

MINISTRY OF COMMERCE

NOTIFICATION

FINAL FINDINGS

New Delhi, the 14th September, 1998

Subject: Anti dumping investigation concerning imports of polystyrene from Korea RP, Japan. Taiwan and Malaysia - Final Findings

12/2/97/ADD— Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, thereof:

A PROCEDURE

1 The Procedure described below has been followed:

- i. The Designated Authority (hereinafter also referred to as the Authority) notified preliminary findings vide notification dated the 17th May, 1998 and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- ii. The Authority forwarded a copy of the preliminary findings to the known interested parties who were requested to furnish their views, if any on the preliminary findings within forty days of the date of the letter;
- iii. The Authority also forwarded a copy of the preliminary findings to the Embassy of Malaysia, Japan and Korea RP and Taipei Economic & Cultural Centre in New Delhi with a request that the exporters and other interested parties may be advised furnish their views on the preliminary findings.
- iv. The Authority provided an opportunity to all interested parties to present their views orally on 1st July, 1998. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties. All parties who made request for inspection, in writing, were allowed to inspect the public, file:

- vi. Argument raised by the Interested parties before announcing the preliminary findings, which Have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by trio interested parties have been considered in the preliminary findings and/or these findings
- vii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings.

B. PETITIONER'S VIEWS

2. The petitioner Polystyrene Producers Association has on behalf of the three producers, expressed its views, which are briefly as under:

- a. Normal value of the exporters from Taiwan is established from the list prices of a producer in Taiwan. Normal value in case of Malaysia and Japan is established by the average prices of polystyrene in Malaysia and Japan, while normal value in case of Korea RP is established by a leading journal (ICIS – LOR). Export price from these countries is established from the information compiled from the Customs Daily List for the imports at Mumbai port, which account for substantial imports.
- b. Polystyrene producers' in India produce all forms of HIPS and GPPS polystyrene. ESCR grade of polystyrene is not a monopoly of BASF as claimed by some interested parties. ESCR grade is manufactured in India. One of the leading multinational refrigerator manufacturers in India, M/s. Whirlpool, has tested this grade and is using the ESCR grade made by the Indian Industry in place of imported ESCR grade. With regard to testing polystyrene of ESCR Grade. "Bosch Test" is not a definitive test as claimed by some parties. The test conducted by M/s. Plastic Technology Laboratories, Inc, USA is "Modified Bosch Test."

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES EXPORTERS

3. The views expressed by the exporters are briefly mentioned below:

- a. Significant imports of polystyrene in India in spite of domestic capacities clearly indicate that the Indian industry does not produce all types of polystyrene. The demand of polystyrene in India until 1994 was more than the supply. Since 1995, the supply has outstripped the demand. This resulted in

fierce fight for market share resulting in price erosions in the domestic market, reduction in capacity utilisation and reduction in imports. The quality of goods produced by the Indian producers is inferior. The injury to the Indian producers was self-indicated caused by capacity development at the start of the investigation period.

b. The following grades are not produced by the Indian producers:

- Flame retardant polystyrene grades being imported from Japan,
- Polystyrene grades for refrigerator inner liners,
- High gloss grades produced by Korean producers.

The above are classified into different custom tariffs, which also substantiate that these are different grades.

- c. Landed value of imports were higher than the Indian producers' selling prices.
- d. The Indian producers have suffered because of their economics of scale and cost structure. Indian producers import styrene in a situation of fluctuating prices and import duties, which has caused injury to them.

IMPORTERS

4. Views expressed by importers and other interested parties are as under:

- a. Indian producers do not produce all grades of polystyrene. The following grades are not produced in India.
 - ESCR to Freon HIPS
 - Expandable HIPS
 - Flame retardant HIPS & GPPS
 - Weather Resistant HIPS
 - GF reinforced GPPS
 - Antistatic grades
 - Grades with enhanced scratch resistance and slip.

ESCR 2157 grade of Supreme Petrochem does not pass "Bosch Test", which is the only test for determination of ESCR. Supreme Petro uses Huntsman Technology, which is not capable of producing ESCR grade HIPS.

- b. The relationship of Supreme Petrochem with an importer should not influence the present investigations in the same way as the relationship between MC Dowell and LG Chemicals, Korea has not influenced. Supreme must not be excluded from the investigation. In case Supreme has to be excluded, then LG

Polymers must also be excluded as they are also related to an exporter (LG Chemical) from Korea.

