9 domestic producers.

10 As Al had mentioned, the producers that no  
11 longer exist were some of the higher-cost producers in  
12 the U.S. But we run our plants and are operating in  
13 the same manner.

14 MS. SLATER: I just would add to that that  
15 unlike some other industries, which I know you have  
16 looked at, this is not a situation where the smaller  
17 number of U.S. producers means that they're just, they  
18 have consolidated all the plants.

19 CF, for example, operates the same single  
20 urea plant that it did in, since the 1970s. So the  
21 loss of, the smaller number of producers is not  
22 reflective of consolidation of all the plants that  
23 previously operated under a new roof, which you would  
24 think might give more market power and position to the  
25 domestic industry.



1           To the contrary, the producers that are gone  
2 reflect by and large plants that are no longer in  
3 operation; particularly, the consolidation we've seen  
4 in the last decade. So it's not really a  
5 consolidation, I would say, so much as, to use a  
6 Seinfeld word, as shrinkage. And I think that that's  
7 not an insignificant factor for the Commission, when  
8 you look at your market share data and what's happened  
9 to the industry, not just since 1987, but also over  
10 the last, over the last five years. The last 10 years  
11 since you started looking at this, the U.S. industry  
12 is competing and being forced to compete vigorously  
13 with fairly traded imports. And holding its own, but  
14 holding its own in a very reduced way.

15           So the concern with unfairly traded imports  
16 I think becomes particularly clear when you look at  
17 that picture from that way.

18           VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
19 So use is expected to increase over the next few  
20 years. What other prospects would demand growth for  
21 urea in the U.S. in the next few years? And how does  
22 this compare to global demand? So how is the U.S.,  
23 how do you expect growth in the U.S. to be compared to  
24 global demand growth?

25           MR. MULHALL: Al Mulhall, Potash Corp.

1 Published reports indicate that the U.S. demand growth  
2 over the next number of years is likely to be in the  
3 range of approximately one to two percent.

4 Global demand growth for urea is likely to  
5 be in the range of three to four percent. The global  
6 market, they are seeing the advantages of, of urea as  
7 a fertilizer that can be handled well and stored well,  
8 and is convenient to use, and blends well with other  
9 products.

10 In the U.S. market it depends on the growth  
11 in the market. And the U.S., while it's not a totally  
12 mature market, is a relatively mature market.

13 VICE CHAIRMAN WILLIAMSON: Now, what about  
14 the difference in demand growth between agriculture  
15 versus industrial uses, both in the U.S. and globally?

16 MR. BOHN: Commissioner, Chris Bohn, CF  
17 Industries. I think the growth in agricultural is  
18 being driven largely right now by the low stocks-to-  
19 use ratios that we're seeing globally for grains.  
20 Specifically here in the U.S., on corn, with the  
21 stocks-to-use being extremely low at this point.  
22 We're seeing increased acreage for corn going in. And  
23 corn is a primary consumer of nitrogen; and therefore,  
24 we're seeing a strong demand, from an agricultural  
25 standpoint, strong demand on urea from the

1 agricultural standpoint.

2 From an industrial standpoint, the  
3 industrial usage, at least as it relates to CF  
4 Industries, is partially based on the economy in  
5 total, as you would expect. That as the economy and  
6 some of the GDP numbers are coming in lower, the  
7 industrial usage is lower for that.

8 One of the other industrial uses of urea  
9 right now that is in its infancy is the diesel exhaust  
10 fluid market, in which there really isn't a  
11 significant amount being used in that market. But  
12 since that is a mandated market for nox emission, that  
13 is something that may grow higher even during this  
14 particular period of time.

15 VICE CHAIRMAN WILLIAMSON: That was going to  
16 be my next question. What about in terms of can the  
17 Russian or Ukraine producers produce the urea for use  
18 in diesel exhaust and other paving technologies?

19 MR. BOHN: Chris Bohn, CF Industries. So  
20 the question is can imported subject-country urea be  
21 used for diesel exhaust.

22 VICE CHAIRMAN WILLIAMSON: Yes.

23 MR. BOHN: The diesel exhaust fluid in urea  
24 that's used is formaldehyde-free. A lot of these  
25 subject imports that would be coming in from a prilled

1       standpoint would have formaldehyde in them. That's  
2       not to say that there couldn't be some imports that  
3       would be to the spec that could be used in that, but  
4       we would not see that as a significant market  
5       participant in the DEF market at this particular time.

6               I'd like to say, however, we would see, you  
7       know, the imports be significant competition against  
8       the agricultural fertilizer, urea fertilizer.

9               VICE CHAIRMAN WILLIAMSON: Okay. So, but  
10       now when you said that, were you saying the imports  
11       from the subject countries, both subject and non-  
12       subject countries, that the suppliers from both places  
13       would not expect to be used in --

14              MR. BOHN: Commissioner, Chris Bohn. Yes,  
15       it would be, it's more of a specification on the urea  
16       itself rather than the source production site or  
17       source production country I should say.

18              VICE CHAIRMAN WILLIAMSON: Okay. My time  
19       has expired. Thank you for those answers.

20              CHAIRMAN OKUN: Commissioner Lane.

21              COMMISSIONER LANE: I just have a few  
22       questions. Do you expect any further consolidation or  
23       restructuring in the industry in the near future?

24              MR. MULHALL: Al Mulhall, Potash Group. The  
25       degree to which the industry is successful in our

1 opinion depends on the conditions within the market,  
2 and if you look at -- and I think we have referred to  
3 this previously, but the current markets are looking  
4 good.

5 The industry is fairly healthy right at this  
6 point in time. We do know that the industry is  
7 cyclical, and that changes in the number of producers  
8 doesn't occur at the peak of the cycle. It occurs at  
9 the bottom of the cycle.

10 So depending on what transpires in the  
11 future and how the down portion of the cycle comes  
12 into effect, we could see changes in that area.  
13 depending on the level of imports that can compete  
14 with U.S. producers.

15 At this point in time, I think as Mr. Bohn  
16 mentioned earlier, and I think as appeared in Mr.  
17 Klett's discussion as well, the industry is pretty  
18 strong.

19 So this type of change is not likely to  
20 happen at the current time, but could happen in the  
21 future.

22 COMMISSIONER LANE: Okay. If nobody has any  
23 further answers to that, Madam Chair, that's all I  
24 have, and I want to thank this panel for their  
25 participation today.

