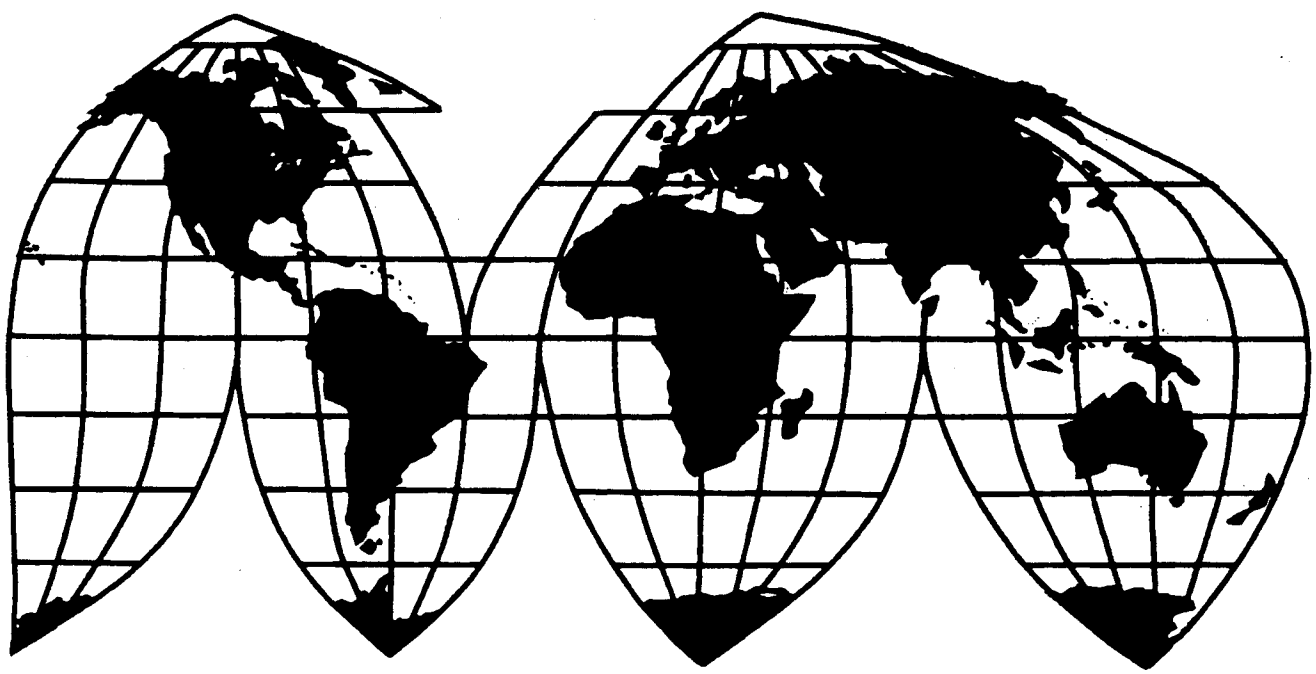
Certain Expandable Polystyrene Resins From Indonesia and Korea

Investigations Nos. 731-TA-861 & 862 (Preliminary)

Publication 3266 **January 2000**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Lynn M. Bragg, Chairman
Marcia E. Miller, Vice Chairman
Jennifer A. Hillman
Stephen Koplan
Thelma J. Askey
Deanna T. Okun

Robert A. Rogowsky
Director of Operations

Staff assigned:

Jonathan Seiger, *Investigator*
Raymond Cantrell, *Industry Analyst*
Russell Hillberry, *Economist*
Jerald Tepper, *Accountant*
Daniel Pickard, *Attorney*

George Deyman, *Supervisory Investigator*

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

U.S. International Trade Commission

Washington, DC 20436

Certain Expandable Polystyrene Resins From Indonesia and Korea

Publication 3266

January 2000

CONTENTS

CONTENTS

Appendixes

CONTENTS

CONTENTS

Page

Tables–Continued

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-861 & 862 (Preliminary)

CERTAIN EXPANDABLE POLYSTYRENE RESINS FROM INDONESIA AND KOREA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Indonesia and Korea of certain expandable polystyrene resins (EPS resins),[3] provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On November 22, 1999, a petition was filed with the Commission and the Department of Commerce by BASF Corporation, Mount Olive, NJ; Huntsman Expandable Polymers Company LC, Salt Lake City, UT; Nova Chemicals, Inc., Moon Township, PA; and StyroChem U.S., Ltd., Radnor, PA, alleging that an industry in the United States is materially injured or threatened with material injury by

---

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

[2] Commissioner Thelma J. Askey dissenting; Commissioner Deanna Tanner Okun not participating.

[3] For purposes of these investigations, Commerce has defined "certain expandable polystyrene resins" as the raw material manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm. Specifically excluded from this definition is off-grade, off-specification expandable polystyrene resin.

reason of LTFV imports of EPS resins from Indonesia and Korea. Accordingly, effective November 22, 1999, the Commission instituted antidumping duty investigations Nos. 731-TA-861 & 862 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 3, 1999 (64 FR 67934). The conference was held in Washington, DC, on December 13, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of expandable polystyrene resins ("EPS") from Indonesia and Korea that are allegedly sold in the United States at less than fair value ("LTFV").[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole 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."[5] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[6]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in

---

[1] Commissioner Askey determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of EPS from Indonesia and Korea that are allegedly sold in the United States at LTFV. See Dissenting Views of Commissioner Askey. She joins sections I-III of this opinion. Commissioner Okun did not participate in these determinations.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] 19 U.S.C. § 1677(4)(A).

[5] Id.

[6] 19 U.S.C. § 1677(10).

characteristics and uses" on a case-by-case basis.[7] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[9] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as follows:

> The scope of these investigations includes certain expandable polystyrene resins in primary forms; namely, raw material or resin manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm.
> Specifically excluded from the scope of these investigations is [sic] off-grade, off-specification expandable polystyrene resins.
>
> The covered merchandise is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3903.11.00.00. Although this HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.[11]

EPS is a polystyrene-based product made by polymerization of styrene monomer with the addition of expanding or blowing agents. EPS beads resulting from the polymerization process are screened into various sizes for further processing by molders into various packaging and insulation

---

[7] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996).

[8] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[9] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[10] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] 64 Fed. Reg. 71112 (Dec. 20, 1999).

products. EPS beads are called shape grade (also known as regular grade) or block grade (also known as modified grade).[12]

C. Domestic Like Product Issues

Petitioners argue that block and shape grade EPS represent a single domestic like product. Petitioners also argue that cup grade EPS, which is not included within Commerce's scope, should not be included in the domestic like product definition. Respondents have not contested the petitioners' suggested definition of like product. Based on the record developed in the preliminary phase of these investigations, we determine that there is a single domestic like product covering both block and shape grade EPS.

The record indicates that block and shape grade EPS are essentially identical,[13] the only difference being that block grade contains a flame retardant.[14] Both block and shape grade EPS are molded into end products for insulation board and refrigeration and packing components.[15] The physical characteristics and end uses of cup grade EPS differ significantly from either block or shape grade. Cup grade EPS is made from a different feedstock, and has a higher molecular weight, lower residual styrene monomer content, lower yield, and lesser expansion capability.[16] Cup grade is used in the making of food containers and cups.[17]

There is minimal interchangeability between cup grade EPS and either shape or block grade EPS. Block grade cannot be used in cup grade applications because the added flame retardant would create an unacceptable toxicity level. Shape grade EPS also is not interchangeable with cup grade due to the fact that a higher residual monomer would result in an unacceptable "taste" and surface imperfections, as well as a lack of strength.[18] The parties agree that block and shape grade EPS are almost completely interchangeable.[19] Producers of block and shape grade consider cup grade EPS to be a different product.[20] Consumers are also said to perceive cup grade EPS to be a different product.[21]

Block and shape grade EPS, on the one hand, and cup grade EPS, on the other, do not share the same channels of distribution. Block and shape grade EPS are sold directly to end user molders in the merchant market. Most cup grade EPS is not sold in the merchant market but rather is captively consumed by the producing companies.[22]

---

[12] Confidential Report (CR) at I-2, Public Report (PR) at I-2.

[13] Block- and shape-grade EPS are manufactured by similar processes and have similar physical and chemical properties, including particle size and molecular weight distribution, and blowing agent content range. CR at I-4; PR at I-3.

[14] Petitioners' postconference brief at 25; CR at I-4; PR at I-3.

[15] Petitioners' postconference brief at 26; CR at I-4, I-5; PR at I-3-4.

[16] CR at I-4, I-5; PR at I-3.

[17] CR at I-7, I-8; PR at I-5.

[18] Petitioners' postconference brief at 28, 29; CR at I-7; PR at I-5.

[19] Id.

[20] Petitioners' postconference brief at 30; CR at I-8; PR at I-5.

[21] Transcript (Tr.) at 9.

[22] Petitioners' postconference brief at 29; CR at I-8, I-9; PR at I-4, I-5. "There are two major users of cup grade (continued...)

There are also some distinctions between the manufacturing processes for block and shape grade, and cup grade. While cup-grade EPS is produced using a two-step process, domestic producers more commonly use a one-step process to produce block and shape grades. [23] Block and shape grade prices are described as "roughly equivalent."[24] Cup grade EPS is sold at a price higher than either block or shape grade.[25] For example, molders pay approximately *** cents per pound more for cup grade EPS than for block or shape grade.[26]

There are many similarities between block and shape grade EPS and the distinction of block grade's addition of a flame retardant does not appear to affect end use or interchangeability. Cup grade EPS, however, appears to have clear distinctions from either block or shape grade as to end uses, interchangeability, channels of distribution, producer perceptions, manufacturing processes, and price. Consequently, for purposes of these preliminary determinations we do not include cup grade EPS in the domestic like product, and decide that block and shape grade EPS form a single like product.

D. Domestic Industry and Related Parties

The domestic industry is defined as "the producers as a [w]hole of a domestic like product."[27] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[28] Based on our finding that the domestic like product consists of block and shape grade EPS, we conclude that the domestic industry consists of all domestic producers of that merchandise.

III. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulatively assess the volume and effect of imports of the subject merchandise from all countries as to which

---

[22] (...continued)
EPS in the United States: Dart and Wincup. Dart supplies itself, and it would be very unlikely to use cup grade EPS from Korea or Indonesia. StyroChem supplies WinCup, and I know that WinCup did not import any cup grade EPS from Korea or Indonesia. These two cup manufacturers account for a significant portion of the U.S. market. The other EPS cup manufacturers, MasterContainer and Oklahoma League for the Blind, are supplied by either Nova Chemicals or StyroChem. I have not observed either of these facilities to be carrying inventory material from anywhere in Southeast Asia." Petitioners' Postconference Brief, at Exhibit 17, para. 7, Affidavit of Mike Pate. See also ***'s, NOVA's, and StyroChem's answers to the producer questionnaire.

[23] CR at I-6, I-7, PR at I-4. We note that some block- and shape-grade EPS are also produced using a two-step process. Id.

[24] CR at I-8, PR at I-6.

[25] CR at I-8, I-9, PR at I-6.

[26] CR at I-9; PR at I-6.

[27] 19 U.S.C. § 1677(4)(A).

[28] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.[29] In assessing whether subject imports compete with each other and with the domestic like product,[30] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between 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 the subject imports are simultaneously present in the market.[31]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[32] Only a "reasonable overlap" of competition is required.[33]

B. Analysis

We have determined to cumulate the subject imports from Indonesia and Korea. The record in these preliminary investigations indicates that the subject imports from Indonesia and Korea are at least moderately fungible with each other and with the domestic like product.[34] In this regard, the subject imports are sold to the same molders and generally meet the same requirements for molding as domestically-produced EPS.[35] Conference testimony and producer questionnaire responses indicate that the imports from the subject countries are viewed as interchangeable with the domestic like product and

---

[29] 19 U.S.C. § 1677(7)(G)(I).

[30] The SAA at 848 expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition," citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[31] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (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).

[32] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[33] See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (CIT 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[34] CR at II-7; PR at II–5.

[35] Petitioners' postconference brief at 3; also citing Tr. at 11, 17, and 26.

with each other.[36] The Indonesian respondent contends that the high pentane content of subject imports from Indonesia limits its fungibility with the domestic like product and the subject imports from Korea. The record, however, does not indicate that EPS from Indonesia is distinguishable from EPS from other sources by virtue of its pentane content.[37]

The record demonstrates that appreciable quantities of subject imports from Indonesia and Korea were present throughout the period examined in the same geographic markets. Imports of the subject merchandise from Korea occurred in every month during the period examined, and imports from Indonesia have occurred during 20 of the last 21 months reviewed.[38] Indeed, ***.[39]

The record demonstrates that subject imports and domestic EPS are sold through the same channels of distribution.[40] Specifically, EPS is sold directly to producers for molding.[41]

Accordingly, we find a reasonable overlap of competition and cumulate subject imports from Indonesia and Korea for purposes of our analysis of present material injury.[42]

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[43] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[44] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or

---

[36] Petitioners' postconference brief at 33, 34.

[37] The record suggests that at ***. Indonesian Respondent's Postconference Brief at Exhibit 8. Moreover, the Indonesian respondent submitted a report indicating that most EPS produced in the United States contains from *** percent to *** percent pentane, which appears to be within the same pentane range as subject imports from Indonesia. *Compare* Indonesian respondent's postconference brief at Ex. 7 with Ex. 8. Further, the Indonesian respondent failed to articulate what pentane content distinguishes "high-pentane" EPS from "low-pentane" EPS.

In any final phase investigations we intend to explore further the significance of pentane levels in EPS, and any distinctions between the domestic like product and the subject imports in this regard.

[38] Petitioners' postconference brief at 35, and Ex. 4, citing Society of the Plastics Industry, and Census Bureau IM-145 Data as sources.

[39] Indonesian respondent's postconference brief at Exhibit 8.

[40] CR at II-1; PR at II-1.

[41] Petitioners' postconference brief at 35.

[42] Commissioner Askey finds there is no reasonable indication that the domestic EPS industry is materially injured or threatened with material injury by reason of the subject imports. Commissioner Askey does not join the remainder of this opinion. See her dissenting views.

[43] 19 U.S.C. § 1671b(a) and 1673b(a).

[44] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

unimportant."[45] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[46] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[47]

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing block and shape grade EPS is materially injured by reason of subject imports from Indonesia and Korea that are allegedly sold in the United States at less than fair value.

A. Conditions of Competition

We find two significant conditions of competition relevant to these investigations. First, apparent U.S. consumption by quantity for EPS increased for each year from 1996 to 1998. Apparent consumption rose from 588.8 million pounds in 1996 to 674.7 million pounds in 1998. Apparent U.S. consumption of EPS was 562.5 million pounds in interim (January-September) 1999, which was greater than interim 1998 apparent U.S. consumption of 501.9 million pounds.[48]

Second, we note that EPS is composed primarily of polystyrene monomer, with blowing agents like pentane making up the bulk of the remaining inputs.[49] As the primary raw material, the price of monomer is a key determinant of EPS costs. Monomer prices fell over the period for which data were collected, but are said to have increased during the fourth quarter of 1999.[50] In any final phase investigations, we intend to examine closely the relationship between raw material costs and the price of EPS.

B. Volume

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."[51]

The quantity of cumulated subject imports grew by more than 300 percent during the period examined.[52] In 1996, the total volume of subject imports was 9.4 million pounds. By 1998, the quantity of subject imports had risen to 43.3 million pounds, more than double the 1997 level. Subject import quantity was also substantially higher in interim 1999, at 48.2 million pounds, than in interim 1998, at 30.1 million pounds. The value of subject imports also increased overall during the period examined,

---

[45] 19 U.S.C. § 1677(7)(A).

[46] 19 U.S.C. § 1677(7)(C)(iii).

[47] Id.

[48] Table IV-3, CR at IV-5, PR at IV-4.

[49] CR at V-1; PR at V-1.

[50] Id. See Petitioners' postconference brief at 10.

[51] 19 U.S.C. § 1677(7)(C)(i).

[52] Table IV-2; CR at IV-3, PR at IV-3.

exhibiting a pattern similar to the change in volume, although the increases were somewhat less marked.[53]

Importantly, the increase in subject import volume outpaced that of apparent consumption. Measured by quantity, subject import market share increased from 1.6 percent in 1996 to 6.4 percent in 1998. Interim 1999 subject import market share of 8.6 percent was greater than interim 1998 market share of 6.0 percent.[54]

By contrast, domestic producers' share of domestic EPS consumption, measured by quantity, declined from 89.2 percent in 1996 to 82.3 percent in 1998. The domestic producers' share in interim 1999, 78.5 percent, was lower than the 82.5 percent share in interim 1998.[55] Although there were also increases in nonsubject import volume and market penetration during this period, nonsubject imports do not explain the magnitude of the domestic industry's decline in market share. Nonsubject imports hold a larger share of the market than subject imports and increased that share over the period, holding almost 13 percent of the market in interim 1999. The growth of subject imports, however, exceeded that of nonsubject imports, suggesting that much of the domestic industry's decline in market share is attributable to subject imports. [56]

Based on the foregoing, we conclude that the volume of subject imports, both in absolute terms and relative to consumption in the United States, is significant.

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the 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.[57]

In these preliminary investigations we find that the subject imports are good substitutes with the domestic like product. Despite some differences in technical specifications and disadvantages due to their distance from the U.S. market, the subject imports, as previously explained, are generally interchangeable with the domestic like product.[58]

---

[53] Table IV-3; CR at IV-5, PR at IV-4.

[54] Id.

[55] Id.

[56] Id.

[57] 19 U.S.C. § 1677(7)(C)(ii).

[58] *See* CR at II-7-8; PR at II-5.

The record evidence on pricing in this preliminary phase is limited.[59] [60] The available pricing data for subject imports from Korea cover October-December 1997 to July-September 1999, and do not include any data for subject imports from Indonesia. Where data were available, subject imports from Korea were priced below the domestic like product in only 3 of 14 quarterly comparisons.[61] The average unit value data, which may reflect some product differentiation, show a contrary picture. In all periods, the subject imports had substantially lower AUV's than the domestic like product by margins of almost 20 percent.[62]

Pricing and AUV data show declining trends for both the subject imports and the domestic like product throughout the period examined.[63] As noted earlier, at least a portion of this decline is tied to the decline in raw material costs. Because of the decline in monomer prices, domestic producers' cost of goods sold (COGS) declined throughout the period examined. This decline, however, was lower in magnitude than the decline in domestic producers' net sales values.[64] The record also indicates that during the period investigated, the domestic industry was faced with competition from sharply increasing volumes of subject imports. Based on this limited record regarding price, we conclude that the subject imports played a significant role in the price declines, and significantly depressed prices of the domestic like product. We will reexamine price effects of the subject imports more fully in any final investigations when the Commission record should be more complete.

---

[59] Pricing data were collected on EPS products with blowing agent levels of less than 5.5 percent {referred to as "low-pentane" products}. It appears that the majority of EPS products, both domestic and subject imports, may have pentane levels at or above this level, and accordingly we intend to collect more inclusive price information in any final phase investigations. We encourage the parties to suggest appropriate products for collection of pricing data in their comments to the draft questionnaires for any final phase investigations. As noted above, we intend to explore further the relationship between pentane levels and the fungibility and pricing of EPS products for any final phase investigations.

