

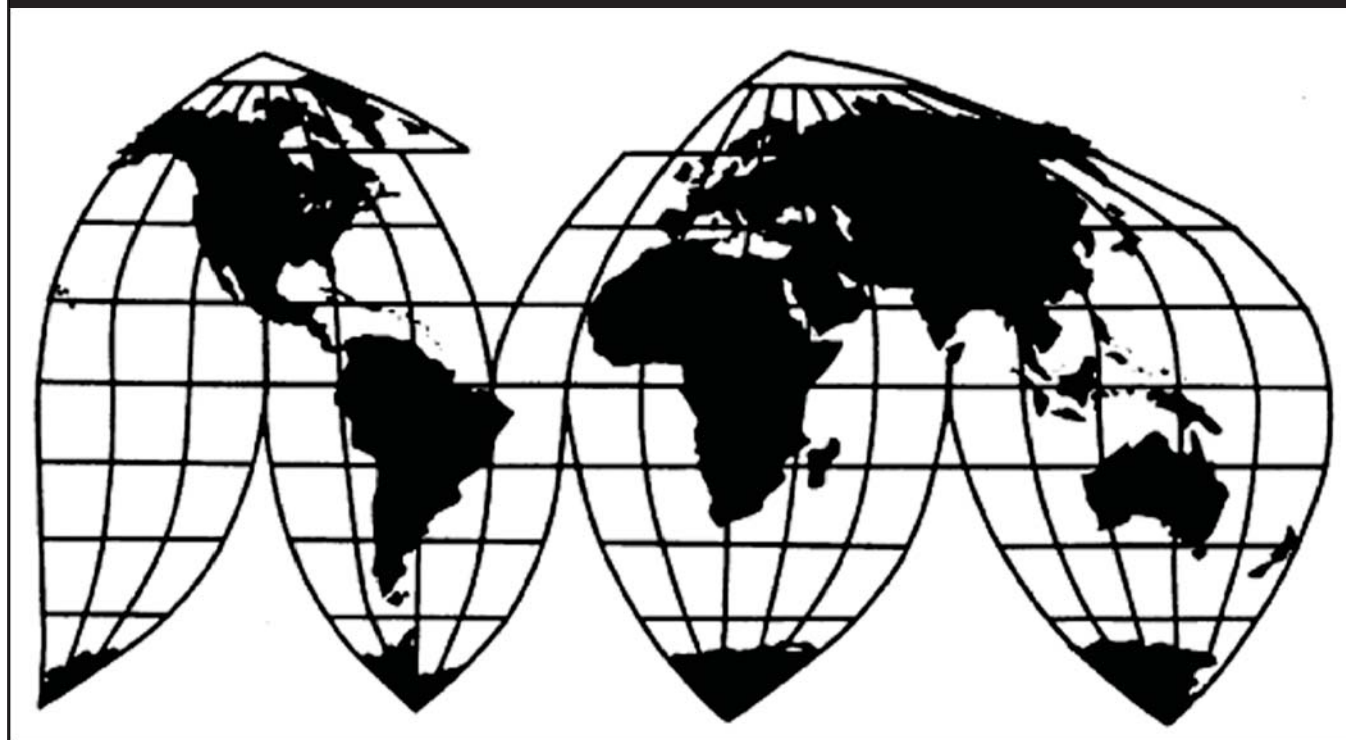
Ammonium Nitrate from Russia

Investigation No. 731-TA-856 (Second Review)

Publication 4249

August 2011

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Staff assigned

Amy Sherman, Investigator
Raymond Cantrell, Industry Analyst
Michael Haldenstein, Attorney
Douglas Corkran, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

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CONTENTS

Determination	Page 1
Views of the Commission	3
 Information obtained in the review	 I-1
Introduction	I-3
The original investigation and subsequent five-year review	I-4
Termination of suspension agreement	I-5
Commerce’s final result of expedited five-year review	I-5
Commerce’s administrative reviews	I-5
Distribution of Continued Dumping and Subsidy Offset Act funds to affected domestic producers	I-5
Related Commission investigations and reviews	I-5
The product	I-6
Scope	I-6
U.S. tariff treatment	I-7
Domestic like product and domestic industry	I-7
Physical characteristics and uses	I-7
Manufacturing process	I-8
Interchangeability and customer and producer perceptions	I-9
Channels of distribution	I-9
Pricing	I-9
The industry in the United States	I-10
U.S. producers	I-10
U.S. producers’ trade, employment, and financial data	I-11
Related party issues	I-11
U.S. imports and apparent U.S. consumption	I-14
U.S. imports	I-14
Ratio of imports to U.S. production	I-14
Apparent U.S. consumption and market shares	I-16
Antidumping actions outside the United States	I-19
The subject industry in Russia	I-19
The global market	I-21
 Appendix	
A. <i>Federal Register</i> notices	A-1
B. Commission’s statement on adequacy	B-1
C. Price data	C-1

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-856 (Second Review)

AMMONIUM NITRATE FROM RUSSIA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on March 1, 2011 (76 FR 11273) and determined on June 6, 2011 that it would conduct an expedited review (76 FR 34749, June 14, 2011).

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

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on ammonium nitrate from Russia is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In August 2000, the Commission determined that an industry in the United States was being materially injured by reason of imports of ammonium nitrate from Russia that were being sold at less than fair value (LTFV).¹ The Department of Commerce (“Commerce”) made a final affirmative dumping determination.² It did not, however, issue an antidumping duty order following the Commission’s final affirmative determination, because Commerce had entered into a suspension agreement with the Ministry of Trade of the Russian Federation. That agreement, which was a condition of the suspension of the investigation, limited exports of ammonium nitrate to the United States from all Russian producers or exporters and required that such exports be sold at or above the agreed reference price.³

In March 2005, the Commission instituted its first review, pursuant to section 751(c) of the Act, to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.⁴ The Commission received three substantive responses to the notice of institution. The Committee for Fair Ammonium Nitrate Trade (COFANT) filed a response on behalf of three domestic producers: Air Products and Chemicals, Inc. (Air Products), El Dorado Chemical Co. (El Dorado), and Terra Industries, Inc. (Terra Industries).⁵ A fourth domestic producer, Agrium US, Inc. (Agrium), also filed a response to the notice of institution, but subsequently reported that it did not intend to participate in the review because it had ceased ammonium nitrate production. Six Russian producers and exporters of the subject

¹ Certain Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 (Aug. 2000) (the original investigation). The citations below to the views in the original investigation are to the confidential version (“Original Determination”). Ammonium nitrate was also the subject of a section 332 investigation, Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade, Inv. No. 332-393, USITC Pub. 3135 (Oct. 1998). The Commission has also conducted an investigation and a subsequent review of ammonium nitrate from Ukraine. See Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894 (Review) USITC Pub. 3924 (June 2007).

² 65 Fed. Reg. 42669 (July 11, 2000).

³ The agreement is set forth in Appendix 1 to Commerce’s original notice of suspension of the investigation. 65 Fed. Reg. 37759 (June 16, 2000).

⁴ 70 Fed. Reg. 16517 (Mar. 31, 2005).

⁵ In the original investigation in 1999-2000, COFANT consisted of six members: Air Products, El Dorado, Mississippi Chemical Corp. (Mississippi Chemical), LaRoche Industries, Inc. (LaRoche), Nitram, Inc. (Nitram), and Wilgro Fertilizer, Inc. (Wilgro). Nitram and Wilgro have since ceased ammonium nitrate operations (Air Products also announced in December 2005 its intention to close fertilizer operations), LaRoche’s ammonium nitrate production was acquired by El Dorado, and Mississippi Chemical was acquired by Terra Industries. At the time of the first review in 2005-2006, COFANT’s membership consisted of Air Products, El Dorado, and Terra Industries. In the current review, COFANT consists of two companies, CF Industries, Inc. (which acquired Terra Industries in 2010) and El Dorado. Confidential Staff Report, INV-JJ-067 (June 30, 2011) (“CR”) at I-13 to I-14; Public Staff Report (“PR”) at I-10.

merchandise (collectively, the “Russian Respondents”)⁶ jointly filed a response. The Commission found that both the domestic interested party group response and the respondent interested party group response were adequate. The Commission therefore determined to conduct a full review.⁷

After conducting a full review in the first five-year review, the Commission determined in March 2006 that termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁸

On March 1, 2011, the Commission instituted this second five-year review to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury.⁹ On March 3, 2011, Commerce received a letter from the Russian Federation dated February 22, 2011, notifying Commerce of its withdrawal from the suspension agreement. In response, Commerce terminated the suspension agreement effective May 2, 2011, and issued an antidumping duty order on ammonium nitrate from Russia.¹⁰ Commerce continued its sunset review on an expedited basis and published the final results of its review on July 7, 2011.¹¹

The Commission received only one response to its notice of institution of this review. On March 31, 2011, the Commission received a substantive response from COFANT on behalf of its two current members, domestic ammonium nitrate producers CF Industries, Inc. (CF Industries) and El Dorado. No respondent interested party submitted a response to the notice of institution.

On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response or other factors warranting a full review, the Commission determined to conduct an expedited review pursuant to section 751(c)(3) of the Act.¹² COFANT filed comments, pursuant to 19 C.F.R. § 207.62(d), arguing that revocation of the antidumping duty order on ammonium nitrate from Russia would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.¹³ No respondent interested party has provided any information or argument to the Commission.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c) of the Act, the Commission defines the “domestic like product” and the “industry.”¹⁴ The Act defines the “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

⁶ The Russian Respondents in the first review were JSC Azot Nevinnomysk Azot, JSC Novomoskovsk, JSC Minudobreniya, JSC Acron, JSC Dorogobuzh, and MCC EuroChem.

⁷ 70 Fed. Reg. 41426 (Apr. 18, 2005).

⁸ Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Review) USITC Pub. 3844 (March 2006) at 3. The citations to the opinion in the first review are to the confidential version (“First Review”).

⁹ 76 Fed. Reg. 11273 (March 1, 2011).

¹⁰ Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order, 76 Fed. Reg. 23569 (April 27, 2011).

¹¹ Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Final Results of the Expedited Review of the Antidumping Duty Order, 76 Fed. Reg. 39847 (July 7, 2011).

¹² See CR/PR at Appendix B (Commission Statement on Adequacy).

¹³ See generally COFANT Final Comments (July 6, 2011) (“Final Comments”).

¹⁴ 19 U.S.C. § 1677(4)(A).

an investigation under this subtitle.”¹⁵ The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews, and consider whether the record indicates any reason to revisit that definition.¹⁶

In this five-year review, Commerce has defined the scope of the antidumping duty order as follows:

solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot.¹⁷

Commerce’s scope does not include liquid ammonium nitrate and specifically excludes industrial or explosive grade ammonium nitrate, which have a bulk density of less than 53 pounds per cubic foot.¹⁸

Subject ammonium nitrate is a dry, solid agricultural fertilizer that contains approximately 34 percent plant-available nitrogen by weight.¹⁹ It is used to fertilize certain row crops (corn and tobacco) and for “no-till” farming (on acreage that is not plowed, such as hay, pasture, turf grasses and orchards).²⁰ The production of ammonium nitrate relies upon natural gas to produce ammonia, which is in turn reacted with nitric acid to produce ammonium nitrate.²¹ Ammonium nitrate is manufactured as a solution that is then used in the production of urea ammonium nitrate (UAN) or concentrated to produce the solid ammonium nitrate product.²²

1. Original Investigation

In the original investigation, the Commission found a single domestic like product that was co-extensive with the subject merchandise (fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot).²³ The Commission considered in the preliminary phase of the investigation whether low density ammonium nitrate, ammonium nitrate with a bulk density less than 53 pounds per cubic foot, should be included in the domestic like product. The Commission found that any similarities between the two types of products were outweighed by the differences,

¹⁵ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁶ See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

¹⁷ See 76 Fed. Reg. 39848 (July 7, 2011).

¹⁸ The scope remains unchanged from the original investigation, with one modification. On March 11, 2004, Commerce ruled that NP 33-3-0 (also referred to as “stabilized ammonium nitrate” or “nitric phosphate”), is included within the scope because the primary component is ammonium nitrate and the product is purchased and used for the same applications as ammonium nitrate. See 70 Fed. Reg. 41376 (July 19, 2005) (March 2004 ruling inadvertently omitted from prior published lists); CR at I-8 n.25, PR at I-6 n.25.

¹⁹ CR at I-9 to I-10, PR at I-7 to I-8.

²⁰ CR at I-10, PR at I-8.

²¹ CR at I-10, PR at I-8.

²² CR at I-10, PR at I-8.

²³ Original Determination at 6.

particularly with respect to physical characteristics and uses, interchangeability, producer and customer perceptions, and distribution channels. It therefore did not expand the like product definition beyond the scope of Commerce's investigation.²⁴ The Commission did not revisit this issue in the final phase of the original investigation and again defined a single domestic like product that was co-extensive with the subject merchandise.²⁵

2. First Five-Year Review

In the first five-year review, no party challenged the Commission's domestic like product definition from the original investigation, and the Commission found that nothing in the record warranted a change in that definition. Accordingly, the Commission continued to define a single domestic like product consisting of all ammonium nitrate that corresponded to the scope of the review.²⁶

3. Current Five-Year Review

The information available in this review regarding the nature of fertilizer grade ammonium nitrate is unchanged from that which was available in the Commission's first five-year review.²⁷ No new information suggests a reason for departing from the Commission's prior definition of the domestic like product, and no party has argued for a different definition. We therefore continue to define the domestic like product as all ammonium nitrate corresponding to Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole 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."²⁸

Section 771(4)(B) of the Act, 19 U.S.C. § 1677(4)(B), 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.²⁹ In its original investigation and in

²⁴ Certain Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Prelim.), USITC Pub. 3232 (Sept. 1999) at 3-7.

²⁵ Certain Ammonium Nitrate From Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 (Aug. 2000).

²⁶ First Review at 5.

²⁷ CR at I-8 to I-9, PR at I-7.

