WRITTEN STATEMENT

OF

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BEFORE THE

COMMODITY FUTURES TRADING COMMISSION

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Good morning Chairman Lukken, and members of the Commission. My name is Russ Stolle, and I am Senior Vice President of Global Public Affairs and Communications for Huntsman Corporation. I would like to thank you and the members of the Commission for the opportunity to participate in today's hearing on the oversight of trading on regulated futures exchanges and Exempt Commercial Markets ("ECMs").

Huntsman is a global business manufacturing and marketing differentiated chemicals. Our operating companies manufacture products that are essential to a variety of global industries, including automotive, aviation, textiles, footwear, paints and coatings, construction, high tech, agriculture, health care, detergents, personal care, furniture, appliances and packaging. Originally known for pioneering innovations in packaging and, later, for rapid and integrated growth in petrochemicals, Huntsman today has nearly 13,000 employees and operations in 24 countries. Huntsman Corporation had 2006 revenues from all operations of over \$13 billion.

Global manufacturing companies like Huntsman depend on the commodities markets for critical raw materials and rely on fair pricing in those markets in order to be competitive, both domestically and abroad. A key commodity for Huntsman, as well as for thousands of other domestic businesses and millions of farmers and consumers, is natural gas. Unfortunately, price volatility in the market for natural gas in the United States has made the U.S. significantly less competitive relative to other countries for manufacturing operations that rely on natural gas as a commodity, which has, and if not addressed will continue to have, a significant impact on employment in the manufacturing sector of this country's economy. Our company is one of many U.S. companies to have been competitively disadvantaged on the global playing field by this

price volatility, and we believe our experience is representative of the experience of many others.

Following the year 2000, our management began to conclude that ongoing volatility in the price of natural gas in the United States would likely be such that it would become necessary to both divest those of our businesses that are most dependent on the consumption of large quantities of natural gas (thus reducing our exposure to unpredictable and increasingly large swings in the cost of producing our products) and to shift new investments overseas to countries less subject to significant volatility in the price for natural gas. The global composition of our workforce followed suit. In the year 2000, approximately 37% of our company's 10,400 employees were working in the United States. By the first quarter of this year, that percentage of our workforce that are U.S. employees had fallen to about 23%. By year-end 2007, only 18% of our company's roughly 13,000 employees will be located here—a greater than 50% reduction of that percentage of our global workforce. While most of those reductions are the result of divestitures of certain of our U.S. businesses rather than plant closures, those divestitures were largely to an energy company that can integrate those assets with its own, and our reinvestment has largely been overseas—in the end, a net loss of jobs here in the U.S. Of the multiple new plants and expansions we have announced during this period, only one of major significance is located in the United States—an exothermic process that also produces a by-product gas stream that happens to rise in value with the price of natural gas, favorably impacting the plant's economics. If you were to look at Huntsman's use of its discretionary growth capital (meaning that used for new plants and capacity additions) during the last three years, and include that which we have budgeted for 2008,

you would find that roughly 78% of the more than \$1.1 billion combined was, or in the case of next year's budget will be, used for projects located outside of the U.S. If we include expectations for 2009, that percentage is projected to climb to roughly 85% of a combined \$1.6 billion for the years 2005 through 2009.

Our company strongly believes that price volatility in the U.S. market for natural gas is due to a failure of the current regulatory structure for the trading of futures on natural gas to serve the fundamental purposes of the Commodity Exchange Act ("CEA") and to ensure that the trading of futures facilitates rather than impairs transactions in the real economy in which manufacturing companies like Huntsman must operate.

Regulation of Natural Gas Trading Under the CEA

In 1999, in a report entitled *Over-the-Counter Derivatives Markets and the Commodity Exchange Act*, the President's Working Group on Financial Markets, which includes the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, as well as the Chairman of the Commodity Futures Trading Commission ("Commission"), recommended that over-the-counter transactions between sophisticated parties be excluded from the CEA, but that the exclusion should not apply to transactions in non-financial commodities with a finite supply. This recommendation followed over a decade of debate over whether or how the CEA should apply to emerging over-the-counter derivatives markets. The distinction between financial commodities and non-financial commodities with a finite supply that was drawn by the President's Working Group was based on the view that commodities with a finite supply were more susceptible to supply and pricing distortions and manipulation. In addition, the President's Working Group

stated that it was concerned that the cash market for many non-financial commodities was dependent on the futures markets for price discovery.

