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PUBLIC VERSION

**BEFORE THE
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

PHOSPHATE FERTILIZERS FROM MOROCCO AND RUSSIA

**PETITIONS FOR THE IMPOSITION OF
COUNTERVAILING DUTIES PURSUANT TO
SECTION 701 OF THE TARIFF ACT OF 1930, AS AMENDED
ON BEHALF OF THE MOSAIC COMPANY**

VOLUME I: COMMON ISSUES AND INJURY SECTION

David J. Ross
Patrick J. McLain
Sarah S. Sprinkle
Stephanie E. Hartmann
Semira Nikou
WILMER CUTLER PICKERING
HALE and DORR LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 663-6000

Counsel for The Mosaic Company

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**COUNTERVAILING DUTY PETITIONS REGARDING
PHOSPHATE FERTILIZERS FROM MOROCCO AND RUSSIA**

I. INTRODUCTION AND OVERVIEW

The domestic phosphate fertilizer industry is reeling from an unprecedented surge in subsidized, low-priced imports from Morocco and Russia. The domestic industry's losses and declines – most notable in terms of production, shipments, prices, profits, market share, and employment – are unsustainable on the current trajectory. The Mosaic Company (“Mosaic” or “Petitioner”) therefore files these Petitions under section 701 of the Tariff Act of 1930, as amended (the “Act”), 19 U.S.C. § 1671 et seq., seeking the imposition of countervailing duties on imports of subsidized phosphate fertilizers from Morocco and Russia.

The Moroccan and Russian governments have heavily subsidized their domestic phosphate fertilizer industries for years. This government support takes various forms, including artificially cheap debt and specific tax breaks, but the most distortive form of support is the provision of phosphate rock mining rights on below-market terms. This significant subsidy dramatically lowers the cost to obtain the essential input in all phosphate fertilizers. Armed with this unfair cost advantage, large export champions like OCP, S.A. of Morocco (“OCP” or “OCP Group”) and PhosAgro and Eurochem of Russia have penetrated the U.S. market and taken sales and market share from the domestic industry.

Over the past three years, Moroccan and Russian producers have flooded the U.S. market with subsidized imports, causing material injury to the domestic industry. Subject import volumes rose from 2.1 million short tons in 2017 to 3.1 million short tons in 2019, an increase of 48%, and increased progressively year over year.¹ Subject imports surged to record levels in 2018 and have continued to enter the United States at unprecedented volumes despite prices in

¹ See Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, attached as Exhibit I-1.

the U.S. market falling to decade lows. While the domestic industry was forced to curtail production and close facilities, low-priced imports continued their surge, capturing an ever-increasing share of the U.S. market at the expense of the domestic industry.

The rapid increase in imports of phosphate fertilizers has had a devastating impact on the domestic industry and its workers. Domestic producers have been unable to carry out production operations at a reasonable level of profit, forcing them to idle and shut down production facilities. There are now few domestic producers of any size remaining. Despite being the largest, most sophisticated domestic producer, Mosaic itself has been forced to idle or completely close several of its facilities. Most notably, in June 2019, Mosaic permanently closed its 2 million ton phosphate fertilizer production facility in Plant City, Florida, which had been idled since 2017 and which previously employed 430 workers.² The domestic industry's inability to operate at a profitable level has also resulted in a production capacity decline of [1.6 million] short tons from 2017 to 2019, as well as underutilized capacity and rising unemployment and underemployment that includes the loss of a total of more than [] workers.

The domestic industry has also suffered steady declines in profits, production, sales, and market share over the past three years. The domestic industry's commercial shipments declined by over [] during the 2017-2019 period, while subject imports' market share grew by [10] percentage points. Over the same period, Mosaic's phosphate operations descended from profitability in 2017 to an operating loss of over [900 million] in 2019, and Mosaic

² Kevin Bouffard, *Mosaic Will Permanently Close Idle Plant City Facility*, The Ledger (June 19, 2019), attached as Exhibit I-2. Mosaic has since entered into a lease arrangement with Anuvia Plant Nutrients, which produces fertilizer made with recycled waste from food scraps and septic tanks, to re-open part of the Plant City facility. Bradley George, *New Life for Mosaic's Plant City Fertilizer Factory*, WUSF News (Sept. 25, 2019), attached as Exhibit I-3.

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continued to incur losses in the first quarter of 2020. These losses have in turn reduced domestic producers' ability to make capital investments necessary to maintain and improve the competitiveness of the domestic industry. The material injury, and threat of material injury, suffered by the domestic industry is directly and significantly caused by the huge and rapidly increasing volume of low-priced imports of phosphate fertilizers from Morocco and Russia.

Mosaic therefore requests that the United States Department of Commerce (the "Department") and the United States International Trade Commission (the "Commission") institute investigations concerning phosphate fertilizers from Morocco and Russia. These Petitions are being filed in accordance with the requirements of section 351.202 of the Department's regulations, 19 C.F.R. § 351.202, and section 207.11 of the Commission's regulations, 19 C.F.R. § 207.11. Volumes II and III, regarding allegations of countervailable subsidies provided by the Governments of Morocco and Russia, respectively, are being filed simultaneously with the Department and the Commission. Mosaic respectfully requests that the Department impose countervailing duties on imports of subject merchandise from Morocco and Russia that are at least equivalent to the amounts detailed in Volumes II and III.

II. COMMON ISSUES

This section contains information required in countervailing duty petitions pursuant to 19 C.F.R. § 351.202(b) and 19 C.F.R. § 207.11.

A. THE PETITIONER, THE DOMESTIC INDUSTRY, AND DOMESTIC INDUSTRY SUPPORT³

1. Petitioner Contact Information⁴

Mosaic files these Petitions on behalf of the domestic phosphate fertilizer industry and its workers. Mosaic's phosphate fertilizer business operates mines and production facilities in Florida and processing plants in Louisiana and employed approximately 3,700 U.S. workers as of the end of 2019. Mosaic's global headquarters is located in Tampa, Florida. Its Plymouth, Minnesota office houses a variety of functions, including accounting, agronomy, law, marketing, and sales management. Contact information for inquiries regarding these Petitions is as follows:

The Mosaic Company
Attn: Mark Isaacson, Senior Vice President, General Counsel and Corporate Secretary
3033 Campus Drive, Suite E490
Plymouth, MN 55441
Tel: (763) 577-2700
Fax: (763) 559-2860
Email: Mark.isaacson@mosaicco.com

Petitioner is a U.S. producer of the domestic like product in the United States.

Accordingly, Petitioner is a domestic interested party within the meaning of 19 U.S.C. § 1677(9)(C) and 19 C.F.R. § 351.102(b)(17).

2. The Domestic Industry on Behalf of Which the Petitions Are Filed⁵

These Petitions are filed on behalf of the U.S. industry that produces phosphate fertilizers. The names, addresses, telephone numbers, and email addresses of the Petitioner and all other known U.S. producers of the domestic like product in the United States are provided in Exhibit I-4.⁶

³ 19 C.F.R. § 351.202(b)(1)-(3).

⁴ 19 C.F.R. §§ 207.11(a), 351.202(b)(1).

⁵ 19 C.F.R. §§ 207.11(b)(2)(ii), 351.202(b)(2).

⁶ Names and Contact Information for Domestic Producers of Phosphate Fertilizers, attached as Exhibit I-4.

3. Domestic Industry Support for the Petitions⁷

Section 702(b)(1) of the Act, 19 U.S.C. § 1671a(b)(1), provides that a countervailing duty petition may be filed by or on behalf of a domestic industry. For purposes of this subsection of the Act, a petition is filed by or on behalf of a domestic industry if: (i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.⁸ To the best of its knowledge, Petitioner satisfies both of these requirements.

Information regarding the total volume and value of the domestic like product produced by each U.S. producer is not reasonably available to Petitioner. Accordingly, Petitioner estimated industry support based on available information regarding total domestic production of the domestic like product and production capacity for each domestic producer in 2019.⁹ Petitioner's volume of production of the domestic like product in 2019, and its estimate of the total volume of U.S. production for each domestic producer identified, are provided in Exhibit I-5.¹⁰ Based on information and belief, Petitioner accounted for [64.4] percent of the domestic industry producing phosphate fertilizers in 2019, based on a total analysis of industry and Petitioner's aggregate production data.¹¹ Furthermore, Petitioner is unaware of any domestic producer that opposes the Petitions.

⁷ 19 C.F.R. § 351.202(b)(3).

⁸ See 19 U.S.C. § 1671a(c)(4)(A).

⁹ See U.S. Production and Petitioner Standing, Exhibit I-5; U.S. Producers' Phosphate Capacity, attached as Exhibit I-6; Declaration of [], attached as Exhibit I-7; [].

¹⁰ See 19 C.F.R. § 351.202(b)(3).

¹¹ See U.S. Production and Petitioner Standing, Exhibit I-5.

In addition, as shown in the table below, Petitioner's estimated share of U.S. production capacity of phosphate fertilizers exceeds the statutory requirements for these Petitions to be considered filed by or on behalf of a domestic industry:¹²

Petitioner's Share of Domestic Production Capacity		
U.S. Producers	2019	% of Total
Mosaic	[]	[66%]
Nutrien/PotashCorp	[]	[]
Simplot	[]	[]
Itafos/Agrium	[]	[]
Meherrin	[]	[]
Total	[]	[]

On this basis, the Department should conclude that the Petitions satisfy the requirements for domestic industry support under section 702(c)(4) of the Act, 19 U.S.C. § 1671a(c)(4).

B. PREVIOUS REQUESTS FOR IMPORT RELIEF¹³

Petitioner has not previously filed for relief from imports of phosphate fertilizers under section 337 of the Act (19 U.S.C. §§ 1337, 1671a), sections 201 or 301 of the Trade Act of 1974 (19 U.S.C. §§ 2251, 2411), or section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862).

C. SCOPE OF THE INVESTIGATION AND A DETAILED DESCRIPTION OF THE SUBJECT MERCHANDISE¹⁴

1. Proposed Scope of the Investigation

The proposed scope of investigation is as follows:

The merchandise covered by these investigations is phosphate fertilizers in all physical forms (*i.e.*, solid or liquid form), with or without coating or additives such as anti-caking agents. Phosphate fertilizers in solid form are covered whether granular, prilled (*i.e.*, pelletized), or in other solid form (*e.g.*, powdered).

The covered merchandise includes phosphate fertilizers in the following forms: ammonium dihydrogenorthophosphate or monoammonium

¹² See U.S. Producers' Phosphate Capacity, attached as Exhibit I-6.

¹³ 19 C.F.R. § 351.202(b)(4).

¹⁴ 19 C.F.R. § 351.202(b)(5).

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phosphate (MAP), chemical formula $\text{NH}_4\text{H}_2\text{PO}_4$; diammonium hydrogenorthophosphate or diammonium phosphate (DAP), chemical formula $(\text{NH}_4)_2\text{HPO}_4$; normal superphosphate (NSP), also known as ordinary superphosphate or single superphosphate, chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{CaSO}_4$; concentrated superphosphate, also known as double, treble, or triple superphosphate (TSP), chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{H}_2\text{O}$; and proprietary formulations of MAP, DAP, NSP, and TSP.

The covered merchandise also includes other fertilizer formulations incorporating phosphorous and non-phosphorous plant nutrient components, whether chemically-bonded, granulated (*e.g.*, when multiple components are incorporated into granules through, *e.g.*, a slurry process), or compounded (*e.g.*, when multiple components are compacted together under high pressure), including nitrogen, phosphate, sulfur (NPS) fertilizers, nitrogen, phosphorous, potassium (NPK) fertilizers, and proprietary formulations thereof that may or may not include other non-phosphorous plant nutrient components. For phosphate fertilizers that contain non-phosphorous plant nutrient components, such as nitrogen, potassium, sulfur, zinc, or other non-phosphorous components, the entire article is covered, including the non-phosphorous content, provided that the phosphorous content (measured by diphosphorous pentaoxide, chemical formula P_2O_5) is at least 5% by weight.

Phosphate fertilizers that are otherwise subject to this investigation are included when commingled (*i.e.*, mixed or blended) with phosphate fertilizers from sources not subject to this investigation. Phosphate fertilizers that are otherwise subject to this investigation are included when commingled with substances other than phosphate fertilizers subject to this investigation (*e.g.*, granules containing only non-phosphate fertilizers such as potash or urea). Only the subject component of such commingled products is covered by the scope of this investigation.

The Chemical Abstracts Service (CAS) numbers for covered phosphate fertilizers include, but are not limited to: 7722-76-1 (MAP); 7783-28-0 (DAP); and 65996-95-4 (TSP). The covered products may also be identified by Nitrogen-Phosphate-Potash composition, including but not limited to: NP 11-52-0 (MAP); NP 18-46-0 (DAP); and NP 0-46-0 (TSP).

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000. Phosphate fertilizers subject to these investigations may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050. Although the HTSUS subheadings and CAS registry numbers are provided for

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

2. U.S. Tariff Classification

The imported article subject to these Petitions is classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000.¹⁵

- Subheading 3103.11.0000 provides for: “Mineral or chemical fertilizers, phosphatic: Superphosphates: Containing by weight 35 percent or more of diphosphorous pentaoxide {sic} (P₂O₅)” and has a current duty rate of free.¹⁶ This subheading covers TSP.
- Subheading 3103.19.0000 provides for: “Mineral or chemical fertilizers, phosphatic: Superphosphates: Other” and has a current duty rate of free.¹⁷ This subheading covers SSP/NSP.
- Subheading 3105.20.0000 provides for “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Mineral or chemical fertilizers containing the three fertilizing elements nitrogen, phosphorus and potassium” and has a current duty rate of free. This subheading covers NPK fertilizers.
- Subheading 3105.30.0000 provides for: “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Diammonium hydrogenorthophosphate (Diammonium phosphate)” and has a current duty rate of free. This subheading covers DAP.
- Subheading 3105.40.0010 provides for: “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Ammonium dihydrogenorthophosphate (Monoammonium phosphate) and mixtures thereof with diammonium hydrogenorthophosphate (Diammonium phosphate): Ammonium dihydrogenorthophosphate (Monoammonium phosphate)” and has a current duty rate of free. This subheading covers MAP.

¹⁵ HTSUS, ch. 31, at 31-3 to 31-4 (rev. 7, 2020), attached as Exhibit I-9.