²⁸ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

²⁹ The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (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 producer 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 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d (continued...)

the previous five-year review, the Commission defined the domestic industry as all U.S. producers of the domestic like product. No producer was excluded from the domestic industry.³⁰

The record in this review indicates that the members of COFANT, CF Industries and El Dorado, are the only current domestic producers of the domestic like product.³¹ COFANT notes that CF Industries has held a 50 percent interest in Keytrade AG, ***, since September 2007.³² Thus, under the statute, CF Industries would be a related party if it directly or indirectly controls Keytrade AG.³³

COFANT urges the Commission to define the domestic industry as all domestic producers of ammonium nitrate. It states that, despite the ownership interest, CF Industries does not have a controlling interest in Keytrade AG because CF Industries is not legally or operationally in a position to restrain or direct Keytrade AG.³⁴ Thus, according to COFANT, CF Industries is not a related party within the meaning of the statute. Given COFANT's statement that CF Industries does not control Keytrade AG and the lack of any contrary information, we find that CF Industries is not a related party. We therefore define the domestic industry as all domestic producers of the domestic like product.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard in a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."³⁵ The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo - the revocation or termination of a proceeding and the elimination of

²⁹(...continued)
809 (Fed. Cir. 1993).

The Commission has also concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (Sept 2001) at 8-9.

³⁰ In the original investigation, the Commission examined whether domestic producers LaRoche and El Dorado should be excluded from the domestic industry due to their purchases of subject imports during the period examined. LaRoche had purchased, from various sources, a total of *** short tons of subject merchandise in 1997, *** short tons in 1998, and *** short tons in 1999. El Dorado had purchased *** short tons in 1997, *** short tons in 1998, and *** short tons in 1999. The Commission concluded that the circumstances did not warrant the exclusion of either firm. Original Determination at 7-8.

³¹ CR at I-14, PR at I-10.

³² Response to the Notice of Institution at 29 n.76.

³³ See 19 U.S.C. 1677 § (4)(B)(ii)(I).

³⁴ Response to the Notice of Institution at 29 n.76 (quoting 19 U.S.C. § 1677(4)(b)).

³⁵ 19 U.S.C. § 1675a(a).

its restraining effects on volumes and prices of imports.”³⁶ Thus, the likelihood standard is prospective in nature.³⁷ The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{38 39 40}

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁴¹ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”⁴²

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”⁴³ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is

³⁶ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

³⁷ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

³⁸ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

³⁹ For a complete statement of Chairman Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

⁴⁰ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape From Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

⁴¹ 19 U.S.C. § 1675a(a)(5).

⁴² SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

⁴³ 19 U.S.C. § 1675a(a)(1).

terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁴⁴

No respondent interested parties participated in this expedited review. The record, therefore, contains limited new information with respect to the ammonium nitrate industry in Russia. Moreover, there is limited information regarding the U.S. ammonium nitrate market during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigation and prior review, and on the limited new information in the record for this review.^{45 46}

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁴⁷

1. Original Investigation

In the original investigation, the Commission found that demand for fertilizers was mature. U.S. producers and importers characterized the demand for ammonium nitrate as “steady to falling,” while purchasers characterized it as stable. From 1997 to 1999, apparent U.S. consumption rose only slightly from 2.4 million to 2.6 million short tons.^{48 49} The Commission found that price played an important role in purchasing decisions.⁵⁰

⁴⁴ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the order under review. CR at I- 6. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁴⁵ 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(I) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(I) are applicable only to Commerce. 19 U.S.C. § 1677m(I). See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2001) (“[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

⁴⁶ Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

⁴⁷ 19 U.S.C. § 1675a(a)(4).

⁴⁸ Original Determination at 9-10.

⁴⁹ Original Determination at 11-12 & n.49.

⁵⁰ Original Determination at 11-12.

The Commission found that domestically produced ammonium nitrate and subject imports were relatively substitutable. U.S. producers, purchasers, and importers indicated that domestically produced ammonium nitrate was interchangeable with subject as well as non-subject imports. The Commission also noted that ammonium nitrate was one of several nitrogen-based fertilizers, along with anhydrous ammonia, urea, UAN solutions, ammonium sulfate, calcium ammonium nitrate, and sodium nitrate, but further noted that ammonium nitrate was different from these other fertilizers because of its fast action, good solubility, and low volatility at ambient temperatures.

2. First Five-Year Review

In the first five-year review, the Commission found that demand for ammonium nitrate declined after 2003 and would likely continue to decrease in the reasonably foreseeable future.⁵¹ Between 2000 and 2003, apparent U.S. consumption increased from *** short tons to *** short tons. In 2004, however, it declined *** percent to *** short tons. Apparent U.S. consumption was *** percent lower in interim 2005 (*** short tons) than in interim 2004 (*** short tons).⁵² The Commission noted that this trend of decreasing apparent U.S. consumption since 2003 contrasted with the 9.9 percent increase in the original investigation.⁵³ It also observed that the declining demand was consistent with data regarding ammonium nitrate's decreasing share of the broader nitrogen fertilizer market.⁵⁴

The Commission also found that the U.S. market for ammonium nitrate was supplied by domestic production as well as by subject and nonsubject imports. It noted that both Russian and nonsubject imports to the United States were usually, if not predominantly, arranged and transported by global trading companies. The domestic industry, however, remained the largest supplier of ammonium nitrate to the U.S. market, accounting for *** percent of apparent U.S. consumption in 2004.⁵⁵ The domestic industry had consolidated and restructured since the original investigation, when there were ten U.S. producers with a total capacity of 2.7 million short tons.⁵⁶ The Commission reviewed the numerous changes in the structure of the industry and noted that there were only two remaining U.S. producers of ammonium nitrate, Terra Industries and El Dorado.⁵⁷

The Commission found that new federal security regulations had been imposed on the transportation of ammonium nitrate since the period of the original investigation. Ammonium nitrate transported by truck or rail had long been regulated by the Department of Transportation. However, after the Oklahoma City bombing in April 1995, in which ammonium nitrate was used as an explosive, and the terrorist attacks of September 11, 2001, federal and state governments began promulgating increased regulations for the sale and transportation of ammonium nitrate. In August 2004, the Coast Guard added ammonium nitrate to its "certain dangerous cargo" list, making ammonium nitrate subject to the Maritime Transportation Security Act of 2002's security measures for certain facilities in U.S. ports. These new federal security regulations applied to ammonium nitrate transported on the water, not ammonium nitrate transported by rail or truck, and primarily affected barge companies and distributors of ammonium nitrate with river terminals.⁵⁸ The Commission, however, found that relatively few river terminals had ceased

⁵¹ First Review at 10.

⁵² First Review at 9.

⁵³ First Review at 9.

⁵⁴ First Review at 10.

⁵⁵ First Review at 10.

⁵⁶ First Review at 11.

⁵⁷ First Review at 12.

⁵⁸ First Review at 15.

handling ammonium nitrate and that some additional terminals had even begun handling ammonium nitrate after the security regulations came into effect.

The Commission found that domestically produced ammonium nitrate and ammonium nitrate imported from Russian and other import sources were at least moderately substitutable.⁵⁹ It noted that ammonium nitrate is a commodity product lacking readily identified variations or grades. Responding domestic producers indicated that ammonium nitrate produced in the United States was “always” interchangeable with imports from Russia, and five of eight responding importers as well as seven of nine responding purchasers, all indicated that the two were “always” or “frequently” interchangeable.⁶⁰ Finally, the Commission observed that price remained an important factor in purchasing this commodity product.

3. Current Five-Year Review

The conditions of competition relied upon by the Commission in making its determination in the first five-year review generally continued in the current period. Demand in the U.S. market for ammonium nitrate has continued to decline. Apparent U.S. consumption of ammonium nitrate in 2010 was *** short tons, which was less than *** percent of apparent U.S. consumption in the last full year of the original investigation (1999) and just over *** percent of apparent U.S. consumption in the last full year of the first five-year review (2004).⁶¹ The decline in apparent U.S. consumption of ammonium nitrate is largely due to increasing security requirements and dealers’ unwillingness to continue to handle ammonium nitrate.⁶² Industry participants are well aware that additional requirements for secure handling of ammonium nitrate will eventually be adopted and, as a result, many retailers and distributors have chosen not to distribute and sell ammonium nitrate.⁶³

Despite the domestic industry’s various structural changes, it has increased its share of apparent U.S. consumption. Since the industry consolidation described in the first five-year review, CF Industries has acquired Terra Industries, leaving CF Industries and El Dorado as the only remaining domestic producers of ammonium nitrate.⁶⁴ The domestic industry consisting of these two producers achieved a *** percent share of the U.S. market in 2010, but accounted for only a *** percent share in 2003 and a *** percent share in 2004.⁶⁵

Nonsubject imports’ share of the U.S. market has decreased since the previous five-year review from *** percent of apparent U.S. consumption in 2004 to *** percent in 2010.⁶⁶ Nonsubject imports totaled 230,793 short tons in 2008, 104,122 short tons in 2009, and 222,665 short tons in 2010.⁶⁷ The top four sources of nonsubject imports of ammonium nitrate in 2010 - Georgia, the Netherlands, Tunisia and Bulgaria - accounted for 88.8 percent of the volume of nonsubject imports that year.⁶⁸ Global trading

⁵⁹ First Review at 16.

⁶⁰ First Review at 16.

⁶¹ Apparent U.S. consumption increased from *** short tons in 2000 to *** short tons in 2003, but then declined to *** short tons in 2004. CR/PR at Table I-3.

⁶² Response to Notice of Institution at 10 (citing Certain Ammonium Nitrate From Ukraine, Inv. No. 731-TA-894 (Review), USITC Pub. 3924 (June 2007) at 8).

⁶³ Response to Notice of Institution at 12.

⁶⁴ CR at I-13 to I-14, PR at I-10.

⁶⁵ CR/PR at Table I-3.

⁶⁶ CR/PR at Table I-3.

⁶⁷ CR/PR at Table I-2.

⁶⁸ CR/PR at Table I-2.

companies continue to deal in ammonium nitrate, and seek to maximize their sales volumes and profitability by minimizing their per-unit transportation costs.⁶⁹

In the absence of any evidence to the contrary on the record of this review, we adopt our findings from the prior five-year review; the domestic like product, subject imports, and nonsubject imports are at least moderately substitutable and price is an important factor in purchasing decisions for ammonium nitrate.⁷⁰

Natural gas is a primary raw material and represents a variable cost in the production of ammonium nitrate.⁷¹ During the period of review, natural gas prices spiked several times to high levels, but prices have declined since 2005 and stabilized since 2008.⁷²

Based on the limited record evidence, we find that the conditions of competition in the ammonium nitrate market are not likely to change significantly in the reasonably foreseeable future. We find that these conditions of competition provide us with a reasonable basis on which to assess the likely effects of revocation of the antidumping duty order.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if an antidumping duty order is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁷³ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁷⁴

1. Original Investigation

In the original investigation, the Commission found that the volume of subject imports was significant and that these imports were taking market share from the domestic ammonium nitrate industry. The volume of subject imports increased from 1997 to 1999, with the quantity increasing *** percent and the market penetration increasing from *** percent in 1997 to *** percent in 1999. Moreover, the volume of subject imports increased at a faster rate than did the volume of domestic shipments. While the market penetration of subject imports was rising, the domestic producers’ share of apparent U.S. consumption declined from 84.1 percent in 1997 to 80.7 percent in 1998, and remained relatively stable at 80.8 percent in 1999.⁷⁵ The Commission found that subject import volume declined appreciably after the filing of the petition in July 1999 and that subject imports essentially disappeared from the market shortly thereafter.

⁶⁹ Response to Notice of Institution at 25; First Review at 13.

⁷⁰ First Review at 16.

⁷¹ Response to Notice of Institution at 14 (citing First Review at 16).

⁷² Response to Notice of Institution at 14 and Exhibit 6; CR/PR at Fig. C-1.

⁷³ 19 U.S.C. § 1675a(a)(2).

⁷⁴ 19 U.S.C. § 1675a(a)(2)(A-D).

⁷⁵ Original Determination at 12-13.

2. First Five-Year Review

In the first five-year review, the Commission found that the likely volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would be significant.

The Commission found that, under the discipline of the suspension agreement, subject import volume declined significantly. It noted, however, that the Russian government was responsible for allocating the yearly quota among Russian exporting firms and that the Russian producers responding to the Commission questionnaire collectively and consistently ***, indicating continued interest in exporting to the United States.⁷⁶

The Commission observed that Russia was the largest producer and exporter of ammonium nitrate in the world. In 2004, Russia accounted for *** percent of world production and *** percent of world exports of ammonium nitrate.⁷⁷ It further found that the Russian industry was export oriented and was leading the world in ammonium nitrate exports.⁷⁸

The Commission also found that the United States was an attractive market for foreign producers and exporters because of its size and the prices it commanded. It noted that the Russian Respondents conceded that, due to the attractiveness of the U.S. market, Russian exports to the United States would increase if the suspension agreement were terminated.⁷⁹

The Commission concluded that the likely volume of subject imports would be significant based upon the continued presence of Russian ammonium nitrate in the U.S. market during the period of review, the demonstrated ability of the Russian ammonium nitrate industry to increase imports into the U.S. market rapidly during the original investigation, the experience of Russian producers and exporters under the suspension agreement, the substantial production capability and unused capacity of the Russian industry as the world's largest producer and exporter of ammonium nitrate, the Russian industry's reliance on export markets, and the incentives to increase imports into the United States in the absence of the suspension agreement.⁸⁰

3. Current Five-Year Review

During the current period of review, subject import volume fluctuated and was only checked by the volume and pricing discipline of Commerce's suspension agreement with the Ministry of Trade of the Russian Federation. Subject imports totaled 27,368 short tons in 2006, 88,131 short tons in 2007, 56,476 short tons in 2008, zero short tons in 2009, and 22,218 short tons in 2010.⁸¹ The relatively modest level in 2009 and 2010 (equivalent to *** percent of apparent U.S. consumption in 2010)⁸² is due to the suspension agreement, which, according to the Russian Ministry of Economic Development, prevented subject imports from being sold at competitive prices in the United States.⁸³ The suspension agreement was terminated by the Russian Government and was replaced by Commerce with an antidumping duty

⁷⁶ First Review at 18.