- c. The preliminary findings that there was only one producer of polystyrene in India upto 1994-95 are not correct. There were three producers of polystyrene in 1994-95, namely MC Dowell, Polychem and Gujrat Binyl. New capacities were added in 1995-96 and later. The Authority should have compared the investigation period with the period prior to 1994-95, 1995-96 as a reference period is not relevant as the industry was already in a fluid state with new producers commencing production.
- d. The Indian industry has not suffered any injury, as borne by the following;
 - i. Increase in domestic capacities has been much more than increases in demand.
 - ii. Imports have reduced and the production and sales of domestic manufacturer has increased. Reduction in capacity utilisation is in 1995-96 as compared to 1994-95 (and not in the investigation period, as held by the Authority in the preliminary findings). MC Dowell did not operate at full capacity even in 1994-95
 - iii. Decline in sales realisation is due to conversion of seller's market into buyer's market in India and raw material price movements.
 - iv. Indian manufacturers have indulged in price war and price undercutting to capture market.
 - v. Indian manufacturer operates at high cost since their plant capacities are much lower than the minimum economic size.
 - vi. Injury claimed by domestic industry is a result of price undercutting.
- e. With regard to causal link, the domestic industry has indulged in price undercutting with a view to capture market share. The reasons for the price undercutting cannot be attributed to imports.
- f. Levy of anti dumping duty will give undue price advantage to inefficient Indian producers at the cost of users.
- g. Imports from USA are at much lower prices as compared to the subject countries.

D. EXAMINATION BY AUTHORITY

5. The submissions made by the petitioner, exporters, importers and other interested parties have been examined, considered and, wherever appropriate, dealt hereinafter.

E. PRODUCT UNDER CONSIDERATION, LIKE ARTICLES, PETITIONER AND DOMESTIC INDUSTRY

6. Product under consideration in the present investigations is polystyrene, Crystal polystyrene (popularly known as general-purpose polystyrene or GPPS) and impact polystyrene (Popularly known as high impact polystyrene or HIPS). Expansible polystyrene (Popularly known as EPS also), classified under custom sub-heading 39031100 is beyond the scope of the present investigations.

7. Arguments have been raised that some types of polystyrene, such as flame retardant/weather resistant polystyrene, ESCR grade polystyrene, polystyrene grades for refrigerators, etc. are not made in India. It is however, noted that neither the interested parties have claims that these grades/types of polystyrene are being imported by them, nor have they brought out features which distinguish these grades/types with the types being produced in India. Even the basic properties of these polystyrenes, their physical appearance, process of manufacturing & technology, function & uses, etc. which distinguish these types from other types being made in India have not been defined by these interested parties. The claims of interested parties on this account are quite vague and unsupported by any evidence. It is, therefore, not feasible to arrive at any conclusion with regard to these products.

8. With regard to the quality and technical specifications of the polystyrene produced in India and polystyrene imported from the subject countries, the Authority notes that none of the interested party has brought out any quantified differences. The evidence presented by the interested parties that one of the consumers does not prefer to use polystyrene produced in India does not establish that the same is not technically or commercially substitutable with the polystyrene being exported from the subject countries.

Petitioners, Standing and Domestic Industry:

9. The petition has been filed by Polystyrene Producers Association and is supported by the following three producers:

- a. Supreme Petrochem Ltd
- b. Hindustan Polymers Ltd, (now known as LG Polymers Ltd.)
- c. Rajasthan Polymers and Resins Ltd.

10. The following companies also have created capacity for production of polystyrene.

- a. Polychem Ltd.,
- b. Gujarat Vinyl Ltd

11. It has not been established by any party these companies produced any polystyrene during the investigation period. None of the above companies produced significant quantity of polystyrene during the investigation period. The petition is, therefore, supported by the majority producers of polystyrene during the investigation period and the petitioner satisfies the standing to file the present petition.

12. M/s. Supreme Petrochem Ltd., is related to one of the importers of the subject goods from the subject countries during the investigation period. M/s LG Polymers is related to one of the exporters of the subject goods from the subject countries. M/s. Supreme Petrochem Ltd., and LG Polymers Ltd. have, therefore, been excluded from the purview of the definition of domestic industry in accordance with Rule 2(b).

13. In view of the foregoing, Rajasthan Polymers and Resin Ltd. has been treated as domestic industry within the meaning of the Rules.

14. In view of the foregoing and subject to above, the Authority confirms preliminary findings with regard to the product under consideration, like article, standing of the petitioner to file the petition and scope of domestic industry.

F. DUMPING

15. None of the co-operating exporters from Taiwan and Malaysia have responded to the provisional findings.

16. M/s Chi Mei Corpn. Taiwan responded through M/s. Chemoplast, New Delhi that it was not able to represent in the hearing and authorised Chemoplast to attend the hearing. Neither Chi Mei Corpn. nor Chemoplast made any written submissions after the hearing.

