Urea Ammonium Nitrate Solutions From Belarus, Russia, and Ukraine

Investigations Nos. 731-TA-1006, 1008, and 1009 (Final)

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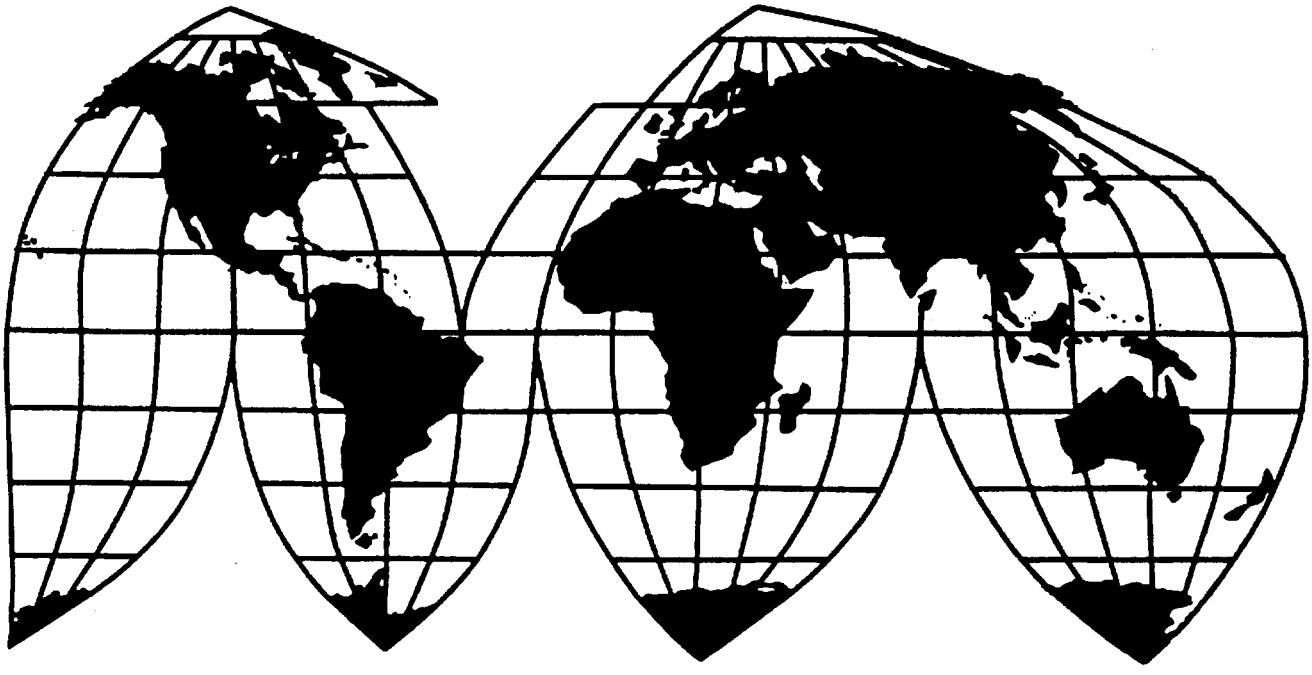

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-1006, 1008, and 1009 (Final)

UREA AMMONIUM NITRATE SOLUTIONS FROM BELARUS, RUSSIA, AND UKRAINE

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Belarus, Russia,[2] and Ukraine of urea ammonium nitrate solutions, provided for in subheading 3102.80.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective April 19, 2002, following receipt of a petition filed with the Commission and Commerce by the Nitrogen Solutions Fair Trade Committee, an ad hoc coalition of U.S. urea ammonium nitrate solutions producers, consisting of CF Industries, Inc., Long Grove, IL; Mississippi Chemical Corp., Yazoo City, MS; and Terra Industries, Inc., Sioux City, IA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of urea ammonium nitrate solutions from Belarus, Russia, and Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 23, 2002 (67 FR 65143). Pursuant to Commerce's notice of extension of the time limits for its final antidumping determinations (67 FR 67823, November 7, 2002), the Commission published a notice of revised schedule in the *Federal Register* of November 20, 2002 (67 FR 70093). The hearing was held in Washington, DC, on February 20, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on April 10, 2003. The views of the Commission are contained in USITC Publication 3591 (April 2003), entitled *Urea Ammonium Nitrate Solutions from Belarus, Russia, and Ukraine: Investigations Nos. 731-TA-1006, 1008, and 1009 (Final).*

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

[2] On February 19, 2003, Commerce signed a suspension agreement concerning UAN from Russia; however, pursuant to petitioners' request on the following day, Commerce continued its investigation and published notices of suspension, continuance, and completion of the investigation in the *Federal Register* of March 3, 2003 (68 FR 9977-9984). The Commission thus continued its investigation of subject imports from Russia pursuant to 19 U.S.C. § 1673c(g).

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of urea ammonium nitrate solutions from Belarus, Russia, and Ukraine that are sold in the United States at less than fair value ("LTFV").[1]

I. DOMESTIC LIKE PRODUCT

A. In General

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

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The

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[1] Whether the establishment of an industry is being materially retarded is not an issue in these investigations.

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10).

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

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

Commission looks for clear dividing lines among possible like products and disregards minor variations.[7] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

B. Product Description

Commerce's final determinations defined the imported merchandise within the scope of these investigations as:

> For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (the Customs Service) purposes, the written description of the merchandise under investigation is dispositive.[9]

The subject merchandise, urea ammonium nitrate solutions ("UAN"), is an aqueous solution of urea and ammonium nitrate. UAN generally contains relatively equal proportions of urea and ammonium nitrate and ranges from 28 to 32 percent nitrogen by weight.[10] It is one of the four principal nitrogen-based fertilizers; the other three are urea, ammonium nitrate, and anhydrous ammonia.[11] UAN is produced and used as a fertilizer in several countries,[12] although 84 percent of world consumption occurs in Europe and

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

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

[9] 68 Fed. Reg. 9055 (Feb. 27, 2003) (Belarus); 68 Fed. Reg. 9057 (Feb. 27, 2003) (Ukraine); 68 Fed. Reg. 9977, 9978 (March 3, 2003) (Russia).

[10] INV-AA-031, March 11, 2003, Confidential Staff Report ("CR") at I-4; Public Report ("PR") at I-3.

[11] CR at I-4, PR at I-3.

[12] CR at I-3, PR at I-3.

North America.[13]

C. Domestic Like Product

In the preliminary phase of these investigations, petitioners argued that the Commission should find only one domestic like product consisting of UAN, co-extensive with the scope of investigation. Respondents argued that the domestic like product should be expanded to include other chemicals that are used as nitrogen-based fertilizers: urea, ammonium nitrate, and anhydrous ammonia.[14] The Commission found significant differences in physical and chemical properties, uses, and prices, as well as limited interchangeability among these other chemicals and UAN.[15] Accordingly, the Commission defined the domestic like product coextensively with the product described in the scope of these investigations, *i.e.,* UAN.[16]

In the final phase of these investigations, petitioners maintain their position that the other nitrogen-based fertilizers differ significantly from UAN and should not be included in the domestic like product.[17] Respondents no longer argue for the expansion of the definition of the domestic like product.

Based upon their significant differences, particularly their different physical properties, uses, prices, and limited interchangeability as outlined in our preliminary determination,[18] and the lack of relevant new facts in the final phase of these investigations, we do not find it appropriate to include urea, ammonium nitrate, or anhydrous ammonia in the definition of the domestic like product. We therefore define the domestic like product to be coextensive with the product described in the scope of these investigations.

II. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the

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[13] CR at II-1, PR at II-1.

[14] See IRM's Postconference Brief at 2; J.R. Simplot's Postconference Brief at 1.

[15] Urea Ammonium Nitrate Solutions from Belarus, Lithuania, Russia, and Ukraine, Inv. No. 731-TA-1006-1009 (Preliminary) (June 2002) USITC Pub. 3517 at 5-6.

[16] Urea Ammonium Nitrate Solutions from Belarus, Lithuania, Russia, and Ukraine, Inv. No. 731-TA-1006-1009 (Preliminary) (June 2002) USITC Pub. 3517 at 6.

[17] Petitioners' Prehearing Brief at 12-19.

[18] Urea Ammonium Nitrate Solutions from Belarus, Lithuania, Russia, and Ukraine, Inv. No. 731-TA-1006-1009 (Preliminary) (June 2002) USITC Pub. 3517 at 6.

total domestic production of the product."[19] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[20]

Based on our domestic like product finding, we find that the domestic industry consists of all domestic producers of UAN.

B. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[21] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[22]

As in the preliminary phase, we exclude *** from the domestic industry.[23] First, as an importer of the subject merchandise, it is a related party. During the period of investigation ("POI"), it imported ***.[24] It appears to have ***.[25] ***, suggesting its interests lie in importation rather than domestic

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[19] 19 U.S.C. § 1677(4)(A).

[20] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

[21] 19 U.S.C. § 1677(4)(B).

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

[23] The parties did not address the issue of related parties in their briefs or at the hearing in this final phase.

[24] *** Questionnaire Response (indicating ***).

[25] See CR/PR at Table VI-3.

production.[26] Although *** produced less than *** percent of U.S. production during the POI, and excluding it will not change the financial picture of the industry, it is appropriate to exclude *** because it appears to have benefitted from importing subject merchandise.

*** also is a related party by virtue of having imported *** UAN from *** during 2001.[27] It imported *** short tons but its domestic production was *** short tons during the period of investigation, making its imports equivalent to approximately *** of its domestic production during the period.[28] Its financial results were *** than the industry average and it reported its *** in 2001, the year it imported the subject merchandise.[29] Given the limited quantity of its imports of subject merchandise and the lack of evidence that it was shielded from the effects of the subject imports, we do not exclude *** from the definition of the domestic industry.[30]

III. CUMULATION OF THE SUBJECT IMPORTS

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by

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[26] ***.

[27] CR at III-1 n.2, PR at III-1 n.2.

[28] CR at III-1 n.2, PR at III-1 n.2.

[29] See CR/PR at Table VI-3.

[30] *** domestic producers purchased subject imports during the POI. CR at III-1 n.2, PR at III-1 n.2 (***). These domestic producers did not import subject merchandise nor have corporate relationships with producers, exporters or importers of the subject merchandise. However, operational control within the meaning of the related party provision can occur, when, for example, a domestic producer purchases the majority of an importer's imports or controls a large volume of imports, and thus can justify treating a domestic producer as a related party on this basis.

For domestic producer ***, the available information does not indicate that it purchased a majority of an importer's total imports or controlled large volumes of imports relative to total subject imports during the POI of ***. ***. See *** Importer Questionnaire.

For the other domestic producer, ***, it is unclear whether it purchased a majority of an importer's total imports during the POI, but it also does not appear that it would be appropriate to exclude it from the industry if it were considered a related party. Information concerning the size of *** purchases relative to the importers' imports is unavailable because the importers from which it purchased did not respond to the Commission questionnaires. However, available information indicates that, even if we were to consider it a related party, it would be inappropriate to exclude it from the definition of the domestic industry. *** purchased *** tons of subject imports during the POI which would be less than *** percent of its production of *** tons during the POI. CR at III-1 n.2, PR at III-1 n.2. Moreover, *** performed *** over the POI in terms of operating income relative to net sales than other domestic producers, suggesting no benefit from these purchases. See CR/PR at Table VI-3. Therefore, we do not find that it would be appropriate to exclude this company as a related party.

Accordingly, we do not exclude any domestic producers from the domestic industry under the related parties provision based on purchases of the subject imports.

reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.[31] In assessing whether subject imports compete with each other and with the domestic like product,[32] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[33]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[34] Only a "reasonable overlap" of competition is required.[35]

B. Analysis

Petitioners argue that the prerequisites for cumulation have been met in these investigations, and cumulation is appropriate. They note that the petition was filed with respect to all subject countries on the same day and they argue that there is a reasonable overlap of competition. No respondent argues that

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[31] 19 U.S.C. § 1677(7)(G)(i).

[32] The SAA expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848, citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[33] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[34] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[35] See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

subject imports from Belarus, Russia, or Ukraine should not be cumulated.

U.S. producers and importers agree that no quality differences exist among domestic UAN and the subject imports and that they all are highly interchangeable.[36] Essentially there are no significant physical differences between UAN produced in the United States and that produced in the subject countries.[37] In fact, UAN from different sources is often commingled after the initial sales by U.S. producers and importers to dealers and distributers.[38] Therefore, there is a high degree of fungibility among the subject imports and domestic UAN.

During the period of investigation, although competition was somewhat limited geographically, subject imports from the three countries competed sufficiently with domestic UAN for sales on both coasts of the United States and in the Gulf Region for purposes of finding a reasonable overlap of competition.[39] Channels of distribution are similar for the subject imports and domestic UAN. Subject imports and domestic UAN are sold to distributors and then retailers.[40] They also are both transported by barge on the Mississippi River system.[41] Subject imports from Belarus, Russia, and Ukraine were offered for sale during the majority of the POI, although subject imports were minimal during 1999, increased during 2000 and most of 2001, and then declined for the rest of the period of investigation.[42]

Based on the four factors that the Commission considers in analyzing cumulation, there is a reasonable overlap of competition. Accordingly, the conditions for cumulating the subject imports have been satisfied.

We, therefore, cumulate the subject imports from Belarus, Russia, and Ukraine for the purpose of analyzing whether the domestic industry has been materially injured by reason of the subject imports.

IV. NO MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

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[36] CR at II-28 n.64, PR at II-19 n.64; CR at II-28, PR at II-19.

[37] CR at I-3, PR at I-3; Transcript of February 20, 2003 Public Hearing ("Tr.") (Giesler) at 19.

[38] CR at II-28 n.64, PR at II-19 n.64; CR at V-20 n.41, PR at V-15 n.41.

[39] See CR/PR at Table V-6. Imports from all three subject countries entered in *** and competed with domestic UAN for sales. See Id. While only minimal quantities of subject imports entered the United States in the Gulf of Mexico ports (New Orleans and Houston) in 1999, they were present in significant quantities during 2000 and 2001 and able to supply the Midwest via the Mississippi River system. See Petitioners' Prehearing Brief at Exhibit 6. See also Petition at 18 (subject imports were primarily present only on the East and West Coasts until recently).

[40] CR at II-1, PR at II-1.

[41] CR at II-1, PR at II-1.

[42] See CR/PR at Table V-6. However, subject imports from Belarus began entering the United States in the fourth quarter of 2000. Petitioners' Prehearing Brief at Exh. 8; CR/PR at Table IV-1.

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[43] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[44] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[45] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[46] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[47]

For the reasons discussed below, we determine that the domestic industry is not materially injured by reason of subject imports from Belarus, Russia, and Ukraine found to be sold in the United States at LTFV.

A. Conditions of Competition

We find the following conditions of competition relevant to our analysis of material injury and threat of material injury.[48]

UAN is a liquid fertilizer that supplies nitrogen to crops.[49] In the United States, it is primarily

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[43] 19 U.S.C. § 1673d(b).

[44] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also, Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[45] 19 U.S.C. § 1677(7)(A).

[46] 19 U.S.C. § 1677(7)(C)(iii).

[47] Id.

[48] The Russian producer and exporter Nevinka entered into a suspension agreement with Commerce on February 19, 2003. Suspension of Antidumping Duty Investigation: Urea Ammonium Nitrate Solutions from the Russian Federation, 68 Fed. Reg. 9980 (March 3, 2003). The next day, pursuant to 19 U.S.C. § 1673c(g), petitioners requested that Commerce and the Commission continue their investigations and Commerce issued a Final Determination of Sales at Less than Fair Value of UAN from Russia on March 3, 2003. Notice of Final Determination Sales at Less than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation, 68 Fed. Reg. 9977 (March 3, 2003). The suspension agreement has no effect on the Commission's analysis because all of the Commission's data predate the suspension agreement. As a result of the negative determination in this investigation, the suspension agreement will not be effective.

[49] CR at II-15, PR at II-10.

used as a pre-planting fertilizer for row crops such as corn, wheat, cotton, soybeans, and sugar cane.[50] UAN is a seasonal product and demand is generally strongest in anticipation of the planting season. Farmers generally apply UAN in the spring planting season, except in the Southwest, where it can be used several times during the year because crops are grown there year-round.[51] The demand for UAN is determined by acreage planted and application rates.[52] Apparent U.S. consumption of UAN was greater in 2000 than 1999, but it fell in 2001 to a level below 1999 consumption.[53] The primary consuming region for UAN is the Midwest. In 2001, 17 states accounted for 76 percent of the U.S. UAN consumption: of these, California on the West Coast accounted for 6.3 percent; Florida, on the East Coast, accounted for 0.2 percent; Texas, on the Gulf Coast accounted for 6.8 percent.[54] The remaining states in the Farmbelt accounted for 63 percent of UAN consumption: Nebraska, Iowa, Ohio, Illinois, Kansas, Indiana, Missouri, Michigan, Wisconsin, South Dakota, Minnesota, Arkansas, Kentucky, and North Dakota.

UAN is a commodity product and UAN from different sources is commingled in inventory. [55] However, UAN has only limited interchangeability with the other nitrogen fertilizers because it is optimal for use with irrigation systems and minimal-till farming.[56] Farmers use different equipment for applying UAN[57] and it can be mixed with other solutions, such as pesticides for a single application.[58]

Although UAN is generally consumed seasonally, it is produced throughout the year because it is inefficient to cease production, and domestic producers typically increase their inventories during the fall and winter months.[59]

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[50] CR at I-3, PR at I-3; CR at II-15, PR at II-10.

[51] CR at I-3, PR at I-3.

[52] CR at II-16, PR at II-10.

[53] Apparent consumption was 10.3 million short tons in 1999, 11.0 million short tons in 2000, and 9.9 million short tons in 2001. U.S. apparent consumption was relatively unchanged in the interim period comparison (the first three quarters of 2002 versus the first three quarters of 2001) at 7.4 million short tons. However, the value of U.S. apparent consumption increased from $722 million in 1999 to $990 million in 2000 to $1.1 billion in 2001. U.S. apparent consumption declined in the interim period comparison, from $875 million to $608 million. CR/PR at Table IV-1.

[54] See CR at II-17 to II-18 n.40, PR at II-11 n.40.

[55] Tr. at 19 (Giesler).

[56] Tr. at 18 (Giesler); Tr. at 99-102 (Buckley).

[57] CR at II-23, PR at II-10.

[58] CR at II-23, PR at II-10.

[59] CR at I-6, PR at I-4.

Natural gas is an important feedstock for production of UAN. It accounts for more than half of the cost of production of UAN.[60] Domestic producers accounting for the bulk of U.S. UAN production hedge the risk of natural gas price fluctuations throughout the year by purchasing natural gas futures.[61] The futures contracts decrease uncertainty as to the cost of natural gas by partially offsetting high spot prices for natural gas.[62] Natural gas prices in the United States were under $2 per MMBtu in early 1999, yet they rose sharply during late 2000 and early 2001 and peaked at nearly $10 per MMBtu (more than three times the historical price of natural gas).[63] As a result, during the same period -- late 2000 through early 2001 -- U.S. producers curtailed production,[64] and UAN prices rose dramatically.[65] U.S. natural gas prices in 2003 are once again at high levels and domestic producers have once again announced production cutbacks.[66]

Average transportation costs account for 24 percent to 49 percent of the cost of the subject imports due to the weight of UAN, which is mostly water.[67] Average transportation costs for shipment of domestic UAN also are significant and range from 9.2 percent up to 23.3 percent.[68] Consequently, 82 percent of the subject imported product is sold to customers within 100 miles of the port of entry, and 31 percent of domestic UAN is shipped similar distances.[69] Some suppliers use swaps to minimize the effects of the high transportation costs, yet no UAN suppliers reported selling nationwide, but rather in

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[60] CR at V-1, PR at V-1; Tr. at 21 (Giesler).

[61] CR at VI-7 to VI-8, PR at VI-4 to VI-5; CR/PR Table VI-5, CR/PR at Appendix F.

[62] See CR at V-4 n.7, PR at V-2 n.7; CR/PR at F-3.

[63] See Petitioners' Prehearing Brief at Exhibit 15 (natural gas prices over the POI).

[64] Of the 28 purchasers that responded to the Commission's questionnaires 17 reported that their suppliers of U.S. produced and imported UAN were able to fully provide their requirements during the POI, while 11 reported supply problems, particularly during the period of the natural gas price spikes. Eight of the 11 purchasers identified U.S. producers as the suppliers that could not supply their needs, including CF Industries, Farmland, Mississippi Chemical, PCS and Terra. CR at II-9, PR at II-6. Petitioners admitted at the hearing that during the natural gas price spikes, there were perceived if not real supply shortages. Tr. at 21-22, 70 (Giesler).

[65] Tr. at 21 (Giesler); CR at V-2, PR at V-1; CR/PR at Fig. V-1; CR/PR at Fig. V-5. See also Petitioners' Prehearing Brief at Exhibit 15.

[66] CR at III-5, PR at III-4; CR at V-4 to V-5, PR at V-3.

[67] CR at V-5, PR at V-4. Transportation costs for subject imports from Russia, which were the majority of subject imports, averaged almost 50 percent. Id.

[68] CR at V-7, PR at V-4.

[69] CR at V-7, PR at V-5; CR at II-27, PR at II-18. Thus, importers typically sold their UAN in or near the coastal areas while domestic UAN was sold further inland. CR at II-26, PR at II-18.

specific market areas.[70]

Imports generally have not competed on the Gulf Coast where they would be able to supply the Cornbelt states, which account for a significant percentage of UAN consumption in the United States.[71] Petitioners stated in their petition that, "until very recently, imports of UAN were sold primarily on the East Coast, arriving at such ports as Wilmington, Baltimore, and Norfolk and West Coast ports such as Stockton, CA. Beginning in 2001, however, imported UAN began to appear in substantial quantities at Gulf Coast ports, particularly New Orleans, Corpus Christi, and Houston."[72] The Gulf Coast is the entry point for sales up the Mississippi River to the Midwest, the primary consuming region for UAN.

Nonsubject imports increased over the period of investigation and in interim (Jan.-Sept.) 2002 accounted for a larger share of the U.S. market than the subject imports.[73] The European Union imposed final antidumping duties on UAN from Belarus, Russia, and Ukraine in September 2000.[74]

B. Volume

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[75]

The volume of cumulated subject imports increased during the period of investigation, both absolutely and as a share of the U.S. market, although subject import volume declined in interim 2002 as compared to interim 2001. Subject imports were 276,743 short tons in 1999, 967,890 short tons in 2000 and 1,334,207 short tons in 2001. In the interim periods the subject imports were 1,017,809 short tons in interim 2001 and 391,242 short tons in interim 2002.[76] The value of these imports was $15.6 million in 1999, $75.5 million in 2000, and $120.5 million in 2001. In the interim periods, the value of the subject

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[70] CR at V-10, PR at V-7; CR at II-2, PR at II-2.

[71] As already noted, subject imports began entering on the Gulf Coast in 2000, indicating that they could supply the Cornbelt via the Mississippi River system. See CR at II-1, PR at II-1 (Mississippi River important for distribution of UAN); J.R. Simplot's Posthearing Brief at Exhibit 7.

[72] CR at II-1 n.2, PR at II-1 n.2.

[73] CR/PR at Table IV-1. Nonsubject imports captured 3.8 percent of the market in 1999, 4.3 percent in 2000, 8.5 percent in 2001, 10.5 percent in interim 2001, and 6.3 percent in interim 2002.

[74] CR at VII-5, PR at VII-2. The United States also has antidumping duty orders on solid urea from Belarus, Russia, and Ukraine, as well as solid agricultural grade ammonium nitrate from Ukraine. A suspension agreement covers imports of solid agricultural grade ammonium nitrate from Russia. CR at I-2, PR at I-2.

[75] 19 U.S.C. § 1677(7)(C)(i).

[76] CR/PR at Table IV-1.

imports was $98.0 million in interim 2001 and $28.2 million in interim 2002.[77]

Subject imports increased their share of the U.S. market from 1999 through 2001, although their market share declined when the interim periods are compared. They accounted for 2.7 percent of the volume of U.S. apparent consumption in 1999, 8.8 percent in 2000, and 13.5 percent in 2001. In the interim period comparison, subject imports captured 13.7 percent of the U.S. market in interim 2001 and 5.3 percent in interim 2002. In terms of the value, subject imports accounted for 2.2 percent of the value of U.S. apparent consumption in 1999, 7.6 percent in 2000 and 11.2 percent in 2001. In the interim periods subject imports were equivalent to 11.2 percent of the value of U.S. apparent consumption in interim 2001 but only 4.6 percent in interim 2002.[78]

U.S. producers lost market share during the POI, declining from 93.5 percent of U.S. apparent consumption in 1999 to 78.0 percent in 2001. U.S. producers' market share was 88.4 percent in interim 2002, compared with 75.9 percent in interim 2001.[79] U.S. producers' market share based on the value of domestic consumption followed similar trends.[80]

The increase in volume of the subject imports both absolutely and relative to domestic consumption over the period of investigation was significant. However, the increase in subject import volume must be viewed in the context of prevailing market conditions. The increase in subject imports came at a time of extraordinarily high U.S. natural gas prices, resulting in increased UAN costs, production cutbacks by the U.S. producers,[81] and high UAN prices, which made subject imports (as well as nonsubject imports) able to compete despite high transportation costs.[82] The volume of subject imports was significantly higher in the second half of 2000 than during the first half of 2000 and remained high into the first half of 2001, coincident with the spike in U.S. natural gas prices.[83] As natural gas prices and UAN prices returned to their historical levels,[84] the volume of subject imports and

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[77] CR/PR at Table IV-1.

[78] CR/PR at Table IV-1.

[79] CR/PR at C-1.

[80] CR/PR at Table IV-1. The market share data based upon value may understate the share of subject imports because the data for subject imports reflected c.i.f., duty-paid, port of entry prices while domestic producers' data were net f.o.b. sales values.

[81] U.S. producers' production of UAN declined by *** percent from 2000 to 2001. CR/PR at C-2.

[82] Nonsubject imports increased from 387,724 short tons in 1999 to 469,978 short tons in 2000, and to 842,264 short tons in 2001. CR at IV-1, PR at IV-1. They declined from 777,755 short tons in interim 2001 to 471,282 short tons in interim 2002. CR/PR at Table IV-1.

[83] Imports of other nitrogen-based products also increased in response to elevated natural gas prices. See J.R. Simplot's Posthearing Brief at 9.

[84] See CR/PR at Figs. V-1 and V-5.

nonsubject imports declined.[85] [86] Shipments of subject imports into the Gulf Coast ports, the entry point for Midwestern markets traditionally served by U.S. producers, also increased during the period of the high natural gas prices and then subsided as natural gas prices fell in late 2001.[87]

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[88]

The record in these investigations indicates that the domestic like product and subject imports are substitutable[89] and that availability and price are both important factors in purchasing decisions.[90]

In gathering data for price comparisons, the Commission used two pricing products: 32 percent

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[85] Prior to the filing of the petition in April 2002, subject imports were declining. Subject imports totaled *** short tons in the first quarter of 2001 and *** short tons in the first quarter of 2002. Petitioners' Posthearing Brief at Exhibit 15. Moreover, subject imports entering at the Gulf of Mexico ports dropped to only *** metric tons in the first half of 2002 while they had been *** metric tons in the first half of 2001 and *** metric tons in the second half of 2001. See Petitioners' Prehearing Brief at Exhibit 6. Because the decline in subject imports predated the filing of the petition and appear related to natural gas prices and domestic industry decisions on production levels, we find that factors in addition to the filing of the petition contributed to the drop in subject imports toward the end of the POI. See 19 U.S.C. § 1677(7)(I).

[86] Petitioners argued that after natural gas prices and UAN prices normalized, nonsubject imports promptly exited the U.S. market in contrast to subject imports. Petitioners' Final Comments at 5. As noted above, however, subject import volumes did decline from previous levels after natural gas prices normalized and before the petition was filed, even if not as "promptly" as nonsubject imports. Moreover, we have found the increase in subject import volume to be significant during the POI.

[87] See Petitioners' Prehearing Brief at Exhibit 6.

[88] 19 U.S.C. § 1677(7)(C)(ii).

[89] Tr. at 19 (Giesler); CR at II-32, PR at II-22.

[90] CR/PR at Table II-1. Twenty of 22 purchasers ranked availability as very important. Twelve of 22 purchasers ranked lowest price as very important. Id.

UAN and 28 percent UAN.[91] At petitioners' suggestion, the Commission collected pricing data in six areas where they believed the initial and most significant competition occurred between domestic UAN and subject imports.[92] The data collected for price comparisons, as suggested by petitioners, are for sales made by importers and U.S. producers located in the specified area to customers located in the specified area.[93] The way in which the data were collected in this final phase provides a reliable basis for assessing the price effects of the subject imports. The pricing data in the six specified areas reflect 8.8 percent of domestic producers' sales, although coverage of importers' sales was close to 50 percent.[94]

Overselling occurred in 66 of the 95 monthly price comparisons and involved 327,212 short tons of subject imported UAN versus 254,522 short tons of subject imported UAN that undersold domestic UAN.[95] Based upon the pricing comparisons, 726,964 short tons of domestic UAN was oversold by the subject imports and 286,994 short tons was undersold.[96] At the Gulf Coast port of New Orleans, where the petitioners argued that subject imports increased their presence during the POI and placed the most pressure on domestic prices,[97] the incidence of overselling by subject imports was overwhelming, occurring in 30 of 32 comparisons.[98] Given the high incidence of overselling and the fact that it occurred in geographic areas argued by petitioners to be the most significant, we do not find that there has been

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[91] CR at V-20, PR at V-15. The two products could not be directly compared in that 28-percent UAN has additional costs of production because it is produced from 32-percent UAN.

[92] Data were collected for sales at Baltimore, MD, Brunswick, GA, Corpus Christi, TX, Cincinnati, OH, New Orleans LA, and San Francisco, CA. CR at V-54, n.54, PR at V-29 n.54. Sales at these locations occur early in the chain of distribution before U.S. importers and some U.S. producers incur significant overland transportation costs. After the initial sale by importers or U.S. producers to distributors and dealers, the product is often commingled as it moves further along the distribution chain and country of origin of the UAN is lost. CR at V-20 n.41, PR at V-17 n.41. For this reason, purchasers were generally not able to report net delivered purchase price data for the subject imported product. CR at V-23 n.48, PR at V-17 n.48.

[93] Pricing data in the preliminary phase of these investigations was generally collected for specific areas as well. See INV-Z-078 at V-8 to V-10. However, in the final phase, at the urging of petitioners, only sales to customers in or near the specified cities were used in order to obtain pricing data that minimized transportation costs. See CR at V-20, PR at V-17; CR at V-20 n.41, PR at V-17 n.41. Price comparisons were available at Baltimore, MD, Brunswick, GA, New Orleans LA, and San Francisco, CA. CR at V-54 n.54, PR at V-29 n.54..

[94] CR at V-22, PR at V-16. The pricing comparisons only involved 3.7 percent of domestic producers' shipments. CR at V-61 n.56, PR at V-29 n.61. The selected cities are coastal locations where importers' sales are more prevalent. Some domestic UAN producers, such as *** made no sales at the selected coastal locations. CR at V-22 n.46, PR at V-16 n.46.

[95] CR at V-54, PR at V-29; CR at V-6, PR at V-5; CR/PR at Table V-5b. Price comparisons were available for four of the six cities for which the Commission sought data. Id.

[96] CR/PR at Table V-5b.

[97] Petitioners' Prehearing Brief at 35-37.

[98] CR/PR at Table V-6.

significant price underselling by the subject imports.

Petitioners argue that the picture of underselling/overselling would be more "mixed" had the Commission included sales of a different domestic product (30-percent UAN solution) and sales by *** to customers more than 200 miles away from New Orleans in the price comparisons.[99] We find that it is not appropriate to include these sales in our price comparisons. The 30-percent solution is a different product which generally sold at a higher price than the 32-percent product on which our price comparisons are based.[100] The *** do not meet the parameters for our price comparisons that petitioners themselves urged as the most reliable. We also have considered *** but because of the way in which the product is sold, these sales do not provide valid comparisons.[101]

We also do not find evidence of significant negative price effects by reason of the subject imports. Prices for the domestic like product, which were generally lower than those of the subject imports, rose during 2000 and early 2001, in tandem with natural gas prices. As described earlier, natural gas is the principal raw material in the manufacture of UAN and constitutes the majority of the cost of production for UAN. When natural gas prices rose in late 2000 and early 2001, public data indicate that prices for domestic UAN and other nitrogen-based fertilizers also rose, reflecting the higher costs of production.[102] The Commission's pricing data also confirm the sharp rise in prices for domestic UAN, indicating that its price doubled during this period of high natural gas prices, before receding to early 2000 levels in the latter part of 2001 as natural gas prices normalized.[103] This increase in the price of UAN occurred in 2000 and early 2001 while subject imports were entering the United States and

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[99] See Petitioners' Final Comments at 6-9.

[100] CR at V-54 n.55, PR at V-29 n.55. See also CR at V-11, PR at V-8 and CR at V-11 n.31, PR at V-8 n.31 (explaining why 28-percent and 30-percent UAN are higher priced than 32-percent UAN).

[101] See CR at V-62 to V-63 and Appendix E, PR at V-32. The *** by *** involved UAN that was ***. The comparisons based on these sales, which are contained in Appendix E, generally do not involve comparable quantities of domestic UAN and subject imports because the *** were generally much larger than the sales of domestic UAN.

Despite petitioners' suggestion that *** provided incomplete pricing data (Petitioners' Prehearing Brief at 45-46; Petitioners' Posthearing Brief, Exhibit 1, at 12; Petitioners' Final Comments at 6-12), the Commission staff received a verified questionnaire response from *** and followed up with the company on numerous occasions to verify the completeness and accuracy of its response. See Telephone notes of G. Benedick's conversations with ***, dated 12/2/02, 12/16/02, 12/19/02, 12/30/02, 2/13/03, 2/27/03, 3/3/03, 3/04/03, and 3/12/03. Petitioners also have argued that "serious procedural irregularities" occurred in these investigations. Petitioners' Letter of March 14, 2003 at 3. We do not view any of the concerns cited by petitioners as depriving the petitioners of an opportunity to present relevant arguments and comment on the information collected in these investigations.

[102] See CR/PR at Fig. V-1 and Fig. V-5. The price of UAN in the U.S. market actually exceeded that of all other nitrogen-based fertilizers during a portion of 2001. This had not occurred during the previous seven years. See CR/PR at Fig. II-1.

[103] See CR/PR at Table V-1a and Fig. V-6a. Prices for UAN appear to track closely the cost of natural gas as prices for UAN peaked just after prices for natural gas peaked, and then declined as gas prices declined. Compare CR/PR at Fig. V-1 (UAN prices) with CR/PR at Fig. V-6a (cost of natural gas to domestic industry).

being shipped in the U.S. market in large quantities.[104] Domestic prices for UAN were slightly higher at the end of the POI than at the beginning of the period, despite the decline in the amount of UAN consumed.[105] [106] The record indicates that domestic UAN prices tracked U.S. natural gas prices. Therefore, the record does not indicate that prices were depressed as a result of the increase in subject imports.

Domestic producers were able to increase their prices for UAN as their costs rose due to the increase in U.S. natural gas prices. Domestic prices for UAN at the end of the period were higher than at the beginning, and domestic UAN prices peaked in 2001 at approximately double their 1999 level.[107] From 1999 to 2001, the domestic producers' net sales unit values increased more than their unit cost of goods sold, indicating that prices were not being suppressed by the subject imports relative to costs.[108] We also note that none of the petitioners' lost sales or lost revenue allegations was confirmed.[109]

Accordingly we do not find significant underselling by the subject imports or that subject imports depressed or suppressed prices for domestic UAN to any significant degree.

D. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[110] These factors include

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[104] See CR at IV-4, PR at IV-4; CR/PR at Table IV-1.

[105] See CR/PR at Fig. II-1; CR/PR at Table IV-1.

[106] Average unit values (AUVs) of subject imports and domestic UAN followed similar paths: rising and then falling during the period of investigation. See CR/PR at Table C-1; Petitioners' Posthearing Brief at Exhibit 20. While the average unit values may be useful for discerning trends, they are not a surrogate for price comparisons. See Tr. at 92 (Klett) (mostly useful for examining price trends and can be distorted by transportation costs). The record in this investigation shows AUVs for U.S. shipments of imports as well as U.S. imports. The AUVs for U.S. shipments of imports are generally higher than those of the imports and theoretically more comparable to the AUVs of U.S. producers' commercial shipments, but because they represent a wide range of transactions for many locations by several importers, they are not a valid surrogate for price comparisons. See CR at IV-4, PR at IV-4.

[107] CR/PR at Fig. II-1; CR/PR at Fig. V-6a.

[108] The industry's unit cost of goods sold (COGS) as percentage of net sales was lower in 2001 than in 1999. CR/PR at Table C-2 (*** percent in 2001 versus *** percent in 1999). The domestic industry reported COGS of *** per short ton in 1999, *** per short ton in 2000, and *** per short ton in 2001. CR/PR at Table C-2. The unit value of its net sales was *** per short ton in 1999, *** per short ton in 2000 and *** per short ton in 2001. Between the interim periods, both the unit value of net sales and the unit value of COGS fell by similar amounts. Id.

[109] See CR/PR at Table V-7; CR/PR at Table V-8.

[110] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in

output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[111] [112] [113]

As discussed above, the subject imports initially increased significantly and gained market share during the POI, though subject imports have since declined.[114] However, the increase in subject imports came at a time of domestic production curtailments due to unusually high natural gas prices. Unscheduled production curtailments were approximately 154,000 tons per month during September 2000 to March 2001, when natural gas prices peaked.[115] Reported in the press, these cutbacks appear to have created at least a perception in the marketplace (if not a reality) that domestic supply was unreliable

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some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885.).

[111] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[112] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final determinations, Commerce reported dumping margins of 226.82 percent for UAN from Belarus and 193.57 percent for UAN from Ukraine. 68 Fed. Reg. 9055, 9056 (Feb. 27, 2003); 68 Fed. Reg. 9057, 9058 (Feb. 27, 2003). The primary Russian exporter to the United States, Nevinka, received a margin of 106.98 percent and Commerce set the "all others" dumping margin at 239.14 percent for other producers in Russia. 68 Fed. Reg. 9977, 9979 (March 3, 2003).

[113] We have excluded *** from the definition of the domestic industry but this has an *** on the data because its ***. See CR at III-3 n.4, PR at III-1 n.4.

[114] The domestic producers accounted for 93.5 percent of the volume of U.S. apparent consumption in 1999, 87.0 percent in 2000, and 78.0 percent in 2001. In the interim period comparison, they supplied 75.9 percent in interim 2001 and 88.4 percent in interim 2002. CR/PR at Table IV-1. In terms of the value, the domestic producers accounted for 92.6 percent of the value of U.S. apparent consumption in 1999, 87.2 percent in 2000 and 78.7 percent in 2001. Id. In the interim periods, domestic producers supplied 77.1 percent of the value of U.S. apparent consumption in interim 2001 and 87.8 percent in interim 2002. Id.

[115] CR at III-3 to III-5, PR at III-4. Domestic production was *** million short tons in 1999, *** million short tons in 2000, but production curtailments resulted in production of only *** million short tons in 2001. CR/PR at Table C-2. Domestic production was *** million short tons in interim 2001 and *** million short tons in interim 2002. CR/PR at C-2. Capacity utilization increased from *** percent in 1999 to *** percent in 2000 before falling to *** percent in 2001. Id. In the interim periods, capacity utilization was *** percent in interim 2001 and *** percent in interim 2002. Id. The domestic producers' capacity was *** million short tons in 1999, *** million short tons in 2000 and *** million short tons in 2001. Id. It was *** million short tons in interim 2001 and interim 2002. Id. The domestic producers' inventories were *** million short tons in 1999, *** million short tons in 2000, and *** million short tons in 2001. In interim 2001, inventories were *** million short tons, but in interim 2002, the industry reported inventories of only *** short tons. CR/PR at Table C-2.

and purchasers should find alternative sources of supply.[116] Subject imports and nonsubject imports increased during this period and both peaked in interim 2001.[117]

As we discussed, despite the increase in the volume of subject imports, subject imports did not have significant adverse effects on industry prices. Subject imports did not prevent domestic producers' prices from rising so as to offset increasing costs due to rising U.S. natural gas prices, and prices for domestic UAN actually doubled during 2000 and early 2001, before declining to a level slightly higher than the price level in the period before subject imports entered.[118] As we observed, the trends in domestic UAN prices tracked the trends in natural gas prices during the period, and subject imports generally oversold the domestic product.

While the domestic industry generally reported losses during the period of investigation, the losses are not attributable to any significant degree to the subject imports.[119] When subject imports were at their lowest level in 1999 (2.7 percent of apparent U.S. consumption),[120] the industry's condition was the worst, due, according to petitioners, to capacity over-expansion.[121] In 2000 when subject imports increased in the U.S. market, the industry's condition improved somewhat and its losses were not as severe as in 1999, when subject imports had a minimal presence and the domestic industry had 93 percent of the market.[122] Subject import volumes and market share continued to increase from 2000 to

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[116] Tr. at 22, 70 (Giesler). See also CR at II-9, PR at II-6 (8 of 28 purchasers reported that they could not obtain their requirements of UAN from domestic producers); CR at V-70 to V-72, PR at V-35 to V-37 (purchasers reporting domestic supply was unavailable). As noted earlier, some domestic producers imported and purchased UAN during the period of investigation. See CR at III-1 n.2, PR at III-1 n.2.

[117] See CR/PR at Table C-1.