[60] The petition, however, did not contain any allegations of lost sales or lost revenues. If such allegations had been included and verified by Commission staff, additional information with respect to prices and the substitutability of EPS products with differing pentane levels would likely have been available to the Commission for purposes of its preliminary determinations.

[61] Tables V-1-2; CR at V-5-6, PR at V-4-5.

[62] *Compare* Table IV-2; CR at IV-3, PR at IV-2 *with* Table VI-3; CR at VI-6, PR at VI-4. We are mindful, however, that AUV data may reflect differences in product mix and not differences in prices of the same article.

[63] For the cumulated subject imports, the AUV declined from 48 cents per pound in 1996 to 41 cents per pound in 1998; the interim 1999 AUV of 37 cents per pound was lower than the interim 1998 AUV of 43 cents per pound. For the domestic like product, net sales values declined from 59 cents per pound in 1996 to 50 cents per pound in 1998, and the interim 1999 value of 41 cents per pound was lower than the interim 1998 value of 52 cents per pound. *See* Tables V-1-2; CR at V-5-6, PR at V-4-5 (on block-grade product for which pricing data were collected, prices for domestically-produced product declined from 62 cents per pound in the first quarter of 1996 to 45 cents per pound in the third quarter of 1999, and prices for subject imports from Korea declined from *** cents per pound in the fourth quarter of 1997 to 46 cents per pound in the third quarter of 1999; on shape-grade product, prices for domestically-produced product declined from 64 cents per pound in the first quarter of 1996 to 47 cents per pound in the third quarter of 1999, and prices for subject imports from Korea declined from *** cents per pound in the fourth quarter of 1997 to 45 cents per pound in the third quarter of 1999); Table IV-2; CR at IV-3, PR at IV-2 (AUV data for subject imports); Table VI-3; CR at VI-6, PR at VI-4 (AUV data for domestic like product).

[64] *See* Table VI-3; CR at VI-6, PR at VI-4-5 (indicating that COGS declined 4 cents per pound less than AUVs from 1996 to 1998 and 4 cents per pound less than AUVs between interim 1998 and interim 1999).

D. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[65] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[66] [67] [68]

While both the domestic net sales values and unit raw material prices declined over the period examined, the decline in domestic net sales values was greater and the spread between unit selling prices and unit raw material prices narrowed. This declining margin was an important factor in the decline in domestic industry profitability over the period examined.[69] The domestic industry posted an operating income in both 1996 and 1997, after which the financial health of the industry weakened considerably. In 1998 *** domestic producers operated unprofitably and the domestic industry recorded an operating loss as a ratio to net sales of 2.0 percent. During the first three quarters of 1999, this loss reached 7.9 percent, as *** posted a loss.[70]

These losses occurred despite increasing domestic consumption,[71] increasing sales quantities, and decreasing raw material costs.[72] In addition, domestic producers' sales increases did not keep pace with the increases in domestic consumption as the domestic industry's market share declined.[73] Production

---

[65] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[66] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

[67] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce stated that the estimated dumping margins ranged from 43.79 to 89.39 percent for Korea, and from 94.93 to 96.65 percent for Indonesia. 64 Fed. Reg. 71113 (Dec. 20, 1995).

[68] Chairman Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[69] CR at VI-3; PR at VI-1.

[70] Table VI-1; CR at VI-2, PR at VI-2.

[71] Table IV-3; CR at IV-5; PR at IV-4.

[72] Sales increased from 597 million pounds in 1996 to 613.7 million pounds in 1998; interim 1999 sales of 498.0 million pounds exceeded interim 1998 sales of 458.2 million pounds. Table VI-1; CR at VI-2, PR at VI -2. Production increased from 593.1 million pounds in 1996 to 601.3 million pounds in 1998; interim 1999 production of 474.5 million pounds exceeded interim 1998 production of 443.4 million pounds. Table III-1; CR at III-4; PR at III-3.

[73] Table IV-3; CR at IV-5; PR at IV-4.

increases also did not match increases in capacity, so capacity utilization fell.[74] Petitioners further reported that as a result of subject imports from Indonesia and Korea, there were ***, and ***.[75] Additionally, we note that data for interim 1999 indicate lower capital expenditures and R&D expenses compared to interim 1998.[76]

We find that there is a reasonable indication that the subject imports are having a material impact on the domestic industry. As explained above, the significant and increasing volumes of subject imports have caused the domestic industry to lose market share and have depressed domestic prices to a significant degree. The price depression, in turn, has led to a decrease in the domestic industry's profitability and deteriorating financial condition.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of expandable polystyrene resins from Indonesia and Korea that are allegedly sold in the United States at less than fair value.

---

[74] Table III-1; CR at III-4; PR at III-3.

[75] CR/PR at Appendix E.

[76] Table VI-5; CR at VI-8, PR at VI-7.

DISSENTING VIEWS OF COMMISSIONER THELMA J. ASKEY

Based on the record in these preliminary phase investigations, I determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of expandable polystyrene resins ("EPS") from Indonesia and Korea that are allegedly sold at less than fair value ("LTFV").[1]

I concur in the conclusions of my colleagues with respect to the domestic like product, the domestic industry, and cumulation of the subject imports for material injury purposes.[2] In these dissenting views, I explain the reasons for my determination that there is no reasonable indication that the domestic industry producing EPS is materially injured or threatened with material injury by reason of the subject imports.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

In a preliminary phase investigation, I am required to determine whether there is a "reasonable indication" of material injury or a threat of material injury by reason of the subject imports.[3] In American Lamb Co. v. United States,[4] the Federal Circuit held that the "reasonable indication" standard does not mean that the Commission is to determine only whether there is a "possibility" of material injury.[5] Instead, the Federal Circuit stated that the Commission may appropriately weigh the record evidence in a preliminary determination in order to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[6] Indeed, the Federal Circuit has stated that "[t]he statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[7]

In these investigations, I believe that the record evidence is clear and convincing that the domestic industry is not materially injured or threatened with material injury by reason of the subject imports and that there is little or no likelihood that contrary evidence will arise in final investigations. In this regard, I note that the Commission obtained questionnaire responses from five firms that accounted for 100 percent of U.S. production of EPS during 1998 and from all known significant importers of EPS

---

[1] I note that material retardation of an industry is not an issue in these investigations.

[2] I note that imports for consumption of EPS from Indonesia and Korea during the 12-month period preceding filing of the petition (Nov. 1, 1998 through Oct. 31, 1999) were respectively 7.0 and 34.0 percent of total imports. These volumes exceed the negligibility threshold in the statute. 19 U.S.C. §1677(24)(A).

[3] 19 U.S.C. §§1671b(a)(1) & 1673b(a)(1).

[4] 785 F.2d 994 (Fed. Cir. 1986).

[5] 785 F.2d at 1004.

[6] 785 F.2d at 1001. The Court of International Trade has stated that, when the Commission considers the likelihood that contrary evidence will arise in a final investigation, it "must analyze the 'best information available' contained in the record at the time of its determination and judge the likelihood that evidence contrary to that already gathered will arise in a final determination that would support an affirmative determination." Calabrian Corp. v. U.S. Int'l Trade Comm'n, 794 F. Supp. 377, 386 (Ct. In'tl Trade 1992).

[7] Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

from the subject countries.[8] The amount of the information now available on the record leads me to conclude that I have a full and accurate picture of this market as it now stands.

In these circumstances, I believe the record evidence shows that the industry is not currently being injured by the subject imports and is not imminently threatened with injury by the subject imports.[9]

II. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGED LTFV IMPORTS FROM INDONESIA AND KOREA

In making a preliminary determination whether there is a reasonable indication that an industry in the United States is materially injured by reason of the allegedly subsidized and LTFV imports under investigation, I must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[10] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[11] I have considered all of the relevant economic factors that bear on the state of the industry in the United States.[12] No single factor is dispositive and I have considered all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[13]

A. Conditions of Competition

I have considered several conditions of competition in my analysis in these investigations. First, demand for EPS is derived from the demand for block and shape forms of expanded polystyrene used in downstream applications such as packaging and insulation. Because of the general growth in the overall domestic economy, apparent consumption in the U.S. market has grown significantly over the period examined. Specifically, apparent consumption of EPS increased by 6.7 percent from 1996 to 1997 and by 7.4 percent from 1997 to 1998. Moreover, apparent consumption has increased by an additional 12.1 percent during interim (Jan.-Sep.) 1999, when compared to interim (Jan.-Sep.) 1998.[14] Accordingly, the record indicates that demand has been growing rapidly over the period examined.

Second, expandable polystyrene resins are composed primarily of polystyrene monomer, with blowing agents like pentane making up the bulk of the remaining inputs.[15] Both petitioners and

---

[8] CR at III-1, IV-2; PR at III-1, IV-1.

[9] In American Lamb, the Federal Circuit stated that Congress intended the Commission to use preliminary determinations to avoid the cost and disruption to trade caused by unnecessary investigations. 785 F.2d 994 (Fed. Cir. 1986).

[10] 19 U.S.C. §1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination," but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. §1677(7)(B).

[11] 19 U.S.C. §1677(7)(A).

[12] 19 U.S.C. §1677(7)(C)(iii).

[13] Id.; 19 U.S.C. §§1671b(a) & 1673b(a).

[14] CR and PR at Table IV-3.

[15] A conference witness stated that, "It (monomer) is 92 to 93 percent of the weight of the EPS end product. Six percent is pentane." Conference transcript, p. 70.

respondents agree that monomer is the primary input in the production process.[16] As the primary input, the price of monomer is a key determinant of raw material costs. Monomer prices have fallen substantially over the period, from 33 to 21 cents per pound.[17]

Third, the record of this investigation establishes that there is only a moderate degree of substitutability between the domestic products and the subject imports.[18] Most importantly, the record establishes that the subject Indonesian and Korean producers market a more narrow range of products in the United States than the domestic industry, primarily because those producers do not have the ability to produce low-pentane EPS in substantial volumes.[19] Moreover, the subject Korean merchandise has a higher molecular weight than the domestic product, which makes the Korean product process more slowly than the domestic product,[20] but gives its certain advantages like higher tensile strength.[21] In addition, some Korean imports, and all Indonesian imports, are not yet certified to meet relatively common U.S. building codes.[22] Further, the domestic suppliers typically offer superior on-site technical support[23] and enjoy significantly shorter lead times than the subject imports, which affects their desirability by purchasers.[24] All of these factors significantly reduce the substitutability of the domestic and subject merchandise. Accordingly, although the record indicates that price is an important factor in the purchasing decision, the more limited substitutability of the domestic and subject merchandise lessens the importance of price in the purchase decision between the domestic and subject merchandise.

Furthermore, the record establishes that there is a high degree of substitutability between domestic product and nonsubject imports.[25] Both producers and importers agree that nonsubject imports are virtually interchangeable with the domestic product. This is because much of the production in significant nonsubject supplying countries, such as Canada, Mexico and Germany, is affiliated with or even controlled by domestic firms.[26] Accordingly, this indicates that those facilities have the ability to produce merchandise that has the same physical characteristics and quality level as the domestic merchandise. On the other hand, for the same reasons that there is a moderated degree of substitutability between the domestic and subject merchandise, I also find that there is a moderate degree of substitutability between subject imports and domestic and nonsubject product.

---

[16] Petitioners' postconference brief at 10; conference transcript at 65.

[17] CR at V-I; PR at V-1.

[18] CR at II-7, PR at II-5.

[19] This results, in part, from the fact that pentane leakage occurs in transit, as well as lagging technology overall. The leakage of pentane in transit over long distances can reduce the resin's rate of expansion upon delivery, an issue that affects the perception of subject imports' quality, particularly in products with very low levels of pentane. CR at II-7-8; PR at II-5.

[20] In this regard, the record indicates that unfamiliarity with the chemical properties of imports from Korea was an early barrier to the use of the Korean product. CR at II-4, fn13; PR at II-3.

[21] CR at II-7-8; PR at II-6.

[22] Id.

[23] Id.

[24] Id.

[25] CR at II-7, PR at II-5.

[26] CR at II-8, PR at II-6, and Office of Investigations Memorandum INV-X-008 supplemented by staff e-mail dated Jan. 6, 2000, 10:46 a.m.

Fourth, nonsubject imports had a sizeable presence in the domestic market. Nonsubject volumes amounted to 54.3 million pounds in 1996, 71.2 million pounds in 1997, 76.4 million pounds in 1998, and were 72.5 million pounds in interim 1999.[27]

B. Volume of Subject Imports

Section 771(7)(C)(i) 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."[28]

The volume of the subject imports increased over the period examined from 9.4 million pounds in 1996 to 43.3 million pounds in 1998.[29] The volume of the subject imports further increased in interim 1999, but at a slower rate that in previous years, to a level of 48.2 million pounds.[30] The market share of the subject imports has also grown during the period, increasing from 1.6 percent in 1996 to 2.7 percent in 1997 and then to 6.4 percent in 1998. The market share of the subject imports has increased further to 8.6 percent in interim 1999.[31]

Although the volume and market share of the subject imports has increased consistently throughout the period of investigation, I find that their volume and market share levels are not at a significant level. First, these increases began from a very low initial volume and market share level in 1996 and have occurred during a period of increasing demand. Thus, although the market share of the subject imports has risen by nearly seven percentage points from 1996 through interim 1999, their market share level still remains relatively low in interim 1999, with the subject imports still occupying only 8.6 percent of the market. The subject imports share of the market is clearly small when compared to the dominant 78.5 percent share of the market still occupied by the domestic industry and the 13.9 percent share of the market occupied by non-subject imports in interim 1999.[32]

Second, as I mentioned above, these increases have occurred during a period of significant growth in demand for EPS in the U.S. market. The record of these investigations clearly establishes that, during this period of rising demand, the domestic industry has added significant capacity and has continued to operate at very high capacity utilization rates.[33] Despite this additional capacity and their continued high levels of capacity utilization, the record indicates that the domestic industry has simply been unable to supply the significant demand increases that have occurred during the period. In fact, the largest consumer of EPS resin in the United States indicated that ***.[34] In light of this, it is clear that the volume and market share increases that occurred during the period were simply the result of the domestic industry not being able to keep up with demand.

Accordingly, I find that the record indicates that the volume of the subject imports is not significant.

---

[27] CR and PR at Table IV-2.

[28] 19 U.S.C. § 1677(7)(C)(i).

[29] CR and PR at Table IV-2.

[30] Id.

[31] CR and PR at Table IV-3.

[32] Id.

[33] The industry has operated at above 90 percent capacity throughout the period examined. CR and PR at Table III-1.

[34] ***.

C. Price Effects of Subject Imports

Section 771(7)(C)(ii) provides that, in evaluating the price effects of the 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.[35]

The record of these investigations indicates that domestic prices have declined significantly throughout the period,[36] and that the domestic industry's profitability levels have decreased significantly during the period as well.[37] Moreover, these declines have occurred during a period when the volume and market share of the subject imports were increasing and their average unit values were consistently below the average unit values of the domestic industry.[38] Without more, these facts might suggest that the subject imports have had some adverse impact on domestic prices.

The record of these preliminary investigations, however, clearly demonstrates to me that there is no more than a minimal causal link between the subject imports and any domestic price movements in this market. First, the large bulk of the declines in domestic prices over the period correspond to significant declines in the industry's raw materials costs. As I noted above, the price of polystyrene monomer, the primary input of EPS, is a key determinant of raw material costs. Monomer prices have fallen substantially over the period examined, from 33 to 21 cents per pound, or by 36.4 percent.[39] This decline has been reflected in the domestic industry's cost-of-goods-sold (COGS), which fell by 8.9 percent from 1996 to 1998, and interim 1999 COGS are 6.6 percent lower than interim 1998 COGS.[40] As a result of this decline, the industry's unit COGS fell by $0.11 during the period, from $0.50 per pound in 1996 to $0.39 per pound in interim 1999.[41] This decline in unit costs accounts for nearly 65 percent of the decline in the domestic prices. Consequently, to a very significant degree, the decline in the industry's prices simply reflects lower raw material costs.

Second, the record further indicates that any additional price declines are not the result of price competition from the subject imports. As I described earlier, the record indicates that there is only a moderate degree of substitutability between domestic product and subject imports yet there is a high degree of substitutability between domestic merchandise and nonsubject imports. The overall level of substitutability between the subject and domestic merchandise is limited by differences in the product mix and the differing chemical properties of the merchandise offered by the subject importers,[42] among

---

[35] 19 U.S.C. § 1677(7)(C)(ii).

[36] For example, for product 1, domestic prices fell from $0.62 in first quarter 1996 to $0.45 in third quarter 1999; and for product 2, domestic prices fell from $0.64 in first quarter 1996 to $0.47 in third quarter 1999. CR and PR at Tables V-1 and V-2.

[37] The operating income as percentage of net sales for the industry declined from 8.0 percent in 1996 to 6.6 percent in 1997 to -2.0 percent in 1998. It has declined even further, to -7.9 percent, in interim 1999. CR and PR at Table VI-1.

[38] CR and PR at Table C-1.

[39] CR at V-1; PR at V-1.

[40] CR and PR at Table VI-1.

[41] Id.

[42] In this regard, the record indicates that molders must calibrate their machines differently to run the Indonesian

(continued...)

other things. Combined with the relatively high degree of substitutability between the nonsubject and domestic merchandise and the relatively large volume of nonsubject imports that are currently in the market, the moderate level of substitutability between domestic product and subject imports leads me to conclude that any domestic price declines, which are not the result of raw materials cost declines, are likely due to competition among the domestic producers and, to a lesser degree, competition between the domestic producers and the nonsubject producers.

Indeed, the available pricing data clearly supports such a finding. In these preliminary investigations, Commission staff obtained pricing data for two EPS products to assess the competition between the subject merchandise and the domestic product. The products chosen for this purpose were suggested by petitioners and confirmed as reasonable by Commission staff. Presumably, these products were chosen by petitioners because petitioners believe the price of these products had been adversely affected by competition from the subject imports. Yet, the data obtained for these products indicates that there was no competition from the subject imports from Indonesia[43] and that the Korean imports have not been significantly underselling the domestic merchandise on sales of these products. In particular, the pricing data indicates that the subject imports from Korea oversold the domestic product in seven out of fifteen possible quarterly comparisons, with margins of overselling ranging from 2.1 to 11.6 percent and that they were priced the same as domestic merchandise in five quarterly comparisons.[44] As a result, the Korean imports undersold domestic product in only three possible comparisons with the highest margin reaching 4.3 percent.[45] Given the absence of price competition from the Indonesian producers and the lack of significant underselling by the Korean imports on these two products (which represent nearly 41 percent of the domestic producers' shipments),[46] the pricing data clearly indicates that subject imports indicates are not having an adverse effect on domestic prices.

Moreover, my price finding is further supported by the absence of any lost sales or revenues allegations in these investigations.[47] While I recognize that lost sales and revenues allegations might have little impact on my analysis when considered in the context of the large amount of other economic data obtained in Title VII investigations, they are nonetheless required by the Commission to be included by petitioners in their petition.[48] In light of their failure to provide any such allegations to the Commission, I can only conclude that there are no lost sales or revenues attributable to subject imports, and therefore, that the subject imports are not having significant price-suppressive or price-depressive effects on domestic prices.