Almost all natural gas in the U.S. is transported from producer to user via pipelines. While there are facilities for storing natural gas to meet seasonal increases in demand that may exceed the flow from contemporaneous production, this storage capacity is limited and also is dependent on pipelines for delivery to consumers. The ability to augment the domestic supply of natural gas through shipments of liquefied natural gas also is limited. While some, including former Federal Reserve Board Chairman Alan Greenspan, have advocated increasing the imports of liquefied natural gas, in the near term, this does not appear to be viable. The wide variations in the price of natural gas around the world, as shown on the attached map, demonstrate that the markets for natural gas are regional markets. The regional nature of the natural gas market in the U.S., coupled with a market perception that a tight relationship between supply and demand is forcing prices higher, has made the market for natural gas a prime target for speculators and potential manipulators.

While the President's Working Group Report suggested a two-tiered structure for the regulation of derivatives, the Commodity Futures Modernization Act of 2000 ("CFMA") created a three-tiered structure under which ECMs were subject to a lesser standard of regulatory oversight than the trading of agricultural commodities, but a somewhat more stringent standard than the trading of excluded swap transactions. Under the CFMA, exempt commodities are commodities that are neither agricultural commodities, like corn, nor "excluded commodities"—like interest rates, currencies, indices or weather. Exempt commodities have been viewed as including energy

commodities, metals and chemicals. Most significantly from Huntsman's standpoint, exempt commodities have been viewed as including natural gas.

In creating this three-tiered structure, the CFMA removed the shadows of legal uncertainty that fell on much of the over-the-counter derivatives market. The CFMA also streamlined the regulation of even the trading of futures on agricultural commodities based on "core principles" designed to ensure fair and equitable trading for market participants across a variety of contracts. But while the changes may have worked well in the markets for other commodities, we believe that these attempted reforms have not worked well in the U.S. market for natural gas.

The Current System Is Not Working

To be clear, we recognize that the marketplace for natural gas, like the market for any commodity, is complex and that prices are influenced by a number of factors, including various forces shaping overall supply and demand. However, in Huntsman's experience, the price of natural gas became notably untethered from real market forces upon implementation of the CFMA. While the average price paid for natural gas by industrial consumers in the U.S. in 1999 was \$2.26 per MMBTU, by 2006 the average price had risen 289% to \$6.53. Yet during that same period, the amount of natural gas actually consumed in our economy held steady, while the amount in storage steadily rose, offering no simple supply/demand answer to the extraordinary increase in price.

Moreover, and equally if not more challenging to the ability of domestic manufacturing operations like those of Huntsman to compete in the global economy, in addition to the increase in the price of natural gas, there has been a significant increase in the *price volatility* in the natural gas futures contracts markets. This increased volatility has

seriously undermined the manufacturing sector's confidence in the futures markets for natural gas and, in turn, has imposed substantial inefficiencies in the industries that depend on natural gas to operate.

Price volatility in the U.S. market for natural gas since mid-2000 suggests that neither the market for natural gas futures contracts nor the cash market for natural gas (which looks to the futures market for prices) is operating efficiently. Since the CFMA was enacted, day-to-day price volatility in the natural gas futures contracts traded on the New York Mercantile Exchange ("NYMEX") has increased substantially, even after taking into account higher prices overall for natural gas during this period. By some measures, price volatility in the natural gas contracts traded on the NYMEX has increased by 60%. The price paid by Huntsman in the cash market for natural gas consumed in its manufacturing operations is, essentially, the NYMEX price. The NYMEX price is the only visible, daily traded market price that is available to consumers, and is the bellwether on where the cash markets will trade. In most cases, the Federal Energy Regulatory Commission settlement price each month is determined by the last three days of trading on the NYMEX in the previous month.

We also note that, during this same period, beginning mid-2000, commercial-trading participants on the NYMEX, that is, participants who buy and sell natural gas for use in the real economy and trade in futures contracts to hedge their transactions in the cash markets, have declined significantly. Like others that buy gas for actual use in their manufacturing operations, our company also has found that attempting to trade in futures contracts as a hedge against volatility in the price of natural gas needed for our operations, more often than not, results in greater financial uncertainty rather than less.

The market for natural gas will operate most effectively when the prices of natural gas are shaped by fundamental forces of supply and demand. These prices will allocate supplies of gas within the economy most effectively, thereby benefiting producers, users of natural gas and the economy as a whole. Facilitating this pricing function is one of the key purposes of the CEA. However, if this pricing process breaks down, as it has, that breakdown can result in inappropriate pricing and allocation of natural gas to the detriment of producers, users and the economy as a whole. Accordingly, Huntsman believes that the regulatory framework that applies to the trading of natural gas futures and derivatives contracts should be reviewed.