⁷⁷ First Review at 19.

⁷⁸ First Review at 19.

⁷⁹ First Review at 19.

⁸⁰ First Review at 22.

⁸¹ CR/PR at Table I-2.

⁸² CR/PR at Table I-3.

⁸³ Response to Notice of Institution at 18-19 and Exhibit 5 (Russian Ministry of Economic Development letter of February 22, 2011 to Commerce).

order on May 2, 2011. For the reasons discussed below, the Commission finds that Russian producers are willing and able to direct significant volumes of subject imports to the U.S. market if the antidumping duty order is revoked.

First, as was the case in the prior five-year review, the Russian ammonium nitrate industry is large and has significant excess capacity relative to the U.S. market.⁸⁴ The Russian ammonium nitrate industry consists of 12 known producers.⁸⁵ According to FERTECON, Ltd., a widely cited provider of market information and analysis on fertilizers, Russia's capacity for production of ammonium nitrate has increased from *** metric tons in 2005 to *** metric tons in 2010.⁸⁶ The Russian industry's excess capacity was estimated to total *** metric tons in 2010, an amount that exceeded total apparent U.S. consumption that year.⁸⁷

Second, although there is a market for ammonium nitrate in Russia, the Russian industry remains export oriented.⁸⁸ It continues to be the largest exporter of ammonium nitrate in the world.⁸⁹ Based on *Global Trade Atlas* data, its exports totaled 3.8 million short tons in 2010, far exceeding the volume of exports from the second-largest exporter of ammonium nitrate, Ukraine, which totaled just over 600,000 short tons in 2010.⁹⁰ Moreover, the Russian industry exports roughly half of its production.

Third, the United States remains an attractive market for foreign producers and exporters of ammonium nitrate because of the U.S. market's size and prevailing prices. The United States is the third largest importer of ammonium nitrate in the world.⁹¹ The f.o.b. Russian port prices for U.S. shipments have consistently been higher than the corresponding f.o.b. prices to all other Russian export markets, including the Russian producers' largest export markets, Turkey and Brazil.⁹² Moreover, the Chinese market continues to be closed to imports of ammonium nitrate, and antidumping measures remain in place in Australia and the European Union on ammonium nitrate from Russia.⁹³ These limitations on the availability of third-country markets would further increase the U.S. market's attractiveness to Russian exporters if the antidumping duty order were to be revoked.

Lastly, we note that Russian producers have demonstrated their intention to increase shipments of subject ammonium nitrate to the U.S. market. They have sought to avoid the price and quantity restrictions of the suspension agreement by adding small amounts of phosphate to their ammonium nitrate and then trying to ship these altered products to the United States outside the terms of the suspension agreement.⁹⁴

Given the Russian ammonium nitrate industry's large size, unused capacity, export orientation, and continued attempts to increase exports to the U.S. market, along with the attractiveness of the U.S. market and import restrictions in third-country markets, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order is revoked.

⁸⁴ See CR/PR at Tables I-4 and I-5; Response to Notice of Institution at Exhibit 9.

⁸⁵ CR at I-23, PR at I-19.

⁸⁶ CR at I-23 to I-24, PR at I-19; Response to Notice of Institution at Exhibit 9.

⁸⁷ CR/PR at Table I-3; Response to Notice of Institution at Exhibit 9.

⁸⁸ Response to Notice of Institution at Exhibit 9.

⁸⁹ See CR/PR at Table I-5.

⁹⁰ CR/PR at Table I-5.

⁹¹ CR/PR at Table I-6.

⁹² See Response to Notice of Institution at 19-20 and Exhibit 10.

⁹³ CR at I-23, PR at I-19. We also note that Russian exports of ammonium nitrate to Brazil more than doubled in 2009 from their level in 2008 following the lifting of antidumping duty measures. CR at I-23 n.55, PR at I-6 n.55; CR/PR at Table I-4.

⁹⁴ CR at I-8 n.25, PR at I-6 n.25; Response to Notice of Institution at 22.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁹⁵

1. Original Investigation

Subject imports undersold the domestic like product in 33 out of 35 monthly pricing product comparisons, with substantial underselling margins that exceeded 15 percent in 29 months. Given the relative substitutability of domestically produced ammonium nitrate and subject imports and the importance of price in purchasing decisions, the Commission determined that the underselling by subject imports was significant. The Commission further found that prices for both subject imports and the domestic like product declined sharply between 1997 and 1999.⁹⁶

Based on the sharp declines in prices, as well as witness testimony that the domestic industry was forced to cut prices to retain market share, the Commission concluded that the significant volumes of subject imports that entered the U.S. market significantly depressed and suppressed prices for the domestic like product.⁹⁷

2. First Five-Year Review

The record in the first five-year review continued to show that price was an important factor in purchasing decisions, and that domestically produced ammonium nitrate and subject imports from Russia remained substitutable products. The Commission noted that subject import prices throughout the period of review were regulated by the reference price in the suspension agreement, but that the subject imports still undersold domestically produced ammonium nitrate.⁹⁸ Ammonium nitrate imported from Russia was priced lower than domestic ammonium nitrate in 24 of 33 possible comparisons, with margins ranging from 0.5 percent to 21.1 percent.⁹⁹ The Commission concluded that, absent the discipline of the reference price, subject import prices would continue to undersell the U.S. product and depress and suppress U.S. prices to a significant degree.

The Commission also found that differences in the cost of natural gas paid by U.S. producers and that paid by Russian producers enabled the Russian ammonium nitrate industry to undersell the U.S. product. The Commission noted that natural gas was the most important cost component in the production of ammonium nitrate. During the period of review, natural gas prices in the United States increased and exhibited considerable volatility. Russian producers, on the other hand, had access to natural gas that was priced below the gas available in the U.S. market.¹⁰⁰ Global trading companies, which drive the flow of ammonium nitrate imports, have a financial incentive to maximize volume as

⁹⁵ 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁹⁶ Original Determination at 14.

⁹⁷ Original Determination at 14.

⁹⁸ First Review at 23.

⁹⁹ First Review at 25.

¹⁰⁰ First Review at 24.

long as their selling prices cover their costs.¹⁰¹ Low Russian natural gas costs enabled these global trading companies to drive down prices and thus increased the likelihood that adverse price effects would occur upon termination of the suspended investigation.¹⁰²

Given the likely significant volume of imports, the importance of price in the ammonium nitrate market, artificially low Russian natural gas costs, the substitutability of subject imports and the domestic like product, the price effects of low-priced imports in the original investigation, the underselling by subject imports during the period of review, and the incentive that existed for subject imports to enter the U.S. market, the Commission found it likely that there would be significant negative price effects from the subject imports if the suspended investigation were to be terminated.¹⁰³

3. Current Five-Year Review

There is no new product-specific pricing information on the record in this expedited review. As the Commission found in the first five-year review, ammonium nitrate is a commodity product, and the domestic like product and imports from all sources are generally substitutable.¹⁰⁴ In the current period of review, price continues to be an important factor in purchasing decisions. Ammonium nitrate is sold on the basis of price in a price competitive market.¹⁰⁵

COFANT states that global trading companies also continue to play an important role in the international trade of ammonium nitrate. These trading companies have an incentive to maximize sales volume to increase their profits and will sell at low prices so long as the selling price is sufficient to recover their costs.¹⁰⁶ The record indicates that, with the suspension agreement in place, Russian ammonium nitrate was sold at much higher prices for shipment to the United States than for shipment to Russia's two largest export markets, Brazil and Turkey.¹⁰⁷ Given this price differential, if the antidumping duty order were revoked, Russian exporters and trading companies would likely lower their prices and importers would likely undersell in the United States to maximize sales volume and profits.

Thus, we find that subject foreign producers and international trading companies handling Russian ammonium nitrate likely would undersell the domestic like product if the order were revoked to increase their share of the price competitive ammonium nitrate market. In response, domestic producers would have to either reduce their prices or relinquish market share. Accordingly, we find that, if the order were revoked, the subject imports would likely undersell the domestic like product and enter the United States at prices that would have a significant depressing or suppressing effect on the price of the domestic like product.

¹⁰¹ First Review at 25.

¹⁰² First Review at 25.

¹⁰³ First Review at 23-24.

¹⁰⁴ Response to Notice of Institution at 25; First Review at 23.

¹⁰⁵ Response to Notice of Institution at 25; First Review at 23..

¹⁰⁶ Response to Notice of Institution at 25.

¹⁰⁷ Response to Notice of Institution at 26 and Exhibit 10. During 2010, the price premium was \$82.25 per short ton of ammonium nitrate for Brazil and \$96.09 per short ton for Turkey. Id.

E. Likely Impact of Subject Imports¹⁰⁸

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited, to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹⁰⁹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹¹⁰ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders were revoked.

1. Original Investigation

In the original investigation, the Commission found that the industry's revenue and financial performance deteriorated significantly during the period examined. Although domestic producers' U.S. shipments increased between 1997 and 1999, the industry's sales revenues declined from \$*** in 1997 to \$*** in 1999. The Commission attributed this decline to the sharp drop in domestic prices, which outpaced any declines in costs during this period.¹¹¹

As a consequence, notwithstanding increasing shipments and increasing apparent U.S. consumption, the domestic industry's operating income declined from \$*** in 1997 to \$*** in 1998. The industry reported an operating loss of \$*** in 1999, a year in which six *** producers reported operating losses. One producer ceased production in this period, and another filed for bankruptcy. Employment declined industry-wide, and capital expenditures also declined.¹¹²

The Commission found that these performance declines were attributable to lower U.S. prices, which in turn were driven by the price depressing and suppressing effects of dumped imports from Russia. The Commission concluded that subject imports had a significant adverse impact on the domestic industry.¹¹³

¹⁰⁸ Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited review of the antidumping duty order on ammonium nitrate from Russia, Commerce determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at a margin of 235.98 percent by JSC Nevinnomyssky Azot and all other Russian producers. 76 Fed. Reg. at 39848.

¹⁰⁹ 19 U.S.C. § 1675a(a)(4).

¹¹⁰ 19 U.S.C. § 1675a(a)(4).

¹¹¹ Original Determination at 17-18.

¹¹² Original Determination at 18-19.

¹¹³ Original Determination at 19.

2. First Five-Year Review

The Commission noted that during the period of review, the structure of the U.S. industry had changed significantly. Five firms discontinued production completely and either shut down or sold their production assets.¹¹⁴ Several continued to produce other types of nitrogen fertilizers, but had ceased producing ammonium nitrate, and a new firm entered the market by purchasing an existing producer that had gone into bankruptcy. The Commission found that the industry, which then consisted of El Dorado and Terra Industries, was vulnerable to material injury from subject imports, particularly given the elevated price of natural gas and declining demand trends.¹¹⁵

The Commission found that if the suspended investigation were terminated, the subject imports would have a severe impact on the production, shipments, sales values, employment, and market share of the domestic industry and would therefore have a direct adverse impact on the industry's profitability, ability to raise capital and make necessary capital investments. Accordingly, the Commission found that unfairly traded imports of Russian ammonium nitrate would have a significant adverse impact on a vulnerable domestic industry within a reasonably foreseeable time if the suspended investigation were to be terminated.¹¹⁶

3. Current Five-Year Review

In this expedited review, the record information on the domestic industry's condition is based on data for 2010 provided in response to the notice of institution. We collected 2010 industry data for several performance indicators, but no new data for other periods. The limited record is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹¹⁷

The data show that, since the period examined in the last five-year review, the domestic industry has reduced its capacity, reflecting the declining U.S. ammonium nitrate market. In 2010, the domestic industry's capacity was *** short tons, its production was *** short tons, and its rate of capacity utilization was *** percent.¹¹⁸ In 2004, the domestic industry's capacity was *** short tons, its production was *** short tons, and its rate of capacity utilization was *** percent.¹¹⁹ The domestic industry's U.S. shipments were *** short tons in 2010, accounting for *** percent of apparent U.S. consumption, while in 2004 its U.S. shipments were *** short tons and its market share was *** percent.¹²⁰

Despite its smaller size, the domestic industry has managed to regain its ***.¹²¹ In 2004, the domestic industry reported an operating *** and an operating margin of *** percent.¹²² In 2010, the

¹¹⁴ First Review at 29.

¹¹⁵ First Review at 29.

¹¹⁶ First Review at 29-30.

¹¹⁷ Commissioner Pinkert finds that, although it is a close issue based on the record evidence in this proceeding, the domestic industry does not appear to be vulnerable to material injury in the event of revocation. Although the industry's U.S. shipments and net sales generally declined by 2010 from the levels attained in the periods examined in the original investigation and first five-year review, its operating income (***) and operating income margin (***) were significantly greater in 2010 than in those prior periods. CR/PR at Table I-1.

¹¹⁸ CR/PR at Table I-1.

¹¹⁹ CR/PR at Table I-1.

¹²⁰ CR/PR at Tables I-2 and I-3.

¹²¹ CR/PR at Table I-1.

¹²² CR/PR at Table I-1.

industry earned an operating income of *** and reported an operating margin of *** percent.¹²³ The limited record does not indicate what accounts for the industry's return to profitability, but COFANT suggests that it is in part due to a recovery in domestic ammonium nitrate prices.¹²⁴

Based on the record of this review, we find that, should the order be revoked, the likely adverse volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Declines in these indicators of industry performance would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital, to make and maintain capital investments, and to fund research and development.