Finally, I note that the domestic industry is facing significant competition from nonsubject suppliers. Nonsubject imports held 9.2 percent of the U.S. market in 1996, rising to 11.3 percent in

---

[42] (...continued)
product. Inexperienced molders will often ruin whole batches of EPS resin because the molding machines are improperly calibrated for the Indonesian resin. Similarly, the record indicated that unfamiliarity with the chemical properties of imports was also an early barrier to the use of the Korean product. CR at II-4, fn13; PR at II-3, fn13.

[43] In particular, there are no quarterly comparisons between U.S. product and subject merchandise from Indonesia because the Indonesian producers do not make EPS with 5.5 percent or less of pentane. CR at V-7; PR at V-6.

[44] CR and PR at Tables V-1 and V-2.

[45] Id.

[46] CR and PR at V-4.

[47] CR at V-9; PR at V-7.

[48] 19 C.F.R. §207.11(b)(v).

1998, and rising even further to 12.9 percent in interim 1999.[49] At the same time nonsubject imports were increasing their share of the domestic market, their AUVs fell significantly from $0.57 per pound in 1996 to $0.50 per pound in 1998, falling further to $0.44 per pound in interim 1999.[50] These AUVs closely track those of domestic producers.[51] Given the close relationship of these prices and the high substitutability of domestic and subject merchandise, the record indicates that any price declines that are due to import competition are more properly attributable to nonsubject imports.

In sum, I find that the record evidence indicates that any price impact from the subject imports during the period examined has been minimal, at best. Accordingly, I find that the subject imports have not had a significant impact on domestic prices during the period.

D. Impact of the Subject Imports on the Domestic Industry

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry," including actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, investment, and existing development and production efforts of the domestic industry; and the magnitude of the margin.[52] I have considered these factors within the context of the conditions of competition.[53]

As I previously indicated, the subject imports have had minimal, if any, volume or price effects during the period of investigation. Accordingly, I find that the record also establishes that there is no reasonable indication that the subject imports have had an adverse impact on the condition of the domestic industry. In this regard, I note that the domestic industry retains a commanding 78.5 percent of

---

[49] CR and PR at Table IV-3.

[50] CR and PR at Table IV-2. Of course, I acknowledge that AUVs are generally poor proxies for price, especially when there are product mix issues. See United States Steel Group v. United States, 96 F.3d 1352, 1363-1365 (Fed. Cir. 1996)(indicating that the use of average unit values may be problematic because of product mix issues). Although AUVs are generally poor proxies for specific pricing data, the only available evidence for nonsubject pricing is the average unit value data. In this case, however, the AUVs of nonsubject sources may be a reasonable proxy because 40 percent of nonsubject imports in 1998 were from sources either controlled or affiliated with domestic producers. Compare CR and PR at Table IV-2 with Office of Investigations Memorandum INV-X-008 supplemented by staff e-mail dated Jan. 6, 2000, 10:46am.

[51] AUVs for domestic product were $0.59 per pound in 1996, $0.55 per pound in 1997, $0.50 per pound in 1998, and $0.41 per pound in interim 1999. In addition, I note that AUVs for subject imports were $0.48 per pound in 1996, $0.46 per pound in 1997, $0.41 per pound in 1998, and $0.37 per pound in interim 1999. CR and PR at Tables III-2 and IV-2. Although AUVs for subject imports are below those of domestic producers, this simply reflects differences in product mix, lower quality, and other differences noted earlier that limit the substitutability between subject imports and domestic EPS.

[52] As part of my consideration of the impact of imports, the statute specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the dumping margin." 19 U.S.C. §1677(7)(C)(iii)(V). In making my determination, I have considered the margins of dumping announced by Commerce in its notice of initiation. 64 Fed. Reg. 71112, (Dec. 20, 1999).

[53] No party has alleged that the captive production provision, 19 U.S.C. §1677(7)(C)(iv), should be applied.

the domestic market for EPS.[54] While the industry's market share has fallen somewhat during the period examined, dropping from 89.2 percent in 1996 to 82.3 percent in 1998, and then to 78.5 percent in interim 1999, the industry's market share declines are due primarily to the industry's inability to satisfy demand completely in a growing market.[55] Moreover, although certain financial indicators of the industry fell over the period, most of its financial indicators showed that the industry's condition has improved. In particular, the industry's domestic shipments and net sales, capital expenditures, wages and productivity all consistently increased throughout the period of investigation. Similarly, the industry's inventories and costs have fallen throughout the period.[56]

Of course, the record indicates that the domestic industry's price declines have outstripped the declines in its overall costs and that the industry has therefore experienced declining profitability levels during the period of investigation. Indeed, the industry incurred losses in 1998 and interim 1999. For the reasons I discussed previously, these price declines (and the accompanying profitability declines) cannot be attributed, in significant part, to the subject imports. I would add, moreover, that the decline in the industry's profitability in 1998 and interim 1999 is directly attributable, to a great degree, to a dramatic increase in the industry's selling, general and administrative ("SG&A") expenses during 1998 and interim 1999. Although SG&A expenses fell modestly by 2.4 percent between 1996 and 1997, they increased dramatically by 43.1 percent between 1997 and 1998, and their interim 1999 amount is nearly that experienced in interim 1998.[57] I would note that, prior to this sharp increase, the domestic industry earned operating margins of 8.0 percent in 1996 and 6.6 percent in 1997.[58] Any profitability declines resulting from unexpected increases in SG&A on the part of the industry cannot properly be attributed to the impact of the subject imports.

Moreover, any profitability declines can also be attributed, in part, to a decline in the domestic producers export sales. The record of these investigations indicates that export sales have accounted for approximately 10 percent of the industry's production and that the AUVs of these exports declined by 20.6 percent over the period from $0.59 per pound in 1996 to $0.47 per pound in 1998, and then to $0.39 in interim 1999. These declines were more significant, on both an absolute and percentage basis, than the decline in the average prices of the industry's domestic sales. Given this and given that the industry overall volume of export sales declined significantly during the period, the losses being experienced by the industry can be attributed, to some degree, to the industry's poorer export sales performance in 1998 and interim 1999.

Given the foregoing, I find that the record clearly indicates that the condition of the domestic industry has not been materially impacted by reason of the subject imports. The lack of any current

---

[54] CR and PR at Table IV-3.

[55] I also note that at least five percent of the industry's overall market share decline of 11.3 percent is due to nonsubject imports. CR and PR at Table IV-3.

[56] Domestic shipments increased by 5.7 percent from 525.1 million pounds in 1996 to 555.0 million pounds in 1998, and are 6.8 percent higher in interim 1999 as compared to interim 1998. Ending inventory quantities fell by 7.7 percent from 52.0 million pounds in 1996 to 48.0 million pounds in 1998, and are only at 24.8 million pounds in interim 1999. Wages paid rose by 6.1 percent from $18.0 million in 1996 to $19.0 million in 1998 and productivity improved by 4.5 percent from 641.2 pounds per hour in 1996 to 670.0 pounds in 1998, rising further to 681.4 pounds per hour in interim 1999. Capital expenditures rose by 28.2 percent from $14.4 million in 1996 to $18.4 million in 1998. CR and PR at Table C-1.

[57] SG&A expenses amounted to $24.9 million in 1996, $24.3 million in 1997, $34.8 million in 1998, and $22.0 million in interim 1999 as compared to $24.7 million in interim 1998. CR and PR at Table VI-1.

[58] CR and PR at Table VI-1.

volume or price effects, when considered together with the overall condition of the industry, indicates to me that the subject imports have not had a more than minimal or tangential causal nexus to any injury that may be suffered by the industry.[59]

III. NO REASONABLE INDICATION OF A THREAT OF MATERIAL INJURY BY REASON OF THE ALLEGED LTFV IMPORTS FROM INDONESIA AND KOREA

A. General

Because I have concluded that there is no reasonable indication that the domestic industry is materially injured by reason of the subject imports from Indonesia and Korea, I must also determine whether the industry is threatened with material injury by reason of those imports.[60] The statute directs me to consider nine enumerated factors when performing this threat analysis.[61] In making my determinations, I have considered all statutory factors that are relevant to these investigations.[62]

When performing my threat analysis in these preliminary phase investigations, I have closely considered the statutory requirement that I assess whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued..." before making an affirmative threat finding.[63] Moreover, I have closely considered the requirement that my determination may not be made "on the basis of mere conjecture or supposition." Finally, I have considered the threat factors "as a whole" when making my threat determinations.

B. Cumulation for Purposes of Threat Analysis

In assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, I have discretion to cumulate the volume and price effects of such imports if they meet the requirements for cumulation in the context of present material injury.[64] In deciding whether to cumulate for purposes of making threat determinations, the Commission has in the past also considered whether the subject imports are increasing at similar rates and have similar pricing patterns, including similar levels of underselling.[65] The Court of International Trade has held, however, that the Commission is not required to consider divergent volume and pricing trends in exercising its discretion to cumulate for purposes of its threat analysis[66]

In this case, as previously discussed in the Views of the Commission, I find that the requirements for cumulation in the injury context are met, i.e., all of the petitions were filed on the same day and the

---

[59] Gerald Metals v. United States, 132 F.3rd 716 (Fed. Cir. 1997).

[60] 19 U.S.C. §§1671b(a), 1673b(a) & 1677(7)(F).

[61] 19 U.S.C. §1677(7)(F).

[62] 19 U.S.C. §1677(7)(F)(i). In this regard, I note that Factor VII of section 1677(7)(F)(i) is inapplicable because it covers only raw agricultural products.

[63] 19 U.S.C. §§1671b(a), 1673b(a), & 1677(7)(F)(ii).

[64] 19 U.S.C. §1677(7)(H).

[65] See Torrington Co. v. United States, 790 F. Supp.. 1161 (Ct. Int'l Trade 1992); Metallverken Nederland B.V. v. United States, 728 F. Supp.. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp.. 1068, 1072 (Ct. Int'l Trade 1988).

[66] Kern Liebers USA, Inc. v. United States, Slip Op. 95-9 at 49-50 (Ct. Int'l Trade, January 27, 1995).

subject imports compete with one another and the domestic merchandise.[67] Accordingly, I have examined whether it is appropriate to exercise my discretion and cumulate the two subject countries for purposes of my threat analysis and have concluded that it is appropriate to cumulate subject imports from Indonesia and Korea. The record shows that the volume and market shares of the subject imports from Indonesia and Korea rose throughout the period examined.[68] In addition, the record indicates that the average unit values of subject imports from Indonesia and Korea declined in a similar fashion.[69] In light of the foregoing, I believe that the volume and price trends of Indonesia and Korea are sufficiently similar to warrant cumulating them. Accordingly, I have exercised my discretion to cumulate the subject imports from Indonesia and Korea for my threat analysis.

C. Consideration of the Statutory Threat Factors

I have considered all of the relevant statutory threat factors when assessing whether there is a reasonable indication that the subject imports from Indonesia and Korea threaten to materially injure the domestic industry.[70] For the reasons set forth below, I find that there is no reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports from Indonesia and Korea. Accordingly, I find that further LTFV imports are not imminent and that material injury by reason of the subject imports would not occur absent an order.[71]

As an initial matter, I find that the domestic industry is not vulnerable to a threat of material injury from the subject imports. Throughout the period, the industry has retained a dominant share of the U.S. market (nearly 80 percent or higher) and there is nothing in the record that indicates the industry is likely to lose its dominant share of the market in the imminent future.[72] Moreover, as I discussed above, most of the industry's financial indicators show that the condition of the industry has generally improved throughout the period. In particular, the domestic industry's domestic shipments and net sales, capital expenditures, wages and productivity all consistently increased throughout the period of investigation.[73] Similarly, the industry's inventories and costs have fallen throughout the period.[74] Given this, I do not find the domestic industry to be vulnerable to the imminent possible effects of the subject imports.

Next, I have also considered whether there is "any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood

---

[67] 19 U.S.C. §1677(7)(G).

[68] CR and PR at Tables IV-2 and IV-3.

[69] CR and PR at Table IV-2.

[70] Since no allegations of subsidization were made with respect to the subject imports from Indonesia and Korea, Factor I of the threat factors is inapplicable to this analysis.

[71] 19 U.S.C. §1677(7)(F)(ii).

[72] CR and PR at Table IV-3.

[73] Domestic shipments increased by 5.7 percent from 525.1 million pounds in 1996 to 555.0 million pounds in 1998, and are 6.8 percent higher in interim 1999 as compared to interim 1998. Ending inventory quantities fell by 7.7 percent from 52.0 million pounds in 1996 to 48.0 million pounds in 1998, and are only at 24.8 million pounds in interim 1999. Wages paid rose by 6.1 percent from $18.0 million in 1996 to $19.0 million in 1998 and productivity improved by 4.5 percent from 641.2 pounds per hour in 1996 to 670.0 pounds in 1998, rising further to 681.4 pounds per hour in interim 1999. Capital expenditures rose by 28.2 percent from $14.4 million in 1996 to $18.4 million in 1998. CR and PR at Table C-1.

[74] CR and PR at Table C-1.

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."[75] In this case, the record indicates that in 1998, capacity utilization in Indonesia and Korea has remained ***, as producers in both countries produced at a capacity use rate of approximately *** percent during that year.[76] Moreover, the subject producers are projected to add a small additional amount of capacity in 2000 and 2001.[77] In light of the *** capacity use rates of the subject producers and the minimal amounts of capacity that will be added in the imminent future, I believe that it is unlikely that the subject Indonesian and Korean producers will be able to substantially increase their export levels to the United States in the imminent future. Moreover, to the extent that the subject producers do have a small level of excess capacity, I note that the improved economic situation in Asia will likely absorb this production.[78]

I have also examined whether there has been "a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports."[79] Although the volume and market share of the subject imports have increased, these increases have occurred primarily because of the domestic industry's inability to supply the increases in domestic demand that also occurred during the period of investigation. Accordingly, I find that these increases do not indicate a likelihood that the volume of the subject imports will substantially increase in the imminent future.

Similarly, I have examined "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."[80] As I explained in my injury views above, the record shows that the subject imports have not had significant effects on the price of domestic merchandise. I do not believe that there is any record evidence to suggest that there will be any significant change in the manner in which the subject imports compete with the domestic merchandise in the imminent future. Accordingly, I find it unlikely that the subject imports will have significant price-depressing or price-suppressing effects on domestic prices in the imminent future.

I have also considered the levels of "inventories of the subject merchandise."[81] The record evidence indicates that the Korean producers and importers have maintained relatively small levels of inventories of the subject merchandise and Indonesian producers and importers have maintained *** levels of inventories during the period of investigation.[82] Moreover, these inventory levels have declined significantly during the period. These small and declining inventory levels pose no threat to the domestic industry, especially given the relatively short shelf life of EPS and the long lead times from

---

[75] 19 U.S.C. §1677(7)(F)(i)(II).

[76] CR and PR at Tables VII-1 and VII-2.

[77] Id.

[78] Indonesian respondents' postconference brief at 19-21, citing the Asian Development Bank, "Asian Development Outlook 1999 -- Update" and The Economist Intelligence Unit, "Country Report, Indonesia."

[79] 19 U.S.C. §1677(7)(F)(i)(III).

[80] Id.

[81] 19 U.S.C. §1677(7)(F)(i)(V).

[82] Korean end-of-period inventories as of interim 1999 were 13.0 million pounds, and Indonesian end-of-period inventories as of interim 1999 were ***. CR and PR at Tables VII-1 and VII-2. End-of-period inventories held by U.S. importers from Korea declined overall from 1,046,000 pounds in 1996 to 608,000 pounds in 1998. The ratio of inventory to imports fell very sharply both from 1996 to 1998 and from interim 1998 to interim 1999, while the ratio of inventories to U.S. shipments of such imports showed a similar pattern. CR at VII-6; PR at VII-4.

subject country markets.[83] Consequently, I do not find that inventory levels of the subject merchandise support a finding of a threat of material injury.

I am also directed to consider whether there is a potential for product-shifting in the subject countries.[84] Here, the record evidence suggests that there is a minimal potential for product shifting.[85] Moreover, I also find that imports have not had actual or potential "negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product."[86] In this regard, I note that the domestic industry has increased its capital expenditures over the period examined from $14.4 million in 1996 to $18.4 million in 1998, or by 28.2 percent.[87]

Finally, I have considered whether "dumping findings or antidumping remedies in other WTO member markets ... suggests a threat of material injury to the domestic industry."[88] The record evidence indicates that the subject merchandise from Indonesia is not subject to antidumping remedies.[89] The record indicates, however, that subject producers in Korea are subject to an antidumping finding in Australia that became effective in 1992.[90] The age of this order leads me to conclude that the Korean producers have already made any adjustments in their export patterns to account for any sales that were lost in the Australian market as a result of the order. Indeed, I note that reported exports from Korea to all other markets (*i.e.*, besides the U.S. market) increased by *** during the period examined.[91] This increase in exports to third-country markets is consistent with the improvement in economic conditions in Asia. Therefore, I find that antidumping remedies in other WTO member markets do not suggest a threat of material injury to the domestic industry.

Finally, I am required by the statute to consider "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)."[92] I do not find that the record in these investigations indicates that there are any demonstrable adverse trends suggesting that the subject imports will materially injure the industry in the imminent future.

Accordingly, I find that the domestic industry is not threatened with material injury by reason of the subject imports from Indonesia and Korea.

---

[83] CR at II-5; PR at II-4.

[84] 19 U.S.C. §1677(7)(F)(i)(VI).

[85] Korean respondents state that due to the design and dedication of production facilities, that there is minimal potential for product shifting. Korean respondent's postconference brief at 19.

[86] 19 U.S.C. §1677(7)(F)(i)(VIII).

[87] CR and PR at Table VI-5.

[88] 19 U.S.C. §1677(7)(F)(iii)(I).

[89] CR at VII-3; PR at VII-1-2.

[90] CR at VII-6; PR at VII-4.

[91] CR and PR at Table VII-2.

[92] 19 U.S.C. §1677(7)(F)(i)(IX).

CONCLUSION

For the foregoing reasons, I find that there is no reasonable indication that the domestic expandable polystyrene resins industry is materially injured or threatened with material injury by reason of the subject imports from Indonesia and Korea.

PART I: INTRODUCTION

BACKGROUND

These investigations result from petitions filed by BASF Corporation (BASF), Mount Olive, NJ; Huntsman Expandable Polymers Company LC (Huntsman), Salt Lake City, UT; NOVA Chemicals, Inc. (Nova), Moon Township, PA; and StyroChem U.S., Ltd. (StyroChem), Radnor, PA, on November 22, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of certain expandable polystyrene resins (EPS resins)[1] from Indonesia and the Republic of Korea (Korea). Information relating to the background of the investigations is provided below.[2]

Date	*Action*
November 22, 1999 .	Petition filed with Commerce and the Commission;[3] institution of Commission investigations (64 FR 67934, December 3, 1999)
December 13, 1999 .	Commission's conference[4]
December 13, 1999 .	Commerce's notice of initiation (64 FR 71112, December 20, 1999)
January 6, 2000	Date of the Commission's vote
January 6, 2000	Commission determinations sent to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, tables C-1 through C-3. Except as noted, U.S. industry data are based on questionnaire responses of 4 firms that accounted for 100 percent of U.S. production of subject EPS resins during 1998, and one additional producer of cup-grade EPS resins. U.S. imports are based on Commerce statistics.