¹⁶ Concentrated superphosphates were classified in subheading 3103.10.0020 prior to 2017. *See* HTSUS ch. 31, at 31-3 (2016), attached as Exhibit I-10.

¹⁷ Normal superphosphates were classified in subheading 3103.10.0010 prior to 2017. *See id.*

- Subheading 3105.40.0050 provides for: “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Ammonium dihydrogenorthophosphate (Monoammonium phosphate) and mixtures thereof with diammonium hydrogenorthophosphate (Diammonium phosphate): Other” and has a current duty rate of free. This subheading covers MAP and DAP blends.
- Subheading 3105.51.0000 provides for: “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Other mineral or chemical fertilizers containing the two fertilizing elements nitrogen and phosphorous: Containing nitrates and phosphates” and has a current duty rate of free. This subheading covers NPS fertilizers.
- Subheading 3105.59.0000 provides for: “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Other mineral or chemical fertilizers containing the two fertilizing elements nitrogen and phosphorous: Other” and has a current duty rate of free. This subheading also covers NPS fertilizers.

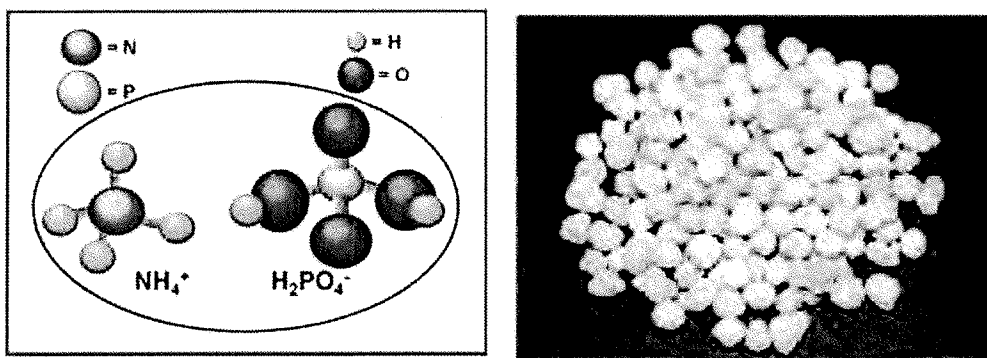
Phosphate fertilizers subject to these Petitions may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050.

3. Physical Characteristics, Specifications, and Uses

Phosphate fertilizers contain phosphate as a primary constituent and are used primarily in agricultural applications to provide nutrients to plants. There are four main types of phosphate fertilizers: MAP, DAP, SSP/NSP, and TSP, each of which differs slightly in chemical structure and properties but is primarily characterized by its phosphorous content. Other types of phosphate fertilizers include nitrogen, phosphate, sulfur (NPS) fertilizers; nitrogen, phosphorous, potassium (NPK) fertilizers; and proprietary formulations thereof, such as Mosaic’s Microessentials product. All phosphate fertilizers contain phosphorous (P), measured in units of available phosphorous pentoxide (P₂O₅), one of the three primary nutrients for plants along with

nitrogen (N) and potash/potassium (K).¹⁸ Most phosphate fertilizers sold in the United States also contain nitrogen (N). They may also contain secondary nutrients such as calcium (Ca) and sulphur (S).¹⁹

The first main type of phosphate fertilizer is monoammonium phosphate or MAP.²⁰ MAP is fertilizer material composed of phosphorous and ammonium (which is an excellent source of nitrogen for plant nutrition),²¹ with available phosphorus pentoxide (P_2O_5) or equivalent content ranging from 48 percent to 61 percent and nitrogen content ranging from 10 percent to 12 percent.²² The chemical formula for MAP is: $NH_4H_2PO_4$.²³



Source: IPNI, Nutrient Source Specifics: Monoammonium Phosphate (MAP), attached as Exhibit I-12.

The most common chemical formulation of MAP is 11-52-0, containing nitrogen content of approximately 11 percent and available phosphorus pentoxide (P_2O_5) or equivalent content of approximately 52 percent.²⁴ High-purity MAP typically has a P_2O_5 or equivalent content of 61 percent.²⁵ High-purity MAP may also have a conditioner added to prevent clumping or caking.

¹⁸ See Plant Nutrients & Plant Nutrient Products at 1-4, attached as Exhibit I-11.

¹⁹ See *id.*

²⁰ MAP may also be known as ammonium dihydrogenorthophosphate.

²¹ See IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12.

²² See *id.*

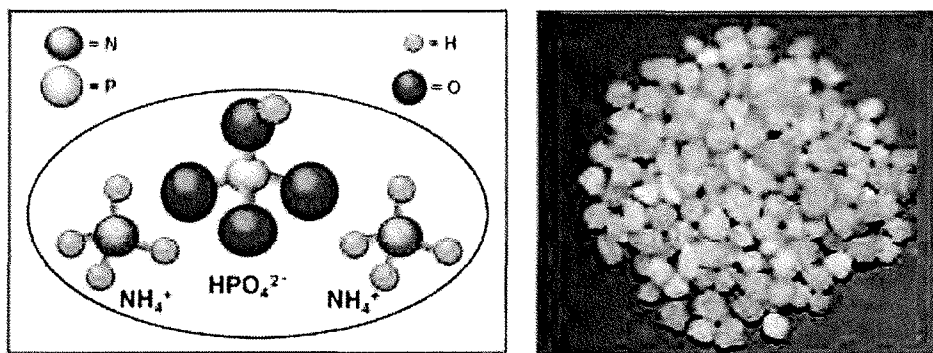
²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

In solution, MAP has a pH ranging from 4 to 4.5.²⁶ Because the solution pH of MAP is mildly acidic, it is an especially desirable fertilizer in neutral- and high-pH soils.²⁷

The second main type of phosphate fertilizer is diammonium phosphate or DAP.²⁸ DAP is the world's most widely used phosphate fertilizer.²⁹ Like MAP, DAP is a fertilizer material consisting of ammonium and phosphate. DAP has an available phosphorus pentoxide (P_2O_5) or equivalent content of approximately 46 percent and a nitrogen content of approximately 18 percent.³⁰ The chemical formula for DAP is $(NH_4)_2HPO_4$.³¹



Source: IPNI, Nutrient Source Specifics: Diammonium Phosphate, attached as Exhibit I-14.

The standard grade of DAP is 18-46-0, containing nitrogen content of approximately 18 percent and available phosphorus pentoxide (P_2O_5) or equivalent content of approximately 46 percent.³² In solution, DAP has a pH ranging from 7.5 to 8.³³ Because the solution pH of DAP is mildly basic, a notable property of DAP is the alkaline pH that initially develops around the granules as they dissolve.³⁴ However, over time the ammonium present in DAP is gradually converted to

²⁶ See *id.*

²⁷ See *id.*

²⁸ DAP may also be known as diammonium hydrogenorthophosphate.

²⁹ IPNI, Phosphorous Fertilizer Production and Technology at 20, attached as Exhibit I-13.

³⁰ See IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

³¹ See *id.*

³² See *id.*

³³ See *id.*

³⁴ See *id.*

nitrate by soil bacteria, resulting in a subsequent drop in pH.³⁵ Thus, the differences in terms of pH balance between MAP and DAP become minor over time and are minimal in terms of plant nutrition.³⁶

The third main type of phosphate fertilizer is single superphosphate (SSP), also referred to as normal superphosphate (NSP). SSP is a fertilizer material with phosphorous content of approximately 16 to 20 percent, measured by available phosphorus pentoxide (P₂O₅).³⁷ The chemical formula of SSP is Ca(H₂PO₄)₂·CaSO₄. The standard grade of SSP is 0-20-0, containing an available phosphorus pentoxide (P₂O₅) or equivalent content of approximately 20 percent, calcium content of approximately 18 to 21 percent, and sulphur content of approximately 11 to 12 percent.³⁸ SSP is a lower analysis type of phosphate fertilizer that typically contains about one-third the nutrients of high-analysis types of phosphate fertilizer. SSP also contains higher levels of sulphur and calcium compared to high-analysis phosphate fertilizers, which typically have minimal sulphur and calcium content.³⁹ SSP is commonly used for fertilizing pastures where both phosphorous and sulfur are needed.⁴⁰

The fourth main type of phosphate fertilizer is concentrated superphosphate, also referred to as double, treble, or triple superphosphate (TSP).⁴¹ TSP is a fertilizer material with a phosphorous content of over 40 percent, measured by available phosphorus pentoxide (P₂O₅). The chemical formula for TSP is Ca(H₂PO₄)₂·H₂O.⁴² The standard grade of TSP is 0-45-0, containing an available phosphorus pentoxide (P₂O₅) or equivalent content of approximately 45

³⁵ *See id.*

³⁶ *See id.*

³⁷ *See* IPNI, Nutrient Source Specifics No. 21: Single Superphosphate, attached as Exhibit I-15.

³⁸ *See id.*

³⁹ *See* Plant Nutrients & Plant Nutrient Products at 1-31, attached as Exhibit I-11.

⁴⁰ *See id.*

⁴¹ TSP may also be known as calcium dihydrogen phosphate and monocalcium phosphate.

⁴² *See* IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

percent and a calcium content of approximately 15 percent.⁴³ In solution, TSP has a pH ranging from 1 to 3.⁴⁴ TSP is commonly used for fertilization of leguminous crops, such as alfalfa or beans, where no additional nitrogen fertilization is necessary to supplement biological nitrogen fixation.⁴⁵

All phosphate fertilizers are primarily used in agricultural applications, with some limited non-agricultural uses. Phosphate fertilizers are water-soluble and dissolve rapidly in adequately moist soil.⁴⁶ Upon dissolution, the basic components of phosphate fertilizers separate to release phosphate (H_2PO_4^-)—and, in the case of MAP and DAP, ammonium (NH_4^+), and in the case of SSP, calcium (Ca) and sulphur (S)—to foster plant growth.⁴⁷

Growers typically apply granular phosphate fertilizers in concentrated bands beneath the soil surface or in surface bands.⁴⁸ Phosphate fertilizers are also commonly applied by spreading across a field and mixing into the surface soil via tillage.⁴⁹ Phosphate fertilizers in solid form can also be dissolved into a solution and applied to crops as a foliar spray or added to irrigation water.⁵⁰ Phosphate fertilizers such as SSP, TSP, MAP, DAP, NPK, and NPS can be used interchangeably in most fertilizer applications. However, TSP cannot be used in some blended fertilizer products that include urea because it is hygroscopic. High purity MAP and TSP can also be used as a feed ingredient for animals.⁵¹

⁴³ *See id.*

⁴⁴ *See id.*

⁴⁵ *See id.*

⁴⁶ *See* IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁴⁷ *See* IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Phosphorous Fertilizer Production and Technology at 26, attached as Exhibit I-13.

⁴⁸ *See* IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14; IPNI, Phosphorous Fertilizer Production and Technology at 27, attached as Exhibit I-13.

⁴⁹ *See* IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12.

⁵⁰ *See id.*; IPNI, Phosphorous Fertilizer Production and Technology at 27, attached as Exhibit I-13.

⁵¹ *See* IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

Phosphate fertilizers also have some limited non-agricultural uses. For example, MAP and DAP can be used as a fire retardant, such as in dry chemical fire extinguishers commonly found in offices, schools, and homes.⁵² DAP also has some additional industrial or food applications, including in metal finishing and certain limited food production processes such as sustaining yeast fermentation in wine and producing cheese cultures.⁵³ SSP and TSP can also be used in some minor food applications, such as in baking powder.⁵⁴

4. Production Methods

The major foreign and domestic fertilizer producers are typically vertically integrated to the extent that they, or their affiliates, mine phosphate, the key primary input, in addition to conducting the production activities required to produce finished phosphate fertilizers. All phosphate fertilizers are produced through a series of chemical reactions that convert phosphate rock into phosphoric acid,⁵⁵ which can then be finished into several types of phosphate fertilizers through minor additional processing.⁵⁶ The production processes used to make these different types of phosphate fertilizers are similar, and producers can switch between making the different types of phosphate fertilizers with relative ease, such that there are no clear dividing lines between them.

All phosphate fertilizers are produced using the same primary input and source of phosphorous: phosphate rock. Phosphate rock is obtained from phosphate ore that is mined and then beneficiated to remove impurities in the ore such as sand, clay, carbonates, organics, and

⁵² See IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁵³ See IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁵⁴ See IPNI, Nutrient Source Specifics No. 21: Single Superphosphate, attached as Exhibit I-15; IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

⁵⁵ See IPNI, Phosphorous Fertilizer Production and Technology at 13-15, attached as Exhibit I-13.

⁵⁶ See Plant Nutrients & Plant Nutrient Products at 1-26 – 28, attached as Exhibit I-11; IPNI, Phosphorous Fertilizer Production and Technology at 20, attached as Exhibit I-13.

iron oxide.⁵⁷ After beneficiation, the phosphate rock can be used to produce phosphate fertilizer or sold on the global market. Phosphate rock contains calcium which makes the phosphorous content water insoluble and therefore unavailable to plants.⁵⁸ To produce phosphate fertilizer, the calcium is stripped from the phosphate rock, which is typically done by grinding the phosphate rock and then reacting it with either sulfuric or nitric acid.⁵⁹ The reaction of phosphate rock and sulfuric acid produces (i) phosphoric acid, an intermediate product used to manufacture nearly all high-analysis or concentrated phosphate fertilizers such as MAP, DAP, and TSP, and (ii) calcium sulphate, which is an impure form of gypsum called phosphogypsum, as a byproduct.⁶⁰

High-analysis or concentrated phosphate fertilizers, such as MAP, DAP, and TSP, are manufactured by reacting phosphoric acid with either anhydrous ammonium (MAP and DAP) or additional high-grade phosphate rock (TSP).⁶¹ MAP and DAP are produced very similarly by reacting phosphoric acid with ammonia to form an ammoniated slurry. The most common method of producing MAP is by combining a one-to-one ratio of ammonia (NH₃) and phosphoric acid (H₃PO₄) in a reaction vessel.⁶² The resulting slurry is then pumped to a granulation plant where it is reacted with additional phosphoric acid, solidified, and granulated.⁶³ MAP can also be produced by introducing the two starting materials, ammonia and phosphoric acid, in a pipe-cross reactor, where the reaction generates heat to evaporate water and solidify the resulting

⁵⁷ See IPNI, Phosphorous Fertilizer Production and Technology at 9-12, attached as Exhibit I-13.