1 CHAIRMAN OKUN: Commissioner Pearson.

2 COMMISSIONER PEARSON: Thank you, Madam  
3 Chairman. When we last convened one of the issues  
4 that we discussed was the status of Russia's accession  
5 to the WTO.

6 And could you give me an update? Is this  
7 issue of natural gas pricing still one of the  
8 outstanding issues that is causing controversy in  
9 those negotiations, or has it been resolved?

10 MS. SLATER: Well, I suspect, Commissioner  
11 Pearson, that if our Russian friends were here that  
12 you might hear one view. I am going to speak briefly,  
13 and I am going to let Ms. Marsh also speak to this.

14 The status of Russian accession has been in  
15 general up and down. You see it in the press every  
16 day. The issue of gas pricing reform remains under  
17 negotiation. There are items in the working party  
18 report.

19 We have been working very closely with the  
20 U.S. Trade Representative on this, but it remains as  
21 far as we are concerned, and I think as far as the  
22 final working party report, is that it is very much a  
23 text which has bracketed components as they say, and  
24 is under discussion.

25 The specifics, I don't know how much you

1 want to get into. I mean, I think we can talk a  
2 little bit about the different proposals that have  
3 been out there, but needless to say, it remains a  
4 point of discussion and concern.

5 I will say that when Russia made a  
6 unilateral decision to announce its liberalization  
7 plan in 2006, we were at first cautiously optimistic,  
8 and then extremely optimistic, because what we saw was  
9 a plan that was so specific, and so detailed, and so  
10 rational in terms of applying these prices to the  
11 market, that it had clearly -- it was proving not just  
12 something that had popped out as a political  
13 palliative of any type in the context of the  
14 negotiations or otherwise.

15 And then we further saw those gas price  
16 increases that were part of the plan begin to be  
17 implemented. So had you asked probably any of the  
18 companies represented here, or any of us, whether  
19 things would have been actually fixed by now, we would  
20 have given you a cautiously optimistic yes.

21 They actually did move forward with the gas  
22 price increases in 2006, 2007, and into 2008, and you  
23 will -- and by the way, if you take a look at the  
24 EuroChem NPK report, and I think it is Exhibit 13 of  
25 our brief.

1           For a while, EuroChem was putting out these  
2 quarterly -- almost like magazines on their website.  
3 It was quite good. There is a very good discussion in  
4 the excerpt that we included there, and from their  
5 perspective, in late 2006, I think, about what the gas  
6 pricing reform was going to mean for Russian nitrogen  
7 production, which was not good.

8           They were expressing concern that already  
9 the prices have gone up so much, and that if this  
10 continues -- I think that they used the word that we  
11 are going to have a crisis.

12           And we thought that, yes, that is what is  
13 supposed to happen, and we are going to watch this.  
14 And not that they should have a crisis, but we knew  
15 that that would bring about the market relatedness  
16 that the other NME countries had seen.

17           To make a long story short, we had even  
18 asked our negotiators to get a commitment to fulfill  
19 Russia's own plan. We said, look, all these other  
20 thousands of ideas that we have given you, let's see  
21 if we can't get them to commit. That was not  
22 possible.

23           I mean, it was -- well, the reactions were  
24 not good. That was not something that the Russian  
25 government was about to commit to, and in the last



1 year-and-a-half, we have seen very clearly why.

2 I mean, the brakes have been put on, and to  
3 be quite honest, we are not even sure right now what  
4 the status of that plan is, because as we have  
5 mentioned, they have stopped publishing the quarterly  
6 pricing, the guidance price for producers, saying get  
7 ready. Here is what it would be if we were to  
8 liberalize today. Those are not published anymore.

9 You can see in our FERTECON Report that  
10 there has been some type of a new input put in place,  
11 but this is a long answer to your question, but I  
12 think that it is important to understand this.

13 There was a period of very promising and  
14 real progress, but the combination of delays, currency  
15 devaluations, and now what may be, but we are not even  
16 sure, an abandonment of that plan altogether is very  
17 troubling, and we look at that on top of the  
18 continuing pricing levels, and the recent experience  
19 that we have had here, and it is troubling.

20 Needless to say, if you are interested in  
21 details, Ms. Marsh is the world's expert in Russian  
22 gas pricing.

23 COMMISSIONER PEARSON: I'm not sure that it  
24 would be helpful to elaborate on all the individual  
25 proposals at this point. What I would like to know

1       though is your thoughts on whether -- that based on  
2       what you are hearing from U.S. negotiators, or what  
3       you might be hearing from counterparts regarding the  
4       negotiating positions of other major nations, whether  
5       you think that this issue is likely to be resolved  
6       upon accession.

7                   I mean, is this a make or break issue? Are  
8       they going to be able to slip through without  
9       addressing this, or are they going to have to deal  
10      with it in order to get into the WTO?

11                   MS. SLATER: Unfortunately, I don't know.  
12      Others may have different views, but this is -- I can  
13      tell you this. I can tell you that this is an issue  
14      which is on the radar screen of our negotiators.

15                   It is on the radar screen of people who are  
16      watching the accession. Whether this is something  
17      that in the end will get done, I don't feel as  
18      confident about that personally as I would like to.

19                   We feel as though it is a make or break  
20      issue, because it affects -- and by the way, this has  
21      a tremendous impact on the nitrogen industry, but this  
22      is something that is impacting energy intensive  
23      industries other than nitrogen, including steel and  
24      others.

25                   So we are hopeful that the profile will be

1 raised in the end, and you all know how this works, to  
2 the point that it will get addressed. There is  
3 language in the working party report.

4 The EU has reached agreement, which is on a  
5 cost coverage basis, I think, telling where the  
6 Russians have agreed that their gas prices will cover  
7 the cost of producing the gas.

8 But I don't think there is any living human  
9 who can understand gas pumps well enough to ensure  
10 commitments have been met. Will it be resolved? It  
11 is an open question.

12 I don't think there is other confidence here  
13 though that it will get done in the end. We are  
14 working very hard to see that that happens,  
15 Commissioner.

16 COMMISSIONER PEARSON: Okay. Thank you.  
17 Mr. Mulhall, did you have something to add?

18 MR. MULHALL: Well, I haven't been following  
19 the negotiations on Russia getting into the EU as  
20 closely as I did at one time. The last time i was  
21 very interested in it, and the market beast, natural  
22 gas point, was an extremely important point. And my  
23 understanding was that it was a major factor in Russia  
24 not being allowed entry into the EU.