We also have considered the role of factors other than subject imports, including declining demand and the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. While the suspension agreement was in place, the domestic industry became *** despite the decline in apparent U.S. consumption. If the antidumping duty order now in place were revoked, the smaller size of the U.S. market would only magnify the adverse effects of the subject imports. The share of the U.S. market held by nonsubject imports has also fallen since the last review; it was *** percent in 2004 and *** percent in 2010.¹²⁵ We note that ***.¹²⁶ In the absence of contrary evidence, we find that nonsubject imports would remain at these, or lower, levels.

Accordingly, we conclude that, if the antidumping duty order were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

¹²³ CR/PR at Table I-1.

¹²⁴ See CR/PR at Table C-1; Final Comments at 25.

¹²⁵ CR/PR at Table I-3.

¹²⁶ CR at I-18, PR at I-14.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

On March 1, 2011, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ the U.S. International Trade Commission (“Commission” or “USITC”) gave notice that it had instituted a review to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate⁴ and that the respondent interested party group response was inadequate.⁵ In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).⁶ The Commission voted on this review on July 20, 2011, and notified Commerce of its determination on July 29, 2011. The following tabulation presents selected information relating to the schedule of this five-year review.⁷

Effective date	Action	<i>Federal Register</i> citation
March 1, 2011	Commission's institution of five-year review	76 FR 11273 March 1, 2011
March 1, 2011	Commerce's initiation of five-year review	76 FR 11202 March 1, 2011
June 6, 2011	Commission's determination to conduct an expedited five-year review	76 FR 34749 June 14, 2011
July 7, 2011	Commerce's final determination in its expedited five-year review	76 FR 39847 July 5, 2011
July 20, 2011	Commission's vote	Not applicable
July 29, 2011	Commission's determination transmitted to Commerce	Not applicable

¹ 19 U.S.C. 1675(c).

² *Ammonium Nitrate From Russia*, 76 FR 11273, March 1, 2011. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission's notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 76 FR 11202, March 1, 2011.

⁴ The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of the Committee for Fair Ammonium Nitrate Trade (“COFANT”), consisting of two member companies, CF Industries, Inc. and El Dorado Chemical Company (collectively referred to herein as “domestic interested party”). The domestic interested party reported that it accounted for all total U.S. production of ammonium nitrate in 2010. *Response of domestic interested party*, March 31, 2011, p. 33.

⁵ The Commission did not receive a response from any respondent interested parties to its notice of institution.

⁶ *Ammonium Nitrate From Russia; Scheduling of an expedited five-year review concerning the antidumping duty order on ammonium nitrate from Russia*, 76 FR 34749, June 14, 2011. The Commission's notice of an expedited review appears in app. A. The Commission's statement on adequacy is presented in app. B.

⁷ Cited *Federal Register* notices are presented in app. A.

The Original Investigation and Subsequent Five-Year Review

On July 23, 1999, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of less-than-fair-value (“LTFV”) imports of ammonium nitrate from Russia.⁸ On May 19, 2000, before the Commission reached a final determination in the original final investigation, Commerce entered into a suspension agreement with Russia and suspended the antidumping investigation.⁹ The basis for that action was an agreement between Commerce and the Ministry of Trade of the Russian Federation (“Russian Federation”) accounting for substantially all imports of ammonium nitrate from Russia, wherein the Ministry agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports are sold at or above the agreed “reference price.”¹⁰ On June 29, 2000, the petitioners requested a continuation of the investigation and both Commerce and the Commission resumed their investigations. On July 11, 2000, Commerce made a final affirmative dumping determination, with margins as follows: 253.98 percent *ad valorem* for JSC Azot Nevinnomyssk (“Nevinka”) and Russia-wide. Critical circumstances were found also with respect to Nevinka and Russia-wide. The Commission made its final affirmative injury determination on August 14, 2000, but found that critical circumstances did not exist with respect to subject imports. Commerce did not issue an antidumping duty order because of the suspension agreement that was in effect at that time.

On March 31, 2005, the Commission instituted its first five-year review to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury.¹¹ On July 5, 2005, the Commission determined that it would conduct a full review.¹² On March 6, 2006, Commerce published its determination that termination of the suspended antidumping duty investigation on ammonium nitrate from Russia would likely lead to continuation or recurrence of dumping at a rate of 253.98 percent.¹³ The Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time, and published its determination on March 30, 2006.¹⁴ Commerce issued a continuation of this suspended antidumping duty investigation on April 5, 2006.¹⁵

⁸ The petition was filed by COFANT, including member companies Air Products & Chemicals, Inc. (“Air Products”), Allentown, PA; Mississippi Chemical Corp. (“MCC”), Yazoo City, MS; El Dorado Chemical Co. (“El Dorado”), Oklahoma City, OK; Nitram, Inc., Tampa, FL; LaRoche Industries, Inc. (“LaRoche”), Atlanta, GA; and Wil-Gro Fertilizer, Inc., Celina, TX. *Certain Ammonium Nitrate from Russia: Investigation No. 731-TA-856 (Final)*, USITC Pub. 3338, August 2000, p. I-1.

⁹ *Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 37759 (June 16, 2000).

¹⁰ The Russian government allocated the amount to be exported among the Russian producers. In order for a Russian producer to export ammonium nitrate to the United States, the producer was required to obtain permission from the Russian government and was issued an export license.

¹¹ *Ammonium Nitrate from Russia*, 70 FR 16517, March 31, 2005.

¹² *Ammonium Nitrate from Russia*, 70 FR 41426, July 19, 2005.

¹³ *Final Results of Five-year Sunset Review of Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation*, 71 FR 11177, March 6, 2006.

¹⁴ *Ammonium Nitrate from Russia*, 71 FR 16177, March 30, 2006.

¹⁵ *Continuation of Suspended Antidumping Duty Investigation: Ammonium Nitrate from the Russian Federation*, 71 FR 17080, April 5, 2006.

Termination of Suspension Agreement

On February 22, 2011, Commerce received a letter from the Russian Federation notifying Commerce of its withdrawal from the suspension agreement.¹⁶ Effective May 2, 2011, Commerce terminated the suspension agreement and imposed an antidumping duty order on solid fertilizer grade ammonium nitrate from Russia.¹⁷

Commerce's Final Result of Expedited Five-Year Review

On July 7, 2011, Commerce found that termination of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of dumping.¹⁸ The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, that would occur if the antidumping duty order were to be revoked, are 253.98 percent for Nevinka and for Russia-wide.

Commerce's Administrative Reviews

Commerce has not conducted any administrative reviews or issued any duty absorption rulings.

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

The Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.¹⁹ No antidumping duties were paid during 2006-10, therefore, there were no distributions of CDSOA funds.

Related Commission Investigations and Reviews

On April 27, 1998, in response to a request from the Committee on Finance of the United States Senate, the Commission instituted investigation No. 332-393 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). The results, contained in USITC Publication 3135 (October 1998):

¹⁶ The agreement suspending the antidumping investigation was signed on May 19, 2000. In the agreement, Commerce set limits on exports of ammonium nitrate from Russia to the United States and established weekly "reference prices." The Russian government allocated the amount to be exported among the Russian producers. In order for a Russian producer to export ammonium nitrate to the United States, the producer had to obtain permission from the Russian government and was issued an export license. The export limits set in the agreement could be adjusted annually. Fifteen percent of each annual export limit could be carried over to the next year or carried back to the last 60 days of the previous export period. These carryovers and carrybacks had to be requested by the Russian government in advance. No more than 60 percent of the annual export limit could be exported in the January-June and July-December periods. A list of reference prices established during 2005-11 appear in app. C.

¹⁷ Commerce also provided notice that it would direct Customs and Border Protection to assess, beginning on May 2, 2011, an antidumping duty equal to the weighted-average margin rates found in its July 11, 2000, final determination. *Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order*, 76 FR 23569, April 27, 2011.

¹⁸ *Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Final Results of the Expedited Sunset Review of Antidumping Duty Order*, 76 FR 39847, July 7, 2011.

¹⁹ Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. § 1675(c)). The Deficit Reduction Act of 2005 repealed the CDSOA with respect to duties on entries of goods made and filed on or after October 1, 2007. See Pub. L. No. 109-171, 120 Stat. 4, 154 (2006).

Ammonium Nitrate: A Comparative Analysis of Factors Affecting Global Trade, provide an analysis of factors affecting global trade in ammonium nitrate.

On October 13, 2000, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with material injury by reason of dumped imports of certain ammonium nitrate from Ukraine. On July 25, 2001, Commerce made a final affirmative dumping determination, with weighted-average margins as follows: J.S.C. “Concern” Stirol, 156.29 percent; and all others, 156.29 percent.²⁰ The Commission made its final affirmative injury determination in August 2001²¹ and Commerce issued an antidumping duty order on September 12, 2001.²²

On August 1, 2006, the Commission gave notice that it had instituted a review to determine whether termination of the antidumping duty order on certain ammonium nitrate from Ukraine would likely lead to the continuation or recurrence of material injury to a domestic industry. In June 2007, the Commission determined that termination of the antidumping duty order on ammonium nitrate from Ukraine would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.²³ Effective July 9, 2007, Commerce ordered the continuation of the antidumping duty order on solid agricultural grade ammonium nitrate from Ukraine.²⁴

THE PRODUCT

Scope

In its most recent *Federal Register* notice, Commerce defined the subject merchandise as follows: The products covered by the order include solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate).²⁵

²⁰ *Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 38632, July 25, 2001.

²¹ *Certain Ammonium Nitrate From Ukraine*, 66 FR 46466, September 5, 2001.

²² *Antidumping Duty Order: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 47451, September 12, 2001.

²³ *Certain Ammonium Nitrate From Ukraine*, 72 FR 35260, June 27, 2007.

²⁴ *Solid Agricultural Grade Ammonium Nitrate from Ukraine: Continuation of Antidumping Duty Order*, 72 FR 37195, July 9, 2007.

²⁵ *Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order*, 76 FR 23569, April 27, 2011. Commerce issued one scope ruling on March 11, 2004 in which 33-3-0 fertilizer (containing 33 percent nitrogen and 3 percent phosphorus) is included within the suspension agreement. See *Notice of Scope Rulings*, 70 FR 41374, July 19, 2005. In December 2007, Commerce also initiated a scope inquiry to determine whether NP-27-5 was a product within the scope of the suspended investigation. Commerce has preliminarily concluded that NP-27-5 is within the scope, but has not yet issued a final ruling.

U.S. Tariff Treatment

Ammonium nitrate is classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheading 3102.30.00.²⁶ Imports of ammonium nitrate from Russia enter under a general rate of duty of “free”.

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is the collection of U.S. producers, as a whole, of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. In its original determination and its full first five-year review determination concerning ammonium nitrate from Russia, the Commission found a single domestic like product coextensive with the with the scope definition, consisting of fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot. It also defined the domestic industry as all domestic producers of high density ammonium nitrate.²⁷ In this second five-year review, the domestic interested party agrees with the Commission’s earlier domestic like product and domestic industry determinations.²⁸

Physical Characteristics and Uses²⁹

The subject product consists of solid high-density ammonium nitrate with a density of 53 pounds or more per cubic foot,³⁰ primarily used as an agricultural fertilizer. Forms of ammonium nitrate specifically excluded from the scope include solid low-density ammonium nitrate (“LDAN”) with a bulk density less than 53 pounds per cubic foot, used primarily as an explosive, and liquid ammonium nitrate, also known as ammonium nitrate liquor, used mainly as an intermediate in the production of solid ammonium nitrate and LDAN or, when added to urea, in the production of urea-ammonium nitrate (“UAN”) solution fertilizers.³¹

Ammonium nitrate is a crystalline product having the chemical composition NH_4NO_3 , which assays at about 34.0 percent minimum plant-available nitrogen (N) by weight.³² It is typically produced either in prills (spherical shapes about 1.5 to 2.5 millimeters in diameter) or granules (slightly larger,

²⁶ The written description provided above is dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes only. This HTS category may also contain unspecified quantities of nonsubject low density ammonium nitrate industrial grade product, and may contain small quantities of aqueous ammonium nitrate liquor.

²⁷ *Certain Ammonium Nitrate from Russia*, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, August 2000, pp. 4-5; *Certain Ammonium Nitrate from Russia*, Inv. No. 731-TA-856 (Review), USITC Pub. 3844, March 2006, pp. 4-5.

²⁸ Response of domestic interested party, March 31, 2011, p. 38.

²⁹ Unless indicated otherwise, the discussion in this section is based on information contained in *Certain Ammonium Nitrate from Russia*, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, August 2000, p. I-3; and *Certain Ammonium Nitrate from Russia*, Inv. No. 731-TA-856 (Review), USITC Pub. 3844, March 2006, pp. I-9-10.

³⁰ Most ammonium nitrate has a density of between 55 and 62 pounds per cubic foot.

³¹ In response to Commission purchaser surveys, all three responding purchasers, *** indicated that there have not been any changes in the end uses and applications of ammonium nitrate in the U.S. market or in the Russian market since 2005, nor do they anticipate any changes within a reasonably foreseeable time.

³² Whereas pure ammonium nitrate is typically 35 percent nitrogen by weight, the amount declines to almost 34 percent when additives are used to prevent moisture absorption and expansion and contraction of the particles.

more irregularly shaped particles). Ammonium nitrate prills and granules are either applied to crops directly or, after being mechanically blended with two other major fertilizer nutrients—phosphorus (P) and potassium (K), as bulk blends known as NPKs. Granular ammonium nitrate generally is used in the production of NPKs because its irregular surface and larger particle size minimize segregation of blends with other fertilizer nutrients.