⁵⁸ See Plant Nutrients & Plant Nutrient Products at 1-28, attached as Exhibit I-11.

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See *id.*

⁶² See IPNI, Phosphorous Fertilizer Production and Technology at 19, attached as Exhibit I-13; Plant Nutrients & Plant Nutrient Products at 1-30, attached as Exhibit I-11.

⁶³ See Plant Nutrients & Plant Nutrient Products at 1-30, attached as Exhibit I-11; IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12.

MAP, as well as by several other methods.⁶⁴ DAP is produced by combining ammonia and phosphoric acid in a reaction vessel, following which the resulting slurry is pumped into a granulation plant where it is reacted with additional ammonia, cooled, granulated, and sieved.⁶⁵ The inputs used to produce one ton of DAP are approximately 1.5 to 2 tons of phosphate rock, 0.4 tons of sulfur to dissolve the rock, and 0.2 tons of ammonia.⁶⁶ Some granulation plants can switch from DAP to MAP production simply by replacing the ammonia sparger with a phosphoric acid sparger.⁶⁷

In the case of TSP, finely ground phosphate rock is reacted with liquid phosphoric acid to produce a slurry which is then granulated, dried, and screened to produce fertilizer particles with P_2O_5 content of approximately 40 to 48 percent.⁶⁸ To produce non-granular TSP, the reaction is performed in a cone-type mixer, and the resulting slurry solidifies on a slow-moving conveyor and passes through a rotary mechanical cutter that breaks up the solid mass en route to the curing area.⁶⁹ To produce granular TSP, the slurry resulting from the reaction is sprayed as a coating onto small particles to build granules of the desired size using the Dorr-Oliver slurry granulation process.⁷⁰ In both cases, the product is allowed to cure for several weeks as the chemical reactions are slowly completed.⁷¹

⁶⁴ See IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; *see also* U.S. Environmental Protection Agency, Background Report, AP-42, Sec. 6.10 Phosphate Fertilizers at 7-9, attached as Exhibit I-17.

⁶⁵ See IPNI, Phosphorous Fertilizer Production and Technology at 19, attached as Exhibit I-13; Plant Nutrients & Plant Nutrient Products at 1-30, attached as Exhibit I-11; IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁶⁶ See IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁶⁷ See Plant Nutrients & Plant Nutrient Products at 1-30, attached as Exhibit I-11. A sparger is a nozzle used to distribute a gas or liquid, such as ammonia or phosphoric acid.

⁶⁸ See IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

⁶⁹ See *id.*; U.S. Environmental Protection Agency, Background Report, AP-42, Sec. 6.10 Phosphate Fertilizers at 4, attached as Exhibit I-17.

⁷⁰ See *id.*

⁷¹ See *id.*

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SSP, which is a lower analysis type phosphate fertilizer that has a P₂O₅ content of 15 to 21 percent, is produced by reacting phosphate rock with weak (65 to 75 percent) sulfuric acid.⁷² Ground phosphate rock and sulfuric acid are first mixed in a reaction vessel to produce a slurry which is held in an enclosed area until the reaction is partially completed and then conveyed to a storage pile for curing, where the chemical reaction is completed.⁷³ To produce granulated SSP, the cured product is fed through a clod breaker and then processed through a rotary drum granulator, a rotary dryer, and a rotary cooler, and then screened to specification.⁷⁴

NPS and NPK fertilizers can be produced by reacting phosphate rock with sulfuric acid or nitric acid.⁷⁵ This reaction—plus the addition of potash or other source of potassium for NPK fertilizers—produces a variety of NP and NPK compounds containing different amounts of nitrogen, phosphorus, and potassium.⁷⁶ SSP and TSP can also be used to produce NPS and NPK fertilizers.⁷⁷

D. SUBJECT COUNTRIES⁷⁸

The subject merchandise is manufactured or produced in Morocco and Russia. Petitioner has no knowledge of whether the subject merchandise is being transshipped through a third country to the United States.

⁷² See U.S. Environmental Protection Agency, Background Report, AP-42, Sec. 6.10 Phosphate Fertilizers at 2-3, attached as Exhibit I-17.

⁷³ See Plant Nutrients & Plant Nutrient Products at 1-31, attached as Exhibit I-11; IPNI, Nutrient Source Specifics No. 21: Single Superphosphate, attached as Exhibit I-15.

⁷⁴ See IPNI, Nutrient Source Specifics No. 21: Single Superphosphate, attached as Exhibit I-15.

⁷⁵ See Plant Nutrients & Plant Nutrient Products at 1-31, attached as Exhibit I-11.

⁷⁶ See *id.*

⁷⁷ See IPNI, Phosphorous Fertilizer Production and Technology at 20, attached as Exhibit I-13.

⁷⁸ 19 C.F.R. § 351.202(b)(6).

E. U.S. IMPORT VOLUME AND VALUE⁷⁹

The volume and value of U.S. imports of subject merchandise during the period 2017 to April 2020 are provided in Exhibit I-1.⁸⁰ These data were obtained from the Commission's DataWeb, using HTSUS subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000.

F. NAMES AND ADDRESSES OF KNOWN U.S. IMPORTERS⁸¹

The names and addresses of known U.S. importers are provided in Exhibit I-18.⁸² Petitioner developed contact information for known U.S. importers using ship manifest data from ImportGenius and the best publicly available information; however, it is likely there are other U.S. importers of subject merchandise from Morocco and Russia. Petitioner hereby requests that the Department and Commission request this information from U.S. Customs and Border Protection.

G. NAMES AND ADDRESSES OF KNOWN FOREIGN PRODUCERS AND EXPORTERS

The names and addresses of known foreign producers and exporters are provided in Exhibit I-19.⁸³ Petitioner developed contact information for known foreign producers and exporters using publicly available information.

III. THE DOMESTIC INDUSTRY IS MATERIALLY INJURED, AND THREATENED WITH FURTHER MATERIAL INJURY, BY REASON OF IMPORTED PHOSPHATE FERTILIZERS FROM MOROCCO AND RUSSIA

Section 701(a)(2) of the Act provides for the imposition of countervailing duties on subsidized imports where the Commission determines that "an industry in the United States . . .

⁷⁹ 19 C.F.R. § 351.202(b)(8).

⁸⁰ See Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, attached as Exhibit I-1.

⁸¹ 19 C.F.R. §§ 207.11(b)(2)(iii), 351.202(b)(9).

⁸² Names and Contact Information for Importers of Phosphate Fertilizers, attached as Exhibit I-18.

⁸³ Names and Contact Information for Foreign Producers of Phosphate Fertilizers, attached as Exhibit I-19.

is materially injured, or . . . is threatened with material injury, . . . by reason of” subject imports.⁸⁴ Section 771(7) of the Act defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant,”⁸⁵ and it sets out the following non-exhaustive list of factors that the Commission shall consider in determining whether material injury exists, in addition to any other relevant economic factors:⁸⁶

- (i) the volume of imports of the subject merchandise;
- (ii) the effect of imports of that merchandise on prices in the United States for domestic like products; and
- (iii) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States.

Under these factors, the available evidence demonstrates that the domestic industry is materially injured. As discussed in detail below, imports of phosphate fertilizers from Morocco and Russia have increased significantly over the past three years, both in absolute terms and relative to domestic production. The rapidly increasing levels of low-priced imports from Morocco and Russia are causing significant adverse volume and price effects in the U.S. market and consequently having a severe adverse impact on the domestic industry.

A. The Commission Should Define a Domestic Like Product Coextensive with the Scope

Section 771 of the Act defines the domestic like product as the product that is “like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation.”⁸⁷ In determining what constitutes the “like product,” the Commission generally considers the following factors: (1) the physical characteristics and uses of the product; (2)

⁸⁴ See 19 U.S.C. § 1671(a)(2). See also 19 U.S.C. § 1671d(b)(1).

⁸⁵ 19 U.S.C. § 1677(7)(A).

⁸⁶ 19 U.S.C. § 1677(7)(B).

⁸⁷ 19 U.S.C. § 1677(10).

interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the product; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price.⁸⁸ The starting point for the like product analysis is the scope definition, and the Commission looks for clear dividing lines among possible like products, disregarding minor variations. In this case, the Commission should define a single domestic like product coextensive with the scope, comprising all phosphate fertilizers.

Physical characteristics – The product subject to the scope of this investigation is fertilizers that contain phosphate as a primary nutrient. All phosphate fertilizers contain phosphorous (P), measured in units of available phosphorous pentoxide (P₂O₅), one of the three primary nutrients for plants along with nitrogen (N) and potash/potassium (K).⁸⁹ Most phosphate fertilizers sold in the United States also contain nitrogen (N), and they may contain secondary nutrients such as calcium (Ca) and sulphur (S) as well.⁹⁰ Each type of phosphate fertilizer differs slightly in chemical structure and properties but is primarily characterized by its phosphorous content.

Interchangeability – All phosphate fertilizers are primarily used in agricultural applications, with some limited non-agricultural uses. MAP, DAP, SSP, TSP, NPS, and NPK (as well as proprietary formulations thereof) can be used interchangeably in most fertilizer applications; however, TSP cannot be used in some blended fertilizer products that include urea because it is hygroscopic. High purity MAP and TSP can also be used as a feed ingredient for animals.⁹¹

⁸⁸ *Nippon Steel Corp. v. United States*, 19 C.I.T. 450, 455 n.4 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

⁸⁹ See Plant Nutrients & Plant Nutrient Products at 1-4, attached as Exhibit I-11; see also IPNI, Phosphorous Fertilizer Production and Technology at 3-4, attached as Exhibit I-13.

⁹⁰ See *id.*

⁹¹ See IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

All types of phosphate fertilizers also have some limited non-agricultural uses. For example, MAP and DAP can be used as a fire retardant, such as in dry chemical fire extinguishers commonly found in offices, schools, and homes.⁹² DAP also has some additional industrial or food applications, including in metal finishing and certain limited food production processes such as sustaining yeast fermentation in wine and producing cheese cultures.⁹³ SSP and TSP can also be used in some minor food applications, such as in baking powder.⁹⁴

Channels of distribution – All types of phosphate fertilizers are sold through the same channels of distribution in the United States: through distributors, to retailers, and to end users. Bulk product in the U.S. phosphate fertilizer market may be sold by the barge, railcar, truck, or ton.⁹⁵ A typical barge is 1,500 short tons, and a typical railcar is a minimum of 100 short tons.⁹⁶ Smaller quantities of phosphate fertilizers may be sold directly to end users in the United States.

Customer and producer perceptions – Customers and producers view all types of phosphate fertilizers as a single category of products, namely fertilizers that contain phosphate as a primary constituent. Customers do not view other types of fertilizers, such as urea, potash, ammonium nitrate, or ammonium sulfate fertilizers, as part of the same category of products.

Common manufacturing facilities, production processes, and production employees – All phosphate fertilizers can be produced in the same production facilities using the same employees and similar production processes. They are all produced through a series of chemical reactions that convert phosphate rock, the key primary input, into phosphoric acid, which can

⁹² See IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP), attached as Exhibit I-12; IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁹³ See IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate, attached as Exhibit I-14.

⁹⁴ See IPNI, Nutrient Source Specifics No. 21: Single Superphosphate, attached as Exhibit I-15; IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate, attached as Exhibit I-16.

⁹⁵ See, e.g., Argus Media, Argus Phosphates: Methodology and Specifications Guide at 6 (Apr. 2020), attached as Exhibit I-20.

⁹⁶ See *id.*

then be finished into several types of phosphate fertilizers through minor additional processing. Many phosphate fertilizer producers have versatile granulation plants and can switch between producing several different phosphate fertilizer products with minimal cost and downtime. For example, both domestic producers like Mosaic and subject foreign producers operate plants that can produce some combination of MAP, DAP, TPS, NPS, and/or NPK.⁹⁷ Switching production between MAP and NPS—which are chemically very similar—can take as little as a few hours. As discussed above in Section II.C.4, some granulation plants can switch between production of DAP and MAP—*i.e.*, the two highest-volume phosphate fertilizers—simply by changing the sparger,⁹⁸ a process that can be accomplished in one to two days.

Price – Finally, to the extent the Commission finds it appropriate to consider price, all phosphate fertilizers fall within the same general price range. The prices of the various types of phosphate fertilizers tend to move in parallel over time and in some cases may be tied to one another. For example, [NARRATIVE REGARDING PRICING

].⁹⁹ High-analysis or concentrated phosphate fertilizers such as TSP, MAP, and DAP are generally more expensive than low-analysis products such as SSP.

In sum, the factors that the Commission normally considers show that the phosphate fertilizers subject to this investigation are similar in nearly all relevant respects, with no clear dividing lines between them. The Commission should therefore define a single domestic like product coextensive with the scope, and it should define the domestic industry—meaning the

⁹⁷ See International Fertilizer Association, World Processed Phosphates Capacities 2019 at 8-9, 23-25, attached as Exhibit I-8 [NARRATIVE REGARDING PRODUCTION

].
⁹⁸ See Plant Nutrients & Plant Nutrient Products at 1-30, attached as Exhibit I-11.

⁹⁹ See Declaration of [], attached as Exhibit I-21.

“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”¹⁰⁰—as comprising U.S. producers of phosphate fertilizers.

B. Conditions of Competition in the Phosphate Fertilizer Industry and the Business Cycle

The following conditions of competition provide relevant context for the Commission’s analysis of the material injury factors and the question of whether a causal link exists between subject imports and the material injury the domestic industry is suffering.

Demand for phosphate fertilizers is driven primarily by agricultural plantings.¹⁰¹ Weather volatility, crop rotation, fertilizer use rates, and crop prices relative to fertilizer prices also impact demand.¹⁰²

Bulk fertilizers traded on the world market are typically indistinguishable from each other, provided they have the same formulation. Each of the main types of phosphate fertilizers (MAP, DAP, SSP/NSP, TSP) is very similar across domestic and foreign suppliers, such that there is a high degree of substitutability between subject imports and the domestic like product. Because product differentiation and quality differences between various sources of phosphate fertilizers are relatively minor, phosphate fertilizer products are generally marketed on the basis of price.¹⁰³

Competition in the phosphate fertilizer market occurs at both the wholesale and retail levels.¹⁰⁴ While historically the majority of imports were sold to distributors in the United States, importers are increasingly selling directly to retailers, and even end users, as well. In

¹⁰⁰ 19 U.S.C. § 1677(4)(A).