[118] The ratio of cost of goods sold (COGS) to net sales was lower in 2001 than in 1999. See CR/PR at Table C-2 (*** percent in 1999, *** percent in 2000 and *** percent in 2001). The domestic industry's revenues increased from *** million in 1999, to *** million in 2000, and to *** million in 2001. Its revenues fell from *** in interim 2001 to *** million in interim 2002. CR/PR at Table C-2. However, the industry's shipments were *** million short tons in 1999 and 2000 and then declined to *** million short tons in 2001. CR/PR at Table C-2. In interim 2001 they were *** million short tons, yet they were *** million short tons in interim 2002. Id.

[119] The industry's operating loss as a percentage of net sales was *** percent in 1999, and it improved to *** percent in 2000 but then worsened to *** percent in 2001. In interim 2001, it was *** percent and it increased to *** percent in interim 2002. Id.

[120] CR/PR at Table C-1.

[121] Petitioners' Prehearing Brief at 51-52.

[122] The industry's operating margins improved from 1999 to 2001 due to higher average net sales values per short ton even though the industry's costs were increasing. CR at VI-12, PR at VI-5. Capital expenditures declined from *** million in 1999 to *** million in 2000 to *** million in 2001. CR/PR at Table C-2. They were *** million in interim 2002 due to the ***. CR/PR at Table V1-3 n.5; CR at VI-7, PR at VI-4.

The industry's employment of production related workers declined from *** in 1999, to *** in 2000, to *** in 2001. CR/PR at Table C-2. The number of workers was *** in interim 2001 and *** in interim 2002. Id.

2001, and although the industry's profitability declined,[123] we do not attribute the decline to subject imports, but to the effects of the natural gas price spike. U.S. producers' costs rose and production and shipments were cut back. Domestic prices also rose in 2001, but not enough to offset increasing costs in 2001.[124] Subject import prices, meanwhile, were higher than U.S. prices and there is no evidence that they suppressed U.S. prices during the period. Moreover, the industry's operating margins were slightly lower in interim 2002 than interim 2001 despite the fact that subject import volumes sharply declined and U.S. producers gained market share.[125]

The petitioners argue that the domestic industry's condition continued to deteriorate after U.S. natural gas prices normalized by the second half of 2001 and that subject imports remained a significant presence in the U.S. market.[126] However, subject import volumes declined between the third and fourth quarters of 2001 and continued to decline in the first quarter of 2002 before the petition was filed.[127] The proportion of subject imports into Gulf Coast ports declined noticeably in the fourth quarter of 2001 and the first quarter of 2002 following the decline in U.S. natural gas prices that occurred during 2001.[128] Moreover, subject import prices continued generally to be higher than U.S. prices, including at the New Orleans location, the Gulf Coast entry point to the important Midwest market area. Thus, we find that the condition of the domestic industry was not affected in significant part by the subject imports.[129]

Wages paid declined from *** million in 1999, to *** million in 2000 and then rose to *** million in 2001. The industry paid wages of *** million in interim 2001 and *** million in interim 2002. CR/PR at Table C-2.

Productivity declined from *** tons per 1,000 hours in 1999 to *** tons per 1,000 hours in 2000 to *** tons per 1,000 hours in 2001. It was *** tons per 1,000 hours in interim 2001 and *** tons per 1,000 hours in interim 2002. Id.

[123] The startup expenses of one company in 2001 affected the overall industry's operating margin. ***. CR/PR at Table VI-3 n.5.

[124] CR at VI-1 to VI-3, PR at VI-1.

[125] See CR/PR at Table C-2. Subject imports declined from 1,017,809 short tons in interim 2001 to 391,242 short tons in interim 2002. CR/PR at Table C-1. The domestic industry's share of the U.S. market increased from 75.9 percent in interim 2001 to 88.4 percent in interim 2002. CR/PR at Table C-1.

[126] See Petitioners' Posthearing Brief at 11.

[127] See Petitioners' Posthearing Brief at Exhibit 15. It is possible that some UAN imports that entered in the second half of 2001 were ordered during the period of high U.S. natural gas prices and real or perceived UAN shortages, given the long lead times between orders and deliveries, ranging from 40 to 120 days. CR at II-28, PR at II-19.

[128] See Petitioners' Prehearing Brief at Exhibit 6. Subject imports entering into Gulf Coast ports totaled *** in the third quarter of 2001, but they declined to *** short tons in the fourth quarter of 2001. Id.

[129] See Petitioners' Prehearing Brief at Exhibit 16 (indicating that subject imports accounted for *** percent of the market in the first half of 2000, *** percent of the market in the second half of 2000, *** percent in the first half of 2001, and *** percent in the second half of 2001). Petitioners' data indicate that the domestic industry was *** in the first half of 2000, and then became *** in the second half of 2000 and the first half of 2001 when the subject

Accordingly, we do not find that the subject imports have had a significant adverse impact on the domestic industry.

IV. NO THREAT OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

A. Cumulation for Purposes of Analyzing Threat of Material Injury

Cumulation for threat analysis is treated in Section 771(7)(H) of the Act.[130] This provision leaves to the Commission's discretion the cumulation of imports in analyzing threat of material injury. Based on an evaluation of the relevant criteria as well as our analysis supporting cumulation in the context of assessing present material injury, we exercise our discretion to cumulate imports from Belarus, Russia, and Ukraine for purposes of assessing threat of material injury.

B. Analysis of the Statutory Factors

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[131] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.[132] In making our determination, we have considered all statutory factors that are relevant to this investigation,[133] including the rate of the increase in the volume and market penetration of subject imports, unused production capacity in the subject countries, whether subject imports are entering at prices that are likely to have significant depressing or suppressing effects on domestic prices, the inventories of the subject merchandise, the potential for product-shifting, and the actual and potential negative effects of subject

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imports achieved greater penetration of the U.S. market. See Petitioners' Posthearing Brief at Exhibit 3. The industry also was more profitable in interim 2001 than in interim 2002, despite the fact that subject import volumes were considerably less in interim 2002. See CR/PR at Table C-1. Petitioners urge the Commission to not regard 1999 as a "base year" because the domestic industry did very poorly for other reasons. Petitioners' Prehearing Brief at 51-52. However, we see no reason to discard our three-year plus interim period of investigation. Moreover, regardless of whether the Commission considers 1999 (when imports were minimal) a base year, the data do not indicate that the performance of the domestic industry during the period of investigation was affected in significant part by the presence of the subject imports in the U.S. market.

[130] 19 U.S.C. § 1677(7)(H).

[131] 19 U.S.C. § 1673d(b) and 1677(7)(F)(ii).

[132] 19 U.S.C. § 1677(7)(F)(ii).

[133] 19 U.S.C. § 1677(7)(F)(i). Factor VII is inapplicable in these investigations because they do not involve imports of a raw agricultural product. Factor I is not applicable because there is no countervailable subsidy in these investigations.

imports on the existing development and production efforts of the domestic industry.

For the reasons discussed below, we determine that the domestic industry is not threatened with material injury by reason of cumulated subject imports. As outlined in our discussion of material injury above, we find that record data depict an industry that is in a weakened condition. It generally reported negative profitability during the period of investigation with declining production, shipments, and capacity utilization.[134] However, we did not find that the poor performance of the domestic industry was due to the presence of subject imports in the market.

Later in the POI and before the petition was filed, subject import volumes began to decline as U.S. natural gas prices normalized. Subject imports increased significantly in 2000 and 2001 when U.S. natural gas prices rose and UAN producers' costs rose and domestic producers curtailed production. Purchasers responded to real or perceived shortages of UAN by turning to subject imports.[135] During the latter portion of the period of investigation, however, as domestic prices for natural gas and UAN moderated, subject imports steadily declined and U.S. producers regained market share, although they continued to perform poorly.[136]

In early 2003, U.S. natural gas prices once again rose to very high levels and three domestic producers idled several plants, resulting in a 50-percent reduction in U.S. production capacity for UAN as of March 2003. This reduction in capacity occurred even though subject imports in the market declined in the latter part of 2002.[137] While subject imports may again increase due to limited supply of UAN from the domestic producers, we cannot thereby conclude that it is likely that such an increase will materially injure the domestic industry in the imminent future given that the record does not indicate that rising volumes of subject imports during the POI's natural gas price spike materially injured the domestic industry.

Given the absence of significant negative price effects by the subject imports during the POI, we do not find it likely that subject imports will have adverse price effects in the imminent future. As outlined in our discussion of material injury, the record does not indicate that the subject imports depressed or suppressed domestic prices for UAN. Overselling by the subject imports predominated and the significant increase in subject imports did not prevent UAN prices from rising. Domestic UAN prices rose and fell in tandem with U.S. natural gas prices.[138] While the industry's profitability

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[134] See CR/PR at Table C-2.

[135] See CR/PR at Table IV-1. In interim 2002, subject imports supplied only 5.3 percent of the domestic market while nonsubject imports were responsible for 6.3 percent. CR/PR at Table IV-1

[136] The quarterly import data reflect the decline, as subject imports fell between the third and fourth quarters of 2001. Subject imports in the first quarter of 2002, before the petition was filed, continued to decline. See Petitioners' Posthearing Brief at Exhibits 2 and 15.

[137] CR at III-5 to III-6, PR at III-4; Tr. at 147 (Tvinnereim); Petitioners' Posthearing Brief at Exhibit 15.

[138] Petitioners claim that low natural gas prices in Russia suggest that subject imports from Russia will continue to enter the U.S. market at low prices. Petitioners' Prehearing Brief at 82. Notwithstanding low prices for natural

fluctuated, it was not affected negatively to a significant degree by increased subject imports. The evidence does not indicate that subject imports are likely to be sold at price depressing or suppressing levels in the imminent future as the limited underselling that occurred during the period of investigation did not increase toward the end of the period. Accordingly, we do not find it likely that adverse price effects will occur in the imminent future due to the subject imports.

We also consider the capacity and unused capacity in the subject countries for our threat analysis. We note that while capacity in the subject countries totaled 2.5 million short tons in 2001,[139] excess capacity was estimated by the producers in Belarus and Russia to be *** short tons in 2001.[140] Similarly, the information on the record indicates that excess capacity in Ukraine is limited.[141] Excess capacity in the subject countries in 2001 was therefore equivalent to only *** percent of U.S. apparent consumption in that year.[142] During 2001, approximately *** of production in Belarus and Russia combined, and perhaps even a greater share from Ukraine, was already exported to the United States.[143] Thus, there is a limited amount of production that can be diverted to the United States. Overall production capacity in the three countries is expected to decline because ***.[144]

While the European Union (EU) has antidumping orders on UAN from the three countries, those duties have been in place since 2000.[145] Notwithstanding the EU orders, subject import volumes in the U.S. market dropped during the latter part of 2001 and interim 2002. Similarly, while the EU has antidumping orders on imports of upstream products, namely, solid urea from Belarus, Russia, and

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gas in Russia, there was no significant underselling by the subject imports during the POI.

[139] See CR/PR at Table VII-2 (as revised by INV-AA-036); CR/PR at Table VII-1; CR at VII-3, PR at VII-1. Our most recent full year of data is 2001.

[140] See CR/PR at Table VII-2 (as revised by INV-AA-036); CR/PR at Table VII-1.

[141] See CR/PR at Table VII-1; CR/PR at Table VII-2.

[142] See CR/PR at Table C-1. Even assuming excess capacity in the Ukraine, one third of the total capacity in Ukraine would only be equivalent to another *** percent of domestic apparent consumption. See CR at VII-3, PR at VII-2; CR/PR at Table C-1.

[143] See CR/PR at Table VII-1; CR/PR at Table VII-2. Russian producers exported most of their UAN production to the United States during the POI, although the proportion exported to the United States declined in interim 2002. The reporting producer in Belarus shipped *** of its production to its home market during the POI, ***. The Ukrainian producers did not respond to the Commission's questionnaires, but petitioners estimate that production capacity for UAN in the Ukraine is *** short tons. It appears that the *** production in Ukraine was directed to the United States as subject imports from Ukraine totaled 347,254 short tons in 2001. See CR at VII-3, PR at VII-2; CR/PR at Table IV-1.

[144] See CR/PR at Table VII-2.

[145] CR at VII-5, PR at VII-2.

Ukraine and ammonium nitrate from Russia and Ukraine,[146] the evidence does not indicate that product-shifting from those products to UAN is more likely to occur now than previously.[147] Furthermore, inventories in the subject countries are small[148] and importers' inventories appear to have declined along with subject imports in interim 2002, though the data have inconsistencies.[149] [150]

Therefore, given these circumstances, it is unlikely that producers in the subject countries are likely to export significantly more UAN to the United States than occurred during the period of investigation.[151] Moreover, subject country producers are at a disadvantage vis-a-vis U.S. producers in their ability to directly supply the U.S. market, given the long lead times between orders and deliveries (ranging from 40 to 120 days), high transportation costs,[152] and the importance of supply availability to purchasers.[153]

The domestic industry reported losses throughout the POI but its condition was the worst in 1999

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[146] Petitioners' Prehearing Brief at 77; INV-Z-078 at VII-10 (May 28, 2002). There also are U.S. antidumping orders on urea from Belarus, Russia and Ukraine and solid agricultural grade ammonium nitrate from Ukraine as well as a suspension agreement on solid agricultural grade ammonium nitrate from Russia. CR at I-2, PR at I-2. Subject imports declined in the fourth quarter of 2001 and the first quarter of 2002 despite the order and suspension agreement on ammonium nitrate. In addition, any shift in production in the subject countries due to the antidumping orders on urea would have likely already occurred since these orders have been in place for several years. See CR at I-2 n.5, PR at I-2 n.5.

[147] The EU order on urea from Russia was continued after a sunset review in 2001, so any shift would have already occurred. The EU order on ammonium nitrate from Russia also would have already had an impact because it was imposed in 1998. The EU orders on urea from Belarus and Ukraine were imposed in January 2002, and the EU order on ammonium nitrate from Ukraine was imposed in January 2001. See INV-Z-078 at VII-10 (May 28, 2002).

[148] See CR/PR at Table VII-1; CR/PR at Table VII-2 (86,599 short tons in 2001).

[149] CR at VII-5, PR at VII-3.

[150] The U.S. producers' inventories declined from *** percent of their U.S. shipments in interim 2001 to *** percent in interim 2002, suggesting that subject imports have not filled the distribution channels, as petitioners have alleged. CR/PR at C-2. See Petitioners' Prehearing Brief at 82.

[151] At petitioners' urging, we have considered the ***. See INV-AA-032; INV-AA-034. ***. See INV-AA-034, Attachment 1 at 1-2. Therefore, these contracts do not change our analysis of likely volume of subject imports.

[152] Significant transportation costs for UAN limit competitive market areas for U.S. suppliers. The high ratio of U.S. transportation costs to product value and low nitrogen content to product weight lead to relatively high UAN shipping costs, especially to customers more than 100 miles from suppliers. As a result, UAN importers have transportation advantages on the East and West Coasts, whereas U.S. producers have transportation advantages in many areas of the United States, including the important UAN consumption states in the U.S. farm belt. This pattern of supply advantages is likely to continue.

[153] CR at II-28, PR at II-19; CR at V-5, PR at V-4.

when subject import volumes were lowest, improved somewhat when subject import volumes increased, and deteriorated again toward the end of the POI despite a significant gain in U.S. producers' market share and a significant reduction in subject import volume and market share. Many of the industry's financial and performance indicators were lower in interim 2002 as compared to interim 2001; capital expenditures, however, increased *** when the interim periods are compared. While the domestic industry is in poor health, we do not find it likely that any increased subject imports would have a material adverse impact on the domestic industry when significant adverse price effects are not likely to occur.[154] Based upon our finding that there are unlikely to be significant price effects from the subject imports and the absence of any significant adverse impact on the domestic industry during the period of investigation when significant volumes of subject imports were present, we do not find that the domestic industry is threatened with material injury by reason of imports of UAN from Belarus, Russia, and the Ukraine.

CONCLUSION

For the reasons stated above, we determine that the domestic UAN industry is neither materially injured nor threatened with material injury by reason of UAN imports from Belarus, Russia, and Ukraine sold in the United States at less than fair value.

[154] In the most recent period, as already discussed, the data indicate that subject imports declined, yet the domestic industry's financial performance did not improve.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the Commission and the Department of Commerce (Commerce) by the Nitrogen Solutions Fair Trade Committee, an ad hoc coalition of U.S. urea ammonium nitrate solutions producers, consisting of CF Industries, Inc., Long Grove, IL; Mississippi Chemical Corp., Yazoo City, MS; and Terra Industries, Inc., Sioux City, IA, on April 19, 2002, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of urea ammonium nitrate solutions (UAN)[1] from Belarus, Lithuania, Russia, and Ukraine. In its preliminary investigations, the Commission determined affirmatively with respect to Belarus, Russia, and Ukraine and determined that imports from Lithuania were negligible. On February 20, 2003, Commerce signed a suspension agreement concerning UAN from Russia; however, on the same day, petitioners submitted a request for a continuance.[2] Information relating to the background of these investigations is provided below.[3]

Effective Date	*Action*
April 19, 2002	Petition filed with Commerce and the Commission; institution of Commission investigations (67 FR 20994, April 29, 2002)
May 20, 2002	Commerce's notice of initiation of antidumping investigations (67 FR 35492, May 20, 2002)
June 3, 2002	Commission's preliminary determinations transmitted to Commerce
October 3, 2002	Commerce's preliminary affirmative antidumping duty determinations (67 FR 62008, October 3, 2002)
October 3, 2002	Commission's notice of scheduling of the final phase of its investigations (67 FR 65143, October 23, 2002)
November 7, 2002 ..	Commerce's notice of extension of the time limits for its final antidumping determinations (67 FR 67823, November 7, 2002)

[1] For purposes of these investigations, UAN is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors, and is specifically provided for under subheading 3102.80.00 of the Harmonized Tariff Schedule of the United States (HTS). The tariff rate for this subheading is free for all countries. For a more detailed description of the merchandise subject to these investigations, including the like product produced in the United States, see the subsection of Part I entitled "The Subject Product."

[2] Under the suspension agreement, signatory Russian companies agreed to cease exports of UAN to the United States until July 1, 2003, and to subsequently revise prices to ensure that exports are sold at or above an agreed reference price. If the Commission makes an affirmative determination with respect to Russia, the suspension agreement shall remain in force, and Commerce shall not issue an antidumping order as long as the requirements of the agreement are met. If the Commission makes a negative determination, the agreement will have no force or effect. Any signatory may terminate the agreement at any time upon notice to Commerce.

[3] Commerce's suspension agreement with Russia and the *Federal Register* notices cited in the tabulation, beginning with the Commission's notice of scheduling of the final phase of its investigations, are presented in app. A.

November 13, 2002 .	Commission's notice of revised schedule based on Commerce's time limit extensions for its final antidumping determinations (67 FR 70093, November 20, 2002)
February 19, 2003 ..	Commerce signs suspension agreement concerning UAN from Russia (68 FR 9980, March 3, 2003)
February 20, 2003 ..	Petitioners' request continuance of the investigation concerning Russia
February 20, 2003 ..	Commission's hearing[4]
February 27, 2003 ..	Commerce's notices of final determinations with respect to Belarus and Ukraine (68 FR 9055 and 68 FR 9057, February 27, 2003)
March 3, 2003	Commerce's notice of final determination with respect to Russia (68 FR 9977, March 3, 2003)
March 24, 2003	Commission's votes
April 10, 2003	Commission's determinations and views transmitted to Commerce

UAN has not been the subject of any prior antidumping or countervailing duty investigations in the United States; however, U.S. antidumping orders exist on the two major components of UAN, urea and ammonium nitrate. The antidumping duties in effect are on solid urea from Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan[5] and on solid agricultural grade ammonium nitrate from Ukraine–concurrently, a suspension agreement on this product is in effect for Russia.[6]

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of 12 firms that accounted for nearly all U.S. production of the subject product in 2001. U.S. imports are based on official Commerce statistics with minor revisions, as noted.

COMMERCE'S FINAL DUMPING MARGINS

Commerce's final dumping margins are shown in the tabulation below:

Country	Manufacturer/exporter	Weighted-average margin (percent)
Belarus	Grodno	226.82
	All others	226.82
Russia	Nevinka	106.98
	All others	239.14
Ukraine	All	193.57

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

[5] See *Continuation of Antidumping Orders: Solid Urea from Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan*, 64 FR 62653, November 17, 1999.

[6] See *Antidumping Order: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 66 FR 47451, September 12, 2001, and *Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 65 FR 37759, June 16, 2000.

Commerce's methodology for arriving at these final rates is discussed in its notices of final determinations presented in app. A.

THE SUBJECT PRODUCT

Physical Characteristics and Uses

UAN, as its full name implies, is a liquid mixture (solution) of urea, ammonium nitrate, and water. It is a commodity product, produced worldwide, and is used almost exclusively as an agricultural fertilizer.[7] In the United States it is mainly used as a pre-planting or pre-emergent fertilizer for such key row crops as corn, sugar cane, cotton, wheat, and for grazing pasture, typically applied to the field with long spray booms extending out from a tank truck. It is less frequently used as a post-emergent fertilizer–that is, for side dressing or top dressing after crops begin to grow. It is most heavily used in the spring planting season; but, in areas such as Texas, the Southwest, and Gulf Coast where, because of climate, multiple crops grow year-round, UAN may be applied several times to the same acreage throughout the year.

The key ingredient in UAN for its use as a fertilizer is nitrogen. Its component urea and ammonium nitrate contain relatively equal amounts by weight of nitrogen; however, more or less water may be added to adjust the total amount of nitrogen in a batch. This is done to enable UAN's use in a wider range of climatic conditions. Crystals will begin to form, or "salt out," of the solution at different storage temperatures depending on the batch's total nitrogen content (the lower the nitrogen content, the lower the salting-out temperature). To control its salting out over a wider range of temperatures, UAN is typically produced in 3 different nitrogen concentrations of either 28 percent by weight (which salts out at 0° F), 30 percent by weight, or 32 percent by weight (which salts out at 32° F). The 32-percent concentration is by far the most widely used in the United States. All imports from the subject countries are 32-percent nitrogen by weight at the U.S. port of entry; however, the product may be diluted further down the chain of distribution according to the needs of individual users.

UAN is one of four major nitrogen-based agricultural fertilizers used throughout the world. The others are solid urea, solid ammonium nitrate, and anhydrous ammonia, a pressurized liquid. All four fertilizers provide the necessary fertilizing ingredient, nitrogen, albeit in different concentrations, and prices for each of these fertilizers tend to move in tandem on a per-unit-of-nitrogen basis; however, a number of factors lead farmers to prefer one or the other for a certain application, and they are not automatically interchangeable. Each has advantages for specific soils and crops and requires dedicated equipment for transportation, storage, and application. Depending on the location of the user, product availability and logistical considerations may also play a significant role in the user's choice. Urea, applied in granular or prilled form, contains more nitrogen per volume than ammonium nitrate or UAN and releases its nitrogen relatively slowly into the soil, an advantage in many applications. In warmer conditions, however, it can more readily volatize (turn into a gas) and be lost to the air. Ammonium nitrate has less nitrogen per volume than urea but a much faster release rate and is sometimes preferred accordingly. UAN, by combining urea and ammonium nitrate in solution, provides many of the advantages of both and may be mixed with herbicides or pesticides to enhance efficiencies of application in one pass over the field (and may also be used in irrigation ("fertigation") systems); but, as a liquid, it is much heavier relative to its nitrogen content and thus more costly to transport on a per-unit-of-nitrogen

[7] Small amounts are also used to produce other liquid fertilizers.

basis.[8] Anhydrous ammonia has by far the most nitrogen per volume, but it is a highly toxic, "hazardous" material which must be kept refrigerated and under pressure during storage and transport (to prevent it returning to a gas, its natural state at ambient temperatures) and must be "knifed" into the soil with highly specialized equipment. Traditionally, it has been used for crops with higher nitrogen requirements (such as corn), in soils which better retain the gas, and where infrastructure is in place to efficiently store and deliver it. (Most of its consumption in the United States is concentrated in the corn-producing States along the Mississippi and Missouri Rivers where it can be transported by barge and pipeline.)[9]

The Production Process

The raw material for the manufacture of UAN, like that for the other nitrogen-based fertilizers, is natural gas. Its share of the total cost of producing UAN varied considerably during the period examined but averaged over 50 percent, a relatively high proportion for a single raw material. For this reason most production plants are located where supplies of it are abundant and readily available. The production process starts with the production of ammonia from water, atmospheric nitrogen, and natural gas. From the ammonia both urea solution (liquor) and ammonium nitrate liquor are produced, albeit with separate equipment and employees.[10] Depending on the producer, the respective liquors are either solidified (granulated and prilled) for direct use as such and/or directed to dedicated UAN production equipment where the respective liquors are mixed together with water to form UAN.[11] UAN is initially made in its most concentrated form (32-percent nitrogen by weight) and diluted, if necessary, to 28 or 30 percent concentrations during downstream distribution. The overwhelming bulk of UAN produced and used in the United States, as stated previously, is 32-percent concentration, and all quantities shown in this report are equivalent thereto. For efficiency, plants usually run year-round; inventories are built up during the fall and winter when demand is more limited. Inventories are generally held in large storage tanks and most transport is by rail. Trucking is sometimes used, but for short distances only.

DOMESTIC LIKE PRODUCT ISSUES

The Commission must determine what domestic product is like, or in absence of like, most similar in characteristics and uses to, the imported articles as defined in Commerce's scope. Its decision is based on a number of factors including (1) physical charactistics and uses; (2) common manufacturing

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[8] Urea and ammonium nitrate are incompatible when blended together as solids and are rarely even stored together in the same warehouse. When combined or in near proximity, their critical relative humidity–i.e., the humidity at which they will dissolve at ambient temperatures–is lowered considerably. Together in water, however, urea and ammonium nitrate are not only compatible but also have a higher solubility than either urea or ammonium nitrate alone and yield a solution with a higher nitrogen content at ambient temperatures.

[9] Anhydrous ammonia is sold on an 82-percent nitrogen basis, urea on a 46-percent nitrogen basis, and ammonium nitrate on a 34-percent nitrogen basis.

[10] To produce urea liquor, ammonia and by-product carbon dioxide are pumped into a urea reactor, which is kept at high temperature and pressure; to produce ammonium nitrate liquor, ammonia is oxidized using ambient air over special catalysts to form nitric acid, which is then combined with ammonia in a neutralization chamber to form ammonia nitrate liquor.

[11] For various UAN production processes and a process flow diagram, see *Urea Ammonium Nitrate Solutions From Belarus, Lithuania, Russia, and Ukraine, Investigations Nos. 731-TA-1006-1009 (Preliminary)* USITC Pub. 3517, June 2002.

facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.

In the preliminary phase of the investigations, respondents argued for a domestic like product that included all four major nitrogen-based fertilizers. The Commission, however, determined that the domestic like product was coextensive with the product described in the scope of the investigations, i.e., UAN, citing significant differences in physical properties, uses, prices, and limited interchangeability.[12] Specifically noted were different physical properties (chemistries) of the four fertilizers, their different states at room temperature (solid, liquid, and gas), the exclusive use of UAN as a fertilizer, different application equipment, UAN's advantage in direct application in irrigated systems, and its dedicated production equipment. Respondents have not addressed domestic like product issues in the final phase of these investigations.

[12] *Urea Ammonium Nitrate Solutions From Belarus, Lithuania, Russia, and Ukraine, Investigations Nos. 731-TA-1006-1009 (Preliminary)*, USITC Pub. 3517, June 2002, p. 6.

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

CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

U.S. producers and importers sell their UAN to fertilizer distributors and dealers.[1] U.S. producers transport UAN from their plants to their own or their customers' storage/distribution terminals. Imports of UAN arrive in the United States in ships, with an increasing percentage reportedly entering at Gulf ports.[2] The Mississippi River system serves as an important means for distributing UAN as both U.S. producers and importers transport UAN by barge to storage and distribution locations throughout the Farm Belt.[3]

UAN is used almost exclusively as fertilizer, with North America and Europe accounting for about 84 percent of world consumption; the United States, France, and Germany are the principal consuming countries and the United States alone accounts for almost 64 percent of world UAN consumption.[4] High freight costs relative to product values and the predominance of natural gas as a share of production costs generally limit the marketing range of UAN suppliers; those UAN producers with favorable transportation networks and access to low-cost natural gas have a significant advantage over suppliers subject to high freight rates and using high-cost natural gas.[5] [6] U.S. producers and

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[1] Fertilizer dealers purchase UAN directly from producers, importers, and/or from distributors and then sell UAN to farmers. Dealers store UAN in tanks and will frequently dilute it and blend it with other nutrients and with insecticides and herbicides. Dealers then sell this UAN mixture to farmers and some dealers also apply this UAN mixture on the fields. Dealer facilities are located in farming areas.

[2] Petitioners note that "until very recently, imports of UAN were sold primarily on the East Coast, arriving at ports such as Wilmington, Baltimore, and Norfolk and West Coast ports such as Stockton, CA. Beginning in 2001, however, imported UAN began to appear in substantial quantities at Gulf Coast ports, particularly New Orleans, Corpus Christi, and Houston." (Petition, p. 18.)

[3] The Mississippi River system includes the Mississippi River itself and other navigable rivers feeding into the Mississippi (e.g., the Missouri, Ohio, Illinois, and Arkansas) (*Certain Ammonium Nitrate from Ukraine*, USITC Pub. 3448, August 2001, p. II-1).

[4] *Nitrogen Solutions*, CEH Marketing Research Report, October 2000, pp. 10 and 38.

[5] According to the Industrial Energy Consumers of America (IECA), U.S. annual natural gas production has been stagnant at 19 trillion cubic feet since 1995, and more recently has fallen for three straight quarters, despite continually increasing demand and abundant gas reserves. As of January 10, 2003, the Henry Hub U.S. wholesale price of natural gas was over $5.14 per MMBtu, which is reportedly more than twice the average U.S. price of $1.97 per MMBtu during 1991-98. IECA asserts that, as a result, U.S. natural gas prices are higher than in Europe, Brazil, and China, and U.S. industrial energy consumers, already weakened by a fragile economy, are threatened with further loss of global competitiveness. In January 2003, the following U.S. ammonia producers reportedly idled U.S. plants due to high U.S. prices of natural gas: Mississippi Chemical Corp.; Farmland Industries; Agrium; IMC Global, Inc.; PCS; and Koch Nitrogen. On January 10, 2003, IECA, the Fertilizer Institute, the Louisiana Ammonia Producers, and Terra Industries, Inc., sent a letter to key members of the U.S. Congress requesting that legislation be enacted to provide a robust, diverse, and affordable U.S. supply of energy. (*Green Markets*, Pike & Fischer, Inc., January 20, 2003, pp. 1 and 12.)

[6] As the U.S. price of natural gas continues to rise in the current period, some U.S. UAN producers have ceased or reduced UAN production. The Henry Hub U.S. spot price of natural gas was $11.08 per MMBtu on February 28, 2003 (*Wall Street Journal Online*, February 28, 2003, http://online.wsj.com/documents/oilstat.htm). In addition, at

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importers were asked in questionnaires to report the geographic market area in the United States that is served by the UAN that they sell. No U.S. producer reported selling UAN nationwide; rather, U.S. producers reported selling in specific market areas, such as the Midwest, the East Coast, the Cornbelt states, etc. Importers also reported sales of UAN in specific market areas, such as the Gulf Coast, the East Coast, and California. J.R. Simplot, a U.S. producer, importer, and distributor, views the U.S. market as three separate UAN markets–East Coast, West Coast, and Central United States.[7]

SUPPLY AND DEMAND CONSIDERATIONS

UAN is a spatially differentiated product among suppliers in the U.S. market due to its high transportation cost relative to its product value, especially for distances greater than 100 miles.[8] Natural gas is the predominant cost in producing UAN, and the sometimes volatile U.S. price of natural gas can lead to shutdowns of U.S. UAN plants and/or reduce the competitive marketing range of U.S. UAN producers.[9]

UAN is used to provide nitrogen to the soil for the healthy growth of plants and pasture. Unlike some other soil nutrients, nitrogen escapes from the soil relatively easily and must be replenished several times in a growing season to be available in sufficient amounts for use by plants and pasture. Of the major single-nutrient nitrogenous fertilizers, UAN and urea have increased in use in the United States in recent years, while anhydrous ammonia and ammonium nitrate (HDAN) have decreased in use.[10]

U.S. Production[11]

Based on available information, U.S. UAN producers have the ability to respond to changes in demand with moderate changes in the quantity of domestic shipments of their U.S.-produced UAN. The main factors contributing to this degree of responsiveness are available unused capacity and existing inventories. However, other factors, such as insufficient export markets, limited alternate (non-fertilizer) markets for UAN, and limited opportunities for producers to shift U.S. production from UAN to other products tend to moderate this degree of responsiveness. In addition, a high ratio of variable costs to total costs in the domestic UAN industry require product prices to be sufficiently high to trigger additional production from excess capacity.[12] Widely fluctuating U.S. prices of natural gas during 2000-

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[6] (...continued)
the NYMEX, the futures contract for March delivery of natural gas at the Henry Hub expired on Wednesday, February 26, 2003 at $9.13 per MMBtu and for April delivery was $7.39 per MMBtu (Natural Gas Weekly Update, Energy Information Administration, DOE, February 27, 2003, *http://tonto.eia.doe.gov/oog/info/ngw/ngpf.asp*).

[7] Steve Gray, Vice President, Supply Chain Management, J.R. Simplot, conference transcript, p. 111.

[8] See Part V for a detailed discussion of U.S. freight costs for UAN.

[9] See part V for a detailed discussion of U.S. natural gas prices.

[10] High-density ammonium nitrate (HDAN) is used for fertilizer, whereas low-density ammonium nitrate (LDAN) is used in industrial explosives; LDAN has a lower moisture content than HDAN, giving it the high porosity needed for use as an explosive.

[11] Data on U.S. UAN production, production capacity, capacity utilization, inventories, and exports are shown in detail in Part III.

[12] High variable costs in the U.S. UAN industry can make it difficult to expand production even in the short run
(continued...)

01 and currently have led to sudden UAN plant shutdowns in the United States.[13] The relevant supply factors are discussed below.

Industry Capacity

Data reported by U.S. UAN producers indicate that excess capacity was available to expand UAN production in the event of price changes during January 1999-September 2002. Domestic capacity utilization to produce UAN declined irregularly during 1999-2001,[14] ending at 74.0 percent in 2001. Data for interim periods also show a decline in capacity utilization, which ended in January-September 2002 at 71.8 percent. U.S. UAN producers reported in their questionnaire responses their minimum required plant operating capacities, which averaged 80.9 percent for the short run (within 12 months) and 93.4 percent for the long run (greater than 12 months).[15] Based on the reported actual capacity utilization figures, U.S. UAN producers have been operating below their required minimum capacity utilization levels for a majority of the period during January 1999-September 2002.[16] According to *** questionnaire response, when variable costs are not covered, the operating strategy in the short run is to produce UAN only to meet existing commitments to customers.[17] In the long run, the decision whether

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[12] (...continued)
if the level of product prices do not allow the producers to at least cover their variable costs. Nine U.S. producers, accounting for 98.4 percent of total U.S. UAN production during January 1999-September 2002, responded in their questionnaires to a request for information on their variable and fixed costs to produce UAN. These responses indicated that U.S. UAN producers' variable costs, which were dominated by natural gas costs, averaged 72.2 percent and their fixed costs averaged 27.8 percent of their total costs to produce UAN during this period. Natural gas costs alone reportedly accounted for about 59.0 percent of their total UAN production costs.

[13] Production at several U.S. UAN plants was reduced or idled during December 2000-January 2001, due to particularly high U.S. natural gas prices. Currently high U.S. natural gas prices led PCS on January 28, 2003 to halt, at least temporarily, UAN production at its Geismar, LA, plant, one of the largest UAN plants in the United States (*Green Markets Dealer Report*, Pike & Fischer, January 27, 2003, p. 8). Mississippi Chemical and CF Industries also shut down their UAN and ammonia plants at the end of February, at least temporarily, due to high and rising natural gas prices (*Fertilizer Week America*, British Sulphur North America, Inc., February 28, 2003, p. 7; and *Fertilizer Week America–News Update*, March 3, 2003).

[14] The increase in UAN capacity utilization during 2000 occurred as U.S. producers increased production and reduced total UAN production capacity. The decrease in capacity utilization in 2001 occurred as U.S. producers decreased production and increased total production capacity. These latter changes took place when natural gas prices rose to historical highs and some U.S. producers halted UAN production and sold their natural gas futures contracts for substantial profits.

[15] These figures were based on questionnaire responses of 7 U.S. UAN producers accounting for 90.0 percent of total U.S. UAN production during January 1999-September 2002.

[16] U.S. producers reported in their questionnaire responses that reducing or increasing production levels can occur within a few hours, but reductions entail increased unit costs to produce UAN. *** reported that operating at less than full capacity can result in higher fixed costs of $***-$*** per short ton of UAN. In addition, *** reported it would have to produce ammonia at less efficient volumes, further increasing its UAN costs, by $*** per short ton. *** reported that reducing operating levels from *** was the limit before its UAN operations were seriously impaired; each 10-percentage-point reduction from full capacity increases UAN production costs by $*** per short ton.

[17] *** also noted that, because fixed costs for UAN are low, U.S. UAN producers are able to continue operations in a down market for a longer period of time than producers of a product with a high percentage of fixed costs.

to continue to produce or not is based on sufficient demand for UAN and the need to cover fixed costs as well as variable costs.

U.S. UAN producers also provided data on the cost and time to add extra capacity through the following: (1) by constructing a new U.S. facility, (2) by augmenting a U.S. facility that currently produces solid urea and/or HDAN to also produce UAN, (3) by increasing UAN production capacity at current U.S. facilities, and (4) by restarting a closed U.S. UAN plant. Producers reported that it would cost between $***-$*** million and take between ***-*** months (depending on the additional quantity of UAN capacity) to construct a fully integrated greenfield UAN plant; if the ammonia production facilities already exist or ammonia is to be purchased, the costs and time would be less, ranging from $***-$*** million and ***-*** months. According to U.S. producer questionnaire responses, constructing a UAN plant at an existing plant that already makes solid urea and/or HDAN would cost $***-$*** million and take ***-*** months to build, or much less than a greenfield facility. U.S. producers also reported that to add to current UAN capacity at the same facility would cost $***-$*** million and take ***-*** months to build; the cost and time to expand current UAN capacity depends critically on the extent to which any excess capacity currently exists in each of the intermediate processing stages.[18] Finally, U.S. producers reported that restarting a closed UAN plant could cost between $***-$*** million and take between *** and ***. The cost and time of restarting a closed plant depends on the length of time that the plant was idled, how well it was mothballed, and the extent to which new/additional personnel would have to be hired. Because of generally significant costs and time lags involved in adding new UAN capacity, the ability of U.S. producers to increase capacity beyond current levels moderates the supply response of U.S. producers.

Inventory Levels

Available data show that U.S. producers' end-of-period inventories of UAN relative to their total U.S. shipments ranged from ***-*** percent during 1999-01, and fell substantially during the interim periods from *** percent during January-September 2001 to *** percent during January-September 2002. Based on the reported data, U.S. producers' end-of-period UAN inventories averaged about 1.2 million short tons annually, or *** percent of their total U.S. UAN shipments, during January 1999-September 2002, and indicate that U.S. producers could have further increased their domestic shipments of UAN during much of this period by drawing down these inventories.

Export Markets

During January 1999-September 2002, exports were not significant for U.S. UAN producers. U.S. exports of UAN were reported by *** U.S. producers, ***, and accounted for *** of all U.S. producers' total shipments during this period. *** accounted for almost *** percent of the U.S. UAN exports, which it reported were shipped to ***; *** reported shipping its UAN exports to ***. U.S. producers reported that there is little export opportunity due to limited demand for UAN outside the United States, significant transportation costs,[19] and high U.S. natural gas costs. The U.S. export figures suggest that there was little ability for U.S. producers to divert shipments of UAN to or from alternate

[18] ***.

[19] *** during January 1999-September 2002, indicated that it would cost about $*** per short ton to load UAN onto vessels for export.

markets in response to changes in the price of UAN during January 1999-September 2002, and prospects appear equally restricted for any such future diversion of shipments.

Production Alternatives

Information reported by U.S. UAN producers in their questionnaire responses indicated that no other products can be made on the equipment used in the final stage to produce UAN. However, sales to industrial customers could be initiated and/or expanded for the ammonia, nitric acid, urea liquor, and ammonium nitrate liquor that are produced as intermediate products in the production of UAN. In addition, it is possible to produce dry urea and ammonium nitrate from the liquor forms and sell the dry urea as fertilizer and the ammonium nitrate (in its low density form) as industrial explosives. U.S. UAN producers generally characterized their ability to produce these alternatives as substitutes for producing UAN as weak to moderate.[20] *** reported that it produces ***, such that its only opportunity is to sell ***, which, from a commercial standpoint, would ***. *** reported that it also produced *** at its UAN facilities, but UAN production nevertheless ***. *** reported that it could sell ***, but it does not have the *** in lieu of producing UAN.[21] *** reported that its plants in *** could shift at least some production of UAN to *** if the demand warranted, because these plants ***. Its ability for such production switching is much weaker at its ***, however, because ***.

Supply Disruptions

U.S. UAN producers and importers were requested in their questionnaires to indicate if they were unable to supply their U.S. customers with their U.S.-produced and subject imported UAN, respectively, at any time during January 1999-September 2002. They were requested to describe any such instances. U.S. UAN purchasers were also requested to indicate whether their U.S. suppliers of U.S.-produced and/or imported UAN were unable to provide them with UAN at any time during this period, and to describe any such instances.