---

[1] For purposes of these investigations, the Department of Commerce (Commerce) defined subject EPS resins as "the raw material manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm." Apparently excluded from this definition are cup-grade EPS resins and off-grade, off-specification EPS resins. Subject EPS resins (along with other EPS resins) are provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States (HTS) with a normal trade relations tariff rate of 6.5 percent *ad valorem*, applicable to imports from Indonesia and Korea. This duty rate is not scheduled for further reduction.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] The petition alleged LTFV margins ranging between 95 and 97 percent for Indonesia, and between 44 and 90 percent for Korea. For both Indonesia and Korea, margins were calculated based on a comparison of export price to normal value. In both instances, normal value was based on sales of identical merchandise in the home market. For Indonesia, the petitioners based export price on the average unit value of the merchandise as derived from official IM-145 data. For Korea, the petitioners based export price alternatively on the average unit value of the merchandise or on actual invoices and affidavits.

[4] A list of witnesses appearing at the conference is presented in app. B.

THE PRODUCT

The imported product subject to these investigations is a raw material manufactured in the form of very small polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing by weight 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm, provided for in subheading 3903.11.00 of the HTS. Apparently excluded from this definition are cup-grade EPS resins and off-grade, off-specification EPS resins.

This section presents information on both imported and domestically produced EPS resins, as well as information related to the Commission's "domestic like product" determination.[5]

Subject EPS resin beads are produced in either "block" or "shape" grades regardless of particle size distribution, and are generally manufactured by a one-step dispersion polymerization process.[6] Block-grade beads tend to be larger on average than shape-grade beads, but the differences are virtually indistinguishable to the naked eye.[7] Differences in the two products show up in composition and end-use characteristics; however, the two products are frequently used interchangeably.[8] Block grades are used primarily in molded building materials as insulation where flammability is an issue; thus, these grades must contain flame retardants. Shape grades, by contrast, are custom molded items that are primarily used in refrigeration containers and as cushioning agents for storage and shipment; thus, they do not generally require flame retardants. In spite of this difference, however, both petitioners and respondents report a significant overlap in end uses for the two products in shaped packaging products, especially when market forces and logistics dictate the use of the relatively more expensive block product. Likewise, shape-grade resin may be used for subsurface construction purposes, for example, where flame retardant properties are not a factor.[9]

Cup-grade EPS resin differs from block- and shape-grade EPS resins in the following respects. With regard to cup-grade EPS resins, there are higher costs associated with the production of very small particle sizes (less than 0.4 mm), and with a modified "two-step" suspension polymerization process. Moreover, because applications for cup-grade EPS resins (typically in the food service industry) require non-toxic, high-purity material, residual styrene monomer levels must be less than 100 parts per million. Cup-grade EPS resins are molded into a rigid thin-walled product that is more impervious to water and monomer migration than products made from either block- or shape-grade EPS resins.[10] Finally, production of cup-grade EPS resins has a greater tendency than block- and shape- grade EPS resin

---

[5] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

[6] StyroChem, a U.S. producer of block, shape, and cup grades of EPS resins, ***. Petitioners' postconference brief, p. 31.

[7] Producers of EPS resins commonly classify bead sizes as A, B, and C grades, which progressively decrease in size from A to C. "B" grade beads average 1.4 mm in diameter and account, according to industry sources, for 65 percent, by weight, of the total particle size distribution. Conference transcript, p. 72. Smaller cup-grade resin is referred to as "T" grade in the industry. Petitioners' postconference brief, p. 27.

[8] Petitioners' postconference brief, p. 26.

[9] Id.

[10] Products made from block and shape EPS resins are generally thicker and more flexible and may contain styrene monomer concentrations of up to 1,000 parts per million.

production to be captively consumed, whereas subject EPS resins are generally sold to downstream molders.[11]

Another product that may compete with products made from subject EPS resins is extruded polystyrene foam sheet, otherwise known in the industry as "extruded board." This product is manufactured by a different process (continuous extrusion rather than molding), using standard crystalline grade polystyrene resin instead of EPS beads. Extruded sheet or board is typically thinner and more rigid than molded EPS resins and, in addition to insulation, is also used extensively for food packaging due to its low residual monomer content.

Physical Characteristics and Uses

Both domestically produced and imported subject EPS resins, whether in block or shape grades, are manufactured by similar processes and have similar physical and chemical properties, including particle size and molecular weight distribution, and blowing agent content range.[12] Subject products are confined to block- and shape-grade EPS resins and are typically interchangeable regardless of origin. There may be a slight overlap among block-, shape- and cup-grade resins at the smaller "C" grade level, where particle sizes may approximate 0.5 mm, as opposed to the larger "A" and "B" grade ranges that are more typical of block and shape grades.[13] The different reactants and process for cup-grade EPS resins, smaller particle size and physical properties, lower residual monomer content, and differing end uses distinguish such resins from those within the scope of these investigations. Moreover, in the United States, block- and shape-grade EPS resins cannot be used to substitute for cup-grade resins. Their larger particle size, inadequate strength, high flex properties, and high residual monomer make them unsuitable for thin-walled molding applications such as beverage cups.

Because they are generally used in insulation for construction materials, block-grade EPS resins contain flame retardants. Particle sizes are generally larger than shape-grade EPS resins, trending towards "A" grade resin on average; nonetheless, block-grade EPS resins are still typically interchangeable with shape-grade EPS resins. Both block- and shape-grade EPS resins are molded into end products for insulation board and refrigeration and packaging components.[14] Primary end uses for block- and shape-grade EPS resins, as supplied by the EPS Molders Association, Crofton, MD, are shown in the following tabulation, in descending order of importance:[15]

---

[11] Petitioners' postconference brief, p. 29.

[12] Indonesian producers are reportedly only capable of producing EPS with high pentane levels, whereas U.S. and Korean producers also produce EPS resins with low pentane levels. Conference transcript, p. 87.

[13] Petitioners' postconference brief, p. 24. Respondents concur that some overlap exists in the bead sizes of cup-grade and "C" grade shape- and block-grade EPS resins. Korean respondents' postconference brief, p. 20.

[14] Petitioners' postconference brief, p. 26.

[15] Id.

EPS resin grade	Primary end use(s)
Block	1) Insulation board for roofs 2) Walls and foundations of commercial or residential buildings 3) Residential sheathing 4) Tapered roof insulation 5) Insulation board and fabricated shapes for exterior insulation systems (*e.g.*, columns) 6) Blocks for fabricating into packaging end uses 7) Flotation devices for docks, rafts, etc. 8) Soil replacement/stabilization for geotechnical applications
Shape	1) Thermally insulated containers 2) Shape-molded cushion packaging for electronic goods 3) Shape-molded concrete forms 4) Shipping containers for fish 5) Shipping containers for agricultural goods such as grapes 6) Shipping containers for miscellaneous end uses (*e.g.*, medical)

Manufacturing Facilities and Production Employees

EPS block- and shape-grade resin beads are typically manufactured by a one-step batch suspension polymerization process of styrene in water, to which a blowing agent (pentane, 3 to 7 percent by weight) is introduced at a late stage of the polymerization.[16] Because of the unique nature of the EPS polymer beads, the process is basically identical for both domestic and foreign producers. Indeed, Korean and Indonesian manufacturers use the production processes under license from U.S. and European producers.[17] In the process itself, styrene monomer is dispersed in water and held in suspension by protective colloids during the polymerization, which is effected by a peroxide catalyst under carefully controlled conditions of time, temperature, and pressure in jacketed reactors fitted with agitators.[18] Time, temperature, pressure, and agitation speed are the major factors in controlling the production of block and shape resin beads within the prescribed molecular weight ranges of 160,000 to 260,000, and 0.4 mm to 3.0 mm for particle size. Following washing, drying, and screening, the resin is packaged for shipping to downstream molding operations.

Cup-grade EPS resin cannot be adequately produced by the one-step process used to produce block and shape grades. Rather, a more costly two-step process must be employed to produce a smaller particle size (less than 0.4 mm), a higher molecular weight ranging between 280,000 and 300,000, and a lower residual styrene monomer content of less than 100 parts per million.[19] According to some producers, however, the first step in production of cup-grade resins may be carried out on the same

[16] During the production process, the pentane is introduced ("impregnated") into the EPS resin bead. When the beads are later heated, the pentane causes the material to expand, permitting the molding of finished block and shape forms.

[17] Conference transcript, p. 26.

[18] CEH Marketing Research Report, Chemical Economics Handbook, SRI International, Menlo Park, CA.

[19] Petitioners' letter to Commerce, December 1, 1999, attachment 1, p. 2.

equipment used to produce block- and shape-grade EPS resins.[20] Furthermore, some block- and shape-grade EPS resins are produced using the two-step method.[21]

Interchangeability

Parties agree that block- and shape-grade EPS resins are almost completely interchangeable in that both grades are typically molded into end products such as insulation board and refrigeration and packaging components.[22] By contrast, because of their very different physical characteristics, such as their expandability and differing molecular weight, cup-grade EPS resins are not normally interchangeable with block- and shape-grade EPS resins. Block-grade EPS resins, for example, have several distinguishing characteristics that make them unsuitable for use in cup-grade EPS applications. These traits include the presence of a flame retardant, high toxicity levels, rough surface quality, and low molecular weight.[23]

Other possible substitutes for the downstream products made from subject EPS resins include extruded polystyrene foam insulation board, extruded polyurethane foam (PUR) board, sprayed urethane products of various types, and fiberglass and cellulose insulation. In addition, corrugated cardboard competes with products made from shape-grade EPS resins in the packaging arena.[24]

Customer and Producer Perceptions

Molders who purchase block- and shape-grade EPS resins generally perceive them as substitutes for one another. The decision whether to purchase a block-grade EPS resin rather than a shape-grade EPS resin is often made simply on the basis of price, as long as flammability is not an issue.[25] According to the petitioners, however, molders of products made from block- and shape-grade EPS resins perceive more expensive cup-grade EPS resins as a completely different product and would not buy such resins for their applications.[26] With regard to EPS resin manufacturers, the decision to make block- or shape-grade EPS resins, as opposed to cup-grade resins, is made very early on in the process inasmuch as they must decide at that stage to employ a very specific emulsion polymerization process.

Channels of Distribution

Petitioners note that all block- and shape-grade EPS resins are sold through only one channel of distribution--directly to end users.[27] On the other hand, cup-grade EPS resins are typically captively

---

[20] Petitioners' postconference brief, p. 31.

[21] Id.

[22] Petitioners' postconference brief, p. 28.

[23] Petitioners' postconference brief, pp. 28-29.

[24] Conference transcript, p. 52.

[25] Petitioners' postconference brief, p. 30.

[26] Id.

[27] U.S. producers testified that all of their sales were made directly to end users and that there are no middlemen or distributors in the EPS resins market. Conference transcript, pp. 42-43.

consumed by downstream producers of cups and other foodservice items.[28] Respondents do not sell a cup-grade EPS resin in the U.S. market because the styrene monomer levels of the product they produce exceeds the 100 parts per million upper limit established by the EPA for cup grade.[29]

Importers generally do not maintain inventories of the subject EPS resins.[30] By its nature, the subject product cannot be kept in inventory for an extended period because the pentane contained in the merchandise evaporates with time, decreasing the value of the product. For this reason, respondents contend that U.S. producers mark excess inventory of prime material as "off-spec" and sell it at discounted prices.[31]

Price

According to the petitioners, prices of block- and shape-grade EPS resins are roughly equivalent. Price data obtained in these investigations (see part V of this report) indicate that prices of shape-grade EPS resins are slightly higher than those of block-grade EPS resins. Cup-grade EPS resins are reportedly sold at a premium to block- and shape-grade EPS resins because their lower yields and longer associated processing times increase production costs.[32]

[28] Petitioners' postconference brief, exh. 17, paragraph 7.

[29] Conference transcript, p. 95.

[30] Conference transcript, p. 84.

[31] Korean respondents' postconference brief, pp. 16-21.

[32] Conference transcript, p. 108, and petitioners' postconference brief, p. 32 and exhibit 10.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Subject EPS resins are sold almost exclusively to polystyrene molders, who provide block and shape forms of expanded polystyrene for downstream applications such as packaging and insulation. While the questionnaires generally report that sales occur on a spot market, some short-term contracts exist, and producer/customer relationships appear to play a small role in market transactions. Some molders have made an effort to cultivate ongoing relationships with Asian suppliers in order to avoid recurring market shortages that they associate with reliance on domestic sources.[1]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. producers of subject EPS resins are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced EPS resins to the U.S. market. The industry has some available capacity and one limited production alternative, two characteristics that would allow it to respond to changes in demand. However, domestic inventories are low and there are export markets available, two factors that could limit the degree to which the domestic industry could respond to growing U.S. demand.

Industry capacity

Domestic capacity utilization rates have fallen over the period of investigation, and capacity has expanded.[2] U.S. production in 1999 as a share of the domestic producers' average production capability was 92 percent, compared to 97 percent in 1996. The decrease in capacity utilization rates occurred as annual average production capacity expanded by 7.5 percent between 1996 and 1998.[3] Domestic producers of subject EPS resins have shown themselves capable of increasing capacity, which would indicate some ability to respond to long-run changes in demand. Because current capacity utilization rates are below those observed earlier in the period, it appears that domestic producers are also capable of responding to short-run changes in demand.

Alternative markets

The domestic industry has several alternative markets for its product. According to data obtained in response to Commission questionnaires, domestic producers exported $27.3 million in EPS resins in 1998. U.S. trade data are instructive as to the number and type of markets for domestically

---

[1] Indonesian respondents' postconference brief, exhibit 8; testimony of Mr. Culpepper, conference transcript, p. 77.

[2] All estimates in this section are taken from responses to Commission questionnaires.

[3] The comparison is with 1998 because annual average production data for all of 1999 were not available. A year-to-date comparison reveals a small increase in domestic capacity between 1998 and 1999.

produced EPS resins.[4] ITC data web reports 46 countries to which U.S. producers exported EPS resins in 1998.[5] Four countries - Canada, Mexico, France, and Costa Rica - each imported more than $1 million worth of U.S. EPS resins in 1998.[6] Seven other countries have each purchased over $1 million of U.S.-produced EPS resins in at least one of the three years of the period of investigation, indicating that sizable exports to these markets are feasible.

Inventory levels

Domestic producers' inventories remained relatively stable from 1996 through the end of 1998, but have fallen sharply in 1999.[7] End of period inventories were 52 million pounds in 1996, 48 million pounds in 1998, and 25 million pounds in September 1999. Substantial inventories are costly to maintain, as venting of the pentane gives them a shelf life of only 3 to 6 months.[8] Domestic producers' relatively low inventories, and the high costs of maintaining them, should limit the degree to which current inventories can be used to respond to changes in demand.

Production alternatives

The availability of production alternatives for EPS resins is limited. The only production alternative of note is cup-grade EPS resin. Two of the four petitioners make cup-grade resin, and they both use some common employees across applications. Only one of the firms finds it economically feasible to use common equipment to produce both cup-grade and the subject block- and shape-grades.[9]

Subject Imports

Based on available information, Korean producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of EPS resins to the U.S. market. Korean producers' ability to respond to changes in domestic demand is an issue of substantial contention among the parties. Respondents argue that the Korean economy is recovering,[10] that other Korean markets are likely to expand,[11] and that the absence of new capacity there should imply decreasing exports to the United States. Petitioners argue that substantial excess capacity remains in Korea, and that the Australian government's antidumping order against EPS resins from Korea frees up even more product to be sold in the U.S. market.[12]

---

[4] U.S. foreign trade statistics do not differentiate between grades of polystyrene. Because U.S. figures include cup grade EPS resin, they may overstate the size of external markets for the narrower product definition used in this case.

[5] Internet site *dataweb.usitc.gov*, retrieved December 14, 1999.

[6] Canada received over $25 million of imports from the United States, and Mexico received over $10 million.

[7] Responses to Commission questionnaires.

[8] Telephone call with ***, December 17,1999.

[9] Conference transcript, p. 44.

[10] Korean respondents' postconference brief, p. 14.

[11] Korean respondents' postconference brief, p. 13.

[12] Petitioners' postconference brief, p. 22.

The response of Indonesian suppliers to changes in overall market demand is likely to be smaller than is the Korean response. Most molders' unfamiliarity with the Indonesian product characteristics should limit their ability to substitute Indonesian EPS resin for existing inputs.[13] ***,[14] and Indonesian exporters' ability to increase their U.S. market share would depend on other molders' tolerance for the difficulties associated with processing EPS resin of unfamiliar content and quality.[15] While supply-side factors such as industry capacity might indicate the ability to increase shipments, the absence of a substantial number of customers experienced in the use of Indonesian resin could limit the responsiveness of Indonesian imports to domestic demand.[16]

Industry capacity

Responses to Commission questionnaires show that capacity utilization rates in Korea and Indonesia are below similar rates in the United States. Year-to-date capacity utilization rates for 1999 are 85.8 percent in Korea and *** percent in Indonesia.[17] Korean capacity utilization rates are down from the 91.0 percent rate in 1996, while the Indonesian rate has risen *** from *** percent in 1996. Petitioners point to unused capacity in both Korea and Indonesia as evidence that dumping is likely to continue.[18] Korean respondents argue that capacity utilization rates are quite high, that growing Asian markets are the natural destination for future production, and that there are no plans to expand Korean capacity.[19] Indonesian suppliers argue that there are no existing plans to increase capacity, and that available capacity will be used to serve recovering Asian markets.[20]

Alternative markets

Both respondents argue that Asia is their preferred market.[21] The availability of the Asian markets as a viable alternative will depend upon the health of the recovery there. Petitioners argue that an antidumping order imposed by the government of Australia will lead Korean producers to shift sales to the U.S. market.[22] The Indonesian respondent argues that the order offers an opportunity for

---

[13] In a December 17, 1999 phone call with staff, *** explains that molders must calibrate their machines differently to run the Indonesian product. Inexperienced molders will often ruin whole batches of EPS resin because the molding machines are improperly calibrated for the Indonesian resin. Telephone calls with ***, December 16, 1999 and ***, December 17, 1999 indicate that unfamiliarity with the chemical properties of imports was also an early barrier to the use of Korean product. Because more molders have experience with Korean product, they can more easily switch to imported EPS resin from Korea.

[14] ***.

[15] Rapid growth in the Indonesian market share during the period of investigation is partially attributable to ***.

[16] ***.

[17] Figures taken from Commission questionnaires, and reported in tables VII-1 and VII-2.

[18] Petitioners' postconference brief, p. 21.

[19] Korean respondents' postconference brief, p. 12.

[20] Indonesian respondent's postconference brief, p. 23.

[21] Indonesian respondent's postconference brief, p. 19; Korean respondents' postconference brief, p. 13.

[22] Petitioners' postconference brief, p. 22.

Indonesian suppliers to increase their share of the Australian market.[23] Korean respondents point to a post-dumping order increase in sales to Australia as evidence that such diversion has not occurred.[24]

Inventory levels

Table VII-1 reports that the subject Indonesian producer, PT Risjad, had *** pounds of inventory at the end of September 1999, down from *** pounds at the beginning of the period of investigation. Table VII-2 shows Korean inventories at the end of September 1999 at *** pounds, down from *** pounds at the beginning of the period of investigation. Importers report little, if any, inventory on hand. Given the relatively short shelf life of EPS resins, and the long lead times from subject country markets, it is unlikely that these inventories are large enough to substantially affect market conditions for any substantial length of time.