25 COMMISSIONER PEARSON: Into the WTO rather.

1 MR. MULHALL: Sorry, into the WTO. So I  
2 would feel that that position has likely not changed,  
3 and that this would still continue to be a very  
4 important factor.

5 COMMISSIONER PEARSON: Okay. Shifting gears  
6 just a little bit. What type of linkage, if any,  
7 exists between gas pricing in the Ukraine and gas  
8 pricing in Russia?

9 I know that you touched on that ever so  
10 briefly, but I think that I would like to understand  
11 it better. Exhibit 14 of your brief does refer to a  
12 formula border price. Could you tell me more about  
13 that, please?

14 MS. SLATER: Can you point to the particular  
15 page, Commissioner Pearson, just so we are clear?

16 COMMISSIONER PEARSON: Perhaps in a minute.

17 MS. SLATER: No, that's okay. There is --  
18 well, let me -- well, Chris, unless you want to handle  
19 it, but just to start out with respect to Ukrainian  
20 pricing, I think you heard the word murky being used  
21 this morning. That is by far the best adjective for  
22 the situation there.

23 We know -- and it is a matter of public  
24 record -- that the border price, meaning the price  
25 into the Ukraine principally from Russian and other

1 sources of gas, has increased dramatically.

2 And one would expect to see that translate  
3 into increased prices for industrial users of gas. It  
4 is very clear that for a number of possible reasons  
5 that is not happening.

6 That the gas prices at the border are being  
7 either discounted when they are moved by the gas  
8 companies into the Ukrainian plants, which we know is  
9 actually happening early in your review period, or  
10 there are as FERTECON indicates in its report, there  
11 are believed to be special deals going on with joint  
12 ventures that involve Gazprom, but I don't know if you  
13 know --

14 MR. BOHN: Commissioner, Chris Bohn, CF  
15 Industries. The link between Gazprom and the  
16 Ukrainian gas and fertilizer industry is one that  
17 relates to a group, which there is a joint venture  
18 between its owner, Dmitry Firtash, and a company that  
19 he owns with Gazprom.

20 So right now FERTECON's most recent report,  
21 which I believe is in your documents, suggests that  
22 that group, which is 60 percent of the Ukrainian  
23 fertilizer production, may be receiving significant  
24 subsidiaries from what the border price would be.

25 With FERTECON saying the border price

1 delivered would be roughly around \$9.60 per MMBTU,  
2 with the potential of that group, DF, is seeing about  
3 a \$6.50 per MMBTU, gas price.

4 COMMISSIONER PEARSON: Okay. Thank you.  
5 Madam Chairman, I have gone over my time, and I may  
6 have to come back for a third round, but I will stop  
7 now.

8 CHAIRMAN OKUN: Okay. Commissioner Aranoff.

9 COMMISSIONER ARANOFF: Thank you, Madam  
10 Chairman. Since the time of the last review, and a  
11 since Russian product has reentered the U.S. market,  
12 EuroChem has set up a U.S. affiliate, and my question  
13 is if the order were revoked, and EuroChem was selling  
14 in the U.S. market through its U.S. affiliate, would  
15 that be likely to make it a more or less responsible  
16 trader in the market than it was before?

17 Because if you are just selling to a global  
18 trader, you are just kind of putting out what volume  
19 you have to get rid of, at whatever price you can get,  
20 and then it is the trader who decides where the  
21 product goes, and the trader moves product around.

22 If EuroChem is here are cultivating customer  
23 relationships with specific U.S. customers is that  
24 going to make them a different kind of actor in the  
25 U.S. market?

1           MR. BOHN: Commissioner, Chris Bohn, CF  
2 Industries. I am not so certain that would be the  
3 case. EuroChem will be in a similar position than as  
4 to where they are now, and where they are going to  
5 want to move a volume of units, similar to a trader.

6           In addition, the capacity expansions that  
7 Mr. Klett had spoke about earlier are really going to  
8 be in the North Africa and Middle East region, which  
9 is going to compete directly with some of the export  
10 areas where the subject countries already compete in  
11 Asia.

12           And the Middle East and North Africa will  
13 have better logistical costs related to that, which  
14 in-turn will probably put some pressure on the subject  
15 countries, specifically EuroChem, to push more volume  
16 towards the U.S.

17           So while I see them opening up an office, I  
18 am not certain that it would have any difference in  
19 how they would operate.

20           MR. KLETT: I would just like to add -- this  
21 is Dan Klett, Commissioner Aranoff -- that the profit  
22 maximizing behavior, I think, would still be the same.  
23 In other words, whether you are a trader or EuroChem,  
24 if you are getting, or you have a cost advantage due  
25 to low natural gas, that puts you at a price advantage

1 at the border when you compare Middle East and Black  
2 Sea prices.

3 And that the incentive to move volume at a  
4 particular price, given the more flexibility in terms  
5 of the cost versus price margin would be the same as  
6 between a trader and EuroChem in terms of the volume  
7 price relationship and maximizing revenue, and  
8 maximizing profit.

9 COMMISSIONER ARANOFF: Okay. All right. I  
10 appreciate those thoughts. In the prior review the  
11 Commission determined that a certain percentage of  
12 domestic production would not face direct competition  
13 from subject imports in the event of revocation for a  
14 variety of reasons, and certain products that were  
15 exported, and product that was used in fertilizer  
16 blends, or was formaldehyde free, or micro-prill  
17 specialty products that the subject producers didn't  
18 make.

19 And I just wanted to go back. I recognize  
20 that most of those things are not that large, but I  
21 want to go back and complete the record on that by  
22 just asking you if you could provide post-hearing  
23 about what percentage of U.S. demand is for  
24 formaldehyde-free product, and is it true that the  
25 subject producers are still not providing that



1 product, and making that product.

2 And the same for micro-prill. I don't think  
3 that we need to ask the blend question anymore,  
4 because we know there is granular coming in. But that  
5 is probably -- well, if there are any other sort of  
6 specialty things that the subject products can't meet,  
7 it would be good to know about how big those markets  
8 are.

9 MS. SLATER: We will be happy to do that  
10 post-hearing.

11 COMMISSIONER ARANOFF: Thank you. Several  
12 of my colleagues have asked questions about the  
13 consolidation of the domestic industry, and I wanted  
14 to ask a similar question, and maybe in a little bit  
15 different way.

