Certain Expandable Polystyrene Resins From Indonesia

Investigation No. 731-TA-861 (Final)

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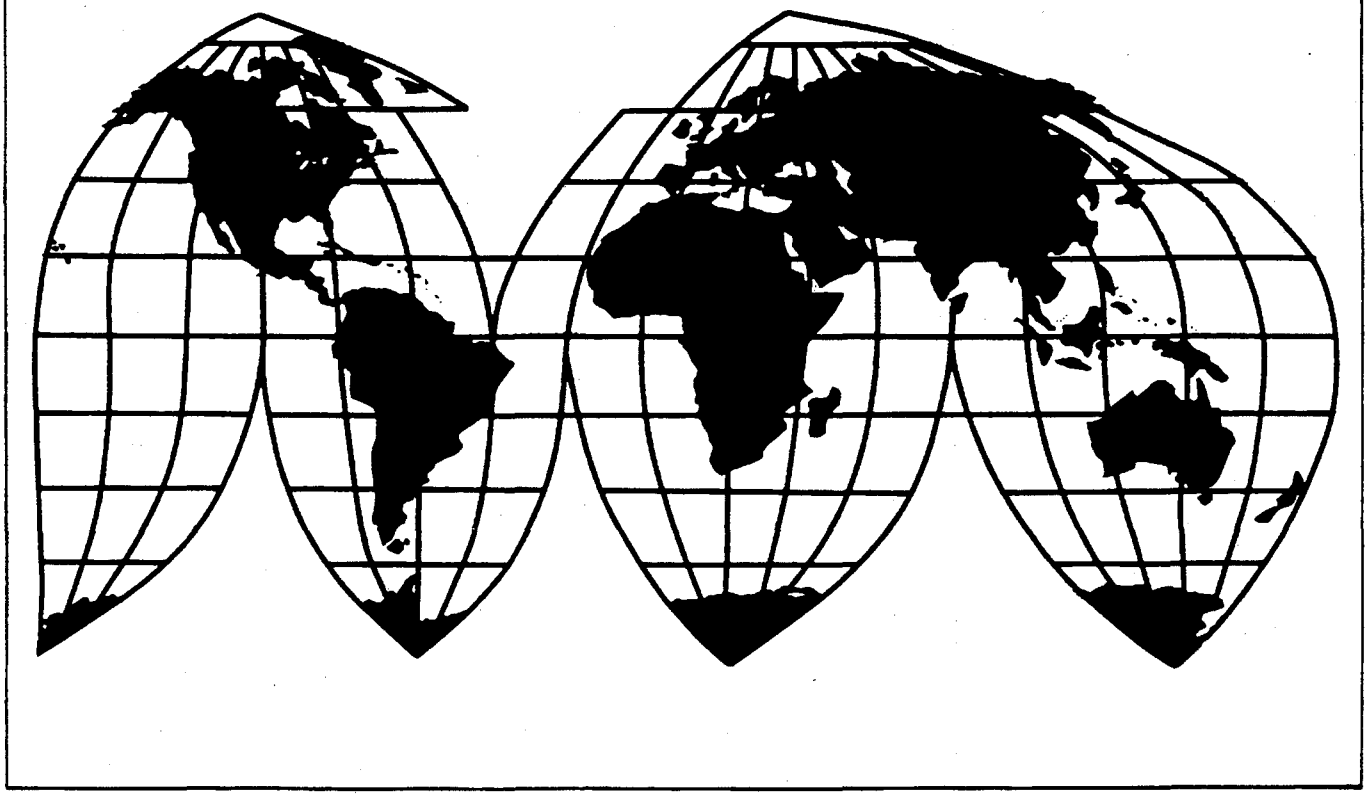
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigation No. 731-TA-861 (Final)

CERTAIN EXPANDABLE POLYSTYRENE RESINS FROM INDONESIA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury and the establishment of an industry in the United States is not materially retarded, by reason of imports from Indonesia of certain expandable polystyrene resins, provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective November 22, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by BASF Corp., Mount Olive, NJ; Huntsman Expandable Polymers Co. LC, Salt Lake City, UT; NOVA Chemicals, Inc., Moon Township, PA; and StyroChem U.S., Ltd., Radnor, PA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain expandable polystyrene resins from Indonesia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing 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 August 9, 2000 (65 FR 48731, August 9, 2000). The hearing was held in Washington, DC, on November 7, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of expandable polystyrene resins ("EPS resins") from Indonesia that have been found by the U.S. Department of Commerce ("Commerce") to be sold at less than fair value ("LTFV").[1]

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether 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."[2] 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."[3] 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."[4]

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 characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[7]

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[1] On November 22, 1999, a petition was filed regarding EPS resins from Korea and Indonesia. On November 16, 2000, Commerce published its final determination that certain EPS resins produced by the only two manufacturers/exporters in the Republic of Korea are not being, or are not likely to be, sold in the United States at less than fair value. Commerce found the weighted-average dumping margins for the Korean respondents, Shinho Petrochemical Co., Ltd. ("Shinho") and Cheil Industries Inc. ("Cheil"), to be *de minimis*. 65 Fed. Reg. 69284 (Nov. 16, 2000). Effective November 16, 2000, the Commission terminated the antidumping investigation of EPS resins from Korea due to Commerce's negative final determination. See 65 Fed. Reg. 76664 (Dec. 7, 2000), 19 U.S.C. § 1673d(c)(2).

[2] 19 U.S.C. § 1677(4)(A).

[3] Id.

[4] 19 U.S.C. § 1677(10).

[5] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct Int'l Trade 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 (Ct Int'l Trade 1996).

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

[7] 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

(continued...)

Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that has been found to be subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

B. Product Description

In its final determination regarding subject imports from Indonesia, Commerce defined the merchandise within the scope of this investigation as:

> 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 this investigation are off-grade, off-specification expandable polystyrene resins.[9]

EPS resins are polystyrene-based products made by polymerization of styrene monomer with the addition of expanding or blowing agents. Polystyrene beads resulting from the polymerization process are screened into various sizes for further processing by molders into various packaging and insulation products. The beads are either shape type (also known as shape or regular grade) or block type (also known as block or modified grade).[10]

C. Domestic Like Product Issues

In the preliminary phase of this investigation, the Commission found a single domestic like product coextensive with the scope, consisting of all block and shape grade EPS resins but not including "cup grade" EPS resins.[11] Petitioners[12] argue that the Commission should again find one domestic like product defined in the same manner as Commerce's scope. Although the Indonesian respondent[13] disputes whether block and shape grade EPS resins are interchangeable in all applications, it does not

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[7] (...continued)
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.").

[8] 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 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] 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. 65 Fed. Reg. 69284 (Nov. 16, 2000).

[10] Confidential Staff Report ("CR") at I-2-3, Public Report ("PR") at I-2.

[11] Certain Expandable Polystryrene Resins From Indonesia and Korea, Inv. Nos. 731-TA-861 & 862 (Preliminary), USITC Pub. 3266 (January 2000) ("Preliminary Determination") at 5.

[12] The petitioners are BASF Corporation; Huntsman Expandable Polymers Company LC; Nova Chemicals, Inc.; and StyroChem U.S., Ltd.

[13] PT Risjad Brasali Styrindo (hereinafter "Risjad").

disagree with the petitioners' suggested definition of the domestic like product and has not proposed any definition of the domestic like product that differs from the one supported by petitioners.[14]

Evidence in the record of this final phase investigation confirms that block and shape grade EPS resins share similar physical characteristics, although block grade contains flame retardants[15] and has larger beads.[16] In addition, both block and shape grade EPS resins are perceived similarly by customers and are generally used in similar applications (*i.e.*, both block and shape products are molded into end products for insulation, packaging, and refrigeration components).[17] Both grades are produced domestically in the same production facilities on the same equipment, and are sold in the same channels of distribution.[18] Finally, prices for both block and shape grade EPS resins are described as "roughly equivalent."[19]

In contrast, cup grade EPS resins are physically distinct from block and shape grade EPS resins. Cup grade EPS resins have smaller particle sizes, higher molecular weight, lower residual styrene monomer content, lower yield, and less expansion capability.[20] Neither block nor shape grade is interchangeable with cup grade.[21] Block and shape grade EPS resins are sold directly to end-users, while cup grade EPS resins are captively consumed.[22] Block and shape grade EPS resins are produced using production processes distinct from those used to produce cup grade EPS resins,[23] and cup grade EPS resins are valued at a price higher than either block or shape grade EPS resins.[24]

On the whole, the record evidence in this final phase investigation thus indicates many similarities between block and shape grade EPS resins. Although shape grade EPS resins are not interchangeable with flame retardant block grade products in construction applications, block grade EPS resins are generally interchangeable in most shape grade applications.[25] However, cup grade EPS resins have substantial differences with respect to end-uses, interchangeability, channels of distribution, perceptions by customers and producers, manufacturing processes, and price.[26] Accordingly, we find a single domestic like product consisting of block and shape grade EPS resins, not including cup grade EPS resins, coextensive with Commerce's definition of the scope of the investigation.