Responses of producers

Of the nine U.S. UAN producers responding, seven indicated that they were able to fully supply their customers with their U.S.-produced UAN throughout the period, whereas two producers indicated that at times they were unable to supply their U.S.-produced UAN to their customers. Of the seven producers reporting that they had no problems meeting their customers' UAN demand with U.S.-produced products, two indicated that they also purchased UAN, of which some was imported ***, to meet the requirements of their U.S. customers. ***, one of these latter two U.S. producers, reported that it purchased fertilizer products on the spot market in the early part of 2001, when high natural gas prices forced the firm to reduce UAN production. ***, the other of these latter two U.S. producers, reported that it suspended some of its U.S. UAN production during December 2000 and January 2001 due to high U.S. natural gas prices, and purchased a total of *** short tons of imported 32-percent UAN to meet the demand of its U.S. customers.

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[20] On the other hand, *** reported that its ability to switch production to at least some of these other products was strong, based on market demand.

[21] *** asserted that it might be possible to sell extra ammonia for agricultural use, but did not know about the availability of ammonia railcars to transport the product.

***, one of the two U.S. UAN producers reporting that it was unable to fully supply its U.S. customers with U.S.-produced UAN, reported that demand of its U.S. customers has always been greater than its capacity to produce domestically 32-percent UAN. *** was the other U.S. UAN producer reporting that it was unable to fully supply its U.S. customers with U.S.-produced UAN. *** reported that it purchased minimal amounts of UAN to supplement its U.S. UAN production to fully supply its customers during January 1999-September 2002. In 1999, *** reported purchasing *** from *** delivered to the ***. In 2000, *** purchased *** from *** delivered to the ***. In 2001, *** purchased *** from *** delivered to the ***. In 2002, *** purchased a UAN *** from *** delivered to ***, and some UAN *** from *** at their *** terminal.[22] Although *** reported that it was able to supply all customers with whom it had supply contracts, the producer reported elsewhere in its questionnaire response that it imported *** short tons of Russian UAN during January-September 2001.

Responses of importers

Of the seven responding U.S. UAN importers, five reported that they were able to fully supply their U.S. customers with imported UAN, whereas the remaining two importers, ***, reported that they were unable to fully supply their customers. *** reported that during the spring of 2002 high U.S. demand and short import availability pushed the firm to supply its imported 32-percent UAN to selected customers only. As a result, its UAN sales were reduced by an estimated *** during this period. *** reported that it did not have access to subject UAN from January 1999 to October 2001.

Responses of purchasers

Of the 28 responding purchasers, 17 firms reported that their suppliers of U.S.-produced and imported UAN were able to fully provide their requirements during January 1999-September 2002.[23] Eleven other purchasers reported that their UAN suppliers were not able to fully provide their UAN requirements during this period. Eight of these 11 purchasers provided additional comments, all of which identified U.S. UAN producers exclusively as the suppliers that, at times, did not have UAN available to sell to them. Specific U.S. UAN producers cited were ***. Comments of these latter eight purchasers are summarized below.

*** asserted that it was informed by *** in the spring of 2001 that the firm needed to find an alternative supply of 32-percent UAN, because of the high U.S. cost of natural gas. *** reported purchasing *** of 32-percent UAN elsewhere.

*** asserted that it was unable to purchase *** of 32-percent UAN from *** during January 2001-May 2001.

*** asserted that during the period from the summer/fall of 2000 through the spring of 2001, virtually every U.S./North American UAN producer had period(s) of time that it was unable to supply UAN. *** cited *** specifically. *** reportedly reduced *** UAN supply by *** percent from its

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[22] Ocean vessels most commonly carry about 22,000-27,000 short tons of UAN (32-percent equivalent), barges carry about 2,500 short tons, railcars carry 100 short tons, and trucks carry 25 short tons of UAN.

[23] One of these 17 firms, ***, asserted that it is unlikely that U.S. UAN producers would be able to produce and ship to the firm all of its UAN requirements. The purchaser reported that it sources UAN from several suppliers to minimize the risk of short supply.

normal amounts, while *** restricted UAN supplies to *** so that the suppliers' parent, ***, could meet the requirements of its ***. *** further asserted that U.S. UAN producers' lack of product was exacerbated by their opportunistic sales of natural gas for a one-time profit.

*** reported that it increasingly purchased imported UAN during May 2000 through January 2001, as U.S. UAN producers reportedly told the company in May and June that they would not quote or ship UAN until prices got much higher.

*** reported that from November 2000 through March 2001, *** told the purchaser that they had no UAN available for sale.

*** reported that its U.S. UAN supplier sold its natural gas in the early winter of 2000 and notified *** that this supplier would cut its shipments of UAN to *** by *** percent from the previous year's shipments.

*** reported that between October 1, 2000 and February 28, 2001, it was unable to get all the UAN it had requested from ***.

*** asserted that since 1999, except during July-September 2002, it has not been able to get the full amount of UAN it has requested from U.S. producers and cited *** as it principal supplier. *** also asserted that *** sold the firm *** of 32-percent UAN during the fall of 2002, but this was less than what *** had requested. *** noted that ***, so *** is not sure where this UAN was produced.[24]

Purchasers were also requested in their questionnaires to attach a discussion about any concerns they had regarding the ability of U.S. producers to supply the quantity of UAN that the purchasers would require in the future and what efforts the purchasers have/will make to reduce or eliminate any risks of relying solely on U.S. producers for their UAN requirements.[25] Five purchasers attached responses. The response of *** was comprehensive and captured the essence of responses of all five responding firms and is summarized below.

*** was concerned about the availability of economically-priced UAN in the United States in the future, based on the following three reasons: (1) financial stability of some of the U.S. UAN producers, (2) domestic natural gas prices, and (3) the per-unit price of nitrogen in UAN versus other nitrogen fertilizers. According to this purchaser, the underlying problem is not enough natural gas in this country to supply the needs for all the demand. The price firms and households can afford to pay for gas that will be used to produce electricity and to heat homes is much greater than what farmers can pay for fertilizer to produce crops. *** asserted that a significant portion of the ammonia and urea used in this country for fertilizer and industrial applications is imported, which is necessary to supply the nitrogen required. The purchaser noted that new ammonia and urea production facilities have been and continue to be built in countries with excess natural gas, and Mississippi Chemical, it asserts, is a significant producer in such plants and sells its foreign-produced ammonia in the United States. If the price of UAN exceeds that of urea, the U.S. farmer will switch to urea. But *** feels strongly that UAN can be supplied to the growing crop in an environmentally friendly manner by injecting it into the soil, which cannot be done

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[24] ***.

[25] Comments throughout the purchaser questionnaire by many purchasers emphasized the need for both U.S.-produced UAN and unfettered imported UAN to adequately supply U.S. demand for UAN.

with urea. It asserts that UAN is more efficient and provides a better agronomic response when used in this manner. Farmers have been willing to pay a premium for UAN for this reason, but, according to ***, this premium cannot exceed *** percent.

Subject Imports[26]

Belarus

Based on available information, the lone responding UAN producer in Belarus has the ability to respond to changes in the price of UAN with moderate to large changes in the quantity of shipments of Belarus UAN to the U.S. market. The main factor contributing to this degree of responsiveness is the existence of alternate markets.

Industry capacity

Available data for the producer of UAN in Belarus indicate that capacity utilization rates increased during the period 1999 through 2001, rising from *** to *** percent in that time. No interim-period data were reported, but projected figures were reported showing *** percent capacity utilization expected for 2002 and 2003. These data indicate that there was *** unused capacity for the producer of UAN in Belarus.

Alternate markets

The responding producer in Belarus shipped *** of its UAN to customers in its home market and exported the rest to the United States and third-country markets during the periods reported, 1999-2001. During this period, UAN shipped to customers in the home market accounted for *** percent of total UAN shipments, exports to the United States accounted for *** percent, and exports to third country markets accounted for the *** percent. These data indicate that the producer in Belarus has the flexibility to use alternate markets to increase or decrease UAN shipments to the U.S. market in response to price changes in the U.S. market.

Russia

Based on available information, the two responding Russian producers of UAN have the ability to respond to changes in the price of UAN with at least moderate changes in the quantity of shipments of Russian UAN to the U.S. market.[27] The main factors contributing to this degree of responsiveness are the existence of alternate markets and unused capacity.

Industry capacity

Available data for the reporting Russian UAN producers indicate that capacity utilization rates averaged *** percent during 1999-2001 and *** percent during January-September 2002. Projections show expected capacity utilization of *** percent for the full year of 2002 and *** percent for 2003.

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[26] The data on the responding subject foreign producers' UAN production, capacity, capacity utilization, and shipments are shown in detail in tables VII-1 and VII-2.

[27] One of the reporting Russian producers, Nevinka, is believed to be the largest UAN producer in Russia.

The Russian UAN is reportedly produced with low-cost natural gas. Russian industrial companies, including fertilizer producers, reportedly pay one-sixth the price for natural gas compared to companies in Europe.[28] During the fall of 2002, U.S. UAN producers reported paying about $3.04 per MMBtu while Russian industrial companies, which likely include Russian UAN producers, may have paid about $0.41 per MMBtu, or about 86.5 percent less than U.S. producers.[29]

Alternate markets

The responding Russian producers of UAN exported *** of their UAN to the United States and third-country markets, and shipped the remainder of their UAN to customers in Russia during January 1999-September 2002. During this period, exports of UAN to the United States accounted for *** percent of total UAN shipments, exports to third-country markets accounted for *** percent, and shipments to customers in the home market accounted for *** percent. These data indicate that the reporting Russian producers have the flexibility to use alternate markets to increase or decrease UAN shipments to the U.S. market in response to UAN price changes in the U.S. market.

Ukraine

Producers in Ukraine did not respond to the Commission's questionnaire.

U.S. Demand

Demand for UAN, as measured by U.S. apparent consumption, fluctuated during the period for which data were collected. U.S. apparent consumption of UAN increased from almost 10.3 million short tons in 1999 to about 11.0 million short tons in 2000, or by 7.6 percent, before falling to almost 9.9 million short tons in 2001, or by 10.5 percent. Interim-period data show stable UAN consumption of about 7.4 million short tons during January-September 2001 and 2002.[30] Based on U.S. consumption at the farm level, UAN usage increased from 2,794,739 short tons of contained nitrogen in CY 1999 to 2,863,035 short tons in CY 2000, or by 2.4 percent, and then fell to 2,642,944 short tons in CY 2001, or by 7.7 percent.[31]

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[28] *Financial Times*, "Lamy seeks to salvage Russia's bid to join WTO," October 19-20, 2002, p. 6.

[29] U.S. producers' natural gas purchase prices are discussed in detail in Part V. The natural gas price for industrial users in Russia is based on *Renaissance Capital*, "Gazprom As A Borrower: Fighting The Prejudice," RC Securities, Inc., October 16, 2002, p. 2.

[30] Total U.S. annual commercial nitrogen fertilizer consumption (based on short tons of contained nitrogen) declined by 0.9 percent in crop year (CY) 2000 from the previous crop year and by 6.9 percent in CY 2001 (a crop year, sometimes referred to as a fertilizer year, runs from July 1 in one year to June 30 of the following year). These figures are based on data published jointly by the Association of American Plant Food Control Officials and The Fertilizer Institute in various issues of *Commercial Fertilizers*; crop year 2001 represents the most recent data available. Total U.S. annual commercial nitrogen fertilizer demand is expected to increase from CY 2002 through CY 2005 (*Fertilizer Market Assessment*, DRI-WEFA, Harry S. Baumes, October 18, 2002, p. 14).

[31] Various issues of *Commercial Fertilizer*, the Association of American Plant Food Control Officials and The Fertilizer Institute.

Based on available information, U.S. aggregate demand for UAN is likely to respond only moderately to changes in UAN prices. Several factors contribute to this degree of price sensitivity, including the degree to which the other principal single-nutrient nitrogen fertilizers are substitutable with UAN and the cost share of UAN in the growing of crops and pasture using this fertilizer.

Demand Characteristics

UAN is a liquid nitrogen fertilizer that is commonly used to fertilize crops such as corn, wheat, cotton, soybeans, tobacco, sugar cane, peanuts, and rice, and to fertilize pasture. One of UAN's major advantages is that it can be mixed with other nutrients such as potassium and phosphate and with herbicides and pesticides which can all be applied at the same time, requiring only one pass across the field.[32] UAN consumption is highly seasonal in a majority of the United States, especially in the Cornbelt states where it is most heavily used, particularly in the spring planting season;[33] however, in some areas, such as Texas, the Southwest, California, and the Gulf Coast region, UAN may be applied several times to the same acres in the course of the year because multiple crops grow nearly continuously due to the favorable climates in these areas.[34]

The overall U.S. demand for UAN depends on various factors, but is primarily affected by the following: planted acreage and application rates, agronomic factors, weather conditions, relative prices of other single-nutrient nitrogen fertilizers, and the cost share of UAN in the growing of crops and pasture using this fertilizer. These demand factors are discussed in detail below.

Planted acreage and application rates

Corn, wheat, cotton, and soybeans, in order of U.S. agricultural consumption of nitrogenous fertilizers, accounted for almost 62.5 percent of total U.S. agricultural consumption of nitrogen during CY 2001. Corn accounted for the lion's share of nitrogen consumption, or 42.1 percent, followed by wheat at 15.3 percent, cotton at 4.2 percent, and soybeans at 0.9 percent.[35] Combined planted acres of these major nitrogen-consuming crops is expected to increase between CY 2001-03, from 225.3 million acres in CY 2001 to 231.5 million acres in CY 2003, or by 2.8 percent.[36] But relatively more acres of

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[32] Potassium and phosphate are two other major soil nutrients also important for the growth of plants and pasture, but these nutrients tend to remain in the soil when not absorbed by the plants and, therefore, are not applied as frequently as nitrogen. The majority of the nitrogen applied in commercial fertilizers is gone in 60 days (*McDowell County Center Forage News*, "Fertilizer Prices and Usage," North Carolina State University A&T State University Cooperative Extension–*http://mcdowell.ces.state.nc.us/newslestters/forage/01-03/*, March 2001).

[33] Because the bulk of UAN is applied in the spring growing season, distributors and producers must fill storage facilities throughout the year to ensure prompt availability of adequate supply at the farm level during the peak use months of March through June.

[34] Petition, pp. 12-13.

[35] In terms of acres planted in CY 2001, corn was the leader at 75.8 million acres, followed by wheat at 59.6 million acres, soybeans at 74.1 million acres, and cotton at 15.8 million acres. Application rates of nitrogen (in pounds of nitrogen per acre) were the highest for corn at 133 pounds per acre, followed by cotton at 81 pounds per acre, wheat at 67 pounds per acre, and soybeans at 24 pounds per acre. (*Fertilizer Market Assessment*, DRI-WEFA, Harry S. Baumes, October 18, 2002, p. 14.)

[36] Combined planted acres of these major nitrogen-consuming crops fell from 232.0 million acres in CY 2000 to

(continued...)

corn and wheat are expected to be planted than cotton and soybeans. This increase in planted acreage is expected to increase total U.S. agricultural nitrogen consumption in CY 2003 by 7.8 percent over the CY 2001 level, and to increase the share of the four major crops using nitrogen to 63.8 percent of the total.[37] The new U.S. farm bill, the Farm Security and Rural Investment Act of 2002, was signed into law in May 2002 and covers 2002-2007; this replaces the FAIR Act of 1996. The new farm bill is expected to increase total assistance to the U.S. farm sector to $16.9-$18 billion annually; these expected annual assistance levels are about 80 percent higher than those envisioned in the FAIR Act of 1996.[38] Twenty-two purchasers, mostly fertilizer dealers, responded to a questionnaire request for information on the likely impact of the new farm bill on U.S. demand for nitrogenous fertilizers during the 2003 and 2004 CYs. Twelve firms did not know, whereas eight firms felt that the new farm bill would increase production of crops such as corn and thereby increase consumption of nitrogen fertilizers. The remaining two firms felt that the new farm bill would have no effect on U.S. consumption of nitrogen fertilizers.

The 17 largest nitrogen consuming states in CY 2001 accounted for 76.2 percent of total U.S. agricultural nitrogen consumption and 75.9 percent of total U.S. agricultural UAN consumption (in short tons of contained nitrogen) during this period.[39] The 17 largest nitrogen fertilizer consuming states and their percentage share of total nitrogen consumption (based on short tons of nitrogen) in CY 2001, in declining order of consumption, were the following: Iowa (7.7 percent), Illinois (7.5 percent), Texas (6.9 percent), Kansas (6.2 percent), Nebraska (5.9 percent), California (5.6 percent), Ohio (5.1 percent), Minnesota (4.8 percent), Indiana (4.5 percent), North Dakota (4.5 percent), Missouri (3.9 percent), South Dakota (3.1 percent), Arkansas (2.7 percent), Florida (2.1 percent), Michigan (2.1 percent), Wisconsin (1.8 percent), and Kentucky (1.8 percent).[40] Many of the largest consuming states for nitrogenous fertilizers are also where U.S. production of corn and wheat are concentrated.

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[36] (...continued)
225.3 million acres in CY 2001, or by 2.9 percent. At the same time, nitrogen application rates (in pounds of nitrogen per acre) and the share of total acres fertilized for these crops also fell in CY 2001. (*Fertilizer Market Assessment*, DRI-WEFA, Harry S. Baumes, October 18, 2002, p. 14.)

[37] All of these figure for acres planted by crop and by fertilizer use are reported in *Fertilizer Market Assessment*, DRI-WEFA, Harry S. Baumes, October 18, 2002, p. 14.

[38] *Bridges Weekly Trade News Digest*, "New U.S. Farm Bill Upsets WTO Partners, Could Hurt Developing Countries," May 15, 2002; *Common Dreams News Center*, "South America, Europe Up in Arms over U.S. Farm Bill," February 3, 2002.

[39] These figures are reported in *Commercial Fertilizers 2001*, the Association of American Plant Food Control Officials and The Fertilizer Institute, pp. 17 and 20.

[40] The percentage share of total UAN consumption (based on short tons of nitrogen) of these 17 states in CY 2001, in declining order of consumption, were the following: Nebraska (9.9 percent), Iowa (9.2 percent), Ohio (8.3 percent), Illinois (7.8 percent), Kansas (7.0 percent), Texas (6.8 percent), California (6.3 percent), Indiana (5.4 percent), Missouri (2.9 percent), Michigan (2.7 percent), Wisconsin (2.4 percent), South Dakota (2.2 percent), Minnesota (1.8 percent), Arkansas (1.4 percent), Kentucky (1.3 percent), North Dakota (0.4 percent), and Florida (0.2 percent).

Agronomic and weather conditions

Agronomically, the choice of the most appropriate nitrogenous fertilizer is based principally on soil and weather conditions and on application techniques in order to provide nitrogen to the crop with minimum loss of nitrogen in the soil,[41] and to avoid harm to the plant.[42] HDAN and UAN have less tendency to lose nitrogen to the atmosphere than urea; all of these fertilizers are applied to the surface of the soil, whereas anhydrous ammonia, because it is applied as a gas, is knifed into the soil. Moist soil and mild weather are best conditions for applying nitrogen fertilizers and minimizing loss of nitrogen to the atmosphere; rainfall within 2-3 days of applying nitrogenous fertilizer is considered to be ideal to move the surface-applied nitrogenous fertilizers, such as UAN, urea, and HDAN into the soil. If the soil is too wet, however, the nitrogen can be lost by leaching out of the soil. If the soil is too dry, in clumps, and/or sandy, nitrogen, including that from anhydrous ammonia, can be quickly lost by volatization. Because UAN, urea, and HDAN are most commonly applied to the surface of the ground, the amount of surface moisture and foliage (especially stubble/residue from the previous crop) is important. Excessive foliage, which can occur with no-till or minimal-till practices, will keep the ground surface moist but prevent the fertilizer from reaching the soil. Enzymes in the foliage combined with warm, moist conditions promote fast production of nitrogen into ammonium, which, in turn, raises the surrounding pH above 7.0. High pH levels lead to the reformation of nitrogen into ammonia, which is easily lost to the atmosphere if at the surface of the ground or, if in the soil, when the soil is dry, in clumps, and/or sandy. Excessive foliage may also lead to nitrogen loss to the atmosphere through denitrification by converting nitrates into nitrogen gas, which is rapidly lost to the atmosphere. Cold weather greatly reduces both volatization and denitrification.

Excessively wet or hard ground (the latter very dry, frozen, or rocky) can make it difficult or impossible to operate the equipment used to knife anhydrous ammonia into the soil. If such conditions occur in the fall planting season, farmers may wait until spring to apply nitrogen fertilizer and then will likely use additional UAN or urea, substituting, at least partly, for anhydrous ammonia.[43] UAN, urea, and HDAN are used principally in the spring in pre-plant, pre-emergence, side-dress, and top-dress applications. *** reported in its questionnaire response that unseasonably late wet conditions in the spring of 2001 in the Western Cornbelt probably reduced UAN applications. In addition, dry conditions and poor crops in the Southwest and the northern tier states probably reduced all forms of nitrogen fertilizer in CY 2001. Finally, according to ***, extremely poor potato economics and mechanically irrigated land that was idled reduced total nitrogen fertilizer consumption and disproportionately reduced UAN volumes in CY 2001.

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[41] On average, only 40 percent of the nitrogen applied as fertilizer is used by the crop, with the rest largely lost through volatization/denitrification (lost to the atmosphere) or leached from the soil (*Modern Organics*, "Low Fertilizer Efficiency Reduces Yield Potential and Increases Production Costs," http://www.modernorganics.com).

[42] All nitrogen fertilizers attract water (salt effect) and, therefore, can cause damage to the seed or seedling if applied too closely to the young crop, particularly in coarse dry soil.

[43] Anhydrous ammonia is used principally in pre-plant and pre-emergence applications. If the spring planting season is delayed because of adverse weather, or is excessively wet, farmers may use UAN and/or urea instead of anhydrous ammonia; the latter takes much longer to apply than the other nitrogenous fertilizers.

Substitute Products

Demand for UAN is also affected by the substitutability of UAN with other fertilizer products. Principal substitutes for UAN include anhydrous ammonia, urea, and HDAN--all single-nutrient nitrogenous fertilizers.[44] The declining trend in total annual U.S. commercial nitrogen fertilizer consumption during the 1999-2001 crop years was accompanied by varying annual shares of the four major single-nutrient nitrogenous fertilizers (based on short tons of contained nitrogen). The share of total nitrogen fertilizer consumption accounted for by anhydrous ammonia fell continuously from 30.7 percent in CY 1999 to 25.9 percent in CY 2001; that for UAN rose from 22.5 percent in CY 1999 to 23.0 percent in CY 2001; that for urea rose from 17.1 percent in CY 1999 to 20.0 percent in CY 2001;[45] and that for HDAN fell from 5.1 percent in CY 1999 to 4.6 percent in CY 2001.[46] The rising shares of UAN and urea are probably linked to their inherent qualities. The most prominent advantage of UAN is that it can be easily mixed with other nutrients and with herbicides and insecticides so that a single pass will apply all the required materials; use of UAN in existing irrigation facilities/equipment further reduces application costs. The most prominent advantage of urea is its high nitrogen content (46 percent). UAN and urea are both safe to handle and easy to use.

Each of the single-nutrient nitrogen fertilizers has its own advantages and disadvantages, and substitution among these fertilizers depends on the intended crop, soil assay, the method of tilling, weather conditions, agronomic factors, and relative fertilizer prices and availability. U.S. producers and some importers reported in their questionnaire responses that substitution between UAN and the other nitrogenous fertilizers depended more on the first four factors and less on relative price changes. Of the 27 purchasers responding to a question regarding substitution due to relative price changes, 21 reported that substitution between UAN and the other major nitrogen fertilizers, particularly urea and anhydrous ammonia, occur as a result of relative price changes;[47] such switching due to changes in relative prices was generally accompanied by changes in weather and soil conditions that also favored such switching. Corn and wheat were most frequently cited as crops where switching among the nitrogenous fertilizers occurs. Eighteen of the 27 purchasers responding to a question about any switching among the major nitrogenous fertilizers due to factors other than price, reported that changes in weather and soil conditions were the major non-price factors that led to such switching among the nitrogenous fertilizers.[48]

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[44] Based on short tons of contained nitrogen, these four single-nutrient nitrogenous fertilizers together averaged 74.7 percent of total U.S. commercial nitrogen fertilizer consumption (based on short tons of contained nitrogen) during the 1999-2001 crop years. (Various issues of *Commercial Fertilizers*, the Association of American Plant Food Control Officials and The Fertilizer Institute.)

[45] UAN consumption decreased by 220,091 short tons of contained nitrogen in CY 2001 from the previous crop year, while urea increased by 134,511 short tons of contained nitrogen (*Ibid*). Urea reportedly substituted for some UAN in CY 2001 as the price of UAN jumped relative to the price of urea (hearing transcript, pp. 199-204.)

[46] Various issues of *Commercial Fertilizers*, the Association of American Plant Food Control Officials and The Fertilizer Institute.

[47] Five of the 27 responding purchasers reported that switching among nitrogenous fertilizers does not occur due to changes in relative prices, while the single remaining purchaser did not know if such switching occurred.

[48] Six of the 27 responding purchasers reported that no such switching occurred as a result of non-price factors, while the remaining three purchasers indicated that they did not know if such switching occurred.

UAN is an aqueous mixture produced from the hot liquid of both urea and ammonium nitrate; the nitrogen content in UAN typically ranges from 28 to 32 percent. This solution can be combined with other nutrients and with insecticides and herbicides for a single pass over the field, can be more uniformly applied to the soil than its principal alternatives, and is easy to handle and store.[49] The lower nitrogen content of UAN makes its shipping costs more expensive on a per-unit nitrogen basis than anhydrous ammonia, urea, and HDAN; in cold conditions (below 32 degrees Fahrenheit), only 28 percent and 30 percent UAN can be used, further increasing its shipping costs per unit of nitrogen. UAN can be metered into irrigation water, thereby foregoing the need for special application equipment, or, if applying from a tank, a boom and pressure sprayer can be obtained at a modest cost.[50]

Anhydrous ammonia is a toxic gas at room temperature and pressure, so it is often stored and shipped more safely as a liquid by cooling and pressurizing this form of nitrogen in pressure containers; its 82.2-percent nitrogen content is the highest of all nitrogen fertilizers and offsets high storage and shipping costs, making it the lowest-cost fertilizer in terms of contained nitrogen. The dangerous nature of anhydrous ammonia, the expensive equipment required to inject the gas into the soil, and the slow process of applying the gas may limit the use of this form of nitrogen fertilizer.[51]

HDAN contains 34 percent nitrogen by weight, has a relatively high assay of nitrogen in nitrate form (50 percent of total),[52] and may be blended with other solid fertilizers, except urea, for broadcast onto fields. HDAN is less subject to volatization than other products in hotter weather because it will not evaporate or dissipate as a result of the heat, which would reduce the amount of nitrogen in the soil. Prescribed application of HDAN does not burn plants, therefore, it is a popular source of nitrogen for no-till crops and for top/side dressing. A major disadvantage is that HDAN draws moisture from the air and, under extreme conditions, may become combustible and explosive. Another disadvantage is that HDAN is generally more costly on a per-unit-of-nitrogen basis than any of the other major nitrogenous fertilizers and, therefore, its use is restricted mostly to specialty crops.[53]

Urea has the highest nitrogen content of the surface-applied nitrogen fertilizers (46 percent), is safe to store, and is easy to handle. It is a dry fertilizer that can be blended with other solid fertilizers (except HDAN) and is applied with similar broadcasting methods as HDAN. Urea has a slower rate of conversion of available nitrogen to the soil than HDAN. Urea can volatize, that is, lose a portion of its nitrogen to the atmosphere, especially with dry soil and hot temperatures. Urea is generally less expensive on a per-unit nitrogen basis than UAN.[54]

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[49] An additional advantage of UAN is that, like HDAN, a portion of its nitrogen is in the form of nitrates, which can be readily used by plants. Twenty-five percent of the contained nitrogen in UAN is in this readily available form.

[50] *Certain Ammonium Nitrate from Ukraine*, USITC Pub. 3448, August 2001, pp. II-8-9.

[51] Proper soil conditions, such as a damp soil, are necessary to retain the ammonia gas long enough to allow soil microorganisms to nitrify the ammonia gas to allow plants to absorb the nitrogen. Excessively wet soil or frozen/hard ground will prevent proper use of the application equipment, and dry, sandy, or clumpy soil will facilitate volatization (escape of nitrogen into the atmosphere) with anhydrous ammonia.

[52] Nitrogen in nitrate form can be used readily by plants, making HDAN fast-acting.

[53] *Certain Ammonium Nitrate from Ukraine*, USITC Pub. 3448, August 2001, p. II-8.

[54] *Ibid*, p. II-8.

U.S. producers and importers reported in their questionnaire responses that the various nitrogenous fertilizers are substitutable for one another with some limitations. As noted above, each nitrogen-based fertilizer has unique properties that limit substitutability. For example, the application equipment differs among gas, dry, and liquid forms of fertilizer. In addition, several domestic producers reported that UAN, because it is a liquid, can be combined with other chemicals, limiting the number of trips across the field. In addition, UAN can be applied through irrigation systems, thereby reducing application costs. Other factors such as time of year, stage of crop development, and weather may favor one type of nitrogen fertilizer over another.

U.S. producers and importers asserted that U.S. prices of the nitrogenous fertilizers generally maintain a certain price difference between each other, but, when such price differences change, urea was identified most frequently as a possible substitute for UAN based on such relative price changes. ***, importers of the subject UAN, reported that UAN generally sold at 2-3 cents per pound more than urea, but when this spread increased to 5-8 cents per pound, some switching to urea may occur. ***, two other importers/distributors of the subject UAN ***, reported that there is a constant flow of cheap urea into the United States and when the price spread with UAN widens, urea is melted to a 23-percent nitrogen solution and substituted for UAN in fertigation.[55] *** reported that it was prepared to buy urea instead of UAN and melt the former product to sell it in liquid form to its farmer customers instead of UAN, if the high prices and uncertain availability of UAN during 2000/01 had continued much longer.[56]

Available data show that quarterly prices of the four major single-nutrient nitrogenous fertilizers have had similar trends since 1994 (figure II-1).[57] Over the long term, prices of HDAN were almost always the highest and prices of anhydrous ammonia were always the lowest of the four major nitrogenous fertilizers, while prices of urea fluctuated within a fairly narrow band around prices of UAN. During late 2000 and early 2001 (the period of high U.S. natural gas prices), however, UAN prices increased substantially and were equal to those of HDAN and were considerably higher than those of urea.

UAN cost share

The portion of the cost of the farmers' end product accounted for by UAN is difficult to determine due to the high number of variables associated with farm production. Twelve U.S. purchasers responded to the questionnaire request for their estimates of the cost shares of UAN to total costs to

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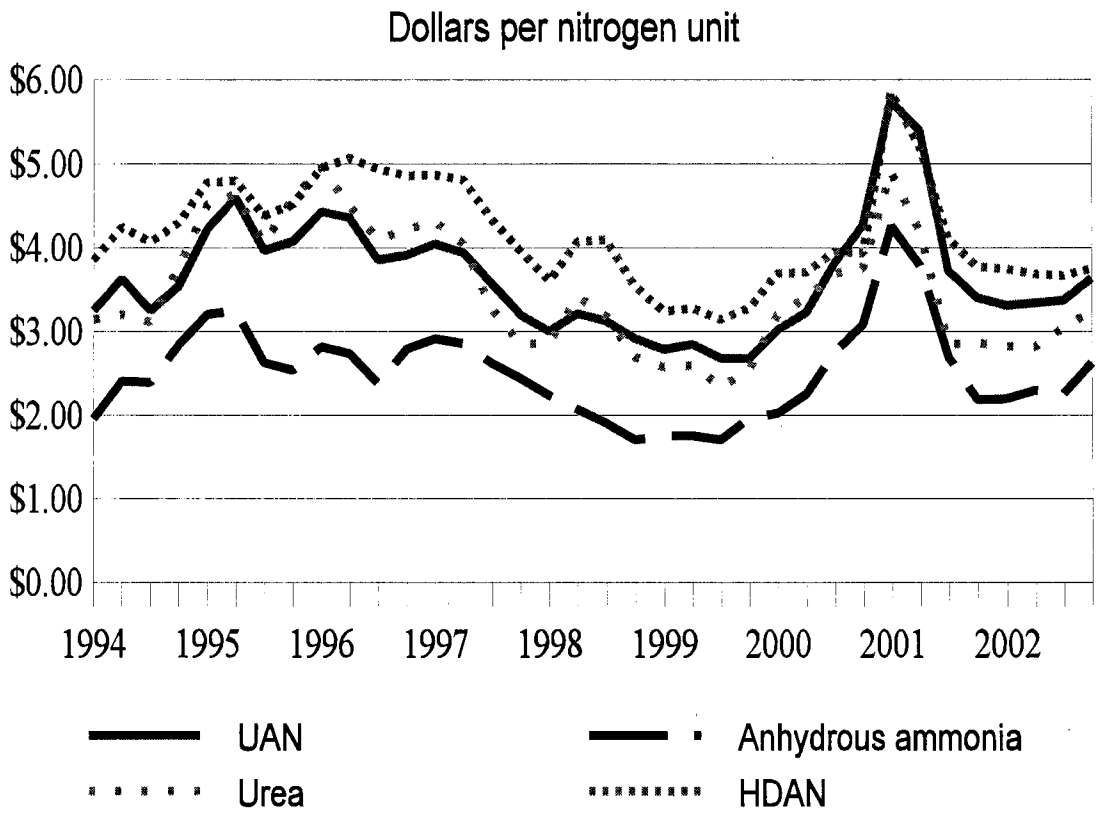
[55] *** added that, when the price spreads widen, aqua ammonia is also substituted for UAN in California and applied in water runs or shanked into the soil.

[56] ***.

[57] Statistical correlation between two variables measures the degree to which their values move together as a result of certain factors affecting both variables in similar ways. Frequent measures of this are linear correlation coefficients, where a coefficient of 1 indicates perfect correlation and zero indicates no correlation. The correlation coefficients involving these quarterly prices between UAN and the other nitrogenous fertilizers during January 1994-December 2002 are as follows: 0.9448 between UAN and anhydrous ammonia; 0.8545 between UAN and urea; and 0.8957 between UAN and HDAN. Anhydrous ammonia and urea are also used importantly in several industrial applications, whereas UAN and HDAN are used almost exclusively as fertilizer. As a result, the prices of anhydrous ammonia and urea may be affected by demand and supply factors in both fertilizer and industrial applications, while prices of UAN and HDAN are affected by demand and supply factors mostly in fertilizer applications.

Figure II-1
Single-nutrient nitrogenous fertilizers: U.S. prices of UAN,[1] anhydrous ammonia,[1] urea,[2] and HDAN,[1] by quarters, January 1994-December 2002



Note: A nitrogen unit equals 20 pounds of nitrogen.

[1] Mid Cornbelt prices (simple averages of reported high and low prices).
[2] Mid Cornbelt prices (simple averages of reported prilled and granular prices).

Source: *Green Markets*, Pike & Fischer, Inc., weekly issues, January 3, 1994-December 16, 2002.

produce each of the principal UAN-using crops that they were able to identify; not every responding purchaser necessarily reported for the same crops. Based on these responses, UAN's share of total costs averaged 23.3 percent for corn, 22.2 percent for wheat, 15.0 percent for cotton, 22.0 percent for soybeans, 25.0 percent for rice, 10.0 percent for tobacco, and 2.7 percent for fruits, nuts, and vegetables.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported UAN depends upon such factors as relative prices, quality, availability/reliability of supply, U.S. transportation costs, and conditions of sale. Based on available information in this final phase of the investigations, staff believes there is a modest degree of substitution between domestic UAN and imports from the subject countries.

Factors Affecting Purchasing Decisions

Purchasers were requested in their questionnaires to list the top three purchase factors that they consider when deciding from whom to purchase UAN. Based on responses of the 26 reporting purchasers, the factors of price, supply availability/reliability, and quality, in descending order of importance, were considered to be the top three purchase factors. Purchasers reported that quality considerations included accurate and consistent nitrogen content, inclusion of a corrosion inhibitor, low amount of free ammonia,[58] high-clarity solution,[59] and the proper urea-to-ammonium-nitrate ratio.[60] Twenty-four purchasers responded to a questionnaire question asking how often their UAN purchase decisions were based mainly on lowest price during January 1999-September 2002. Fourteen purchasers responded that they usually purchased the lowest-priced UAN, but they also cited other factors that they considered such as availability and reliability of supply, transportation logistics, terminal capacity, and seasonal demand. Nine other purchasers reported that they always bought the lowest-priced UAN, and the single remaining purchaser indicated that it never purchased the lowest-priced UAN.

Twenty-two U.S. purchasers also responded to a request in the purchaser questionnaire to rank 14 specified purchase factors as very important, somewhat important, or not important. The total number of responses is shown in table II-1 for each purchase factor. Six factors--availability, reliable supply, product quality, delivery time, product consistency, and lowest price--were generally considered the most important purchase factors for UAN.[61] Discounts offered, U.S. freight costs, delivery terms, and transportation network were ranked next in importance. Two other factors--minimum quantity requirements and product range--were generally ranked only somewhat important. The two remaining factors–packaging and technical support--were generally considered not important.

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[58] Too much free ammonia can burn sensitive plants.

[59] Excessive precipitates will result in a cloudy liquid that will, in turn, tend to clog application spray nozzles.

[60] Inclusion of a corrosion inhibitor, proper clarity, and the correct urea-to-ammonium-nitrate ratio are all important for ease in handling of UAN.

[61] Price, supply availability/reliability, and product quality were reported as the top three purchase factors in another part of the purchaser questionnaire and were discussed earlier.

Table II-1
Ranking of purchase factors, as reported by U.S. UAN purchasers

Purchase factors	Very important	Somewhat important	Not important
Availability *	20	2	0
Delivery terms	9	11	2
Delivery time	15	7	0
Discounts offered	10	10	2
Lowest price *	12	10	0
Minimum quantity requirements	2	13	7
Packaging	1	7	14
Product consistency	13	7	2
Product quality *	16	6	0
Product range	4	10	8
Reliable supply	17	5	0
Technical support	1	10	11
Transportation network	7	10	5
U.S. freight costs	10	7	5

Note.--The overall top three purchase factors as discussed earlier are identified with asterisks.

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

Comparison of the U.S.-Produced and Imported UAN

U.S. importers typically sold their imported UAN in or near U.S. coastal areas during January 1999-September 2002, whereas the U.S.-produced UAN was sold in significant amounts further inland;[62] U.S. importers typically quoted prices of their subject imported UAN on a U.S. f.o.b. price basis and did not arrange U.S. transportation, but U.S. producers generally quoted prices of their UAN on a delivered price basis and arranged the U.S. transportation to their customers. UAN sold in the United States tends to be a spatially differentiated product given the substantial U.S. transportation costs vis-a-vis the product values, especially when shipped more than 100 miles.

U.S. producers must operate their UAN production facilities at high capacity utilization rates throughout the year and frequently arrange U.S. transportation to their customers as they often quote

[62] Subsequent sales of the imported and U.S.-produced UAN frequently involve swaps/exchanges and commingling such that by the time the UAN reaches the fertilizer dealers and farmers it commonly has lost its country identity.

delivered prices. These factors may give an edge to U.S.-produced UAN over subject imported UAN in terms of purchase factors such as product availability, delivery time, and reliable supply. U.S. producers reported order lead times (the period from the customers' orders to delivery of UAN), whether from production or inventory, that ranged from one or two days to 20 days, with truck delivery generally the fastest and rail or barge requiring somewhat longer delivery times. U.S. importers reported delivery times most typically of 7 to 30 days, but some as short as 1 to 2 days, from U.S. inventory; shipments from the subject countries, however, ranged from 40-120 days (***).[63]

U.S. UAN producers and importers sell their UAN almost exclusively to fertilizer distributors and dealers. The U.S.-produced and imported UAN, including UAN imported from the subject countries, are considered to be comparable in product quality.[64]

Purchaser Sourcing Patterns

The purchaser questionnaires asked U.S. UAN purchasers to compare U.S.-produced and imported UAN in terms of the 14 specified purchase factors discussed earlier and indicate for each factor whether the domestic product was superior, comparable, or inferior; bilateral comparisons among foreign countries were also requested. A total of 15 U.S. UAN purchasers reported the requested information for at least some comparisons between the U.S.-produced UAN and that imported from Russia, Ukraine, Canada, and all imports combined.[65] Table II-2 shows the number of responses for each purchase factor in each two-country comparison involving the U.S.-produced UAN and between the U.S.-produced UAN and total imported UAN. The 15 responding firms did not report for every country and for every purchase factor, limiting the number of responses for each country-pair comparison and between U.S.-produced UAN and total imported UAN.

Based on the responses of five purchasers comparing the U.S.-produced and imported Russian UAN, the U.S.-produced UAN was generally found to be superior to the imported Russian UAN for the purchase factors of availability, delivery terms, delivery time, minimum quantity requirements, reliable supply, technical support, and transportation network. The two sources of UAN were found to be generally comparable for the purchase factors of discounts offered, packaging, product consistency, product quality, and U.S. freight costs. Mixed results were reported for the factors of lowest price and product range; two of five responses for the lowest-price factor indicated that the U.S.-produced UAN was inferior to the imported Russian UAN, i.e., the imported Russian UAN was priced lower than the U.S.-produced UAN for these two responding purchasers. Two other purchasers reported that prices of

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[63] *** asserted that it placed a purchase order for the subject imported UAN (from ***) ***, at prices *** it was able to obtain from U.S. producers. *** did not receive the *** UAN until *** (posthearing brief of J.R. Simplot, exhibit 1).