Production alternatives

Subject country producers are not manufacturers of cup-grade EPS resin, so they have few production alternatives available.

U.S. Demand

Demand Characteristics

U.S. demand should be considered quite inelastic in the short run, though more elastic in the long run. There are no good substitutes for EPS resins in the immediate downstream industry, molded polystyrene blocks and shapes. However, there are reasonably good substitutes for molded polystyrene. EPS resins' indirect competition with other inputs should make demand somewhat more elastic in the long run.

Substitute Products

The immediate downstream product is molded polystyrene. EPS molders have specialized equipment that uses EPS resins to create shapes used in packaging, and blocks used in insulation. While there are no ready substitutes for EPS resins in the molding process, staff believes it helpful to discuss long-term demand in terms of the substitutability of expanded polystyrene with other insulation and packing materials. Block-grade EPS is used for insulation by the construction industry, which has a number of easily substituted alternatives, particularly extruded foam products. Given a long-run change in the price of EPS resins, the construction industry can easily switch to extruded foam products. Molded polystyrene shapes are used in packaging, where there are a limited number of imperfect substitutes, including corrugated cardboard. While the long-run response to a price change in EPS resins might produce limited substitution by packers, the degree of substitution in this particular segment of the market is likely to be quite small.

---

[23] Indonesian respondent's postconference brief, p. 22.

[24] Korean respondents' postconference brief, p. 17.

Cost Share

EPS resin is the primary input into molded block and shape EPS. As such, EPS resin is a large part of the cost share in the immediate downstream industry. In subsequent downstream applications of block- and shape-grade EPS, such as construction or packaging, the cost share of EPS resin is quite small.

SUBSTITUTABILITY ISSUES

Based on available data, staff believes that there is at least a moderate degree of substitutability among domestic products and subject imports, a moderate degree of substitutability among subject and nonsubject imports, and a high degree of substitutability among domestic and nonsubject imports. The bulk of nonsubject imports are produced in Canada and Mexico, where domestic producers have affiliates or subsidiaries that produce a range of products that are very similar to domestically-produced products. Subject imports are somewhat distinct from domestic and most nonsubject imports in that they are seen as an alternative source of supply when the supply of EPS resin is tight. Subject imports also have slightly different technical specifications than do domestic products and nonsubject imports, and a number of disadvantages related to their distance from the U.S. market, that distinguish them from domestic products and the bulk of nonsubject imports.[25]

Factors Affecting Purchasing Decisions

While there are a variety of technical considerations that will receive further discussion in the following sections, the most important factors affecting purchasing decisions appear to be price and the continuous availability of supply. The primary purchasers of EPS resin are EPS molders who expand the resins into "blocks" or "shapes" using installed production equipment that has few, if any, other alternative uses. The fact that these molders are in a quite competitive market themselves makes them sensitive both to the price and to interruptions in the supply of their primary input, EPS resin.

Comparisons of Domestic Products and Subject Imports

There are a number of distinguishing characteristics between domestic products and subject imports that are worthy of note, though they appear to be of lesser importance than price or the availability of alternative sources of supply. First, Indonesian (and, to a lesser degree, Korean) firms have narrower product ranges in the U.S. market than do domestic firms. The narrower product range occurs primarily because the pentane leakage that occurs in transit makes it difficult to deliver low-pentane resins to the U.S. market.[26] Second, subject imports require substantially longer lead times, making them less responsive to unexpected fluctuations in demand. Third, domestic suppliers typically

---

[25] For example, the leakage of pentane in transit over long distances can reduce the resins' rate of expansion upon delivery, an issue that affects the perception of subject imports' quality, particularly in products with low levels of pentane (*e.g.*, less than 5.5 percent).

[26] In the Indonesian case, lagging technology also contributes to a smaller range of available products. Telephone call with ***, December 17, 1999.

offer superior on-site technical support.[27] Fourth, some Korean imports, and all Indonesian imports, are not yet certified to meet relatively common U.S. building codes.[28] Finally, Korean products have a higher molecular weight than do domestic EPS resins, a characteristic that makes the product process more slowly, but gives the molded product certain advantages like higher tensile strength.[29]

Comparisons of Domestic Products and Nonsubject Imports

Both producers and importers agree that nonsubject imports are virtually interchangeable with the domestic product. This is because the primary nonsubject supplier is Canada, and the bulk of the output produced there is controlled by domestic firms.

Comparisons of Subject Imports and Nonsubject Imports

The primary source of nonsubject imports of EPS resins is Canada. Because Canadian and domestic production are so similar, the differences between subject and nonsubject imports are essentially the same as the differences between subject imports and domestic product.

Comparisons of Subject Products from the Subject Countries

Korean imports have a broader and deeper presence in the domestic market than do imports from Indonesia. ***.[30] Korea exports a wider array of EPS resins, and some of these can compete directly with domestic output in terms of quality and compliance with U.S. building codes. While Indonesian resin competes with high-pentane resins from Korea, the presence of both high- and low-pentane products from Korea indicates that the subject countries differ in their product mixes.

---

[27] Telephone calls with ***, December 20, 1999, ***, December 17, 1999, and ***, December 16, 1999.

[28] Several market participants suspect that these codes are poorly enforced, minimizing their real impact. Telephone calls with ***, December 20, 1999, and ***, December 16, 1999.

[29] *** notes in a December 20, 1999 phone call with staff that the link between high molecular weight and slower processing times has been overcome by some molders.

[30] Indonesian respondent's brief, exhibit 8.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five firms that accounted for 100 percent of U.S. production of EPS resins (as defined by the scope of these investigations) during 1998.[1]

U.S. PRODUCERS

BASF, Huntsman, Nova, and StyroChem, the four petitioners in these investigations, account for all known domestic production of subject EPS resins. Responding firms, with their plant locations and shares of reported 1998 U.S. production, are shown in the tabulation below:

Firm	Plant location(s)	Percent of reported production
BASF	South Brunswick, NJ	***
Huntsman	Peru, IL	***
Nova	Monaca, PA Painesville, OH	***
StyroChem	Fort Worth, TX Saginaw, TX	***

BASF is a wholly-owned subsidiary of BASF AG (Germany). StyroChem is owned by a general partnership, StyroChem GP, L.L.C., of Wilmington, DE. The remaining two firms are independent companies.

*** and *** reported imports of EPS resins from *** and ***, and from Canada, respectively.[2] None of the firms imported EPS resins from Indonesia or Korea during the period examined, nor did any firms related to them import EPS resins from these countries.

All four companies reported foreign production of EPS resins by related affiliates or by joint ventures. These organizations, by related producing firm and by source, are shown in the following tabulation:

* * * * * * *

[1] One of the five firms, ***. Information on cup-grade EPS resins is presented in app. C, table C-2.

[2] In addition, *** is known to import EPS resins from ***. StyroChem commented that it imports from Canada when additional material is required to complete large orders by certain customers. Conference transcript, p. 41.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Data on U.S. firms' production capability, production levels, and capacity utilization for EPS resins are presented in table III-1.[3] No responding producer reported any problem in obtaining labor or raw materials during the period examined.[4] Nova and StyroChem, the two producers reporting production of cup-grade EPS resins, both indicated that ***.

Total reported domestic production of EPS resins first rose from 1996 to 1997, then declined in 1998 to slightly above its 1996 level. Production increased, however, when the interim January-September periods are compared. Overall production declines over the 3-year period were experienced by BASF and Nova, with the other two producers exhibiting increased production. Industry-wide capacity increased strongly during the period examined, both over the calendar years and when the interim periods are compared.[5] Capacity utilization fell from 97 percent in 1996 to 91 percent in 1998, but rose slightly in January-September 1999, when compared to the corresponding period of 1998.

Responding firms noted several events having an impact on capacity and production during the period examined. Nova indicated that ***. BASF reported that ***. Finally, Huntsman explained that ***. ***. Moreover, in 1997, Huntsman ***.

U.S. PRODUCERS' U.S. AND EXPORT SHIPMENTS

All four responding producers reported data on their U.S. and export shipments of EPS resins. These data are presented in table III-2.

As seen in the table, U.S. shipments increased throughout the period examined, both from 1996 to 1998 and when the interim periods are compared. All four producers experienced increases in their shipments. Value data, however, show a contrary pattern. Accordingly, unit values declined markedly (by 18 percent) from 1996 to 1998, and fell again in January-September 1999 when compared to January-September 1998. Both the quantity and value of export shipments also dropped substantially during the period examined. ***'s exports were priced below their domestic shipments, whereas ***'s were priced above their domestic shipments.[6] None of the responding producers consumed EPS resins captively during the 3-year period.

---

[3] Data on cup-grade EPS resins are presented in appendix C, table C-2.

[4] Petitioners, however, alleged that access to capital was constrained during the period examined by declining margins. Conference transcript, p. 39; petitioners' postconference brief, p. 13. Although there were no actual constraints regarding either labor or raw materials, producers commented that the cost of raw materials (primarily styrene) has recently increased dramatically. By contrast, according to these producers, labor and other fixed costs have tended to decline over the period examined. Conference transcript, p. 37.

[5] As seen by comparing table III-1 with table IV-3, however, except for 1996, capacity was consistently lower than apparent consumption throughout the period examined.

[6] The firms reported exports primarily to North American and Latin American markets but, in the case of ***, exports were also made to European destinations.

Table III-1
EPS resins: U.S. capacity, production, and capacity utilization, by firms, 1996-98, January-September 1998, and January-September 1999

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Capacity (*1,000 pounds*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	612,982	620,306	659,053	494,340	515,495
	Production (*1,000 pounds*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	593,105	615,200	601,286	443,424	474,456
	Capacity utilization (*percent*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	96.8	99.2	91.2	89.7	92.0

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-2
EPS resins: U.S. producers' U.S. and export shipments, by firms, 1996-98, January-September 1998, and January-September 1999

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
U.S. shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	525,114	540,174	555,036	413,918	441,860
Export shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	70,303	67,047	58,247	43,854	55,759
Total shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	595,417	607,221	613,283	457,772	497,619
	Value (*$1,000*)				
U.S. shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	310,201	296,805	276,827	213,696	180,733
Export shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	41,462	36,131	27,262	20,690	21,748
Total shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	351,663	332,936	304,089	234,386	202,481

Table continued on next page.

Table III-2--Continued
EPS resins: U.S. producers' U.S. and export shipments, by firms, 1996-98, January-September 1998, and January-September 1999

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Unit value (*per pound*)				
U.S. shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.59	$0.55	$0.50	$0.52	$0.41
Export shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.59	$0.54	$0.47	$0.47	$0.39
Total shipments:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.59	$0.55	$0.50	$0.51	$0.41
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of EPS resins during the period examined, as supplied by all four responding producers, are presented in table III-3. Total inventory levels first rose from 1996 to 1997, then dropped in 1998 to a level slightly below that of 1996. Inventories at the end of third-quarter 1999 were markedly lower than at the end of third-quarter 1998. As a ratio to preceding-period U.S. shipments, the 3-year trend was similar, with the 1998 level being 1.3 percentage points lower than that of 1996.

According to the petitioners, EPS resins are commonly stocked on a non-specific basis for customers.[7] No responding firm reported any unusual occurrences having an impact on inventory levels.

Table III-3
EPS resins: End-of-period inventories of U.S. producers, by firms, 1996-98, January-September 1998, and January-September 1999

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	52,026	60,005	48,008	45,657	24,845
	Ratio to U.S. shipments (*percent*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	9.9	11.1	8.6	8.3	4.2
Source: Compiled from data submitted in response to Commission questionnaires.					

[7] Conference transcript, p. 35.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

All producers provided data on the number of production and related workers engaged in the production of EPS resins, the total hours worked by such workers, and the wages paid to such workers during the period examined (table III-4). The data show overall declines in total employment and hours worked during the 3-year period, but general increases in total wages paid and hourly wages. Productivity and unit labor costs both trended slightly upward from 1996 to 1998; however, productivity rose when the January-September periods are compared, whereas unit labor costs fell.

Nova and StyroChem, the two producers reporting production of cup-grade EPS resins, noted that ***. No producer reported any plant shutdowns or changes in operations affecting overall employment levels.

Table III-4
Average number of production and related workers producing EPS resins, hours worked,[1] wages paid to such employees, and hourly wages,[2] productivity, and unit labor costs, by firms, 1996-98, January-September 1998, and January-September 1999[3]

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Number of PRWs				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	389	390	371	371	368
	Hours worked by PRWs (*1,000 hours*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	925	935	897	692	696
	Wages paid to PRWs (*$1,000*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	17,951	19,071	19,049	12,527	11,834

Table continued on next page.

Table III-4--Continued
Average number of production and related workers producing EPS resins, hours worked,[1] wages paid to such employees, and hourly wages,[2] productivity, and unit labor costs, by firms, 1996-98, January-September 1998, and January-September 1999[3]

Firm	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Hourly wages paid to PRWs				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$19.41	$20.39	$21.23	$18.10	$17.00
	Productivity (*pounds per hour*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	641.2	657.7	670.0	640.8	681.4
	Unit labor costs (*per 1,000 pounds*)				
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$30.27	$31.00	$31.68	$28.25	$24.94

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total wages paid.
[3] Firms providing employment data accounted for 100 percent of reported total U.S. shipments in 1998.

Source: Compiled from data submitted in response to Commission questionnaires.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

In these investigations the Commission sent importer questionnaires to a total of 22 firms. These comprised all firms alleged in the petition to be importing EPS resins into the United States, along with several firms that, based on a review of U.S. Customs Service data, may have imported EPS resins during the period examined.[1]

The Commission received usable data on imports of EPS resins from 13 companies. In addition, four firms reported that they did not import EPS resins from any source. Accordingly, five firms failed to respond to the questionnaire. None of these firms is believed to be a significant importer of the subject merchandise from Indonesia or Korea.

Three of the four U.S. producers of subject EPS resins reported imports during the period examined.[2] Importers are spread fairly evenly throughout the country, and there is no indication of any particular geographical concentration of subject imports. Several importers reporting data are subsidiaries of, or related to, larger domestic or foreign companies. These firms, and their related companies, are presented in table IV-1.

Table IV-1
EPS resins: Selected importers and their parent companies

* * * * * * *

U.S. IMPORTS

As noted in the preceding section, imports of EPS resins are provided for under HTS subheading 3903.11.00. The Commission received responses from virtually all known significant importers of EPS resins from Indonesia and Korea. The Commission did not, however, receive complete data on nonsubject imports in response to its questionnaires. Therefore, data in this section regarding the quantity and value of U.S. imports of EPS resins are based on official U.S. import statistics.[3] Data based on responses to Commission questionnaires are presented in appendix D.

Imports of EPS resins from Indonesia and Korea showed a steady increase during the period examined, more than doubling between 1997 and 1998 (table IV-2). In value terms, such imports also

---

[1] EPS resins are provided for subheading 3903.11.00 of the HTS. Customs data indicated approximately 50 firms importing under this category. From these firms, the Commission selected those that made significant imports from Indonesia and Korea under this category, along with others importing large quantities from nonsubject sources, and sent questionnaires to those firms. With regard to Indonesia and Korea, imports were considered significant if they amounted to $100,000 or more in any calendar year. The Commission also sent importer's questionnaires to the five firms that received a producer's questionnaire.

[2] BASF reported ***, whereas StyroChem and Huntsman reported ***. None of the petitioners reported imports from Indonesia or Korea.

[3] Cup-grade and "off-spec" (*e.g.*, loose fill) EPS resins may also be imported under HTS subheading 3903.11.00, but imports of these products from Indonesia and Korea are believed to be virtually nil. Conference transcript, pp. 34-35.

Table IV-2
EPS resins: U.S. imports, by sources, 1996-98, January-September 1998, and January-September 1999

Source	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
Indonesia	88	1,036	11,926	8,070	7,012
Korea	9,334	15,680	31,361	22,031	41,164
Subtotal	9,422	16,716	43,287	30,102	48,177
All others[1]	54,281	71,249	76,402	57,848	72,509
Total	63,703	87,965	119,689	87,950	120,686
	Value (*$1,000*)				
Indonesia	45	454	5,145	3,640	2,517
Korea	4,506	7,247	12,706	9,244	15,082
Subtotal	4,550	7,701	17,850	12,884	17,599
All others[1]	30,826	39,554	38,536	29,576	31,957
Total	35,376	47,255	56,387	42,460	49,556
	Unit value (*per pound*)				
Indonesia	$0.51	$0.44	$0.43	$0.45	$0.36
Korea	0.48	0.46	0.41	0.42	0.37
Average	0.48	0.46	0.41	0.43	0.37
All others[1]	0.57	0.56	0.50	0.51	0.44
Average	0.56	0.54	0.47	0.48	0.41

[1] Excludes imports from the Bahamas; these imports are believed to consist solely of cup-grade EPS resins, which are outside the scope of these investigations.

Source: Compiled from official Commerce statistics.

increased overall during the period, exhibiting a similar pattern, although the increase between 1996 and 1997 was somewhat less marked. When the interim periods are compared, although combined imports still increased, when viewed individually, imports from Korea rose while those from Indonesia fell. Unit values declined throughout the period examined, most notably when the January-September periods are compared.

Negligibility

Under the governing statute, imports from a subject country that are less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition are to be deemed negligible.[4] Based on official statistics, imports for consumption of EPS resins from Indonesia during the period November 1, 1998 through October 31, 1999, which amounted to 11,240,400 pounds, were 7.0 percent of total imports for consumption, amounting to 160,043,300 pounds.[5] Imports for consumption of EPS resins from Korea during that same period, which amounted to 54,478,472 pounds, were 34.0 percent of total imports for consumption.

MARKET PENETRATION OF IMPORTS

Shares of apparent U.S. consumption are presented in table IV-3. In 1998, U.S. producers held 82.3 percent, by quantity, of the U.S. market for EPS resins, a 6.9-percentage point drop from the 89.2 percent share held in 1996. U.S. producers' market share declined further in the first three quarters of 1999 when compared to the corresponding 1998 period. Market share held by imports from Korea and Indonesia rose from 1.6 percent, in terms of quantity, in 1996 to 6.4 percent in 1998. Cumulated market share in interim 1999 reached over 8 percent. Market share of nonsubject imports also increased somewhat throughout the period examined.

[4] 19 U.S.C. § 1677(24)(A)(i).

[5] Total imports exclude imports from the Bahamas, which are believed to consist solely of cup-grade EPS resins.