¹⁰¹ See generally CRU, Phosphate Fertilizer Market Outlook at 13-16 (July 2017), attached as Exhibit I-22.

¹⁰² See *id.*

¹⁰³ *Industry & Trade Summary, Fertilizers*, USITC Pub. 3082, at 12 (Mar. 1998), attached as Exhibit I-23; Declaration of [REDACTED], attached as Exhibit I-21.

¹⁰⁴ See Declaration of [REDACTED], attached as Exhibit I-21.

addition, competition between subject imports and domestically-produced fertilizer also takes place where foreign producers sell to those importers that also purchase directly from U.S. producers.

Prices of bulk phosphate fertilizer sales in the U.S. market are highly transparent, such that low-priced sales are quickly transmitted throughout the market.¹⁰⁵ One trade publication, Argus Phosphates, publishes weekly reports that include contemporaneous phosphate fertilizer prices around the world.¹⁰⁶ In March 2020, Argus started a daily reporting service for DAP and MAP prices in selected markets. Argus Senior Vice President, Lauren Williams, explained: “The move reflects accelerating trends in market activity across the phosphate trading space,” and “{i}ncreased assessment frequency will provide more robust pricing, both on a daily basis and in the calculation of price averages across a certain period that may be used in contract negotiation or formula price agreements.”¹⁰⁷

C. Imports of Phosphate Fertilizers from Morocco and Russia Are Significant, Both in Absolute Terms and Relative to Domestic Production

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”¹⁰⁸

¹⁰⁵ See Declaration of [redacted], attached as Exhibit I-21.

¹⁰⁶ See, e.g., Argus Media: Methodology and Specifications Guide at 10 (Apr. 2020), attached as Exhibit I-20 (describing the Argus DAP Index as “{a} weekly global composite DAP index based on a basket of Argus price assessments weighted by annual export volumes.”).

¹⁰⁷ Press Release, Argus Media, *Phosphates: Argus Launches Daily Phosphate Pricing* (Mar. 17, 2020), <https://www.argusmedia.com/en/news/2087677-phosphates-argus-launches-daily-phosphate-pricing>, attached as Exhibit I-24.

¹⁰⁸ 19 U.S.C. § 1677(7)(C)(i).

1. Subject Imports from Morocco and Russia Are Not Negligible¹⁰⁹

Pursuant to section 771(24) of the Act, imports from a subject country of merchandise corresponding to the domestic like product are considered negligible if they account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months.¹¹⁰ Subject imports from Morocco and Russia are not negligible, as they accounted for 61.4 percent and 14.7 percent of total U.S. imports, respectively, over the past twelve months for which data is available.¹¹¹

Table 1: U.S. Imports of Subject Merchandise from Morocco and Russia, May 2019-Apr. 2020

(Quantities in short tons)

	Imports May 2019 – Apr. 2020	Percentage of Total U.S. Imports
Morocco	2,076,565	61.4%
Russia	495,788	14.7%
ROW	810,641	24.0%
World Total	3,382,994	100%

Source: USITC Dataweb, HTSUS Subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000

2. The Commission Should Cumulate Imports from Subject Countries

For purposes of evaluating the volume and effects of subject imports to make a material injury determination, section 771(7)(G)(i) of the Act directs the Commission to cumulatively assess imports from all countries as to which antidumping or countervailing duty petitions were filed on the same day if such imports compete with each other and with the domestic like product

¹⁰⁹ 19 C.F.R. § 351.202(b)(8).

¹¹⁰ 19 U.S.C. § 1677(24).

¹¹¹ Monthly Import Data 2019 & 2020, Exhibit I-25.

in the U.S. market.¹¹² In assessing whether subject imports compete with each other and with the domestic like product, the Commission generally assesses the following four factors:¹¹³

- (1) The degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) The presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) The existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) Whether subject imports are simultaneously present in the market.

The Commission need only find a “reasonable overlap” of competition between subject imports from different countries and with the domestic like product in order to assess the effects of subject imports on a cumulated basis.¹¹⁴ As an initial matter, these Petitions regarding phosphate fertilizer imports from Morocco and Russia were filed on the same day. Moreover, each of the four aforementioned factors support cumulating imports from Morocco and Russia:

Fungibility: Phosphate fertilizers are by their very nature a fungible commodity product, and there are no significant product differences between phosphate fertilizers imported from Morocco and Russia or compared to the domestic like product. Both imported and domestically produced phosphate fertilizers consist of a range of types of phosphate fertilizers, including MAP, DAP, TSP, NPS, and NPK fertilizers. The most common types of phosphate fertilizer for both subject imports and the domestic like product are MAP and DAP (in that order).¹¹⁵

¹¹² 19 U.S.C. § 1677(7)(G)(i).

¹¹³ See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-80 (Final), USITC Pub. 1845, at 8 n.29 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

¹¹⁴ See *Titanium Sponge from Japan and Kazakhstan*, Inv. Nos. 701-TA-587 and 731-TA-1385-1386 (Preliminary), USITC Pub. 4736, at 17 (Oct. 2017) (“{T}he statutory standard for cumulation directs us to examine not only whether subject imports from different sources compete with each other in the U.S. market, but also whether subject imports compete with the domestic like product.”).

¹¹⁵ See Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, Exhibit I-1; U.S. Production and Petitioner Standing, Exhibit I-5.

Sold in the Same Geographic Markets: Both subject imports from Morocco and Russia and the domestic like product are sold in all geographic markets in the United States. There is also significant overlap between imports from Morocco and Russia with regard to ports of entry. As shown in Exhibit I-1, the port of New Orleans (NOLA) is by far the single largest port of entry for phosphate fertilizer imports from Morocco and Russia, accounting for 89.2 percent of phosphate fertilizer imports from Morocco and 84.4 percent of imports from Russia in 2019.¹¹⁶ The reason why NOLA is such an important entry port for phosphate fertilizer imports from both Morocco and Russia is that this allows easy access for barge-load shipments to be distributed via U.S. inland waterways to agricultural markets throughout the United States.

Channels of Distribution: Phosphate fertilizer imports from both Morocco and Russia and the domestic like product are sold via the same channels of distribution, including to wholesalers/distributors, retailers, in some cases, to end users. As shown in Exhibit I-18, some of the largest importers, such as CHS (Cenex), Eurochem, and Ameropa are trading companies that both import phosphate fertilizers from both Russia and Morocco and act as distributors.¹¹⁷

[NARRATIVE REGARDING CUSTOMERS]¹¹⁸

Simultaneous Presence in the Market: Finally, as shown in Exhibits I-1 and I-25, imports of phosphate fertilizers from both Morocco and Russia have been simultaneously present in the U.S. market during every year of the POI and every month from January 2019 through April 2020.

Accordingly, the Commission should find there is a reasonable overlap of competition between and among domestically produced phosphate fertilizers and phosphate fertilizers

¹¹⁶ See Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, Exhibit I-1; U.S. Production and Petitioner Standing, Exhibit I-5.

¹¹⁷ Names and Contact Information for Importers of Phosphate Fertilizers, attached as Exhibit I-18.

¹¹⁸ See *id.*

imported from Morocco and Russia, and therefore assess subject imports from Morocco and Russia on a cumulated basis.

3. The Volume of Subject Imports from Morocco and Russia Is Significant and Increasing¹¹⁹

As the table below demonstrates, the volume of subject imports of phosphate fertilizers from Morocco and Russia is significant and rapidly increasing. Subject import volumes rose from 2.1 million short tons in 2017 to 3.1 million short tons in 2019, an increase of 48 percent, and increased progressively year over year:¹²⁰

Table 2: U.S. Imports of Subject Merchandise from Morocco and Russia, 2017-2019, Jan.-Apr. 2019 & 2020
(Quantities in short tons)

Time Period		2017	2018	2019	Jan.-Apr. 2019	Jan.-Apr. 2020
Morocco	Value	\$493,787,715	\$788,881,314	\$751,026,133	\$358,070,130	\$198,149,061
	Volume	1,519,089	2,014,458	2,258,804	925,023	742,784
	AUV	\$325	\$392	\$332	\$387	\$267
Russia	Value	\$189,769,637	\$400,251,972	\$314,956,404	\$255,731,493	\$82,671,173
	Volume	577,236	1,032,067	845,948	658,049	307,890
	AUV	\$329	\$388	\$372	\$389	\$269
Subject Imports	Value	\$683,557,352	\$1,189,133,286	\$1,065,982,537	\$613,801,623	\$280,820,234
	Volume	2,096,325	3,046,526	3,104,752	1,583,073	1,050,673
	AUV	\$326	\$390	\$343	\$388	\$267
Non-subject Imports	Value	\$253,222,295	\$394,527,389	\$354,926,173	\$163,352,845	\$104,643,264
	Volume	699,492	935,325	877,298	377,651	310,995
	AUV	\$362	\$422	\$405	\$433	\$336
Total Imports	Value	\$936,779,647	\$1,583,660,675	\$1,420,908,710	\$777,154,468	\$385,463,498
	Volume	2,795,816	3,981,851	3,982,050	1,960,724	1,361,668
	AUV	\$335	\$398	\$357	\$396	\$283

Source: USITC Dataweb, HTSUS Subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000.

¹¹⁹ 19 C.F.R. § 351.202(b)(8).

¹²⁰ See Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, Exhibit I-1. Values are on a landed, duty-paid basis.

4. Subject Imports Increased Relative to Domestic Production and Captured Market Share from the Domestic Industry

The volume of phosphate fertilizer imports from Morocco and Russia is also significant, and has increased significantly, relative to domestic production. Even as import levels rapidly expanded from 2017 to 2019, domestic production decreased, resulting in imports capturing an ever-increasing share of the U.S. market. The ratio of imports to domestic production increased progressively throughout the period, from [] percent in 2017 to [29] percent in 2019, an increase of nearly 70 percent.¹²¹

Table 3: Ratio of Subject Imports to Domestic Production, 2017-2019 and Q1 2019 & 2020

Quantities in 1,000s short tons	2017	2018	2019	Q1 2019	Q1 2020
Total Domestic Production	[2,968]
Subject Imports	2,096	3,046	3,104	1,415	738
Ratio of Subject Imports to Domestic Production	[]

The dramatic increase in phosphate fertilizer imports from Morocco and Russia over the past three years has come at the expense of the domestic industry, as imports have continued to increase despite fluctuations in apparent domestic consumption and a notable decrease in the past year. In particular, subject imports increased U.S. market share from [] percent in 2017 to [] percent in 2019, an increase of approximately [10] percent, while the domestic industry's market share fell from [] percent in 2017 to [55.8] percent in 2019.¹²²

Table 4: Market Shares of Imports & Domestic Industry, 2017-2019 and Q1 2019 & 2020

Quantities in Short Tons	2017	2018	2019	Q1 2019	Q1 2020
Domestic Industry U.S. Shipments	[6,599,826]
Subject Imports	2,096,325	3,046,526	3,104,752	1,415,390	738,355
Non-Subject Imports	699,492	935,325	877,298	316,642	212,273
Total Imports	2,795,816	3,981,851	3,982,050	1,732,032	950,628

¹²¹ See U.S. Producers' Trade Data, Exhibit I-26; Phosphate Market Shares, Exhibit I-27.

¹²² See Phosphate Market Shares, Exhibit I-27.

Apparent Domestic Consumption	[]
U.S. Industry Market Share	[55.8%]
Subject Imports Market Share	[10.7%]
Non-Subject Imports Market Share	[]
Total Imports Market Share	[56.0%]

In sum, subject imports of phosphate fertilizers are significant, both in terms of absolute import volumes and relative to domestic production, within the meaning of section 771(7)(C)(i) of the Act, and they have increased significantly over the past three years.

D. Imports of Phosphate Fertilizers from Morocco and Russia Are Causing Adverse Price Effects in the U.S. Market

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

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
- (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹²³

The continuous increase in subject import volume and market share since 2017, as discussed above, is the result of aggressive pricing by subject imports from Morocco and Russia that significantly depressed and suppressed prices in the U.S. market.

As discussed above in Section III.B, there are no significant differences in physical characteristics or quality between imported and domestically produced phosphate fertilizers. The absence of any meaningful product differentiation among competing suppliers means that price is generally the determinative factor in customers' purchasing decisions. Moreover, phosphate

¹²³ 19 U.S.C. § 1677(7)(C)(ii).

fertilizer prices in the U.S. market are highly transparent. The implications of the commodity nature of phosphate fertilizers, combined with price transparency, are that price effects of low-priced imports are quickly transmitted throughout the U.S. market, and U.S. producers must adjust their prices accordingly to remain competitive or risk losing sales.

It is evident that unfairly subsidized phosphate fertilizer imports significantly depressed and suppressed the domestic industry's prices in the U.S. market over the 2017 to 2019 period, for the following two reasons.

First, subject imports' share of the market in 2017 was already significant, at [] percent, and has grown significantly. From 2017 to 2019, subject import market share increased approximately [] percent, to [35.9] percent in 2019. Rising from their already-significant level in 2017, subject imports played an increasingly greater role in the U.S. phosphate market, and necessarily had an increasing impact on U.S. prices.¹²⁴

Second, the import data show a direct relationship between increasing subject import volumes and lower prices in the U.S. market, particularly in 2019. As shown in Exhibit 25, the average unit value of subject imports into the port of New Orleans (NOLA) for DAP and MAP peaked in the fourth quarter of 2018.¹²⁵ Subject import volumes in the first quarter of 2019 were 97 percent higher for DAP and 37 percent higher for MAP compared to Q4 2018, and prices fell by 8.3 percent and 6.2 percent, respectively, for each.¹²⁶ In fact, import volume in Q1 2019 was the highest observed in any quarter over the POI.¹²⁷ Argus Phosphates reported on February 7, 2019, that "the US is awash with imports" and "{p}ushing so much DAP/MAP to the US has led

¹²⁴ See, e.g., *Softwood Lumber from Canada*, Inv. No. 701-TA-312 (Remand), USITC Pub. No. 2689, at 27 (Oct. 2003) ("Subsidized imports have a greater impact on domestic sales and prices because of their significant volume and market share.").