[64] During the preliminary phase of the investigations, U.S. producers and importers were requested to comment in their questionnaire responses on the degree to which the U.S.-produced and subject imported UAN can physically be used in the same applications (interchangeability). All eight responding U.S. producers and seven responding importers reported that the domestic and subject imported UAN can always physically be used in the same applications.

[65] In addition, 12 other purchasers reported that they were unable to make country comparisons of UAN because they purchased only U.S.-produced UAN or did not know the county of origin of the UAN that they purchased. No purchasers reported the requested information for Belarus.

Table II-2
Comparisons of U.S.-produced UAN with UAN imported from Russia, Ukraine, Canada, and all U.S. imported UAN, as reported by U.S. purchasers[1]

Purchase factors	U.S.-produced UAN compared to UAN imported from–											
	Russia			Ukraine			Canada			All imports		
	S	C	I	S	C	I	S	C	I	S	C	I
Availability *	4	1	0	1	0	0	2	1	0	2	6	0
Delivery terms	4	1	0	1	0	0	2	1	0	1	7	0
Delivery time	4	1	0	1	0	0	2	1	0	3	5	0
Discounts offered	1	3	1	0	1	0	0	3	0	1	7	0
Lowest price *	1	2	2	0	1	0	0	3	0	0	7	1
Minimum quantity requirements	4	1	0	1	0	0	1	2	0	2	5	0
Packaging	1	3	0	0	1	0	0	2	0	0	6	0
Product consistency	0	5	0	0	1	0	0	3	0	0	8	0
Product quality *	0	5	0	0	1	0	0	3	0	0	8	0
Product range	2	2	0	0	1	0	0	3	0	0	8	0
Reliable supply	3	2	0	0	1	0	0	3	0	2	6	0
Technical support	3	2	0	0	1	0	1	2	0	2	5	0
Transportation network	4	1	0	1	0	0	1	2	0	3	5	0
U.S. freight costs	1	3	1	0	1	0	0	3	0	2	6	0

[1] Purchasers did not report the requested information for Belarus.

Note.--S=superior, C=comparable, and I=inferior. The overall top three purchase factors as discussed earlier are identified with asterisks.

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

the U.S.-produced and imported Russian UAN were comparable, while the remaining purchaser reported that prices of the U.S.-produced UAN were superior to prices of the imported Russian UAN, i.e., the U.S. UAN was priced lower than the Russian UAN.

Based on the responses of a single purchaser comparing U.S.-produced and imported Ukrainian UAN, the U.S.-produced UAN was reported to be superior to the imported Ukrainian UAN for the purchase factors of availability, delivery terms, delivery time, minimum quantity requirements and transportation network. The two sources of UAN were comparable for the other purchase factors, including the factors of lowest price and product quality, two highly-ranked factors for UAN purchasers.

Based on the responses of three purchasers comparing the U.S.-produced and imported Canadian UAN, the U.S.-produced UAN was generally reported to be superior to the imported Canadian UAN for the purchase factors of availability, delivery terms, and delivery time. The two sources of UAN were generally comparable for the other purchase factors, including the factors of lowest price and product quality, two highly-ranked factors for UAN purchasers.

Based on the responses of eight purchasers comparing the U.S.-produced UAN with all U.S. imported UAN, the U.S.-produced UAN was generally reported to be comparable to imported UAN for all the purchase factors.

ELASTICITY ESTIMATES[66]

U.S. Supply Elasticity

The domestic supply elasticity for UAN measures the sensitivity of quantity supplied by U.S. producers to a change in the U.S. market price of UAN. The elasticity of domestic supply depends on several factors including U.S. producers' level of excess capacity, the ease with which U.S. producers can alter productive capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced UAN.[67] Analysis of these factors indicates that, overall, U.S. producers have some flexibility in the short run to alter their supply of UAN in response to relative changes in the demand for their product; thus, the domestic elasticity of supply is estimated to be in the range of 2 to 5.

U.S. Demand Elasticity

The U.S. price elasticity of demand for UAN measures the sensitivity of the overall quantity demanded for this product to changes in the U.S. market price of UAN. The price elasticity of demand depends on the cost share of UAN in downstream products, the price elasticity of demand for down-stream products, and the substitutability of other inputs for UAN in the downstream products. Based on available information, the demand elasticity for UAN is estimated to be in the range of -0.5 to -1.5.

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[66] Petitioners and respondents did not comment directly on the these elasticity estimates, which were also shown in the prehearing report, in their prehearing or posthearing briefs.

[67] Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors opposite to those resulting in increased quantity supplied to the U.S. market result in decreased quantity supplied to the same extent.

Substitution Elasticity[68]

The elasticity of substitution largely depends upon the degree to which there is an overlap of competition between U.S.-produced and imported UAN, and product differentiation. Product differentiation, in turn, depends on such factors as physical characteristics (e.g., grades and quality) and conditions of sale (e.g., delivery lead times, reliability of supply, product service, etc.). Based on available information discussed earlier, the elasticity of substitution between domestic UAN and the imported UAN from Belarus, Russia, and Ukraine is estimated to be in the range of 1 to 3.

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

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the final margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 12 U.S. producers of UAN that are believed to represent nearly all U.S. production during the period for which data were collected.[1]

At least 13 producers of UAN operate in the United States, although four of these–CF Industries, Farmland Industries, Potash Corporation of Saskatchewan (PCS), and Terra Industries–accounted for 85 percent of domestic production in 2001 (table III-1). CF Industries and PCS, along with three other smaller producers, also produce other nitrogen-based fertilizers (CF Industries and Royster-Clark produce solid urea; PCS and Mississippi Chemical produce solid ammonium nitrate; and El Paso produces both). All of the producers separately sell one or more of the products made during the production process, including ammonia, nitric acid, carbon dioxide, urea liquor, and ammonium nitrate liquor. As shown in table III-1, several producers also sold imported UAN, either from purchases or direct imports, and a few either purchased or imported from one or more of the subject countries. The quantities imported or purchased, however, were generally small relative to their domestic production and were used to meet sales commitments in the face of production curtailments.[2] The exception is ***.[3] ***. In the preliminary phase of its investigations, the Commission excluded *** from the U.S. industry as a related party that benefitted from its imports of UAN.

Combined data for the 12 producers responding to the Commission's questionnaires are shown in table III-2.[4] The relatively consistent capacity throughout the period examined belies a number of plant shutdowns (see table III-1), but for the most part producers were able to increase efficiencies at remaining plants and, in one case (Farmland Industries), open a new plant (which ***). Production, however, declined somewhat after 2000, resulting in a drop of capacity utilization from 84.4 percent in 2000 to 71.8 percent in January-September 2002. Most all of the producers reported unscheduled production curtailments (i.e., other than scheduled maintenance) during the period examined, citing inventory control (26 instances totaling 2.4 million tons), market conditions and lack of sales (25 instances totaling 2.8 million tons), equipment failure and other plant incidents (18 instances totaling 582,000 tons), and high natural gas costs (7 instances totaling 205,000 tons).[5] Producers' inventory capacity is a primary constraint on production. Most producers have inventory capacity totaling *** or less, requiring them to

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[1] The only known producer not included in the data is ***.

[2] In the period examined ***.

[3] For the period examined ***.

[4] Although included in the data, *** impact on the aggregate is ***, having accounted for less than *** percent of U.S. production during the period examined. (A summary of industry data excluding *** is presented in appendix C, table C-2).

[5] These figures do not include reduced quantities reported by producers for scheduled maintenance and overall reductions due to market conditions (which are included in the summaries provided by petitioners in their prehearing brief).

Table III-1
UAN: U.S. producers, locations of production facilities, positions with respect to the petition, shares of U.S. production in 2001, and selling of imported UAN during January 1999-September 2002

Company	Location of production facilities	Position with respect to the petition	Production *(short tons)*	Share of production *(percent)*	Sells imported UAN–	
					From purchases	From direct imports
Agrium US[1]	Kennewick, WA Sacramento, CA	Support	***	***	***	***
Apache Nitrogen[2]	Benson, AZ	Support	***	***	***	***
Centennial Ag[3]	Greeley, CO	***	***	***	***	***
CF Industries[4]	Donaldsonville, LA	Petitioner	***	***	***[5]	***
El Dorado Chemical[6]	Cherokee, AL	Support	***	***	***	***
El Paso Corp.[7]	Cheyenne, WY St. Helens, OR	***	***	***	***	***
Farmland Industries[8]	Beatrice, NE Coffeyville, KS[9] Dodge City, KS Enid, OK Fort Dodge, IA Lawrence, KS[10]	***	***	***	***	***
J.R. Simplot[11]	Helm, CA Pocatello, ID[12]	***	***	***	***	***[5]
Mississippi Chem.[13]	Yazoo City, MS	Petitioner	***	***	***	***[5]
PCS[14]	Augusta, GA Clinton, IA[15] Geismar, LA LaPlatte, NE[15] Lima, OH	***	***	***	***[5]	***
Royster-Clark[16]	East Dubuque, IL	***	***	***	***	***
Terra Industries[17]	Port Neal, IA Verdigris, OK Woodward, OK	Petitioner	***	***	***	***
Total responding			8,190,836	100.0	7	4

[1] Agruim US is a wholly owned subsidiary of Agrium Inc., Calgary, Canada.
[2] Apache Nitrogen, a toll producer for ***, is *** owned by BHP Copper Co., San Manuel, AZ; *** owned by Sasol Southwest Energy, Tucson, AZ; and *** owned by Phelps Dodge Corp., Phoenix, AZ.
[3] Centennial Ag is not owned, in whole or in part, by any other firm.
[4] CF Industries is cooperatively owned by 9 member companies. The largest shares are owned by ***.
[5] ***.
[6] El Dorado is a wholly owned subsidiary of LSB Industries, Oklahoma City, OK.
[7] El Paso Corp. is not owned, in whole or in part, by any other firm.
[8] Farmland Industries is a farmer-owned cooperative. It filed for Chapter 11 bankruptcy protection in May 2002.
[9] Newly commissioned in April 2000.
[10] Idled in April 2000.
[11] J.R. Simplot is not owned, in whole or in part, by any other firm.
[12] Shut down in May 2001.
[13] Mississippi Chemical is not owned, in whole or in part, by any other firm.
[14] PCS is not owned, in whole or in part, by any other firm.
[15] Shut down in August 1999.
[16] Royster-Clark is a wholly owned subsidiary of Royster-Clark Group, Inc., New York, NY.
[17] Terra Industries is *** owned by Taurus International S.A., Luxembourg.

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

Table III-2
UAN: U.S. production, average practical capacity, capacity utilization, domestic shipments, exports, end-of-period inventories, average number of U.S. production and related workers, and hours worked by and wages paid to such workers, 1999-2001, January-September 2001, and January-September 2002

(Quantity=*short tons, 32-percent nitrogen content basis*; value=*1,000 dollars*)

Item	1999	2000	2001	J-S 2001[1]	J-S 2002[1]
U.S. producers'--					
Capacity quantity	11,192,540	10,801,632	11,075,731	8,142,788	8,134,059
Production quantity	8,911,431	9,113,601	8,190,836	5,947,022	5,837,345
Capacity utilization[2]	79.6	84.4	74.0	73.0	71.8
U.S. commercial shipments:					
Quantity	***	***	***	***	***
Value[3]	***	***	***	***	***
Unit value (*per ton*)	***	***	***	***	***
Internal consumption:					
Quantity	***	***	***	***	***
Value[3]	***	***	***	***	***
Unit value (*per ton*)	***	***	***	***	***
Transfers to related firms:					
Quantity	***	***	***	***	***
Value[3]	***	***	***	***	***
Unit value (*per ton*)	***	***	***	***	***
Total U.S. shipments					
Quantity	9,600,894	9,604,547	7,703,925	5,639,578	6,574,486
Value[3]	668,709	863,079	849,053	674,763	533,362
Unit value (*per ton*)	$69.65	$89.86	$110.21	$119.65	$81.13
Export shipments:					
Quantity	***	***	***	***	***
Value[3]	***	***	***	***	***
Unit value (*per ton*)	***	***	***	***	***
Total shipments:					
Quantity	***	***	***	***	***
Value[3]	***	***	***	***	***
Unit value (*per ton*)	***	***	***	***	***
Continued on next page.					

Item	1999	2000	2001	J-S 2001[1]	J-S 2002[1]
Ending inventory quantity	1,553,637	1,037,578	1,381,836	1,142,869	611,394
Inventories/total shipments[2]	***	***	***	***	***
Production workers	787	695	672	667	621
Hours worked (*1,000 hours*)	1,651	1,505	1,480	1,114	1,018
Wages paid (*1,000 dollars*)	42,664	36,390	38,007	27,745	26,816
Hourly wages	$25.84	$24.18	$25.69	$24.91	$26.33
Productivity (*tons per 1,000 hours*)	6,264	5,953	5,434	5,339	5,732

[1] Does not include ***.

[2] In *percent*. January-September ratios were calculated using annualized shipment data.

[3] Net values, i.e., gross sales values less all discounts, allowances, rebates, prepaid freight, and the value of returned goods, f.o.b. U.S. producing establishments.

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

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

cut back production whenever these (and/or their buyers') limits are reached. Otherwise, the decision to curtail production for other than maintenance is generally based on a combined consideration of production costs (including gas), pricing, and overall supply and demand. ***. U.S. producers' unscheduled production curtailments averaged about 132,000 tons per month during the period examined, although the bulk of curtailments occurred in 2001 and 2002. During the period that gas prices were known to have been especially high, September 2000-March 2001, U.S. producers' unscheduled production curtailments averaged about 154,000 tons per month; curtailments prior to and after this period averaged about 57,000 tons per month and 165,000 tons per month, respectively.

Since January of this year, gas prices have once again risen to extraordinarily high levels, resulting in the idling of several major plants. CF Industries, Mississippi Chemical, and Royster-Clark have idled their UAN operations entirely, Farmland has idled all but its Coffeyville plant, and PCS has idled its largest UAN plant at Geismar, LA. Terra has idled one of its smaller UAN plants at Woodward, OK. The net effect is about a 50-percent reduction of U.S. producers' UAN capacity, as of March 3, 2003.

Like production, U.S. shipments fell in 2001--but then rose in January-September 2002. In direct contrast, unit values, reflecting producers' prices, rose throughout the period examined until January-September 2002, when unit values dropped considerably to levels below those in 2000. Internal consumption and exports were minor. ***. End-of-period inventories remained above 1 million tons through December 2001 and then dropped noticeably by September 2002. Employment and hours worked declined throughout the period; however, the UAN industry, like most chemical industries, is not labor intensive. After declining from 1999 to 2001, productivity increased somewhat in January-September 2002.

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

Eight U.S. firms accounted for the overwhelming volume of UAN imports from the subject countries during the period examined.[1] All are relatively large, multi-product firms, and none are related to any of the subject country producers. The product imported from the subject countries undergoes no further processing by the importers other than occasional dilution to a lower nitrogen concentration.

Apparent consumption and import quantities and values for the subject countries and other countries as a whole are shown in table IV-1. Rising noticeably in quantity from 1999 to 2001, imports of UAN from the subject countries also rose as a share of total imports from over 40 percent to over 60 percent. Subject countries' share of value was at lower levels, reflecting these countries' lower unit values. Subject countries' combined unit value averaged 30 percent lower than nonsubject countries' unit value in this period, but unit values for both subject and nonsubject countries increased markedly. The trends reversed after 2001. From January-September 2001 to January-September 2002, imports from subject countries dropped by 62 percent and fell from 57 percent of total import quantity to 45 percent. Unit values from all sources also declined substantially. (Note.–the average unit values for imports shown in table IV-1 and C-1 reflect cost value, not shipment value, and are thus not directly comparable with unit values for U.S. producers' shipments presented elsewhere in this report). Apparent consumption remained relatively stable throughout the period, varying by less than 11 percent. As a share of consumption, subject imports rose from about 3 percent in 1999 to about 14 percent in 2001, while U.S. producers' share fell from about 94 percent to 78 percent. By January-September 2002 subject imports' share of the market had declined to about 5 percent, U.S. producers' share had increased to over 88 percent, and subject and nonsubject imports' shares of the market were relatively equal.

[1] ***. Other importers of note include *** and ***. Questionnaires were sent to all of these firms and all responded.

Table IV-1
UAN: U.S. imports and apparent U.S. consumption,[1] 1999-2001, January-September 2001, and January-September 2002

(Quantity=*short tons, 32-percent nitrogen content basis*; value=*1,000 dollars*)

Item	1999	2000	2001	J-S 2001	J-S 2002
U.S. consumption quantity: Amount	10,265,362	11,042,415	9,880,397	7,435,142	7,437,009
Producers' share[2]	93.5	87.0	78.0	75.9	88.4
Importers' share: Belarus[2]	0.0	1.3	2.2	2.1	0.7
Russia[2]	1.5	4.7	7.7	7.7	4.2
Ukraine[2]	1.2	2.8	3.5	4.0	0.4
Total subject countries[2]	2.7	8.8	13.5	13.7	5.3
All other countries[2]	3.8	4.3	8.5	10.5	6.3
Total imports[2]	6.5	13.0	22.0	24.1	11.6
U.S. consumption value: Amount	722,046	990,174	1,079,445	874,892	607,703
Producers' share[2]	92.6	87.2	78.7	77.1	87.8
Importers' share: Belarus[2]	0.0	1.5	2.1	2.0	0.7
Russia[2]	1.2	3.4	5.7	5.5	3.6
Ukraine[2]	0.9	2.7	3.3	3.7	0.4
Total subject countries[2]	2.2	7.6	11.2	11.2	4.6
All other countries[2]	5.2	5.2	10.2	11.7	7.6
Total imports[2]	7.4	12.8	21.3	22.9	12.2
U.S. imports from-- Belarus:					
Quantity	0	146,901	221,517	152,557	54,519
Share of total import quantity[2]	0.0	10.2	10.2	8.5	6.3
Value[3]	0	14,894	22,938	17,442	4,381
Share of total import value[2]	0.0	11.7	10.0	8.7	5.9
Value per ton	$0	$101.39	$103.55	$114.33	$80.36
Russia:					
Quantity	150,359	517,118	765,436	570,955	308,948
Share of total import quantity[2]	22.6	36.0	35.2	31.8	35.8
Continued on next page.					

Item	1999	2000	2001	J-S 2001	J-S 2002
Value[3]	8,827	33,491	61,993	48,311	21,612
Share of total import value[2]	16.6	26.4	26.9	24.1	29.1
Value per ton	$58.71	$64.77	$80.99	$84.61	$69.95
Ukraine:					
Quantity	126,384	303,871	347,254	294,296	27,775
Share of total import quantity[2]	19.0	21.1	16.0	16.4	3.2
Value[3]	6,814	27,138	35,532	32,280	2,197
Share of total import value[2]	12.8	21.4	15.4	16.1	3.0
Value per ton	$53.91	$89.31	$102.32	$109.68	$79.11
Total subject countries:[4]					
Quantity	276,743	967,890	1,334,207	1,017,809	391,242
Share of total import quantity[2]	41.6	67.3	61.3	56.7	45.4
Value[3]	15,641	75,523	120,464	98,033	28,191
Share of total import value[2]	29.3	59.4	52.3	49.0	37.9
Value per ton	$56.52	$78.03	$90.29	$96.32	$72.05
All other countries:[4]					
Quantity	387,724	469,978	842,264	777,755	471,282
Share of total import quantity[2]	58.4	32.7	38.7	43.3	54.6
Value[3]	37,696	51,571	109,928	102,096	46,171
Share of total import value[2]	70.7	40.6	47.7	51.0	62.1
Value per ton	$97.22	$109.73	$130.52	$131.27	$97.97
All countries:					
Quantity	664,468	1,437,868	2,176,472	1,795,564	862,523
Value[3]	53,337	127,095	230,392	200,129	74,361
Value per ton	$80.27	$88.39	$105.86	$111.46	$86.21

[1] U.S. producers' domestic shipments (commercial shipments, internal consumption, and transfers to related firms) plus total imports.

[2] In *percent*.

[3] Landed, duty-paid.

[4] Subject imports may be understated (and nonsubject imports may be overstated) by up to 83,000 short tons in 2001 because certain imports attributed to Lithuania in early 2001 may have been from one or more of the subject countries.

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

Source: Compiled from official Commerce statistics, with Commerce revisions and other revisions based on information in the record.

The quantity, value, and unit value of U.S. shipments of imports, based on Commission questionnaire responses, are shown in the tabulation below (quantity in *short tons*, value in *1,000 dollars*):

	1999	2000	2001	J-S 2001	J-S 2002
U.S. shipments of imports from:					
Belarus:					
Quantity	0	78,588	189,270	135,469	92,361
Value	0	7,931	20,471	16,122	8,300
Unit value	-	$100.91	$108.16	$119.01	$89.87
Russia:					
Quantity	212,556	523,934	701,835	480,058	320,229
Value	19,348	47,425	69,073	52,929	23,941
Unit value	$91.02	$90.52	$98.42	$110.25	$74.76
Ukraine:					
Quantity	223,352	240,758	271,384	238,678	47,598
Value	14,999	28,561	38,099	35,064	4,346
Unit value	$67.15	$118.63	$140.39	$146.91	$91.31
All subject countries:					
Quantity	435,908	843,280	1,162,489	854,205	460,188
Value	34,347	83,916	127,643	104,115	36,587
Unit value	$78.79	$99.51	$109.80	$121.88	$79.50
All other sources:					
Quantity	76,645	141,354	375,703	220,690	86,281
Value	9,827	13,092	51,480	31,431	11,425
Unit value	$128.22	$92.62	$137.02	$142.42	$132.42

The quantities of shipment data shown in the tabulation represent the overwhelming bulk of imports reported in tables IV-1 and C-1--about 85 percent for Belarus, 100 percent for Russia, and about 97 percent for Ukraine. Although the unit value data shown above are theoretically closer in comparability to those of U.S. producers' commercial shipments, they represent a wide range of transactions for many locations by several importers and should not be used as a surrogate for price comparisons. Import quantities (in *short tons*) by country for the eight largest importers from January 1999 through September 2002 are summarized below:

Importer	Belarus	Russia	Ukraine	Other	Total
*	*	*	*	*	*	*

The data show the concentration of subject imports among a few importers, particularly ***, and that most importers imported from more than one subject source.

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

UAN prices can fluctuate based on demand factors such as the business cycle, seasonal demand patterns in the agricultural sector, and the size of an order. Supply factors such as inventory levels in the distribution chain, the distance shipped, the mode of transportation, and the price of natural gas also affect UAN prices. In addition, UAN prices differ by the nitrogen concentration level of the product;[1] 32-percent UAN is the most popular nitrogen concentration for shipping purposes, while 32- and 28-percent UAN are the most popular nitrogen concentrations at the farm level.[2]

UAN is used almost exclusively as a nitrogenous fertilizer in the agricultural sector. Possible alternative single-nutrient nitrogenous fertilizers to UAN are urea and HDAN, which are in a dry form, and anhydrous ammonia, a gas. Although different application equipment is required for UAN, urea/HDAN, and anhydrous ammonia, and although nitrogen exists in different concentrations and chemical forms in these fertilizers, changes in their relative prices may induce changes in relative demand for these fertilizers. Part II discusses in detail substitution among these nitrogenous fertilizers.

Raw Material Costs

Natural gas is the predominant material input used by U.S. firms to produce UAN and reportedly averaged 59.0 percent of their total cost to produce UAN in the United States during January 1999-September 2002.[3] The cost share of natural gas in UAN production is greater the higher the cost of natural gas.[4] During late 2000 and early 2001, when natural gas prices reached very high levels, many U.S. UAN producers reported in their questionnaire responses that they reduced UAN production and some reported temporarily suspending production. The following tabulation and Figure V-1 show the quarterly weighed-average purchase prices of natural gas during January 1999-September 2002, based on reported quarterly average prices and total quarterly quantities of natural gas purchased by the eight responding U.S. producers.[5] These prices included hedged gains/losses on natural gas.

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[1] U.S. producers reported in their questionnaire responses that 32-percent UAN costs *** percent more to produce at their U.S. plants than 28-percent UAN due to the higher nitrogen content.

[2] During the 1999-2001 crop years (ending June 30), 32-percent UAN accounted for an average of 51.4 percent of total U.S. UAN consumption, 28-percent UAN accounted for 41.5 percent, and 30-percent UAN accounted for the remaining 7.1 percent (various issues of *Commercial Fertilizers*, Association of American Plant Food Control Officials and the Fertilizer Institute).

[3] This figure was based on questionnaire responses of seven U.S. producers of UAN, which accounted for 94.5 percent of total reported U.S. production of UAN during January 1999-September 2002. Another U.S. producer, ***, reported purchasing ***.

[4] *** reported in its U.S. producer questionnaire response that its natural gas costs rose from *** percent of its total UAN production costs in 1999 to *** percent in early 2001.

[5] The eight responding U.S. producers of UAN accounted for 94.9 percent of total reported U.S. production of UAN during January 1999-September 2002.

Period	Price (per/MMBtu)	Period	Price (per/MMBtu)
1999:		2001:	
January-March	$2.28	January-March	$5.57
April-June	2.26	April-June	4.75
July-September	2.39	July-September	3.33
October-December	2.53	October-December	2.96
2000:		2002:	
January-March	2.58	January-March	3.04
April-June	2.91	April-June	3.22
July-September	3.53	July-September	3.04
October-December	4.05	October-December	([1])

[1] Data not requested.

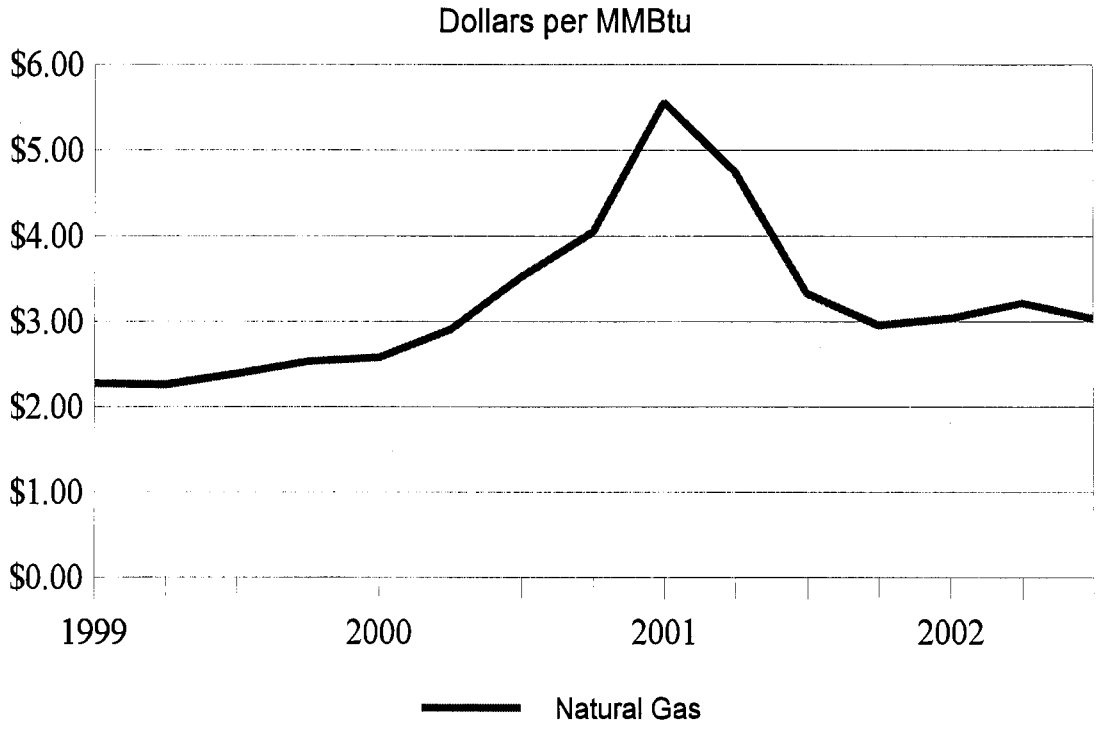
Source: Compiled from data submitted in response to Commission questionnaires.

U.S. UAN producers' quarterly purchase prices of natural gas rose from an average of $2.28 per MMBtu in January-March 1999 to a period high of $5.57 per MMBtu in January-March 2001 and then fluctuated but fell to end the period at $3.04 per MMBtu in July-September 2002 (figure V-1).[6] During January 1999-September 2002, U.S. UAN producers generally purchased natural gas in the spot market, delivered in the same or next month from the purchase agreement. The eight U.S. producers who reported natural gas prices also reported that 65.3 percent of their total natural gas purchases during this period were hedged by purchases of natural gas futures contracts;[7] *** reported that it did not hedge any

[6] Although electricity costs of U.S. producers reportedly averaged only 7.4 percent of their total costs to produce UAN during January 1999-September 2002, U.S. producers reported that trends in their electricity costs during this period were similar to those of natural gas.

[7] The UAN producers reported that they almost always sold these hedges rather than take delivery on their natural gas futures contracts, and typically used any gains from such sales to at least partially offset prices of natural gas that they actually purchased. It should be noted, however, that purchases of natural gas futures contracts, or other similar devices, provide varying degrees of protection against price swings in natural gas. For instance, if a UAN producer buys a futures contract for natural gas at $9.25 per MMBtu for delivery in a specified month and it is sold in that month for $9.50, the producer still ends up paying a substantial amount for delivered natural gas. Currently, monthly futures contracts for natural gas for the remainder of 2003 are all being sold above $5.39 per MMBtu (NYMEX, http://www.futuresource.com/ifs/quotes, February 20, 2003). During the increase in natural gas prices in 2000 and early 2001, U.S. UAN producers sold their natural gas futures contracts at a substantial profit, and contemporaneously some of these producers curtailed UAN production due to the high prices of natural gas.

Figure V-1
Natural gas: U.S. UAN producers' net purchase prices of natural gas, by quarters, January 1999-September 2002



Note: The unit, MMBtu, refers to one million British thermal units, a measure of heat energy.

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

of its purchases of ***. U.S. UAN producers reported that they did not receive quantity discounts when purchasing natural gas during January 1999-September 2002.

U.S. natural gas prices have apparently been rising in recent weeks, with the spot market price in Louisiana at $5.68 per MMBtu on January 17, 2003.[8] Partly in response to the high natural gas prices, PCS reportedly is temporarily closing its UAN plant in Geismar, LA, one of the largest UAN plants in the United States, beginning on January 28, 2003; PCS has not announced a restart date.[9] In addition, other cutbacks have occurred as the U.S. price of natural gas continues to rise in the current period.[10] ***

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[8] Henry Hub spot market natural gas prices reported in *Natural Gas Weekly Update*, Energy Information Administration, U.S. Department of Energy, January 23, 2003.

[9] *Green Markets Dealer Report*, Pike & Fischer, Inc., January 27, 2003, p. 8.

[10] The Henry Hub U.S. spot price of natural gas was $11.08 per MMBtu on February 28, 2003 (*Wall Street Journal Online*, February 28, 2003, http://online.wsj.com/documents/oilstat.htm). In addition, at the NYMEX, the
(continued...)

asserted that ***, that it was reducing, by *** of UAN, the offer of *** of UAN it had made to ***; *** explained that it was not able to ship the *** of UAN at their previous price. *** noted that *** on February 25, 2003, PCS publically announced it was selling natural gas futures and Mississippi Chemical announced it had shut down its Yazoo City plant.[11] In addition, CF Industries reportedly idled its entire nitrogen complex at Donaldsonville, LA, recently.[12]

Eight U.S. UAN producers responded to a request in the producer questionnaire for information on the highest cost of natural gas under which they could continue to produce UAN and, if applicable, the other major nitrogenous fertilizers--anhydrous ammonia, urea, and HDAN–and nitric acid, based on the highest selling prices they received for these output products during January 1999-September 2002. For UAN, the U.S. producers reported maximum purchase prices of natural gas that ranged from $3.80-$9.60 per MMBtu, for a simple average of $6.96 per MMBtu; *** reported a maximum natural gas price of $*** per MMBtu, *** reported a maximum natural gas price of $*** per MMBtu, and *** reported a maximum natural gas price of $*** per MMBtu.[13]

Transportation Costs to the U.S. Market and Tariff Rates

Transportation charges for imports of UAN from the subject countries to the U.S. ports of entry as a share of U.S. official customs values during January 1999-September 2002, averaged 23.8 percent from Belarus, 48.5 percent from Russia, and 27.0 percent from Ukraine. The foreign transportation charges for the subject imported UAN increased substantially during much of the period, January 1999-September 2002, reportedly due to general decreased supply of available shipping during this period.[14] The U.S. normal trade relations *ad valorem* import duty rate was zero percent for imports of UAN under HTS subheading 3102.80.00 during January 1999-September 2002.

U.S. Inland Transportation Costs

U.S. producers and importers generally reported in their questionnaire responses that U.S.-inland freight costs, especially for the longer distances, represented a competitive disadvantage for the firms. Significant U.S.-inland shipping costs relative to the value of UAN sharply constrained competitive areas

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[10] (...continued)
futures contract for March delivery of natural gas at the Henry Hub expired on Wednesday, February 26, 2003 at $9.13 per MMBtu and for April delivery was $7.39 per MMBtu (Natural Gas Weekly Update, Energy Information Administration, DOE, February 27, 2003, *http://tonto.eia.doe.gov/oog/info/ngw/ngpf.asp*).

[11] ***; and *Fertilizer Week America*, British Sulphur North America, Inc., February 28, 2003, p. 7.

[12] *Fertilizer Week America–News Update*, British Sulphur North America, Inc., March 3, 2003.

[13] Nitric acid is a higher-value product than any of the nitrogenous fertilizers, such that U.S. producers reported that they could absorb natural gas prices as high as $10.42 per MMBtu, as the average of the four responding U.S. UAN producers for this product.

[14] Conference transcript, pp. 152-153. Only limited tanker transportation is reportedly available from Belarus, Russia, and Ukraine. In particular, in the case of Ukraine, significant delays of 5 to 10 days often occur because of congestion on the rail line to the port of export; the Ukrainian Black Sea ports are used by exporters from Russia and Ukraine. In addition, there reportedly is a limited number of vessels worldwide that can carry UAN. (Posthearing brief of Nevinka and Transammonia, Inc., pp. 4-5, note 4).

of UAN suppliers in the United States.[15] UAN products are typically delivered by truck in the United States in distances up to 100 miles from the supplier,[16] and by some combination of truck, rail, and barge for distances beyond 100 miles.[17] U.S. UAN producers reported the requested transportation cost data in their questionnaire responses, indicating that during January 1999-September 2002 they shipped 30.7 percent of their domestic sales of UAN to U.S. customers located within 100 miles of their U.S. plants/storage facilities, with U.S. freight costs averaging 9.2 percent of the delivered price; 37.3 percent between 100 and 500 miles, with freight costs averaging 18.0 percent; and 32.0 percent over 500 miles, with freight costs averaging 23.3 percent.[18] The responding U.S. importers of UAN from the subject countries reported that during January 1999-September 2002 about 82.1 percent of the subject imported UAN was shipped to U.S. customers within 100 miles from their U.S. shipping points, with U.S. freight costs averaging 2.8 percent of the delivered price; 14.2 percent was shipped between 100 and 500 miles, with U.S. freight costs averaging 18.0 percent; and 3.7 percent was shipped over 500 miles, with U.S. freight costs averaging 18.2 percent.

The U.S. shipping cost data suggest that UAN sold in the United States is a spatially differentiated product. The reported transportation cost data indicate that U.S. importers sell the bulk of their UAN in or near U.S. coastal regions, which involves fairly low U.S.-inland transportation costs. On the other hand, U.S. producers ship the majority of their U.S.-produced UAN more than 100 miles and

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[15] *** reported in its questionnaire responses that UAN is a low-analysis nitrogen product, making it extremely freight-sensitive and, therefore, generally not competitive when shipped long distances; *** asserted that the U.S. UAN market is divided by geography and distance such that the East, West, and Gulf coasts constitute separate UAN markets from each other and from the U.S. Midwest market. *** reported in its questionnaire response that U.S. freight costs make it difficult to compete beyond a 500-mile radius, whereas ***, a U.S. UAN importer, reported that it typically sells within a 50-mile radius of its U.S.-river-based terminals. ***, an importer of UAN and distributor of *** U.S.-produced UAN, reported that California and the Pacific Northwest of the United States are divided from the rest of the country by the Rocky Mountains and high desert, which serve as significant transportation barriers for UAN moving east and west. On the other hand, ***, another importer of UAN, indicated that UAN suppliers shipping by barge are on an even transportation footing.

[16] *** reported in its questionnaire response that the firm shipped some of its U.S.-produced UAN by *** of its plant during January 1999-September 2002, while ***, an importer of the subject UAN, reported in its questionnaire response that the firm sold some of its subject imported UAN directly ***. In these instances, U.S. overland transportation costs were ***.

[17] Barge is generally considered the cheapest U.S. transportation mode for UAN, followed by rail, and then by truck, for comparable quantities and distances traveled. Depending on the size, barges can carry 1,200-3,400 short tons of UAN (32-percent equivalent), but typically carry about 2,500 short tons of UAN; rail cars carry 100 short tons of UAN; and trucks carry 25 short tons of UAN (***). U.S. ocean vessels and barges are sometimes used to ship UAN between U.S. ports; depending on the size, ocean vessels can carry from 19,841 to 29,762 short tons of UAN (32-percent equivalent), but most commonly carry 22,046 to 27,558 short tons of UAN (***). The Jones Act requires that U.S. vessels must be used, which, because of reportedly high costs, may limit the use of this mode of transport among U.S. ports. *** asserted in its purchaser questionnaire response that ***.

[18] Partly in an effort to minimize freight costs by offering UAN closer to its customers, some U.S. producers manufacture UAN from two or more U.S. plant locations and/or ship to their regional warehouse/holding tank locations.

incur substantially higher U.S.-inland transportation costs than do the U.S. importers.[19] Once UAN is sold by U.S. importers, however, it is generally shipped and sold various distances further inland,[20] especially that sold in or near New Orleans, LA, and incurs additional U.S. transportation costs. *** reported in its questionnaire response that freight costs from the New Orleans area are the same for U.S.-produced and imported UAN because of the significant use of barge transportation for sales along the Mississippi River and its adjoining river systems, particularly into the Midwestern Cornbelt states. On the other hand, some UAN suppliers may contract for more favorable shipping rates, especially from some barge and rail companies, based on contracts involving large shipment volumes on a consistent basis. *** reported in its questionnaire response that it ships large volumes of UAN over key U.S. transportation routes and, as a result, has secured very favorable freight rates. For instance, *** reportedly is the *** of UAN in the United States and the *** customer with the ***. In addition, *** reported that it is the *** UAN shipper on the Burlington Northern Sante Fe railroad and the *** UAN shipper on the Union Pacific railroad; these two railroad companies are the predominant shippers west of the Mississippi River. *** also noted that the CSXT[21] and Norfolk Southern railroads are the predominant shippers east of the Mississippi River, but asserted that no major UAN import terminal or major UAN production facility is situated directly on these rail lines, making it necessary for two rail-line hauls to be used to ship into the Eastern Cornbelt states. With all competitors needing two-line hauls, the ability to secure a freight advantage is limited, unless large contract quantities can be guaranteed, which ***. *** reported that it recently obtained more favorable freight rates from ***, or from $*** per ton of UAN to $*** per ton for ***. *** reported that it is always seeking the most advantageous freight arrangements because of the direct effect transportation costs have on its netbacks. On the other hand, *** reported that continuing navigational problems on the Apalachicola-Flint-Chattahoochee River system have virtually eliminated barge traffic since late 1999. According to ***, railroad rates rose dramatically when this barge transportation was no longer available, such that from 1999-2002 rail freight rates increased *** percent on UAN shipped from its *** plant to its distribution facilities in ***. In addition, drought across much of the Western rangelands and the U.S. Cornbelt in the past year have resulted in low water conditions on the Mississippi River, cutting the number of tow barges down to half their normal number in the St. Louis District. In addition, unseasonable cold in the St. Louis area in December 2002 and January 2003 has resulted in ice formation in the Mississippi River, slowing the river flow and further restricting barge traffic.[22] Such weather-related conditions may make it more costly and difficult to ship UAN, including the subject imported UAN, north on the Mississippi River to the Midwest Cornbelt this spring.[23] In turn, this may enhance the logistical advantage of UAN

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[19] Seven of nine responding U.S. UAN producers and seven of eight responding UAN importers reported that they did not absorb freight of their UAN shipped to their U.S. customers during January 1999-September 2002. The two remaining U.S. producers and the single remaining importer reported that they sometimes absorbed at least some freight for selected customers to meet competitive delivered prices.

[20] As UAN is sold further down the distribution chain, UAN of two or more suppliers, including that of U.S. producers and importers, is frequently commingled and loses its country of origin identity.

[21] CSXT was formed from the 1980 merger of the Chessie System Railway and the Seaboard Coast Line Railroad.

[22] Minnesota Ag Connection, www.minnesotaagconnection.com/story-state.cfm, January 24, 2003.

[23] Such river conditions also would make it more costly and difficult to ship alternative nitrogen fertilizers, such as anhydrous ammonia, HDAN, and urea, north on the Mississippi River to the Midwest Cornbelt for the 2003

(continued...)

producers located in or near the Cornbelt. Difficulties in barge shipments along the Mississippi River System also occurred in early 2001 and allegedly prevented U.S. UAN producers in the Mississippi Basin from shipping their UAN to customers in their main marketing area along the Mississippi River until well after the start of spring consumption of UAN.[24]

Swaps of UAN

The commonplace swaps/exchanges of UAN among U.S. suppliers have enabled these suppliers to at least partially overcome some of the competitive disadvantages of significant U.S. overland transportation costs, especially when shipping UAN more than 100 miles.[25] UAN of different country origins and even of different nitrogen concentrations are exchanged among UAN suppliers in the U.S. market to minimize transportation costs, to ensure that the product is available to a customer in a timely manner at contract-specified quantities, to meet unexpected demand requirements, and to optimize inventories.[26] U.S. UAN producers reported swaps of their U.S.-produced UAN during January 1999-September 2002 that totaled 898,553 short tons; of this total, 266,928 short tons of U.S.-produced UAN

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[23] (...continued)
spring season.