16 During the current review period the  
17 domestic producers have been more profitable than in  
18 prior periods for which we have data, for which you  
19 have readily conceded, and yet that has been on a  
20 reduced volume of production compared to the past.

21 How should the Commission weigh these  
22 changes in absolute and relative profitability in  
23 assessing the likelihood of future adverse impact on  
24 the industry?

25 MR. MULHALL: Al Mulhall, Potash

1 Corporation. Your comment that the industry is in a  
2 better position than it has been at times in the past  
3 is correct.

4 The industry is also at the top of the  
5 cycle, and we have indicated that the Urea industry is  
6 cyclical, and that there are times where additional  
7 capacity is built.

8 That that capacity comes on stream, and  
9 there is excess capacity that results in soft markets.  
10 The price goes down, and as a result of the price  
11 going down, people stop building new capacity.

12 That takes place for a sufficient period of  
13 time that the growth and demand in the world puts  
14 pressure on the existing capacity. The supply then  
15 becomes tighter and the price goes back up again.

16 So that pattern has been repeated many times  
17 in the past, and it appears that there isn't a good  
18 reason to think that that would change in the future.  
19 So we are in the good part of the cycle right now.

20 Looking ahead, there will be additional  
21 capacity coming on stream. FERTECON, in its report,  
22 has indicated that sometime in the next number of  
23 years that as that new capacity comes on stream that  
24 there will be pressure on pricing, and the prices will  
25 go down, and the U.S. industry will not be as healthy

1 a position as it is at this point in time.

2 MR. KLETT: Commissioner Aranoff, this is  
3 Dan Klett. I think that you are right that the  
4 Commission looks at the operating profit margin as a  
5 key indicia of injury in the normal course of its  
6 proceedings.

7 But in a case where volume is down  
8 significantly, and just to use as an extreme example,  
9 but if you have a 30 percent operating margin on one  
10 ton of sale, that is not necessarily better than a 20  
11 percent operating margin on 10 thousand tons of sale.

12 That is extreme, but I think that is the  
13 point that you are getting at. So, I think that it is  
14 relevant that when you see other indicia, such as  
15 production, employment, shipments, go down, even  
16 though operating margins are up, it would be given  
17 less weight under that scenario than in a situation  
18 where revenues were up, and production was up, and  
19 employment was up.

20 So I think that it is relevant in the  
21 absolute sense, and I think also that the absolute  
22 numbers have to be taken into consideration, in  
23 addition to just the relative profitability.

24 MS. SLATER: If I may just say that in terms  
25 of just weighing these factors, I think that your

1 question is a very, very good one. If you look at the  
2 two factors that you mentioned, which is the shrunken  
3 size of the industry so to speak, and the decline in  
4 shipments, and a number of other indicia, and yet  
5 there is this very robust profitability, one of these  
6 is a temporal phenomenon.

7 Meaning that we are looking at a situation  
8 where we are at a point where in a business cycle,  
9 which is well established, that is something which you  
10 know will be evolving over time.

11 The other is a more long term -- and I would  
12 say permanent, but that is probably not the right  
13 word. It is a more long term phenomenon. You have  
14 seen the industry decline over time.

15 Over the last five years, we have remained  
16 stable, in terms of the number of producers, but  
17 certainly not the amount of production. I think that  
18 factor has got to weigh a bit more heavily because of  
19 the fact that it is a long term state of the industry  
20 so to speak, as opposed to something that you are  
21 looking at temporarily. Chris, did you want to say  
22 something?

23 MR. BOHN: Commissioner, Chris Bohn, CF  
24 Industries. I would agree with both of the points, or  
25 all the points that everyone has made up here. While

1 we may not be necessarily at the top of the cycle, we  
2 are seeing very strong fundamentals now, both on the  
3 demand side due to the acreage and the grain stocks  
4 that we spoke about earlier.

5 But also we have a very favorable cost  
6 profile, and as I discussed earlier, any of those two  
7 points could cause or could change at some point,  
8 whether it be short term shocks or just long term risk  
9 factors being into that, and that is all that I would  
10 like to comment on.

11 COMMISSIONER ARANOFF: Okay. Let me squeeze  
12 in one more question right as my light is turning. In  
13 your brief, you basically assert that any loss of  
14 market share as subject imports would reenter the  
15 market would be borne proportionally by domestic  
16 production and non-subject imports.

17 And I guess I want to ask you to go back and  
18 kind of give us something more of a rationale on that,  
19 in terms of why it wouldn't all be non-subject  
20 imports.

21 For example, as opposed to the domestic  
22 producers who it seems to me have -- you know,  
23 proximity is their main advantage. It is not  
24 necessarily costs. There are other people who are  
25 getting gas cheaper.

1           So perhaps it is not proportionate, and that  
2           is something that I think we should have a little bit  
3           more discussion on the record about.

4           MS. SLATER: Well, we will do that post-  
5           hearing if that is acceptable.

6           COMMISSIONER ARANOFF: Sure. Thank you very  
7           much. Thank you, Madam Chairman.

8           CHAIRMAN OKUN: Commissioner Pinkert.

9           COMMISSIONER PINKERT: Thank you, Madam  
10          Chairman. First off, concerning the non-subject  
11          imports again. Are most of the recent non-subject  
12          imports formerly -- from countries that are formerly  
13          subject to orders?

14          MR. KLETT: Commissioner Pinkert, this is  
15          Dan Klett. No, that is not the case. Most of the  
16          non-subject countries now are Canada, the Middle East,  
17          and China, if I were to group non-subject into three  
18          broad categories.

19          So those three categories would account for  
20          most of the non-subject imports. Romania, the former  
21          country subject to the order, its imports went up a  
22          little bit right after the order was revoked.

23          It went down, and now it is about up to 170  
24          thousand metric tons. But it is not one of the major,  
25          major importers, as compared to the others at this

1 point.

2 COMMISSIONER PINKERT: Concerning that price  
3 discipline that I was asking about in my last round of  
4 questions, are the imports from countries formerly  
5 subject to orders more disciplined in terms of price  
6 than the imports from countries that have never been  
7 subject to orders?

8 MR. KLETT: I will have to look at the AUV  
9 data for that, but one point that I would like to make  
10 with respect to the non-subject countries, the  
11 countries that were formerly subject to the order, one  
12 of which was Belarus, and it increased right after the  
13 order went into place, and basically no longer exports  
14 to the U.S.