¹²⁵ See Relationship Between Import Volume, Market Share, and Price, Port of NOLA, By Quarter and Year, Exhibit I-28.

¹²⁶ See *id.*

¹²⁷ See *id.*

to oversupply.”¹²⁸ This import surge led to a significant increase in import inventories in the United States.¹²⁹ Combined with an abnormally wet planting season in spring 2019, and resulting lower applications, *i.e.*, reduced demand, the persistent increases in low-priced imports throughout 2019 caused U.S. market prices to collapse:

- January 10, 2019: “***The US phosphate market continues to feel the pressure of a full supply chain and steady import lineup as both DAP and MAP barges declined this week.*** Limited buying activity caused DAP Nola to drop by nearly \$1/st from the previous week to \$383-386/st fob Nola on confirmed trades. MAP barge vales {sic} fell by nearly \$5/st from last week’s midpoint to \$388-395/st fob Nola.”¹³⁰
- January 17, 2019: “US phosphate prices continue to wilt as heavy supply pressures suffocate buyer demand. DAP barges were sold at \$378-380/st fob Nola this week, causing the midpoint to drop below the \$380/st mark for the first time since March 2018. MAP barges fell to an eight month low at the midpoint, as the \$383-385/st fob Nola range was underpinned by confirmed physical offers and market sentiment that MAP holds a \$5/st premium over DAP.”¹³¹
- January 31, 2019: “The ‘polar vortex’ in the US midwest saw temperatures plummet. The US domestic market followed suit. ***Put simply, the US market ‘tanked’ on cold weather, a full pipeline and heavy imports.*** US DAP barges fell \$10/st in a week. MAP prices are now in the mid/high-\$360s/st fob Nola, equivalent to just over \$400/t cfr.”¹³²
- February 28, 2019: “***The heavy import line-up and ‘polar vortex’ in the US has resulted in Nola DAP barges trading at \$330-338/st – down by \$14/st this week,*** which makes producer offers in Brazil in the \$420s/t cfr look optimistic.”¹³³
- March 28, 2019: “***The US has a record surplus of phosphates entering the spring season, boosted by weak sales, terrible weather conditions and heavy 1Q imports,*** which reached a record 1.2mn t of DAP/MAP, up 27pc yoy.”¹³⁴

¹²⁸ *Argus Phosphates Issue 19-6*, Argus Media, Feb. 7, 2019, at 1, attached as Exhibit I-29.

¹²⁹ *See, e.g., Argus Phosphates Issue 19-13*, Argus Media, Mar. 28, 2019, at 2, attached as Exhibit I-30 (“The US has a record surplus of phosphates entering the spring season, boosted by weak sales, terrible weather conditions and heavy 1Q imports, which reached a record 1.2mn t of DAP/MAP, up 27pc yoy.”).

¹³⁰ *Argus Phosphates Issue 19-2*, Argus Media, Jan. 10, 2019, at 4 (emphasis added), attached as Exhibit I-31.

¹³¹ *Argus Phosphates Issue 19-3*, Argus Media, Jan. 17, 2019, at 4, attached as Exhibit I-32.

¹³² *Argus Phosphates Issue 19-5*, Argus Media, Jan. 31, 2019, at 2 (emphasis added), attached as Exhibit I-33.

¹³³ *Argus Phosphates Issue 19-9*, Argus Media, Feb. 28, 2019, at 2 (emphasis added), attached as Exhibit I-34.

¹³⁴ *Argus Phosphates Issue 19-13*, Argus Media, Mar. 28, 2019, at 2 (emphasis added), attached as Exhibit I-30.

- April 18, 2019: “DAP/MAP supply for 1Q is estimated at 2.3mn t. The US DAP barge price fell again by \$5/st on oversupply amid heavy imports.”¹³⁵
- July 18, 2019: “Ample spot availability has driven US phosphate values down this week to \$304-310/st fob Nola DAP/MAP on confirmed trade. . . . *Price pressure is poised to persist in the near-term with continued imports scheduled for July discharge.*”¹³⁶
- August 4, 2019: “Downward price pressure persisted along the US Gulf coast this week, with DAP barge values assessed at \$298-300/st fob Nola – the lowest price level in nearly two years on a midpoint basis, according to Argus data. . . . *A slate of three additional cargoes from Morocco for August arrival is anticipated to keep a lid on near-term prices, which have been steered by imports following spring applications.* DAP imports during the 2018-19 fertilizer year reached an all-time high of 1.26mn/t on increased shipments from Morocco and Russia, according to customs data.”¹³⁷
- August 15, 2019: “In the US, two DAP barges traded in a \$288-294/st fob range for September – a 10-year low. The paper market was even more aggressive. *The driver is a substantial domestic carry-over from spring, plus heavy imports and lower grain prices.*”¹³⁸
- September 26, 2019: “Mosaic has sold three October-loading DAP barges at \$288/st fob Nola. But the slight firmness in the US DAP market exhibited after the Mosaic production cut subsided this week as barge values slipped below \$290/st fob Nola for October shipment. DAP traded at \$286-288/st fob Nola – the lowest price level since early-September. Market sentiment at the annual TFI World conference in Chicago, Illinois, remained bearish for near-term price movement, *especially as imports continue to discharge at the US Gulf coast at the current pace. The 500,000t of lost production at Mosaic’s Faustina plant during the fourth quarter is poised to be replaced by offshore volumes, likely minimizing upward momentum to Nola values.*”¹³⁹
- October 10, 2019: “Two DAP barges traded to a new decade low of \$275/st fob Nola late this week for October shipment, a \$10/st decrease from the previous trade at \$285/st fob Nola on Tuesday that framed the high end of the range.”¹⁴⁰
- October 24, 2019: “In the US, DAP barges traded at a new decade low of \$265/st fob Nola for October shipment, the lowest price level since November 2009.”¹⁴¹

¹³⁵ *Argus Phosphates Issue 19-16*, Argus Media, Apr. 18, 2019, at 1, attached as Exhibit I-35.

¹³⁶ *Argus Phosphates Issue 19-29*, Argus Media, July 18, 2019, at 4 (emphasis added), attached as Exhibit I-36.

¹³⁷ *Argus Phosphates Issue 19-32*, Argus Media, Aug. 8, 2019, at 4 (emphasis added), attached as Exhibit I-37.

¹³⁸ *Argus Phosphates Issue 19-33*, Argus Media, Aug. 15, 2019, at 2 (emphasis added), attached as Exhibit I-38.

¹³⁹ *Argus Phosphates Issue 19-39*, Argus Media, Sept. 26, 2019, at 4 (emphasis added), attached as Exhibit I-39.

¹⁴⁰ *Argus Phosphates Issue 19-41*, Argus Media, Oct. 10, 2019, at 4, attached as Exhibit I-40.

¹⁴¹ *Argus Phosphates Issue 19-43*, Argus Media, Oct. 24, 2019, at 2, attached as Exhibit I-41.

- October 31, 2019: “The DAP Nola market hit another decade low for the fifth consecutive week, with barge trades as low as the \$250s/st fob this week. MAP barges retained their premium to DAP and traded at \$265-270/st fob. This is equivalent to around \$290/t cfr, marginally lower than Brazilian cfr values.”¹⁴²
- November 7, 2019: “The Nola DAP market continued dropping for the sixth consecutive week, barges trading as low as \$242/st fob – the lowest since January 2007. Offers for MAP barges were around \$260/st fob, equivalent to \$280/t cfr, a \$15-20/t discount to Brazilian cfr values.”¹⁴³
- December 12, 2019: “Prices in the US barge market dropped to new lows this week, with both DAP and MAP assessed at \$235-240/st fob Nola, a \$24/t discount to Brazilian cfr values for MAP.”¹⁴⁴

The domestic industry took steps to curtail production to prevent further price declines, but low-priced imports continued to flood the market, capturing an ever-increasing share of the U.S. market at the expense of the domestic industry. Mosaic curtailed production by 300,000 tons in March 2019, a move that Argus Phosphates described as “clearly seen . . . to reduce pressure on the US domestic market that has been hit by unprecedented poor weather and heavy imports.”¹⁴⁵ When this proved ineffective at stemming the collapse in prices, Mosaic temporarily idled its Faustina phosphate plant in Q4 2019 to reduce production by a further 500,000 tons.¹⁴⁶ However, foreign producers continued to export substantial volumes of phosphate fertilizers to the United States, despite prices hitting 13-year lows in Q4 of 2019.¹⁴⁷ As Nutrien stated in November 2019, any attempts by U.S. phosphate producers to cut production to support price levels was a “futile game” as any such cut would be replaced by

¹⁴² *Argus Phosphates Issue 19-44*, Argus Media, Oct. 31, 2019, at 1, attached as Exhibit I-42.

¹⁴³ *Argus Phosphates Issue 19-45*, Argus Media, Nov. 7, 2019, at 1, attached as Exhibit I-43.

¹⁴⁴ *Argus Phosphates Issue 19-50*, Argus Media, Dec. 12, 2019, at 1, attached as Exhibit I-44.

¹⁴⁵ *Argus Phosphates Issue 19-12*, Argus Media, Mar. 21, 2019, at 1, attached as Exhibit I-45.

¹⁴⁶ Industry Report Staff, *Mosaic Plans to Idle Louisiana Operations*, Industry Report (Sept. 17, 2019), attached as Exhibit I-46.

¹⁴⁷ See CRU, *Phosphate Fertilizer Market Outlook* at 65 (Jan. 2020), attached as Exhibit I-47 (“OCP {} sent substantial volumes of both DAP and MAP to the United States, even during Q4 when prices were at 13-year lows. We expect OCP to continue to apply this pressure to the US markets especially as Mosaic has already cut production in Florida due to current low prices.”).

imports.¹⁴⁸ Indeed, prices continued to fall, reaching lows of \$235-240 per short ton in December 2019.¹⁴⁹ The average import price in 4Q 2019 compared to 1Q 2019 was 25.75 percent lower for DAP and 29.3 percent lower for MAP, and subject imports prices continued to decline in the first quarter of 2020.¹⁵⁰

These import AUV trends are mirrored in the average sales prices by Mosaic, with its average DAP prices declining by [] percent from the first to fourth quarters of 2019, and its average MAP prices declining by [] percent.¹⁵¹ The strong correlation in price trends between imports and Mosaic's sales reflects the commodity nature of this product and the high degree of transparency of prices in the market.¹⁵²

As discussed in Section III.E., below, the significant price depression caused by subject imports contributed to the [] Mosaic's phosphate fertilizer operations suffered in 2019, as its cost of goods sold (COGS) to net sales ratio rose to [94.1] percent and it suffered [FINANCIAL NARRATIVE].¹⁵³ Mosaic's COGS to net sales ratio increased to [] percent in the first quarter of 2020.¹⁵⁴ Thus, subject imports had significant adverse price effects in the U.S. market over the period 2017-2019, and those adverse effects have continued into 2020.

Exhibit I-50 identifies each product for which Petitioner requests the Commission seek pricing information in its questionnaires and contains specific guidance for the Commission on how to collect price data from U.S. producers and importers for its analysis of price effects.¹⁵⁵

¹⁴⁸ *Argus Phosphates Issue 19-45*, Argus Media, Nov. 7, 2019, at 4, attached as Exhibit I-43.

¹⁴⁹ *Argus Phosphates Issue 19-50*, Argus Media, Dec. 12, 2019, at 1, attached as Exhibit I-44.

¹⁵⁰ See Relationship Between Import Volume, Market Share, and Price, Port of NOLA, By Quarter and Year, Exhibit I-28.

¹⁵¹ See Mosaic Average Netback on Tons Priced & Delivered from Faustina / Burnside, Exhibit I-48.

¹⁵² See discussion, *supra*, at Section III.B; Declaration of [], attached as Exhibit I-21.

¹⁵³ See Mosaic Financials for Phosphates, Fertilizer Grade, attached as Exhibit I-49.

¹⁵⁴ See *id.*

¹⁵⁵ 19 C.F.R. § 207.11(b)(2)(iv); Phosphate Pricing Recommendations, Exhibit I-50.

The following summarizes important points in Exhibit I-50 to consider when drafting pricing questions for the producer and importer questionnaires:

- Prices should be collected for two phosphate types, DAP and MAP. These are the dominant forms of phosphate fertilizer in the U.S. market and should provide good coverage for both U.S. producers and importers.¹⁵⁶
- [NARRATIVE REGARDING CUSTOMERS]
]. For this reason, we recommend that those U.S. importers that also purchase from U.S. producers report price data for both their purchases from foreign sources and from U.S. producers for 2019 and 2020 and for their U.S. sales.
- Because of the volatility of prices over the period of investigation, pricing data should be collected on a monthly rather than quarterly basis.
- A large share of subject imports enter the U.S. market into the port of New Orleans (NOLA). NOLA is the first point of competition with U.S. producers and is considered a benchmark for U.S. phosphate fertilizer pricing. U.S. producers' phosphate fertilizer plants that are not proximate to NOLA (*e.g.*, Mosaic's Florida plants) must absorb freight to be competitive with imports when shipping to NOLA. For these reasons, we recommend that pricing be collected from both U.S. producers and importers on a "barge-loaded" delivered-NOLA basis, rather than f.o.b.-plant and f.o.b.-port.

Because reliable price comparisons will be affected by these factors (particularly freight absorption by U.S. producers to compete in NOLA), a simple comparison of import average unit values at NOLA with U.S. producers' average f.o.b. plant prices will not reflect competitive pricing in the market. Moreover, because of the commodity nature of this product, and the high level of transparency of prices in the market, we would not expect to see significant price differences among alternative sources of supply, including U.S. and foreign sources of phosphate supply to the U.S. market. That is, when the phosphate prices of domestic producers such as Mosaic or Nutrien diverge from those of subject imports on a delivered cost basis to customers, they lose a significant volume of sales, as discussed in further detail below.

¹⁵⁶ As shown in Exhibit I-1 and I-5, MAP and DAP collectively accounted for approximately [] percent of domestic production and 88 percent of subject imports by volume in 2019. *See* Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, attached as Exhibit I-1; U.S. Production and Petitioner Standing, attached as Exhibit I-5.