[24] Mr. Tvinnereim of J.R. Simplot testified at the hearing that bad weather intensified nitrogen fertilizer supply shortages, including UAN shortages, during late 2000 and early 2001. In the fall of 2000 and the winter of 2001, the Mississippi River froze early. Barge transportation used by U.S. producers to move product on the river to end users stopped earlier than normal. Later, heavy snows and the melting of those snows in the spring caused the Mississippi River to flood. The U.S. Corps of Engineers had to close key portions of the Mississippi River until at least May 15, 2001. As a result, the Mississippi River opened for barge traffic at least six weeks late and after the fertilizer-application season had already passed. As much as one million tons of U.S.-produced fertilizer, including UAN *** in terminals but also some in barges, was stuck along the Mississippi River during this time. It could not get to end users until after the fertilizer-application season had already passed. In the interim, needed nitrogen in the form of urea, UAN, and ammonia was imported to meet the supply shortfall. It was railed and trucked to customers. Natural gas prices began to fall in early 2001. (Hearing transcript, pp. 143-144, and ***.) On the other hand, petitioners provided affidavits from representatives of *** indicating that barges containing urea were held up on the Mississippi river due to flooding and that UAN was not affected (petitioners' posthearing brief, app. 14).

[25] The practice of swaps indicates (1) a high ratio of freight cost to product value for UAN, (2) that UAN of the same nitrogen concentration is highly homogeneous in product characteristics across suppliers, and (3) that UAN from different suppliers is spatially differentiated. Swaps may reduce the tendency for price erosion in the U.S. UAN industry when demand falls. U.S. UAN producers who must maintain near or full capacity utilization to keep low unit production costs can, when facing a drop in demand for their UAN, attempt to attract distant customers by absorbing some or all of the U.S. shipping costs. Such unsystematic price discrimination may cause uncertainty about pricing by other U.S. producers located closer to such customers, which can precipitate a breakdown in the pricing structure.

[26] Optimizing UAN inventories usually is done by a time swap. As an example, a U.S. UAN producer may have filled its storage tanks, but demand may be less than that forecasted due to weather or other factors. The producer can free up storage capacity so it can continue to produce UAN by shipping (loaning) its UAN to another supplier with unfilled tank capacity for the latter supplier to sell. At a later date, when demand picks up and tank capacity is freed up, the latter supplier will ship an equal quantity of UAN back to the producer's storage facilities.

(32-percent equivalent) were swapped with imported UAN,[27] 96,670 short tons were swapped with UAN from unknown countries of origin, and 534,955 short tons were swapped with other U.S. producers.[28] U.S. importers of UAN reported swaps of their subject imported UAN during January 1999-September 2002 that totaled 384,522 short tons (32-percent equivalent); of this total, 86,886 short tons of the subject imported UAN (32-percent equivalent) were swapped with UAN imported from nonsubject countries, and 297,636 short tons were swapped with UAN from U.S. producers.

Pricing of 28-percent UAN vis-a-vis 32-percent UAN

Significant U.S. inland transportation costs to transport UAN resulted in generally higher selling prices (in dollars per nitrogen unit–20 pounds of nitrogen) of 28-percent UAN than selling prices of 32-percent UAN.[29] The monthly price data for UAN reported by U.S. producers and importers in their questionnaire responses (discussed in detail later in Part V) show that U.S. net f.o.b. selling prices of 28-percent UAN were generally higher than selling prices of 32-percent UAN for the U.S.-produced and subject imported UAN; such price comparisons involved only those firms that sold both products 1 and 2 and included only those months where these firms sold both products during January 1999-September 2002.[30] The generally higher prices of 28-percent UAN vis-a-vis 32-percent UAN resulted because (1) the former generally included the latter's costs of production and freight to the point of dilution plus the cost of dilution, and (2) any further transportation of 28-percent UAN to the sellers' distribution locations would involve higher freight costs than 32-percent UAN shipped comparable distances due to generally smaller shipment volumes and more product weight per unit of contained nitrogen.[31]

Exchange Rates

Figures V-2 through V-4 show quarterly nominal and real exchange rate indices (the latter are nominal exchange rates adjusted for relative rates of inflation)[32] of the currencies of the three subject

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[27] The imported UAN figure included 120,707 short tons of UAN from the subject countries, or 45.2 percent of the total imported UAN figure.

[28] The reported quantity of UAN swaps with other U.S. producers was divided by two to avoid double-counting.

[29] The 28-percent UAN is often diluted from 32-percent UAN (even though it costs *** percent more to produce 32-percent UAN than 28-percent UAN) because 28-percent UAN represents more weight per unit of contained nitrogen and, hence, significantly higher transportation costs per unit of contained nitrogen than 32-percent UAN.

[30] For the U.S.-produced UAN, monthly net U.S. f.o.b. selling prices of 28-percent UAN averaged 11.4 percent higher than prices of 32-percent UAN. For the subject imported 28-percent UAN, selling prices averaged *** higher for the Belarus UAN, *** percent higher for the Russian UAN, and *** percent higher for the Ukrainian UAN compared to selling prices of the 32-percent UAN imported from these countries.

[31] As discussed later in Part V, 30-percent UAN is also priced higher than 32-percent UAN; the reasons cited here for 28-percent UAN being priced higher than 32-percent UAN also apply to 30-percent UAN.

[32] The quarterly nominal and real exchange rate indices were calculated from quarterly-average nominal exchange rates and producer price indices reported by the IMF for each country. The exchange rate indices were based on exchange rates expressed in U.S. dollars per unit of the foreign currency, such that index numbers below 100 represent depreciation and numbers above 100 represent appreciation of the foreign currency vis-a-vis the U.S. dollar. See app. D for a discussion of the relationships among nominal exchange rates, real exchange rates, and

(continued...)

countries relative to the U.S. dollar. Real-exchange rate data could be calculated for Belarus during January 1999-September 2002, for Russia during January 1999-June 2002, but for Ukraine only during January 1999-September 2000. Availability of producer price data in Russia and Ukraine limited the periods for which real exchange rates could be calculated for these countries.

The higher rates of inflation in the subject countries compared to inflation in the United States resulted in declining exchange rates of the three subject countries in nominal terms vis-a-vis the U.S. dollar and, for Belarus and Ukraine, the exchange rates also fell in real terms. The real value of the Russian ruble rose vis-a-vis the U.S. dollar, as the nominal exchange rate remained relatively robust in the face of much higher inflation in Russia than in the United States. The nominal exchange rates of all three subject countries represent central-bank official rates of the respective governments.[33]

The nominal value of the Belarus ruble generally depreciated on a quarterly basis against the U.S. dollar during January 1999-September 2002, falling by 92.6 percent during this period (figure V-2). The real value of the Belarus ruble also depreciated on a quarterly basis against the U.S. dollar, by 27.5 percent during this period.

The nominal value of the Russian ruble generally depreciated on a quarterly basis against the U.S. dollar during January 1999-September 2002, falling by 26.7 percent during this period (figure V-3). On the other hand, the real value of the Russian ruble appreciated on a quarterly basis against the U.S. dollar, by 55.5 percent during January 1999-June 2002, the most recent period for which such data could be calculated.

The nominal value of the Ukranian hryvnia depreciated 34.6 percent on a quarterly basis against the U.S. dollar during January 1999-September 2000, and then generally appreciated somewhat, by 2.0 percent, by September 2002 (figure V-4). The real value of the hryvnia generally depreciated on a quarterly basis against the U.S. dollar, by 21.9 percent during January 1999-September 2000, the most recent period for which such data could be calculated.

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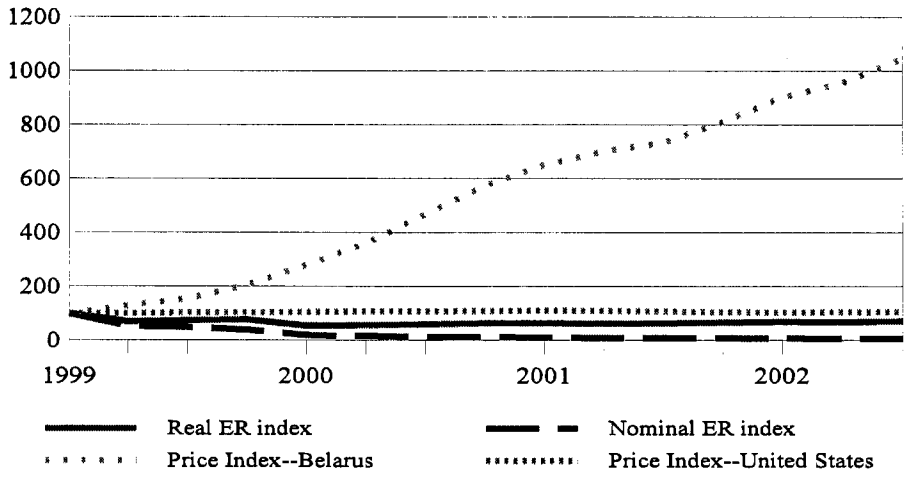
[32] (...continued)
producer prices, and the impact of changes in their values on prices of exports and imports. See also G. Benedick and P. Pogany, *Exchange Rates: Definitions and Applications*, USITC Office of Economics Working Paper No. 2000-01-A, January 2000.

[33] Central bank changes in the nominal exchange rates, as well as government changes in allowable bands of fluctuations around the official exchange rate, constitute devaluations when these actions reduce the exchange-rate value of the local currency. Depreciation occurs when market forces alone reduce the exchange-rate value of the local currency. Because devaluation and depreciation frequently occur simultaneously, the term depreciation is generally used.

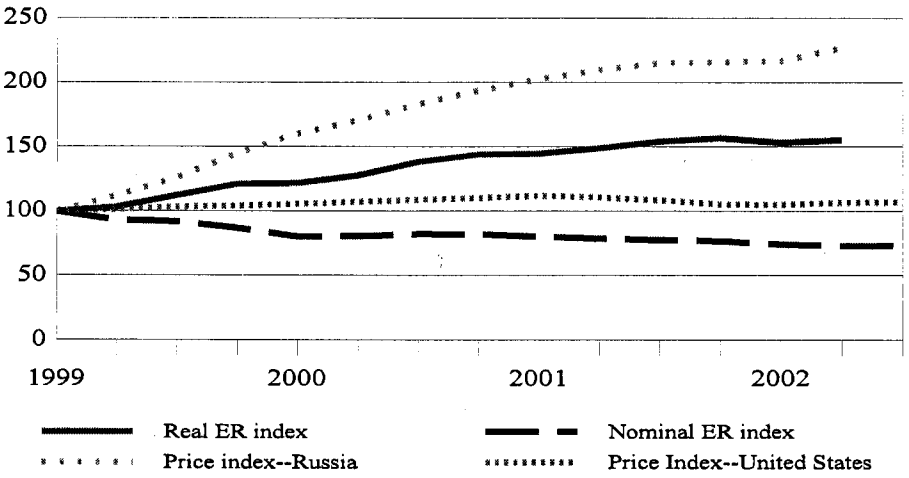
Figure V-2
Real and nominal exchange rate indices of the Belarus ruble relative to the U.S. dollar, and producer/wholesale price indices in Belarus and the United States, by quarters, January 1999-September 2002



Note: Index (Jan.-Mar. 1999=100). Exchange rates are in U.S. dollars per Belarus ruble.

Source: International Monetary Fund, *International Financial Statistics*, December 2002.

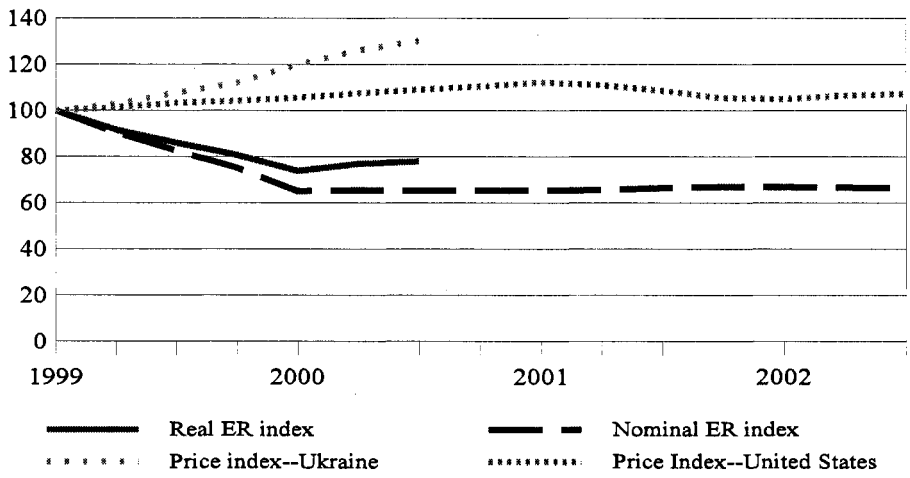
Figure V-3
Real and nominal exchange rate indices of the Russian ruble relative to the U.S. dollar, and producer/wholesale price indices in Russia and the United States, by quarters, January 1999-September 2002



Note: Index (Jan.-Mar. 1999=100). Exchange rates are in U.S. dollars per Russian ruble.

Source: International Monetary Fund, *International Financial Statistics*, December 2002.

Figure V-4
Real and nominal exchange rate indices of the Ukrainian hryvnia relative to the U.S. dollar, and producer/wholesale price indices in Ukraine and the United States, by quarters, January 1999-September 2002



Note: Index (Jan.-Mar. 1999=100). Exchange rates are in U.S. dollars per Ukrainian hryvnia.

Source: International Monetary Fund, *International Financial Statistics*, December 2002.

The six responding U.S. importers reported in their questionnaire responses that fluctuations in the subject foreign currencies/U.S. dollar exchange rates did not appear to affect U.S. dollar prices of the subject imported UAN, because purchases were usually made in U.S. dollars. Any effects of exchange rate changes on U.S. dollar prices of UAN may actually occur with the foreign producers/exporters.

PRICING PRACTICES

Seven of nine responding U.S. producers and two of eight responding importers reported typically quoting delivered selling prices of their domestically-produced and imported UAN to their U.S. fertilizer distributor and dealer customers, whereas two of the remaining U.S. producers and six of the remaining U.S. importers reported typically quoting net f.o.b. prices.[34] Six of eight responding U.S. producers and two of eight responding U.S. importers reported using their price lists in selling UAN in the United States.

U.S. producers reported in their questionnaire responses that 84.2 percent of the quantity of their domestic UAN sales during January 1999-September 2002 was on a spot basis, 14.5 percent was on a

[34] When selling on a U.S. f.o.b. basis, U.S. UAN producers and importers usually did not arrange the U.S. freight, but left it up to the customer to do so. When selling on a delivered basis, however, the U.S. producers and importers typically arranged the freight and either prepaid the freight or shipped the UAN freight collect. U.S. producers and importers reported offering payment terms that were typically net 15 or 30 days.

short-term contract basis, and 1.3 percent was on a long-term contract basis.[35] The responding importers of the subject UAN reported that 96.1 percent of the quantity of their U.S. sales during 2001 was on a spot basis and 3.9 percent was on a short-term contract basis; importers reported that they did not sell on a long-term contract basis. Some U.S. producers sell UAN under spot or short-term contract bases via prepay programs and/or fill programs. In prepay programs, the U.S. producers agree to supply a specific volume of UAN at a specific price to be shipped in a specific time period in the future. The program is generally offered during the off-season month of December, with the product shipped during the spring. The customer must pay for the UAN when the purchase agreement is completed.[36] Fill programs are agreements to ship UAN to customers' storage tanks before the customer would normally need the UAN, and are generally offered during the off-season months of July through February. This type of sale specifies the UAN volumes and prices with invoices sent when shipments are made; prices are based on the market price at the time of shipment. The following incentives to the purchaser, in addition to various other considerations, may be included in a fill-program agreement: (1) price protection for a period against a decline in market price, (2) storage allowances, and (3) cost of money allowances.

Four of nine responding U.S. UAN producers and one of seven responding UAN importers reported offering volume discounts to large customers; two U.S. producers, ***, reported their specific discount amounts, of *** percent, while ***, the U.S. importer offering volume discounts, reported that such discounts ranged from $***-$*** per ton of UAN. The remaining responding U.S. producers and importers indicated that they selectively lower prices to meet competitive conditions.

Purchasers responded to questionnaire requests for information on UAN purchasing practices. One question asked whether suppliers typically set the purchase price of UAN or the price was established through negotiations between the buyer and seller. Of the responding 28 purchasers, 20 indicated that UAN purchase prices were generally negotiated, seven reported that suppliers generally set the UAN purchase prices, and the remaining purchaser indicated that purchase prices are sometimes set by the supplier and sometimes arrived at through negotiations. Purchase prices of UAN appear to be established based on local market conditions, which are primarily determined by frequent conversations among UAN (noncompeting) suppliers and somewhat by reference to fertilizer publications.[37] Twenty-six purchasers also reported on whether they mentioned competing prices to their suppliers when negotiating a price. Eleven purchasers reported that they did not mention competing prices. Another 10 purchasers reported they generally mentioned competing prices, and the remaining five purchasers indicated that they sometimes mentioned competing prices. Twenty-four purchasers commented on the role of published UAN prices in establishing purchase prices. Seventeen purchasers identified price publications such as *Green Markets*, *Ferticon*, *Fertilizer Week*, *Fertilizer Markets*, *Ferta World*, and *Midwest Fertilizer Insight*, which serve as a general guideline to market prices. The usefulness of the price information in these publications appears limited. *** reported that published prices generally

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[35] Spot sales are usually one-time delivery, within 30 days of the purchase agreement; short-term contracts are for multiple deliveries for up to 12 months after the purchase agreement; and long-term contracts are for multiple deliveries for more than 12 months after the purchase agreement.

[36] If the customer refuses delivery of the UAN by the required date, storage charges or penalties would be incurred.

[37] ***.

cover geographic areas that are too broad and are typically historical indications biased by verbal input of U.S. manufacturers to the publishers.

PRICE DATA

Public Price Data

U.S. price data for UAN and the three other major single-nutrient nitrogenous fertilizers–anhydrous ammonia, urea, and HDAN–are reported weekly in *Green Markets*.[38] Figure V-5 shows U.S. monthly prices of UAN, anhydrous ammonia, urea, and HDAN during January 2000-December 2002 calculated from the *Green Markets'* weekly price data. Prices of each type of nitrogenous fertilizer are shown in dollars per nitrogen unit (NU), which equals 20 pounds of contained nitrogen, and provides a common basis for directly comparing prices of the various nitrogenous fertilizers. As seen in figure V-5, prices of these four nitrogenous fertilizers move closely together,[39] which likely reflects the importance of natural gas as their common feedstock and similar demand characteristics; all of these fertilizers are purchased for their contained nitrogen to provide this vital nutrient to crops and pasture.

As can be seen from figure V-5, U.S. average monthly prices (in dollars per NU) of the four major single-nutrient nitrogenous fertilizers first fluctuated but generally rose to period highs by February 2001, then fell through February-April 2002 (the exact month depends on the particular fertilizer), before increasing to end the period in December 2002 at price levels above those at the beginning of the period, January 2000. In 2002, U.S. monthly Cornbelt prices of UAN reached the lowest point of the year at $3.26 per NU in March and then generally rose to end at the highest level of the year at $3.84 per NU in December. It is difficult to discern a seasonal trend in prices of these fertilizers during the January 2000-December 2002 period, likely due to the significant swings in the price of natural gas, the major production input, which jumped in 2000, peaked in the first quarter of

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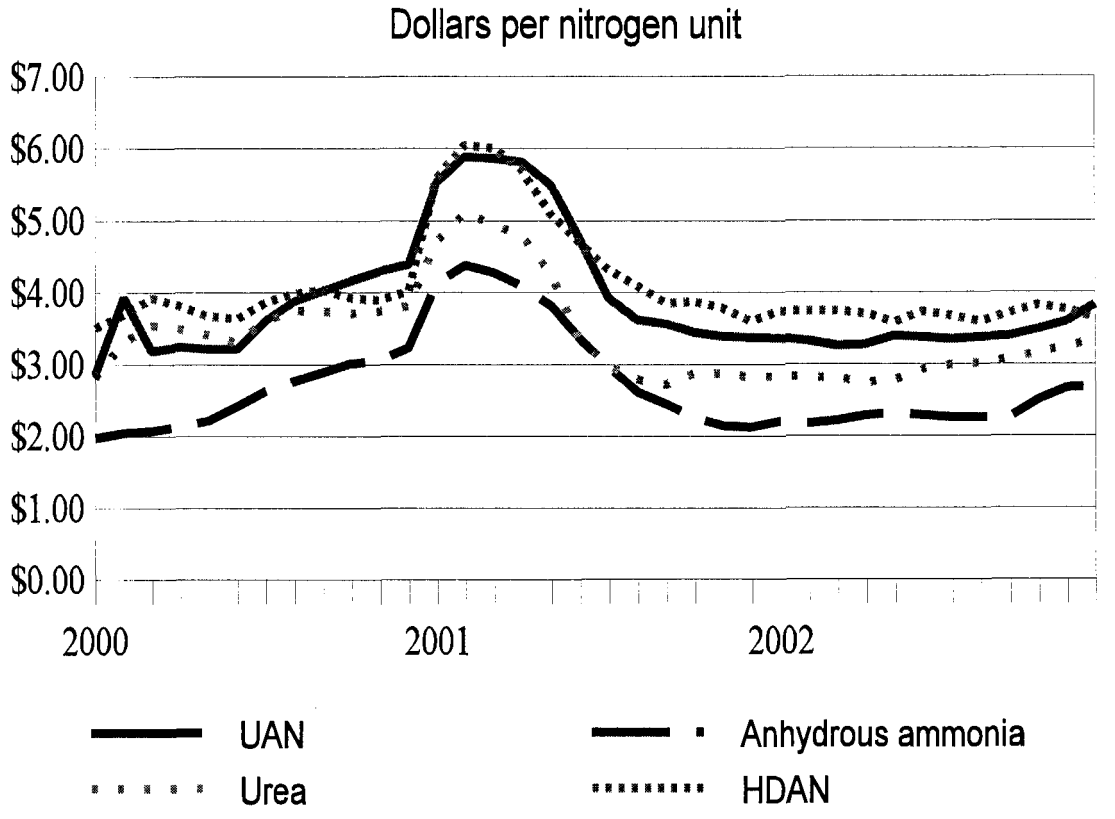
[38] *Green Markets* is published by Pike & Fischer, Inc., and is available by subscription. The fertilizer price data in *Green Markets* include both U.S.-produced and imported fertilizers without any distinction for country of origin.

[39] Statistical correlation between two variables measures the degree to which their values move together as a result of certain factors affecting both variables in similar ways. Frequent measures of this are linear correlation coefficients, where a coefficient of 1 indicates perfect correlation and zero indicates no correlation. The correlation coefficients involving these monthly prices between UAN and the other nitrogenous fertilizers during January 2000-December 2002 are as follows: 0.9872 between UAN and anhydrous ammonia; 0.8850 between UAN and urea; and 0.9468 between UAN and HDAN. In addition, the correlation coefficients between the monthly prices of UAN calculated from *Green Markets* and those for product 1 reported by U.S. producers and importers in Commission questionnaires for the period January 2000-September 2002 are as follows: 0.9598 for U.S. selling prices of U.S.-produced product 1; 0.8172 for U.S. selling prices of the imported product 1 from Belarus, 0.8796 for U.S. selling prices of the imported product 1 from Russia, and 0.8296 for U.S. selling prices of the imported product 1 from Ukraine. These correlation coefficients measure similarity in *movements* of prices. The UAN selling prices reported in U.S. producer and importer questionnaires are shown and discussed in the next section.

Differences in product coverage, manner of collection, and calculations of UAN prices between *Green Markets* and Commission questionnaires resulted in differences in price levels between the two sources of price data. The Commission collected price data for most sales of UAN and calculated weighted-average UAN prices, whereas *Green Markets'* UAN prices are their assessment of market prices based on conversations with UAN suppliers and purchasers in some geographic areas of the market.

Figure V-5
Single-nutrient nitrogenous fertilizers: U.S. prices of UAN,[1] anhydrous ammonia,[1] urea,[2] and HDAN,[1] by months, January 2000-December 2002



[1] **Mid Cornbelt prices (simple averages of reported high and low prices).**
[2] **Mid Cornbelt prices (simple averages of reported prilled and granular prices).**

Note: A nitrogen unit equals 20 pounds of nitrogen. Mid Cornbelt prices were used instead of other area prices reported by *Green Markets* because the U.S. Cornbelt states account for the highest concentration of consumption of nitrogenous fertilizers, including UAN.

Source: *Green Markets*, Pike & Fischer, Inc., weekly issues, January 3, 2000-December 16, 2002.

2001, and then plummeted during the rest of 2001. Prices then bottomed-out in early 2002 before generally rising through the rest of the year.

Figure V-5 also shows that prices (in dollars per NU) of anhydrous ammonia are generally the lowest, followed successively by prices of urea, UAN, and finally HDAN as the highest priced of the four nitrogenous fertilizers. Anhydrous ammonia accounted for 25.9 percent of all nitrogen fertilizer

used in the United States during CY 2001 (based on contained nitrogen), UAN accounted for 23.0 percent, urea for 20.0 percent, and HDAN accounted for 4.6 percent.[40]

Questionnaire Price Data

Price and quantity data were requested for sales of the following two UAN products produced in the United States and imported from the subject countries:

Product 1.–UAN in an aqueous solution of 32 percent nitrogen concentration.
Product 2.–UAN in an aqueous solution of 28 percent nitrogen concentration.

Price data were requested from U.S. producers and importers for their sales of the specified UAN products 1 and 2 to unrelated domestic distributors and dealers combined based on net U.S. f.o.b. prices for monthly shipments during January 2000-September 2002. Price data were also requested for total sales from all U.S. locations combined and sales from each of the following six cities, or locations proximate to the specified cities, to unrelated customers in each respective area–Baltimore, MD; Brunswick, GA; Cincinnati, OH; Corpus Christi, TX; New Orleans, LA; and San Francisco, CA.[41] [42] Purchasers were requested to report net delivered purchase price data for shipments of each of the two specified products and of 30-percent UAN received in the same locations noted above. In addition, purchasers were also requested to report delivered price data for their largest U.S.-receiving location.

Ten U.S. producers of UAN,[43] five U.S. importers of the Belarus UAN, five importers of the Russian UAN, and four importers of the Ukrainian UAN provided the requested price information, but not necessarily for all products, specified cities, or periods requested.[44] The 10 responding U.S. producers reported the requested sales data for pricing purposes that totaled 23,055,406 short tons of

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[40] *Commercial Fertilizers 2001*, the Association of American Plant Food Control Officials and The Fertilizer Institute.

[41] These locations were suggested by the petitioner as those that would capture a significant share of initial competition between the domestic and subject imported UAN, and, by limiting sales to those made from these locations to customers in these locations, the impact of U.S. overland freight costs would be reduced in any price comparisons. Further inland sales of the subject imported UAN frequently are beyond the importer in the distribution chain and represent transactions of distributors and dealers, where the country identity of the UAN is often lost. As UAN moves down the distribution chain toward the farmers, it frequently is commingled with UAN from one or more other countries of origin; in addition, distributors and dealers generally do not keep track of the country identity of the UAN they purchase and sell, even if it still represents UAN from a single country of origin.

[42] Sales of UAN to related firms likely assure the supplier a more secure seller-buyer relationship than if no such relationship existed, which may allow the seller to achieve sales quantities and prices to its related customers that it otherwise would not have made. Purchasers that are related to their suppliers have a fiduciary concern to keep such suppliers solvent.

[43] One of the 10 responding U.S. producers, CF Industries, is a co-op and sells ***. CF Industries reported ***. Another responding U.S. producer, ***, reported in its questionnaire ***.

[44] One of the responding U.S. importers, ***, which imports UAN from ***, is related to ***, one of its U.S. customers. *** is a U.S. distributor of fertilizer, including UAN, and accounted for *** percent of *** U.S. sales of its subject imported UAN during 2001.

U.S.-produced UAN (on a 32-percent basis) during January 2000-September 2002; the reported sales quantities during January 2000-September 2002 accounted for 96.8 percent of all commercial U.S. shipments and transfers to related firms of U.S.-produced UAN during this period. The responding U.S. importers reported sales quantities (all converted to a 32-percent basis) for pricing purposes during January 2000-September 2002 that totaled *** short tons of imported UAN from Belarus, *** tons from Russia, and *** tons from Ukraine. The import quantities reported for pricing purposes during January 2000-September 2002 accounted for *** percent of total official U.S. imports of UAN from Belarus during this period, *** percent of total U.S. imports of Russian UAN, and *** percent of total U.S. imports of Ukrainian UAN during this period. The price-data quantity shares of total official import quantities that were above 100 percent may reflect the state of flux and revision associated with the official import data.

U.S. producers and importers reported a majority of their price data based on sales from all U.S. locations combined, although U.S. importers reported higher proportions of their sales by the specific city locations compared to the proportion of U.S. producer sales reported for the specific city locations.[45] The total quantity of UAN products 1 (32-percent UAN) and 2 (28-percent UAN) that U.S. producers reported in pricing data for the specified cities accounted for 8.8 percent of the total quantity reported in price data for all U.S. locations combined for both products 1 and 2 combined.[46] The total quantity of UAN products 1 and 2 that U.S. importers reported in pricing data for the specified cities accounted for 49.6 percent of the total quantity reported in price data for all U.S. locations combined for UAN imported from Belarus, 47.8 percent of the price data reported for UAN imported from Russia, and 55.0 percent of the price data reported for UAN imported from Ukraine.

U.S. producers and importers reported price data for both product 1 (32-percent UAN) and product 2 (28-percent UAN). U.S. producers reported that they generally produce 32-percent UAN and ship it directly to their customers or their holding tanks in the general area of their customers; in the latter facilities they dilute some to 28-percent and 30-percent UAN to sell to customers located nearby. All of the reported subject foreign UAN was imported as 32-percent UAN, with some diluted to 28-percent and 30-percent UAN by importers in the United States before selling these latter products to U.S. customers. U.S. producers' reported price data for product 1 accounted for 85.4 percent and their reported price data for product 2 accounted for the remaining 14.6 percent of the total quantity of reported U.S. producers' UAN price data of these two products (all on a 32-percent basis). U.S. importers' reported price data for product 1 from Belarus accounted for 99.3 percent, product 1 from Russia for 99.4 percent, and product 1 from Ukraine for 95.9 percent of the total quantity of reported price data for imported products 1 and 2 combined (all on 32-percent basis) from each of these subject countries. Reported price data for imported product 2 accounted for the remaining 0.7 percent of the total reported quantity of reported price data from Belarus, 0.6 percent from Russia, and 4.1 percent from Ukraine.

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[45] All but one of the specified cities were coastal locations where U.S. importers' sales were expected to be more concentrated than U.S. producers' sales.

[46] Some U.S. UAN producers, most notably ***, do not sell their U.S.-produced UAN from the specified coastal-city locations to customers in these locations.

Price **trends** of the domestic and subject imported UAN products are based on reported monthly net U.S. f.o.b. selling price data on sales of products 1 and 2 from all U.S. locations combined. Due to the seasonal nature of U.S. demand for UAN (highest during January-June and less during July-December), price trends are also indicated by the calculated quarterly prices, with the same quarter compared from one year to the next.[47] Price **comparisons** between the domestic and subject imported products are based mostly on U.S. producers' and importers' reported monthly net U.S. f.o.b. selling price data on sales of product 1 from the specified city locations.[48]

The reported monthly and quarterly price and quantity data fluctuated due significantly to large changes in the U.S. price of natural gas, but also often due to changes in weather, seasonal factors, shipping modes and distances, swaps, and individual shipping agreements. All of these factors influenced the price and quantity of UAN in the U.S. market, but not necessarily to the same extent for all firms, making it difficult to assess price movements and price comparisons between the domestic and subject imported UAN. In addition, the price trend data, which show quantities and NU values for a single product, are little better than average unit values as they represent sales throughout the United States and incorporate significantly different supply and demand conditions and transportation logistics and costs in various areas of the country.

Price Trends

UAN price trend data for the domestic producers of the U.S.-produced UAN products 1 and 2 are shown in table V-1a and figure V-6a for monthly prices and table V-1b and figure V-6b for quarterly prices. Price trend data for the U.S. importers of the subject imported UAN are shown in tables V-2a/b and figures V-7a/b for the UAN products 1 and 2 from Belarus, in tables V-3a/b and figures V-8a/b for UAN products 1 and 2 from Russia, and in tables V-4a/b and figures V-9a/b for UAN products 1 and 2 from Ukraine. Price trend data are discussed in detail below for each of the countries, but, for the subject countries, only product 1 is discussed because the very low monthly quantities and limited number of periods reported for product 2 did not allow reliable price trend data to be developed for the subject imported product 2.

Monthly and quarterly U.S. net f.o.b. selling prices of the U.S.-produced and subject imported UAN products followed similar trends during January 2000-September 2002. UAN prices initially rose and reached period peaks typically sometime during the first 5 months of 2001 (or the first or second quarters of 2001, if on a quarterly basis), and then fluctuated but fell from these peaks. Unusually high

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[47] The quarterly price data are shown in this manner in an attempt to clearly discern trends in price data free from seasonal variations; however, sharply fluctuating natural gas prices, particularly in the latter half of 2000 and the first half of 2001, tended to influence significantly trends in U.S. producers' and importers' price data for their UAN products throughout most of the period January 2000-September 2002. This single significant influence on price data trends tended to mask other influences on the price data.

[48] U.S. purchasers were generally not able to report net delivered purchase price data of the subject imported UAN products, because they typically did not know the country of origin of the UAN that they purchased; direct purchases from U.S. producers were often reported as U.S.-produced UAN, although swaps involving U.S.-produced and imported UAN may mask the country origin of UAN from U.S. producers. Commingled UAN comprised of two or more countries of origin is more likely the closer the distribution level is to the farmer. The majority of responding purchasers were fertilizer dealers, who generally sell to farmers.

Table V-1a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

Period	Product 1[1]			Product 2[2]		
	Price (*per N unit*)[3]	Quantity (*short tons*)	No. of firms reporting	Price (*per N unit*)[3]	Quantity (*short tons*)	No. of firms reporting
2000:						
January	$2.03	511,444	9	$2.30	139,314	5
February	2.03	528,263	9	2.46	143,053	5
March	2.27	606,122	9	2.57	115,728	5
April	2.50	774,930	9	2.70	266,129	5
May	2.65	1,031,974	9	2.80	282,357	4
June	2.73	844,443	9	3.04	131,517	4
July	3.09	469,916	9	3.34	54,822	4
August	2.99	508,823	9	3.38	56,124	4
September	3.21	654,919	9	3.51	88,477	4
October	3.27	635,576	9	3.49	110,824	4
November	3.26	560,278	10	3.52	133,255	4
December	3.48	564,093	10	3.68	141,226	5
2001:						
January	3.85	456,669	10	4.29	127,759	5
February	4.22	336,533	10	4.60	88,561	4
March	4.23	513,664	10	4.45	115,055	5
April	4.57	607,110	10	4.75	154,511	4
May	4.39	596,490	10	4.63	121,994	5
June	3.86	499,789	10	4.11	43,554	6
July	3.20	509,259	10	3.30	71,148	4
August	3.07	603,432	10	3.23	132,033	4
September	2.70	677,778	10	3.03	88,373	4
October	2.54	645,427	10	3.84	76,026	5
November	2.63	576,786	9	3.71	59,157	6
December	2.26	483,891	9	2.96	81,275	6
Continued on next page.						

Table V-1a--Continued
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

Period	Product 1[1]			Product 2[2]		
	Price *(per N unit)*[3]	Quantity of UAN *(short tons)*	No. of firms reporting	Price *(per N unit)*[3]	Quantity of UAN *(short tons)*	No. of firms reporting
2002:						
January	$2.35	418,952	10	$2.84	58,226	4
February	2.17	318,056	10	2.78	83,274	4
March	2.45	451,723	10	2.57	116,555	4
April	2.43	831,383	8	2.80	170,787	5
May	2.55	893,768	8	2.89	201,281	4
June	2.66	594,840	8	2.83	139,751	4
July	2.64	565,090	8	2.92	87,219	5
August	2.63	679,554	8	2.93	73,336	6
September	2.62	739,063	8	2.86	93,431	5
TOTAL		19,690,040	10		3,846,132	6

[1] Product 1 is UAN in a solution of 32 percent nitrogen concentration.
[2] Product 2 is UAN in a solution of 28 percent nitrogen concentration.
[3] A nitrogen unit equals 20 pounds of nitrogen and is the unit frequently used to quote prices.

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

Table V-1b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by quarters, January 2000-September 2002

Period	Product 1[1]			Product 2[2]		
	Price (*per N unit*)[3]	Quantity of UAN (*short tons*)	No. of firms reporting	Price (*per N unit*)[3]	Quantity of UAN (*short tons*)	No. of firms reporting
January-March:						
2000	$2.12	1,645,829	9	$2.43	398,095	5
2001	4.09	1,306,866	10	4.43	331,375	5
2002	2.34	1,188,731	10	2.70	258,055	4
April-June:						
2000	2.63	2,651,346	9	2.81	680,003	5
2001	4.30	1,703,390	10	4.62	320,059	6
2002	2.53	2,319,991	8	2.84	511,819	5
July-September:						
2000	3.11	1,633,658	9	3.43	199,423	4
2001	2.96	1,790,469	10	3.19	291,554	4
2002	2.63	1,983,708	8	2.90	253,986	6
October-December:						
2000	3.33	1,759,947	10	3.57	385,305	5
2001	2.49	1,706,105	10	2.85	216,458	6
TOTAL		19,690,040	10		3,846,132	6

[1] Product 1 is UAN in a solution of 32 percent nitrogen concentration.
[2] Product 2 is UAN in a solution of 28 percent nitrogen concentration.
[3] A nitrogen unit equals 20 pounds of nitrogen and is the unit frequently used to quote prices.

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

Table V-2a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Belarus and sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

* * * * * * *

Table V-2b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Belarus and sold from all U.S. locations to U.S. distributors and dealers, by quarters, January 2000-September 2002

* * * * * * *

Table V-3a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Russia and sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

* * * * * * *

Table V-3b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Russia and sold from all U.S. locations to U.S. distributors and dealers, by quarters, January 2000-September 2002

* * * * * * *

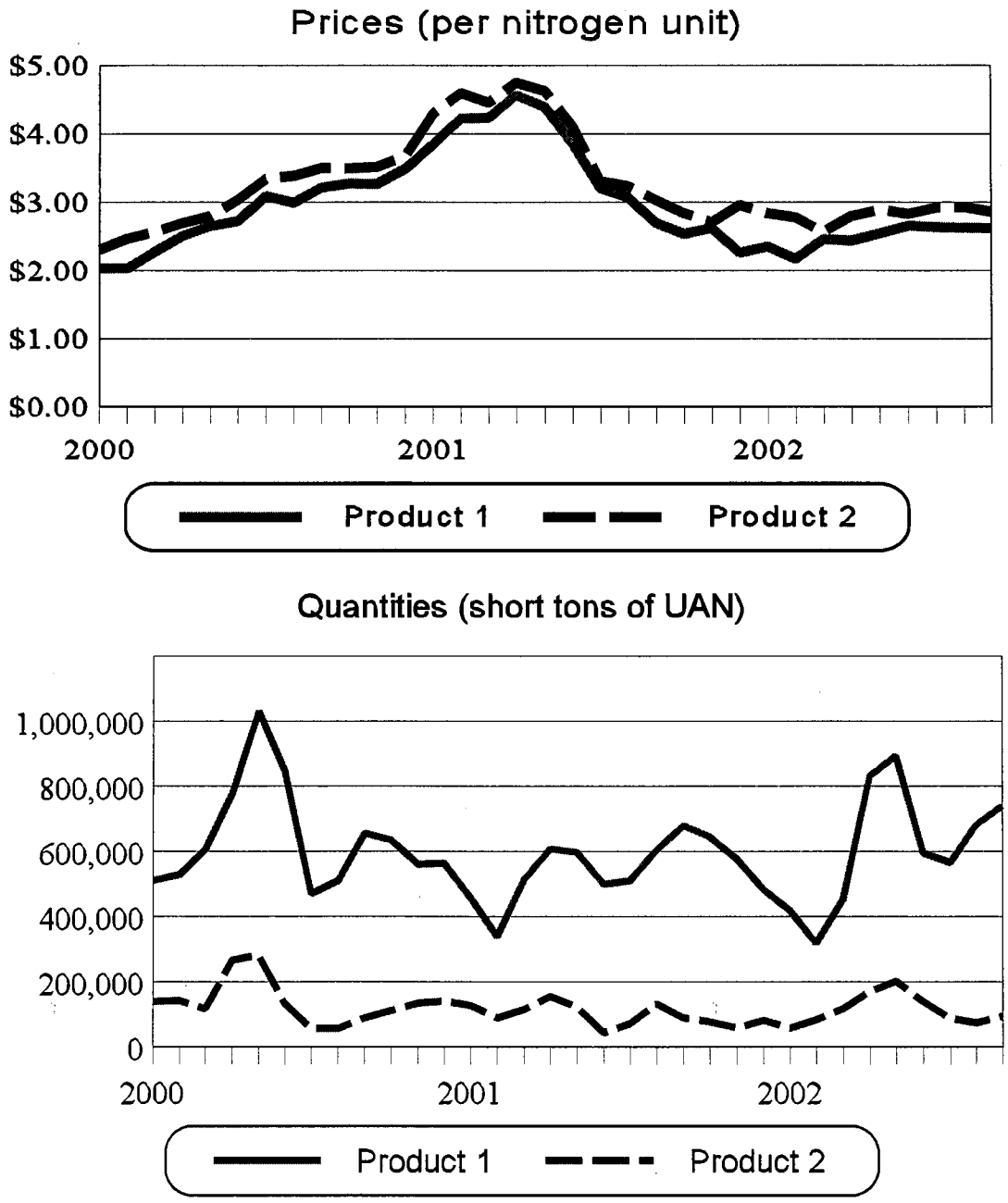
Table V-4a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Ukraine and sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

* * * * * * *

Table V-4b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Ukraine and sold from all U.S. locations to U.S. distributors and dealers, by quarters, January 2000-September 2002

* * * * * * *

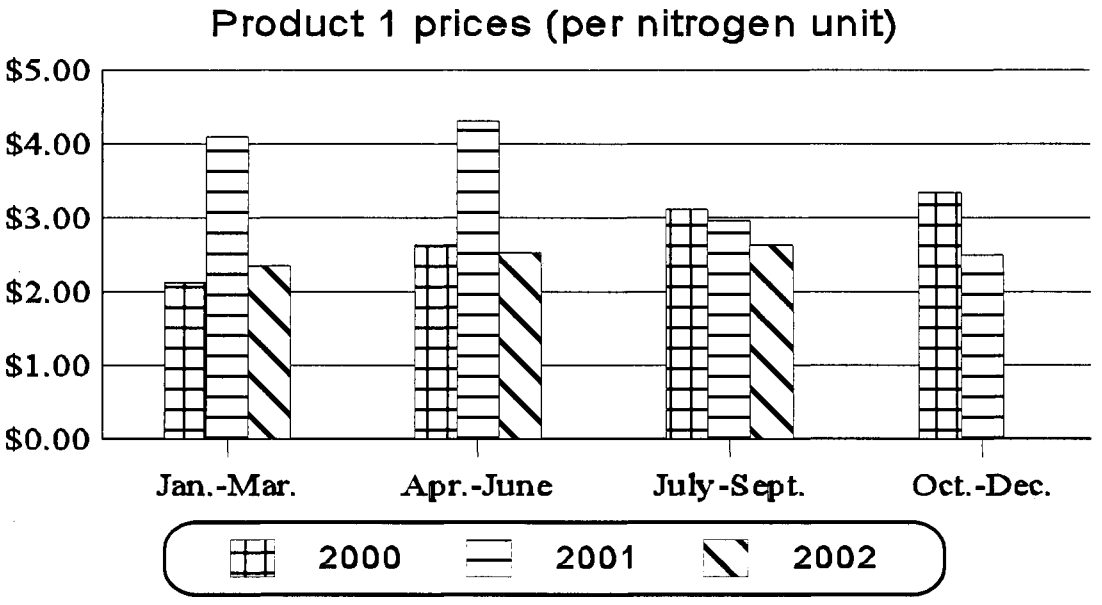
Figure V-6a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002



Note: A nitrogen unit equals 20 pounds of nitrogen.