15 And FERTECON essentially attributes its  
16 decrease in exports to the availability of natural gas  
17 from Russia and high prices. So I think that one of  
18 the major factors affecting the imports from countries  
19 that had been subject to the order, both in terms of  
20 volume and in terms of price discipline if you will,  
21 is the availability in the natural gas pricing that  
22 they have faced since the order was revoked.

23 I think they are facing cost constraints and  
24 natural gas supply constraints now that they weren't  
25 facing maybe immediately after the order was in place.

1 MS. SLATER: If it would be helpful,  
2 Commissioner Pinkert, post-hearing, we can take a very  
3 careful look at the history of each of the formerly  
4 covered countries and compare it to the other non-  
5 subjects if that would be helpful.

6 COMMISSIONER PINKERT: Thank you. That  
7 would be helpful, and just a question that kind of  
8 gets at the bigger picture on non-subject imports.  
9 Our staff report suggests that non-subject imports are  
10 likely to be more responsive to changes in demand than  
11 subject imports.

12 Does the panel agree with that  
13 characterization, and if not, perhaps you could  
14 explain.

15 MR. KLETT: With respect to responsiveness  
16 in demand, I don't believe that I necessarily agree  
17 with that characterization. I mean, that is in terms  
18 of responsiveness to changes in U.S. demand. I think  
19 that part of the rationale in the staff report,  
20 although I will have to go back and look at that, it  
21 may have to do with capacity utilization and subject,  
22 versus non-subject, imports because when they talk  
23 about responsiveness of supply in one country versus  
24 the other, that is one of the things that the staff  
25 looks at.



1           One thing that I don't think is necessarily  
2 taken into consideration in terms of responsiveness of  
3 supply to U.S. demand, in addition to capacity  
4 utilization, is diversion of product from others to  
5 the U.S.

6           So that might not have been considered by  
7 the staff in making that consideration, but I would be  
8 happy to look at that more closely in the brief, in  
9 the post-hearing brief, and comment on that  
10 specifically.

11           COMMISSIONER PINKERT: Thank you. My last  
12 question is one that may have been touched on in the  
13 prior answers but just for the completeness of the  
14 discussion, I want to ask you about the year 2009.

15           And it appears that for the period the U.S.  
16 producers' share of consumption peaked in 2009, and I  
17 am wondering if the panel can explain that? Of  
18 course, 2009 was a pretty bad year for the overall  
19 economy.

20           But perhaps you can elaborate on what was  
21 going on there.

22           MR. BOHN: Commissioner, Chris Bohn, CF  
23 Industries. In the 2009 period, imports had decreased  
24 significantly from a previous year of about 5.4  
25 million tons, down to about 4.7 million tons.

1           So there is a difference of almost 800  
2 thousand tons difference in imports that were coming  
3 into the market from the 2009 standpoint, or time  
4 frame, excuse me.

5           COMMISSIONER PINKERT: Any sort of economic  
6 explanation that the panel might have for that  
7 phenomenon?

8           MR. MULHALL: Al Mulhall, Potash  
9 Corporation. In the year 2009, I guess we can look at  
10 the fertilizer industry as conditions were very  
11 strong, and in 2007, and again in the first half of  
12 2008, the economic downturn began to have a very  
13 significant effect on the fertilizer industry in the  
14 second half of 2008.

15           And that continued until 2009, and as that  
16 happened, we saw a very significant change in product  
17 pricing in a lot of areas of the industry, and pricing  
18 within the U.S. market for nitrogen products had  
19 dropped down quite substantially.

20           So that would have had the impact of making  
21 imports into the U.S. market less economical for some  
22 of the companies that had previously imported.

23           MR. BOHN: Commissioner, Chris Bohn, CF  
24 Industries. I would also like to comment that in the  
25 market times of 2007 and 2008 that Mr. Mulhall had

1 just discussed, there was a significant stocking  
2 throughout the whole channel chain.

3 And the implications for that began to be  
4 seen in 2009 as absolute in some of the imports,  
5 because the retailers and distributors had already  
6 stocked channels significantly from an inventory  
7 level, and had to bleed down that inventory throughout  
8 2009, and the same could be true with the producers  
9 then also.

10 COMMISSIONER PINKERT: Thank you. Any other  
11 comments from the panel on that issue? With that, I  
12 thank you all, and I look forward to the post-hearing  
13 submissions.

14 CHAIRMAN OKUN: Well, I am glad that  
15 Commissioner Pinkert had asked about the behavior of  
16 the countries formerly subject to the order, because  
17 when I kept hearing you reference it in your remarks,  
18 I was trying to understand what the argument was of  
19 you saying that The Ukraine and Russia would be behave  
20 similarly.

21 It doesn't seem like they have done much.  
22 They come in and they stay very low. So I will look  
23 forward to seeing some more information about that.

24 MS. SLATER: Thank you, Madam Chairman. One  
25 of the fundamental differences between all of those

1 countries, and their production facilities, is that  
2 unlike the two remaining covered countries, the two  
3 remaining subject countries, we have seen economic  
4 reforms which include reform of their energy supplies  
5 and their gas pricing, for example.

6 So in the case of Romania, for example,  
7 there were periods of time when Romanian product was  
8 absolute, when gas pricing simply didn't make it  
9 economic for them to make sense for them to produce an  
10 export here.

11 They have been able to come back at a  
12 responsible rate, but that is the fundamental  
13 difference of the economic reforms that have taken  
14 hold in those other countries that are not yet in  
15 place in Russia and the Ukraine.

16 CHAIRMAN OKUN: And then for post-hearing,  
17 in your brief, you had cited the multiple sources,  
18 including the IFDC, regarding capacity of subject  
19 countries.

20 And in looking at those as a result of  
21 certain assumptions these sources make regarding  
22 capacity expansion efforts by certain subject  
23 producers, projections do differ.

24 So for purposes of your post-hearing brief,  
25 please compare the differences in these projections,

1 and provide additional explanation, and supporting  
2 documentation for the capacity increases for the 2012  
3 and 2013 time period.

4 And I know that we have -- well, I don't  
5 know who it was that remarked in the beginning that  
6 you had missed the demand -- well, what was going to  
7 happen on the demand side, and I think everyone here  
8 shakes their head in agreement that it is very  
9 difficult to determine -- to look into our crystal  
10 ball and determine what is going to happen on both the  
11 demand and supply side.

12 But that is part of what we have to do as  
13 part of our analysis, and we appreciate all the  
14 information that you have put on the record, and in  
15 response to questions about that.