Unlike most fertilizers, 50 percent of the nitrogen in ammonium nitrate is immediately available to plants as nitrate (NO_3) nitrogen. The combination of this rapid availability with good solubility and low volatility at ambient temperatures has enhanced ammonium nitrate's competitiveness as a direct application fertilizer in a specialty niche market, particularly in warm climate zones where early-fall and spring temperatures do not fall below 50°F for extended periods. Moreover, as a “no-till” fertilizer, ammonium nitrate can be applied on hay, pasture, turf grasses, corn, tobacco, and citrus, all crops that use no-till fertilizer application.³³

Manufacturing Process³⁴

The ammonium nitrate manufacturing process is relatively standard. Ammonia (NH_3), either purchased or derived from natural gas and atmospheric nitrogen, is directly reacted with nitric acid (HNO_3) to form NH_4NO_3 . A nitric acid solution, generally formed from combining a portion of the ammonia with oxygen, is then, in turn, reacted with the remaining ammonia in a neutralization chamber to form an aqueous ammonium nitrate solution (otherwise known as liquid ammonium nitrate or ammonium nitrate liquor).³⁵ The ammonium nitrate solution is then heated and evaporated to a molten concentration, or melt, of 99 percent ammonium nitrate or greater.

Producers then either produce granules from the molten ammonium nitrate by layering the material onto seed particles in a rotary pan, or drum granulator, or prills by spraying molten ammonium nitrate droplets into specially designed towers in which the molten droplets free fall through an upward current of cool air, solidifying into small spheres as they fall. Stabilizers, typically clay for granules and magnesium oxide (MgO) for prills, are added to the ammonium nitrate melt prior to prilling and granulation. The stabilizers limit moisture absorption, expansion, and contraction at selected temperatures. To further prevent moisture absorption and caking, the solid ammonium nitrate granules and prills may be coated with a liquid surface-active agent, fine powders, or other anticaking agents.³⁶

³³ In response to Commission purchaser surveys, all three responding purchasers, *** indicated that there have not been any changes in the existence and availability of substitute products for ammonium nitrate in the U.S. market or in the Russian market since 2005, nor do they anticipate any changes within a reasonably foreseeable time.

³⁴ Unless indicated otherwise, the discussion in this section is based on information contained in *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Pub. 3338, August 2000, pp. I-4-5; and *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Review)*, USITC Pub. 3844, March 2006, pp. I-10-11.

³⁵ The aqueous ammonium nitrate solution can either be further processed into ammonium nitrate or mixed with urea to form UAN liquid fertilizers.

³⁶ In response to Commission purchaser surveys, all three responding purchasers, *** indicated that there have not been any changes in technology, production methods, or development efforts to produce ammonium nitrate that affected the availability of ammonium nitrate in the U.S. market or Russian market since 2005, nor do they anticipate any changes within a reasonably foreseeable time.

Interchangeability and Customer and Producer Perceptions

In the original investigation, all responding U.S. producers, purchasers, and importers indicated that the domestic like product and the subject imports can be used interchangeably.³⁷ In the full first five-year review, responding domestic producers indicated that U.S.-produced ammonium nitrate and imports of ammonium nitrate from Russia are “always” interchangeable. Five of eight responding importers, and seven of nine responding purchasers indicated that the two are “always” or “frequently” interchangeable. The Commission found that domestically produced ammonium nitrate and ammonium nitrate imported from Russia and other import sources are at least moderately substitutable. Most responding purchasers reported that U.S. product and subject imports were comparable in terms of quality. Subject and nonsubject imports were also viewed as interchangeable, with responding domestic producers indicating that the two are “always” interchangeable, while most responding importers reported that the two are at least “sometimes” interchangeable, and most purchasers reported that the two are “always” or “frequently” interchangeable. The quality of nonsubject imports was deemed to be generally comparable to the quality of ammonium nitrate available from Russia. Ammonium nitrate was characterized as a bulk commodity product produced worldwide which generally meets similar specifications and exhibits similar physical and chemical characteristics.³⁸ In the current review, COFANT identifies ammonium nitrate as a commodity product, the purchase of which is driven by price.³⁹

Channels of Distribution

As reported during the final phase of the original investigation, both domestic producers and importers sold nearly all of their shipments of ammonium nitrate to distributors and retailers.⁴⁰ Farmers purchase ammonium nitrate from retailers who may also provide blending and/or application services. Retailers may purchase ammonium nitrate directly from U.S. producers. Some U.S. producers, as well as importers, own or lease distribution warehouses to which ammonium nitrate is moved after production or import. The Mississippi River system serves as an important means for distributing ammonium nitrate, particularly the imported product, and many distribution facilities are along the river system. Retailers also purchase ammonium nitrate from wholesale distributors, who also operate distribution facilities. Wholesale distributors purchase ammonium nitrate from domestic and imported sources.

Pricing⁴¹

Nitrogen fertilizers are large-volume bulk commodities whose prices tend to rise and fall in tandem, at least in part as a result of changes in supply and market demand. Prices for all major nitrogen fertilizers have usually trended up and down in tandem. This trend is typical of the large-volume nitrogen fertilizer commodity industry where price fluctuations are commonly dependent on the relative changes between supply capability and market demand. In the original investigation, the Commission found that subject imports undersold the domestic like product in 33 out of 35 monthly pricing product comparisons, with substantial underselling margins that exceeded 15 percent in 29 months. For the first five-year

³⁷ *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Pub. 3338, August 2000, p. 8.

³⁸ *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Review)*, USITC Pub. 3844, March 2006, pp. 11-12 and I-9.

³⁹ *Response of domestic interested party*, March 31, 2011, pp. 3-4.

⁴⁰ *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Pub. 3338, August 2000, p. II-1.

⁴¹ Unless indicated otherwise, the discussion in this section is based on information contained in *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final)*, USITC Pub. 3338, August 2000, pp. I-5-6; and *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Review)*, USITC Pub. 3844, March 2006, pp. 15-17.

review, ammonium nitrate imported from Russia was priced lower than domestic ammonium nitrate in 24 of 33 possible comparisons, with margins ranging from 0.5 percent to 21.1 percent. In the remaining 9 instances, ammonium nitrate imported from Russia was priced above domestic ammonium nitrate, with margins ranging from 0.4 to 9.0 percent.

As in the final phase of the original investigation, the Commission found in the first five-year review that ammonium nitrate is a commodity product for which price is an important factor in purchasing decisions, and that domestically produced ammonium nitrate and subject imports from Russia remain substitutable products. In its response to the Commission's notice of institution in the current review, COFANT states that ammonium nitrate remains a commodity product, the purchase of which is driven by price.⁴² Appendix C presents price data for natural gas, which constitutes a substantial portion of the raw material costs for producing ammonium nitrate. Also presented in appendix C are U.S. farm prices of selected fertilizers and historical pricing for ammonium nitrate.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

The original antidumping duty investigation resulted from a petition filed on July 23, 1999, on behalf of COFANT and its six individual members, Air Products & Chemicals, Inc. ("Air Products"); El Dorado; LaRoche Industries, Inc. ("LaRoche"); Mississippi Chemical Corp. ("Mississippi Chemical"); Nitram, Inc. ("Nitram"); and Wil-Gro Fertilizer, Inc. ("Wil-Gro"). Ten firms accounted for virtually all ammonium nitrate production during the period examined in the original investigation. By the time of the Commissions' first full five-year review of the suspension agreement, completed in March 2006, the domestic industry had contracted to two producers, consisting of Terra and El Dorado.⁴³ In April 2010, CF Industries acquired Terra.⁴⁴ In its response to the Commission's notice of institution in this second five-year review, COFANT reported that CF Industries and El Dorado remain as the two domestic producers of solid fertilizer grade ammonium nitrate.⁴⁵

⁴² Response of domestic interested party, March 31, 2011, pp. 3-4.

⁴³ Coastal Chem was acquired by Dyno Nobel in 2003, after which it switched to low density ammonium nitrate production. LaRoche filed for protection under Chapter 11 of the U.S. Bankruptcy Code on May 3, 2000, and was subsequently acquired by El Dorado. Mississippi Chemical, *** during the original investigation, was acquired in 2004 by Terra, a new entrant to the market at that time. Nitram closed its Tampa, FL, plant in 2003. Prodicta was acquired by Agrium in 2000. Wil-Gro ceased production in December 1999 and the facilities were purchased by El Dorado in 2002. Agrium discontinued the production and sales of ammonium nitrate midyear 2005, Air Products permanently closed its ammonium nitrate facility at the end of 2005, and PCS ceased production of ammonium nitrate at the end of 2004. *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Review)*, USITC Pub. 3844, March 2006, pp. I-13-14.

⁴⁴ CF Industries, *CF Industries Completes Exchange Offer for Terra Industries*, April 15, 2010.

⁴⁵ Response of domestic interested party, March 31, 2011, p. 29.

U.S. Producers' Trade, Employment, and Financial Data

Data reported by U.S. producers of ammonium nitrate in the Commission's original investigation, first full five-year review, and in response to the second five-year review's institution notice are presented in table I-1. The industry's operating income was *** in 2010, compared to *** in 2004. In its response to the Commission's notice of institution in the current review, COFANT indicated that ***.^{46 47}

Related Party Issues

The domestic interested parties indicated in their response to the Commission's notice of institution in this second five-year review that they are not aware of any U.S. producer being related to an exporter or importer of the subject merchandise.⁴⁸

⁴⁶ *Response of domestic interested party*, March 31, 2011, pp. 28-29.

⁴⁷ In response to Commission purchaser surveys, all three responding purchasers, *** indicated that there have not been any changes in the ability to increase production of ammonium nitrate (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of ammonium nitrate in the U.S. market or in the Russian market since 2005, nor do they anticipate any changes within a reasonably foreseeable time.

⁴⁸ The domestic interested parties indicated in their response that domestic producer CF Industries has held a 50-percent interest in Keytrade AG, a global fertilizer trader, since September 2007. The company explained that Keytrade offers Russian ammonium nitrate in non-U.S. markets. However, because CF Industries does not own a controlling interest in Keytrade, the domestic interested parties stated that CF Industries does not "directly or indirectly control" Keytrade and is not "legally or operationally in a position to exercise restraint or direction over" Keytrade. Therefore, the domestic interested parties stated that CF Industries is not related to Keytrade within the meaning of the statute.

Table I-1

Ammonium nitrate: U.S. producers' trade, employment, and financial data, 1997-99, 2000-04, Jan-Sept 2004, Jan-Sept 2005, and 2010

(Quantity=1,000 short tons; value=1,000 dollars; unit values, unit labor costs, are per short ton)

Item	1997	1998	1999	2000	2001	2002	2003	2004	Jan - Sept 2004	Jan - Sept 2005	2010
Capacity	2,532	2,648	2,736	***	***	***	***	***	***	***	***
Production	2,111	2,174	2,005	***	***	***	***	***	***	***	***
Capacity utilization (<i>percent</i>)	83.4	82.1	73.3	***	***	***	***	***	***	***	***
U.S. shipments: Quantity	1,985	2,055	2,095	***	***	***	***	***	***	***	***
Value	278,386	245,534	213,344	***	***	***	***	***	***	***	***
Unit value	\$140.24	\$119.49	\$101.82	\$***	\$***	\$***	\$***	\$***	\$***	\$***	\$***
Export shipments: Quantity	***	***	***	***	***	***	***	***	***	***	(1)
Value	***	***	***	***	***	***	***	***	***	***	(1)
Unit value	***	***	***	\$***	\$***	\$***	\$***	\$***	\$***	\$***	(1)
Production and related workers (PRWs) (<i>number</i>)	499	450	449	329	293	290	287	277	276	170	(1)
Hours worked (<i>1,000 hours</i>)	1,102	997	989	716	658	664	636	604	451	275	(1)
Total compensation paid (\$1,000)	22,241	20,872	21,047	15,651	13,898	14,505	13,914	13,870	10,175	6,611	(1)
Hourly wages	\$20.18	\$20.94	\$21.28	\$21.86	\$21.12	\$21.84	\$21.88	\$22.96	\$22.56	\$24.04	(1)
Productivity (<i>tons per hour</i>)	1.9	2.2	2.0	1.7	1.7	2.0	1.8	1.7	1.7	2.8	(1)
Unit labor costs	\$10.53	\$9.60	\$10.50	\$13.14	\$12.28	\$11.08	\$12.01	\$13.54	\$13.09	\$8.53	(1)

Table continued on next page.

Table I-1--*Continued*

Ammonium nitrate: U.S. producers' trade, employment, and financial data, 1997-99, 2000-04, Jan-Sept 2004, Jan-Sept 2005, and 2010

Item	1997	1998	1999	2000	2001	2002	2003	2004	Jan - Sept 2004	Jan - Sept 2005	2010
Net sales	***	***	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***	***	***
Gross profit	***	***	***	***	***	***	***	***	***	***	***
SG&A	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (<i>percent</i>)	78.5	85.5	98.6	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (<i>percent</i>)	13.7	5.9	(6.3)	***	***	***	***	***	***	***	***

¹ ***.² Not applicable.

Source: Compiled from data presented in the original staff report, first five-year review, and COFANT's response to the Commission's notice of institution (March 31, 2011).

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. Imports

During the original investigation and first five-year review of the suspension agreement, two importers, *** accounted for the *** imports from Russia. *** was the largest importer during 2000-04. COFANT, in its response to the Commission's notice of institution in this second five-year review, identified *** firms as U.S. importers of ammonium nitrate from Russia: ***.

Import data for the final phase of the original investigation were based on official import statistics, which were adjusted by Commission staff to account for misclassified Russian imports in 1998, to remove industrial grade ammonium nitrate and misclassified product from Canada, and to correct for misclassification of Polish material. During the first five-year review, import data were compiled from adjusted official Commerce import statistics for imports from Canada and Russia, and official Commerce statistics for imports from all other countries. Imports from Canada were adjusted by including only *** imports obtained from proprietary Customs data, and imports from Russia were adjusted to account for misclassified imports. In response to this second five-year review, COFANT noted that official import statistics from 2007 to 2010 should exclude imports from Canada,⁴⁹ which consist of nonsubject low-density ammonium nitrate.⁵⁰ Staff notes that ***.⁵¹

Imports from Russia entering the United States amounted to 22,218 short tons (\$6.4 million landed, duty-paid) in 2010. U.S. imports of ammonium nitrate from Russia declined by 71.2 percent overall from 2005 to 2010, despite experiencing an increase in 2007. During that same time period, the presence of nonsubject sources of imports decreased by 27.1 percent. Russia accounted for 9.1 percent of U.S. imports in 2010, compared with 20.2 percent in 2005, based on quantity. Data on U.S. imports of ammonium nitrate from Russia, during 2005-10 are presented in table I-2.