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

Figure V-6b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by products and by quarters, January 2000-September 2002



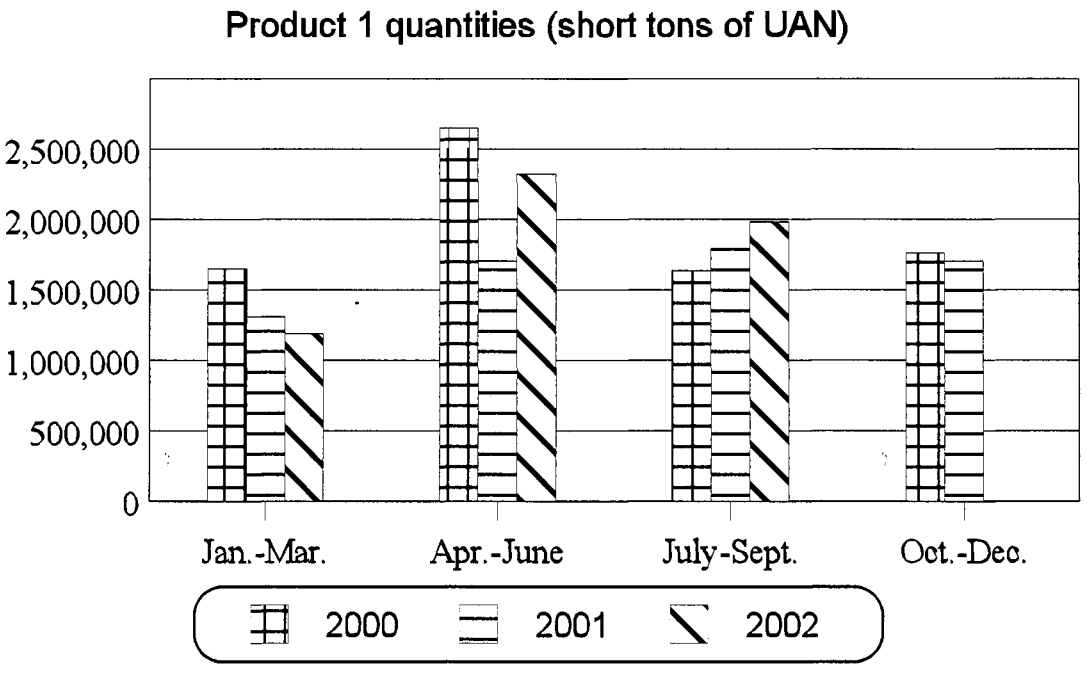


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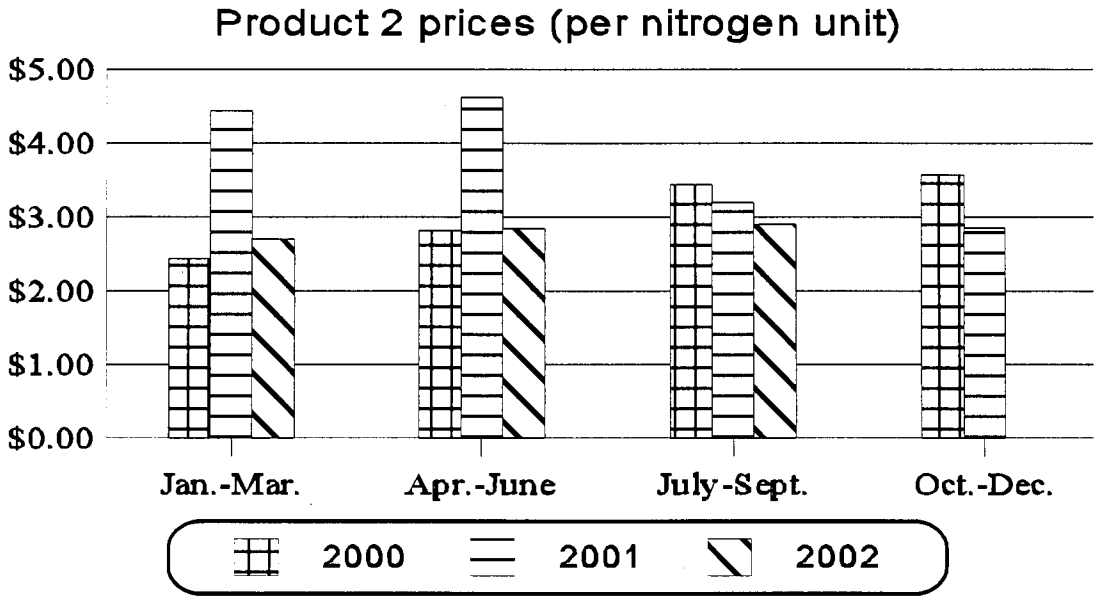
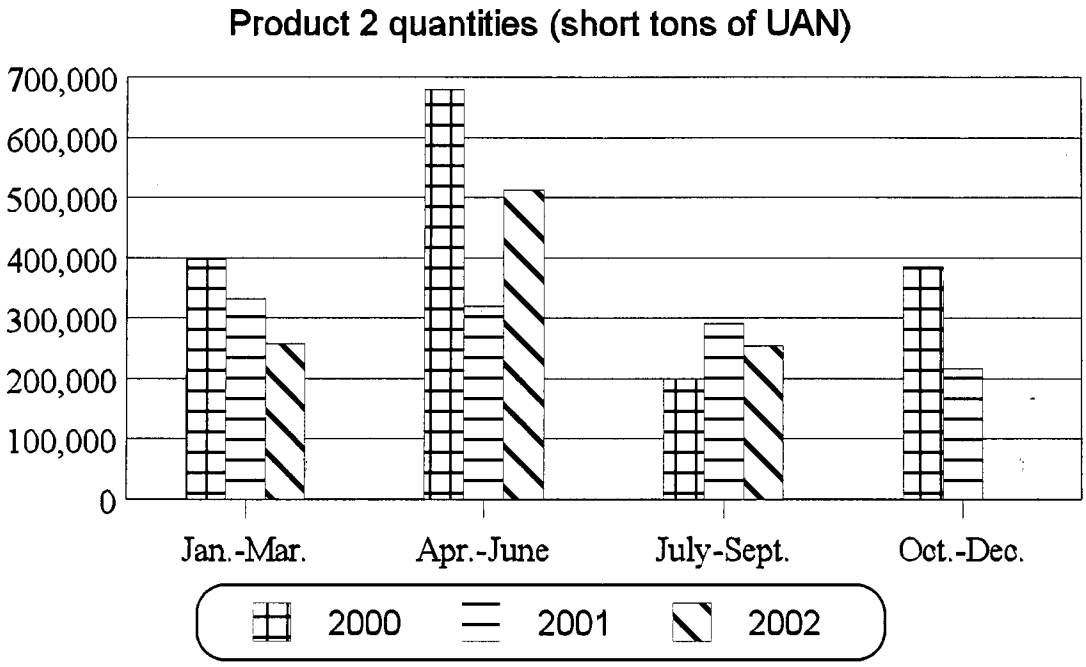
Figure V-6b–Continued
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of *U.S.-produced* products 1 and 2 sold from all U.S. locations to U.S. distributors and dealers, by products and by quarters, January 2000-September 2002





Note: A nitrogen unit equals 20 pounds of nitrogen.

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

Figure V-7a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Belarus and sold from all U.S. locations to U.S. distributors and dealers, by months, August 2000-September 2002

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Figure V-7b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Belarus and sold from all U.S. locations to U.S. distributors and dealers, by products and by quarters, July 2000-September 2002

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Figure V-8a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Russia and sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

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Figure V-8b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Russia and sold from all U.S. locations to U.S. distributors and dealers, by products and by quarters, January 2000-September 2002

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Figure V-9a
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Ukraine and sold from all U.S. locations to U.S. distributors and dealers, by months, January 2000-September 2002

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Figure V-9b
UAN: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from Ukraine and sold from all U.S. locations to U.S. distributors and dealers, by products and by quarters, January 2000-September 2002

* * * * * * *

natural gas prices in the United States, especially during late 2000 and early 2001, reportedly led to increases in U.S. UAN prices during these periods, but as natural gas prices moderated, the prices of UAN fell.

United States

Monthly price data--U.S. UAN producers' weighted-average monthly net f.o.b. selling prices of their U.S.-produced product 1 for sales from all U.S. locations combined rose from an average of $2.03

per nitrogen unit (NU) in January 2000 to a period high of $4.57 per NU in April 2001,[49] next generally fell to $2.17 per NU by February 2002, then generally rose to $2.66 per NU by June 2002, and finally fell somewhat to end at $2.62 per NU in September 2002. U.S. producers' monthly selling prices of U.S.-produced product 2 rose from an average of $2.30 per NU in January 2000 to a period high of $4.75 per NU in April 2001, next fell to $2.57 per NU by March 2002, then generally rose to $2.93 per NU by August 2002, and finally ended at $2.86 per NU in September 2002 (table V-1a and figure V-6a).

U.S. producers' monthly sales quantities of products 1 and 2 shipped from all U.S. locations combined fluctuated during the period investigated, but generally exhibited a similar seasonal pattern of rising from January through the spring peak in May, plummeting in June and July, then rising somewhat and reaching an autumn peak in September, and then usually falling through the following January (table V-1a and figure V-6a). The major exceptions to this pattern may have been the result, at least partially, of the effects of U.S. price fluctuations in natural gas on prices and quantities of U.S.-produced UAN.[50]

Quarterly price data--U.S. UAN producers' weighted-average quarterly net f.o.b. selling prices of products 1 and 2 followed similar trends, fluctuating but rising during the January-March quarters of 2000-02, fluctuating during the April-June quarters of 2000-02, and falling steadily during the July-September quarters of 2000-02 and October-December quarters of 2000-01 (table V-1b and figure V-6b). Quarterly prices of product 1 rose from $2.12 per NU during January-March 2000 to $2.34 per NU by January-March 2002, or by 10.4 percent; fell from $2.63 per NU during April-June 2000 to $2.53 per NU by April-June 2002, or by 3.8 percent; fell from $3.11 per NU during July-September 2000 to $2.63 per NU by July-September 2002, or by 15.4 percent; and also fell from $3.33 per NU during October-December 2000 to $2.49 by October-December 2001, or by 25.2 percent. Quarterly prices of product 2 rose from $2.43 per NU during January-March 2000 to $2.70 per NU by January-March 2002, or by 11.1 percent; rose from $2.81 per NU during April-June 2000 to $2.84 per NU by April-June 2002, or by 1.1 percent; fell from $3.43 per NU during July-September 2000 to $2.90 per NU by July-September 2002,

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[49] A nitrogen unit equals 20 pounds of nitrogen and is the unit frequently used to quote prices. Expressing prices per NU allows direct comparisons among the different nitrogen-content UAN products and among the principal single-nutrient nitrogen fertilizers: anhydrous ammonia, UAN, urea, and HDAN.

[50] For product 1 the exceptions are as follows: (1) In 2001 and 2002, the February shipments of 336,533 short tons and 318,056 short tons, respectively, dipped from their respective January levels of 456,669 short tons and 418,952 short tons; (2) in 2001, the spring peak occurred in April, when 607,110 short tons were delivered; and (3) in 2001, the autumn peak in September of 677,778 short tons was higher than the spring peak, reversing the pattern in 2000 and January-September 2002, when the spring peaks in May were the highest monthly shipment levels of the respective periods.

For product 2 the exceptions are as follows: (1) in 2000, U.S. producers' monthly shipments rose steadily during August-December, and (2) in 2001, the February shipment of 88,561 short tons dipped from the January 2001 level of 127,759 short tons; the spring shipment peak occurred in April, when 154,511 short tons were delivered; and shipments next peaked in August, at 132,033 short tons, before falling through November, and then rising to 81,275 short tons in December.

or by 15.5 percent; and also fell from $3.57 per NU during October-December 2000 to $2.85 per NU by October-December 2001, or by 20.2 percent.[51]

U.S. UAN producers' weighted-average quarterly net f.o.b. shipping quantities of products 1 and 2 followed similar trends, generally falling during the January-March and April-June quarters of 2000-02 and during the October-December quarters of 2000-01, and generally rising during the July-September quarters of 2000-02 (table V-1b and figure V-6b).

Belarus

Monthly price data--U.S. UAN importers' weighted-average monthly net f.o.b. selling prices of the imported product 1 from Belarus for sales from all U.S. locations combined rose from an average of $*** per NU in August 2000 (the first period for which data were available) to a period high of $*** per NU in March 2001, then generally fell to $*** per NU by February 2002, next rose to $*** per NU by July 2002, and then fell somewhat to end at $*** per NU in September 2002 (table V-2a and figure V-7a).

U.S. UAN importers' monthly sales quantities of product 1 imported from Belarus and shipped from all U.S. locations combined fluctuated without a clear trend during the period reported, August 2000-September 2002 (table V-2a and figure V-7a). Monthly shipment quantities of the Belarus product 1 averaged *** short tons during January-September 2001 compared to *** short tons during January-September 2002. Average monthly shipment quantities of the Belarus product 1 fell during the January-September periods of 2001-02, or by *** percent.

Quarterly price data--U.S. UAN importers' weighted-average quarterly net f.o.b. selling prices and quantities of product 1 imported from Belarus and sold from all U.S. locations combined are shown for each quarter separately by each year during January 2000-September 2002 (table V-2b and figure V-7b). Quarterly prices and quantities of the imported Belarus product 1 generally fell during the comparison periods. Quarterly prices of product 1 declined substantially during the following periods: from $*** per NU during January-March 2001 to $*** per NU during January-March 2002, or by *** percent; from $*** per NU during April-June 2001 to $*** per NU during April-June 2002, or by *** percent; and from $*** per NU during October-December 2000 to $*** per NU during October-December 2001, or by *** percent.[52] Prices of product 1 fluctuated but fell somewhat from $*** per NU during July-September 2000 to $*** per NU during July-September 2002, or by *** percent.

Russia

Monthly price data--U.S. UAN importers' weighted-average monthly net f.o.b. selling prices of the imported product 1 from Russia for sales from all U.S. locations combined rose from an average of $*** per NU in January 2000 to a period high of $*** per NU in May 2001, next fluctuated but fell to

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[51] The price spikes for products 1 and 2 during January-March and April-June of 2001 occurred when U.S. quarterly prices of natural gas were at their highest levels, or $5.57 per MMBtu and $4.75 per MMBtu, respectively, during January 2000-September 2002 (see the tabulation and figure V-1 earlier in this part of the report).

[52] The quarterly price spikes of Belarus product 1 during January-March 2001 and April-June 2001 likely reflected, at least partially, the impact of high U.S. prices of natural gas on U.S. UAN prices.

$*** per NU by January 2002, then generally rose to $*** per NU by July 2002, and finally fell somewhat to end at $*** per NU in September 2002 (table V-3a and figure V-8a).

U.S. UAN importers' monthly sales quantities of product 1 imported from Russia and shipped from all U.S. locations combined showed somewhat of a seasonal pattern with spring peaks of *** short tons in May 2000, *** short tons in March 2001, and *** short tons in March 2002 (table V-3a and figure V-8a). Otherwise shipment quantities fluctuated without a clear trend. Monthly shipment quantities of the Russian product 1 averaged *** short tons during January-September 2000, *** short tons during January-September 2001, and *** short tons during January-September 2002. Average monthly shipment quantities of the Russian product 1 rose consistently during the January-September periods of 2000-02, or by *** percent.

Quarterly price data--U.S. UAN importers' weighted-average quarterly net f.o.b. selling prices and quantities of product 1 imported from Russia and sold from all U.S. locations combined fluctuated but generally rose during the January-March 2000-02, April-June 2000-02, and July-September 2000-02 comparison periods, but fell during the October-December 2000-01 comparison periods (table V-3b and figure V-8b). Quarterly prices of the Russian product 1 fluctuated but rose during the following periods: from $*** per NU during January-March 2000 to $*** per NU during January-March 2002, or by *** percent; from $*** per NU during April-June 2000 to $*** per NU during April-June 2002, or by *** percent; and from $*** per NU during July-September 2000 to $*** per NU during July-September 2002, or by *** percent.[53] Prices of product 1 fell from $*** per NU during October-December 2000 to $*** per NU during October-December 2001, or by *** percent.

Ukraine

Monthly price data--U.S. UAN importers' weighted-average monthly net f.o.b. selling prices of the imported product 1 from Ukraine for sales from all U.S. locations combined rose from an average of $*** per NU in January 2000 to a period high of $*** per NU in January 2001, next fluctuated but fell to $*** per NU by October 2001, then generally rose to $*** per NU by January 2002, and finally generally fell to end at $*** per NU in September 2002 (table V-4a and figure V-9a).

U.S. UAN importers' monthly sales quantities of product 1 imported from Ukraine and shipped from all U.S. locations combined fluctuated without showing a clear trend (table V-4a and figure V-8a). Monthly shipment quantities of the Ukrainian product 1 averaged *** short tons during January-September 2000, *** short tons during January-September 2001, and *** short tons during January-September 2002. Average monthly shipment quantities of the Ukrainian product 1 fluctuated but fell during the January-September periods of 2000-02, or by *** percent.

Quarterly price data--U.S. UAN importers' weighted-average quarterly net f.o.b. selling prices and quantities of product 1 imported from Ukraine and sold from all U.S. locations combined are shown for each quarter separately by each year during January 2000-September 2002 (table V-4b and figure V-9b). The quarterly prices in particular show spikes during October-December 2000 and January-June 2001, likely in response, at least partially, to U.S. UAN supply conditions resulting from high U.S.

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[53] The quarterly price spikes of Russian product 1 during January-March 2001 and April-June 2001 likely reflected, at least partially, the impact of high U.S. prices of natural gas on U.S. UAN prices.

natural gas prices during these periods. Prices of the imported Ukraine product 1 rose substantially from $*** per NU during January-March 2000 to $*** per NU during January-March 2002, or by *** percent. Prices of product 1 rose somewhat from $*** per NU during April-June 2000 to $*** per NU during April-June 2002, or by *** percent. Prices of product 1 fell during the following periods: from $*** per NU during July-September 2000 to $*** per NU during July-September 2002, or by *** percent; and from $*** per NU during October-December 2000 to $*** per NU during October-December 2001, or by *** percent.

Price Comparisons

A total of 95 monthly price comparisons were possible between the domestic and subject imported UAN product 1 sold to U.S. distributors and dealers on a U.S. f.o.b. net selling price basis from four specified area locations during January 2000-September 2002.[54] [55] These price comparisons are summarized in tables V-5a and V-5b and shown in detail in table V-6. Table V-5a summarizes the price comparisons and presents quantities of the subject imported UAN involved; table V-5b summarizes the same price comparisons but presents quantities of U.S.-produced UAN involved. Twenty-nine of the 95 price comparisons showed that the subject imported products were priced less than the domestic products by margins ranging from 1.5 percent to 28.2 percent; this underselling involved 254,522 short tons of the subject imported UAN and 286,994 short tons of the U.S.-produced UAN.[56] The remaining 66 price comparisons showed that the subject imported products were priced higher than the domestic products by margins ranging from 0.5 percent to 60.3 percent; such overselling involved 327,212 short tons of the subject imported UAN and 726,964 short tons of the U.S.-produced UAN.

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[54] The price comparisons involved sales in the following four city areas: Baltimore, MD; Brunswick, GA; New Orleans, LA; and San Francisco, CA. Price comparisons involving sales in the New Orleans, LA, area include some U.S. producers' production facilities that are located in this area. More frequently, however, U.S. producers generally must ship the domestic UAN to their holding tanks in the other city locations and thereby incur freight costs, which tend to make the U.S. producers' net f.o.b. selling prices higher than when they sell UAN from their plants.

[55] The petitioners argued for the inclusion of *** voluntarily-reported prices of 30-percent UAN with 32-percent UAN in the U.S. producers' price data used for price comparisons in the Baltimore, MD, area (prehearing brief, p. 43, footnote 136, and posthearing brief, p. 10). Such inclusion would bias the data to show underselling by the imported UAN sold in this area, because 30-percent UAN is generally sold at higher prices than 32-percent UAN. For the months that *** sold both of these UAN products in the Baltimore, MD, area, the weighted-average selling price of its 30-percent UAN was $*** per NU and the weighted-average selling price of its 32-percent UAN was $*** per NU, or a difference of *** percent. Combining prices of the two different nitrogen-content UAN products would not be appropriate because it would mix data for two different products and result in average unit values for the domestic producers compared with selling prices of the U.S. importers.

[56] As discussed earlier, the reported UAN price quantities for the specified city areas are well below the reported price quantities for all locations combined. This is true especially for U.S. UAN producers, as well as for importers of UAN from the subject countries. As a result, the quantities involved in price comparisons are much less. The quantity of U.S.-produced UAN involved in price comparisons with all three subject countries amounted to 876,759 short tons and accounted for 3.7 percent of total U.S. producers' commercial shipments and transfers to related firms during January 2000-September 2002.

Table V-5a

UAN: Summary of monthly U.S. weighted-average net f.o.b. selling price comparisons between U.S.-produced and subject imported UAN product 1 in specified areas during January 2000-September 2002,[1] and reported *subject import quantities* involved in the price comparisons

		Underselling by imports:				Overselling by imports:			
No.[2]	UAN short tons[3]	No.[2]	UAN short tons[3]	Share of quantity in percent	Range of underselling margins in percent[4]	No.[2]	UAN short tons[3]	Share of quantity in percent	Range of overselling margins in percent[4]
Three subject countries combined:									
95	581,734	29	254,522	43.8	***	66	327,212	56.2	***
Belarus:									
26	196,479	9	37,228	18.9	***	17	159,251	81.1	***
Russia:									
41	257,198	14	188,238	73.2	***	27	68,960	26.8	***
Ukraine:									
28	128,057	6	29,056	22.7	***	22	99,001	77.3	***

[1] The individual price comparisons by month and specified area have been combined in this summary table.

[2] Number of monthly price comparisons between the U.S.-produced and subject imported UAN during January 2000-September 2002. All such price comparisons involved product 1, which is UAN with a concentration of 32 percent nitrogen.

[3] Reported short tons of UAN imported from the subject countries that were involved in price comparisons with the U.S.-produced UAN.

[4] Based on monthly price comparisons where under/overselling is measured as the percentage price difference between the domestic and subject imported UAN with respect to the price of the domestic UAN.

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

Table V-5b

UAN: Summary of monthly U.S. weighted-average net f.o.b. selling price comparisons between U.S.-produced and subject imported UAN product 1 during January 2000-September 2002,[1] and reported ***U.S. producer quantities*** involved in the price comparisons

		Undersold by imports:				Oversold by imports:			
No.[2]	UAN short tons[3]	No.[2]	UAN short tons[3]	Share of quantity in percent	Range of underselling margins in percent[4]	No.[2]	UAN short tons[3]	Share of quantity in percent	Range of overselling margins in percent[4]
Three subject countries combined:									
95	1,013,958	29	286,994	28.3	***	66	726,964	71.7	***
Involving Belarus:									
26	466,226	9	35,060	7.5	***	17	431,166	92.5	***
Involving Russia:									
41	600,879	14	218,178	36.3	***	27	382,701	63.7	***
Involving Ukraine:									
28	583,674	6	100,026	17.1	***	22	483,648	82.9	***

[1] The individual price comparisons by month and specified area have been combined in this summary table.

[2] Number of monthly price comparisons between the U.S.-produced and subject imported UAN during January 2000-September 2002. All such price comparisons involved product 1, which is UAN with a concentration of 32 percent nitrogen.

[3] Reported short tons of UAN produced in the United States that were involved in price comparisons with the subject imported UAN.

[4] Based on monthly price comparisons where under/overselling is measured as the percentage price difference between the domestic and subject imported UAN with respect to the price of the domestic UAN.

Note: The same quantity of U.S.-produced UAN may be involved in price comparisons with UAN from more than one subject country. As a result, the sum of the quantity of U.S.-produced UAN that was involved in price comparisons with UAN imported from ***each*** of the three subject countries may exceed the total quantity above of U.S.-produced UAN involved in price comparisons with UAN imported from the three subject countries ***combined***; the combined quantities for underselling and overselling do not double-count U.S.-produced UAN that was undersold by more than one subject country or that was oversold by more than one subject country. Also note that the total quantity of U.S.-produced UAN involved in all price comparisons, of 1,013,958 short tons, included 137,199 short tons that were counted twice because the latter U.S.-produced UAN was undersold by UAN from one subject country, while oversold by UAN from another subject country; the absence of such double-counting would result in a total quantity of U.S.-produced UAN involved in price comparisons of 876,759 short tons.

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

Table V-6
UAN: U.S. weighted-average net f.o.b. selling prices of domestic and subject imported UAN product 1 and margins of underselling/(overselling), by specified market areas and by months, January 2000-September 2002

* * * * * * *

Twenty-six monthly price comparisons involved the U.S.-produced product 1 and that imported from Belarus (tables V-5a, V-5b, and V-6).[57] Nine price comparisons showed that the Belarus product 1 was priced less than the domestic product 1 by margins ranging from *** percent for sales in the San Francisco, CA, area to *** percent for sales in the Baltimore, MD, area. Seventeen price comparisons showed that the Belarus product 1 was priced higher than the domestic product 1 by margins ranging from *** percent to *** percent, both for sales in the New Orleans, LA, area.

Forty-one monthly price comparisons involved the U.S.-produced product 1 and that imported from Russia (tables V-5a, V-5b, and V-6).[58] Fourteen price comparisons showed that the Russian product 1 was priced less than the domestic product 1 by margins ranging from *** percent for sales in the Baltimore, MD, area to *** percent for sales in the San Francisco, CA, area. Twenty-seven price comparisons showed that the Russian product was priced higher than the domestic product by margins ranging from *** percent to *** percent, both involving sales in the New Orleans, LA, area.

Twenty-eight monthly price comparisons involved the U.S.-produced product 1 and that imported from Ukraine (tables V-5a, V-5b, and V-6).[59] Six price comparisons showed that the Ukraine product 1 was priced less than the domestic product 1 by margins ranging from *** percent to *** percent, both involving sales in the San Francisco, CA, area. Twenty-two price comparisons showed that the Ukraine product 1 was priced higher than the domestic product 1 by margins ranging from *** percent for sales in the San Francisco, CA, area to *** percent for sales in the New Orleans, LA, area.

*** reported additional selling price data for its imported UAN from Russia and Ukraine that was pumped directly from ocean vessels to its customers' coastal holding tanks in the following three

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[57] The quantity of U.S.-produced UAN involved in price comparisons with UAN imported from Belarus amounted to 466,226 short tons and accounted for almost 2.0 percent of total U.S. producers' commercial shipments and transfers to related firms during January 2000-September 2002. The quantity of UAN imported from Belarus and involved in price comparisons with U.S.-produced UAN amounted to 196,479 short tons and accounted for 46.5 percent of total U.S. imports of UAN from Belarus during January 2000-September 2002.

[58] The quantity of U.S.-produced UAN involved in price comparisons with UAN imported from Russia amounted to 600,879 short tons and accounted for almost 2.5 percent of total U.S. producers' commercial shipments and transfers to related firms during January 2000-September 2002. The quantity of UAN imported from Russia and involved in price comparisons with U.S.-produced UAN amounted to 257,198 short tons and accounted for 16.2 percent of total U.S. imports of UAN from Russia during January 2000-September 2002.

[59] The quantity of U.S.-produced UAN involved in price comparisons with UAN imported from Ukraine amounted to 583,674 short tons and accounted for almost 2.5 percent of total U.S. producers' commercial shipments and transfers to related firms during January 2000-September 2002. The quantity of UAN imported from Ukraine and involved in price comparisons with U.S.-produced UAN amounted to 128,057 short tons and accounted for 18.9 percent of total U.S. imports of UAN from Ukraine during January 2000-September 2002.

specified cities: Baltimore, MD; Corpus Christi, TX; and San Francisco, CA. These sales typically involved full shiploads of UAN ranging from 17,000 to almost 28,000 short tons of UAN in a single transaction, although some partial shiploads of UAN were also reported. *** asserted that these sales did not compete with U.S. UAN producers because they were at a different level of the market that U.S. producers' sales.[60] *** sales volumes were typically much larger than volumes of other sales of UAN reported in these areas during the same months and, accordingly, its selling prices were lower than prices of other such sales.[61] *** selling price data and that of other UAN sales reported for the same cities and months as those of *** for its vessel-load UAN sales are shown in appendix E, tables E-1a, E-1b, and E-1c for *** imported Russian UAN, and tables E-2a/b/c for *** imported Ukrainian UAN.[62] For comparison purposes, *** selling price data for its subject imported UAN sold in Brunswick, GA, compared to U.S. UAN producers' reported selling price data for sales in this city and during the same months as the *** price data are shown in table V-6.[63] *** asserted that its selling prices of its imported UAN from Russia and Ukraine that was sold in the Brunswick, GA, area were at a comparable level of the market at which U.S. producers sell their UAN.[64] Such sales by *** show much smaller volumes and higher prices than its sales in the Baltimore, MD, Corpus Christi, TX, and San Francisco, CA, areas.[65]

U.S. purchasers were not able to report in their questionnaire responses much useful price data by country of origin involving their purchases of imported UAN during January 2000-September 2002; the country of origin of the UAN that they purchase was generally not indicated on the sales invoice or identified by their suppliers.[66] As a result, only three monthly delivered price comparisons, by specific cities, were possible between the U.S.-produced and subject imported product 1.[67] Two price

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[60] ***.

[61] The total U.S. sales quantities for *** shipload sales of its subject imported UAN amounted to *** short tons of 32-percent UAN imported from Russia, accounting for *** percent of total U.S. imports of the Russian UAN during January 2000-September, and *** short tons of 32-percent UAN imported from Ukraine, accounting for *** percent of total U.S. imports of the Ukrainian UAN during this period.

[62] *** reported selling price data for the port cities of Baltimore, MD, Corpus Christi, TX, and San Francisco, CA, are shown in appendix E, with reported selling price data of U.S. producers and other importers for these ports, to show the differences in actual sale prices and quantities among the suppliers and not necessarily to suggest competing price comparisons.

[63] *** was the only U.S. importer that reported the requested selling price data for sales of the subject imported UAN in the Brunswick, GA, area.

[64] ***. These price data were included in the price comparisons shown in tables V-5a/b and V-6.

[65] ***.

[66] When purchasers buy directly from U.S. UAN producers, they assume that the product is produced in the United States, when in fact sometimes it is foreign-produced UAN. ***.

[67] Petitioners asserted that *** had reported price data in its purchaser questionnaire response that showed the subject imported UAN was priced less than the domestic product (petitioners' posthearing brief, exhibit 1, p. 14). *** did not report the requested price data, but responded to another part of the questionnaire and reported its holding tank locations and, for each location, annual capacity during 1999-2000 and total capacity during January 2001-September 2002. The firm also reported for such periods and tank locations the name of its suppliers and volunteered the suppliers' "prices." Because a single "price" was reported for the entire year and/or 21-month

(continued...)

comparisons involved UAN imported from Russia and one price comparison involved UAN imported from Ukraine. The first price comparison involved *** short tons of U.S.-produced product 1 and *** short tons of imported Russian UAN, both delivered to ***, during *** at the same price of ***. The second price comparison involved almost *** short tons *** of the U.S.-produced and imported Russian product 1, delivered to ***, during ***; the price of the U.S.-produced product 1 of $*** per NU and the price of the Russian product 1 of $*** per NU showed that the imported product was priced *** less than the price of the domestic product.[68] The third price comparison involved *** short tons of the U.S.-produced product 1 and *** short tons of the imported Russian product 1 purchased in ***, during ***. The price of the U.S.-produced product 1 of $*** per NU and the price of the Russian product 1 of $*** per NU showed that the imported product was priced *** above the price of the domestic product.

Twenty-three purchasers responded to the following questionnaire request: if your firm purchased imported UAN during 2001, how much higher would the price of the imported product have to have been (over the price you actually paid) before you would have purchased U.S.-produced UAN instead? Only one of the firms, ***, answered the question directly by reporting that the imported Russian, German, and Algerian 32-percent UAN that it purchased would have to have been *** percent higher in price before the firm would have purchased U.S.-produced UAN instead. Four other firms indicated that they purchased the lowest-price UAN, but did not elaborate. Eight firms indicated that the U.S.-produced product was not available and felt that the question was irrelevant because the real issue was that U.S. producers did not have sufficient UAN to supply the U.S. market. The remaining ten purchasers reported that the question did not apply to them.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of UAN to report in their questionnaire responses during the preliminary and final phases of these investigations any instances of lost sales or revenues they experienced due to competition from imports of UAN from Belarus, Russia, and Ukraine since January 1, 1999. Nine U.S. producers alleged in their questionnaire responses that they lost sales of their domestic UAN and lost revenues by reducing prices or rolling back price increases of their domestic UAN, but either did not provide specific examples or were not able to identify the origin(s) of the competing products that led to the lost sales and lost revenues.[69] Two U.S. producers, ***, reported in the petition and *** also reported in its questionnaire response a total of 28 specific instances of alleged lost sales amounting to *** short tons valued at $*** that involved imports from the subject countries (table V-7). Three U.S. producers, ***, reported in the petition and two U.S. producers, ***, reported in their questionnaire responses a total of 17 specific instances where they allegedly reduced prices and/or

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[67] (...continued)
period, it is not clear whether it represents a single transaction or multiple transactions and, if multiple transactions, whether the "price" is a weighted average or simple average. As shown by reported monthly price data, prices of UAN varied significantly over the course of a year, especially for 2000 and 2001. In addition, no quantities were reported for the single "price" reported for each such period, and it is not known if the "prices" were on a delivered or U.S. f.o.b. basis and were net of discounts or other considerations.

[68] ***.

[69] *** commented in the petition that the commodity nature of UAN makes it difficult to determine the country origin of competing products.

rolled back announced price increases for their domestic UAN due to competition with the subject imported products; these 17 allegations involved a total of *** short tons and $*** in lost revenues (table V-8). Staff attempted to contact all 18 purchasers cited in the 45 specific lost sales and lost revenue allegations during the preliminary and final phases of these investigations;[70] the purchasers were faxed information regarding the lost sale and/or lost revenue allegation(s) and, as part of their requested explanation, were asked to indicate whether they agree or disagree with the allegation(s). A summary of the information obtained follows.

Table V-7
UAN: U.S. producers' lost sales allegations

* * * * * * *

Table V-8
UAN: U.S. producers' lost revenue allegations

* * * * * * *

*** disagreed with both lost revenue allegations stating, "The *** quote was finished on *** at $*** per short ton delivered. Imported product for this time frame was $*** per ton delivered. We bid the domestic supplier $*** per ton delivered and the domestic supplier agreed to the sale. The *** quote involved only domestic suppliers. We bid supplier based on where we felt the real market was--$*** per ton delivered. The supplier accepted the bid and delivered it on two *** short-ton tows with several months between deliveries."

*** stated regarding the *** lost sales allegation that "The source (country) of origin was not known at the time of order and was not named on any papers received pertaining to this order. Purchase was made on a delivered price basis. This purchase was based on quantity, delivery time frame, and price. All base points were of equal importance." Regarding the *** allegation, *** stated that "The source (country) of origin was not known at the time of the order and was not named on any paper received pertaining to this order. Purchase was made on a delivered price basis. This purchase was based primarily on payment terms with guarantees against decline in market value being secondary. Price was not a determining factor."

*** stated, "In *** we bought *** short tons delivered to our *** terminal from *** at $*** per ton. We disagree that the price was lower because of imports. Other U.S. manufacturers were offering similar price levels and urea was also a competing source of nitrogen keeping UAN prices low relative to history."

*** disagreed with both lost sales allegations stating, "We purchased 32 percent nitrogen UAN from domestic manufacturers which apparently met foreign competition."

*** stated, "Our suppliers, *** (main supplier) and ***, told me that they would not have the product (UAN 32 percent) to ship to us, as the price of natural gas was so high it was more feasible

[70] All 45 allegations involved UAN with a 32-percent nitrogen concentration.

financially to sell natural gas contracts for household heating than for making fertilizer. Therefore, we had no choice but to go to another supplier. We are just fortunate there are other suppliers, or we would have trouble with our business also."

*** stated that it could not agree nor disagree with the allegations. It stated it could confirm all information except for the initial domestic quote.

*** stated that *** originally offered *** short tons of UAN but that *** later informed *** that it was unable to commit to *** short tons because of production problems at *** plant. *** then contracted with *** for *** short tons as follows: *** short tons delivered to ***, priced at $ *** per short ton; *** short tons delivered to ***, priced at $ *** per short ton; and *** short tons delivered to ***, priced at $*** per short ton. It further stated that it did not import any UAN during the time frame in question.

*** disagreed with the lost revenue allegation. Regarding the *** allegation, *** stated, "Confirmed this deal on ***, on my cell phone with *** from the ***. Looked back at my notes and did not see any offer from *** (at $*** or any other price). My notes show that I had a conversation with *** of *** on ***. We discussed UAN for ***; I told him his price would have to be $*** per short ton F.O.B. *** to be competitive into ***. I also bid $*** per short ton F.O.B. *** for tons delivered by *** into my tank. He told me he would have *** call me. A note on ***, shows that *** had stopped UAN production in favor of urea; therefore I don't think *** would have been a source of competition. Closed this deal at $*** per ton with ***, not $***. Another note I have on ***, goes through our thought process of where we should bid on import tons. Based on our point of view that we could probably close *** at $*** per short ton, I directed our ***-based trader to bid $*** per short ton delivered to ***, for import tons. This was equivalent to $*** per short ton. We didn't have any takers. (Note: we were willing to pay a premium for the sourcing flexibility imports would give to us)."

*** disagreed with the lost sales allegation stating, "I bought imported UAN because the previous year no U.S. producer would supply me because they shut down production so that they could make windfall profits by selling their natural gas contracts to the home heating industry. In the 2000-2001 fertilizer year, imports kept me supplied when U.S. producers did not. That is why we need imports. I do not support a tariff on imported UAN. In the previous year, *** all declined to supply U.S. UAN."

*** stated that it was unable to agree or disagree with the allegations because "we do not have documentation of UAN tons purchased by country of origin."

*** stated "We are not aware of any imported product we purchased during 2001. We did purchase imported product during *** from ***. At the time of purchase we thought we were purchasing domestic product from their ***. Most purchases are hard to determine the origin of the product."

*** disagreed with *** that they responded to stating, "While we have no way to know the exact country of origin on purchased UAN, including UAN purchased from U.S. producers, I disagree with the allegations to the best of my knowledge. I cannot correct the information since none of the parameters given meet known similar parameters, except for the fact that *** has purchased imported UAN."