16 I just wanted to briefly just go back to the  
17 Latin American market and make sure that I understand  
18 what your projections are for that market going  
19 forward, as it is an important market for the subject  
20 producers.

21 What rate do you see it growing in  
22 comparison to other markets around the world? Is  
23 there any information that you have on that? I know  
24 that you are not exporters, but just in terms that  
25 there is a lot of pricing and other information about

1 this industry.

2 MR. MULHALL: We have parent consumption  
3 projections from FERTECON, and I don't have the  
4 numbers in my head, but we can provide you from some  
5 other sources what demand projections are for the  
6 Latin American countries through 2013, through 2014,  
7 from that source and possibly other sources that give  
8 demand projections on a regional basis.

9 CHAIRMAN OKUN: Okay. And just so that I  
10 understand your argument of why they would -- why  
11 subject producers would shift from already established  
12 markets, markets that they have established, and  
13 markets in that vicinity to the United States, when  
14 you talked about transportation advantages and  
15 disadvantages.

16 Again, are you -- what is the primary  
17 incentive for the Russians and the Ukrainians to shift  
18 to this market in the event the order is lifted from  
19 those markets in particular, the Latin American  
20 market?

21 MR. BOHN: Chairman, Chris Bohn, CF  
22 Industries. I think that you touched on a part of  
23 that, and that is the attractiveness of the U.S.  
24 market from a port standpoint and a distribution  
25 standpoint, and the significant demurrage

1 times that exist in some of the Latin American  
2 countries.

3 In addition to that, I think the shift would  
4 be during some of the time frames of the year where we  
5 are not in peak season. So the November to February  
6 time frame, the U.S. market has significant storage as  
7 we have discussed today.

8 The Urea product, unlike some of the other  
9 nitrogen products, can be easily stored, and  
10 therefore, it would create a market during that time  
11 of the year.

12 Brazil, for instance, only takes product in  
13 season. So I think when you look at the ease of  
14 logistics, distribution, the opportunity to sell into  
15 a market year around because of its distribution  
16 facilities, and also the largest importing market in  
17 the world that you have there, and that can be  
18 monetized in hard currency.

19 And lastly I think we made points in the  
20 testimony that the U.S. purchasers probably have the  
21 most credit stability of most of the buyers throughout  
22 the world. So that is ultimately another incentive.

23 CHAIRMAN OKUN: Mr. Klett, did you have  
24 something to add?

25 MR. KLETT: That is one reason in my net

1 back analysis that I broke out Brazil separately, and  
2 that is because I think it is the number one market  
3 for both Russia and The Ukraine.

4 So in addition to the logistical issues that  
5 Mr. Bohn talked about, I think there is also a price  
6 incentive on a net back basis to divert some exports  
7 to the U.S.

8 I mean, the United States really is kind of  
9 an outwire for Russia and The Ukraine, in terms of the  
10 market that they don't sell to in the Americas. I  
11 mean, they sell not only to Brazil, but to most of the  
12 other South American countries. They export to  
13 Canada, and not the U.S.

14 CHAIRMAN OKUN: And then you had the  
15 opportunity both in your briefs and today to talk a  
16 little bit about the prill and the granular. And I  
17 guess I still had one question just going back on the  
18 issue of how readily substitutable it is.

19 Just in terms of the fact that granular  
20 capacity has been added in those countries, and why --  
21 even if it doesn't cost them much, why would Russia  
22 and The Ukraine add granular?

23 Why would anyone add granular capacity if  
24 you could sell the same prill and not have to do that?

25 MR. BOHN: Chairman, Chris Bohn, CF



1 Industries. If the decision is being made to add new  
2 capacity, most of the preference as I said earlier is  
3 primarily towards granulated product.

4 The difference in the granulation and the  
5 prilling -- and the capital expenses I am not entirely  
6 sure of, but I don't think it is great enough where if  
7 you are building a greenfield site, or a brownfield  
8 site, that you would make it a granulation to be more  
9 preferred in the U.S. market.

10 CHAIRMAN OKUN: Okay. And then it may be --  
11 well, I would have to look back at the staff report,  
12 but in your brief, just for purposes of the post-  
13 hearing to make sure that I know exactly, but I know  
14 that you have talked about the fact that you can use  
15 prill in the fertilizer, and that it is done, whether  
16 that percentage has changed?

17 I mean, in fact, as opposed to in theory,  
18 just in the U.S. market where the uses are and have  
19 that available. And with that, I don't believe I have  
20 any further questions. Let me see if there is a third  
21 round. Vice Chairman Williamson.

22 VICE CHAIRMAN WILLIAMSON: Just a couple of  
23 quick questions. Do you have the information on the  
24 quality level of the Russian and The Ukrainian  
25 granular production? Are the differences in the U.S.?

1           MR. MULHALL: My understanding is that the  
2 granular Urea that comes out of the Ukraine is  
3 competitive quality. As far as having numbers on  
4 hardness or something like that, I don't have that  
5 available.

6           VICE CHAIRMAN WILLIAMSON: Okay. And with  
7 Russia?

8           MR. MULHALL: As far as Russia, it is the  
9 same thing. The granular is projected to be of  
10 similar type of quality.

11          MS. SLATER: And I would also add,  
12 Commissioner, that in your purchaser questionnaires, I  
13 don't think we have seen any indication of a quality  
14 issue.

15                 Certainly we have not heard of it, or it is  
16 nothing that has come up in what we have been doing to  
17 prepare for this hearing. But we could also point you  
18 post-hearing if you would like to some of the comments  
19 and purchaser questionnaires, that might be helpful.

20          VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
21 I was just checking on that. And just also is there  
22 any difference in the type of granular versus prill  
23 that is used in Latin America, compared to the U.S.  
24 market? Are there differences in demand there?

25          MR. BOHN: Chris Bohn, CF Industries. Not

1 that I am aware of. I think it is as we said, that it  
2 is a fungible commodity product. So the product that  
3 is produced in a subject manufacturing facility, no  
4 matter where it is shipped, there is really no  
5 distinction between the product quality and where it  
6 is being shipped. So it is just a commodity product.

7 VICE CHAIRMAN WILLIAMSON: And to note that  
8 either one, in Latin American, just as here, there is  
9 no difference?

10 MR. BOHN: Oh, the question is whether they  
11 would take prill or granular?

12 VICE CHAIRMAN WILLIAMSON: Yes.

13 MR. BOHN: I believe -- well, I probably  
14 shouldn't comment on that. Al, I don't know if you  
15 can comment, but why don't we look into that.