D. Domestic Industry

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

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[14] Respondent's Prehearing Brief at 4-9.

[15] Petitioners' Postconference Brief at 25; Petitioners' Prehearing Brief at 3; Transcript of Hearing of November 7, 2000, ("Hearing Tr.") at 206; CR at I-4-5, PR at I-3, I-5.

[16] CR at I-3-5, PR at I-2.

[17] Petitioners' Postconference Brief at 8; Petitioners' Prehearing Brief at 4; CR at I-5, PR at I-3.

[18] CR at I-6-8, PR at I-4-6.

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

[20] Petitioners' Prehearing Brief at 3; CR at I-4-7, PR at I-3-5.

[21] Petitioners' Postconference Brief at 28, 29; Petitioners' Prehearing Brief at 4; CR at I-5-7, PR at I-3-5.

[22] CR at I-8, PR at I-5-6.

[23] Petitioners' Prehearing Brief at 5; CR at I-6, PR at I-4-5.

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

[25] CR at I-5-7, PR at I-3-5.

[26] CR at I-6-8, PR at I-4-6.

[27] 19 U.S.C. § 1677(4)(A).

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 resins, we conclude that the domestic industry consists of all domestic producers of that merchandise.

II. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[29] 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.[30] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[31] In assessing whether 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.[32] 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."[33]

For the reasons discussed below, we determine that the domestic industry producing EPS resins is not materially injured, or threatened with material injury, by reason of subject imports of EPS resins from Indonesia.

A. Conditions of Competition

We find several conditions of competition relevant to our analysis of the subject imports from Indonesia.

First, demand for EPS resins depends on the demand for its downstream applications.[34] The primary end-users of EPS resins employ it in the manufacture of molded shapes for packaging and molded blocks used in the construction industry.[35] Generally, demand for EPS resins has grown significantly during the period of investigation. Apparent U.S. consumption of EPS resins increased by

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

[29] 19 U.S.C. § 1673d(b).

[30] 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).

[31] 19 U.S.C. § 1677(7)(A).

[32] 19 U.S.C. § 1677(7)(C)(iii).

[33] 19 U.S.C. § 1677(7)(C)(iii).

[34] CR at II-5, PR at II-4.

[35] CR at II-5, PR at II-4.

6.6 percent from 1997 to 1998, and by 12.6 percent from 1998 to 1999.[36] Apparent consumption increased by 5.8 percent from interim 1999 to interim 2000.[37]

Second, EPS resins are characterized as being either "high-pentane" or "low-pentane," depending on whether the product's pentane content is above or below 5.5 percent.[38] Low-pentane products were developed in response to environmental concerns about pentane emissions, and certain applications require low-pentane EPS resins to meet environmental standards (although high- and low-pentane may be mixed to reduce pentane levels in the combined product).[39] Since U.S. environmental restrictions on pentane emissions are expected to become more stringent in the future, the U.S. market for low-pentane EPS resins can be expected to grow.[40]

Third, the record indicates there is, at best, only a moderate degree of substitutability between domestically-produced EPS resins and the subject imports.[41] The substitutability of the subject and domestic merchandise is limited by certain characteristics of the Indonesian product. Subject merchandise from Indonesia is limited to non-flame retardant, shape grade EPS resins, and it cannot be used in construction applications that require block grade EPS resins containing flame retardants.[42] Moreover, while domestically-produced EPS resins may be either high- or low-pentane,[43] all EPS resins from Indonesia are high-pentane, with a pentane content of at least 6.5 percent.[44] Finally, substitutability between domestic EPS resins and subject imports is also limited somewhat by other factors such as

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[36] CR at II-5, PR at II-4. Apparent U.S. consumption, by quantity, increased from 621.2 million pounds in 1997 to 662.4 million pounds in 1998 and 745.7 million pounds in 1999, and was 366.1 million pounds in interim 1999 compared to 387.2 million pounds in interim 2000. Table IV-3, CR and PR at IV-4.

[37] Table IV-3, CR and PR at IV-4.

[38] Petitioners' Prehearing Brief at 10; Hearing Tr. at 79-80; CR at IV-2, PR at IV-1.

[39] Some molders are subject to permits restricting the quantity of pentane that can be released into the atmosphere. Molders reportedly can comply with these permits in a variety of ways. They can install emission abatement equipment that captures and destroys the pentane rather than permitting it to be emitted directly into the environment, or they can purchase and mix EPS resins of different pentane levels to control pentane emissions. Respondent's Posthearing Brief at 7; Hearing Tr. at 17-18, 80.

[40] Respondent's Posthearing Brief at 7.

[41] CR at II-7, PR at II-4. Evidence in the record of this investigation indicates that, unlike subject imports, the majority of nonsubject imports are more substitutable for the domestic like product than the subject imports. In this regard, domestic producers have affiliates or subsidiaries in Canada and Mexico, in particular, that produce a range of products that are very similar to domestically-produced products. CR at II-7, PR at II-4-5.

[42] CR at II-11, PR at II-8.

[43] Petitioners argue that most EPS resins used in the United States are high-pentane and "over 70 percent of the EPS resins consumed in the United States are high-pentane (5.5% or higher)." Petitioners' Prehearing Brief at 9-10.

[44] Respondent's Posthearing Brief at 7.

degradation by trans-Pacific shipment,[45] qualification for use by U.S. molders,[46] certification to meet U.S. building codes,[47] and shelf life.[48]

Fourth, the most important factors affecting purchasing decisions for EPS resins are quality, price, and traditional supplier relationships.[49] Although purchasers report that price is an important factor in their purchase decisions, most purchasers report that quality is a more important factor in their decisions.[50] Nonetheless, all parties agree that price information in the U.S. EPS resins market is transmitted quickly because a majority of domestic EPS resins sales are negotiated individually on the spot market.[51] Molders are particularly sensitive to price changes in the market for either block or shape grade[52] because EPS resins account for a significant share of the cost of their products.[53]

Fifth, the prices of both the subject imports and the domestic like product are affected by the cost of raw materials, including styrene monomer, which is a principal input in the production of EPS resins. The record indicates that unit styrene monomer raw material prices and the unit selling prices of EPS resins both declined until interim 2000, when both rose sharply.[54]

Sixth, the domestic market is supplied by multiple sources, both foreign and domestic. These sources include at least four domestic producers of the domestic like product, subject imports from Indonesia, and nonsubject imports from Korea, Canada, Mexico, and Colombia.[55] In fact, nonsubject imports have maintained a much larger share of the U.S. market than subject imports during the period of

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[45] Respondent asserts that time in transit results in a degradation of the resins' pentane levels, diminishing the quality of the product. Indonesian Respondent's Prehearing Brief at 1-2, 5, 8; Posthearing Brief at 8; CR at II-2-3, II-7, n.22, II-11, PR at II-2, II-5, n.22, II-8.

[46] To date, only one U.S. molder, Tuscarora, has qualified subject EPS resins, and the qualification process was lengthy. CR at II-4, PR at II-3.

[47] Unlike most domestically-produced EPS resins, Indonesian EPS resins are not certified to meet relatively common U.S. building codes. CR at II-11, PR at II-8.

[48] The parties disagree as to whether all EPS resins enjoy the same shelf life. Petitioners allege that the shelf life of EPS resins of different grades or pentane levels does not limit its fungibility, since all EPS resins have a shelf life of approximately 12 months. CR at II-3, PR at II-2; Hearing Tr. at 41-42. Respondent argues that, unlike domestically-produced EPS resins that enjoy a longer shelf life due to better packaging, EPS resins from Indonesia enjoy a shelf life of only four to six months. CR at II-3, PR at II-2; Hearing Tr. at 212-213; Indonesian Respondent's Posthearing Brief at 8. *** Respondent's Posthearing Brief at 8 and Exhibit 3.

[49] Unlike domestically-produced EPS resins, Indonesian EPS resins are imported by *** for sale primarily to only one U.S. shape molder, Tuscarora. CR and PR at II-1; Table II-1, CR at II-8, PR at II-5.

[50] In this regard, seven of thirteen purchasers responding reported that quality was the most important factor in the purchase decision, while only two reported that price was the most important factor. Three purchasers also reported that their traditional supplier relationships were more important than price in the purchase decision. Table II-1, CR at II-8, PR at II-5.

[51] Petitioners' Prehearing Brief at 16-17; Posthearing Brief, Response to Question by Commissioner Bragg at Q-12. However, 100 percent of sales by *** of the Indonesian product, ***, are made on a contract basis. The contracts are short-term, ranging from one to three months, and are reportedly continuously renegotiated based on market conditions. CR and PR at V-3.