*** disagreed with ***. Regarding the ***, it stated, "Imported product supplied shortfall created by domestic suppliers who sold natural gas for profits in lieu of producing product." Regarding the ***, it stated, "Domestic vendor quoted $*** per short ton initially. We did not purchase product from the vendor until ***, when the market price was $*** per short ton. Domestic product was the competitive alternative; not imported product."

PART VI: FINANCIAL CONDITION OF THE U.S. PRODUCERS

BACKGROUND

Ten U.S. producers[1] provided financial data on their operations on UAN. These data accounted for virtually all known and reported U.S. production of UAN in 2001.[2]

OPERATIONS ON UAN

Results of operations of the U.S. producers on their UAN operations are presented in table VI-1; data on a per-short-ton basis are shown in table VI-2.

The quantity sold increased slightly in 2000 compared to 1999 and then decreased in 2001, while the net sales value increased each year as a result of increases in the per-short-ton net sales value. The combined companies incurred operating losses in each calendar year.[3] The largest operating loss margin occurred in 1999. The net sales value per short ton increased by $21 in 2000 compared to 1999 while the cost of goods sold increased by $11 per short ton and SG&A expenses remained constant, resulting in a $10 decrease in the operating loss per short ton. The net sales value per short ton increased by $22 in 2001 compared to 2000 while the cost of goods sold increased by $29 per short ton and SG&A expenses increased by $1 per short ton, resulting in an increase of $8 per short ton in the operating loss.[4] The quantity sold increased in interim 2002 compared to interim 2001 while the net sales value decreased as a result of decreases in the per-short-ton net sales value. The net sales value per short ton decreased by $39 in interim 2002 compared to interim 2001 while the cost of goods sold decreased by $39 per short ton and SG&A expenses remained constant, resulting in a $2 decrease[5] in the operating loss per short ton.[6]

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[1] ***. ***. *** also provided 6-month supplemental data supporting some of the periods requested in the questionnaire.

[2] *** accounting for over 72 percent of combined net sales value in 2001, provided internal company documents to support their results of operations. The financial data as provided in the questionnaires appear reasonable when compared to the internal documents. In addition, Commission staff reconciled selected financial data from the internal documents provided by PCS to its SEC Form 10-K for the fiscal year ended December 31, 2001, p. 22 of 62, retrieved March 5, 2003 from the SEC website *www.sec.gov*. Also, selected portions of the financial data from the internal documents provided by Terra were reconciled to Terra's 2001 annual report retrieved January 13, 2003 from its website *http://www.terraindustries.com/*. Commission staff did not do an on-site verification of the questionnaire response of any producer.

[3] ***.

[4] ***.

[5] The unrounded decrease was $1.39, from $7.69 in interim 2001 to $6.30 in interim 2002.

[6] ***.

Table VI-1
Results of operations of U.S. producers in the production of UAN, calendar years 1999-2001, January-September 2001, and January-September 2002[1]

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity (*short tons, 32-percent nitrogen content basis*)				
Net sales:					
Commercial sales	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers[2]	***	***	***	***	***
Total net sales	9,325,150	9,343,692	7,763,451	5,705,936	6,607,549
	Value (*1,000 dollars*)				
Net sales:					
Commercial sales	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers[2]	***	***	***	***	***
Total net sales	627,060	820,403	850,600	678,545	530,923
Cost of goods sold	672,873	776,776	869,552	685,429	535,618
Gross profit or (loss)	(45,813)	43,627	(18,952)	(6,884)	(4,695)
SG&A expenses	59,161	54,983	50,706	37,009	36,954
Operating income or (loss)	(104,974)	(11,356)	(69,658)	(43,893)	(41,649)
Interest expense	***	***	***	***	***
Other expense	***	***	***	***	***
Other income items	***	***	***	***	***
Net income or (loss)	(148,690)	(61,962)	(131,228)	(87,562)	(86,525)
Depreciation/amortization	78,083	74,671	74,327	60,953	57,965
Cash flow	(70,607)	12,709	(56,901)	(26,609)	(28,560)
	Ratio to net sales (*percent*)				
Cost of goods sold	107.3	94.7	102.2	101.0	100.9
Gross profit or (loss)	(7.3)	5.3	(2.2)	(1.0)	(0.9)
SG&A expenses	9.4	6.7	6.0	5.5	7.0
Operating income or (loss)[3]	(16.7)	(1.4)	(8.2)	(6.5)	(7.8)

See footnotes at end of table.

Table VI-1--*Continued*
Results of operations of U.S. producers in the production of UAN, calendar years 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Number of firms reporting				
Operating losses	7	5	6	5	7
Data	8	8	10	8	8

[1] *** did not provide data for the interim periods.
[2] ***.
[3] ***.

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

Table VI-2
Results of operations (per short ton) of U.S. producers in the production of UAN, calendar years 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Value (*per short ton, 32-percent nitrogen content basis*)				
Net sales	$67	$88	$110	$119	$80
Cost of goods sold:					
Raw material[1]	37	51	63	67	46
Direct labor	4	4	5	4	4
Other factory costs[2]	31	29	45	48	32
Total cost of goods sold	72	83	112	120	81
Gross profit or (loss)	(5)	5	(2)	(1)	(1)
SG&A expenses	6	6	7	6	6
Operating income or (loss)	(11)	(1)	(9)	(8)	(6)

[1] The increases in raw material costs per short ton in 2001 and interim 2001 are due mainly to the increase in the cost of natural gas. Commission staff confirmed with ***, together accounting for over *** percent of the combined net sales value in 2001, directly or through their representative, that raw material inputs were valued at cost. Natural gas purchases, including gains or losses resulting from hedging transactions on natural gas, are included in raw material costs.
[2] The increases in other factory costs per short ton in 2001 and interim 2001 are due, in part, to lower volume. Commission staff reclassified *** from raw material to other factory costs. Commission staff also reclassified *** from raw material to other factory costs. ***.

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

Selected financial data, by firm, are presented in table VI-3. Eight producers reported on their UAN operations for each of the three calendar years covered. Seven of the eight producers experienced increased net sales values in 2000 compared to 1999, while only three producers experienced increased net sales values in 2001 compared to 2000. Seven companies experienced improved operating income (loss) margins in 2000 compared to 1999, and five companies experienced improved operating income (loss) margins in 2001 compared to 1999. All companies reporting data in the interim periods had lower net sales value in interim 2002 compared to interim 2001. Seven of the companies had lower operating income (or higher operating loss) margins in interim 2002 compared to interim 2001.

Table VI-3
Results of operations of U.S. producers in the production of UAN, by firm, calendar years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Farmland Industries filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code on May 31, 2002.[7] Farmland's president and CEO stated "We intend to restructure our fertilizer assets through a sale or strategic alliance, presuming we can identify an appropriate buyer or partner and negotiate a fair price."[8] A February 18, 2003 news release stated that "Farmland Industries . . . and Koch Nitrogen . . . have signed agreements for Koch Nitrogen to purchase nitrogen fertilizer assets from Farmland . . . The domestic agreement includes Farmland plants operating in the United States with substantially all domestic storage facilities . . . Farmland's next step will be to file the agreements with the Bankruptcy Court . . . Farmland will ask the U.S. District Court . . . to approve bid and auction procedures for the assets, set a time to qualify other potential bidders and set a date for the auction . . . Farmland anticipates completing the sale later this spring."[9]

The producers were requested to provide their cost of natural gas purchased throughout the period examined on a contract basis, spot basis, or other basis. Their responses are shown in table VI-4. The purchase costs of natural gas per MMBtu indicate that the highest costs were in the period January-September 2001 followed by the calendar year of 2001, which were also the highest periods for per-short-ton net sales and cost of goods sold.[10] The least expensive period for the purchase cost of natural gas was 1999, which was also the lowest period for the per-short-ton net sales value and cost of goods sold.

***, accounting for over *** percent of the reported net sales value in 2001, stated that they use hedging transactions to smooth out their natural gas costs, thereby netting the hedging gains and losses into cost of goods sold. The effects of the gain or loss on the hedging transactions are shown in table VI-5. ***.

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[7] Notice on Farmland's website, *http://www.farmland.com/restructure/index.html*, retrieved December 18, 2002.

[8] News release on Farmland's website, *http://www.farmland.com/restructure/news_20020903.html*, dated September 3, 2002, retrieved December 18, 2002.

[9] News release on Farmland's website, *http://www.farmland.com/restructure/news_20030218.html*, retrieved March 5, 2003.

[10] The purchase values presented in table VI-4 include gains or losses resulting from hedging transactions on natural gas.

Table VI-4
Natural gas purchases of U.S. producers in the production of UAN, by firm, calendar years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Table VI-5
Natural gas purchases and effects of hedging of U.S. producers in the production of UAN, by firm, calendar years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Respondents stated that "in 2000 Mississippi Chemical reported ***, but in December 2000 alone it realized income of over $16 million from sales of natural gas futures contracts."[11] The respondents then indicated that the adjustment for the gain on natural gas futures contracts made by Mississippi Chemical to its cost of goods sold for UAN was understated.[12] However, the sales of natural gas futures contracts apply to the total natural gas hedged by Mississippi Chemical, which hedged 35.5 million MMBtus of natural gas in its fiscal year ended June 30, 2000 and 35.2 million MMBtus in its fiscal year ended June 30, 2001.[13] Considering that the natural gas purchased for UAN is approximately *** percent of its total hedged natural gas, Mississippi Chemical's offset of its natural gas cost for the gain on natural gas futures contracts to its UAN operations appears reasonable.

U.S. producers' responses to a question on their sales of natural gas (or natural gas purchase options) are presented in appendix F.

The variance analysis, as shown in table VI-6, indicates that the reduction in the operating loss from 1999 to 2001 and from 1999 to 2000 was caused by an increase in average net sales value per short ton, partially offset by increases in costs per short ton. The increase in the operating loss from 2000 to 2001 is due to an increase in costs per short ton exceeding the increase in average net sales value per short ton. Between January-September 2001 and January-September 2002 the reduction in costs was offset by a reduction in net sales, resulting in very little difference in the operating loss.

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

The responding firms' aggregate data on capital expenditures, research and development (R&D) expenses, and the value of their property, plant, and equipment are shown in table VI-7 and capital expenditures, by firm, are presented in table VI-8. Capital expenditures decreased in 2000 compared to 1999 and also decreased in 2001 compared to 2000. Capital expenditures increased in interim 2002 compared to interim 2001. The producers either reported that they had zero research and development expenses or did not respond to the question.

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[11] White & Case, posthearing brief, pp. 11-12.

[12] *Ibid*, p. 12.

[13] Mississippi Chemical's SEC Form 10-K for the fiscal year ended June 30, 2001, p. 58 of 91, retrieved February 27, 2003 from the SEC website, *www.sec.gov*.

Table VI-6
Variance analysis on results of operations of U.S. producers in the production of UAN, calendar years 1999-2001, January-September 2001. and January-September 2002

Item	Calendar years			January-September
	1999-2001	1999-2000	2000-2001	2001-2002
	Value (*1,000 dollars*)			
Net sales:				
Price variance	328,555	192,096	168,947	(254,841)
Volume variance	(105,015)	1,247	(138,750)	107,219
Total net sales variance	223,540	193,343	30,197	(147,622)
Cost of goods sold:				
Cost variance	(309,366)	(102,565)	(224,147)	258,118
Volume variance	112,687	(1,338)	131,371	(108,307)
Total cost of goods variance	(196,679)	(103,903)	(92,776)	149,811
Gross profit variance	26,861	89,440	(62,579)	2,189
SG&A expenses:				
Expense variance	(1,453)	4,296	(5,022)	5,903
Volume variance	9,908	(118)	9,299	(5,848)
Total SG&A variance	8,455	4,178	4,277	55
Operating income variance	35,316	93,618	(58,302)	2,244
Summarized as:				
Price variance	328,555	192,096	168,947	(254,841)
Net cost/expense variance	(310,819)	(98,269)	(229,169)	264,021
Net volume variance	17,580	(209)	1,921	(6,936)

Note.--Unfavorable variances are shown in parenthesis; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.

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

Table VI-7
Value of assets, capital expenditures, and research and development expenses of U.S. producers of UAN, calendar years 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Value (*1,000 dollars*)				
Capital expenditures[1]	22,988	19,355	10,322	6,842	***
R&D expenses[2]	0	0	0	0	0
Fixed assets:[3]					
Original cost	1,232,490	1,241,794	1,264,109	1,123,478	1,148,228
Book value	709,218	667,743	626,371	547,423	582,296

[1] All companies reported capital expenditures. *** did not provide capital expenditures for the interim periods. The increase in capital expenditures in the period January-September 2002 is the result of the acquisition of the ***.

[2] *** reported "0" for R&D expenses.

[3] All companies provided usable data for fixed assets, except ***. *** did not provide fixed assets for the interim periods.

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

Table VI-8
Capital expenditures of U.S. producers relating to the production of UAN, by firm, calendar years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of UAN from Belarus, Russia, or Ukraine on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix G.

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN BELARUS

The total number of firms producing UAN in Belarus is unknown; however, one firm, PA Azot Grodno (Grodno), accounted for the bulk of Belarus' production and all of its exports to the United States in the period examined. Grodno has not responded to the Commission's questionnaire for these final phase investigations, but its response to the Commission's preliminary phase questionnaire is summarized in table VII-1 and lacks only the data for the January-September periods. The data show constant capacity at less than *** percent of that in the United States and *** increasing production from 1999 to 2001 with a corresponding rise in capacity utilization ***. Belarus' home market accounted for *** of Grodno's shipments in this period; however, the home market's share of total shipments declined as the share of exports to the United States increased from ***. For 2002 and 2003, capacity is projected ***, while production is projected to ***. Home market sales are projected to account for *** of shipments. Export markets other than the United States include ***. Belarus' largest customer in the United States is ***.

Table VII-1
UAN: Belarus' production capacity, production, shipments, and inventories, 1999-2001, January-September 2001, January-September 2002, and projections for 2002 and 2003

* * * * * * *

THE RUSSIAN INDUSTRY

The total number of firms producing UAN in Russia is also unknown; however, two firms, JSC Nevinnomysskij Azot (Nevinka) and ZAO Novolon (Novolon), accounted for the bulk of its production and all, or nearly all, of its exports to the United States in the period examined.[1] Data for Nevinka and Novolon are summarized in table VII-2. The data show increases in both capacity and production in 1999-2001, followed by *** declines in capacity and production in January-September 2002 compared to January-September 2001. The *** of these producers' production was shipped to foreign markets, *** the United States, with additional markets in ***. After *** percent of these producers' total UAN shipments in 1999 to *** percent in 2000 and *** percent in 2001, shipments to the United States *** percent in January-September 2002. *** accounted for most of these producers' U.S. sales; home-market sales ***. For 2002 and 2003 these firms project *** in capacity and production, but *** to their domestic market.

[1] At least 1 other UAN producer is known to exist in Russia, JSC Kuybyshevazot; however, this firm did not respond to the Commission's questionnaire. Petitioners indicate that JSC Kuybyshevazot's production capacity for UAN is *** metric tons per year, with UAN production of *** tons in 1999 and *** tons in 2000 (petitioners' posthearing brief, answers to Commission questions, p. 30).

Table VII-2
UAN: Russia's production capacity, production, shipments, and inventories, 1999-2001, January-September 2001, January-September 2002, and projections for 2002 and 2003

* * * * * * *

THE UKRAINIAN INDUSTRY

The Ukrainian industry is relatively unknown. At least two firms, JSC Stirol and JSC Azot Cherkassy, are believed to produce UAN in Ukraine, but neither firm has responded to the Commission's questionnaire, nor has the Commission received any information from the Ukrainian Embassy regarding the country's UAN industry. The petitioners provided information indicating that the above-named firms have a combined UAN capacity of about *** short tons per year. Petitioners indicate that in 2001 Ukraine exported *** metric tons of nitrogen in the form of UAN, or *** metric tons on a 32-percent UAN basis; apparent domestic demand was *** metric tons on a 32-percent UAN basis.[2]

REMEDIES IN THIRD-COUNTRY MARKETS

In September 2000 the European Union (EU) imposed antidumping duties on UAN from Algeria, Belarus, Lithuania, Russia, and Ukraine.[3] The margins and duties assessed by the EU are shown below:

Country/firm	Calculated dumping margin (*percent*)	Actual margin used (*percent*)	Duty assessed (*Euros/metric ton*)
Algeria:			
Fertalge Industries...	9.7	9.7	6.88
Belarus.....	55.0	27.5	17.86
Lithuania:			
Achema.....	5.8	5.8	3.98
Russia:			
Nevinka.....	28.5	27.4	17.80
All other firms.....	41.0	32.0	20.11
Ukraine.....	50.4	45.7	26.17

U.S. INVENTORIES OF IMPORTED PRODUCT AND IMPORTERS' IMPORTS AFTER SEPTEMBER 30, 2002

There are too many inconsistencies in U.S. importers' data for reliable end-of-period inventory analysis. Based on the summarized data (table C-1, appendix C), end-of-period inventories of UAN

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[2] Petitioners' posthearing brief, answers to Commission questions, pp. 40-41.

[3] *See* EU Council Regulation (EC) 1995/2000 of September 18, 2000, O.J. L238/15, September 22, 2000. The EU also imposed definitive antidumping duties on urea from Russia (May 2001) and Belarus, Bulgaria, Croatia, Estonia, Libya, Lithuania, Romania, and Ukraine (January 2002), and definitive antidumping duties on ammonium nitrate from Russia (March 1998) and Poland and Ukraine (January 2001).

from the subject countries together appear to have risen sharply from 1999 to 2001 but then appear to have dropped to zero levels by January-September 2002. (The negative levels shown in the table result from the compilation of inconsistent data.) The overall trend is consistent with quantities of UAN imported from these countries. But most importers' inventory data do not rationalize with other reported data, and as a consequence only the most tentative conclusions can be reached in regard to the reported figures. None of the importers responding to the Commission's questionnaires have imported or arranged for the importation of UAN from the subject countries after September 30, 2002.

APPENDIX A

FEDERAL REGISTER NOTICES

should attend a prehearing conference to be held at 9:30 a.m. on February 27, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is February 26, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 11, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 11, 2003. On March 26, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 28, 2003, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

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

By order of the Commission.

Issued: October 17, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–26879 Filed 10–22–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1006, 1008, and 1009 (Final)]

Urea Ammonium Nitrate Solutions From Belarus, Russia, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–1006, 1008, and 1009 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Belarus, Russia, and Ukraine of urea ammonium nitrate solutions, provided for in subheading 3102.80.00 of the Harmonized Tariff Schedule of the United States.[1]

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of urea ammonium nitrate solutions from Belarus, Russia, and Ukraine are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). These investigations were requested in a petition filed on April 19, 2002, by the Nitrogen Solutions Fair Trade Committee, an ad hoc coalition of U.S. producers consisting of CF Industries, Inc., Long Grove, IL; Mississippi Chemical Corp., Yazoo City, MS; and Terra Industries, Inc., Sioux City, IA.

Participation in the Investigations and Public Service List

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

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors."

preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 5, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on December 18, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 11, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. If unable to allocate amongst themselves respective times of testimony within the maximum allowable, all parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference that is scheduled for this purpose at 9:30 a.m. on December 16, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is December 12, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 27, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 27, 2002. On January 13, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 15, 2003, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

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

By order of the Commission.

Issued: October 17, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–26880 Filed 10–22–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: October 29, 2002 at 10 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agenda for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. TA–421–1 (Remedy) (Pedestal Actuators from China)—briefing and vote. (The Commission is currently scheduled to transmit its views and remedy proposals to the President and U.S. Trade Representative on November 7, 2002.)
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 18, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–27089 Filed 10–21–02; 11:03 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Steven Tyler Everett, M.D.; Revocation of Registration

On May 28, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Steven Tyler Everett, M.D. (Dr. Everett) of Port St. Lucie, Florida, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BE4443064 under 21 U.S.C. 824(a), and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Everett is not currently authorized to practice medicine or handle controlled substances in Florida, the State in which he practices. The order also notified Dr. Everett that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Everett at his registered location in Port St. Lucie, Florida. On June 17, 2002, DEA received an undated signed receipt indicating that the Order to Show Cause was received on his behalf. DEA has not received a request for hearing or any other reply from Dr. Everett or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Everett is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Everett currently possesses DEA Certificate of Registration BE4443064

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–29438 Filed 11–19–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1006, 1008, and 1009 (Final)]

Urea Ammonium Nitrate Solutions From Belarus, Russia, and Ukraine

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: November 13, 2002.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: Effective October 3, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigations (**Federal Register** of October 23, 2002, p. 65143). Subsequently, the Department of Commerce extended the date for its final determination in the investigations from December 17, 2002, to February 18, 2003 (**Federal Register** of November 7, 2002, p. 67823). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule. The Commission's new schedule for these investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than February 13, 2003; the prehearing conference, if necessary, will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 18, 2003; the prehearing staff report will be placed in the nonpublic record on February 6, 2003; the deadline for filing prehearing briefs is February 13, 2003; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 20, 2003; the deadline for filing posthearing briefs is February 27, 2003; the Commission will make its final release of information on March 17, 2003; and final party comments are due on March 19, 2003. For further information concerning these investigations see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

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

Issued: November 14, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–29436 Filed 11–19–02; 8:45 am]

BILLING CODE 7020–02–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2002–1 CARP DTRA3]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for notices of intent to participate and written comments on scheduling.

SUMMARY: The Copyright Office of the Library of Congress is requesting written comments and proposals for the scheduling of Copyright Arbitration Royalty Panel (CARP) proceedings to adjust royalty rates and terms under provisions of the Copyright Act governing ephemeral recordings and digital transmissions of performances of sound recordings, as well as notices of intent to participate in the CARP to set rates and terms under the statutory license for eligible nonsubscription services to make certain digital audio transmissions of sound recordings for the 2003–2004 period.

DATES: Notices of intent to participate are due on or before December 23, 2002. Comments and proposals for the scheduling of the CARP proceedings are due on or before December 2, 2002.

ADDRESSES: An original and five copies of notices of intent to participate, and written comments and proposals on scheduling, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Section 112 and section 114 of the Copyright Act create statutory licenses for eligible nonsubscription services to make certain digital audio transmissions of sound recordings. The Library of Congress recently conducted a CARP proceeding which produced the royalty rates and terms for these licenses applicable to eligible nonsubscription services for the period from October 28, 1998, to December 31, 2002. *See* 67 FR 45239 (July 8, 2002). On January 30, 2002, the Library published a notice initiating a six-month voluntary negotiation period to adjust the rates and terms for the 2003–2004 period. 67 FR 4472 (January 30, 2002). No settlements were reached and the Library received a petition to initiate a CARP proceeding. Consequently, the Library is directing interested parties that wish to participate in the CARP proceeding to submit their notices of intent to participate on or before December 23, 2002. Parties should be mindful of this deadline as failure to submit a timely notice may preclude their participation in the proceeding.

The Library must also schedule this CARP proceeding. However, before a schedule can be determined, other proceedings under the section 112 and 114 licenses must be considered. Currently, there are three CARP proceedings for sections 112 and 114 that the Library must schedule in the upcoming months: (1) A proceeding to adjust the terms and rates for preexisting subscription services and to establish rates and terms for preexisting satellite digital audio services; (2) a proceeding to establish rates and terms for new subscription services; and (3) a proceeding to adjust rates and terms for nonsubscription services. Adding to the complications associated with scheduling three proceedings under the

a new shipper review on January 31, 2003.

Rescission of New Shipper Review

The Department's regulations at 19 CFR 351.214(f)(1) provide that the Department will rescind a new shipper review if the party that requested the review withdraws its request for review within 60 days of the date of publication of the notice of initiation of the requested review. La Pointe & Roy withdrew its request within the 60-day period. Accordingly, we are rescinding this review.

Notification

Bonding is no longer permitted to fulfill security requirements for shipments of certain softwood lumber products from Canada produced and exported by La Pointe & Roy, entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This notice is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: February 19, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–4583 Filed 2–26–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-822–805]

Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Belarus

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

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: February 27, 2003.

FOR FURTHER INFORMATION CONTACT: Tom Martin or Tom Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3936, and (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that urea ammonium nitrate solutions (UANS) from Belarus are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

Case History

On October 3, 2002, the Department of Commerce (the Department) published the preliminary determination of sales at LTFV in the antidumping duty investigation of UANS from Belarus. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From Belarus*, 67 FR 62015 (October 3, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

On November 7, 2002, the Department published a postponement of the final determination of sales at LTFV in the antidumping duty investigation of UANS from Belarus. *See Postponement of the Final Determinations in the Less-Than-Fair-Value Investigations of Urea Ammonium Nitrate Solutions From Belarus, the Russian Federation, and Ukraine*, 67 FR 67823 (November 7, 2002).

During November 2002, the Department conducted a verification of Grodno Production Republican Enterprise's (Grodno) sales and factors of production (FOP) information. *See* Memorandum from Tom Martin, Import Compliance Specialist, through Tom Futtner, Program Manager, to The File, "Verification of Sales and Factors of Production Information Reported by Grodno Production Republican Enterprise," dated December 20, 2002 (Verification Report). Both the petitioner and Grodno filed surrogate value information and data on November 26, 2002.[1]

On November 1, 2002, the petitioner requested a hearing pursuant to 19 CFR 351.301(e). However, no hearing was held in this investigation because the petitioner withdrew its request for a hearing.

In a memorandum filed on December 23, 2002, we altered the time limit for submitting case briefs pursuant to 351.309(c)(1)(i) of the Department's regulations. We received a case brief from the petitioner on January 7, 2003. On January 14, 2003, the respondent, through the Embassy of the Republic of Belarus, requested, and the Department granted, an extension for Grodno to submit comments. The respondent provided comments on January 17, 2003.

Scope of the Investigation

For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 2001, through March 31, 2002.

Analysis of Comments Received

All issues raised in the comments by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Bernard T. Carreau, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from Belarus C October 1, 2001, through March 31, 2002," dated concurrently with this notice (*Decision Memorandum*), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and

[1] The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee. Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

electronic version of the *Decision Memorandum* are identical in content.

Non-Market Economy

The Department has treated Belarus as a nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Belarus*, 66 FR 33528 (June 22, 2001). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. Therefore, pursuant to section 771(18)(C)(i) of the Act, the Department has continued to treat Belarus as an NME country for the purposes of this investigation.

Separate Rates

In our Preliminary Determination, we found that the only responding company, Grodno, met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the preliminary determination which would warrant reconsideration of our separates rates determination with respect to this company. For a complete discussion of the Department's determination that the respondent is entitled to a separate rate, see the *Preliminary Determination*. We have also addressed an allegation made by the petitioner in the *Decision Memorandum* at Comment 4.

The Belarus-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters or producers located in the NME country comprise a single exporter under common government control, "the NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

In the *Preliminary Determination*, Grodno qualified for a separate rate. Furthermore, information on the record of this investigation indicates that Grodno accounted for all imports of subject merchandise during the POI. Since Grodno is the only known Belarusian exporter of UANS to the United States during the POI, we have calculated a Belarus-wide rate for this investigation based on the weighted-average margin determined for Grodno.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's FOP, valued in a comparable market economy that is a significant producer of comparable merchandise. For purposes of the final determination, we continue to find that South Africa remains the appropriate surrogate country for Belarus. We received comments from the respondent pertaining to our selection of South Africa, which are discussed in the accompanying *Decision Memorandum* at Comment 1.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the Preliminary Determination as a result of verification, see the *Changes Since the Preliminary Determination* section below.

Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made adjustments to the calculation methodologies. We are valuing the river water FOP and the steam FOPs separately from surrogate overhead value, and we are applying truck freight rather than rail freight to three FOPs. These adjustments are discussed in detail in the (1) Decision Memorandum, (2) Memorandum from the Team to the File, "Additional Surrogate Country Values Used for the Final Determination of the Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from Belarus," dated February 18, 2003, and (3) Memorandum from the Team to the File, "Calculation Memorandum for the Final Determination," dated February 18, 2003.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the U.S. Customs Service (Customs) to continue suspension of liquidation of entries of subject merchandise from Belarus that are entered, or withdrawn from warehouse, for consumption on or after October 3, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

Final Determination of Investigation

We determine that the following weighted-average percentage margins exist for the period October 1, 2001, through March 31, 2002:

Manufacturer/exporter	Weighted-Average Margin (percent)
Grodno Production Republican Enterprise	226.82
Belarus-Wide Rate	226.82

The Belarus-wide rate applies to all entries of the subject merchandise except for entries from Grodno.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the U.S. International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 19, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix--Issues in Decision Memorandum

1. Whether Lithuania Should Be Used as a Surrogate Country
2. Whether Catalysts Should Be Valued Separately
3. Whether Water and Water-based Inputs (Steam and Raw Condensate) Should Be Valued Separately
4. Whether Grodno Should Be Issued a Separate Rate

[FR Doc. 03–4648 Filed 2–26–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823–814]

Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine

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

EFFECTIVE DATE: February 27, 2003.

FOR FURTHER INFORMATION CONTACT: Crystal Scherr Crittenden at (202) 482–0989, or Tom Futtner at (202) 482–3814, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that urea ammonium nitrate solutions (UANS) from Ukraine are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On October 3, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine*, 67 FR 62013 (October 3, 2002) (*Preliminary Determination*). *See also Notice of Initiation of Antidumping Duty Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. On November 1, 2002, the petitioner[1] requested a hearing pursuant to 19 CFR 351.301(e). However, no hearing was held in this investigation because the petitioner withdrew its request for a hearing. On November 27, 2002, the Department postponed the final determination for this investigation in accordance with 19 CFR 351.210(b). *See Postponement of the Final Determinations in the Less-Than-Fair-Value Investigations of Urea Ammonium Nitrate Solutions From Belarus, the Russian Federation, and Ukraine*, 67 FR 67823 (November 7, 2002). On December 23, 2002, the Department issued the schedule for interested parties to comment on the preliminary determination. *See* Memo to the File from Paige Rivas, Thomas Martin and Crystal Crittenden dated December 23, 2002. No case or rebuttal briefs were submitted.

Scope of Investigation

For purposes of these investigations, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 2001, through March 31, 2002.

[1] The petitioner is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

Nonmarket Economy Country Status

The Department has treated Ukraine as an nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Solid Agricultural Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001). This NME designation remains in effect until it is revoked by the Department. *See* section 771(1)(C) of the Act. No party has sought revocation of the NME status in this investigation.[2] Therefore, in accordance with section 771(1)(C) of the Act, we will continue to treat Ukraine as an NME country.

Ukraine-Wide Rate

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. *See Notice of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). In the *Preliminary Determination*, we found that the mandatory respondents, JSC Stirol (Stirol) and JSC Azot Cherkassy (Cherkassy), did not demonstrate eligibility for a separate rate. Accordingly, we preliminarily determined that Stirol and Cherkassy, in addition to all other exporters, are part of the NME-entity and subject to the Ukraine-wide rate.

We received no comments on this issue. Therefore, in our final results we continue to find that Stirol and Cherkassy, in addition to all other exporters, are part of the NME entity and therefore subject to the Ukraine-wide rate.

Use of Facts Available

In the *Preliminary Determination*, the Department found that the respondents did not cooperate to the best of their ability and applied the total adverse facts available rate of 193.58 percent, the corroborated initiation rate, as the "Ukraine-wide" rate. *See Preliminary Determination. See also Initiation Notice.* No interested party objected to the use of adverse facts available, nor to

[2] We note that the Department received a request for revocation of Ukraine's NME status but determined to defer its decision on this issue. *See Notice to Defer a Decision Regarding Ukraine's Non-Market Economy Status: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 51536 (August 8, 2002). Information on this separate proceeding can also be found at Import Administration's website, at http://ia.ita.doc.gov/

the Department's choice of facts available. For this final determination, we are continuing to apply total adverse facts available for the "Ukraine-wide" rate.

Changes Since the Preliminary Determination

The Department updated the 2000 income data for expected wages of selected NME countries initially revised in September 2002. In the *Preliminary Determination*, the Department calculated the "Ukraine-wide" rate using $0.78 per hour, the 2000 expected wage for Ukraine revised in September 2002, as the surrogate value for Ukrainian labor. *See* Total Facts Available Corroboration Memorandum, dated September 26, 2002. For the final determination, we applied $0.76 per hour, the 2000 expected wage for Ukraine corrected in February 2003, as the surrogate value for Ukrainian labor. *See* Memorandum from Crystal Crittenden, Import Compliance Specialist, Through Tom Futtner, Senior Program Manager, to The File, "Changes Since the Preliminary Determination Calculation Memorandum," dated February 18, 2003.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of UANS from Ukraine that are entered, or withdrawn from warehouse, for consumption on or after October 3, 2003 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margin exists for the period October 1, 2001, through March 31, 2002:

Manufacturer/Exporter	Margin (percent)
Ukraine-wide	193.57

U.S. International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 19, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–4649 Filed 2–26–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–829]

Notice of Initiation of Countervailing Duty Investigation: Prestressed Concrete Steel Wire Strand From India

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

ACTION: Initiation of countervailing duty investigation.

EFFECTIVE DATE: February 27, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Alicia Kinsey, or Jim Neel, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 482–2209, (202) 482–4793, or (202) 482–4161, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 351 (2002).

The Petition

On January 31, 2003, the Department received a petition filed in proper form by the following parties: American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp. (collectively, the petitioners). The Department received from the petitioners information supplementing the petition on February 12, 2003.

In accordance with section 702(b)(1) of the Act, the petitioners allege that manufacturers, producers, or exporters of prestressed concrete steel wire strand ("PC strand") in India receive countervailable subsidies within the meaning of section 701 of the Act.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (d) of the Act. The petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department to initiate (*see* the Determination of Industry Support for the Petition section below).

Scope of Investigation

For purposes of this investigation, prestressed concrete steel wire (PC strand) is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under this investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

on the *Initiation and Preliminary Results*. Therefore, the Department is partially revoking the order on CTL plate from Japan with regard to abrasion-resistant steel products (*i.e.*, NK–EH–360 and NK–EH–500) which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d)(2002).

The Department will instruct Customs to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of abrasion-resistant steel products (*i.e.*, NK–EH–360 and NK–EH–500) meeting the specifications indicated above, entered or withdrawn from warehouse, for consumption on or after February 1, 2002, the day after the most recent period for which the Department has issued assessment instructions to Customs (02/01/2001–01/31/2002). The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of abrasion-resistant steel products (*i.e.*, NK–EH–360 and NK–EH–500) meeting the specifications indicated above, entered or withdrawn from warehouse, for consumption on or after February 1, 2002, in accordance with section 778 of the Act.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751(b) and (d) and 782(h) of the Act and sections 351.216(e) and 351.222(g) of the Department's regulations.

Dated: February 21, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–4926 Filed 2–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

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

ACTION: Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: March 3, 2003.

FOR FURTHER INFORMATION CONTACT: Jon Freed, AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–3818.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 2002, the Department of Commerce ("Department") published a notice of opportunity to request an administrative review of the Antidumping Duty Order on Stainless Steel Butt-Weld Pipe Fittings from Taiwan for the period June 1, 2001, through May 31, 2002. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 38640 (June 5, 2002). On June 25, 2002, Markovitz Enterprises, Inc. (Flowline Division), Shaw Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge Stainless, Inc. ("petitioners") requested an antidumping duty administrative review for the following companies: Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen"), Liang Feng Stainless Steel Fitting Co., Ltd. ("Liang Feng"), and Tru-Flow Industrial Co., Ltd. ("Tru-Flow") for the period June 1, 2001, through May 31, 2002. On June 28, 2002, Ta Chen requested an administrative review of its sales to the United States during the period of review ("POR"). On July 24, 2002, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review for the period June 1, 2001, through May 31, 2002. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 67 FR 48435 (July 24, 2002). The preliminary results are currently due no later than March 2, 2003.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), states that the administering authority shall make a preliminary determination within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245 day period to 365 days. Completion of the preliminary results within the 245 day period is impracticable for the following reasons: (1) this review involves certain complex Constructed Export Price ("CEP") adjustments including, but not limited to CEP profit and CEP offset; (2) this review involves complex warehouse expenses in the United States including, but not limited to inland freight and inventory; (3) this review involves complex cost issues with respect to subcontractors' costs of production.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the due date for the preliminary results by 90 days until June 2, 2003, in accordance with section 751 (a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: February 24, 2003.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–4925 Filed 2–28–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–818]

Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From the Russian Federation

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: March 3, 2003.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Tom Futtner, AD/CVD

Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0651, and (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that urea ammonium nitrate solutions (UANS) from the Russian Federation (Russia) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended, (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

Case History

On October 3, 2002, the Department of Commerce (the Department) published the preliminary determination of sales at LTFV in the antidumping duty investigation of UANS from Russia. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation*, 67 FR 62008 (October 3, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

During October 2002, the Department conducted a verification of JSC Nevinnomysskij Azot's (Nevinka's) sales and factors of production (FOP) information. *See* Memorandum from Paige Rivas to the File, "Verification of Sales and Factors of Production Information Reported by Nevinnomysskij Azot," dated December 11, 2002.

On November 1, 2002, the petitioner[1] filed a request for a public hearing in this investigation. However, no hearing was held in this investigation because the petitioner withdrew its request for a hearing.

On November 7, 2002, the Department published a postponement of the final determination of sales at LTFV in the antidumping duty investigation of UANS from Russia. *See Postponement of the Final Determinations in the Less-Than-Fair-Value Investigations of Urea Ammonium Nitrate Solutions From Belarus, the Russian Federation, and Ukraine*, 67 FR 67823 (November 7, 2002).

The petitioner, Nevinka, and JR Simplot filed surrogate value information and data on November 26, 2002.

Parties filed case and rebuttal briefs on January 7 and January 14, 2002, respectively.

Continuation of Investigation

On February 19, 2003, the Department signed a suspension agreement with Nevinka, JSC Kuybyshevazot/Togliatti, and S.P. Novolon/Novomoskovsk. On February 20, 2003, we received a request from the petitioner requesting that we continue the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. If the International Trade Commission (ITC) determines that material injury exists, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections 734b(1) and (c) of the Act, as appropriate and (3) the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms.

Scope of the Investigation

For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (the Customs Service) purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 2001, through March 31, 2002.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Bernard T. Carreau to Faryar Shirzad, "Issues and Decision Memorandum for the Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation," dated concurrently with this notice (*Decision Memorandum*), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Non-Market Economy

The Department has treated Russia as a nonmarket economy (NME) country in previous antidumping investigations (*see e.g., Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation*, 67 FR 35490 (May 20, 2002); *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347, (September 27, 2001); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510 (February 4, 2000)). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. On June 6, 2002, the Department revoked Russia's NME status effective April 1, 2002. Because the POI for this investigation precedes the effective date of the market economy determination, this final determination is based on information contained in the NME questionnaire responses submitted by the respondent. Therefore, pursuant to section 771(18)(C) of the Act, the Department has continued to treat Russia as an NME country for the purposes of this investigation.

Separate Rates

In our *Preliminary Determination*, we found that the only responding company, Nevinka, met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the preliminary determination which would warrant reconsideration of our separate rates determination with respect to this company. For a complete discussion of the Department's determination that Nevinka is entitled to a separate rate, see the *Preliminary Determination*.

The Russia-Wide Rate

In the *Preliminary Determination*, we found that the use of a Russia-wide rate was appropriate for other exporters in

[1] The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee. Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries Inc.

Russia based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Russian government. Because we have received no comments regarding our decision to apply the Russia-wide rate to all entries of the merchandise under investigation except for entries from Nevinka, we have continued to apply this rate in the final determination. We also determined that, pursuant to section 776(a) of the Act, the Department is required to base the margin for the Russia-wide entity on the facts available, because information necessary to calculate this margin is not available on the record. Further, we determined, pursuant to section 776(b) of the Act, that because the Russia-wide entity had failed to act to the best of its ability by not responding to the Department's requests for information, it was appropriate to use an adverse inference in selecting the facts available. The Russia-wide rate applies to all entries of the merchandise under investigation except for entries from Nevinka.

When analyzing the petition for purposes of the initiation, the Department reviewed all of the data upon which the petitioner relied in calculating the estimated dumping margin and determined that the margin in the petition was appropriately calculated and supported by adequate evidence, in accordance with the statutory requirements for initiation. In order to corroborate the petition margin for purposes of using it as adverse facts available, we examined the price and cost information provided in the petition in the context of our preliminary determination. For further details, see Memorandum from Paige Rivas to Holly A. Kuga, "Corroboration of Secondary Information," dated September 26, 2002. We received no comments on this decision and continue to find in this final determination that the rate contained in the petition, as recalculated, has probative value.

Since the preliminary determination, we have revised several surrogate values. In order to take into account these values, we have recalculated the petition margin using, where possible, the revised surrogate values. As a result of this recalculation, the Russia-wide rate is, for the final determination, 239.14 percent. *See* Memorandum from Paige Rivas to the File, "Corroboration of Secondary Information," dated February 21, 2003.

Surrogate Country

For purposes of the final determination, we continue to find that Egypt remains the appropriate surrogate country for Russia. For further discussion and analysis regarding the surrogate country selection for Russia, see the *Preliminary Determination*.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the *Preliminary Determination* as a result of verification, see the *Changes Since the Preliminary Determination* section below.

Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made adjustments to the calculation methodologies used in the *Preliminary Determination*. These adjustments are listed below and discussed in detail in the (1) *Decision Memorandum*, (2) Memorandum from the Team to the File, "Final Factors of Production Valuation Memorandum," dated February 21, 2003, (Factors Memorandum) and (3) Memorandum from the Team to the File, "Calculation Memorandum for the Final Determination," dated February 21, 2003 (Calculation Memorandum).