E. Significant Volumes of Low-Priced Subject Imports Are Having a Severe Adverse Impact on the Domestic Industry

Section 771(7)(B)(iii) of the Act directs the Commission to examine the impact of subject imports on the domestic industry.¹⁵⁷ Section 771(C)(iii) provides a non-exhaustive list of factors the Commission shall consider, in addition to any other factors the Commission finds relevant:¹⁵⁸

- (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity;
- (II) factors affecting domestic prices; and
- (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

No single factor is dispositive, and as provided in Section 771(C)(iii), the Commission assesses these factors in light of the relevant conditions of competition and business cycles that exist in the industry in question.¹⁵⁹

The evidence relating to each of these factors demonstrates that subject imports are having a significant adverse impact on the domestic industry.

1. The Domestic Industry Has Lost Sales and Market Share to Rapidly Increasing Imports

Over the period 2017-2019, the domestic industry lost sales and market share to rapidly increasing imports. The domestic industry's U.S. shipments fell from [6,600,000] short tons in 2017 to [] short tons in 2019, a decrease of [] percent, and its production fell from [] million short tons in 2017 to [10.5] million short tons in 2019, a decline of [] percent.¹⁶⁰ By value, the domestic industry's U.S. shipments declined by []

¹⁵⁷ 19 U.S.C. § 1677(7)(B)(iii).

¹⁵⁸ 19 U.S.C. § 1677(7)(C)(iii).

¹⁵⁹ 19 U.S.C. § 1677(7)(C)(iii); *Vertical Shaft Engines from China*, Inv. Nos. 701-TA-637 and 731-TA-1471 (Preliminary), USITC Pub. No. 5034, at 11 (Mar. 2020).

¹⁶⁰ See Phosphate Market Shares, Exhibit I-27; U.S. Producers' Trade Data, Exhibit I-26.

from [] to [\$1.86 billion], or by approximately [] percent, from 2017 to 2019.¹⁶¹ At the same time, subject imports increased from 2,096,325 short tons in 2017 to 3,104,752 short tons in 2019, an increase of nearly 50 percent. This surge in imports came largely at the expense of the domestic industry, as apparent consumption decreased over this period. As shown in the table below, the domestic industry's market share fell from [] percent in 2017 to [55.8] percent in 2019, while subject imports' market share rose from [] percent to [] percent.¹⁶² Thus, subject imports gained [10] percentage points of market share from the domestic industry between 2017 and 2019:¹⁶³

Table 5: Impact on the Domestic Industry's U.S. Production, Shipments, and Market Share, 2017-2019

	2017	2018	2019	Q1 2019	Q1 2020
U.S. Production (1000 short tons)	[]				[]
U.S. Shipments (1000 short tons)	[6,600				[]
U.S. Shipments (\$1000s)	[]				[]
Subject Imports (1000 short tons)	2,096	3,046	3,104	1,415	738
Total Imports (1000 short tons)	2,796	3,981	3,982	1,732	951
Apparent Domestic Consumption	[]				[]
U.S. Industry Market Share	[]		55.8		[]
Subject Imports Market Share	[]	10.7			[]
Total Imports Market Share	[]			56.0	[]

Despite subject imports falling in the first quarter of 2020 from first quarter 2019 levels,¹⁶⁴ subject imports' market share was still [] percent at the end of the first quarter of 2020, nearly [] percentage points higher than at the beginning of the POI.

¹⁶¹ U.S. Producers' Trade Data, Exhibit I-26.

¹⁶² See Phosphate Market Shares, Exhibit I-27.

¹⁶³ U.S. Producers' Trade Data, Exhibit I-26; Phosphate Market Shares, Exhibit I-27; Impact of Imports on U.S. Producers of Phosphates, Exhibit I-51.

¹⁶⁴ Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020, Exhibit I-1. The decline in imports volumes in the first quarter of 2020 may reflect a buildup of import inventory existing in the market. See U.S. Producer Stocks, Ending Inventories, Exhibit I-52.

The domestic industry also lost significant sales to imports over the past three years.¹⁶⁵
In 2017-2019 and the first four months of 2020, Mosaic lost significant volumes of sales and suffered lost revenue [NARRATIVE REGARDING LOST SALES AND LOST REVENUE

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¹⁶⁵ Exhibit I-53, Lost Sales & Lost Revenue Allegations, contains a listing of the main purchasers from which the Petitioner experienced lost sales or lost revenue by reason of the subject merchandise from 2017-2019, including email address, zip code, and the other information identified in the template spreadsheet specified in the Commission's Handbook on Filing Procedures. Petitioner certifies that these lost sales allegations will also be submitted electronically in the manner specified in the Commission's Handbook on Filing Procedures. *See* 19 C.F.R. § 207.11(b)(2)(v).

¹⁶⁶ Declaration of [], attached as Exhibit I-21.

¹⁶⁷ *See id.*

¹⁶⁸ *See* Lost Sales & Lost Revenue Allegations, Exhibit I-53.

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In sum, the low prices of subject imports undercut U.S. producers' prices and caused U.S. producers like Mosaic to lose sales and market share to subject imports, resulting in the significant deterioration in the domestic industry's profitability over the POI.

¹⁶⁹ See Declaration of [], attached as Exhibit I-21.

2. The Domestic Industry Has Suffered Significant Idling of Production Facilities and Underutilized Capacity

The domestic industry has seen significant idling and closures of production facilities over the past three years and underutilized capacity. Nutrien—which was formed by the merger of Agrium Inc. and Potash Corporation of Saskatchewan in January 2018—permanently closed its phosphate fertilizer facility in Geismar, Louisiana at the end of 2018.¹⁷⁰ Mosaic was also forced to idle its South Pasture phosphate rock mine, which had primarily served its Plant City facility, in 2018. Mosaic announced a production curtailment of 300,000 tons in March 2019 due to weak demand. In June 2019, Mosaic permanently closed its 2 million ton phosphate fertilizer production facility in Plant City, Florida, which had been idled since 2017 and which previously employed 430 workers.¹⁷¹ In September 2019, Mosaic announced plans to idle phosphate fertilizer operations at its Faustina and Uncle Sam facilities in St. James Parish, Louisiana, cutting production by about 500,000 tons and impacting over 370 employees, due to significant pricing pressure caused by increasing imports.¹⁷² In December 2019, Mosaic announced that it was curtailing production by an additional 165,000 tons per month and temporarily idling its phosphate fertilizer production facility in Bartow, Florida, affecting 360 workers.¹⁷³

In addition, several domestic producers shut down operations in the years prior to the period covered by this petition. Mississippi Phosphates (MissPhos) declared Chapter 11

¹⁷⁰ Nutrien, *Revamping Nutrien's Phosphate Operations, Now Self-Sufficient in Phosphate Rock* (Jun. 11, 2019), <https://www.nutrien.com/what-we-do/stories/revamping-nutriens-phosphate-operations>, attached as Exhibit I-54.

¹⁷¹ Kevin Bouffard, *Mosaic Will Permanently Close Idle Plant City Facility*, *The Ledger* (June 19, 2019), attached as Exhibit I-2. Mosaic has since entered into a lease arrangement with Anuvia Plant Nutrients, which produces fertilizer made with recycled waste from food scraps and septic tanks, to re-open part of the Plant City facility. Bradley George, *New Life for Mosaic's Plant City Fertilizer Factory*, *WUSF News* (Sept. 25, 2019), attached as Exhibit I-3.

¹⁷² Industry Report Staff, *Mosaic Plans to Idle Louisiana Operations*, *Industry Report* (Sept. 17, 2019), attached as Exhibit I-46.

¹⁷³ Kevin Bouffard, *Mosaic Will Idle Bartow Plant*, *The Ledger* (Dec. 23, 2019), attached as Exhibit I-55.

bankruptcy and shut down its operations in Pascagoula, Mississippi in December 2014, resulting in the loss of 175 jobs.¹⁷⁴ PotashCorp reduced its operations in Suwanee River, Florida in December 2013 and permanently closed the facility in August 2014, resulting in a total loss of 304 jobs.¹⁷⁵ These idling and shut downs of facilities affect not only the phosphate fertilizer producers that make up the domestic industry but also their many U.S. vendors, suppliers, and contractors and their hundreds of U.S. workers.

The domestic industry also endured decreasing capacity utilization, mitigated only by several producers' decisions—under pressure from low-priced subject imports—to permanently idle production facilities. Capacity utilization declined from [77.2] percent in 2017 to [] percent in 2018, before increasing back to [] percent in 2019 due to Mosaic's idling of two of its production facilities.¹⁷⁶

Table 6: Domestic Production and Capacity Utilization, 2017-2019

Quantities in 1,000s short tons	2017	2018	2019
Domestic Capacity	[]	[]	[]
Domestic Production	[]	[]	[]
Capacity Utilization Ratio	[]	71%	[]

The rapidly increasing volumes of low-priced imports, which have captured more than [] percentage points of market share from the domestic industry over the past three years, have forced the domestic industry to idle and shut down multiple production facilities. This has left the domestic industry with substantial unused capacity that is fully capable of capturing much of the subject import volume now entering from Morocco and Russia.

¹⁷⁴ Mark Milam, *US Bankrupt MissPhos to Shut Down DAP Production, Seeks Buyers*, Independent Commodity Intelligence Services (Dec. 5, 2014), attached as Exhibit I-56.

¹⁷⁵ Joyce Marie Taylor, *PotashCorp Lays Off Another 56 Employees-Suwanee River Chemical Plant to Permanently Close*, Jasper News (June 2, 2014), attached as Exhibit I-57.

¹⁷⁶ See U.S. Producers' Trade Data, Exhibit I-26. Capacity data from IFA Detailed Processed Phosphate Capacities 2019, converted based on phosphorous pentoxide (P₂O₅) content.

3. The Domestic Industry Is Suffering Significant Declines in Profitability

The domestic industry is unable to carry out production operations at a reasonable level of profit as a result of increased sales of low-priced imports. The phosphate fertilizer production operations of Mosaic, which account for well over half of the domestic industry’s total production and are generally representative of the domestic industry as a whole, experienced a [FINANCIAL NARRATIVE] both in absolute terms and as a percentage of net sales in [].¹⁷⁷

Mosaic’s profitability—which Mosaic believes is consistent with the performance of the overall domestic industry—[FINANCIAL NARRATIVE] as surging levels of low-priced imports drove U.S. prices down, even as Mosaic’s unit costs [].¹⁷⁸ As a result, Mosaic’s COGS to net sales ratio rose from [] percent in 2017 to [] percent in 2019, while its gross profit and operating profit [].¹⁷⁹ In 2017, Mosaic realized an operating profit of [].¹⁸⁰ By 2019, Mosaic recognized an operating loss of [\$900 million], a decline of [] percent.¹⁸¹ Mosaic’s operating profit as a percent of net sales decreased from [] percent in 2017 to a loss of [] percent in 2019, an absolute decline of [] percent and a percentage change of [-900] percent over the period.¹⁸² Conditions did not improve in the first quarter of 2020, with continued losses at both the gross and operating profit levels.¹⁸³

Table 7: Impact on the Domestic Industry’s Profitability, 2017-2019

Values in 1000s	2017	2018	2019	Q1 2019	Q1 2020
Total Sales	[]	[]	[]	[]	[]

¹⁷⁷ See Mosaic Financials for Phosphates, Fertilizer Grade, Exhibit I-49.

¹⁷⁸ See *id.*

¹⁷⁹ See *id.*

¹⁸⁰ See *id.*

¹⁸¹ See *id.*

¹⁸² See *id.*

¹⁸³ See *id.*

COGS	[]				\$556,011]]
COGS/Sales Ratio	[]			106.0]]
Gross Profit	[]]]
Gross Profit as % of Net Sales	[]]]
Operating Profit	[]]]
Operating Profit as % of Net Sales	[]]]
Net Income/Loss	[]]]
Net Income as % of Net Sales	[]]]

The domestic industry’s declining profitability coincided with, and is in substantial part attributable to, the significantly higher levels of imports that have captured an increasing share of the U.S. market over the past three years with aggressive pricing.

4. The Domestic Industry Is Experiencing Declines in Employment and Wages

Consistent with the significant idling and shut down of phosphate fertilizer production facilities over the past three years, the domestic industry is also suffering significant declines in employment and wages. The domestic industry’s number of production-related U.S. workers declined year-over-year from [] in 2017 to [5,526] in 2018, a decrease of [] percent, and increased only slightly from 2018 to [] in 2019, remaining below the 2017 level.¹⁸⁴

The number of hours worked and wages paid exhibited similar deteriorations from 2017 to 2019. Specifically, the number of hours worked fell from [] thousand hours in 2017 to [] thousand hours in 2018, a decrease of [] percent, before recovering partially to [] thousand hours in 2019.¹⁸⁵ Wages paid fell from [\$369 million] in 2017 to [] in 2018, a decrease of [7] percent, before rising in 2019 to [].¹⁸⁶

Table 8: Domestic Industry Employment, Hours Worked, & Wages Paid, 2017-2019

Hours in 1,000s; Wages in \$1000s	2017	2018	2019
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¹⁸⁴ See U.S. Producers’ Trade Data, Exhibit I-26.

¹⁸⁵ See *id.*

¹⁸⁶ See *id.*

Production-Related Employees	[5,526]
Hours Worked	[]
Wages Paid	[\$369,900]

5. Subject Imports Are Adversely Affecting Domestic Industry Investments in Production Operations

Pressure from low-priced subject imports has impaired the domestic industry's ability to invest in order to maintain, grow, and improve the efficiency of domestic production operations. As discussed above, pressure from low-priced subject imports contributed significantly to the idling or closure of several domestic production facilities. Most notably, in 2019, Mosaic was forced to permanently close its Plant City facility, which it had idled in 2017, because it was unable to fund the significant cost of modernizing and restarting the facility. In addition,

[FINANCIAL NARRATIVE

].

In sum, over the period 2017-2019, the domestic industry suffered significant declines in production, sales, and market share, was forced to idle and shut down numerous production facilities, and was unable to carry out production operations at a reasonable level of profitability, resulting in significant declines in wages and employment. For all of these reasons, the domestic industry is suffering material injury within the meaning of section 771(7)(A) of the Act. Furthermore, as discussed in the following sections, continuously increasing imports threaten the domestic industry with further material injury.