Table IV-3
EPS resins: Apparent U.S. consumption and market shares, 1996-98, January-September 1998, and January-September 1999

Item	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
Apparent consumption	588,817	628,139	674,725	501,868	562,546
	Value (*$1,000*)				
Apparent consumption	345,577	344,060	333,214	256,156	230,289
	Share of quantity (*percent*)				
U.S. producers' shipments	89.2	86.0	82.3	82.5	78.5
U.S. imports from--					
Indonesia	(1)	0.2	1.8	1.6	1.2
Korea	1.6	2.5	4.6	4.4	7.3
Subtotal	1.6	2.7	6.4	6.0	8.6
All others[2]	9.2	11.3	11.3	11.5	12.9
Total imports	10.8	14.0	17.7	17.5	21.5
	Share of value (*percent*)				
U.S. producers' shipments	89.8	86.3	83.1	83.4	78.5
U.S. imports from--					
Indonesia	(1)	0.1	1.5	1.4	1.1
Korea	1.3	2.1	3.8	3.6	6.5
Subtotal	1.3	2.2	5.4	5.0	7.6
All others[2]	8.9	11.5	11.6	11.5	13.9
Total imports	10.2	13.7	16.9	16.6	21.5

[1] Less than 0.05 percent.
[2] Excluding imports from the Bahamas.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

EPS resins are composed primarily of polystyrene monomer, with blowing agents like pentane making up the bulk of the remaining inputs.[1] Both petitioners and respondents agree that monomer is the primary input in the production process.[2] As the primary input, the price of monomer is a key determinant of raw material costs. Monomer prices have fallen substantially over the period of investigation, from 33 to 21 cents per pound, and respondents point to this as the primary cause of lower prices for EPS resin.[3] Petitioners agree that monomer prices are at least partially responsible for the decline in EPS resin prices, but emphasize that the spread between monomer prices and EPS resins has also narrowed.[4]

Transportation Costs to the U.S. Market

Transportation costs of EPS resins to the United States (excluding U.S. inland costs) are estimated to be approximately 15 percent of the total cost of EPS resin imports from Korea, and 27 percent of the total cost of EPS resin imports from Indonesia. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value for the period beginning in January 1996 and ending in September 1999. Other distance-related costs that may be reflected in the price of subject imports are (1) the longer lead times that make subject country imports less able to respond to short-term market changes and (2) higher costs associated with providing on-site technical support in the U.S. market.

U.S. Inland Transportation Costs

Domestic producers consistently report transportation margins of ***. Importers' estimates are consistently higher, and much more variable, *** with a median estimate of 11.5 percent.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Korean won depreciated by 34 percent relative to the U.S. dollar from January 1996 to June 1999 (figure V-1). The real value of the Korean won depreciated by 25 percent vis-a-vis the US dollar in that time period. The nominal value of the Indonesian rupiah depreciated by 71 percent relative to the U.S. dollar from January 1996 to June 1999 (figure V-2). The real value of the Indonesian rupiah depreciated by 26 percent vis-a-vis the U.S. dollar in that time period.

---

[1] A witness at the conference stated that, "It (monomer) is 92 to 93 percent of the weight of the EPS end product. Six percent is pentane." Conference transcript, p. 70.

[2] Petitioners' postconference brief, p. 10; conference transcript, p. 65.

[3] Conference transcript, pp. 65-66.

[4] Petitioners' postconference brief, exhibit 8, finds that lagged monomer prices "Granger cause" prices of EPS resins. A more complete discussion of the Granger causality study appears later in this section.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Korean won relative to the U.S. dollar, by quarters, January 1996 to September 1999

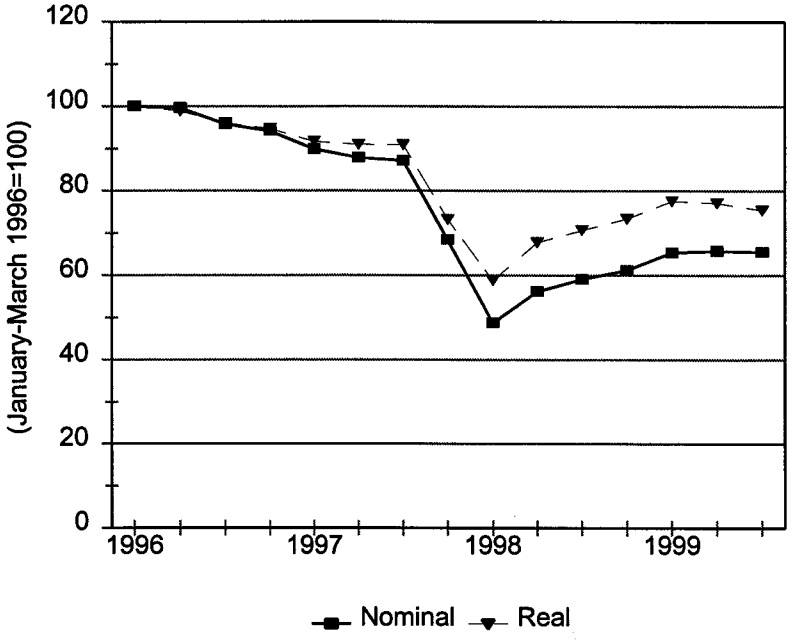
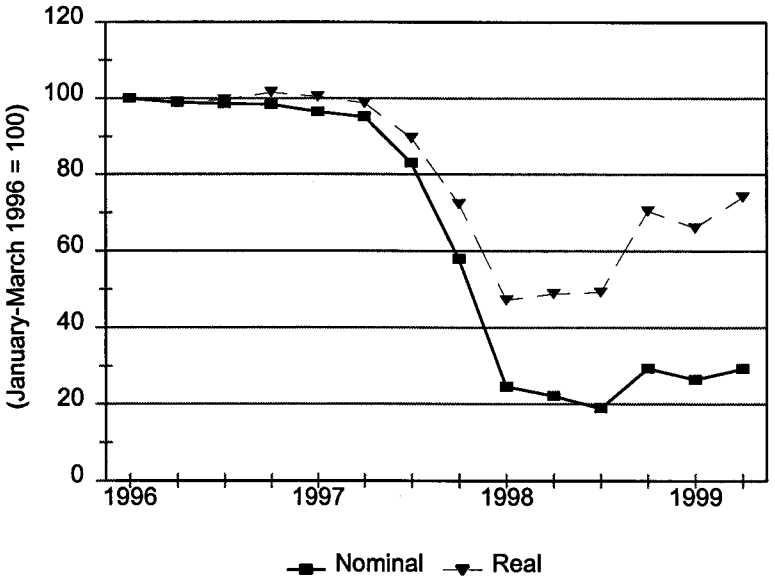


Figure V-2
Exchange rates: Indices of the nominal and real exchange rates of the Indonesian rupiah relative to the U.S. dollar, by quarters, January 1996 to June 1999



Source (both figures): International Monetary Fund, *International Financial Statistics*, December 1999.

PRICING PRACTICES

Pricing Methods

EPS resins are typically priced on a per-pound basis. Price is typically negotiated transaction by transaction.

Sales Terms and Discounts

Discounts are typically set on a volume basis. Manufacturers will rebate a small percentage of sales when a customer meets a given target.[5] ***.

PRICE DATA

The Commission requested that U.S. producers and importers of EPS resins provide quarterly data for the total quantity and value of EPS resins that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1996 through September 1999. The products for which pricing data were requested are as follows:

Product 1.– Shape (regular) grade EPS resin, bead size ranging from 0.6 mm to 1.4 mm, containing blowing agents < 5.5 percent.

Product 2.– Block (modified) grade EPS resin, bead size ranging from 0.6 mm to 1.4 mm, containing blowing agents < 5.5 percent.

Four U.S. producers and six importers provided usable pricing data for sales of the requested products, although not all firms reported selling the products in all quarters.[6] Pricing data reported by these firms accounted for approximately 41 percent of U.S. producers' shipments of EPS resins, 36 percent of U.S. shipments of subject imports from Korea, and 0 percent of U.S. shipments of subject imports from Indonesia in 1998.

The products chosen for the pricing analysis are both "low-pentane" EPS resins. Time constraints led staff to rely heavily on petitioners' recommendation that low-pentane resins be used as the appropriate pricing product in the preliminary investigations. Given that the bulk of subject imports (and all imports from Indonesia) have pentane levels outside the scope of the pricing category, the choice of low-pentane products inhibited the analysis.[7]

---

[5] Telephone call with ***, December 20, 1999.

[6] Tables V-1 and V-2 summarize the price data reported by domestic producers and importers.

[7] Petitioners' choice of low-pentane resins is noteworthy, given their own testimony that "the majority of U.S. product produced and sold in the market is high-pentane product." Conference transcript, p. 110.

Table V-1
Quarterly prices and quantities shipped, by country, of block (modified) grade EPS resins with less than 5.5 percent blowing agents, January 1996 through September 1999

Period	U.S. product			Korean product			Indonesian product		
	Price per lb.	1,000 lbs.	Co.[1]	Price per lb.	1,000 lbs.	Co.[1]	Price per lb.	1,000 lbs.	Co.[1]
1996:									
January-March	$0.62	31,083	4	-	-	-	-	-	-
April-June	0.58	33,982	4	-	-	-	-	-	-
July-September	0.57	34,229	4	-	-	-	-	-	-
October-December	0.56	29,609	4	-	-	-	-	-	-
1997:									
January-March	0.55	29,209	4	-	-	-	-	-	-
April-June	0.55	34,704	4	-	-	-	-	-	-
July-September	0.55	33,294	4	-	-	-	-	-	-
October-December	0.55	31,386	4	***			-	-	-
1998:									
January-March	0.53	31,562	4	-	-	-	-	-	-
April-June	0.50	41,979	4	***	***	***	-	-	-
July-September	0.48	40,362	4	***	***	***	-	-	-
October-December	0.43	40,123	4	***	***	***	-	-	-
1999:									
January-March	0.40	37,774	4	***	***	***	-	-	-
April-June	0.40	45,350	4	***	***	***	-	-	-
July-September	0.45	41,893	4	$0.46	169	3	-	-	-

[1] Number of companies reporting.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table V-2
Quarterly prices and quantities shipped, by country, of shape (regular) grade EPS resins with less than 5.5 percent blowing agents, January 1996 through September 1999

Period	U.S. product			Korean product			Indonesian product		
	Price per lb.	1,000 lbs.	Co.[1]	Price per lb.	1,000 lbs.	Co.[1]	Price per lb.	1,000 lbs.	Co.[1]
1996:									
January-March	$0.64	19,884	4	-	-	-	-	-	-
April-June	0.62	23,100	4	-	-	-	-	-	-
July-September	0.61	20,717	4	-	-	-	-	-	-
October-December	0.60	22,188	4	-	-	-	-	-	-
1997:									
January-March	0.57	22,748	4	-	-	-	-	-	-
April-June	0.57	22,652	4	-	-	-	-	-	-
July-September	0.56	24,582	4	-	-	-	-	-	-
October-December	0.58	23,397	4	***	***	***	-	-	-
1998:									
January-March	0.56	23,379	4	***	***	***	-	-	-
April-June	0.54	24,430	4	***	***	***	-	-	-
July-September	0.52	24,781	4	***	***	***	-	-	-
October-December	0.47	24,065	4	***	***	***	-	-	-
1999:									
January-March	0.41	25,259	4	$0.45	1,785	3	-	-	-
April-June	0.43	35,214	4	0.48	2,361	4	-	-	-
July-September	0.47	33,165	4	0.45	3,110	5	-	-	-

[1] Number of companies reporting.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Price Trends

Prices of EPS resins are quoted in average unit values. Over the course of the period of investigation, the price of domestic "block-grade" EPS resins with less than 5.5 percent blowing agents ranged from 40 to 62 cents per pound, while the price of similar "shape-grade" materials ranged from 41 to 64 cents per pound. Prices have trended downward over the period of investigation, reaching a low of 40 and 41 cents per pound for block and shape grades, respectively. These prices rose in the third quarter of 1999, by 5 and 4 cents per pound.

Given the Korean producers' absence from the low-pentane market at the beginning of the period of investigation, there is only limited information on the pricing trend of Korean product. Since Korean-produced low-pentane products first appeared in 1997, their prices have fallen as well. Korean prices entered the market at *** and *** cents per pound for block and shape grades, respectively. Third quarter 1999 prices are 46 cents per pound for block grade and 45 cents per pound for shape grade. Indonesia does not export low-pentane EPS resins to the United States, so there is no available information on prices or pricing trends.

Price Comparisons

In the chosen pricing products, block- and shape-grade EPS resins with less than 5.5 percent blowing agents, domestic prices are generally at or below Korean import prices.[8] The price of imported block-grade EPS resins from Korea is at least as high as the domestic price in every quarter except the second quarter of 1998, when the Korean price was *** per pound (*** percent) below the domestic price. Korean imports of shape-grade EPS resins are below domestic prices for two quarters of the period of investigation, the final quarter of 1997 and the third quarter of 1999. In the fourth quarter of 1997, the Korean product sold for *** cents per pound (*** percent) less than the domestic product.[9] In the third quarter of 1999, the final quarter for which price data are available, the Korean price was 2 cents per pound (4.3 percent) below the domestic price.[10] With these exceptions, the prices of Korean low-pentane EPS resins were consistently at or above those of the domestic producers.

The prices of low-pentane EPS resin are higher than the average unit values for all EPS resins reported in tables III-2 and IV-2. For example, the average 1998 price for Korean low-pentane EPS resins is 49 cents per pound, while the average unit value for all Korean imports is 41 cents per pound. A similar comparison for domestic prices shows a smaller differential (50 cents per pound for low-pentane EPS resins and 48 cents per pound for all subject EPS resins), which is consistent with a larger share of low-pentane sales in domestic production.[11]

---

[8] Indonesian producers do not sell low-pentane EPS resins in the United States. A comparison of average unit values reported in tables III-2 and IV-2 shows that the average unit values of Indonesian imports are consistently below those of domestic producers. Such a differential does not necessarily imply underselling, as domestic producers have a higher share of low-pentane resins in their output mix, and low-pentane resins appear to earn a premium.

[9] Two of the three quarters in question were at or near the nadir of the Korean won's real valuation relative to the U.S. dollar.

[10] Domestic prices rose sharply in this particular quarter, while Korean prices declined.

[11] Annual average low-pentane prices are staff calculations from Commission questionnaires.

Granger Causality Study

Petitioners submitted the results of a "Granger causality" test of the proposition that lagged values of subject import prices improve the prediction of current domestic prices of EPS resins. Petitioners' results suggest that one should *not* conclude (at standard levels of confidence) that the domestic price of EPS resins is independent of lagged prices of subject imports.[12] Respondents are correct in pointing out that Granger causality tests do not "prove" causation, only precedence.[13] There are two additional issues that should affect the interpretation of the study. First, the number of observations (45) is rather small, while the testing procedure is designed for large samples. Second, the results of Granger causality tests, like those of any regression model, are sensitive to the omission of dependent variables that are correlated with both the independent variable and the included dependent variables. For example, subject imports' apparent role as an alternative source of supply in shortage situations might lead one to expect the prices of both subject imports and domestic production to be correlated with seasonal demand variables like construction activity.[14]

LOST SALES AND LOST REVENUES

Petitioners did not report specific allegations of lost sales or revenues.

---

[12] Petitioners' posthearing brief, exhibit 1.

[13] Korean respondents' brief, p. 25. Dr. Kaplan (petitioners' economist) acknowledges as much in his public testimony at the conference, but correctly responds that the evidence is consistent with a model in which such causation actually occurs. Conference transcript, pp. 50-51.

[14] A brief discussion of the technical issues associated with Granger causality can be found in Time Series Analysis by James Hamilton, 1994, Princeton University Press, pp. 302-309.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Four producers (BASF, Huntsman, Nova, and StyroChem), accounting for all known U.S. production of EPS resins in interim 1999, supplied financial data on their EPS resins operations.

BASF, a wholly-owned subsidiary of BASF AG (Germany), produces the subject product at its South Brunswick, NJ plant; Huntsman, a privately-held company, produces it at its Peru, IL plant; Nova, a public company, produces the product at its Monaco, PA and Painesville, OH plants; and Styrochem, a privately held company, produces the product at its Fort Worth, TX plant.

In 1996 there were several changes in the industry. Huntsman closed its Rome, GA plant;[1] Nova acquired its two current EPS resins plants from Arco Chemical; and StyroChem purchased the EPS resins firm from ***.

OPERATIONS ON EPS RESINS

The results of operations of the U.S. producers of EPS resins are presented in table VI-1. Aggregate sales volumes increased but aggregate sales values decreased over the period of investigation. Unit sales values and the unit cost of goods sold decreased over the period of investigation, while selling, general, and administrative (SG&A) expenses were stable between 1996 and interim 1999 after rising in 1998. There was a *** increase in capital expenditures in 1997 and 1998 and, as a result, depreciation increased beginning in 1998. Because of the changes in ownership in 1996, various new accounting methodologies and allocations had an effect on some of the cost of goods components and SG&A expense in subsequent periods.[2] ***.[3]

The results of operations, by firm, are presented in table VI-2. ***. As discussed in Part V (pricing) of this report, there is a relationship between the selling price of the product and the raw material inputs. The data show that both the unit selling prices and unit raw material prices declined sharply but that the decline in unit selling prices[4] has been greater and the spread between unit selling prices and unit raw material prices has narrowed. This declining spread was a major factor in the decline in profitability over the period of investigation.

---

[1] ***.

[2] Raw materials, the primary cost factor, are discussed later in this section.

[3] ***.

[4] Unit export sales prices (included in the aggregate sales data) have also declined sharply during the period of investigation. Refer to table III-2.

Table VI-1
Results of operations of U.S. producers in the production of EPS resins, fiscal years 1996-98, January-September 1998, and January-September 1999

Item				January-September	
	1996	1997	1998	1998	1999
	Quantity *(1,000 pounds)*				
Net sales	596,820	607,461	613,730	458,176	498,037
	Value *($1,000)*				
Net sales	349,906	328,021	299,513	231,140	198,560
Cost of goods sold	297,093	281,983	270,627	205,896	192,214
Gross profit	52,813	46,038	28,886	25,244	6,346
SG&A expenses	24,892	24,304	34,771	24,707	22,046
Operating income or (loss)	27,921	21,734	(5,885)	537	(15,700)
Interest expense	376	129	2,833	2,612	1,445
Other expense	759	1,869	2,551	1,847	1,896
Net income or (loss)	26,786	19,736	(11,269)	(3,922)	(19,041)
Depreciation/amortization	8,256	8,015	12,040	8,699	9,755
Cash flow	35,042	27,751	771	4,777	(9,286)
	Ratio to net sales *(percent)*				
Cost of goods sold	84.9	86.0	90.4	89.1	96.8
Gross profit	15.1	14.0	9.6	10.9	3.2
SG&A expenses	7.1	7.4	11.6	10.7	11.1
Operating income or (loss)	8.0	6.6	(2.0)	0.2	(7.9)
	Value *(per pound)*				
Net sales	$0.59	$0.54	$0.49	$0.50	$0.40
Cost of goods sold	0.50	0.46	0.44	0.45	0.39
Gross profit	0.09	0.08	0.05	0.06	0.01
SG&A expenses	0.04	0.04	0.06	0.05	0.04
Operating income or (loss)	0.05	0.04	(0.01)	0.00	(0.03)
	Number of firms reporting				
Operating losses	***	***	***	***	***
Data	4	4	4	4	4

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-2
Results of operations of U.S. producers in the production of EPS resins, by firm, fiscal years 1996-98, January-September 1998, and January-September 1999

Item				January-September	
	1996	1997	1998	1998	1999
	Quantities *(1,000 pounds)*				
Net sales:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	596,820	607,461	613,730	458,176	498,037
	Values *($1,000)*				
Net sales:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	349,906	328,021	299,513	231,140	198,560
Operating income (loss):					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	27,921	21,734	(5,885)	537	(15,700)
	Ratio to net sales *(percent)*				
Operating income (loss):					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	8.0	6.6	(2.0)	0.2	(7.9)

Table continued on next page.