Ratio of Imports to U.S. Production

Imports of ammonium nitrate from Russia were equivalent to *** percent of U.S. production in 2010, compared to *** percent in 2004, and *** percent in 1999. The ratio of imports of ammonium nitrate from nonsubject countries to domestic production was *** percent in 2010, compared to *** percent in 2004, and *** percent in 1999. The ratio of total imports to U.S. production was *** percent in 2010, *** percent in 2004, and *** percent in 1999.

⁴⁹ According to official Commerce statistics, imports of ammonium nitrate from Canada totaled 390,504 short tons (\$81.9 million) in 2010.

⁵⁰ *Response* of domestic interested party, March 31, 2011, exh. 7.

⁵¹ ***.

Table I-2

Ammonium nitrate: U.S. imports, by source, 2005-10

Source	2005	2006	2007	2008	2009	2010
Quantity (short tons)						
Russia	77,144	27,368	86,131	56,476	0	22,218
Nonsubject ¹	305,504	602,230	635,734	230,793	104,122	222,665
Total imports	382,649	629,598	721,865	287,269	104,122	244,883
Value (\$1,000)²						
Russia	15,502	6,933	20,724	19,053	0	6,366
Nonsubject ¹	60,413	130,338	146,109	89,013	22,774	63,063
Total imports	75,915	137,271	166,833	108,065	22,774	69,429
Unit value (per short ton)						
Russia	\$200.95	\$253.34	\$240.61	\$337.36	(³)	\$286.54
Nonsubject ¹	197.75	216.42	229.83	385.68	\$218.73	283.22
Average	198.39	218.03	231.11	376.18	218.73	283.52
Share of quantity (percent)						
Russia	20.2	4.3	11.9	19.7	0.0	9.1
Nonsubject ¹	79.8	95.7	88.1	80.3	100.0	90.9
Total	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (percent)						
Russia	20.4	5.1	12.4	17.6	0.0	9.2
Nonsubject ¹	79.6	94.9	87.6	82.4	100.0	90.8
Total	100.0	100.0	100.0	100.0	100.0	100.0
¹ Nonsubject imports exclude imports from Canada, which consist primarily of nonsubject low-density ammonium nitrate. The main sources of nonsubject imports are Georgia, representing 35.0 percent of total imports during 2010; Netherlands, 30.9 percent; Tunisia, 12.3 percent; and Bulgaria, 10.6 percent. ² Landed, duty-paid. ³ Not applicable.						
Note.—Because of rounding, figures may not add to the totals shown.						
Source: Official Commerce statistics, HTS statistical reporting number 3102.30.0000. This HTS category may also contain unspecified quantities of nonsubject low density ammonium nitrate industrial grade product, and may contain small quantities of aqueous ammonium nitrate liquor.						

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption of ammonium nitrate and market shares are presented in table I-3. Apparent consumption, based upon U.S. shipments and imports, in 2010 was *** short tons (valued at \$***). Domestic production accounted for *** percent of apparent U.S. consumption based on quantity, while imports from Russia accounted for *** percent. Since 2004, apparent U.S. consumption of ammonium nitrate decreased by *** percent. The share of apparent U.S. consumption held by domestic producers increased, from *** percent in 2004 to *** percent in 2010. The share held by imports from Russia fell, from *** percent to *** percent, while the share held by imports from nonsubject sources also fell slightly from *** percent to *** percent. COFANT explained in its response to the Commission's notice of institution that apparent U.S. consumption of ammonium nitrate has continued to decline since 2004 due to enhanced security and handling requirements that have caused many distributors and retailers to stop handling and offering ammonium nitrate.^{52 53}

⁵² *Response* of domestic interested party, March 31, 2011, p. 12.

⁵³ In response to Commission purchaser surveys, all three responding purchasers, *** indicated that there have not been any changes in the business cycle for ammonium nitrate in the U.S. market or the Russian market since 2005, nor do they anticipate any changes within a reasonably foreseeable time.

Table I-3

Ammonium nitrate: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1997-99, 2000-04, Jan-Sept 2004, Jan-Sept 2005, and 2010

Item	1997	1998	1999	2000	2001	2002	2003	2004	Jan-Sept 2004	Jan-Sept 2005	2010
Quantity (1,000 short tons)											
U.S. producers' U.S. shipments	1,985	2,055	2,095	***	***	***	***	***	***	***	***
U.S. imports from-- Russia	187	230	***	0.29	96	115	162	126	52	72	22
Other sources	189	262	***	***	***	***	***	***	***	***	223 ¹
Total imports	377	493	499	***	***	***	***	***	***	***	245
Apparent U.S. consumption	2,362	2,547	2,595	***	***	***	***	***	***	***	***
Value (1,000 dollars)											
U.S. producers' U.S. shipments	278,386	245,534	213,344	***	***	***	***	***	***	***	***
U.S. imports from-- Russia	23,131	26,531	***	37	11,859	11,085	18,239	21,039	8,511	14,147	6,366
Other sources	25,968	26,932	***	***	***	***	***	***	***	***	63,063 ¹
Total imports	49,099	53,463	45,326	***	***	***	***	***	***	***	69,429
Apparent U.S. consumption	327,485	298,997	258,670	***	***	***	***	***	***	***	***
Share of consumption based on quantity (percent)											
U.S. producers' U.S. shipments	84.1	80.7	80.8	***	***	***	***	***	***	***	***
U.S. imports from-- Russia	7.9	9.0	***	(²)	***	***	***	***	***	***	***
Other sources	8.0	10.3	***	***	***	***	***	***	***	***	*** ¹
Total imports	15.9	19.3	19.2	***	***	***	***	***	***	***	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table I-3--Continued

Ammonium nitrate: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1997-99, 2000-04, Jan-Sept 2004, Jan-Sept 2005, and 2010

[illegible]

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

Antidumping duty orders on imports of ammonium nitrate from Russia are currently in effect in the European Union and Australia. The European Union imposed antidumping measures to imports of ammonium nitrate from Russia in 1994. In July 2008, the antidumping duty rates for certain producers were lowered and the current rates range from 28.88 to 47.07 euros per metric ton.⁵⁴ Australia imposed antidumping duties on imports of ammonium nitrate from Russia in 2001, at a rate of AUS\$32 per metric ton. Australia's antidumping duty measures were continued in May 2011 for an additional five years.⁵⁵

THE SUBJECT INDUSTRY IN RUSSIA

In both the original investigation and the first five-year review, the Commission identified 13 producers of ammonium nitrate in Russia. Five producers responded to the Commission questionnaires in the original investigation, and six producers, accounting for *** percent of total ammonium nitrate capacity in Russia, responded to the Commission's questionnaires in the first review.⁵⁶

In its response to the notice of institution in this second five-year review, COFANT identified 12 known producers⁵⁷ of solid fertilizer grade ammonium nitrate in Russia. COFANT states that Russian ammonium nitrate production capacity has increased since the last review period, from nearly *** metric tons in 2005 to an estimated *** metric tons in 2010.⁵⁸ Table I-4 presents data on Russian exports of ammonium nitrate from 2005 to 2010.

⁵⁴ At the same time, the European Union permitted four Russian producers of ammonium nitrate to enter into "undertakings" whereby they could import a certain volume of ammonium nitrate without paying antidumping duties so long as the imports were priced above a certain market-tied price. *Response of domestic interested party*, March 31, 2011, p. 20.

⁵⁵ Additionally, Brazil imposed antidumping duty measures on ammonium nitrate from Russia in 2002, which were lifted in 2008. Ukraine also imposed antidumping duty measures in 2008, which were lifted in January 2011. *Response of domestic interested party*, March 31, 2011, pp. 20-21; *Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Review)*, USITC Pub. 3844, March 2006, p. IV-6; and *NOTICE On Nullification of the Antidumping Measures Applied to the Import to Ukraine of Ammonium Nitrate (Ammonium Saltpeter) originating in Russia*, <http://www.antidumpingpublishing.com/uploaded/documents/2010/Ukraine%20-%20ammonium%20nitrate%20%28susp%20eng%29.pdf>.

⁵⁶ The five producers that responded to the Commission's questionnaire in the original investigation were: JCS Acron ("Acron"), JCS Dorogobuzh ("Dorogobuzh"), JCS Azot Nevinomyssk ("Nevinka"), JCS Novomendeleyevsk Chemical Plant ("Novomos"), and JCS Kirovo-Chepetsk Kimicheskyy Kombinat. The six producers that responded to the Commission's questionnaire in the first five-year review were: Acron, Dorogobuzh, Nevinka, Novomos, JCS Minudobreniya Rossosh ("Minudo"), and Azot Berezhniki ("Berezhniki").

⁵⁷ The 12 producers identified by the domestic interested parties are: JCS Angarsk Petrochemical Co.; JCS Azot (Kemerovo); JCS Azot (Phosagro); Nevinka; Acron; JCS Azot (Novomoskovsk); Minudo; JCS Medeleyskzot; JCS Kuybyshevazot; JCS Dorogobuzh; JCS Azot (Berezhniki); and JCS Kirovo-Chepetsk Chemical Group.

⁵⁸ *Response of domestic interested party*, March 31, 2011, p. 17.

Table I-4

Ammonium nitrate: Russian exports, by market, 2005-10

Market	2005	2006	2007	2008	2009	2010
Quantity (short tons)						
Brazil	60,641	393,058	425,265	596,724	1,618,634	1,152,334
Turkey	603,626	378,638	289,849	244,055	462,980	560,704
Ukraine	91,812	370,066	304,260	230,159	293,955	464,699
India	152,085	4,508	26,879	212,833	183,472	242,525
Colombia	57,002	134,956	92,422	98,072	94,304	152,339
Peru	57,076	109,666	76,354	125,942	45,462	114,244
Malaysia	138,625	36,890	9,216	11,652	95,907	109,145
Latvia	197,709	39,197	17,948	43,238	57,882	101,144
Belize	0	0	0	0	89,310	99,532
United States	95,910	2,755,605 ¹	110,621	48,755	70,534	83,384
All other	2,096,144	1,867,793	1,643,205	1,516,606	1,469,632	698,866
Total	3,550,630	6,090,379 ¹	2,996,019	3,128,037	4,482,070	3,778,918
Value (1,000 dollars)						
Brazil	7,167	42,913	66,873	160,263	207,214	186,082
Turkey	53,699	38,035	41,297	61,643	61,653	88,387
Ukraine	10,386	43,055	43,065	58,040	37,366	69,057
India	16,622	463	3,628	53,755	26,208	47,213
Colombia	6,606	17,511	14,529	29,507	15,437	30,900
Peru	6,040	13,075	12,718	43,320	7,778	19,818
Malaysia	14,194	3,946	1,247	3,474	12,646	19,011
Latvia	21,738	4,811	2,731	13,371	8,920	24,104
Belize	0	0	0	0	10,985	16,525
United States	14,941	5,850	23,160	14,635	10,145	20,343
All other	214,647	194,110	247,243	444,704	211,196	135,572
Total	366,041	363,769	456,490	882,713	609,547	657,011
¹ Data provided by Global Trade Atlas for 2006 appear to be overstated.						
Source: Compiled from Global Trade Atlas data, HTS 310230 (Ammonium Nitrate, Whether Or Not In Aqueous Solution In Packaging Weighing > 10 Kg).						

THE GLOBAL MARKET

Table 1-5 presents data on world exports of ammonium nitrate from 2005 to 2010.

Table I-5

Ammonium nitrate: World exports, 2005-10

Market	2005	2006	2007	2008	2009	2010
Quantity (short tons)						
Russia	3,550,630	6,090,379 ¹	2,996,019	3,128,037	4,482,070	3,778,918
Ukraine	1,079,026	1,055,489	1,043,840	881,329	384,348	600,602
Lithuania	669,439	444,437	518,565	463,867	447,026	532,923
Canada	594,937	595,058	499,614	689,053	430,094	410,286
United States	0	0	0	228,241	376,772	395,297
Sweden	176,137	191,524	234,727	363,455	326,302	319,183
Belgium	286,896	263,348	247,051	224,842	244,506	311,406
Romania	0	439	310,123	322,193	231,113	310,614
France	344,681	283,749	335,045	337,379	284,388	309,306
China	246,577	252,024	283,385	186,988	231,866	283,366
All other	1,447,617	1,445,485	1,420,598	1,536,717	1,241,336	1,787,094
Total	8,395,939	10,621,932	7,888,966	8,362,101	8,679,821	9,038,995
Value (1,000 dollars)						
Russia	366,041	363,769	456,490	882,713	609,547	657,011
Ukraine	120,382	128,053	162,561	235,279	61,316	111,151
Lithuania	105,019	78,486	105,054	190,002	95,763	122,607
Canada	113,440	125,116	111,713	149,328	90,755	84,944
United States	0	0	0	82,965	89,042	99,781
Sweden	43,752	51,465	64,761	141,519	107,156	109,744
Belgium	47,311	46,068	50,834	78,657	54,268	77,947
Romania	41,058	67,059	68,643	105,859	46,328	66,852
France	74,755	74,283	97,049	141,113	102,647	96,742
China	57,364	56,571	66,198	58,642	71,493	89,029
All other	284,982	311,391	348,098	573,258	360,281	506,661
Total	1,254,103	1,302,262	1,531,400	2,639,336	1,688,595	2,022,470
¹ Data provided by Global Trade Atlas for 2006 appear to be overstated.						
Source: Compiled from Global Trade Atlas data, HTS 310230 (Ammonium Nitrate, Whether Or Not In Aqueous Solution In Packaging Weighing > 10 Kg).						

Table 1-6 presents data on world imports of ammonium nitrate from 2005 to 2010.