16 VICE CHAIRMAN WILLIAMSON: Okay. If there  
17 is anything worth noting, just let us know. Okay.  
18 Thank you, and with that, I have no further questions,  
19 and I also want to thank the panel for their  
20 testimony.

21 CHAIRMAN OKUN: Commissioner Lane. You have  
22 no further questions? Okay. Commissioner Pearson.

23 COMMISSIONER PEARSON: Thank you, Madam  
24 Chairman. I pay the price now for asking somewhat  
25 interesting, but open-ended questions at the start,

1 but let me get right to the point here. I mentioned  
2 earlier your Exhibit 14.

3 CHAIRMAN OKUN: I'm sorry, you are just  
4 getting to the point?

5 COMMISSIONER PEARSON: You know me. I am  
6 slow in most things. Sorry about that.

7 CHAIRMAN OKUN: Thank you.

8 COMMISSIONER PEARSON: Your Exhibit 14,  
9 which I observe now is marked proprietary treatment  
10 requested. So let me just say that on the second page  
11 of that submission, on the bottom paragraph, there is  
12 discussion of border pricing arrangements that may  
13 exist between Russia and The Ukraine, or may have  
14 existed more than a year ago when this was apparently  
15 prepared.

16 And Mr. Bohn has commented somewhat on this  
17 issue, but I am interested in knowing if there is more  
18 to know. And the reason is simple enough. In the  
19 hypothetical situation, in which Russian producers  
20 have artificially low-priced gas, and Ukrainian  
21 producers have market price gas, that would be a  
22 significant change in competition from what we had in  
23 the previous review, and it might even be a sufficient  
24 basis for someone like me to decide not to cumulate  
25 the two countries and treat them separately.

1           And I want you to help me through that  
2           analysis, perhaps both now and what you can dig up in  
3           the post-hearing, because if I shouldn't go there,  
4           explain why; and if I should, then give me enough  
5           information so that I could. That is what I am  
6           suggesting.

7           MS. SLATER: Don't go there. We definitely  
8           will go into greater detail in post-hearing, but I  
9           think the key here is what is a clear disconnect  
10          between the formula border price that you are  
11          referring to, which is the price of which The  
12          Ukrainian government, or actually the Ukrainian gas  
13          entities, have agreed to pay Russia for gas, has not  
14          been, and still is not the price which is filtering  
15          through to The Ukrainian plants.

16          And this is where the adjective murky comes  
17          in, and actually to be quite honest, we were hoping to  
18          have learned more through this process about what is  
19          happening in The Ukrainian plants.

20          FERTECON's best and most recent gas is laid  
21          out in the report that we have given you from them  
22          separately, but what is very clear is that that border  
23          price is not translating itself directly into the  
24          price being paid by the Urea plants.

25          And we can see that based on the export

1 prices that are currently characterizing The Ukrainian  
2 product, we know that based on particular reports that  
3 we have received -- and we can lay that out in more  
4 detail, is that if The Ukrainian plants had been  
5 paying a market determined price, or what is the  
6 general price from Russia, I think we might be in a  
7 different situation with respect to The Ukraine quite  
8 honestly.

9 But the one thing that is clear is that that  
10 price is not filtering through to the plant.  
11 Something different is happening, and as I mentioned  
12 earlier, for a period of time, it was clear that the  
13 government was itself giving breaks to the plants to  
14 enable them to continue.

15 It was negotiating new rates, or discounts,  
16 or rebates -- it is not actually clear what was  
17 happening, but to the plants, so that they could  
18 continue their export activity.

19 But again the uncertainty is what  
20 characterizes this. We can tell you what we know and  
21 explain how we know it is not that border price, if  
22 that would be helpful to you, post-hearing.

23 COMMISSIONER PEARSON: Yes, please. And,  
24 Mr. Bohn, if I could go to you for a clarification.  
25 You had said something in my last round something to

1 the effect that the Gazprom joint venture in The  
2 Ukraine accounts for either 16 or 60 -- one-six or  
3 six-zero -- percent of Ukrainian production.

4 And I just wanted to clarify which one we  
5 are talking about.

6 MR. BOHN: Commissioner, I was speaking  
7 about that it was 60 percent, and it was related to  
8 the DF Group, and the individual who owns the DF  
9 Group, FERTECON, reports or receives different  
10 contracted gas from Gazprom, in which he has a joint  
11 venture with one of his other owned companies.

12 So he owns 60 percent through the DF Group  
13 of the Ukrainian production, and through another  
14 company as a joint venture with Gazprom, and the  
15 linkage there is that he is then receiving below  
16 market pricing on his gas.

17 COMMISSIONER PEARSON: And would it be safe  
18 to assume that that firm then is an active exporter?

19 MR. BOHN: Yes, that firm is an active  
20 exporter. The remaining Ukrainian firm that is State-  
21 owned, OPZ, it is speculated by, or it is reported by  
22 FERTECON as also receiving some subsidies related to  
23 their natural gas purchases also.

24 So it is not just the group DF. It is also  
25 the state-owned OPZ.

1                   COMMISSIONER PEARSON: Okay. Thank you.  
2 Well, I appreciate whatever additional material you  
3 can put on the record on this issue, because I am  
4 wrestling with it, and not terribly successfully, but  
5 I am wrestling.

6                   And I will also speak to our professional  
7 staff and see whether there is any additional  
8 information on this that they can glean. They can be  
9 very resourceful, and so I will encourage that.

10                  Quickly, why do we not have data for all  
11 U.S. producers? At least when the staff report went  
12 to print, it was my understanding that we were lacking  
13 questionnaires from some U.S. producers. Don't they  
14 care about this order?

15                  MS. SLATER: Well, I think we have to be --  
16 I think since the staff report was done, I think  
17 another one has been submitted if I am not mistaken.  
18 So, I believe that there is only one missing, and I  
19 hesitate to mention percentages, but I think you do  
20 have the vast majority covered.

21                  And any indication of why the non-responding  
22 producers did not respond would be purely speculative,  
23 but we would be happy to speculate post-hearing, but  
24 it would be only that.

25                  COMMISSIONER PEARSON: That's fine. If we



1 have only got one holdout, then that's better than we  
2 do in some cases, although not necessarily in asset  
3 intensive industries like this.