Table VI-2--Continued
Results of operations of U.S. producers in the production of EPS resins, by firm, fiscal years 1996-98, January-September 1998, and January-September 1999

Item				January-September	
	1996	1997	1998	1998	1999
	Raw material costs *($1,000)*				
Raw materials:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Total	228,049	210,620	196,159	149,851	140,208
	Unit values *(per pound)*				
Net sales:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.59	$0.54	$0.49	$0.50	$0.40
Raw materials:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.38	$0.35	$0.32	$0.33	$0.28
Net sales less raw materials:					
BASF	***	***	***	***	***
Huntsman	***	***	***	***	***
Nova	***	***	***	***	***
StyroChem	***	***	***	***	***
Average	$0.21	$0.19	$0.17	$0.17	$0.12

Source: Compiled from data submitted in response to Commission questionnaires.

The producers obtain their raw materials (styrene monomer, the primary component) from different sources; ***.[5] The total raw material costs were generally declining for each producer except for StyroChem, which experienced an increase in its interim 1999 raw material costs.[6] [7] The upturn in raw material costs and unit selling prices in 1999 has not yet been reflected in the nine months aggregate data for raw material costs, unit shipment values, and unit sales values. However, the quarterly pricing data (Part V of this report) for the July to September 1999 period reflects an increase in unit prices which may be partially related to the increase in the cost of styrene monomer in the middle of 1999.[8]

Aggregate unit values and costs are presented in table VI-3. As previously indicated, the decline in the spread between unit selling prices and unit raw material costs was the major factor in the declining profitability. Direct labor, factory overhead, and SG&A expenses were not significantly different between the first and last periods of the investigation.

Table VI-3
Results of operations (per pound) of U.S. producers in the production of EPS resins, fiscal years 1996-98, January-September 1998, and January-September 1999

Item	1996	1997	1998	January-September	
				1998	1999
Net sales	$0.59	$0.54	$0.49	$0.50	$0.40
Cost of goods sold:					
Raw materials	0.38	0.35	0.32	0.33	0.28
Direct labor	0.02	0.02	0.02	0.02	0.02
Factory overhead	0.10	0.10	0.10	0.10	0.09
Total	0.50	0.46	0.44	0.45	0.39
Gross profit	0.09	0.08	0.05	0.06	0.01
SG&A expenses	0.04	0.04	0.06	0.50	0.40
Operating income or (loss)	0.05	0.04	(0.01)	0.00	(0.03)

Note: Columns may not total due to rounding.

Source: Compiled from data submitted in response to Commission questionnaires.

[5] ***.

[6] ***.

[7] Petitioners indicated that a recent industry price increase for EPS resins did not fully recover the increase in raw material costs. Conference transcript, p. 30.

[8] Respondents (Korea) claim that their raw material cost for styrene is less than that for the U.S. producers and thus they can market their EPS resins at a lower price than that for the U.S. producers. Conference transcript, pp. 73-74.

A variance analysis showing the effects of prices and volume on the producers' net sales of EPS resins and of costs and volume on their total costs is shown in table VI-4. The variance analysis shows that the change in prices was the major factor affecting profitability. The large reduction in costs was not sufficient to offset the price decline.

Table VI-4
Variance analysis for EPS resins operations, fiscal years 1996-98, January-September 1998, and January -September 1999

Item				Jan.-Sept.
	1996-98	1996-97	1997-98	1998-99
	Value (*$1,000*)			
Total net sales:				
Price variance	(60,307)	(28,124)	(31,893)	(52,689)
Volume variance	9,914	6,239	3,385	20,109
Total net sales variance	(50,393)	(21,885)	(28,508)	32,580
Cost of sales:				
Cost variance	34,884	20,407	14,266	31,595
Volume variance	(8,418)	(5,297)	(2,910)	(17,913)
Total cost variance	26,466	15,110	11,356	13,682
Gross profit variance	(23,927)	(6,775)	(17,152)	(18,898)
SG&A expenses:				
Expense variance	(9,174)	1,032	(10,216)	4,810
Volume variance	(705)	(444)	(251)	(2,149)
Total SG&A variance	(9,879)	588	(10,467)	2,661
Operating income variance	(33,806)	(6,187)	(27,619)	(16,237)
Summarized as:				
Price variance	(60,307)	(28,124)	(31,893)	(52,689)
Net cost/expense variance	25,710	21,439	4,050	36,405
Net volume variance	791	498	224	47

Note: Unfavorable variances are shown in parentheses; all others are favorable.

Source: Compiled from data submitted in response to Commission questionnaires.

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES

The value of fixed assets (property, plant, and equipment), capital expenditures, and research and development expenses for EPS resins are shown in table VI-5.

Table VI-5
Value of assets, capital expenditures, and research and development expenses of U.S. producers of EPS resins, fiscal years 1996-98, January-September 1998, and January-September 1999[1]

Item				January-September	
	1996	1997	1998	1998	1999
	Value (*$1,000*)				
Capital expenditures	14,358	19,224	18,401	14,633	11,730
R&D expenses	4,161	5,449	6,021	4,104	3,905
Fixed assets:					
Original cost	172,823	134,033	175,026	170,446	197,469
Book value	89,623	115,977	143,990	131,218	144,551

[1] All four producers' data are included in the table except for *** data.

Source: Compiled from data submitted in response to Commission questionnaires.

CAPITAL AND INVESTMENT

The Commission requested the producers to describe any actual or potential negative effects of imports of EPS resins from Korea and/or Indonesia on their growth, investment, ability to raise capital, and/or their development efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix E.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in appendix E. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN INDONESIA

The Commission sent questionnaires to three Indonesian firms that, according to the petition, are believed to account for all of the production of EPS resins in that country: PT Risjad Brasali Styrindo (PT Risjad), PT Polychem Lindo, Inc. (PT Polychem), and PT Maspion Polystyrene (PT Maspion). The Commission received a response from only one firm, PT Risjad; this firm, however, accounted for *** percent of exports of EPS resins from Indonesia to the United States, and *** percent of total Indonesian production, during the period examined.[1] PT Risjad, through its counsel, provided data on its capacity, production, shipments, and inventories of EPS resins, which are presented in table VII-1.

Table VII-1
EPS resins: PT Risjad's capacity, production, inventories, capacity utilization, and shipments, 1996-98, January-September 1998, January-September 1999, and projected 1999 and 2000

* * * * * * *

As seen from the table, production of EPS resins by PT Risjad grew *** from 1996 to 1998. Such production is expected to *** in calendar year 1999, before *** in 2000. Capacity increased in 1997, and then remained constant over the remainder of the period examined, resulting first in a *** decline in capacity utilization, followed by a *** increase. Shipments to the United States grew *** from 1997 to 1998, but are expected to *** in 2000, in favor of shipments to third-country markets.

PT Risjad reported that sales of EPS resins made up *** percent of its total sales in its most recent fiscal year. It indicated no plans to change its production capacity for the subject product, nor ***.[2] Production technologies for EPS resins in Indonesia are essentially identical to those employed in the United States.[3] There is no indication that EPS resins from Indonesia have been the subject of any

[1] According to the petition, during the period October 1998 through September 1999, capacity and production for the two nonresponding firms totaled *** and *** metric tons, respectively. Such totals were *** and *** percent, respectively, of total industry capacity and production. Petition, exhibit 12.

[2] Conference transcript, p. 90; PT Risjad questionnaire response.

[3] Conference transcript, p. 94.

other import relief investigations, including antidumping findings or remedies, in the United States or in any other countries.

THE INDUSTRY IN KOREA

The Commission received information from five of the six Korean firms that are believed to account for all of the production of EPS resins in that country: Cheil Industries, Inc. (Cheil), Dongbu Hannong Chemical Co., Ltd. (Dongbu), Kumho Chemicals, Inc. (Kumho), LG Chemical, Ltd. (LG), and Shinho Petrochemical, Ltd. (Shinho).[4] All of these firms except Dongbu were represented by counsel. As appropriate, the Commission requested counsel, or the firms directly, to provide data on industry capacity, production, shipments, and inventories of EPS resins. The data obtained are presented in table VII-2.

As seen from the table, Korean production of EPS resins grew from 1996 to 1997, then declined in 1998 to just slightly above its 1996 level, and showed little change in January-September 1999 when compared to the corresponding period of 1998. Production, however, is expected to resume its increase in calendar years 1999 and 2000. Capacity increased over the period examined, resulting in trends in capacity utilization that were generally similar to those in production.[5] Capacity utilization was over 90 percent in 1996 and 1997, then declined to 86-87 percent in 1998 and (projected) 1999, but is predicted to rise once again to nearly 93 percent in 2000. Shipments to the home market dropped sharply from 1997 to 1998, as exports to both the United States and other markets surged. Exports to the United States more than doubled in January-September 1999 when compared to the corresponding period of 1998. Exports to the United States, however, were consistently smaller than exports to markets other than the United States throughout the period examined.[6]

*** was *** of the five responding producers of EPS resins in Korea during 1998. Its capacity and production accounted for *** percent of total reported Korean capacity and production, respectively, during 1998. *** is also the ***. EPS resins account for a *** majority *** of ***'s total sales; by contrast, for other reporting firms, EPS resins made up a very small percentage of their total sales.

Except for ***, none of the responding producers reported production of other products on the same equipment and machinery used for production of EPS resins. *** reported that during the period examined, it produced cup-grade EPS resins ***. Parties agreed that the technology for producing EPS resins in Korea differs little from that employed in the United States. In fact, most if not all Korean producers produce shape- and block-grade EPS resins under license from U.S. firms such as Huntsman.[7]

---

[4] The Commission did not receive a timely response from a sixth firm, BASF Styrenics Korea, Ltd. During the period October 1998 through September 1999, this firm had capacity to produce subject EPS resins of *** metric tons, and production of *** metric tons, but had no exports to the United States. Petition, p. 5, exhibits 6 and 12; conference transcript, p. 46.

[5] Korean producers noted in their questionnaire responses that ***.

[6] Non-U.S. markets include China, Australia, New Zealand, Japan, Canada, Mexico, and various European countries.

[7] Conference transcript, p. 40.

Table VII-2
EPS resins: Korean capacity, production, inventories, capacity utilization, and shipments, 1996-98, January-September 1998, January-September 1999, and projected 1999 and 2000

Item	Calendar year			January-September		Projected	
	1996	1997	1998	1998	1999	1999	2000
	Quantity (*1,000 pounds*)						
Capacity	464,633	493,272	499,884	373,812	391,438	521,898	524,098
Production	422,862	461,458	433,261	323,786	335,942	452,286	485,964
End-of-period inventories	25,466	12,656	21,106	16,992	12,950	12,120	16,475
Shipments:							
Internal consumption	83,469	86,235	70,883	50,554	53,483	71,999	74,773
Home market	235,655	243,280	147,342	105,642	142,600	196,500	207,140
Exports to:							
The United States	***	12,780	30,535	21,790	48,568	62,088	55,222
All other markets	***	131,972	176,050	141,463	99,446	130,686	145,479
Total exports	95,856	144,752	206,585	163,253	148,014	192,774	200,701
Total shipments	414,980	474,267	424,810	319,449	344,097	461,273	482,614
	Ratios and shares (*percent*)						
Capacity utilization	91.0	93.6	86.7	86.6	85.8	86.7	92.7
Inventories to production	6.0	2.7	4.9	3.9	2.9	2.7	3.4
Inventories to all shipments	6.1	2.7	5.0	4.0	2.8	2.6	3.4
Share of total shipments							
Internal consumption	20.1	18.2	16.7	15.8	15.5	15.6	15.5
Home market	56.8	51.3	34.7	33.1	41.4	42.6	42.9
Exports to:							
The United States	2.0	2.7	7.2	6.8	14.1	13.5	11.4
All other markets	21.1	27.8	41.1	44.3	28.9	28.3	30.1
Total exports	23.1	30.5	48.6	51.1	43.0	41.8	41.6

Source: Compiled from data submitted in response to Commission questionnaires.

None of the responding firms reported any future plans for significant changes in capacity or production with regard to the subject product. Two of the five firms (*** and ***), noted that their shipments to the United States are imported, at least in part, by related companies: *** and ***, respectively. None of the firms reported any U.S. production of EPS resins, either independently or by affiliated firms. Finally, the firms reported that exports of EPS resins from Korea are subject to an antidumping finding in Australia, which became effective in October 1992.

U.S. INVENTORIES OF EPS RESINS FROM INDONESIA AND KOREA

Several U.S. importers of EPS resins from Korea reported keeping inventories in the United States during the period examined. ***. U.S. importers' inventories of Indonesian and Korean EPS resins that were held in the United States are reported in table VII-3.

End-of-period inventories held by U.S. importers from Korea declined overall from 1.0 million pounds in 1996 to 608,000 pounds in 1998. The ratio of inventories to imports fell very sharply both during the 3-year period and when the interim periods are compared, while the ratio of inventories to U.S. shipments of such imports showed a similar pattern.

In its questionnaire the Commission requested importers to list any expected deliveries of EPS resins from Indonesia and Korea after September 30, 1999. Of the 11 importers that provided data, 5 firms reported planned deliveries of EPS resins after that date, amounting to an aggregate of 12.9 million pounds.

Table VII-3
EPS resins: U.S. importers' end-of-period inventories of imports from Indonesia and Korea, 1996-98, January-September 1998, and January-September 1999

Item/Source	Calendar year			January-September	
	1996	1997	1998	1998	1999
End-of-period inventories (*1,000 pounds*):					
Indonesia	0	0	0	0	0
Korea	1,046	549	608	1,635	421
Total	1,046	549	608	1,635	421
Ratio to imports (*percent*)					
Indonesia	(1)	(1)	(1)	(1)	(1)
Korea	11.4	3.6	2.0	5.6	0.8
Average	11.4	3.6	2.0	5.6	0.8
Ratio to U.S. shipments of imports (*percent*)					
Indonesia	(1)	(1)	(1)	(1)	(1)
Korea	12.5	3.5	2.1	6.1	0.8
Average	12.5	3.5	2.1	6.1	0.8

[1] Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–861 & 862 (Preliminary)]

Certain Expandable Polystyrene Resins From Indonesia and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–861 & 862 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Indonesia and Korea of certain expandable polystyrene resins, provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by January 6, 2000. The Commission's views are due at the Department of Commerce within five business days thereafter, or by January 13, 2000.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on November 22, 1999, by BASF Corporation, Mount Olive, NJ; Huntsman Expandable Polymers Company LC, Salt Lake City, UT; Nova Chemicals, Inc., Moon Township, PA; and StyroChem U.S., Ltd., Radnor, PA.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the

Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 13, 1999, at the U.S. International Trade Commission Building, 500 E Street S.W., Washington, DC. Parties wishing to participate in the conference should contact Jonathan Seiger (202–205–3183) not later than December 9, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 16, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: November 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31386 Filed 12–2–99; 8:45 am]

BILLING CODE 7020–02–P

Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 13, 1999, at the U.S. International Trade Commission Building, 500 E Street S.W., Washington, DC. Parties wishing to participate in the conference should contact Jonathan Seiger (202–205–3183) not later than December 9, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 16, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: November 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31386 Filed 12–2–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–861 & 862 (Preliminary)]

Certain Expandable Polystyrene Resins From Indonesia and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–861 & 862 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Indonesia and Korea of certain expandable polystyrene resins, provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by January 6, 2000. The Commission's views are due at the Department of Commerce within five business days thereafter, or by January 13, 2000.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on November 22, 1999, by BASF Corporation, Mount Olive, NJ; Huntsman Expandable Polymers Company LC, Salt Lake City, UT; Nova Chemicals, Inc., Moon Township, PA; and StyroChem U.S., Ltd., Radnor, PA.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–810, A–580–843]

Initiation of Antidumping Duty Investigations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea

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

EFFECTIVE DATE: December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie Ellis or Charles Riggle at (202) 482–2336 and (202) 482–0650, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1999).

The Petitions

On November 22, 1999, the Department of Commerce ("the Department") received petitions on certain expandable polystyrene resins ("EPS") from Indonesia and the Republic of Korea ("Korea") filed in proper form by BASF Corporation, Huntsman Expandable Polymers Company LC, Nova Chemicals Inc., and Styrochem U.S., Ltd., (collectively "the petitioners"). On December 1 and 3, 1999, the Department received amendments to the petitions.

In accordance with section 732(b) of the Act, the petitioners allege that imports of EPS from the above-mentioned countries are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act, and they have demonstrated sufficient industry support with respect to each of the antidumping investigations they are requesting the Department to initiate (*see Determination of Industry Support for the Petitions* below).

Scope of Investigations

The scope of these investigations includes certain expandable polystyrene resins in primary forms; namely, raw material or resin manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm.

Specifically excluded from the scope of these investigations is off-grade, off-specification expandable polystyrene resins.

The covered merchandise is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3903.11.00.00. Although this HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

During our review of the petitions, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by January 12, 2000. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of total production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

In this case, there is one domestic like product, which is defined in the "Scope of Investigations" section, above. The Department has no basis on the record to find the petitioners' definition of the domestic like product to be inaccurate. No comments were received on this issue. The Department, therefore, has adopted the domestic like product definition set forth in the petitions.

Moreover, the Department has determined that the petitions (and subsequent amendments) contain adequate evidence of industry support; therefore, polling is unnecessary (*see Attachments to Initiation Checklist, Re: Industry Support,* December 13, 1999). To the best of the Department's knowledge, the producers who support the petition account for more than 50

[1] *See Algoma Steel Corp. Ltd., United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department's decision to initiate these investigations is based.

The petitioners, in determining normal value ("NV") for Indonesia and Korea relied upon price data contained in confidential market research reports filed with the Department. At our request, the petitioners arranged for the Department to contact the author of the reports to verify the accuracy of the data, the methodology used to collect the data, and the credentials of those gathering the market research. The Department's discussions with the author of the market research reports are summarized in *Memorandum to the File: Telephone Conversation with Market Research Firm* dated December 3, 1999. For a more detailed discussion of the deductions and adjustments relating to home market price, U.S. price and factors of production and sources of data for each country named in the petition, *see Initiation Checklist*dated December 13, 1999. Should the need arise to use, as facts available under section 776 of the Act, any of this information in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Indonesia

The petitioners identified PT Risjad Brasali Styrindo, PT Polychem Lindo, Inc., and PT Maspion Polystyrene as producers and exporters of EPS to the United States. For EPS from Indonesia, the petitioners based EP on the average unit value ("AUV") of the merchandise as derived from the U.S. government's IM–145 data. The petitioners calculated a net U.S. price by subtracting from the AUV estimated costs for foreign inland freight derived from data contained in the confidential market research report.

NV is based upon prices for products which are identical to the products used as the basis for the U.S. price. The petitioners calculated NV by deducting foreign movement charges and domestic packing expenses, and adding U.S. packing expenses. The petitioners did not adjust normal value for differences in credit expenses because in the Indonesian market, the terms and conditions of domestic transactions were "cash in advance." The estimated dumping margins for EPS from Indonesia range from 94.93 to 96.65 percent.