Table I-6

Ammonium nitrate: World imports, 2005-10

Market	2005	2006	2007	2008	2009	2010
Quantity (short tons)						
Brazil	269,074	373,720	850,078	847,711	1,038,293	1,142,100
Turkey	961,485	1,143,511	789,468	665,956	1,054,596	724,970
United States	974,944	1,260,136	1,220,597	779,168	496,770	635,431
Indonesia	269,025	325,487	298,128	375,452	400,099	458,709
United Kingdom	397,941	274,159	288,704	480,121	331,145	452,809
France	504,951	496,138	456,258	596,908	288,013	423,149
Ukraine	112,813	422,652	370,906	271,024	389,507	396,192
Morocco	225,073	294,923	256,910	341,103	267,362	327,901
Peru	243,034	242,681	338,337	369,752	235,326	304,816
Canada	71,778	77,618	181,742	195,466	178,940	285,936
All other	3,764,755	3,177,118	3,365,342	3,619,080	3,666,926	3,210,980
Total	7,794,872	8,088,142	8,416,469	8,541,743	8,346,977	8,362,992
Value (1,000 dollars)						
Brazil	44,056	61,942	187,657	324,389	170,517	221,434
Turkey	141,709	177,435	150,707	214,923	192,081	167,504
United States	172,458	245,695	249,476	212,130	94,532	145,391
Indonesia	77,102	109,124	93,796	191,413	203,649	233,347
United Kingdom	76,115	64,517	64,991	196,493	75,102	117,269
France	96,481	93,836	91,013	222,524	57,354	93,676
Ukraine	12,894	47,330	57,628	71,009	49,335	67,119
Morocco	40,705	54,826	58,784	119,016	57,414	83,841
Peru	64,484	63,303	96,292	175,306	74,002	104,174
Canada	14,690	14,666	34,268	64,493	35,219	60,623
All other	697,067	649,748	1,064,207	1,441,236	945,073	894,640
Total	1,437,760	1,582,422	2,148,818	3,232,934	1,954,278	2,189,018
Source: Compiled from Global Trade Atlas data, HTS 310230 (Ammonium Nitrate, Whether Or Not In Aqueous Solution In Packaging Weighing > 10 Kg).						

APPENDIX A
***FEDERAL REGISTER* NOTICES**

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Second Review)]

Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is March 31, 2011. Comments on the adequacy of responses may be filed with the Commission by May 16, 2011. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* March 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 this review may be viewed on the

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–239, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On May 19, 2000, the Department of Commerce suspended an antidumping duty investigation on imports of ammonium nitrate from Russia (65 FR 37759, June 16, 2000). Following five-year reviews by Commerce and the Commission, effective April 5, 2006, Commerce issued a continuation of the suspended investigation on imports of ammonium nitrate from Russia (71 FR 17080). The Commission is now conducting a second review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Russia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and its full first five-year review determination, the Commission defined the Domestic Like Product coextensively with the subject merchandise: fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and its full first five-year review determination, the Commission defined the Domestic Industry as all domestic producers of high density ammonium nitrate.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into

the United States from a foreign manufacturer or through its selling agent.

Participation in the review 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 review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 16, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested

party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided In Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the Domestic Like Product or the Subject Merchandise in the U.S. or other markets.

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the Domestic Like Product produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports

and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in the Subject Country (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production

facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011-4445 Filed 2-28-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping duty orders and

suspended investigation listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* March 1, 2011.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth

in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders and suspended investigation:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A-427-602	731-TA-313	France	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482-4136.
A-428-602	731-TA-317	Germany	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482-4136.
A-475-601	731-TA-314	Italy	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482-4136.
A-588-704	731-TA-379	Japan	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482-4136.
A-580-839	731-TA-825	South Korea	Polyester Staple Fiber (2nd Review)	Dana Mermelstein (202) 482-1391.
A-583-833	731-TA-826	Taiwan	Polyester Staple Fiber (2nd Review)	Dana Mermelstein (202) 482-1391.
A-821-811	731-TA-856	Russia	Ammonium Nitrate (2nd Review)	Sally Gannon (202) 482-0162.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: "<http://ia.ita.doc.gov/sunset/>." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103 (d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative

protective order ("APO") immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic

interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.¹ Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Date: February 18, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011-4520 Filed 2-28-11; 8:45 am]

BILLING CODE 3510-DS-P

**INTERNATIONAL TRADE
COMMISSION**

**[Investigation No. 731–TA–856 (Second
Review)]**

**Ammonium Nitrate From Russia;
Scheduling of an expedited five-year
review concerning the antidumping
duty order on ammonium nitrate From
Russia**

AGENCY: United States International
Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* June 6, 2011.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), 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 this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution (76

FR 11273, March 1, 2011) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 30, 2011, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before July 6, 2011 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by July 6, 2011. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

² The Commission has found the responses submitted by the Committee for Fair Ammonium Nitrate Trade ("COFANT") and its individual members, CF Industries, Inc. and El Dorado Chemical Co. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (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 review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: June 8, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-14582 Filed 6-13-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Final Results of the Expedited Sunset Review of Antidumping Duty Order

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

SUMMARY: On March 1, 2011, the Department of Commerce (“the Department”) initiated a second sunset review of the suspended antidumping duty investigation on solid fertilizer grade ammonium nitrate (“ammonium nitrate”) from the Russian Federation (“Russia”).¹ Effective May 2, 2011, the Department terminated the agreement suspending the antidumping duty investigation and issued an antidumping duty order on ammonium nitrate from Russia. On the basis of the notice of intent to participate, an adequate substantive response submitted on behalf of the domestic interested parties, and no participation from respondent interested parties, the Department conducted an expedited sunset review of the antidumping duty order pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (“Act”) and 19 CFR 351.218(e)(1)(ii)(C). As a result of this sunset review, the Department determined that termination of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled “Final Results of Review.”

DATES: *Effective Date:* July 7, 2011.

FOR FURTHER INFORMATION CONTACT: Julie H. Santoboni or Judith Wey Rudman, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; *telephone:* 202-482-3063 or 202-482-0192, respectively.

SUPPLEMENTARY INFORMATION:

History of the Suspension Agreement and Order

On August 12, 1999, the Department initiated an antidumping duty investigation on ammonium nitrate from Russia under section 732 of the Act. *See Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 64 FR 45236 (August 19,

1999). On January 7, 2000, the Department preliminarily determined that ammonium nitrate from Russia was being, or was likely to be, sold in the United States at less than fair value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

The Department suspended the antidumping duty investigation on ammonium nitrate from Russia, effective May 19, 2000. The basis for this action was an agreement between the Department and the Ministry of Trade of the Russian Federation (“MOT”) (the predecessor to the current Ministry of Economic Development (“MED”)) accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports were sold at or above the agreed reference price. *See Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 37759 (June 16, 2000) (“*Suspension Agreement*”).

Thereafter, pursuant to a request by the petitioner, the Committee for Fair Ammonium Nitrate Trade (“COFANT”), the Department completed its investigation and published in the **Federal Register** its final determination of sales at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000) (“*Final Determination*”). In the *Final Determination*, the Department calculated weighted-average dumping margins of 253.98 percent for JSC Nevinnomyssky Azot, a respondent company in the investigation, and for the Russia-wide entity.

On March 31 and April 1, 2005, respectively, the International Trade Commission (“ITC”) instituted, and the Department initiated, a five-year sunset review of the suspended antidumping investigation on ammonium nitrate from Russia. The Department concluded that termination of the suspended antidumping investigation would be likely to lead to continuation or recurrence of dumping and the ITC concluded that termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Final Results of Five-year Sunset Review of Suspended Antidumping Duty Investigation on*

¹ See *Initiation of Five-Year (“Sunset”) Review*, 76 FR 11202 (March 1, 2011) (“*Notice of Initiation*”).

Ammonium Nitrate from the Russian Federation 71 FR 11177 (March 6, 2006) and *Ammonium Nitrate From Russia*, Investigation No. 731-TA-856 (Review), 71 FR 16177 (March 30, 2006), respectively.

On March 1, 2011, the Department initiated and the ITC instituted a second sunset review of the ammonium nitrate suspended investigation. See *Notice of Initiation and Ammonium Nitrate from Russia*, Investigation No. 731-TA-856 (Second Review), 76 FR 11273 (March 1, 2011).

On March 3, 2011, the Department received a letter from the MED dated February 22, 2011, that had been sent to the United States Embassy in Moscow for transmittal to the Department concerning the *Suspension Agreement*. In that letter, the MED stated that it was withdrawing from the *Suspension Agreement*, effective 60 days after notice of termination. Effective May 2, 2011, the Department terminated the suspension agreement and issued an antidumping duty order. See *Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order*, 76 FR 23569 (April 27, 2011).

Background

Section 351.218(d)(1)(i) of the Department's regulations provides domestic interested parties the opportunity to file a notice of intent to participate in a sunset review within 15 days of initiation of review. The Department received a notice of intent to participate within the applicable deadline specified in 19 CFR 351.218(d)(1)(i) from COFANT ("the domestic interested party"). The domestic interested party claims interested-party status as a coalition of producers of subject merchandise in the United States as defined by section 771(9)(C) of the Act. In addition, the domestic interested party asserts that its members are not related to a foreign producer/exporter and are not importers of the subject merchandise. CF Industries, one of the members of COFANT, holds a 50 percent interest in Keytrade AG, a global fertilizer trader. The domestic interested party asserts that Keytrade AG does not sell Russian ammonium nitrate to the United States, nor does CF Industries own a controlling interest in Keytrade AG, within the meaning of section 771(4)(B) of the Act.

The Department's regulations at 19 CFR 351.218(d)(3)(i) state that all interested parties participating in a sunset review must submit a complete

substantive response within 30 days of initiation of the sunset review. On March 31, 2011, the Department received a complete substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).² After examining the substantive response from the domestic interested party, on April 12, 2011, the Department determined that the response was adequate, consistent with the requirements of 19 CFR 351.218(e). See Memorandum from Julie H. Santoboni, Senior Policy Analyst, Office of Policy, Import Administration to Judith Wey Rudman, Director for Bilateral Agreements, Office of Policy, Import Administration, regarding "Second Sunset Review of the Suspended Investigation of Ammonium Nitrate from the Russian Federation: Adequacy Determination" (April 12, 2011). See also Letter from James Maeder, Director, Office 2, AD/CVD Operations, Import Administration, to Ms. Catherine DeFilippo, Director, Office of Investigations, International Trade Commission (April 18, 2011).

The Department did not receive any substantive responses from respondent interested parties to this proceeding. On May 10, 2011, COFANT filed a letter on the record of this proceeding, asserting that an expedited review is warranted and supported by the statute, the Statement of Administrative Action, and the Department's regulations. Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day), sunset review of the antidumping duty order.

Scope of the Order

The products covered by the order on ammonium nitrate from Russia include solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for

² The substantive response was filed prior to the termination of the suspension agreement and thus references the suspension agreement, rather than the order.

convenience and customs purposes, the written description of the merchandise within the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the "Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation" from Paul Piquado, Deputy Assistant Secretary for Policy and Negotiations, Import Administration, to Ronald Lorentzen, Deputy Assistant Secretary for Import Administration, dated June 29, 2011 ("Decision Memo"), which is hereby adopted by this notice. The issues discussed in the Decision Memo include both the likely effects of termination of the suspension agreement and underlying investigation and the magnitude of the margin likely to prevail if the suspended investigation were terminated. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memo, which is on file in room 7046 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

The Department determines that termination of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

Manufacturers/producers/exporters	Weighted-average margin (percent)
JSC Nevinnomyssky Azot	253.98
Russia-Wide Rate	253.98

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

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 29, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-17072 Filed 7-6-11; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

COMMISSION'S STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Ammonium Nitrate from Russia

Inv. No. 731-TA-856 (Second Review)

On June 6, 2011, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received one response to the notice of institution. The submission was on behalf of the Committee for Fair Ammonium Nitrate Trade, and its two individual members, CF Industries, Inc. and El Dorado Chemical Company, domestic producers of ammonium nitrate. The Commission found the individual responses to be adequate, and determined that because the two responding producers accounted for a substantial percentage of U.S. production, the domestic interested party group response was adequate.

The Commission received no response from any respondent interested party, and therefore determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances warranting a full review, the Commission determined to conduct an expedited review.

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (www.usitc.gov).