4 I mean, with not that many producers. So it  
5 was a little bit surprising to realize that we had  
6 only partial coverage. My last question is that there  
7 has been some discussion about the diesel exhaust  
8 fluid use for Urea.

9 What's the deal? Is it like a catalytic  
10 converter of some sort, packed with urea, that removes  
11 nitrous oxides from the diesel fuel? How does this  
12 work? Is there one on every truck?

13 MR. BOHN: Commissioner, I won't dare to get  
14 into all of the details of explaining it, but yes,  
15 what you will see in 2010, trucks that came out had to  
16 have a NOX emission that was lowered by the Clean Air  
17 Act.

18 And in addition to that, you will see off-  
19 road vehicles in 2014 also have that. Just as an  
20 aside, it is a separate tank that is on the Class VI  
21 and above tanks.

22 It is generally a blue tank that you can  
23 see, and it is mixed in, not with the gas, but down  
24 the ways, and it is as a NOX abatement.

25 COMMISSIONER PEARSON: So it is dealing with

1 the exhaust fumes and not with the diesel fuel going  
2 into the engine? It is on the output side of the  
3 engine, right?

4 MR. BOHN: It is on -- well, I am going to  
5 hold back on commenting on that. I don't know  
6 specifically.

7 COMMISSIONER PEARSON: Well, for post-  
8 hearing, tell me a little bit more about this so that  
9 I have a basic sense of what is going on.

10 MR. MULHALL: This is Al Mulhall with Potash  
11 Corporation. I can maybe comment on that a little  
12 bit. The urea is used because it is very easy to  
13 handle.

14 It is a nice safe product. It is very  
15 convenient. It is easy to transport, and easy to  
16 store, and all those good things. The urea during the  
17 process is broken down to form anomia, which is  
18 reacted, and it eliminates the NOX. So that is kind  
19 of the theory behind it.

20 So the urea is the source of a material  
21 which allows the emissions to be reduced.

22 COMMISSIONER PEARSON: Okay. So are  
23 truckers going to be pulling into truck stops and  
24 filling one tank with diesel, and another tank with  
25 urea so that they can --

1 MR. MULHALL: That's the thought, yes.

2 MR. BOHN: Commissioner, Chris Bohn, CF  
3 Industries. It is a liquid urea product, and it is  
4 mixed with demineralized water, and it is -- you will  
5 be seeing it, whether it be on truck stops, or if you  
6 stop on highways right now, you will probably see it  
7 at some of the major truck stops on highways in 2-1/2  
8 gallon jugs.

9 COMMISSIONER PEARSON: Okay. Well, thank  
10 you very much for the answers to those somewhat --  
11 well, those questions that were not entirely focused  
12 on.

13 I would like it to be determinative to this  
14 investigation, and thank you, fellow Commissioners,  
15 for your indulgence. With that, I have no further  
16 questions, and I appreciate very much your testimony  
17 today.

18 CHAIRMAN OKUN: Let me just check to see.  
19 Commissioner Aranoff, or Commissioner Pinkert, any  
20 further questions?

21 (No audible response.)

22 CHAIRMAN OKUN: Seeing no questions from  
23 anyone else up here, let me turn to the Staff to see  
24 if they have questions for you.

25 MR. CORKRAN: Douglas Corkran, Office of

1 Investigators. Thank you, Chairman Okun. The Staff  
2 has no additional questions.

3 CHAIRMAN OKUN: Well, with that, I want to  
4 thank the industry witnesses again very much for their  
5 testimony, and Mr. Klett as well, and counsel. We  
6 will turn to the five minutes of closing. I don't  
7 know if you want to stand up or just stay there, Ms.  
8 Slater.

9 MS. SLATER: I don't plan to deliver a  
10 formal closing address, but I just wanted to make two  
11 very quick points. I would ask the Commission, or we  
12 would ask the Commission to take to heart your  
13 obligation to not only use the best information, but  
14 to apply adverse inferences where appropriate.

15 And in this case, we would submit to you  
16 that with respect to the likelihood of underselling,  
17 and the behavior of Russian imports in the market,  
18 you ought to really look closely at what you do know.

19 You ought to look very closely at what can  
20 be derived and understood from your questionnaires,  
21 and to make some adverse inferences. And we are not  
22 talking about one particular Russian producer here.

23 We are talking about most of the Ukrainian  
24 industry, and most of the Russian Industry, a large  
25 portion of which appeared before you five years ago.

1 The statute tells you to take an inference adverse to  
2 the parties who are not supplying you information, and  
3 I think that the integrity of the Commission's process  
4 requires you to do so here.

5 The only other point that I would like to  
6 make this morning is that as we said, we know that the  
7 industry is doing well. It is not typical for what  
8 you see when you deal with these reviews. But we hope  
9 that you come to an understanding of the particular  
10 situations.

11 You have a much smaller industry than has  
12 ever existed. It is at its lowest state in terms of  
13 its size, and its market share. It is an industry  
14 which is -- it is an efficient industry. The  
15 producers who are remaining are good producers.

16 But they are every day in the market  
17 fighting for sales, fighting for market share, both in  
18 the prilled urea, for granular urea, fertilizer uses,  
19 non-fertilizer uses, with imports -- and fairly traded  
20 imports -- from a wide variety of sources.

21 And it is very important for the Commission  
22 to take into account what the impact would be of  
23 adding on top of that the pressure of the largest  
24 exporters in the world, who are still trading  
25 unfairly, and have demonstrated that quite recently in

1 this country.

2 Take that into effect when you are  
3 considering the situation, and we know that you will  
4 look carefully at what we have talked to you about  
5 today. Thanks for your time and attention, and we  
6 look forward to writing a post-hearing brief.

7 CHAIRMAN OKUN: Well, thank you. Post-  
8 hearing briefs, and statements responsive to questions  
9 by the Commission, and corrections to the transcript,  
10 must be filed by October 13th, 2011.

11 The closing of the record and final release  
12 of data to the parties is November 4th, 2011, and  
13 final comments are due November 8th, 2011. With no  
14 other business to come before the Commission, this  
15 hearing is adjourned.

16 (Whereupon, at 12:25 p.m., the hearing in  
17 the above-entitled matter was concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Solid Urea From Russian & Ukraine  
**INVESTIGATION NO.:** 731-TA-340-E and H  
**HEARING DATE:** October 4, 2011  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: October 4, 2011

SIGNED: LaShonne Robinson  
Signature of the Contractor or the  
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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: David W. Jones  
Signature of Court Reporter