[52] Petitioners' Posthearing Brief, Response to Question by Commissioner Bragg at Q-2; Hearing Tr. at 24, 206.

[53] CR at II-7, PR at II-4. Petitioners' Prehearing Brief at 15 and Posthearing Brief at 2; Hearing Tr. at 114. Petitioners assert that EPS resins account for approximately 50 percent of the finished cost of block products and 30 percent of the cost of shape products. Petitioners' Prehearing Brief at 15.

[54] CR and PR at VI-3.

[55] Imports from these four nonsubject countries accounted for 62.6 percent of U.S. imports in 1999. CR and PR at IV-1, n.2.

investigation.[56] Nonsubject imports' U.S. market share increased steadily from 14.0 percent in 1997 to 20.4 percent in 1999.[57]

B. Volume of Subject Imports

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."[58]

The volume of the subject imports from Indonesia was very small throughout the period of investigation, whether viewed in absolute or relative terms. In a market in which apparent consumption ranged between 621 million and 746 million pounds during the period of investigation, the quantity of subject imports was 1.0 million pounds in 1997, 11.9 million pounds in 1998, 9.9 million pounds in 1999, 2.9 million pounds in interim (January to June) 1999, and 5.1 million pounds in interim 2000.[59] Although the volume of subject imports in interim 2000 was higher than in interim 1999, the volume of subject imports in interim 2000, if annualized, would still be lower than the total volume in 1998. Similarly, subject imports held an extremely small share of the U.S. market over the period of investigation, never rising above 1.8 percent.[60] Specifically, the subject imports' share of the U.S. market rose from 0.2 percent in 1997 to 1.8 percent in 1998, falling thereafter to 1.3 percent in 1999. Subject imports' market share was 1.3 percent in interim 2000, compared to 0.8 percent in interim 1999.[61]

On the whole, we find that the subject import volume is not significant, both in absolute terms and relative to consumption in the United States.

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

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[56] Table IV-3, CR and PR at IV-4.

[57] Table IV-3, CR and PR at IV-4.

[58] 19 U.S.C. § 1677(7)(C)(i).

[59] Table IV-1, CR and PR at IV-2. Petitioners in their Prehearing Brief at 21-22 requested that the Commission recognize and give proper weight to the fact that a reduction in subject imports occurred after the petition was filed on November 22, 1999. We recognize that, based on the official statistics provided by petitioners in Exh. 26 of their prehearing brief, imports appear to have declined in the month of December 1999. However, we also note that, based on official import statistics, subject imports totaled 5.1 million pounds during January-June 2000 (also after the petition was filed), compared to 2.9 million pounds during the same period in 1999. See Table IV-1, CR and PR at IV-2.

[60] Table IV-3, CR and PR at IV-4.

[61] Table IV-3, CR and PR at IV-4.

(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.[62]

We find that the subject imports from Indonesia have not had a significant adverse effect on domestic prices during the period of investigation. We first note that there is a limited degree of substitutability between the imports from Indonesia and the domestic merchandise. The subject imports consist of only a narrow range of product (high-pentane shape grade EPS resins), *** percent of which was imported by *** for sale to only one U.S. purchaser. Moreover, the Indonesian product was qualified for use in *** of the purchaser's 20 plants nationwide.[63] The substitutability of the Indonesian and domestic product is further limited by the fact that the subject imports do not contain flame retardants and cannot be used in block grade applications for construction purposes, contain high-pentane levels subject to environmental restrictions in some regions of the United States, cannot be used alone in low-pentane applications, do not meet relatively common U.S. building codes, and, according to respondents, have a shorter shelf life of only four to six months, as compared to the domestic product.[64] Moreover, as noted previously, most purchasers report that quality is a more important factor in their purchase decisions than price. In this context, we find that the limited level of substitutability between the Indonesian and domestic products has reduced the impact of imports from Indonesia on domestic prices.

Second, the record contains little evidence of actual adverse effects on domestic prices by the subject imports from Indonesia. In this investigation, the Commission obtained pricing data for four domestically-produced EPS resin products in order to assess whether the subject imports from Indonesia had adversely affected domestic prices. The Indonesian products were found to be competing with the domestic merchandise with respect to only one of the four comparison products.[65] This limited competition between the imports from Indonesia and the domestic merchandise for three of the four comparison products suggests there is little price competition between the Indonesian and domestic merchandise in the U.S. market. The price comparison data also indicate that price trends for the four products were nearly identical during the period of investigation, with prices for the four products declining from 1997 to 1999 and then increasing in interim 2000.[66] The similarity of the price trends for the four products -- whether or not the Indonesian merchandise was competing with the domestic merchandise -- suggests that the imports from Indonesia are not causing significant price movements in this market.

As noted previously, price movements for EPS resins are more closely linked to trends in the price of styrene monomer, the major raw material input in EPS resins. The decline in the average unit value of domestic EPS resins sales paralleled the decline in the producers' cost of goods sold;[67] as raw material costs rose in interim 2000, so did the EPS resins selling price. We do recognize that, while monomer prices therefore appear to have affected the price for EPS resins, the spread between monomer

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[62] 19 U.S.C. § 1677(7)(C)(ii).

[63] CR at II-4, PR at II-3.

[64] CR at II-3, PR at II-2-3.

[65] Subject imports generally undersold the domestic product in 1997 through 1999, except for the most recent periods. Subject imports *** the domestic product in the first quarter of 2000, and were at the same price level in the second quarter of 2000. Figure V-4, CR at V-12-13, PR at V-5.

[66] Tables V-1-4, CR at V-7-10, PR at V-5.

[67] Table VI-1, CR at VI-2-6, PR at VI-2.

costs and EPS resins prices did narrow over the period examined.[68] We note, however, that the EPS resins-styrene margin or spread was near its highest level in 1998, when the volume of subject imports from Indonesia peaked.[69] Likewise, as the margin narrowed, subject imports declined, indicating a lack of correlation between the subject imports from Indonesia and the narrowing of the EPS resins-styrene margin.

Finally, we note that, due to their small volume, the subject imports from Indonesia have not had a significant impact on domestic prices, particularly given the larger volumes of more substitutable non-subject imports currently in the market.

While the Indonesian product sold to Tuscarora undersold the domestic product, we find that such underselling did not have significant price effects, particularly given the small volume of subject merchandise, both absolutely and relative to U.S. consumption,[70] and the limited competition between subject imports and the domestic product. We therefore conclude that subject imports have not had a significant price suppressing or depressing effect on domestic prices of EPS resins during the period of investigation.

D. Impact of the Subject Imports

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.[71] 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."[72] [73] [74]

As we have previously discussed, the record indicates that the volume of the subject imports was not significant and that the subject imports have not had a significant negative impact on domestic prices

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[68] CR and PR at V-1; CR and PR at VI-3; Table VI-1, CR at VI-2, PR at VI-2-3; Table VI-2, CR at VI-4-7, PR at VI-3.

[69] Table VI-1, CR at VI-2, PR at VI-2-3; Table VI-2, CR at VI-4-7, PR at VI-3.

[70] In addition, petitioners allege no lost sales or revenues as a result of subject imports from Indonesia. CR at V-14, PR at V-6.

[71] 19 U.S.C. § 1677(7)(C)(iii). See also Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA"), H.R. Rep. 316, 103d Cong., 2d Sess., vol. I, at 851and 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.").

[72] 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.

[73] 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); 1677(35)(C)(ii). In its final determination, Commerce identified dumping margins for Indonesia ranging from 95.79 to 96.65 percent. 65 Fed. Reg. 69284 (Nov. 16, 2000).

[74] Commissioner 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 the 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); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11, n.63.

during the period of investigation. Accordingly, we find that the small volume of the subject imports from Indonesia has not had a significant adverse impact on the industry during the period.

In making this finding, we note that the domestic industry has experienced declines in several significant indicators over the period of investigation. In particular, the U.S. industry experienced declining capacity utilization, depressed prices, and deteriorating operating performance during the period of investigation.[75] The domestic industry's operating income declined from a profit of $23.7 million in 1997 to losses of $8.9 million in 1998, $21.4 million in 1999, $9.4 million in interim 1999, and $8.7 million in interim 2000.[76] Other indicators of the domestic industry's performance including employment,[77] capital expenditures,[78] inventories,[79] and wages,[80] also declined during the period examined.[81] Nonetheless, the industry's condition improved in several other respects. The industry experienced increases in production, capacity, productivity, and shipments during the period of investigation.[82]

The record also indicates that, although the domestic industry's market share declined by 7.5 percentage points from 1997 to 1999,[83] the industry's market share declines cannot be attributed in significant respect to the subject imports, whose market share never exceeded 1.8 percent, (and declined to 1.3 percent in 1999).[84] Nonsubject imports' market share, on the other hand, rose steadily, from 14.0 percent in 1997 to 20.4 percent in 1999.[85] Indeed, the share of apparent U.S. consumption held by nonsubject imports was significantly higher than that of subject imports, which in 1998, at its highest level, was only 1.8 percent.[86]

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[75] Table VI-1, CR and PR at VI-2; Table VI-2, CR at VI-7, PR at VI-3; Table C-1, CR and PR at C-3-4.