Korea

The petitioners identified Kumho Chemicals Co., Ltd.; LG Chemical, Ltd., Dongbu Hannong Chemical Co., Shin Ho Petrochemical Co., Ltd., Cheil Industries, Inc., and BASF Styrenics Korea, Ltd. as producers and exporters of EPS to the United States. For EPS from Korea, the petitioners based EP either on the AUV of the merchandise as derived from the U.S. government's IM–145 data or on actual invoices to U.S. customers and supporting affidavits from U.S. salespersons. They also relied on data contained in the confidential market research report regarding adjustments and deductions.

For comparisons using actual invoices and affidavits, the petitioners calculated a net U.S. price by subtracting estimated costs for selling agent commissions, U.S. inland freight, port charges, international shipping charges, customs duties, and foreign inland freight. For AUV comparisons, the petitioners deducted foreign market inland freight.

NV is based upon prices for products which are identical to the products used as the basis for the U.S. price. The petitioners calculated NV by deducting foreign movement charges and domestic packing expenses, and adding U.S. packing expenses. The petitioners also adjusted normal value for differences in credit expenses. The estimated dumping margins for EPS from Korea ranged from 43.79 to 89.39 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of EPS from Indonesia and Korea are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like products is being materially injured, and is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioners explained that the industry's injured condition is evident in the declining trends in (1) U.S. market share, (2) average unit sales values, (3) share of domestic consumption, (4) operating income, (5) sales, and (6) capacity utilization.

The allegations of injury and causation are supported by relevant evidence including U.S. Bureau of the Census import data, lost sales, and pricing information. While the petitioners did not submit information on other injurious trends such as a decline in employment, hours worked and wages paid, the Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Attachments to Initiation Checklist, Re: Material Injury,*December 13, 1999).

Initiation of Antidumping Investigations

Based upon our examination of the petitions on EPS from Indonesia and Korea, we find that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of EPS from Indonesia and Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of Indonesia and Korea. We will attempt to provide a copy of the public versions of each petition to each exporter named in the petition, as appropriate.

ITC Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, by no later than January 6, 2000, whether there is a reasonable indication that imports of certain expandable polystyrene resins from Indonesia and Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department's decision to initiate these investigations is based.

The petitioners, in determining normal value ("NV") for Indonesia and Korea relied upon price data contained in confidential market research reports filed with the Department. At our request, the petitioners arranged for the Department to contact the author of the reports to verify the accuracy of the data, the methodology used to collect the data, and the credentials of those gathering the market research. The Department's discussions with the author of the market research reports are summarized in *Memorandum to the File: Telephone Conversation with Market Research Firm* dated December 3, 1999. For a more detailed discussion of the deductions and adjustments relating to home market price, U.S. price and factors of production and sources of data for each country named in the petition, *see Initiation Checklist*dated December 13, 1999. Should the need arise to use, as facts available under section 776 of the Act, any of this information in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Indonesia

The petitioners identified PT Risjad Brasali Styrindo, PT Polychem Lindo, Inc., and PT Maspion Polystyrene as producers and exporters of EPS to the United States. For EPS from Indonesia, the petitioners based EP on the average unit value ("AUV") of the merchandise as derived from the U.S. government's IM–145 data. The petitioners calculated a net U.S. price by subtracting from the AUV estimated costs for foreign inland freight derived from data contained in the confidential market research report.

NV is based upon prices for products which are identical to the products used as the basis for the U.S. price. The petitioners calculated NV by deducting foreign movement charges and domestic packing expenses, and adding U.S. packing expenses. The petitioners did not adjust normal value for differences in credit expenses because in the Indonesian market, the terms and conditions of domestic transactions were "cash in advance." The estimated dumping margins for EPS from Indonesia range from 94.93 to 96.65 percent.

Korea

The petitioners identified Kumho Chemicals Co., Ltd.; LG Chemical, Ltd., Dongbu Hannong Chemical Co., Shin Ho Petrochemical Co., Ltd., Cheil Industries, Inc., and BASF Styrenics Korea, Ltd. as producers and exporters of EPS to the United States. For EPS from Korea, the petitioners based EP either on the AUV of the merchandise as derived from the U.S. government's IM–145 data or on actual invoices to U.S. customers and supporting affidavits from U.S. salespersons. They also relied on data contained in the confidential market research report regarding adjustments and deductions.

For comparisons using actual invoices and affidavits, the petitioners calculated a net U.S. price by subtracting estimated costs for selling agent commissions, U.S. inland freight, port charges, international shipping charges, customs duties, and foreign inland freight. For AUV comparisons, the petitioners deducted foreign market inland freight.

NV is based upon prices for products which are identical to the products used as the basis for the U.S. price. The petitioners calculated NV by deducting foreign movement charges and domestic packing expenses, and adding U.S. packing expenses. The petitioners also adjusted normal value for differences in credit expenses. The estimated dumping margins for EPS from Korea ranged from 43.79 to 89.39 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of EPS from Indonesia and Korea are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like products is being materially injured, and is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioners explained that the industry's injured condition is evident in the declining trends in (1) U.S. market share, (2) average unit sales values, (3) share of domestic consumption, (4) operating income, (5) sales, and (6) capacity utilization.

The allegations of injury and causation are supported by relevant evidence including U.S. Bureau of the Census import data, lost sales, and pricing information. While the petitioners did not submit information on other injurious trends such as a decline in employment, hours worked and wages paid, the Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Attachments to Initiation Checklist, Re: Material Injury,*December 13, 1999).

Initiation of Antidumping Investigations

Based upon our examination of the petitions on EPS from Indonesia and Korea, we find that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of EPS from Indonesia and Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of Indonesia and Korea. We will attempt to provide a copy of the public versions of each petition to each exporter named in the petition, as appropriate.

ITC Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, by no later than January 6, 2000, whether there is a reasonable indication that imports of certain expandable polystyrene resins from Indonesia and Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–810, A–580–843]

Initiation of Antidumping Duty Investigations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea

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

EFFECTIVE DATE: December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie Ellis or Charles Riggle at (202) 482–2336 and (202) 482–0650, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1999).

The Petitions

On November 22, 1999, the Department of Commerce ("the Department") received petitions on certain expandable polystyrene resins ("EPS") from Indonesia and the Republic of Korea ("Korea") filed in proper form by BASF Corporation, Huntsman Expandable Polymers Company LC, Nova Chemicals Inc., and Styrochem U.S., Ltd., (collectively "the petitioners"). On December 1 and 3, 1999, the Department received amendments to the petitions.

In accordance with section 732(b) of the Act, the petitioners allege that imports of EPS from the above-mentioned countries are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act, and they have demonstrated sufficient industry support with respect to each of the antidumping investigations they are requesting the Department to initiate (*see Determination of Industry Support for the Petitions* below).

Scope of Investigations

The scope of these investigations includes certain expandable polystyrene resins in primary forms; namely, raw material or resin manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm.

Specifically excluded from the scope of these investigations is off-grade, off-specification expandable polystyrene resins.

The covered merchandise is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3903.11.00.00. Although this HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

During our review of the petitions, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by January 12, 2000. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of total production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

In this case, there is one domestic like product, which is defined in the "Scope of Investigations" section, above. The Department has no basis on the record to find the petitioners' definition of the domestic like product to be inaccurate. No comments were received on this issue. The Department, therefore, has adopted the domestic like product definition set forth in the petitions.

Moreover, the Department has determined that the petitions (and subsequent amendments) contain adequate evidence of industry support; therefore, polling is unnecessary (*see Attachments to Initiation Checklist, Re: Industry Support,* December 13, 1999). To the best of the Department's knowledge, the producers who support the petition account for more than 50

[1] *See Algoma Steel Corp. Ltd., United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

Dated: December 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–32917 Filed 12–17–99; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference which was held in connection with the following investigations:

CERTAIN EXPANDABLE POLYSTYRENE RESINS FROM INDONESIA AND KOREA

Investigations Nos. 731-TA-861 and 862 (Preliminary)

December 13, 1999 - 9:30 am

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, S.W., Washington, DC.

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES:

Skadden, Arps, Slate, Meagher, & Flom LLP
Washington, DC
on behalf of

BASF Corporation
Huntsman Expandable Polymers Company LC
Nova Chemicals, Inc.
StyroChem U.S., Ltd.

Bob Alford, Director of Plastic Foams Business, BASF Corporation
Rick Maires, Business Director for Expandable Resins, Huntsman Expandable Polymers Company LC
Grant Thompson, Vice President, Expandable Polystyrene Business, Nova Chemicals, Inc.
Mike Pate, Vice President and General Manager, StyroChem U.S., Ltd.
Seth T. Kaplan, Vice President, Charles River Associates, Inc.

Thomas R. Graham, Esq.--OF COUNSEL
Holly A. Gimbel, Esq.--OF COUNSEL

IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES:

Dorsey & Whitney
Washington, DC
on behalf of

LG Chemical, Ltd.
Shinho Petrochemical Company, Ltd.
Cheil Industries, Inc.
Kumho Chemicals, Inc.

Young-Soo Kim, General Manager, Shinho Petrochemical Company, Ltd.
Justin (Ju Hong) Lee, Branch Manager (Los Angeles Office), Cheil Industries, Inc.
Patrick Culpepper, Progressive Foam Products, Inc.
Jon Y. Lee, Vice President, James Global Service, Inc.
Burt Gendron, MDG Corporation
John G. Reilly, Vice President, Nathan Associates, Inc.

Philippe M. Bruno, Esq.--OF COUNSEL
Jiyul Yoo, Esq.--OF COUNSEL
Steven Hawk, Esq.--OF COUNSEL

White & Case
Washington, DC
on behalf of

PT Risjad Brasali Styrindo

Edmund W. Sim, Esq.--OF COUNSEL
Adams C. Lee, Esq.--OF COUNSEL

APPENDIX C

SUMMARY TABLES

Table C-1
Subject EPS resins: Summary data concerning the U.S. market, 1996-98, January-September 1998, and January-September 1999

(Quantity=1,000 pounds, value=1,000 dollars, unit values and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
				January-September					Jan.-Sept.
	1996	1997	1998	1998	1999	1996-98	1996-97	1997-98	1998-99
U.S. consumption quantity:									
Amount	588,817	628,139	674,725	501,868	562,546	14.6	6.7	7.4	12.1
Producers' share (1)	89.2	86.0	82.3	82.5	78.5	-6.9	-3.2	-3.7	-3.9
Importers' share (1):									
Indonesia	0.0	0.2	1.8	1.6	1.2	1.8	0.1	1.6	-0.4
Korea	1.6	2.5	4.6	4.4	7.3	3.1	0.9	2.2	2.9
Subtotal	1.6	2.7	6.4	6.0	8.6	4.8	1.1	3.8	2.6
Other sources	9.2	11.3	11.3	11.5	12.9	2.1	2.1	-0.0	1.4
Total imports	10.8	14.0	17.7	17.5	21.5	6.9	3.2	3.7	3.9
U.S. consumption value:									
Amount	345,577	344,060	333,214	256,156	230,289	-3.6	-0.4	-3.2	-10.1
Producers' share (1)	89.8	86.3	83.1	83.4	78.5	-6.7	-3.5	-3.2	-4.9
Importers' share (1):									
Indonesia	0.0	0.1	1.5	1.4	1.1	1.5	0.1	1.4	-0.3
Korea	1.3	2.1	3.8	3.6	6.5	2.5	0.8	1.7	2.9
Subtotal	1.3	2.2	5.4	5.0	7.6	4.0	0.9	3.1	2.6
Other sources	8.9	11.5	11.6	11.5	13.9	2.6	2.6	0.1	2.3
Total imports	10.2	13.7	16.9	16.6	21.5	6.7	3.5	3.2	4.9
U.S. imports from--									
Indonesia:									
Quantity	88	1,036	11,926	8,070	7,012	(2)	(2)	(2)	-13.1
Value	45	454	5,145	3,640	2,517	(2)	(2)	(2)	-30.9
Unit value	$0.51	$0.44	$0.43	$0.45	$0.36	-15.6	-14.3	-1.5	-20.4
Ending inventory quantity	0	0	0	0	0	0.0	0.0	0.0	0.0
Korea:									
Quantity	9,334	15,680	31,361	22,031	41,164	236.0	68.0	100.0	86.8
Value	4,506	7,247	12,706	9,244	15,082	182.0	60.8	75.3	63.2
Unit value	$0.48	$0.46	$0.41	$0.42	$0.37	-16.1	-4.3	-12.3	-12.7
Ending inventory quantity	1,046	549	608	1,635	421	-41.9	-47.5	10.7	-74.3
Subtotal:									
Quantity	9,422	16,716	43,287	30,102	48,177	359.4	77.4	159.0	60.0
Value	4,550	7,701	17,850	12,884	17,599	292.3	69.2	131.8	36.6
Unit value	$0.48	$0.46	$0.41	$0.43	$0.37	-14.6	-4.6	-10.5	-14.7
Ending inventory quantity	1,046	549	608	1,635	421	-41.9	-47.5	10.7	-74.3
Other sources:									
Quantity	54,281	71,249	76,402	57,848	72,509	40.8	31.3	7.2	25.3
Value	30,826	39,554	38,536	29,576	31,957	25.0	28.3	-2.6	8.1
Unit value	$0.57	$0.56	$0.50	$0.51	$0.44	-11.2	-2.2	-9.1	-13.8
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	63,703	87,965	119,689	87,950	120,686	87.9	38.1	36.1	37.2
Value	35,376	47,255	56,387	42,460	49,556	59.4	33.6	19.3	16.7
Unit value	$0.56	$0.54	$0.47	$0.48	$0.41	-15.2	-3.3	-12.3	-14.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
Subject EPS resins: Summary data concerning the U.S. market, 1996-98, January-September 1998, and January-September 1999

(Quantity=1,000 pounds, value=1,000 dollars, unit values and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
				January-September					Jan.-Sept.
	1996	1997	1998	1998	1999	1996-98	1996-97	1997-98	1998-99
U.S. producers':									
Average capacity quantity	612,982	620,306	659,053	494,340	515,495	7.5	1.2	6.2	4.3
Production quantity	593,105	615,200	601,286	443,424	474,456	1.4	3.7	-2.3	7.0
Capacity utilization (1)	96.8	99.2	91.2	89.7	92.0	-5.5	2.4	-7.9	2.3
U.S. shipments:									
Quantity	525,114	540,174	555,036	413,918	441,860	5.7	2.9	2.8	6.8
Value	310,201	296,805	276,827	213,696	180,733	-10.8	-4.3	-6.7	-15.4
Unit value	$0.59	$0.55	$0.50	$0.52	$0.41	-15.6	-7.0	-9.2	-20.8
Export shipments:									
Quantity	70,303	67,047	58,247	43,854	55,759	-17.1	-4.6	-13.1	27.1
Value	41,462	36,131	27,262	20,690	21,748	-34.2	-12.9	-24.5	5.1
Unit value	$0.59	$0.54	$0.47	$0.47	$0.39	-20.6	-8.6	-13.1	-17.3
Ending inventory quantity	52,026	60,005	48,008	45,657	24,845	-7.7	15.3	-20.0	-45.6
Inventories/total shipments (1)	8.7	9.9	7.8	7.5	3.7	-0.9	1.1	-2.1	-5.0
Production workers	389	390	371	371	368	-4.6	0.3	-4.9	-0.8
Hours worked (1,000s)	925	935	897	692	696	-3.0	1.1	-4.1	0.6
Wages paid ($1,000s)	17,951	19,071	19,049	12,527	11,834	6.1	6.2	-0.1	-5.5
Hourly wages	$19.41	$20.39	$21.23	$18.10	$17.00	9.4	5.1	4.1	-6.1
Productivity (pounds per hour)	641.2	657.7	670.0	640.8	681.4	4.5	2.6	1.9	6.3
Unit labor costs (per 1,000 pounds).	$30.27	$31.00	$31.68	$28.25	$24.94	4.7	2.4	2.2	-11.7
Net sales:									
Quantity	596,820	607,461	613,730	458,176	498,037	2.8	1.8	1.0	8.7
Value	349,906	328,021	299,513	231,140	198,560	-14.4	-6.3	-8.7	-14.1
Unit value	$0.59	$0.54	$0.49	$0.50	$0.40	-16.8	-7.9	-9.6	-21.0
Cost of goods sold (COGS)	297,093	281,983	270,627	205,896	192,214	-8.9	-5.1	-4.0	-6.6
Gross profit or (loss)	52,813	46,038	28,886	25,244	6,346	-45.3	-12.8	-37.3	-74.9
SG&A expenses	24,892	24,304	34,771	24,707	22,046	39.7	-2.4	43.1	-10.8
Operating income or (loss)	27,921	21,734	(5,885)	537	(15,700)	(3)	-22.2	(3)	(3)
Capital expenditures	14,358	19,224	18,401	14,633	11,730	28.2	33.9	-4.3	-19.8
Unit COGS	$0.50	$0.46	$0.44	$0.45	$0.39	-11.4	-6.7	-5.0	-14.1
Unit SG&A expenses	$0.04	$0.04	$0.06	$0.05	$0.04	35.8	-4.1	41.6	-17.9
Unit operating income or (loss)	$0.05	$0.04	($0.01)	(4)	($0.03)	(3)	-23.5	(3)	(3)
COGS/sales (1)	84.9	86.0	90.4	89.1	96.8	5.4	1.1	4.4	7.7
Operating income or (loss)/ sales (1)	8.0	6.6	-2.0	0.2	-7.9	-9.9	-1.4	-8.6	-8.1

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Increase greater than 900 percent.
(3) Undefined.
(4) Operating income of less than $0.005 per pound.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2
Cup-grade EPS resins: Summary data concerning U.S. producers, 1996-98, January-September 1998, and January-September 1999

* * * * * * *

Table C-3
EPS resins (including cup-grade): Summary data concerning the U.S. market, 1996-98, January-September 1998, and January-September 1999

* * * * * * *

APPENDIX D

DATA ON IMPORTS OF EPS RESINS BASED ON RESPONSES TO COMMISSION QUESTIONNAIRES

Table D-1
EPS resins: U.S. imports, by sources, 1996-98, January-September 1998, and January-September 1999, as reported in responses to Commission questionnaires

Source	Calendar year			January-September	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
Indonesia	***	***	***	***	***
Korea	***	***	***	***	***
Subtotal	***	16,403	41,748	30,737	46,107
All others	***	***	30,633	***	***
Total	14,472	***	72,381	***	***
	Value (*$1,000*)				
Indonesia	***	***	***	***	***
Korea	***	***	***	***	***
Subtotal	***	6,697	16,436	12,353	15,649
All others	***	***	15,001	***	***
Total	8,860	***	31,437	***	***
	Unit value (*per pound*)				
Indonesia	***	***	***	***	***
Korea	***	***	***	***	***
Average	***	$0.41	$0.39	$0.40	$0.34
All others	***	***	0.49	***	***
Average	$0.61	***	0.43	***	***

[1] Not applicable.

Source: Compiled from information submitted in response to Commission questionnaires.

APPENDIX E

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of subject EPS resins from Korea and/or Indonesia on their growth, investment, ability to raise capital, and/or their development efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are as follows:

Actual Negative Effects

* * * * * * *

Anticipated Negative Effects

* * * * * * *