APPENDIX C
PRICE DATA

updated: April 27, 2011
Reference Prices Pertaining to Suspension Agreement
Solid Fertilizer Grade Ammonium Nitrate from Russia
Case number: A-821-811
(Suspension Agreement Terminated 76 FR 23569, April 27, 2011)
Weekly Reference Price (FOB Russian port of Export)

Beginning Date	Price Per Metric Ton
2 0 1 1	
04/25/2011	\$349.06
04/19/2011	\$346.65
04/12/2011	\$347.00
04/05/2011	\$347.34
03/29/2011	\$343.55
03/22/2011	\$339.07
03/15/2011	\$334.94
03/08/2011	\$330.81
03/01/2011	\$330.81
02/22/2011	\$330.81
02/15/2011	\$330.81
02/08/2011	\$330.81
02/01/2011	\$330.46
01/25/2011	\$330.12
01/19/2011	\$329.08
01/11/2011	\$328.05
01/04/2011	\$327.36
2 0 1 0	
12/28/2010	\$327.70
12/21/2010	\$326.33
12/14/2010	\$325.29
12/07/2010	\$323.57
11/30/2010	\$318.06
11/23/2010	\$312.20
11/16/2010	\$306.00
11/09/2010	\$300.49
11/02/2010	\$295.67
10/26/2010	\$293.26
10/19/2010	\$287.40
10/13/2010	\$280.86
10/05/2010	\$275.69
09/27/2010	\$270.87
09/21/2010	\$269.49
09/14/2010	\$268.80
09/08/2010	\$273.62
08/31/2010	\$278.45
08/24/2010	\$283.27
08/17/2010	\$288.09
08/10/2010	\$290.50
08/03/2010	\$292.57
07/27/2010	\$294.64
07/20/2010	\$296.70
07/13/2010	\$296.36
07/06/2010	\$296.36

06/29/2010	\$296.36
06/22/2010	\$291.88
06/15/2010	\$284.65
06/08/2010	\$277.41
06/01/2010	\$270.18
05/25/2010	\$265.36
05/18/2010	\$262.26
05/11/2010	\$258.47
05/04/2010	\$254.68
04/27/2010	\$252.96
04/20/2010	\$252.27
04/13/2010	\$252.27
04/06/2010	\$252.27
03/30/2010	\$252.27
03/23/2010	\$252.27
03/16/2010	\$252.27
03/10/2010	\$251.92
03/02/2010	\$251.58
02/23/2010	\$251.23
02/17/2010	\$250.89
02/09/2010	\$249.85
02/02/2010	\$248.68
01/26/2010	\$247.96
01/19/2010	\$244.55
01/12/2010	\$243.17
01/05/2010	\$241.59
2 0 0 9	
12/29/2009	\$240.55
12/22/2009	\$239.18
12/15/2009	\$237.80
12/08/2009	\$236.77
12/01/2009	\$235.73
11/24/2009	\$235.73
11/17/2009	\$235.73
11/10/2009	\$236.08
11/03/2009	\$236.42
10/27/2009	\$236.77
10/20/2009	\$237.11
10/13/2009	\$237.11
10/06/2009	\$237.11
09/29/2009	\$237.11
09/23/2009	\$236.21
09/15/2009	\$235.32
09/08/2009	\$236.35
09/01/2009	\$237.39
08/25/2009	\$239.31
08/18/2009	\$241.24
08/11/2009	\$241.24
08/04/2009	\$241.24
07/28/2009	\$241.24
07/21/2009	\$241.24
07/14/2009	\$241.24
07/07/2009	\$241.24

06/30/2009	\$241.24
06/23/2009	\$240.90
06/16/2009	\$240.55
06/09/2009	\$240.21
06/02/2009	\$240.21
05/26/2009	\$240.90
05/19/2009	\$241.59
05/12/2009	\$242.28
05/05/2009	\$242.62
04/28/2009	\$242.97
04/21/2009	\$243.31
04/14/2009	\$244.34
04/07/2009	\$247.44
03/31/2009	\$250.20
03/17/2009	\$253.99
03/10/2009	\$252.96
03/03/2009	\$250.20
02/24/2009	\$248.82
02/18/2009	\$247.10
02/10/2009	\$274.66
02/03/2009	\$303.94
01/27/2009	\$331.84
01/22/2009	\$366.63
01/13/2009	\$372.14
01/06/2009	\$385.92
2 0 0 8	
12/30/2008	\$410.03
12/23/2008	\$432.77
12/16/2008	\$455.50
12/09/2008	\$469.97
12/02/2008	\$483.03
11/25/2008	\$491.67
11/17/2008	\$503.04
11/11/2008	\$517.85
11/04/2008	\$527.15
10/28/2008	\$536.45
10/21/2008	\$544.03
10/15/2008	\$548.16
10/07/2008	\$549.20
09/30/2008	\$548.51
09/23/2008	\$549.54
09/16/2008	\$550.58
09/09/2008	\$550.58
09/02/2008	\$550.58
08/27/2008	\$548.85
08/19/2008	\$542.31
08/12/2008	\$522.33
08/05/2008	\$491.33
07/29/2008	\$455.50
07/22/2008	\$420.02
07/15/2008	\$399.35
07/08/2008	\$389.36
07/01/2008	\$384.54

06/24/2008	\$384.20
06/17/2008	\$384.54
06/10/2008	\$384.20
06/03/2008	\$383.51
05/27/2008	\$382.82
05/20/2008	\$380.75
05/13/2008	\$378.69
05/06/2008	\$376.62
04/29/2008	\$374.55
04/22/2008	\$372.83
04/15/2008	\$372.14
04/08/2008	\$371.45
04/01/2008	\$370.76
03/25/2008	\$371.11
03/18/2008	\$371.45
03/11/2008	\$372.14
03/04/2008	\$372.83
02/26/2008	\$373.17
02/19/2008	\$373.52
02/12/2008	\$372.49
02/05/2008	\$371.45
01/29/2008	\$369.73
01/22/2008	\$367.55
01/15/2008	\$366.63
01/08/2008	\$362.97
01/01/2008	\$357.90
2 0 0 7	
12/26/2007	\$352.85
12/18/2007	\$350.44
12/11/2007	\$339.07
12/04/2007	\$328.05
11/27/2007	\$315.65
11/20/2007	\$304.97
11/13/2007	\$302.56
11/05/2007	\$300.15
10/29/2007	\$299.11
10/23/2007	\$298.42
10/16/2007	\$297.74
10/09/2007	\$297.74
10/02/2007	\$297.74
09/25/2007	\$297.39
09/18/2007	\$296.70
09/11/2007	\$296.01
09/04/2007	\$295.32
08/28/2007	\$294.98
08/21/2007	\$294.98
08/14/2007	\$294.98
08/07/2007	\$294.98
07/31/2007	\$294.98
07/24/2007	\$295.67
07/17/2007	\$296.36
07/09/2007	\$296.36
07/03/2007	\$296.70

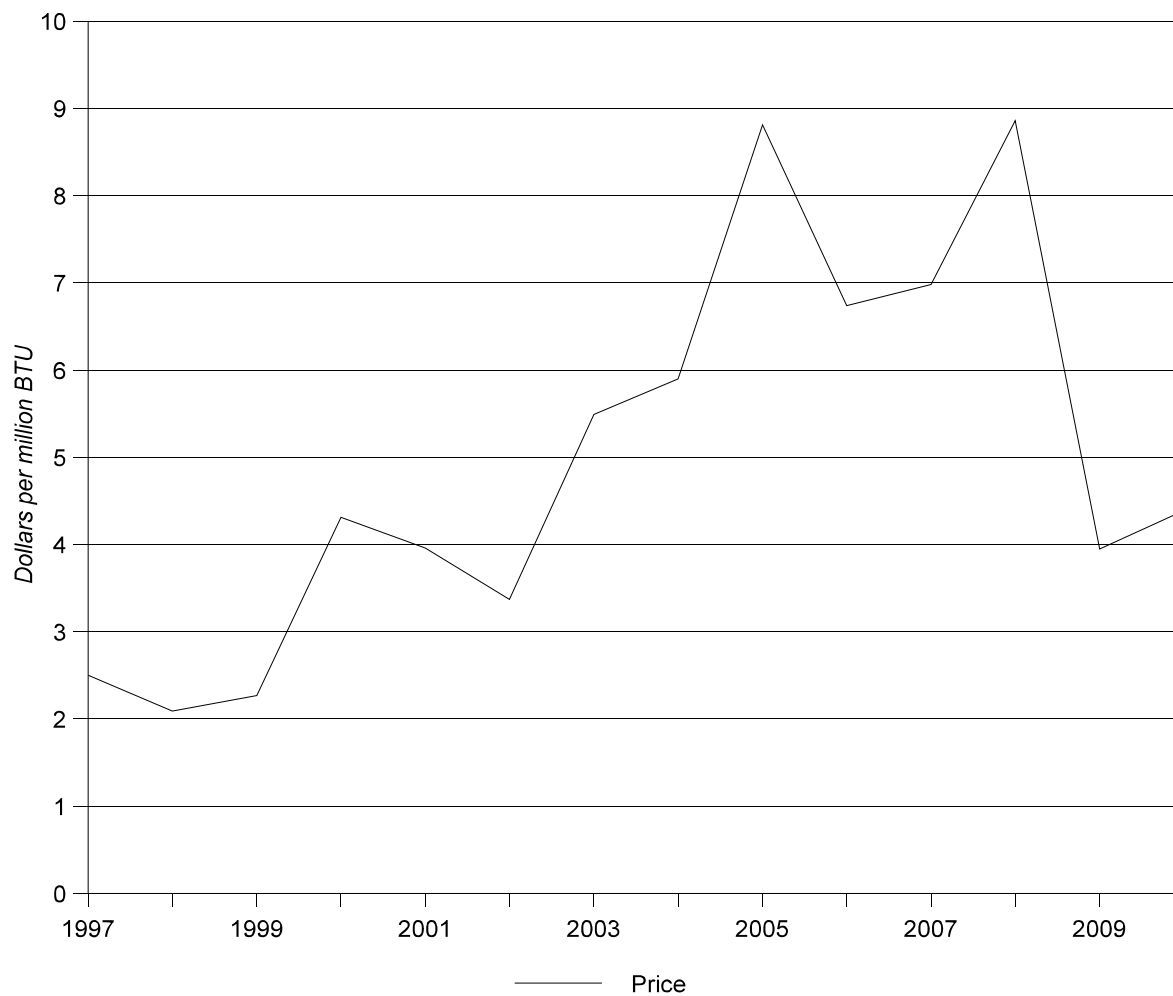
06/26/2007	\$296.36
06/19/2007	\$296.01
06/12/2007	\$296.01
06/05/2007	\$295.76
05/29/2007	\$295.32
05/22/2007	\$296.01
05/15/2007	\$297.74
05/08/2007	\$299.46
05/01/2007	\$299.11
04/24/2007	\$292.57
04/17/2007	\$285.34
04/10/2007	\$277.07
04/03/2007	\$270.52
03/27/2007	\$269.83
03/20/2007	\$266.04
03/13/2007	\$262.26
03/06/2007	\$258.81
02/27/2007	\$251.92
02/21/2007	\$243.65
02/13/2007	\$248.13
02/06/2007	\$237.80
01/30/2007	\$233.66
01/23/2007	\$229.19
01/17/2007	\$226.43
01/09/2007	\$224.71
01/04/2007	\$223.68
2 0 0 6	
12/27/2006	\$222.99
12/19/2006	\$221.26
12/12/2006	\$214.17
12/05/2006	\$218.85
11/28/2006	\$217.82
11/21/2006	\$217.82
11/14/2006	\$217.82
11/07/2006	\$217.82
10/31/2006	\$217.82
10/24/2006	\$217.82
10/17/2006	\$217.82
10/11/2006	\$217.82
10/03/2006	\$217.82
09/26/2006	\$218.16
09/12/2006	\$222.64
09/06/2006	\$225.40
08/29/2006	\$227.81
08/21/2006	\$228.84
08/15/2006	\$228.84
08/07/2006	\$228.84
08/01/2006	\$228.84
07/25/2006	\$228.84
07/17/2006	\$228.84
07/11/2006	\$228.84
07/04/2006	\$229.53
06/20/2006	\$232.63

06/13/2006	\$234.70
06/06/2006	\$236.42
05/30/2006	\$237.45
05/23/2006	\$238.14
05/16/2006	\$238.83
05/09/2006	\$239.18
05/02/2006	\$239.52
04/25/2006	\$239.87
04/18/2006	\$239.87
04/11/2006	\$239.87
04/04/2006	\$239.87
03/28/2006	\$239.87
03/21/2006	\$239.87
03/14/2006	\$239.52
03/07/2006	\$239.18
02/28/2006	\$238.83
02/22/2006	\$238.49
02/14/2006	\$238.49
02/07/2006	\$238.83
01/31/2006	\$238.83
01/24/2006	\$238.83
01/18/2006	\$238.83
01/10/2006	\$238.49
01/04/2006	\$238.49
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12/13/2005	\$238.49
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11/08/2005	\$231.25
10/31/2005	\$230.56
10/25/2005	\$229.88
10/17/2005	\$227.81
10/12/2005	\$225.40
10/04/2005	\$222.03
09/27/2005	\$219.54
09/20/2005	\$215.06
09/13/2005	\$210.93
09/07/2005	\$204.04
08/30/2005	\$197.15
08/23/2005	\$193.71
08/16/2005	\$190.26
08/09/2005	\$190.26
07/26/2005	\$190.26
07/18/2005	\$190.26
07/12/2005	\$190.26
07/06/2005	\$190.26
06/28/2005	\$189.71
06/21/2005	\$189.16
06/14/2005	\$188.61

06/07/2005	\$186.89
06/01/2005	\$185.71
05/24/2005	\$184.54
05/17/2005	\$183.51
05/10/2005	\$183.51
05/03/2005	\$183.51
04/26/2005	\$183.17
04/19/2005	\$182.48
04/12/2005	\$181.10
04/05/2005	\$179.38
03/29/2005	\$178.00
03/22/2005	\$176.14
03/15/2005	\$175.11
03/08/2005	\$174.07
03/01/2005	\$173.38
02/23/2005	\$173.38
02/15/2005	\$173.73
02/08/2005	\$174.07
02/01/2005	\$174.07
01/25/2005	\$173.38
01/19/2005	\$172.35
01/11/2005	\$171.66
01/04/2005	\$170.97

Source: U.S. Department of Commerce, <http://ia.ita.doc.gov/reference-price/refprice-a821811.html>

Figure C-1
Natural gas: Yearly historical prices, 1997-2010



Source: U.S. Energy Information Administration.

Table C-1
Average U.S. farm prices of selected fertilizers, 1997-2011

Year	Anhydrous ammonia	Nitrogen solutions (30%)	Urea 44-46% nitrogen	Ammonium nitrate
<i>Price (dollars per short ton)</i>				
1997	\$303	\$160	\$257	\$227
1998	253	134	195	193
1999	211	128	176	181
2000	227	131	200	194
2001	399	189	280	260
2002	250	127	191	195
2003	373	161	261	243
2004	379	178	276	263
2005	416	215	332	292
2006	521	232	362	366
2007	523	277	453	382
2008	755	401	552	509
2009	680	320	486	438
2010	499	283	448	398
2011	749	351	526	479
Source: Agricultural Prices, National Agricultural Statistics Service, USDA, May 2011.				

Figure C-2

Ammonium nitrate: U.S. gulf NOLA barge monthly historical prices, 2005-10

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