[76] Table VI-1, CR and PR at VI-2.

[77] Employment of production workers decreased from 428 in 1997 to 376 in 1999, but was higher in interim 2000, at 378, than in interim 1999, at 376 workers. Table III-1, CR at III-3, PR at III-2, Table C-1, CR and PR at C-4.

[78] Capital expenditures declined from $21.3 million in 1997 to $14.2 million in 1998, then increased to $19.7 million in 1999. Such expenditures were higher in interim 1999 at $7.3 million than in interim 2000, when they fell to $6.9 million. Table VI-4, CR at VI-9, PR at VI-5; Table C-1, CR and PR at C-4.

[79] U.S. producers' inventories decreased from 11.1 percent of shipments in 1997 to 6.8 percent in 1999, though they were higher in the first half of 2000 at 7.2 percent, than in the first half of 1999 at 4.5 percent. Table III-1, CR at III-3, PR at III-2; Table C-1, CR and PR at C-4.

[80] Wages paid to workers in the industry were $21.9 million in 1997, $21.8 million in 1998, $19.9 million in 1999, $9.9 million in interim 1999, and $11.0 million in interim 2000. Table III-1, CR at III-3, PR at III-2; Table C-1, CR and PR at C-4.

[81] Table III-1, CR at III-3, PR at III-2; Table C-1, CR and PR at C-4.

[82] Table III-1, CR at III-3, PR at III-2; Table C-1, CR and PR at C-3-4.

[83] Table IV-3, CR and PR at IV-4. U.S. producers' market share was 80.3 percent in interim 1999, and 82.3 percent in interim 2000.

[84] Table IV-3, CR and PR at IV-4.

[85] Table IV-3, CR and PR at IV-4.

[86] Specifically, nonsubject imports' share of the volume of apparent U.S. consumption increased from 14.0 percent in 1997 to 16.3 percent in 1998 and 20.4 percent in 1999, while subject imports' share was only 0.2 percent in 1997, rising to only 1.8 percent in 1998, and dropping to 1.3 percent in 1999. Table IV-3, CR and PR at IV-4.

Although the industry reached its lowest profitability in 1999,[87] the volume of subject imports reached its highest level in 1998, and declined thereafter.[88] Also, although the U.S. industry continued to experience ***,[89] subject imports *** the domestic product during that period.[90]

In sum, the record indicates that the volume and market share of the subject imports have not had a significant depressing or suppressing effect on overall prices for EPS resins in the domestic market and were not responsible to any significant degree for the domestic industry's declining financial performance. Accordingly, for all of the foregoing reasons, we find that the domestic industry is not experiencing material injury by reason of the subject imports.

III. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. Statutory Factors[91]

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[92] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[93] In making our determination, we have considered all factors that are relevant to this investigation.

B. Analysis

Based on an evaluation of the relevant statutory factors, we find that an industry in the United States is not threatened with material injury by reason of imports of EPS resins from Indonesia that are sold in the United States at less than fair value.

First, we note that there is only a limited amount of production capacity in Indonesia that is likely to be available to produce EPS resins for shipment to the United States. EPS resins production by the Indonesian respondent, Risjad, accounted for *** of all Indonesian EPS resins exported to the United States, and accounted for *** of all Indonesian production of EPS resins during the period of investigation.[94] The production capacity of this producer was *** in each year from 1997 through 1999,

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[87] Table VI-1, CR and PR at VI-2.

[88] Table IV-1, CR and PR at IV-2.

[89] Table VI-1, CR and PR at VI-2.

[90] CR at V-13, PR at V-5.

[91] 19 U.S.C. § 1677(7)(F)(i). Factor I regarding countervailable subsidies is inapplicable to this antidumping investigation, as is Factor VII regarding raw and processed agriculture products since this investigation does not involve a processed agricultural product.

[92] 19 U.S.C. §§ 1673d(b) and 1677(7)(F)(ii).

[93] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[94] CR and PR at VII-1. There is no evidence that any other EPS resins producer in Indonesia is imminently likely to sell significant quantities in the U.S. market. It took Tuscarora one year to qualify Risjad, and Tuscarora is still

(continued...)

and its capacity is projected to ***.[95] Accordingly, Risjad's entire EPS resins production capacity is equivalent to only *** percent of apparent U.S. consumption.[96] Moreover, the sole Indonesian exporter to the United States has little available excess capacity and is projected to operate at reasonably high capacity utilization rates.[97] In fact, if the Indonesian producer were to use all of its unused capacity in 1999 to ship merchandise to the United States, the amount shipped would be equivalent to less than *** percent of domestic consumption in 1999. Accordingly, we find that the Indonesian producer's limited capacity and projected high capacity utilization rates do not indicate a likelihood of substantially increased imports in the imminent future.

The volume trends of the subject imports also do not indicate a likelihood of substantially increased subject imports from Indonesia in the imminent future. Even at their highest levels during the period of investigation, subject imports from Indonesia accounted for only 1.8 percent of apparent U.S. consumption.[98] Moreover, between 1998 and 1999 in particular, subject imports from Indonesia decreased both in absolute terms and as a share of apparent U.S. consumption.[99] Although subject imports from Indonesia were slightly higher in absolute terms and as a share of apparent U.S. consumption in interim 2000 than in interim 1999,[100] the increased volume of subject imports from Indonesia in interim 2000 coincided with a period of increasing U.S. demand.[101] Unlike exports to the United States, home market shipments of Indonesian EPS resins were *** higher in interim 2000 than in interim 1999.[102]

The record also does not indicate a likelihood that the subject imports from Indonesia will enter the U.S. market at prices that will have a significant depressing or suppressing effect on prices for the domestic like product or increase demand for further imports. As discussed above, current levels of subject imports have not had significant effects on domestic prices and there is nothing in the record of this investigation indicating that this will change in the imminent future.

Further, there does not appear to be a significant correlation between the level of Indonesian end-of-period inventories and the volume (by quantity) of Indonesian EPS resins exported to the United States.[103] The *** U.S. importer of Indonesian product reported *** inventories during the period of

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[94] (...continued)
limited in its use of the Indonesian product. Hearing Tr. at 138; CR at II-4, PR at II-3.

[95] Table VII-1, CR at VII-2, PR at VII-1.

[96] Table VII-1, CR at VII-3, PR at VII-1.

[97] Capacity utilization was *** percent in 1997, *** percent in 1998, *** percent in 1999, *** percent in interim 1999, and *** percent in interim 2000. It is projected to increase to *** percent in 2000, and to *** percent in 2001. Table VII-1, CR at VII-3, PR at VII-1.

[98] Table IV-3, CR and PR at IV-4.

[99] Table IV-1, CR and PR at IV-2; Table IV-3, CR and PR at IV-4.

[100] Table IV-1, CR and PR at IV-2; Table IV-3, CR and PR at IV-4.

[101] Table IV-3, CR and PR at IV-4.

[102] Table VII-1, CR at VII-2-3, PR at VII-1.

[103] Table VII-1, CR at VII-2-3, PR at VII-1. In other words, when Indonesian inventories were low, so were Indonesian EPS resins exports to the United States, indicating respondent was not drawing from inventories to increase its exports to the United States.

investigation,[104] and no U.S. firm reported imports or arrangements for imports from Indonesia after June 30, 2000.[105]

The small volume of subject EPS resins from Indonesia has not had negative effects on the existing development and production efforts of the domestic industry, and is unlikely to have such effects in the future.[106] Moreover, there is no evidence that Indonesian producers can shift production from other products to EPS resins. In addition, there is no evidence that EPS resins exported from Indonesia are subject to import relief measures or investigations in any other country.[107] Finally, there are no other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports of the subject merchandise.

Consequently, based on an evaluation of all of the relevant statutory factors, we do not find the domestic industry is threatened with material injury by reason of subject imports from Indonesia.

CONCLUSION

For the reasons stated above, we determine that the domestic industry producing EPS resins is not materially injured, or threatened with material injury, by reason of subject imports from Indonesia.

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[104] CR at VII-3, PR at VII-1.

[105] CR at VII-4, PR at VII-1.