F. The Domestic Industry is Threatened with Further Material Injury by Reason of Rapidly Increasing Imports

Subject imports also threaten to cause further material injury to the domestic industry. In threat cases, the Commission must determine “whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued”¹⁸⁷ Section 771(7)(F) of the Act provides a non-exhaustive list of nine factors the Commission shall consider in examining whether the threat of material injury exists, including the following:¹⁸⁸

- (I) the nature of the subsid{ies} (particularly as to whether the countervailable {subsidies are ones} described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,
- (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
- (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
- (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,
- (V) inventories of subject merchandise,
 . . . , and
- (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

As discussed in the following sections, these factors demonstrate that the domestic industry is facing the threat of further material injury due to rapidly increasing imports.

¹⁸⁷ 19 U.S.C. § 1677(7)(F)(ii).

¹⁸⁸ 19 U.S.C. § 1677(7)(F)(i).

1. The Subsidies at Issue Include Export Subsidies Prohibited under Article 3 of the WTO Subsidies Agreement

Section 771(7)(F)(i)(I) of the Act directs the Commission to consider the nature of the subsidies at issue, and in particular whether the subsidies are ones described in Article 3 or Article 6.1 of the WTO Agreement on Subsidies and Countervailing Measures (“SCM Agreement”).¹⁸⁹ Article 3 of the SCM Agreement provides that a WTO Member “shall neither grant nor maintain” subsidies “contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance” or “upon the use of domestic over imported goods.”¹⁹⁰ Thus, this provision specifically directs the Commission to take into consideration whether any of the subsidies at issue are WTO-prohibited export subsidies or import substitution subsidies. In Volumes II and III of these Petitions, Petitioner alleges that Moroccan and Russian producers of phosphate fertilizers benefit from a range of subsidy programs that are either contingent upon export or designed to stimulate exports of phosphate fertilizer. These subsidy programs make it more likely that Moroccan and Russian imports of phosphate fertilizer will continue to increase and threaten domestic producers with additional material injury.

2. Foreign Producers Have Substantial Excess Capacity and the United States is the Focal Point for Exports of Subject Merchandise

Section 771(7)(F)(i)(II) of the Act directs the Commission to consider “any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of subject merchandise into the United States . . . {.”¹⁹¹ Foreign producers target the United States as a key export market for phosphate fertilizers and have made it a goal to dominate the U.S. market,

¹⁸⁹ 19 U.S.C. § 1677(7)(F)(i)(I).

¹⁹⁰ SCM Agreement, Article 3.

¹⁹¹ 19 U.S.C. § 1677(7)(F)(i)(II).

even if more attractive pricing could be obtained in other markets. Several major foreign producers also have substantial unused production capacity or are in the process of ramping up additional production capacity intended primarily for export, which will result in continuing high levels of imports to the U.S. market.

Over the past five years, the United States has been “the key outlet” for phosphate fertilizer exports west of the Suez, as weak demand elsewhere has pushed global producers to load more tonnage for the U.S. market.¹⁹² The two largest sources of subject imports are Morocco and Russia, and the United States has been the first or second largest export market for Moroccan and Russian phosphate fertilizer exports in each of the past five years.¹⁹³

**Table 9: Major Export Markets for Morocco and Russia, 2015-2019
(Percentage of total phosphate fertilizer exports)**

	Partner Country	2015	2016	2017	2018	2019
Russia	Brazil	19%	27%	26%	26%	16%
	United States	13%	8%	9%	18%	8%
	China	10%	1%	1%	1%	2%
Morocco	United States	17%	19%	21%	28%	23%
	Brazil	28%	26%	27%	20%	25%
	India	0%	3%	1%	10%	1%

The sole Moroccan phosphate fertilizer producer, the state-owned OCP Group (formerly the Office Chérifien des Phosphates), has significantly ramped up its production, production capacity, and exports to the United States in recent years. According to a WTO Trade Policy Report, OCP began pursuing an industrial strategy in 2008 aimed at regulating supply and demand and controlling the prices of phosphates and their byproducts, including phosphate fertilizers. OCP’s objective was to raise Morocco’s share of the world market from 21% to 40% for all products (phosphate rock, phosphoric acid, and phosphate fertilizers) in order to extract

¹⁹² *Argus Phosphates Issue 19-1*, Argus Media, Jan. 3, 2019, at 1, attached as Exhibit I-58; *Argus Phosphates Issue 19-6*, Argus Media, Feb. 7, 2019, at 4, attached as Exhibit I-29.

¹⁹³ See U.S. Share of Total Phosphate Exports from Morocco and Russia, Exhibit I-59.

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more value-added from its mining operations of phosphate rock.¹⁹⁴ OCP's ambitious and capital-intensive development plan calls for doubling its phosphate rock mining capacity and tripling its phosphate fertilizer processing capacity by 2027, despite falling global prices for phosphates, as part of the Government of Morocco's efforts to spur economic growth in the country.¹⁹⁵

OCP's first wave of new phosphate fertilizer capacity came online in 2015, following the commissioning of Jorf Lasfar Hub 1 (now known as the OCP Africa Fertilizer Complex).¹⁹⁶ In 2015, OCP had phosphate fertilizer production capacity of 7.4 million tons and produced 5.2 million tons of phosphate fertilizers, 4.3 million tons of which it exported.¹⁹⁷ OCP commissioned three additional phosphate fertilizer facilities between 2015 and 2018, totaling an additional 4 million tons of capacity.¹⁹⁸ By 2019, OCP had increased its phosphate fertilizer production capacity to 12 million tons and produced 10 million tons of phosphate fertilizers, of which 9.06 million tons was exported.¹⁹⁹ OCP's newest production facility, JFC 4, a 1 million ton integrated plant at the Jorf Lasfar site, came online in 2018,²⁰⁰ and three additional facilities, totaling another 3 million tons of production capacity, are currently under construction and expected to come online by 2023.²⁰¹ According to Amin Qaph, the director of the OCP Africa Fertilizer Complex, Morocco's domestic consumption needs are limited to 500,000 tons, meaning the vast majority of OCP's projected 18 million tons of production capacity will be

¹⁹⁴ See WTO Secretariat, *Trade Policy Review, Kingdom of Morocco* at 104, WTO Doc. WT/TPR/S/329 (Dec. 7, 2015), attached as Exhibit I-60.

¹⁹⁵ See *Morocco to Hike Phosphate Output Despite Price Drop*, AFP (Sept. 12, 2013), attached as Exhibit I-61. See also OCP, 2018 Sustainability Report at 9, attached as Exhibit I-62.

¹⁹⁶ See CRU, *Phosphate Fertilizer Market Outlook* at 19 (Jan. 2020), attached as Exhibit I-47.

¹⁹⁷ See OCP, *Annual Report 2015*, at 22-23, attached as Exhibit I-63.

¹⁹⁸ See CRU, *Phosphate Fertilizer Market Outlook* at 19 (Jan. 2020), attached as Exhibit I-47.

¹⁹⁹ See OCP, 2019 Sustainability Report at 18, attached as Exhibit I-64.

²⁰⁰ See OCP, 2018 Sustainability Report at 19, attached as Exhibit I-62.

²⁰¹ See CRU, *Phosphate Fertilizer Market Outlook* at 52 (Jan. 2020), attached as Exhibit I-47 ("OCP's next wave of Jorf Lasfar facilities (JPH5-7) are scheduled to commission between 2021 and 2023."); *id.* at 19-24.

destined for export.²⁰² As one industry publication, Argus Phosphates, put it, “ultimately it is OCP’s export plans to the US that define the market.”²⁰³

Foreign producers of subject merchandise like OCP have substantial excess capacity and have continued to target the U.S. market for phosphate fertilizers despite weakened demand and high buyer inventory levels, including “a record surplus of phosphates” entering the spring planting season in 2019.²⁰⁴ While U.S. producers like Mosaic were forced to decrease production in 2019 due to market conditions, foreign producers continued to ship ever-increasing levels of exports.²⁰⁵ DAP imports reached an all-time high of 1.26 million tons from July 2018 to June 2019 on increased shipments from Morocco and Russia, which rose by 14 percent and 100 percent from the prior fertilizer year, respectively.²⁰⁶ Russia and Morocco also fueled a 43 percent rise in U.S. MAP imports to 1.88 million tons from July 2018 to June 2019.²⁰⁷ These surging imports persisted throughout 2019 despite U.S. prices hitting decade lows—levels last

²⁰² Lahssen Moqana, *Morocco’s Fertilizer Industry Receives \$3 bln Investment Boost*, Asharq Al-Awsat (Nov. 25, 2017), attached as Exhibit I-65.

²⁰³ *Argus Phosphates Issue 20-1*, Argus Media, Jan. 3, 2020, at 2, attached as Exhibit I-66.

²⁰⁴ *Argus Phosphates Issue 19-10*, Argus Media, Mar. 7, 2019, at 2, attached as Exhibit I-67.

²⁰⁵ See, e.g., *Argus Phosphates Issue 19-37*, Argus Media, Sept. 12, 2019, at 2, attached as Exhibit I-68 (“Mosaic announced earlier this week that it is idling its Faustina phosphate complex at the start of next month, cutting US production by 500,000t. Prices of DAP/MAP barges at Nola rose accordingly This supply cut will indeed go some way to offsetting the substantial build up of stocks in the US. But there are still plenty of import vessels on the horizon, with OCP loading another DAP panamax for Nola this week.”); *Argus Phosphates Issue 19-39*, Argus Media, Sept. 26, 2019, at 4, attached as Exhibit I-39 (“The 500,000t of lost production at Mosaic’s Faustina plant during the fourth quarter is poised to be replaced by offshore volumes, likely minimizing upward momentum to Nola values.”).

²⁰⁶ *Argus Phosphates Issue 19-32*, Argus Media, Aug. 8, 2019, at 4, attached as Exhibit I-37.

²⁰⁷ See *id.*

seen in 2007—and trading at a discount relative to other major Western Hemisphere markets like Brazil.²⁰⁸ As stated in a CRU Phosphate Fertilizer Market Outlook report from January 2020:²⁰⁹

The United States saw another significant increase in DAP/MAP/TSP imports in 2019, rising 15% year on year, *as exporters in Morocco and Russia seek to expand their share of this market.* . . . OCP pushed nearly 1 Mt of DAP and nearly 1.2 Mt of MAP into the US in 2019, up 26% and 44% respectively year on year. Russian DAP supply increased by 9% year on year and its MAP exports to the US fell by 6%, as some MAP supply was displaced by the sharp increases in imports from Morocco. However, higher imports coupled with poor demand in the US last year led to a drop in domestic production and a collapse in the US FOB DAP New Orleans price, which led losses across global markets during 2019.

Moreover, Moroccan and Russian exports are expected to continue to increase through the foreseeable future.²¹⁰ Absent orders, foreign producers will continue to use low-priced

²⁰⁸ See *Argus Phosphates Issue 19-7*, Argus Media, Feb. 14, 2019, at 4, attached as Exhibit I-69 (“The continual downward pressure of heavy stocks and lack-lustre demand pushed US phosphate prices to their lowest point since the fourth quarter of 2017.”); *Argus Phosphates Issue 19-32*, Argus Media, Aug. 8, 2019, at 4, attached as Exhibit I-37 (“Downward price pressure persisted along the U.S. Gulf coast this week, with DAP barge values assessed at \$298-300/st fob Nola – the lowest price level in nearly two years on a midpoint basis, according to Argus data.”); *Argus Phosphates Issue 19-33*, Argus Media, Aug. 15, 2019, at 4, attached as Exhibit I-38 (“DAP barges traded at a 10-year low early this week at \$288/st fob Nola for September shipment – pressuring the low end of this week’s assessment. . . . Prices at Nola are poised to face ongoing headwinds as offshore volumes continue to trickle to port. Argus estimates about 125,000t of DAP is booked to discharge along the US Gulf coast in August, with about 100,000t of MAP scheduled, too.”); *Argus Phosphates Issue 19-36*, Argus Media, Sept. 5, 2019, at 4, attached as Exhibit I-70 (“MAP and DAP barge values sank to new lows this week amid higher year-over-year imports. Two MAP barges traded at \$278/st fob Nola for September/October shipment, a \$3/st dip from last week’s low, to mark the lowest confirmed trade since Argus launched the MAP Nola assessment in 2012.”); *Argus Phosphates Issue 19-45*, Argus Media, Nov. 7, 2019, at 1, attached as Exhibit I-43 (“The Nola DAP market continued dropping for the sixth consecutive week, barges trading as low as \$242/st fob – the lowest since January 2007. Offers for MAP barges were around \$260/st fob, equivalent to \$280/t cfr, a \$15-20/t discount to Brazilian cfr values.”) (emphasis added); *Argus Phosphates Issue 19-50*, Argus Media, Dec. 12, 2019, at 1, attached as Exhibit I-44 (“Prices in the US barge market dropped to new lows this week, with both DAP and MAP assessed at \$235-240/st fob Nola, a \$24/t discount to Brazilian cfr values for MAP.”).

²⁰⁹ CRU, Phosphate Fertilizer Market Outlook at 65-66 (Jan. 2020) (emphasis added), attached as Exhibit I-47. See also *id.* at 63 (“Global DAP/MAP/TSP trade increased by nearly 8% year on year in 2019 to 68.2 Mt product as low-cost producers in Morocco, Saudi Arabia, and Russia aggressively targeted export markets.”).

²¹⁰ See, e.g., CRU, Phosphate Fertilizer Market Outlook at 64 (Jan. 2020), attached as Exhibit I-47 (“Moroccan exports will continually break records out to 2024. OCP DAP/MAP/TSP exports reached a new record high of 7.2 Mt in 2019 and we expect this trend to continue throughout the forecast period as OCP brings new capacity online. Another 1 Mt of granulation capacity is due to commission this year and we forecast OCP to increase its exports of DAP/MAP/TSP by around the same amount.”).

imports to capture an ever-increasing share of the U.S. market, thereby causing further material injury to U.S. producers and their workers.²¹¹

3. The Volume and Market Share Penetration of Subject Imports Are Increasing at a Significant Rate

Section 771(7)(F)(i)(III) of the Act provides that, as part of its threat analysis, the Commission shall consider whether there is “a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports.”²¹² As discussed in Sections III.B.3 and III.D.1 above, the volume of subject imports and their market share penetration is increasing rapidly, indicating a likelihood of substantially increased imports. The volume of phosphate fertilizer imports from Morocco and Russia relative to domestic production increased significantly from 2017 to 2019, as imports captured an ever-increasing share of the U.S. market. In particular, the ratio of subject imports to domestic production increased progressively throughout the period, from [] percent in 2017 to [] percent in 2019, an increase of nearly 70 percent.²¹³ Because apparent U.S. consumption remained relatively flat over this period, the rapid increase in subject imports came at the expense of the U.S. industry, as subject imports gained [10] percentage points of market share from the domestic industry between 2017 and 2019.²¹⁴ These dramatic increases in subject import volumes and market share penetration strongly indicate a likelihood of substantially increased imports in the imminent future.