A recent report by the Staff of the Senate Permanent Subcommittee on Investigations, *Excessive Speculation in the Natural Gas Market* ("PSI Report"), strongly supports what Huntsman has believed for some time—that the excessive volatility in the pricing of U.S. natural gas futures has been strongly influenced by speculation, and, in some cases, manipulation rather than fundamentals of supply and demand as some have suggested. Our company believes that the PSI Report and the increased price volatility demonstrate that natural gas in the U.S. is a commodity with a finite supply that is subject to price manipulation in the futures market. Further, because the price of natural gas in the cash market is derived from the price set by futures trading, the U.S. market for natural gas exhibits the very characteristics that led the President's Working Group to recommend that certain commodities, such as agricultural commodities, remain fully regulated under the CEA. In other words, Huntsman believes that given the current structure of the CEA, natural gas is misclassified under the Act and would be more appropriately classified and regulated in the same manner as an agricultural commodity.

While the PSI Report details findings with respect to market manipulation by Amaranth, a hedge fund that collapsed in 2006, including Amaranth's trading on the Intercontinental Exchange that was facilitated by the CFMA, Huntsman believes that others, before Amaranth, engaged in efforts to manipulate the price of natural gas and thereby contributed to the volatility in the natural gas market. The Commission's own experience with 38 enforcement actions related to the trading of natural gas futures supports this view. Only yesterday, Bloomberg reported that natural gas had risen because of speculation that hedge funds would be driving prices up higher. Without further action to revise the regulatory structure for the market for natural gas futures in the U.S., Huntsman believes that the market for natural gas will continue to be a target for speculators and manipulators.

While Huntsman applauds the Commission's efforts at enforcement actions in the market for natural gas futures, and supports the Commission's recent proposals to expand reporting requirements for positions and transactions in commodities executed over-the-counter or under exclusions or exemptions in the CEA, Huntsman believes that these changes alone are not adequate to address the problems in the market for natural gas in the U.S.

Potential Solutions

The most simple and straightforward approach to problems in the trading of natural gas futures would be for the Commission to support legislation amending the CEA so that natural gas would be regulated under the same rules that apply to agricultural commodities. As I have discussed, the cash market for natural gas more

closely resembles the cash market for agricultural commodities than the markets for financial instruments.

Even if natural gas were to be treated in the same manner as an agricultural commodity, we also believe that the Commission should consider effecting or recommending other regulatory and statutory changes as well. For example, the Commission should consider seeking public comment on *existing* rules for natural gas contracts to determine whether each rule that currently applies to natural gas is consistent with the "core principles" established in the CEA. We believe that, going forward, the Commission also should seek public comment on future changes to rules for contracts involving natural gas. This greater scrutiny of proposed changes to the rules regarding natural gas contracts would help to ensure their consistency with the core principles.

Similarly, Huntsman believes that the current rules in place on the NYMEX relating to the maximum limits on the daily price fluctuation, sometimes known as "trading limits," for trading in natural gas contracts impose no practical limits. While we recognize that trading limits are a controversial issue, we believe they can provide important time for market participants to evaluate new information and to act appropriately, therefore promoting the price discovery function. The report of an erroneous inventory number has been known to generate wild price fluctuation, at great cost to consumers, with no real-world basis whatsoever. The potential benefits of limiting price movement to no more than eight (8) percent, in either direction on any one trading day should be considered, as we believe it is consistent with the core principles. This threshold would be similar to the limits that were in place on the NYMEX in early-year 2000 before price volatility began to increase.

Huntsman believes that the Commission should also consider supporting amendments to the CEA to give the Commission even broader authority to require any person holding large positions in natural gas contracts either on contract markets, in the over-the-counter markets, or as large physical quantities of natural gas, to file reports regarding those positions or quantities. This authority should not be limited to persons trading on regulated markets and their subsidiaries, but should include other affiliates of these persons, as well as ostensibly independent traders who may be acting in concert with other traders. To avoid unnecessary duplication of reporting, any holding or position that otherwise is required to be reported to any U.S. government agency could be exempt if that report would be made available to the Commission upon request.

Thank you for the opportunity to be here today. I would be happy to address any comments that the Commission may have.