[106] While U.S. producers indicated that they have had to ***, U.S. production capacity increased throughout the period of investigation. Appendix F, CR and PR at F-3; Table III-1, CR at III-3, PR at III-2. Capital expenditures fluctuated, but were nearly as high in 1999 as in 1997, before decreasing in the first half of 2000. Table VI-4, CR at VI-9, PR at VI-5. Such expenditures totaled $21.3 million in 1997, $14.2 million in 1998, $19.7 million in 1999, $7.3 million in interim 1999, and $6.9 million in interim 2000. Table VI-4, CR at VI-9, PR at VI-5. The domestic industry's limited research and development expenditures were higher in 1999 than in 1997 or 1998, but lower in the first half of 1999, than in the same period in 2000. Table VI-4, CR at VI-9, PR at VI-5.

[107] CR at VII-4, PR at VII-2.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition 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). On November 16, 2000, Commerce made a negative determination concerning the imports from Korea, thereby terminating the investigation on EPS resins from Korea.[2] Information relating to the background of the investigations is provided below.[3]

Date	*Action*
November 22, 1999 ...	Petition filed with Commerce and the Commission; institution of Commission investigations
December 20, 1999 ...	Commerce's notice of initiation
January 6, 2000	Commission's preliminary determinations
June 23, 2000	Commerce's preliminary determinations; scheduling of final phase of the Commission's investigations (65 FR 48731, August 9, 2000)
November 7, 2000	Date of the Commission's hearing[4]
November 16, 2000 ...	Commerce's final determinations (65 FR 69284, November 16, 2000)[5]
December 12, 2000 ...	Date of the Commission's vote
December 20, 2000 ...	Commission's determination on Indonesia transmitted to Commerce

[1] For purposes of these investigations, the Department of Commerce (Commerce) defined subject EPS resins as "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 are off-grade, off-specification expandable polystyrene 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* 65 FR 69284.

[3] *Federal Register* notices cited in the tabulation as well as the final determination are presented in app. A.

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

[5] Commerce calculated final LTFV margins on Indonesia to be as follows: 96.65 percent for PT Risjad Brasali Styrindo (PT Risjad) and 95.79 percent for all others. The margins were based on "adverse facts available" (the highest margins alleged in the petition) because the Indonesian producer notified Commerce that it would not respond to its questionnaire.

SUMMARY DATA

A summary of data collected in this investigation is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of four firms that accounted for 100 percent of U.S. production of subject EPS resins during 1999.

THE PRODUCT

The imported product subject to this investigation 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. Specifically excluded from this definition are off-grade, off-specification EPS resins.

This section of the report presents information on domestically-produced EPS resins, as well as information related to the Commission's "domestic like product" determination.[6] In the preliminary phase of the investigation, the Commission determined that there was a single domestic like product consisting of both "block-grade" and "shape-grade" EPS resins.[7] The Commission did not include "cup-grade" EPS resins in the domestic like product. Petitioners had argued that cup-grade EPS resins should not be included in the definition of the domestic like product, and respondents did not contest the petitioners' suggested definition.

Subject EPS resin beads are produced in either block or shape grades and are generally manufactured by a one-step suspension polymerization process.[8] [9] Block-grade beads are larger on average than shape-grade beads, but the differences are virtually indistinguishable to the naked eye.[10]

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[6] 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.

[7] *Certain Expandable Polystyrene Resins from Indonesia and Korea*, Investigations Nos. 731-TA-861 and 862 (Preliminary), USITC Pub. 3266, January 2000, pp. 5-6.

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

[9] The one-step process employs "mixed pentanes" instead of the "normal pentane" employed in the nonsubject two-step cup process. The mixed pentanes (normal pentane, isopentane, and cyclopentane) add more flexibility (plasticization) to subject EPS block and shape forms, compared to the more rigid cup-grade process which employs normal pentane only.

The "two-step" subject EPS manufacturing process is as follows: In the first stage batch reactor, styrene monomer is polymerized by the suspension process under controlled conditions of temperature, pressure, and agitation speed. The crystalline polystyrene beads are dried and sent to a silo. Crystalline polystyrene beads are screened, and the 0.4 mm to 3.0 mm fraction is fed to a second stage reactor. In the second stage reactor, the crystalline polystyrene particles are suspended and treated with a mixed pentane blowing agent, and flame retardant in the case of block-grade resin. The product exiting the second stage reactor is packaged and shipped to subject EPS manufacturers. Off-size crystalline polystyrene remaining in the silo(s) is typically sold to downstream end users of conventional polystyrene resins.

[10] Producers of EPS resins commonly classify bead size 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 resins

(continued...)

Differences in the two products show up in composition and end-use characteristics; however, according to petitioners the products are frequently used interchangeably.[11] 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. The bead size of block-grade EPS resins is generally different from that of shape-grade EPS resins.[12]

Cup-grade EPS resins differ from block- and shape-grade EPS resins in the following respects. For 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 resin.[13] Finally, cup-grade EPS resins have a greater tendency than block- and shape-grade EPS resins to be captively consumed, since subject EPS resins are generally sold to downstream molders.[14]

Physical Characteristics and Uses

Block- and shape-grade EPS resins are manufactured by similar processes and have similar physical and chemical properties, including particle size, molecular weight distribution, and blowing agent content range. Cup-grade EPS resins have a smaller particle size,[15] a lower residual monomer content, and different end uses from those of block- and shape-grade EPS resins. Moreover, in the United States, block- and shape-grade EPS resins cannot be substituted for cup-grade resins, because their larger particle size, inadequate strength, high flex properties, and high residual monomer content 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 those of shape-grade EPS resins, trending towards "A" grade resins on average. Both block- and shape-grade EPS resins are molded into end products for insulation board and refrigeration and packaging components.[16] Primary end uses for

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[10] (...continued)
are referred to as "T" grade in the industry. Petitioners' postconference brief, p. 27.

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

[12] Hearing transcript, p. 206.

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

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

[15] 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. 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.

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

block- and shape-grade EPS resins, as supplied to the petitioners by the IPS Molders Association, Crofton, MD, are shown in the following tabulation, in descending order of importance.[17]

EPS resin grade	Primary end uses
Block	1) Insulation board for roofs 2) Walls and foundations of commercial residential buildings 3) Residential sheathing 4) Tapered roof insulation 5) Insulation board and fabricated shapes for exterior insulation systems 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 the late stage of the polymerization.[18] 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 process under license from European producers.[19] In the process itself, styrene monomer is dispersed in water and held in suspension by protective colloids during the polymerization, which occurs under carefully controlled conditions of time, temperature, and pressure in jacketed reactors fitted with agitators.[20] 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 the prescribed particle sizes of 0.4 mm to 3.0 mm. Following washing, drying, and screening, the resin is packaged for shipping to downstream molding operations.

Cup-grade EPS resins 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

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

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

[19] Conference transcript, p. 26. However, Indonesian producers are reportedly only capable of producing EPS resins with high pentane levels, whereas U.S. and Korean producers also produce EPS resins with low pentane levels. Conference transcript, p. 87.

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

lower residual styrene monomer content of less than 100 parts per million.[21] According to some producers, however, the first step in the production of cup-grade EPS resins may be carried out on the same equipment used to produce block- and shape-grade EPS resins; for example, ***.[22] Furthermore, some block- and shape-grade EPS resins are produced using the two-step method.[23]

Interchangeability

Parties agree that block- and shape-grade EPS resins are technically interchangeable, but a major user of shape-grade EPS resins stated that in practice they are not interchanged.[24] 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- or 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.[25]

Customer and Producer Perceptions

Petitioners maintain that molders who purchase block- and shape-grade EPS resins generally perceive them as substitutes for one another. They also maintain that 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.[26] Molders at the Commission's hearing indicated that in practice block- and shape-grade EPS resins are different enough so as not to be used interchangeably.[27] Molders of products made from block- and shape-grade EPS resins perceive more expensive cup-grade EPS resins as completely different products and would not buy such resins for their applications.[28] 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 production process inasmuch as they must decide at that stage to employ a very specific emulsion polymerization process.

Channels of Distribution

Domestically-produced block- and shape-grade EPS resins are sold through only one channel of distribution–directly to end users.[29] On the other hand, according to petitioners, cup-grade EPS resins are typically captively consumed.[30] Respondents do not sell cup-grade EPS resins in the U.S. market because

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

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

[23] Id.

[24] John P. O'Leary, hearing transcript, p. 208.

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

[26] Id., p. 30.

[27] Hearing transcript, pp. 206-209.

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

[29] 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 resin market. Conference transcript, pp. 42-43.

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

the styrene monomer levels of the product they produce exceeds the 100 parts per million upper limit established by the EPA for cup grade.[31]

Price

Prices of block- and shape-grade EPS resins are roughly equivalent, as shown by the price data obtained in these investigations (see Part V of this report). Cup-grade EPS resins are reportedly sold at a premium compared to block- and shape-grade EPS resins because their lower yield and longer associated processing time increases production costs.[32] 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.[33]

[31] Conference transcript, p. 95.