4. Low-Priced Subject Imports Are Having Significant Depressing Effects on Domestic Prices

²¹¹ Mosaic is not aware of any import restraints on phosphate fertilizers in third countries.

²¹² 19 U.S.C. § 1677(7)(F)(i)(III).

²¹³ See U.S. Producers’ Trade Data, Exhibit I-26; Phosphate Market Shares, Exhibit I-27.

²¹⁴ See Phosphate Market Shares, Exhibit I-27.

Section 771(7)(F)(i)(IV) of the Act directs the Commission to consider “whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports.”²¹⁵ As discussed above, price is an important purchasing factor in the phosphate fertilizer market. Low-priced subject imports are severely depressing prices in the U.S. market, as record levels of imports in 2019 drove U.S. prices to the lowest levels seen in over a decade. Foreign producers significantly increased their market share by continuing to flood the market with subject imports despite these record-low prices. This trend of adverse price effects is likely to continue, as subject import prices continued to decline in the first two months of 2020, stimulating demand for more low-priced imports and forcing U.S. producers to reduce prices to avoid losing sales to subject imports.

5. There Are Substantial Inventories of Subject Imports in the U.S. Market

Section 771(7)(F)(i)(V) of the Act provides that the Commission is to consider inventories of subject merchandise as part of its threat analysis.²¹⁶ As discussed above in Section III.D, weakened demand and the significant volume of imports in 2019 led to oversupply in the U.S. market and high inventories of subject imports.²¹⁷ Prices reached historic lows in the second half of the year amid high buyer stocks following two consecutive poor application windows and the unrelenting surge of imports.²¹⁸ These substantial inventories of unfairly subsidized subject imports threaten to cause further material injury to the domestic industry.

²¹⁵ 19 U.S.C. § 1677(7)(F)(i)(IV).

²¹⁶ 19 U.S.C. § 1677(7)(F)(i)(V).

²¹⁷ See, e.g., *Argus Phosphates Issue 19-13*, Argus Media, Mar. 28, 2019, at 2, attached as Exhibit I-30 (“The US has a record surplus of phosphates entering the spring season, boosted by weak sales, terrible weather conditions and heavy 1Q imports, which reached a record 1.2mn t of DAP/MAP, up 27pc yoy.”); *Argus Phosphates Issue 19-16*, Argus Media, Apr. 18, 2019, at 1, attached as Exhibit I-35 (“The US DAP barge price fell again by \$5/st on oversupply amid heavy imports.”).

²¹⁸ *Argus Phosphates Issue 19-45*, Argus Media, Nov. 7, 2019, at 4, attached as Exhibit I-43.

6. The Domestic Industry is Vulnerable to Material Injury

Section 771(7)(F)(i)(IX) of the Act provides that, as part of its threat analysis, the Commission shall consider “any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports,” or, in other words, whether the domestic industry is vulnerable to material injury.²¹⁹ Such vulnerability need not be caused by subject imports.²²⁰ The financial condition of the domestic industry makes it highly vulnerable to material injury caused by subsidized imports. As discussed above in Section III.E, Mosaic incurred [FINANCIAL NARRATIVE] over the past three years, both in absolute terms and as a percentage of net sales, particularly in []. In 2019, Mosaic realized an operating loss of [\$900 million], its COGS to net sales ratio was [] percent, and its operating profit as a percentage of net sales was [].²²¹ Petitioner believes its financial condition is generally representative of the domestic industry as a whole. Thus, the domestic industry is vulnerable and is threatened with further material injury by reason of subject imports likely to occur in the imminent future.

G. Rapidly Increasing Subject Imports Are A Substantial Cause of the Material Injury Experienced by the Domestic Industry

Section 701(a)(2) of the Act directs the Commission to determine whether the domestic industry “is materially injured . . . *by reason of*” subject imports.²²² The statute does not define “by reason of,” leaving it to the Commission’s reasonable exercise of discretion. In evaluating whether the material injury found to exist is “by reason of” subject imports, the Commission looks to ensure that subject imports are more than a “minimal” or “tangential” cause of injury

²¹⁹ 19 U.S.C. § 1677(7)(F)(i)(IX).

²²⁰ See *Consolidated Fibers, Inc. v. United States*, 571 F. Supp. 2d 1355, 1365 (Ct. Int’l Trade 2008) (recognizing that “industry vulnerability may be caused by factors other than subject imports”).

²²¹ See Mosaic Financials for Phosphates, Fertilizer Grade, Exhibit I-49.

²²² See 19 U.S.C. § 1671(a)(2). See also 19 U.S.C. § 1671d(b)(1).

and that there is a sufficient causal—not merely temporal—nexus between subject imports and the material injury.²²³ However, the “by reason of” standard does not require that unfairly traded imports be the “principal” cause of injury or contemplate weighing the injury caused by unfairly traded imports against other factors that may be contributing to the domestic industry’s overall condition.²²⁴

In this case, there is a clear causal link between subject imports and the material injury, or threat thereof, which the domestic industry is suffering. As previously discussed, subject import volumes and market share increased significantly from 2017 to 2019, at the direct expense of the domestic industry. Low-priced subject import competition is causing a dramatic shift in market share from the domestic industry to subject imports and resulting in a severe adverse impact on the domestic industry’s performance. All of the relevant market and financial indicators demonstrate the domestic industry is materially injured or threatened with material injury. The domestic industry has suffered significant idling of production facilities, sharply declining profitability, significant unemployment and/or underemployment, and lost sales and market share to imports. All of these negative effects coincided with rapidly increasing levels of low-priced imports over the past three years.

Moreover, there is strong evidence of adverse price effects caused by the large volumes of subject imports entering the U.S. market during the POI, as discussed above. The high degree of substitutability between phosphates produced by the U.S. industry and subject imports, combined with the high level of price transparency in the market, means that U.S. producers must match the price declines of imports or lose sales. Competition with unfairly subsidized subject imports explains the drastic price reductions U.S. producers were forced to make during

²²³ See *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008).

²²⁴ S. Rep. No. 96-249, at 74-75 (1979); H.R. Rep. No. 96-317, at 47 (1979).

the POI and the declining industry profitability. The domestic industry has also suffered significant lost sales and lost revenues to low-priced imports, as discussed above in Section III.E.1, further demonstrating that imports are a substantial cause of the domestic industry's material injury or threat thereof.

Finally, imports are a substantial cause of the domestic industry's material injury, not a merely "tangential" or "minimal" one. Low-priced imports increased rapidly from 2017-2019, causing material injury as they depressed prices and captured market share from the domestic industry. In 2019, the U.S. market was hit by poor weather, which affected U.S. farmers' application of fertilizers, and heavy imports.²²⁵ While the domestic industry's performance in 2019 was affected by factors such as the weather and reduced plantings in the United States, the unrelenting surge of low-priced imports—despite weakened demand in the U.S. market—was clearly a significant cause of the injury to the domestic industry in 2019 and throughout the period covered by this Petition.

IV. CONCLUSION

As set forth in these Petitions, unfairly subsidized imports of phosphate fertilizers from Morocco and Russia are causing material injury, and threat thereof, to the domestic industry. Accordingly, the Department should initiate investigations of subject imports from Morocco and Russia and make affirmative determinations of countervailable subsidies, and the Commission should make an affirmative determination of material injury by reason of subject imports.

²²⁵ *Argus Phosphates Issue 19-12*, Argus Media, Mar. 21, 2019, at 1, attached as Exhibit I-45.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "David J. Ross", with a long horizontal flourish extending to the right.

David J. Ross
Patrick J. McLain
Sarah S. Sprinkle
Stephanie E. Hartmann
Semira Nikou

Counsel to The Mosaic Company

EXHIBIT LIST

Exhibit No.	Description
I-1	Annual Import Data 2017-2019 & Jan.-Apr. 2019 & 2020
I-2	Kevin Bouffard, <i>Mosaic Will Permanently Close Idle Plant City Facility</i> , The Ledger (June 19, 2019)
I-3	Bradley George, <i>New Life for Mosaic's Plant City Fertilizer Factory</i> , WUSF News (Sept. 25, 2019)
I-4	Names and Contact Information for Domestic Producers of Phosphate Fertilizer
I-5	U.S. Production and Petitioner Standing (BPI)
I-6	U.S. Producers' Phosphate Capacity (BPI)
I-7	Declaration of [] (BPI)
I-8	International Fertilizer Association, World Processed Phosphates Capacities 2019 (BPI)
I-9	HTSUS, ch. 31 (rev. 7, 2020)
I-10	HTSUS, ch. 31 (2016)
I-11	IPNI, Plant Nutrients & Plant Nutrient Products
I-12	IPNI, Nutrient Source Specifics No. 9: Monoammonium Phosphate (MAP)
I-13	IPNI, Phosphorous Fertilizer Production and Technology
I-14	IPNI, Nutrient Source Specifics No. 17: Diammonium Phosphate
I-15	IPNI, Nutrient Source Specifics No. 21: Single Superphosphate
I-16	IPNI, Nutrient Source Specifics No. 14: Triple Superphosphate
I-17	U.S. Environmental Protection Agency, Background Report, AP-42, Sec. 6.10 Phosphate Fertilizers
I-18	Names and Contact Information for Importers of Phosphates from Morocco and Russia, 2019 (BPI)
I-19	Names and Contact Information for Foreign Producers of Phosphate Fertilizer
I-20	Argus Media, Argus Phosphates: Methodology and Specifications Guide (Apr. 2020)
I-21	Declaration of [] (BPI)
I-22	CRU, Phosphate Fertilizer Market Outlook (July 2017)
I-23	<i>Industry & Trade Summary, Fertilizers</i> , USITC Pub. 3082 (Mar. 1998)
I-24	Press Release, Argus Media, <i>Phosphates: Argus Launches Daily Phosphate Pricing</i> (Mar. 17, 2020), https://www.argusmedia.com/en/news/2087677-phosphates-argus-launches-daily-phosphate-pricing
I-25	Monthly Import Data 2019 & 2020
I-26	U.S. Producers' Trade Data (BPI)
I-27	Phosphate Market Shares (BPI)
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I-35	<i>Argus Phosphates Issue 19-16</i> , Argus Media, Apr. 18, 2019
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I-38	<i>Argus Phosphates Issue 19-33</i> , Argus Media, Aug. 15, 2019
I-39	<i>Argus Phosphates Issue 19-39</i> , Argus Media, Sept. 26, 2019
I-40	<i>Argus Phosphates Issue 19-41</i> , Argus Media, Oct. 10, 2019
I-41	<i>Argus Phosphates Issue 19-43</i> , Argus Media, Oct. 24, 2019
I-42	<i>Argus Phosphates Issue 19-44</i> , Argus Media, Oct. 31, 2019
I-43	<i>Argus Phosphates Issue 19-45</i> , Argus Media, Nov. 7, 2019
I-44	<i>Argus Phosphates Issue 19-50</i> , Argus Media, Dec. 12, 2019
I-45	<i>Argus Phosphates Issue 19-12</i> , Argus Media, Mar. 21, 2019
I-46	Industry Report Staff, <i>Mosaic Plans to Idle Louisiana Operations</i> , Industry Report (Sept. 17, 2019)
I-47	CRU, <i>Phosphate Fertilizer Market Outlook</i> (Jan. 2020)
I-48	Mosaic Average Netback on Tons Priced & Delivered from Faustina / Burnside (BPI)
I-49	Mosaic Financials for Phosphates, Fertilizer Grade (BPI)
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I-51	Impact of Imports on U.S. Producers of Phosphates (BPI)
I-52	U.S. Producer Stocks, Ending Inventories (BPI)
I-53	Lost Sales & Lost Revenue Allegations (BPI)
I-54	Nutrien, <i>Revamping Nutrien's Phosphate Operations, Now Self-Sufficient in Phosphate Rock</i> (Jun. 11, 2019), https://www.nutrien.com/what-we-do/stories/revamping-nutriens-phosphate-operations
I-55	Kevin Bouffard, <i>Mosaic Will Idle Bartow Plant</i> , The Ledger (Dec. 23, 2019)
I-56	Mark Milam, <i>US Bankrupt MissPhos to Shut Down DAP Production, Seeks Buyers</i> , Independent Commodity Intelligence Services (Dec. 5, 2014)
I-57	Joyce Marie Taylor, <i>PotashCorp Lays Off Another 56 Employees-Suwannee River Chemical Plant to Permanently Close</i> , Jasper News (June 2, 2014)
I-58	<i>Argus Phosphates Issue 19-1</i> , Argus Media, Jan. 3, 2019
I-59	U.S. Share of Total Phosphate Exports from Morocco and Russia
I-60	WTO Secretariat, <i>Trade Policy Review, Kingdom of Morocco</i> , WTO Doc. WT/TPR/S/329 (Dec. 7, 2015)
I-61	<i>Morocco to Hike Phosphate Output Despite Price Drop</i> , AFP (Sept. 12, 2013)
I-62	OCP, 2018 Sustainability Report
I-63	OCP, Annual Report 2015
I-64	OCP, 2019 Sustainability Report
I-65	Lahssen Moqana, <i>Morocco's Fertilizer Industry Receives \$3 Bln Investment Boost</i> , Asharq Al-Awsat (Nov. 25, 2017)
I-66	<i>Argus Phosphates Issue 20-1</i> , Argus Media, Jan. 3, 2020
I-67	<i>Argus Phosphates Issue 19-10</i> , Argus Media, Mar. 7, 2019
I-68	<i>Argus Phosphates Issue 19-37</i> , Argus Media, Sept. 12, 2019

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I-69	<i>Argus Phosphates Issue 19-7</i> , Argus Media, Feb. 14, 2019
I-70	<i>Argus Phosphates Issue 19-36</i> , Argus Media, Sept. 5, 2019
I-71	Argus Media, Argus North American Fertilizer: Methodology and Specifications Guide (July 2019)