

**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**DIRECTORATE GENERAL OF ANTI DUMPING AND**  
**ALLIED DUTIES**

New Delhi the 8th June, 2004

**FINAL FINDINGS**

**Sub:** Anti-Dumping investigations concerning Sunset Review of anti dumping duty on imports of Polystyrene from Korea RP, Japan, Malaysia and Chinese Taipei.

**14/47/2002 -DGAD-** Having regard to the Section 9A(5) of 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 Authority), under the above Rules as per Section 9A(5) of the Customs Tariff (Amendment) Act, 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 initiated Sunset Review to review the need for continued imposition of anti-dumping duty on imports of Polystyrene as indicated in the final findings notification No.12/2/97-DGAD dated 14/9/98 with regards to anti-dumping duty imposed on imports of Polystyrene ((hereinafter also referred to as subject goods) originating in or exported from Korea RP, Japan, Malaysia and Chinese Taipei ((hereinafter also referred to as subject countries). The Government of India imposed definitive anti dumping duty vide notification no 88/98 Customs dated 17th November 1998.
- ii. The Authority issued a public notice dated 10.2.2003 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations in respect of the above mentioned investigation concerning imports of the subject goods classified under Chapter 39 of the Customs Tariff Act, 1975 as amended in 1995 originating in or exported from subject countries.
- iii. The Authority forwarded a copy of the public notice to all the known exporters (whose details were available in view of investigations conducted earlier) and

- industry/user associations and gave them an opportunity to make their views known in writing in accordance with the Rule 6(2).
- iv. The Authority forwarded a copy of the public notice to all the known importers ((whose details were available in view of investigations conducted earlier) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).
  - v. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
  - vi. The Authority provided a copy of the initiation notification to the known exporter and the Embassy of the subject countries in accordance with Rules 6(3) supra.
  - vii. The Authority sent a questionnaire to elicit relevant information to the exporters/producers, in accordance with the Rule 6(4):
  - viii. No Response/information to the questionnaire was filed by any of known exporters/producers or other exporters/producers:
  - ix. The Embassy of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise all concerned exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the known exporter was also sent to the Embassy of the subject countries under rule 6(3).
  - x. A questionnaire was sent to the known importers/user associations of the subject goods whose details were made available by the petitioner for necessary information in accordance with Rule 6(4):-
  - xi. No Response/information to the questionnaire was filed by the any of the importers.
  - xii. Information regarding injury was sought from domestic industries represented by M/s Polystyrene Association of India representing three producers of the subject goods i.e. M/s BASF styrene Pvt Ltd, M/s LG Polymers Pvt Ltd and M/s Supreme Petrochemicals. The cost of production/injury information was furnished by the domestic industry which was analyzed by the Authority.
  - xiii. Cost investigation of domestic industries was also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner.
  - xiv. An opportunity was provided to all interested parties to present their views orally on 31st October 2003. All parties presenting views were requested to file written submissions of the views expressed. The parties were advised to collect

- copies of the views expressed by the opposing parties and offer rebuttals, if any;
- xv. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
  - xvi. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
  - xvii. The period of investigation (POI) considered is 1.1.2002 to 31st December 2002.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

2. The product considered in the present investigations is polystyrene. Polystyrene is a versatile thermoplastic resin available in wide range of formulations from general-purpose crystal and impact grades to highly specialized resins. Polystyrene can be of various forms. However, crystal polystyrene popularly known as General Purpose Polystyrene (GPPS) and impact polystyrene popularly known as High Impact Polystyrene (HIPS) are the subject matter of the present investigation. GPPS is a clear, amorphous polymer and finds application in food packaging, food service items, medical care products, and packaging for audio cassettes, compact discs, and other consumer electronic media. HIPS makes use of polybutadiene elastomers for impact modifications and finds applications in toys, furniture, house wares, food packaging, food service, medical care products, appliances, building materials, consumer electronics, and packaging for electronic media. GPPS and HIPS are different types of polystyrenes and are not substituted with each other. Expandable Polystyrene (popularly known as EPS) classified under custom sub heading 39031100 is beyond the scope of this review investigation. Polystyrene is classified under custom sub-heading 39 03 of Schedule 1 of the Customs Tariff Act, 1975 and under 39 03 19 of the ITC. The description is, however, indicative only and is in no way binding on the scope of the present investigations. The Authority notes that there are no arguments with regards to the product under consideration by any of the interested parties.

- i. There is no difference in the Polystyrene produced by the Indian industry and Polystyrene exported from the subject countries. Polystyrene produced by the Indian industry and imported from the subject country is comparable on all relevant parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses. The two are technically and commercially substitutable and consumers have used the two

interchangeably. There are no arguments advanced by any of interested parties with regards to the issue of like article.

- ii. In light of the above, the Authority holds that the Polystyrene produced by the Petitioner is identical to the article under consideration in the present Petition and consequently both the imported Polystyrene and domestically produced Polystyrene are considered as “like article” to the subject goods being imported from the subject countries in accordance with the Anti Dumping Rules.

## **C. INITIATION, REVIEW, STANDING AND DOMESTIC INDUSTRY**

3. There are no arguments with regards to the initiation as well as the standing of the domestic industry in this case. The Authority notes that M/s. Polystyrene Producers’ Association, Mumbai has got all the major producers of the subject goods as its members and therefore, the Authority holds that M/s. Polystyrene Producers’ Association, Mumbai, constitutes domestic industry within the meaning of the rule 2(b) of the Anti Dumping rules having accounted for a major proportion of the production of the subject goods in the country.

## **D. Subsequent Developments**

4. Submission made by Polystyrene Producers Association (India) on May 24th 2004

- i. In the recent months, petroleum prices have hit record highs leading to high Polystyrene prices which drive users away thereby curbing organic growth. Give this situation, supplies of polystyrene from the subject countries which are currently also subject to anti-dumping duties, are affected and have sharply come down in volume. We are aware that it is settled law both in India and other countries, data of the Period of Investigation is to be considered, and the difference between the domestic selling price in the ordinary course of trade and the export price is the definitive test for dumping. Further, within the factual matrix of this case, the recurrence of injury in the absence of Anti Dumping Duty is more than likely, as the exporters burdened with large installed capacities, stagnant domestic demand and freed from anti dumping duties will most probably increase their volumes once the duty is lifted.
- ii. Notwithstanding, all of the above, as responsible corporate citizens of India, we do not want our Government to put into place a levy which in today’s terms will have little impact. We will closely track import volumes and prices once the duty lapses and seek your urgent intervention in case required.

- iii. Given this situation, we are hereby withdrawing the application for imposition of Anti-Dumping Duty on Polystyrene imported from Malaysia, Japan, Korea RP and Taiwan.

## **Conclusions**

5.1 On the basis of the submissions made by the domestic industry requesting withdrawal of the application for imposition of Anti dumping duty on Polystyrene, the Authority concludes that there is no justification for the continued imposition of the anti dumping duty and therefore the Authority recommends discontinuance of anti dumping duty on polystyrene originating in or exported from subject countries as recommended by the Designated Authority vide Final Findings notification No. 12/2/1997-DGAD dated 14th September 1998 and imposed by the Central Government vide notification No. 88/98-Customs dated 17th November 1998.

**(A. Sengupta)**  
Additional Secretary & Designated Authority