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

[33] Korean respondents' postconference brief, pp. 16-21, and field notes of September 7, 2000.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

U.S. producers sell EPS resins almost exclusively to polystyrene molders, who provide block and shape forms of expanded polystyrene for downstream applications such as packaging and insulation. ***.[1] 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. Tuscarora has made an effort to cultivate an ongoing relationship and qualify the Indonesian supplier[2] in order to increase its supplier base and avoid market shortages that have occurred due to producer shortfalls, particularly by BASF in 1998.[3]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. producers of 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. U.S. production in 1999 as a share of the domestic producers' average production capability was 90.8 percent, compared to 97.7 percent in 1997. However, capacity utilization in the interim period January-June 2000 increased to 98.3 percent compared to 90.0 percent in the same period of 1999. The decrease in capacity utilization rates from 1997 to 1999 occurred as annual average production capacity expanded by 13.4 percent between 1997 and 1999. Domestic producers of EPS resins have shown themselves to be capable of increasing capacity, which would indicate some ability to respond to long-run changes in demand.[4]

Alternative markets

The domestic industry has several alternative markets for its product. According to data obtained in response to Commission questionnaires, domestic producers exported $23.5 million in EPS resins in

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[1] Tuscarora is the largest consumer of EPS resins in the United States, hearing transcript, p. 111.

[2] For a discussion of the qualification process, see hearing transcript, pp. 138-139.

[3] Hearing transcript, p. 154.

[4] ***.

1999. Exports as a share of total shipments declined slightly from 11.2 percent in 1997 to 10.1 percent in 1998 and declined further to 9.2 percent in 1999.[5]

Inventory levels

Domestic producers' inventories of EPS resins, as a ratio to total shipments, decreased from 11.1 percent in 1997 to 6.8 percent in 1999. However, in the interim period January-June 2000 compared to the same period in 1999, the ratio of inventories to total shipments increased from 4.5 to 7.2 percent. End-of-period inventories were 66.6 million pounds in 1997, 50.0 million pounds in 1998, and 43.6 million pounds in 1999. Substantial inventories are costly to maintain, as venting of the pentane gives EPS resins a relatively short shelf life.[6] According to petitioners, the time frame over which the leaching of pentane becomes significant is approximately 12 months.[7] The Indonesian respondent contends that due to better packaging, domestic EPS resins have a longer shelf life than the Indonesian EPS resins, for which the shelf life is 4 to 6 months.[8] *** that they do not mark excess inventory as off-spec and sell it at a discount. However, *** commented to staff *** that if a product sits in inventory too long, the company has to mark it as off-spec material and sell it as such.[9] Two of 14 purchasers reported purchasing prime EPS resins that have been marked as off-spec and sold at discounted prices. 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 also make cup-grade EPS resins, 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-grade EPS resins.[10]

Subject Imports

The response of Indonesian suppliers to changes in overall market demand appears likely to be small. Most molders' unfamiliarity with the Indonesian product characteristics should limit their ability to substitute Indonesian EPS resins for existing inputs.[11] *** of the U.S. market for Indonesian EPS

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[5] The change in ***. These exports declined because the pricing in its primary export market, Europe, declined to the point where it was not economical to export. NOVA acquired an EPS plant in January 1999 located in France from Huntsman. In addition, NOVA also acquired the assets of Shell Chemical in the spring of 2000, which has EPS plants located in England, France, and the Netherlands. ***. Petitioners' posthearing brief, exhibit A, answer to Chairman Koplan's question.

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

[7] Hearing transcript, p. 42.

[8] Hearing transcript, p. 213; Indonesian respondent's posthearing brief, p. 8.

[9] ***.

[10] Conference transcript, p. 44.

[11] In a December 17, 1999 telephone call with staff, *** stated that molders must calibrate their machines differently to run the Indonesian product. He asserted that inexperienced molders will often ruin whole batches of EPS resins because the molding machines are improperly calibrated for the Indonesian resins.

resins consists of one end user (Tuscorora),[12] and Indonesian exporters' ability to increase their U.S. market share would depend on other molders' tolerance for the difficulties associated with processing EPS resins of unfamiliar content and quality.[13] Tuscarora has gone through a lengthy qualification process for the Indonesian product. Statements from Tuscarora on the ability of its 20 plants to use Indonesian EPS resins are contradictory. One statement reported that *** of its 20 plants can use the Indonesian EPS resin,[14] while a contradicting statement suggests that Indonesian EPS resins are distributed nationwide through all of its 20 plants.[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 EPS resins could limit the responsiveness of Indonesian imports to U.S. demand.[16]

Industry capacity

Responses to Commission questionnaires show that capacity utilization rates for EPS resins in Indonesia are below those of the United States. The reported Indonesian capacity utilization rate for 1999 was *** percent and it has risen *** from *** percent in 1997.[17] Petitioners point to unused capacity in Indonesia as evidence that dumping is likely to continue.[18] The Indonesian respondent argues that there are no existing plans to increase capacity, and that available capacity will be used to serve increasing home market demand, Australia, and recovering Asian markets.[19]

Alternative markets

The Indonesian respondent argues that it is now focusing its efforts on making sales to customers in Indonesia, southeast Asia, and Australia.[20]

Inventory levels

Table VII-1 reports that the subject Indonesian producer, PT Risjad, had inventories of *** pounds at the end of 1999, down from *** pounds at the end of 1997. 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 significant length of time.

Production alternatives

The reporting Indonesian producer does not manufacturer cup-grade EPS resins, so it has few, if any, production alternatives available.

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[12] ***.

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

[14] Indonesian respondent's posthearing brief, exhibit 2, statement of ***.

[15] Testimony of John O'Leary in response to question posed by staff, hearing transcript, p. 215.

[16] ***. ***.

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

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

[19] Hearing transcript, pp. 140-141.

[20] Hearing transcript, p. 140; Indonesian respondent's posthearing brief, p. 14.

U.S. Demand

Demand Characteristics

The overall U.S. demand for EPS resins depends upon demand for a variety of end-use applications. EPS resins are used in the production of molded shapes for packaging and molded blocks used in the construction industry. Apparent domestic consumption increased by 6.6 percent from 1997 to 1998 and by 12.6 percent from 1998 to 1999.

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 manufacture of immediate downstream products, 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 of EPS resins is molded polystyrene. Purchasers initially expand the EPS resins using specialized equipment and then mold the expanded EPS resins into shapes used in packaging, and blocks used in construction. 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. Molded block-grade EPS resins are used for insulation by the construction industry, which has a number of easily substituted alternatives, particularly extruded foam products or polyisonurates (polyisos), which have a better fire retardency rating. According to one purchaser, ***, polyisos are taking some of the EPS block market. Given a long-run change in the price of EPS resins, the construction industry can easily switch between EPS resins, extruded foam products, or polyisos. Molded shape-grade EPS resins are used in packaging, where there are a limited number of imperfect substitutes, including corrugated cardboard or other foams. Expanded polystyrene is reportedly the most cost-effective material available.[21] While the long-run response to a price change in EPS resins might produce limited substitution by shape molders, the degree of substitution in this particular segment of the market is likely to be quite small. No purchaser reported making substitutions of other materials.

Cost Share

EPS resins are the primary inputs into molded block and shape expanded polystyrene. As such, EPS resins are a large part of the cost share in the immediate downstream industry. In subsequent downstream applications of molded block- and shape-grade expanded polystyrene, such as construction or packaging, the cost share of EPS resins 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 Indonesian imports, a moderate to high degree of substitutability among domestic products and nonsubject imports, and a moderate to high degree of substitutability among subject and nonsubject imports. The bulk of nonsubject imports are produced in Korea, Canada, and Mexico. Domestic producers have affiliates or subsidiaries in Canada and Mexico that produce a range

[21] According to ***.

of products that are very similar to domestically-produced products. 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.[22]

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 quality, price, and traditional supplier relationships. 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, alternative uses. The fact that these molders are in a quite competitive market themselves makes them sensitive both to price and to interruptions in the supply of their primary input, EPS resins. Purchasers were asked to list the top three factors that they consider when choosing a supplier of EPS resins.[23] Table II-1 summarizes the responses to this question.

Table II-1
EPS resins: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Purchase factor	Number 1 factor	Number 2 factor	Number 3 factor
	Number of firms reporting		
Quality	7	4	1
Price	2	5	5
Traditional supplier	3	0	2
Availability	1	1	1
Delivery	0	1	1
Technical support	0	1	2
Credit terms	0	1	1
Source: Compiled from data submitted in response to Commission questionnaires.			

While price is important, purchasers reported that the lowest price offered for EPS resins would not necessarily win the contract or sale. Seven purchasers reported that the lowest price will "usually" win a contract or sale, four purchasers reported "sometimes," and 2 purchasers reported "never." Tuscarora reported that it *** purchases EPS resins that are offered at the lowest price. Factors other than price that these firms consider include quality, traditional suppliers, and availability.