1. We accepted minor corrections to the FOP database presented at verification. For our final calculations, we used the updated consumption rates submitted by Nevinka at verification. *See* Calculation Memorandum.

2. We calculated a surrogate value for water using the water consumption rate for residential use for Egypt found on the Department's Trade Information Center web page (*http://www.trade.gov/td/tic*), rather than including water in overhead as we did in the preliminary determination. *See* Comment 5 of the *Decision Memorandum*.

3. We calculated a surrogate value for steam energy by converting the energy content for steam, which is measured in gigacalories, to kilowatt hours using the electricity surrogate value calculated in the *Preliminary Determination*, rather than including it in overhead as was done in the *Preliminary Determination*. *See* Comment 5 of the *Decision Memorandum*.

4. In determining U.S. price, we calculated the market economy freight expenses for inland freight for shipments of UANS to the port of export. *See* Calculation Memorandum.

5. We revised the surrogate value for labor and are using the 2000 wage rate for Russia, as corrected on the Department's website in February 2003. *See* Factors Memorandum.

6. We revised our calculation of freight costs for the FOP to include the revised distances identified during verification. *See* Calculation Memorandum.

7. We revised our calculation of the net U.S. price to not include foreign inland freight for observations 7, 8, and 9. *See* Comment 4 of the *Decision Memorandum*.

8. We revised our calculation of the net U.S. price to include billing adjustments, where appropriate. *See* Comment 2 of the *Decision Memorandum*.

9. We revised our calculation of surrogate financial ratios. *See* Comment 6 of the *Decision Memorandum*.

Suspension of Liquidation

On February 19, 2003, the Department signed a suspension agreement with Nevinka. Pursuant to that suspension agreement, we have instructed Customs to terminate the suspension of liquidation of all entries of UANS from Russia. Any cash deposits for entries of UANS from Russia shall be refunded and any bonds shall be released. On February 20, 2003, we received a request from the petitioner that we continue the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following weighted-average dumping margins:

Manufacturer/exporter	Weighted-average margin (percent)
JSC Nevinnomysskij Azot	106.98
Russia-Wide Rate	239.14

The Russia-wide rate applies to all entries of the subject merchandise except for entries from Nevinka.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the Agreement will have no force or effect, and the investigation shall be terminated. *See*

section 734(f)(3)(A) of the Act. If the ITC determines that such injury does exist, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (c)(1) of the Act, and (3) the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. *See* section 734(f)(3)(B) of the Act. This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 21, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comment 1: Whether the Department Should Continue to Value Natural Gas Using the Price from Gas Producers to the Egyptian Government.

Comment 2: Whether the Department Should Continue to Deny Billing Adjustments.

Comment 3: Whether the Department Should Consider Observation 16 to be Within the POI.

Comment 4: Whether the Department Should Reflect in its Final Determination that Nevinka Did Not Pay Foreign Inland Freight Charges for Observations 7 through 9.

Comment 5: Whether the Department Should Continue to Treat Catalysts, Water, and Water-based Inputs as Overhead Items.

Comment 6: Whether the Department Should Calculate its Surrogate Financial Ratios Based Upon One Egyptian Producer.

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DEPARTMENT OF COMMERCE

International Trade Administration

Suspension of Antidumping Duty Investigation: Urea Ammonium Nitrate Solutions From the Russian Federation

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

EFFECTIVE DATE: March 3, 2003.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Thomas F. Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0651, and (202) 482–3814, respectively.

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping duty investigation involving urea ammonium nitrate solutions (UANS) from the Russian Federation (Russia). The basis for this action is a suspension agreement (the Agreement) between the Department, JSC Nevinnomysskij Azot (Nevinka), JSC Kuybyshevazot/Togliatti, and S.P. Novolon/Novomoskovsk, which together account for substantially all imports of UANS from Russia. In the Agreement, the signatory companies have agreed to cease exports of UANS from Russia to the United States until July 1, 2003, and, following that period, to revise prices to ensure that such exports are sold at or above an agreed reference price.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, Russia, and Ukraine are being, or are likely to be, sold in the United States at less than fair value (LTFV). *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine,* 67 FR 35492 (May 20, 2002). On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, Russia and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine,* 67 FR 39439 (June 7, 2002). On October 3, 2002, the Department published its preliminary determination that UANS is being, or is likely to be, sold in the United States at LTFV, as provided in section 733 of the Act (67 FR 62008). *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation,* 67 FR 62008 (October 3, 2002) (*Preliminary Determination*). The Department and Nevinka initialed a proposed agreement suspending this investigation on January 17, 2003, at which time we invited interested parties to provide written comments on the agreement. We received comments from Agrium US, Inc. on February 5, 2003, the Nitrogen Solutions Fair Trade Committee (the petitioner), Nevinka, the Committee For Competitive Fertilizer Markets, and J.R. Simplot, on February 10, 2003. We have taken these comments into account in the final version of the suspension agreement.

The Department, Nevinka, JSC Kuybyshevazot/Togliatti, and S.P. Novolon/Novomoskovsk signed the final suspension agreement on February 19, 2003.

Accordingly the Department has suspended the investigation pursuant to sections 734(b)(1) and (c) of the Act. Pursuant to section 734(g) of the Act, parties have 20 days from the date of publication of this notice to request a continuation of the investigation.

Scope of Investigation

For a complete description of the scope of the investigation, *see Preliminary Determination.*

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. Based on our review of these comments, we have made changes to the originally proposed agreement. In accordance with section 734(c)(1) of the Act, we have determined that extraordinary circumstances are present in this case. *See* Memorandum from Bernard Carreau to Faryar Shirzad, "Existence of Extraordinary Circumstances: Agreement Suspending the Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation."

In accordance with section 734(c)(1)(A) and (B) of the Act, we have determined that the Agreement provides that the subject merchandise will be sold at or above the established reference price and, for each entry of each exporter, the amount by which the estimated normal value exceeds the export price (or constructed export price) will not exceed 15 percent of the

weighted-average amount by which the estimated normal value exceeded the export price (or constructed export price) for all LTFV entries of the producer/exporter examined during the course of the investigation. We have determined that the Agreement will eliminate completely the injurious effect of exports to the United States of the subject merchandise and prevent the suppression or undercutting of price levels of UANS by imports of that merchandise from Russia. *See* Memorandum from Bernard Carreau to Faryar Shirzad, "The Prevention of Price Suppression or Undercutting of Price Levels in the Suspension Agreement On UANS from the Russian Federation."

In addition, in accordance with section 734(c)(1) of the Act, we have determined that the signatory producers/exporters collectively are the producers and exporters in Russia which, during the antidumping duty investigation of the merchandise subject to the Agreement, accounted for substantially all (not less than 85 percent) of the subject merchandise imported into the United States. *See Id.*

Moreover, in accordance with section 734(d) of the Act, we have determined that the agreement is in the public interest, and that the agreement can be monitored effectively. See Memorandum to Faryar Shirzad from Jeffrey May, "Public Interest Assessment of the Agreement Suspending the Antidumping Duty Investigation of UANS from the Russian Federation." We find, therefore, that the criteria for suspension of an investigation pursuant to sections 734(b)(1), (c), and (d) of the Act have been met. The terms and conditions of this agreement, signed February 19, 2003, are set forth in Annex 1 to this notice.

International Trade Commission

In accordance with section 733(f) of the Act, the Department has notified the ITC of the Agreement.

Suspension of Liquidation

Pursuant to section 734(f)(2)(B) of the Act, the suspension of liquidation of all entries of UANS from Russia entered, or withdrawn from warehouse, for consumption, directed in our *Preliminary Determination,* shall continue in effect, subject to subsection 734(h)(3). This suspension of liquidation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published unless a review petition is filed under section 734(h)(1) of the Act.

Notwithstanding the Agreement, the Department will continue the investigation if it receives such a request within 20 days after the date of publication of this notice in the **Federal Register**, in accordance with section 734(g) of the Act.

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

Dated: February 19, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Annex 1—Agreement Suspending the Antidumping Investigation on Urea Ammonium Nitrate Solutions From the Russian Federation

Pursuant to section 734(b)(1) and (c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(b)(1) and (c)) (the Act), and section 208 of part 351 of Title 19 of the Code of Federal Regulations (the Regulations) (2002), the U.S. Department of Commerce (the Department or DOC) and the signatory producers/exporters of Urea Ammonium Nitrate Solutions ("UANS") from the Russian Federation (the Signatories) agree as follows:

I. Definitions

For purposes of this Agreement, the following definitions apply:

A. *Agreement*—For purposes of this Agreement, means this UANS suspension agreement pursuant to sections 734(b)(1) and (c) of the Act.

B. *UANS*—means the urea ammonium nitrate solutions from the Russian Federation and referred to as the "subject merchandise" of the suspended investigation.

C. *Effective Date*—means the date on which this Agreement is signed by the Department and producers/exporters from the Russian Federation representing substantially all of the imports of UANS into the United States.

D. *Date of Sale*—means the date on which price and quantity become firm, *e.g.*, the date the contract is signed or the specification date if the price and quantity become firm on that date.

E. *Party to the Proceeding*—means any interested party, as provided for in section 771(9) of the Act, that actively participated in the antidumping investigation, through written submission of factual information or written argument, or a signatory to this Agreement.

F. *Producer/Exporter*—means: (1) A foreign manufacturer or producer of UANS; (2) a foreign producer or reseller that also exports UANS; and (3) an affiliated person by whom or for whose account UANS is imported into the United States, as defined in section 771(33) of the Act. U.S. imports of UANS produced by any producer in the Russian Federation will be attributed to that producer for purposes of this Agreement, regardless of whether first shipped to the United States by another exporter in the Russian Federation or in another country.

G. *Quarter*—means the relevant quarter calendar year, consistent with the following schedule:

First Quarter—January 1–March 31;
Second Quarter—April 1–June 30;
Third Quarter—July 1–September 30; and
Fourth Quarter—October 1–December 31.

H. *Reference Price*—means the minium F.O.B. Russian port of export price calculated weekly by DOC for sales of UANS for export to the United States, as described in Section VI.

I. *Floor Price*—means the fixed price, as designated in Section VI, below which the Reference Price may not fall.

J. *Current Market Price*—means the U.S. domestic price calculated weekly by DOC as described in Section VI.

K. *Moratorium Period*—means the period defined in section IV of this Agreement.

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

M. *Indirect Exports*—means exports of UANS from Russia to the United States through one or more third countries, whether or not such exports are further processed, provided that the further processing does not result in a substantial transformation or a change in the country of origin, or through arrangements such as swaps, exchanges, or displacements.

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

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

P. *Selling Agent*—means an importer, agent, broker, distributor, or any other entity involved in the transaction between the Signatory and the first unaffiliated U.S. customer.

II. Suspension of Investigation

On the Effective Date, the Department will suspend its antidumping investigation of UANS from the Russian Federation initiated on May 9, 2002 (67 FR 35492, May 20, 2002), in accordance with section 734(b)(1) and (c) of the Act and 19 CFR 351.208 (2002).

The Department determines that extraordinary circumstances are present in this case, that this Agreement will eliminate completely the injurious effect of exports to the United States of UANS from the Russian Federation, and that this Agreement will prevent suppression or undercutting of price levels of domestic products by imports of that merchandise. The Department also determines that this Agreement is in the public interest, and that effective monitoring of the Agreement by the United States is practicable.

The Signatories collectively are the producers and exporters in the Russian Federation that, during the antidumping duty investigation of UANS from the Russian Federation, accounted for substantially all of the subject merchandise exported from the Russian Federation to the United States, as defined in section 351.208(c) of the Regulations. The Department may at any time during the operation of the Agreement require additional producers/exporters to sign the Agreement in order to ensure that not less than substantially all sales of UANS from the Russian Federation to the United States are covered by the Agreement.

III. Contingency

Continued application of the Suspension Agreement shall be dependent upon all of the signatory Russian producers and exporters of UANS reaching an agreement, by March 3, 2003, with the Russian Federation Ministry of Economic Development and Trade MEDT, whereby MEDT and the signatories agree to establish an Export Certification Program and to abide by each of the conditions outlined in the Appendix to the letter dated February 19, 2003, from Maxim Medvedkov, Deputy Minister of MEDT, to Faryar Shirzad, Assistant Secretary of Commerce for Import Administration. A copy of this Agreement ("the Russian Agreement") shall be placed on the record of this Suspension Agreement at that time. Should this contingency not be met by this date, this Suspension Agreement shall lapse and the provisions of section 734(i) of the Act shall apply.

IV. Moratorium Period

As of the Effective Date, each Signatory Producer/Exporter agrees, pursuant to section 734(b)(1) of the Act, to cease exports of UANS to the United States during the period ending on June 30, 2003.

V. Reference Price Period

Each Signatory agrees that, following the Moratorium Period, *i.e.*, beginning July 1, 2003, and in order to satisfy the requirements of section 734(c)(1)(B) of the Act, for each entry of UANS subject to this Agreement, the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 per cent of the weighted average amount by which the estimated normal value exceeded the export price (or the constructed export price) for all less-than-fair-value entries examined during the investigation.

VI. Reference Price Methodology

A. The Reference Price will be based on a Current Market Price, adjusted to reflect an F.O.B. Russian Federation port of export price. In addition, there will be a Floor Price below which the Reference Price shall not fall. The Reference Price will be determined on a weekly basis.

B. The Department will issue the first Reference Price under this Agreement seven days before the termination of the Moratorium Period, utilizing the calculation methodology in section VI.C. below. This first Reference Price will be applicable to the week after the end of the Moratorium Period.

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

1. The Department will calculate an average of the weekly Northeast and Southeast F.O.B. from Green Markets and the Atlantic Coast region of Fertilizer Week price ranges from publicly available information.

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

3. After consultations, the Department and the Signatories to the Agreement, should they agree that the currently used sources for the valuation of the Current Market Price for UANS are no longer appropriate, may agree to select an alternative source. The Department will give parties at least 30 days notice before choosing another source(s) for the purposes of Current Market Price valuation.

4. To express the Current Market Price on an F.O.B. Russian Federation port of export basis, an amount for costs associated with delivering the merchandise from the Russian Federation to the United States shall be deducted from the Current Market Price calculated in section C.2. This amount will be $36 per metric ton. Except when section C.3 applies, the result of this calculation shall be the Reference Price. After consultations, the Department and the signatories to the Agreement, should they agree that the amount for costs associated with delivering the merchandise from the Russian Federation to the United States are no longer appropriate, may revise this amount. The Department will give parties at least 30 days notice prior to any change becoming effective.

D. The Floor Price is the price below which the UANS subject to this Agreement may not be sold. The Floor Price will be $85 F.O.B. Russian Federation port. The Reference Price shall be not less than the Floor Price.

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

VII. Reporting Requirements

A. Each Signatory will supply to the Department 30 days after the end of each Quarter all information that the Department determines is necessary to ensure that the Signatory is in full compliance with the terms of this Agreement. Such information shall include, but not be limited to, complete price information on each sale of UANS directly or indirectly to unaffiliated purchasers in the United States, including information supporting any relevant adjustments to the price under section 772 of the Act.

B. The Department may reject any information submitted under this Agreement that is untimely or any information which it is unable to verify to its satisfaction.

VIII. Disclosure

The Department may make available to representatives of each domestic Party to the Proceeding, under administrative protective orders drawn in accordance with section 777 of the Act and section 351.305 of the Regulations, business proprietary information submitted to the Department for each Quarter, as well as

the results and methodology of its calculation of Reference Prices.

IX. Monitoring

A. The Department will monitor entries of UANS from the Russian Federation to ensure compliance with this Agreement. Among other means, the Department will review publicly-available data and other official import data, including, as appropriate, records maintained by the U.S. Customs Service, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

B. The Department may require, and each Signatory agrees to provide, confirmation, through documentation provided to the Department, that the price received on any sale subject to this Agreement was not less than the established reference price. The Department may require that such documentation be provided, and be subject to verification, within 30 days of the sale.

C. The Department may require, and each Signatory agrees to report, on computer disk in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to this Agreement, either directly or indirectly to unaffiliated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

D. Each Signatory agrees to permit review and on-site inspection of all information deemed necessary by the Department to verify the reported information.

X. Expedited Reviews

A. If a surge, as defined in paragraph B, in U.S. imports of UANS from the Russian Federation occurs, any party to the proceeding may request that the Department conduct a review pursuant to section 751(b) of the Act to determine whether the Suspension Agreement continues to meet the requirements of section 734(c)(1)(A) of the Act. If a surge has occurred, and the Department receives an appropriately documented request, the Department will regard the surge as good cause to conduct a changed circumstances review and shall conduct such a review and complete it within 45 days of initiation.

B. For purposes of section X.A., a surge in U.S. imports of UANS from the Russian Federation shall be considered to have occurred whenever imports of such UANS exceed the following amounts in metric tons. These annual levels will be divided evenly into four quarterly amounts, and a surge will be considered to have occurred if, in any one calendar quarter, the level of imports exceeds one-quarter of those annual amounts.

Moratorium to June 30, 2003	July–Dec. 2003	2004	2005	2006	2007
	60,000 MT	150,000 MT	200,000 MT	250,000 MT	300,000 MT

XI. Anticircumvention

A. The Signatories will not circumvent this Agreement. Together with each sales report provided pursuant to section VII.A, each Signatory will certify to the Department in writing that the sales reported therein include all sales by that signatory directly or indirectly to unaffiliated purchasers in the United States or for delivery to the United States, and that the Signatory did not make any other such sales pursuant to any bundling arrangement, on-site processing arrangement, discounts/free goods/financing package, swap, exchange, or other arrangement in circumvention of this Agreement.

B. The signatories to this Agreement will not engage in any of the following activities:

1. Exchange ("swap") subject merchandise for non-subject merchandise to be entered into the United States in place of the subject merchandise, thereby evading the requirements of this Agreement. Swaps include but are not limited to the following different types of swaps:

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

b. Flag Swaps—involve the exchange of indicia of national origin of UANS, without any exchange of ownership.

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

2. Transship subject merchandise to the United States through third countries inconsistent with the terms of this Agreement.

C. To help prevent circumvention of this Agreement, Signatories agree to take the following steps:

1. Establish contracts that incorporate the terms of this Agreement and obligate purchasers, including customers in and outside the United States (i) to only use, resell, or enter into any other arrangements pursuant to terms that prohibit circumvention of this Agreement, (ii) not to engage in any of the activities listed in section XI.B, (iii) to include the same requirement in any subsequent contracts for the sale or transfer of such UANS, (iv) to provide to the Department all requested information, including subsequent arrangements entered into for the sale, transfer, exchange, or loan to the United States of UANS, and (v) to comply with requests for verification. Signatories shall refuse to enter into contracts with parties unwilling to comply with the terms of this Agreement. Signatories must ensure that their customers of any nationality will not engage in activities to circumvent this Agreement.

2. Require any Selling Agents to establish a contract with third parties to ensure that their sales of subject merchandise are consistent with the requirements of this Agreement. These contracts must also require the Selling Agent to maintain documentation demonstrating that sales of subject merchandise are made consistent with this Agreement and authorize the Department to verify the Selling Agent's records.

D. At any time and without prior notice, the Department may conduct verifications of Importers or Selling Agents to determine whether they are selling subject merchandise in accordance with this Agreement.

E. The Department shall investigate any allegations of circumvention brought to its attention.

XII. Consultations

A. The Department and any Signatory may request consultations at any time regarding the implementation, operation (including any changes in the relationship of the reference price to

market prices), and/or enforcement of this Agreement.

B. If the Department requests consultations with any Signatory concerning potential noncompliance with, or Violation of, this Agreement, it may simultaneously request that Signatory to provide the Department with all information relating to the allegation, including all sales information pertaining to covered and non-covered merchandise manufactured or sold by the Signatory. The Signatory will provide the requested information to the Department within 15 days of the Department's request. Any Party to the Proceeding may submit comments on the information submitted by the Signatory within 10 days after the information is received by the Department. The consultations shall be held within 45 days after the Department's request for consultations or for relevant information, unless the Department and the Signatory agree on a later date.

XIII. Termination

Any Signatory may terminate this Agreement at any time upon notice to the Department. Termination shall be effective 90 days after such notice is received by the Department. Upon termination, the Department shall follow the procedures outlined in section 734(i)(1) of the Act.

XIV. Violations

A. In reviewing the operation of this Agreement for the purpose of determining whether this Agreement has been violated or no longer meets the requirements of section 734(d)(1) of the Act, the Department will consider imports of UANS into the United States from all sources, and factors including, but not limited to, the volume of trade, patterns of trade, and whether any reseller's export price is being complied with and is satisfying the conditions under section 734 of the Act.

B. If the Department determines that this Agreement is being or has been violated or no longer meets the requirements of section 734(c) or (d) of the Act, the Department shall take whatever action it deems appropriate under section 734(i) of the Act and the Regulations.

C. In the event that the Department resumes the original investigation, it will conduct the resumed investigation on the basis of the original administrative record and the statutes, regulations, policies, and practices in effect on the Effective Date.

XV. Other Provision

By entering into this Agreement, the Signatories do not admit that any sales of UANS have been made at less than fair value.

XVI. Duration

This Agreement will remain in force until the underlying antidumping proceeding is terminated in accordance with U.S. law, or until it is terminated pursuant to section XIII or XIV of this Agreement.

XVII. Effective Date

The effective date of this Agreement is February 19, 2003.

Signed on the 19th day of February, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Walter J. Spak,

White & Case, Counsel to JSC Nevinnomysskij Azot, Counsel to JSC Kuibyshevazot/Togliatti, Counsel to S.P. Novolon/Novomoskovsk.

[FR Doc. 03–4928 Filed 2–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–007.

Applicant: U.S. Department of Agriculture, Agricultural Research Service, Pacific West Area, 800 Buchanan Street, Albany, CA 94710.

Instrument: Electron Microscope, Model Tecnai G^2 12 TWIN, G^2 Upgrade, and Accessories.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used to study plant, insect and microbial viruses, and bacterial cells. Objectives to be pursued include:

(1) Verification or validation of the structural integrity of purified plant, insect and microbial viruses;

(2) Characterization of the structural properties of viruses *in situ* and *in vitro* and bacterial cells; and

(3) Characterization of the interaction(s) between bacterial cells and insect vector host tissues *in insecta*, and bacterial cells and plant host tissues *in planta*.

Application accepted by Commissioner of Customs: February 7, 2003.

Docket Number: 03–008.

Applicant: The Rockefeller University, 12230 York Avenue, New York, NY 10021.

Instrument: Electron Microscope, Model Tecnai G^2 12 BioTWIN.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used to explore the mechanisms governing development and differentiation in epidermis and hair of mammalian skin and to understand how these processes go awry in human genetic skin diseases.

Application accepted by Commissioner of Customs: February 12, 2003.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–4931 Filed 2–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Texas at Austin; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–050.

Applicant: The University of Texas at Austin, Austin, TX 78712.

Instrument: "Helimak" Custom Magnetized Plasma Turbulence Apparatus.

Manufacturer: Academia Sinica Institute of Plasma Physics, Peoples Republic of China.

APPENDIX B

CALENDAR OF HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Urea Ammonium Nitrate Solutions from Belarus, Russia, and Ukraine
Invs. Nos.:	731-TA-1006, 1008, and 1009 (Final)
Date and Time:	February 20, 2003 - 10:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

Akin Gump Strauss Hauer & Feld LLP
Washington, DC
on behalf of

The Nitrogen Solutions Fair Trade Committee

Glen Buckley, Director, Agribusiness Analysis, CF Industries
Fred Mugica, Director, Supply and Distribution, CF Industries
Joseph A. Ewing, Vice President, Marketing and Distribution, Mississippi Chemical Corp.
Joseph D. Giesler, Vice President, Industrial Sales and Operations, Terra Industries
Daniel W. Klett, Economist, Capital Trade, Inc.

Valerie A. Slater, Esq.–OF COUNSEL
Bernd J. Janzen, Esq.
Anne K. Cusick , Esq.

Law Offices of Joel R. Junker
Seattle, WA
on behalf of

Agrium US Inc.

Richard Downey, Director, Strategic Planning & Business Research, Agrium U.S. Inc.

Joel R. Junker, Esq.–OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Collier Shannon Scott PLLC
Washington, DC
on behalf of

International Raw Materials, Ltd.

W.P. "Tip" O'Neill, Jr., President, International Raw Materials
Patrick J. Magrath, Managing Director, Georgetown Economic Services

Paul C. Rosenthal, Esq.–OF COUNSEL
Jennifer E. McCadney, Esq.

Miller & Chevalier
Washington, DC
on behalf of

J.R. Simplot Company

Dean Tvinnereim, Director, International Sourcing, J.R. Simplot Co.
Robert Willard, President, Willard Agri-Service, Inc.
Kim Coker, President, Ouachita Fertilizer Co.
Brent Hart, Vice President, Transammonia, Inc.

Peter Koenig, Esq.–OF COUNSEL
Mitchell W. Dale, Esq.
Karl W. Abendschein, Esq.

APPENDIX C

SUMMARY DATA

Table C-1
UAN: Summary data concerning the U.S. market, 1999-2001, January-September 2001, and January-September 2002

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	1999	2000	2001	2001	2002	1999-2001	1999-2000	2000-2001	2001-2002
U.S. consumption quantity:									
Amount	10,265,362	11,042,415	9,880,397	7,435,142	7,437,009	-3.8	7.6	-10.5	0.0
Producers' share (1)	93.5	87.0	78.0	75.9	88.4	-15.6	-6.5	-9.0	12.6
Importers' share (1):									
Belarus	0.0	1.3	2.2	2.1	0.7	2.2	1.3	0.9	-1.3
Russia	1.5	4.7	7.7	7.7	4.2	6.3	3.2	3.1	-3.5
Ukraine	1.2	2.8	3.5	4.0	0.4	2.3	1.5	0.8	-3.6
Subtotal	2.7	8.8	13.5	13.7	5.3	10.8	6.1	4.7	-8.4
All other sources	3.8	4.3	8.5	10.5	6.3	4.7	0.5	4.3	-4.1
Total imports	6.5	13.0	22.0	24.1	11.6	15.6	6.5	9.0	-12.6
U.S. consumption value:									
Amount	722,046	990,174	1,079,445	874,892	607,723	49.5	37.1	9.0	-30.5
Producers' share (1)	92.6	87.2	78.7	77.1	87.8	-14.0	-5.4	-8.5	10.6
Importers' share (1):									
Belarus	0.0	1.5	2.1	2.0	0.7	2.1	1.5	0.6	-1.3
Russia	1.2	3.4	5.7	5.5	3.6	4.5	2.2	2.4	-2.0
Ukraine	0.9	2.7	3.3	3.7	0.4	2.3	1.8	0.6	-3.3
Subtotal	2.2	7.6	11.2	11.2	4.6	9.0	5.5	3.5	-6.6
All other sources	5.2	5.2	10.2	11.7	7.6	5.0	-0.0	5.0	-4.1
Total imports	7.4	12.8	21.3	22.9	12.2	14.0	5.4	8.5	-10.6
U.S. imports from:									
Belarus:									
Quantity	0	146,901	221,517	152,557	54,519	(2)	(2)	50.8	-64.3
Value	0	14,894	22,938	17,442	4,381	(2)	(2)	54.0	-74.9
Unit value	(2)	$101.39	$103.55	$114.33	$80.36	(2)	(2)	2.1	-29.7
Ending inventory quantity	0	45,321	6,744	40,504	(7,320)	(2)	(2)	-85.1	(3)
Russia:									
Quantity	150,359	517,118	765,436	570,955	308,948	409.1	243.9	48.0	-45.9
Value	8,827	33,491	61,993	48,311	21,612	602.3	279.4	85.1	-55.3
Unit value	$58.71	$64.77	$80.99	$84.61	$69.95	38.0	10.3	25.1	-17.3
Ending inventory quantity	36,250	33,698	74,907	73,597	25,606	106.6	-7.0	122.3	-65.2
Ukraine:									
Quantity	126,384	303,871	347,254	294,296	27,775	174.8	140.4	14.3	-90.6
Value	6,814	27,138	35,532	32,280	2,197	421.5	298.3	30.9	-93.2
Unit value	$53.91	$89.31	$102.32	$109.68	$79.11	89.8	65.7	14.6	-27.9
Ending inventory quantity	(11,170)	6,185	60,725	50,840	(56,796)	(3)	(3)	881.8	(3)
Subtotal:									
Quantity	276,743	967,890	1,334,207	1,017,809	391,242	382.1	249.7	37.8	-61.6
Value	15,641	75,523	120,464	98,033	28,191	670.2	382.9	59.5	-71.2
Unit value	$56.52	$78.03	$90.29	$96.32	$72.05	59.8	38.1	15.7	-25.2
Ending inventory quantity	25,080	85,204	142,376	164,941	(38,510)	467.7	239.7	67.1	(3)
All other sources:									
Quantity	387,724	469,978	842,264	777,755	471,282	117.2	21.2	79.2	-39.4
Value	37,696	51,571	109,928	102,096	46,171	191.6	36.8	113.2	-54.8
Unit value	$97.22	$109.73	$130.52	$131.27	$97.97	34.2	12.9	18.9	-25.4
Ending inventory quantity	8,374	0	7,518	14,873	7,435	-10.2	-100.0	(2)	-50.0
All sources:									
Quantity	664,468	1,437,868	2,176,472	1,795,564	862,523	227.6	116.4	51.4	-52.0
Value	53,337	127,095	230,392	200,129	74,361	332.0	138.3	81.3	-62.8
Unit value	$80.27	$88.39	$105.86	$111.46	$86.21	31.9	10.1	19.8	-22.6
Ending inventory quantity	33,454	85,204	149,894	179,814	(31,075)	348.1	154.7	75.9	(3)

Table continued on next page.

Table C-1--Continued
UAN: Summary data concerning the U.S. market, 1999-2001, January-September 2001, and January-September 2002

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data			January-September		Period changes			
	1999	2000	2001	2001	2002	1999-2001	1999-2000	2000-2001	Jan.-Sept. 2001-2002
U.S. producers':									
Average capacity quantity	11,192,540	10,801,632	11,075,731	8,142,788	8,134,059	-1.0	-3.5	2.5	-0.1
Production quantity	8,911,431	9,113,601	8,190,836	5,947,022	5,837,345	-8.1	2.3	-10.1	-1.8
Capacity utilization (1)	79.6	84.4	74.0	73.0	71.8	-5.7	4.8	-10.4	-1.3
U.S. shipments:									
Quantity	9,600,894	9,604,547	7,703,925	5,639,578	6,574,486	-19.8	0.0	-19.8	16.6
Value	668,709	863,079	849,053	674,763	533,362	27.0	29.1	-1.6	-21.0
Unit value	$69.65	$89.86	$110.21	$119.65	$81.13	58.2	29.0	22.6	-32.2
Export shipments:									
Quantity	*		*	*	*		*	*	
Value									
Unit value									
Ending inventory quantity	1,553,637	1,037,578	1,381,836	1,142,869	611,394	-11.1	-33.2	33.2	-46.5
Inventories/total shipments (1)	*		*	*	*		*	*	
Production workers	787	695	672	667	621	-14.6	-11.7	-3.2	-6.9
Hours worked (1,000s)	1,651	1,505	1,480	1,114	1,018	-10.4	-8.9	-1.7	-8.6
Wages paid ($1,000s)	42,664	36,390	38,007	27,745	26,816	-10.9	-14.7	4.4	-3.3
Hourly wages	$25.84	$24.18	$25.69	$24.91	$26.33	-0.6	-6.4	6.2	5.7
Productivity (tons/1,000 hours)	6,264	5,953	5,434	5,339	5,732	-13.3	-5.0	-8.7	7.4
Unit labor costs	$4.41	$4.06	$4.73	$4.67	$4.59	7.1	-7.9	16.4	-1.5
Net sales:									
Quantity	9,325,150	9,343,692	7,763,451	5,705,936	6,607,549	-16.7	0.2	-16.9	15.8
Value	627,060	820,403	850,600	678,545	530,923	35.6	30.8	3.7	-21.8
Unit value	$67.24	$87.80	$109.56	$118.92	$80.35	62.9	30.6	24.8	-32.4
Cost of goods sold (COGS)	672,873	776,776	869,552	685,429	535,618	29.2	15.4	11.9	-21.9
Gross profit or (loss)	(45,813)	43,627	(18,952)	(6,884)	(4,695)	58.6	(3)	(3)	31.8
SG&A expenses	59,161	54,983	50,706	37,009	36,954	-14.3	-7.1	-7.8	-0.1
Operating income or (loss)	(104,974)	(11,356)	(69,658)	(43,893)	(41,649)	33.6	89.2	-513.4	5.1
Capital expenditures	22,988	19,355	10,322	6,842	* * *	-55.1	-15.8	-46.7	* * *
Unit COGS	$72.16	$83.13	$112.01	$120.13	$81.06	55.2	15.2	34.7	-32.5
Unit SG&A expenses	$6.34	$5.88	$6.53	$6.49	$5.59	2.9	-7.2	11.0	-13.8
Unit operating income or (loss)	($11.26)	($1.22)	($8.97)	($7.69)	($6.30)	20.3	89.2	-638.3	18.1
COGS/sales (1)	107.3	94.7	102.2	101.0	100.9	-5.1	-12.6	7.5	-0.1
Operating income or (loss)/ sales (1)	(16.7)	(1.4)	(8.2)	(6.5)	(7.8)	8.6	15.4	-6.8	-1.4

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (revised).

Table C-2
UAN: Summary data concerning the U.S. industry (excluding ***), 1999-2001, January-September 2001, and January-September 2002

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
				January-September					Jan.-Sept.
	1999	2000	2001	2001	2002	1999-2001	1999-2000	2000-2001	2001-2002
U.S. producers':									
Average capacity quantity									
Production quantity									
Capacity utilization (1)									
U.S. shipments:									
Quantity									
Value									
Unit value									
Export shipments:									
Quantity									
Value									
Unit value									
Ending inventory quantity									
Inventories/total shipments (1)									
Production workers									
Hours worked (1,000s)		*	*	*	*	*	*	*	
Wages paid ($1,000s)									
Hourly wages									
Productivity (tons/1,000 hours)									
Unit labor costs									
Net sales:									
Quantity									
Value									
Unit value									
Cost of goods sold (COGS)									
Gross profit or (loss)									
SG&A expenses									
Operating income or (loss)									
Capital expenditures									
Unit COGS									
Unit SG&A expenses									
Unit operating income or (loss)									
COGS/sales (1)									
Operating income or (loss)/ sales (1)									

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (revised).

APPENDIX D

THE RELATIONSHIPS AMONG NOMINAL EXCHANGE RATES, REAL EXCHANGE RATES, AND PRODUCER PRICE TRENDS, AND THE IMPACT OF CHANGES IN THEIR VALUES ON PRICES OF EXPORTS AND IMPORTS

An exchange rate is the price of one currency in terms of another currency. Hence, an exchange-rate index is a price index. The exchange rate indices discussed in this report were based on exchange rates expressed in U.S. dollars per unit of the foreign currency (i.e., price of the foreign currency). An exchange-rate index number below 100 indicates that the foreign currency has depreciated (become cheaper) vis-a-vis the U.S. dollar; i.e., it requires fewer U.S. dollars to buy one unit of the foreign currency compared to the number of U.S. dollars required during the base period,[1] which has an index number of 100. On the other hand, an exchange-rate index number above 100 indicates that the foreign currency has appreciated (become more expensive) vis-a-vis the U.S. dollar; i.e., it requires more U.S. dollars to buy one unit of the foreign currency.[2] For instance, depreciation of the Russian ruble tends to make *Russian exports **less** **expensive** in U.S. dollars and Russian imports **more** **expensive** in rubles*. On the other hand, appreciation of the Russian ruble tends to make *Russian exports **more** **expensive** in U.S. dollars* and *Russian imports **less** **expensive** in rubles*.[3]

The producer or wholesale price indices measure inflation or deflation at the producer selling price level in each subject country and in the United States. Adjusting nominal exchange rates by relative inflation or deflation in the subject country vis-a-vis the United States yields a real exchange rate, which accounts for relative changes in prices in the subject country as well as changes in nominal exchange rates.[4] As a result, the *nominal* exchange rate in each period has a counterpart *real* exchange rate for that period. Indices of the two counterpart exchange rates may actually show opposing changes in the value of the currency, with one index representing the *nominal* value of the currency and the other the *real* value of the currency. For instance, the *nominal* exchange rate index may indicate that depreciation of the currency *in nominal terms* had occurred in a particular period but, because of sometimes large differences in inflation/deflation between countries, the counterpart *real* exchange rate index may actually indicate that appreciation of the currency *in real terms* had occurred in that period. In such an instance, changes in the nominal exchange rate would show an opposite (and incorrect) impact on export and import prices than that indicated by changes in the real exchange rate.

In considering real exchange rates it is important to understand the relationship between relative price changes and nominal exchange rates *at a given point in time*. Relatively *more inflation* in the subject country vis-a-vis the United States will ***undercut** nominal depreciation* of the subject country's currency vis-a-vis the United States, but will ***reinforce** nominal appreciation* of the subject country's currency.[5] Relatively *less inflation*, on the other hand, will ***reinforce** nominal depreciation* of the subject

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[1] Depreciation of a currency also indicates that more of that currency is required to buy one U.S. dollar.

[2] Appreciation of a currency also indicates that less of that currency is required to buy one U.S. dollar.

[3] Currency depreciation/appreciation can affect prices of exports and imports, or allow/force the importer or exporter to earn a higher/lower profit with the price level unchanged. Alternatively, some combination of changes in both prices and profits can occur.

[4] The real exchange rate is a better indicator (than the nominal exchange rate) of the impact of exchange rates on export and import prices.

[5] When looking at the impact of relative inflation rates on the nominal exchange rate *over time*, however, relatively more inflation in the subject country will tend *over time* to depreciate its nominal currency value as foreign demand shifts away from its products toward lower-priced products from other countries. The shift in demand away from the subject country's products will reduce demand for its currency and, thereby, put downward

(continued...)

country's currency and ***undercut*** *nominal appreciation* of the subject country's exchange rate.[6] As an example, the first of these relationships is seen with the Russian ruble in these investigations. During January 1999-June 2001, the Russian ruble depreciated on a quarterly basis by 26.8 percent in nominal terms against the U.S. dollar, but higher inflation in Russia compared to that in the United States during this period (126.7 percent inflation versus 6.7 percent inflation) led the Russian ruble to appreciate by 55.5 percent in real terms against the U.S. dollar. (While nominal depreciation of the ruble tended to make Russian exports less expensive in U.S. dollars, the inflation in Russia compared to that in the United States tended to raise the dollar-converted prices of its exports. The net effect, as indicated by the real exchange rate, would be pressure to increase the dollar prices of Russian exports compared to a decrease suggested by the nominal depreciation of the ruble.)

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[5] (...continued)
pressure on the exchange rate (price of the currency).

[6] When looking at the impact of relative inflation rates on the nominal exchange rate *over time*, however, relatively less inflation in the subject country will tend *over time* to appreciate its nominal currency value as foreign demand increases for its products and away from higher-priced products from other countries. The shift in demand toward the subject country's products will increase demand for its currency and, thereby, put upward pressure on the exchange rate (price of the currency).

APPENDIX E

CERTAIN PRICE DATA COMPARISONS

Table E-1a
UAN: U.S. weighted-average net f.o.b. selling price data in the Baltimore, MD, area of *** imported Russian UAN product 1 and domestic and other subject imported UAN product 1, and margins by which *** Russian UAN was priced below/(above) the other UAN, by months, January 2000-September 2002

* * * * * * *

Table E-1b
UAN: U.S. weighted-average net f.o.b. selling price data in the Corpus Christi, TX, area of *** imported Russian UAN product 1 and U.S.-produced UAN product 1, and margins by which *** Russian UAN was priced below/(above) the domestic UAN, by months, January 2000-September 2002

* * * * * * *

Table E-1c
UAN: U.S. weighted-average net f.o.b. selling price data in the San Francisco, CA, area of *** imported Russian UAN product 1 and domestic and other subject imported UAN product 1, and margins by which *** Russian UAN was priced below/(above) the other UAN, by months, January 2000-September 2002

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Table E-2a
UAN: U.S. weighted-average net f.o.b. selling price data in the Baltimore, MD, area of *** imported Ukrainian UAN product 1 and domestic and other subject imported UAN product 1, and margins by which *** Ukrainian UAN was priced *** the other UAN, by months, January 2000-September 2002

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Table E-2b
UAN: U.S. weighted-average net f.o.b. selling price data in the Corpus Christi, TX, area of *** imported Ukrainian UAN product 1 and U.S.-produced UAN product 1, and margins by which *** Ukrainian UAN was priced *** the domestic UAN, by months, January 2000-September 2002

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Table E-2c
UAN: U.S. weighted-average net f.o.b. selling price data in the San Francisco, CA, area of *** imported Ukrainian UAN product 1 and domestic and other subject imported UAN product 1, and margins by which *** Ukrainian UAN was priced *** the other UAN, by months, January 2000-September 2002

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APPENDIX F

NATURAL GAS SALES
BY U.S. PRODUCERS OF UAN

Responses of U.S. producers to the following question:

Have you sold, offered to sell, or initiated any sale negotiations or inquiries for natural gas (or natural gas purchase options) since January 1, 1999?

Responses of the producers are:

* * * * * * *

APPENDIX G

EFFECTS OF SUBJECT IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

Responses of U.S. producers to the following questions:

1. Since January 1, 1999, has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of UAN from Belarus, Russia, or Ukraine?

Responses of the producers are:

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2. Does your firm anticipate any negative impact of imports of UAN from Belarus, Russia, or Ukraine?

Responses of the producers are:

* * * * * * *