17. BASF, Korea requested for extension of time to file response to the questionnaire. The exporter has, however, furnished information significantly after the prescribed time limits and in fact, after the preliminary findings. The Authority has, therefore, disregarded the response filed by the exporter.

18. The Authority thus notes that there is no additional information or argument with regard to dumping from the co-operating exporters. However, the petitioner has objected to the allowance for off-grade granted by the Authority on the basis of the claims made by Petrochemical (M) Sdn. Hnd., Malaysia. The petitioner has furnished evidence that the allowance for off-grade cannot exceed US\$ ***. The Authority notes that the exporter has not furnished any evidence supporting its claim for the allowance for off-grade even after the preliminary findings even though the Authority had very clearly held in the preliminary findings that there is no evidence produced by

the exporter in support of its claim of lower sales value of off-grade. The Authority has, therefore, allowed adjustment for off-grade sales on the basis of evidence furnished by the petitioner.

19. In view of the foregoing and subject to above, the Authority confirms preliminary findings with regard to determination of dumping. The final dumping margin assessed are as under

S.No.	Name of the Country	Name of the Company	Dumping Margin (% of export price)
1.	Malaysia	Petrochemical (M) Sdn. Bhd. Malaysia GPPS Type Polystyrene HIPS Type Polystyrene	20 35
2.	Republic of Korea	Any Company	22
3.	Taiwan	a) Eternal Chemical Co. Ltd. GPPS Type Polystyrene HIPPSS Type Polystyrene b) Any other exporter	41 24 88
4.	Japan	Any company	27

G. INJURY AND CAUSAL LINK

20. The Authority has accepted the argument of importers concerning exclusion of LQ Polymers. LG Polymers has been accordingly excluded from the purview of the domestic Industry.

21. With regard to excess capacity, while it may be true that capacity increased much more than the demand In India, the Authority has noted in the preliminary findings that the market snare of the subject countries in the total demand in India has increased from 20% (1995-96) to 38% in the investigation period. The findings of the authority on this account have not been disputed by any interested party. The Authority holds that increase in market share in spite of increase in capacity resulted in material injury to the domestic industry.

22. With regard comparison of landed value with selling prices of Indian producers, as brought out in the provisional findings also, the landed value of imports from the subject countries during the investigation period was significantly lower than the average realisation of the petitioner. The interested parties have not substantiated their claim while arguing that the landed value of imports was higher than the selling prices of Indian producers. The argument of interested parties on this account is therefore, factually incorrect.

23. The Authority holds that the domestic industry has suffered material injury from dumped imports and the same is evident from the following parameters:

- a. Market share of imports from subject countries increased significantly, resulting in loss of market share of the domestic industry;
- b. Average sales realisation of the domestic industry declined significantly;
- c. The domestic industry was prevented from realizing fair cost of production, resulting in financial losses.

H. FINAL FINDINGS

24. The Authority, after considering the foregoing, conclude that:

- a. Product under consideration in the present investigations is polystyrene, Crystal (popularly known as general-purpose polystyrene or GPPS) and impact polystyrene (popularly known as high impact polystyrene or HIPS). Expandable polystyrene (popularly known as EPS also), classified under custom sub-heading 3903110 is beyond the scope of the present investigations;
- b. Petitioner satisfies the criterion with regard to standing to file the present petition and the petition is supported by evidence of injury to the domestic industry.
- c. Polystyrene originating in or exported from Korea RP, Taiwan, Japan and Malaysia has been exported to India below its normal value;
- d. Domestic industry has suffered material injury;
- e. Injury has been caused to the domestic industry by the dumping of the subject goods originating in or exported from the subject countries.

25. The Authority confirms the preliminary findings with regard to imposition of anti-dumping duty and recommends imposition of definitive anti-dumping duties, as set out below.

S.No.	Name of Country	Name of Company	Anti-Dumping Duty (Rs. PMT)
1.	Malaysia	a) Petrochemical (M) Sdn. Bhd., Malaysia GPPS type polystyrene HIPS type polystyrene	4360 6648
		b) Any other company GPPS type polystyrene HIPS type polystyrene	4360 6648
2.	Republic of Korea	Any company	5991
3.	Taiwan	a) Eternal Chemical Co. Ltd. GPPS type polystyrene HIPS type polystyrene	1963 4463
		b) Any other company	13493
4.	Japan	Any company	5871

26. Subject to above, the Authority confirms the preliminary findings dated 12.5.1998.

27. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act Supra.

RATHI VINAY JHA,
Designated Authority