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[22] For example, John Reilly of Nathan Associates asserted that the subject import selling prices are understandably lower because of the reduced rate of expansion due to the reduced pentane content of the EPS resins after they are delivered to the U.S. buyer. It is considered a performance penalty associated with the lower pentane content. Conference transcript, p. 65.

[23] Purchaser questionnaires were sent to 29 firms believed to be purchasers of EPS resins; 14 firms provided usable responses to Commission questionnaires. These firms included shape and block molders.

Purchasers were asked what characteristics firms consider when determining the quality of a supplier's EPS resins. Purchasers reported that cycle times, fusion, pre-expansion rates, consistency, appearance of molded part, density, and the percentage of pentane in the EPS resins are all important quality characteristics. Tuscarora reported that *** is an important characteristic in determining the quality of a suppliers' EPS resins.

Purchasers were asked to report the shares of the volume purchased, by country, of EPS resins of various pentane levels. Five responding purchasers indicated that 100 percent of their purchases of domestically-produced product consists of high-pentane EPS resins, while 2 purchasers indicated that 100 percent of their purchases are low pentane. Five purchasers reported purchasing a combination of domestic high- and low-pentane EPS resins. *** purchasing 100 percent high-pentane EPS resins from Indonesia. Additionally, purchasers were asked to describe their firms' ability to switch between EPS resins of differing pentane levels. Purchaser responses are presented below:

Purchaser	Firms' ability to switch between high and low pentane
***	Only plants with batch pre-expanders use low pentane and emissions permits from various states may necessitate low pentane.
***	Air pollution permits require all EPS beads to be below 5 percent pentane.
***	Our ability to switch is limited. We are shape molders and require low density parts.
***	The firm is unable to switch to resins 4 percent or greater due to air emission standards.
***	We can run down to 3 percent pentane with new equipment installed.
***	We have no problems switching.
***	We have *** plants. Some plants have restricted VOE levels of 4.2 percent. These plants can mix material to stay below this ceiling.
***	It is not possible to switch due to equipment restraints.
***	In ***, very flexible. In another facility in ***, we must stay below 5 percent pentane.
***	We have both old and new equipment, air emission guidelines require new equipment to use low pentane bead.
***	It is easy to switch between low and high pentane EPS resins.
***	Any molder can switch, but quality and productivity is affected.
***	A slight adjustment must be made that usually takes between 30 minutes and one hour.

Purchasers were asked to describe the similarities and differences in characteristics and uses between high- and low-pentane EPS resins. Their responses are presented below:

Purchaser	Similarities and differences between high- and low-pentane EPS resins
***	Higher pentane levels permit lower densities, low pentane yields faster cycles. Fusion appearances are indistinguishable.
***	Higher pentane levels allow lower densities to be achieved.
***	If pentane is below 5.5 percent, it is difficult to mold quality parts at 1.12 pounds per cubic foot.
***	Higher pentane, better fusion; lower pentane, faster cycles.
***	Lower pentane is more stable in molding, but may have less strength.
***	Higher pentane required longer aging after pre-expansion, but it usually makes better quality parts.
***	We have enough experience running all pentane levels to make all products work fine.
***	Prefer high pentane because it has better fusion and longer shelf life.
***	We have been unsuccessful running low pentane material with the amount of scrap EPS being re-introduced to the process.
***	Lower pentane level EPS resins require less residence (aging) time than those with higher pentane resins. Steaming steps may differ slightly between the two types as well.
***	Lower pentane beads are difficult to produce low density material which is more cost effective for insulation. Insulation value does not increase significantly with density increase.

Purchasers were also asked to report the reason why they increased or decreased their purchases of EPS resins from various countries. ***.[24] Two purchasers indicated that their purchases of Mexican product increased due to lower prices and for logistical reasons. One purchaser reported increasing its purchases of Canadian and domestic EPS resins because of special needs, quality requirements, and for increased business sales. Two purchasers reported decreasing their purchases of domestic EPS resins because of higher prices and decreased availability.

Comparisons of Domestic Products and Subject Imports

There are a number of distinguishing characteristics between domestic products and Indonesian imports that are worthy of note, though they appear to be of lesser importance than quality, price, and traditional supplier(s). First, Indonesian product has a narrower product range in the U.S. market than the domestic product. *** does not produce block-grade EPS with fire retardants. A representative of PT Risjad testified that Indonesian EPS resins do not compete at all for any part of this significant

[24] *** purchased *** pounds of Indonesian EPS resins in 1999.

segment of the insulation construction market.[25] Counsel for the Indonesian manufacturer testified that it does not produce low-pentane products because it lacks the technology, and it does not produce block-grade EPS resins with fire retardants.[26] Second, subject imports require substantially longer lead times, making them less responsive to unexpected fluctuations in demand. The lead times for imported product from Indonesia range from 6 to 12 weeks,[27] while the lead times for domestic product range from 5 days to 2 weeks. Third, domestic suppliers typically offer superior on-site technical support.[28] Fourth, Indonesian imports are not yet certified to meet relatively common U.S. building codes.[29] Tuscarora, the *** purchaser of Indonesian EPS resins, indicated that ***.[30] Even though Tuscarora is a shape molder, petitioners argue that it is a large purchaser of block-grade EPS resins which it uses to manufacture shape molded products used in the construction industry, and therefore competes with block molders.[31]

U.S. producers serve the entire United States market with their EPS resins. *** sells its Indonesian product to Tuscarora, which has plants across the country, ***.[32]

Purchasers were asked to compare domestic EPS resins with Indonesian imports based on a number of factors. Tuscarora responded that the U.S. product ***.

Comparisons of Domestic Products and Nonsubject Imports

Both producers and importers dispute whether Korean nonsubject imports are generally interchangeable with the domestic product, but agree that EPS resins from Canada and Mexico are interchangeable. As the bulk of the output produced in Canada and Mexico is controlled by domestic firms, it is viewed as completely interchangeable with domestic product. Korean product was found by responding purchasers to be comparable or inferior to U.S. product in most characteristics. However, *** testified that some Korean EPS has been rejected by customers because the product did not meet the processing characteristics required. *** does not sell to the shape market for this reason. In addition, the Korean EPS resins that it sells have been certified by the ICBO (International Conference of Building Codes), which covers the western area of the United States. The Korean product that *** imports is not certified by two other building code organizations which cover the other areas of the country.[33] Nonsubject imports' share of the volume of apparent domestic consumption increased from 14.0 percent in 1997 to 20.4 percent in 1999.

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[25] Testimony of Adams Lee, hearing transcript, p. 137.

[26] Ibid., pp. 136-137.

[27] *** from subject and nonsubject countries and responded in its questionnaire that the lead times were between 6 and 12 weeks for all of its imports. Therefore it is difficult to determine the exact lead time for Indonesian product.

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

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

[30] ***.

[31] Petitioners' posthearing brief, p. 7; also see pricing section of Tuscarora's purchaser questionnaire.

[32] See footnotes 14 and 15.

[33] Testimony of Jon Lee of James Global Service, hearing transcript, pp. 120-123.

Comparisons of Subject Imports and Nonsubject Imports

The differences between subject and nonsubject imports are essentially the same as the differences between subject imports and the domestic product.

ELASTICITY ESTIMATES

This section discusses the elasticity estimates that are used in the COMPAS analysis presented in appendix D. Parties were encouraged to comment on these estimates.

U.S. Supply Elasticity[34]

The domestic supply elasticity for EPS resins measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of EPS resins. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced EPS resins. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for EPS resins measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of EPS resins. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the EPS resins in the production of any downstream products. Based on the available information, the aggregate demand for EPS resins is likely to be inelastic; a range of -0.4 to -0.7 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[35] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced EPS resins and imported EPS resins is likely to be in the range of 1 to 3 for Indonesian product,[36] and 3 to 5 for all others.

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[34] A supply function is not defined in the case of a non-competitive market.

[35] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[36] Counsel for PT Risjad, an Indonesian producer of EPS resins, contended in their prehearing brief that the substitution elasticity is "more likely to be closer to or below 1 than it is to 3."

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 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 four firms that accounted for 100 percent of U.S. production of subject EPS resins during 1999.[1]

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 1999 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. NOVA's parent is NOVA Chemicals (Canada). Huntsman is an independent U.S. corporation.

Salient aggregate data for the four U.S. producers of block and shape grade EPS resins are presented in table III-1. The table excludes data for cup-grade EPS resins. U.S. producers' production capacity was less than apparent U.S. consumption in each year and period. Of the U.S. producers' U.S. shipments, a negligible amount was captively consumed in each year during the period of investigation. The following tabulation presents the shares (in *percent*) of each producer's 1999 shipments of EPS resins accounted for by various pentane levels (also in *percent*), based on questionnaire responses.

Firm	Under 5.5	5.5	Over 5.5
BASF	***	***	***
Huntsman	***	***	***
NOVA	***	***	***
StyroChem	***	***	***

[1] One additional firm, Dart Container Corp., produces cup-grade EPS resins but does not produce EPS resins within the scope of these investigations.

Table III-1
EPS resins: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
Capacity (*1,000 pounds*)	618,306	640,903	701,400	346,200	360,440
Production (*1,000 pounds*)	604,321	586,898	636,871	311,583	354,301
Capacity utilization (*percent*)	97.7	91.6	90.8	90.0	98.3
U.S. shipments:					
Quantity (*1,000 pounds*)	533,258	542,684	583,997	293,981	318,801
Value (*1,000 dollars*)	290,656	266,818	246,274	118,523	165,731
Unit value (*per pound*)	$0.55	$0.49	$0.42	$0.40	$0.52
Exports:					
Quantity (*1,000 pounds*)	67,047	60,792	59,256	32,730	25,130
Value (*1,000 dollars*)	36,131	29,422	23,538	12,292	14,913
Unit value (*per pound*)	$0.54	$0.48	$0.40	$0.38	$0.59
Total shipments:					
Quantity (*1,000 pounds*)	600,305	603,476	643,253	326,711	343,931
Value (*1,000 dollars*)	326,787	296,240	269,812	130,815	180,644
Unit value (*per pound*)	$0.54	$0.49	$0.42	$0.40	$0.53
Inventories (*1,000 pounds*)	66,558	49,980	43,598	29,335	49,603
Ratio of inventories to total shipments (*percent*)	11.1	8.3	6.8	4.5	7.2
Production and related workers (PRWs)	428	401	376	376	378
Hours worked by PRWs (*1,000 hours*)	960	910	879	438	439
Wages paid to PRWs (*1,000 dollars*)	21,859	21,827	19,906	9,917	11,030
Hourly wages	$22.76	$23.97	$22.66	$22.65	$25.13
Productivity (*pounds produced per hour*)	629.3	644.6	724.8	711.6	807.3
Unit labor costs (*per 1,000 pounds*)	$36.17	$37.19	$31.26	$31.83	$31.13

Note.–Because of rounding, figures may not add to the totals shown. Partial-year inventory ratios are based on annualized shipment data.

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

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

The Commission sent importers' questionnaires to 19 firms as identified by the petition, a review of U.S. Customs Service data, and those firms identified during the preliminary phase of the investigation. The Commission received usable data on imports of ESP resins from 10 companies; 6 firms reported that they did not import EPS resins, 2 firms did not respond, and 1 firm was "not in business." Three of the four U.S. producers of subject EPS resins, ***, reported imports during the period examined.[1]

U.S. IMPORTS AND CONSUMPTION

The Commission received a response from the only known importer of EPS resins from Indonesia. The Commission did not, however, receive complete data on nonsubject imports in response to its questionnaires.[2] Therefore, data in this section regarding the quantity and value of U.S. imports of EPS resins are primarily based on official U.S. import statistics.[3] These data are shown in table IV-1. U.S. shipments of domestic product, U.S. imports, and total U.S. consumption are shown in table IV-2. Information on imports as reported by those importers who provided information in their questionnaire responses are shown in app. E, table E-1.

All known U.S. imports of EPS resins from Indonesia in 1999 contained pentane levels over 5.5 percent.[4] Among nonsubject imports in 1999, approximately 61 percent contained pentane levels over 5.5 percent and 39 percent contained pentane levels under 5.5 percent.

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[1] ***. None of the producers reported imports from Indonesia. The U.S. producers accounted for 24.3 percent of the volume of nonsubject imports in 1999.

[2] Based on official U.S. import statistics, the principal nonsubject sources of U.S. imports of EPS resins in 1999 were Korea, Canada, Mexico, and Colombia. These countries accounted for 62.6 percent of U.S. imports in 1999.

[3] The ratio of the reported 1999 volume of imports from Indonesia compared to official statistics was *** percent. Cup-grade and "off-spec" (*e.g.*, loose fill) ESP resins may also be imported under HTS subheading 3903.11.00, but imports of these products from Indonesia are believed to be virtually nil. Conference transcript, pp. 34-35.

[4] PT Risjad states in its posthearing brief that it does not manufacture EPS resins with a pentane level below 6.5 percent. White and Case posthearing brief, p. 7.

Table IV-1
EPS resins: U.S. imports, by sources, 1997-99, January-June 1999, and January-June 2000

Source	Calendar year			January-June	
	1997	1998	1999	1999	2000
			Quantity (*1,000 pounds*)		
Indonesia	1,036	11,926	9,869	2,864	5,071
Other sources[1]	86,929	107,762	151,836	69,231	63,286
Total	87,965	119,688	161,705	72,095	68,357
			Value (*1,000 dollars*)[2]		
Indonesia	454	5,145	3,576	1,015	2,587
Other sources[1]	46,801	51,242	63,875	28,767	35,303
Total	47,255	56,387	67,451	29,782	37,890
			Unit value (*per pound*)[2]		
Indonesia	$0.44	$0.43	$0.36	$0.35	$0.51
Other sources[1]	0.54	0.48	0.42	0.42	0.56
Average	0.54	0.47	0.42	0.41	0.55
			Share of quantity (*percent*)		
Indonesia	1.2	10.0	6.1	4.0	7.4
Other sources[1]	98.8	90.0	93.9	96.0	92.6
Total	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)[2]		
Indonesia	1.0	9.1	5.3	3.4	6.8
Other sources[1]	99.0	90.9	94.7	96.6	93.2
Total	100.0	100.0	100.0	100.0	100.0

[1] Excludes imports from the Bahamas; these imports are believed to consist solely of cup-grade EPS resins, which are outside the scope of the investigation. Includes some cup-grade EPS resins from Canada.
[2] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from official Commerce statistics.

Table IV-2
EPS resins: U.S. producers' U.S. shipments, U.S. imports, by sources, and total U.S. consumption, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*1,000 pounds*)				
U.S. producers' U.S. shipments	533,258	542,684	583,997	293,981	318,801
U.S. imports from--					
Indonesia	1,036	11,926	9,869	2,864	5,071
Nonsubject countries[1]	86,929	107,762	151,836	69,231	63,286
Total	87,965	119,688	161,705	72,095	68,357
Total U.S. consumption	621,223	662,372	745,702	366,076	387,158
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	290,656	266,818	246,274	118,523	165,731
U.S. imports[2] from--					
Indonesia	454	5,145	3,576	1,015	2,587
Nonsubject countries[1]	46,801	51,242	63,875	28,767	35,303
Total	47,255	56,387	67,451	29,782	37,890
Total U.S. consumption	337,911	323,205	313,725	148,305	203,621

[1] Excludes imports from the Bahamas; these imports are believed to consist solely of cup-grade EPS resins, which are outside the scope of the investigation. Includes some cup-grade EPS resins from Canada.
[2] Landed, duty paid.

Note.–Because of rounding, figures may not add to the totals shown.

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

MARKET SHARES

Shares of U.S. consumption are presented in table IV-3.

Table IV-3
ESP resins: U.S. consumption and market shares, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*1,000 pounds*)				
U.S. consumption	621,223	662,372	745,702	366,076	387,158
	Value (*1,000 dollars*)				
U.S. consumption	337,911	323,205	313,725	148,305	203,621
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	85.8	81.9	78.3	80.3	82.3
U.S. imports from--					
Indonesia	0.2	1.8	1.3	0.8	1.3
Nonsubject countries[1]	14.0	16.3	20.4	18.9	16.3
Total	14.2	18.1	21.7	19.7	17.7
	Share of value (*percent*)				
U.S. producers' U.S. shipments	86.0	82.6	78.5	79.9	81.4
U.S. imports from--					
Indonesia	0.1	1.6	1.1	0.7	1.3
Nonsubject countries[1]	13.9	15.9	20.4	19.4	17.3
Total	14.0	17.4	21.5	20.1	18.6

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

Note.–Because of rounding, figures may not add to the totals shown.

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

IMPORTS AND PURCHASES OF TUSCARORA, INC.

Tuscarora accounts for *** the Indonesian EPS resins consumed in the United States during the period of investigation. Table IV-4 presents Tuscarora's imports and purchases of EPS resins from Indonesia, nonsubject sources, and the U.S. producers.

Table IV-4
EPS resins: Tuscarora's imports and purchases, 1997-99 and January-June 2000

* * * * * * *

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 styrene monomer is a key determinant of raw material costs. Monomer prices have fallen substantially from January of 1997 through June of 1999 before increasing, and respondents point to this as the primary cause of lower prices for EPS resins, at least in the first part of the period of investigation.[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] Figure V-1 shows the price movement of styrene over the period of investigation.

Transportation Costs to the U.S. Market

Transportation costs of EPS resins to the United States (excluding U.S. inland costs) are estimated to account for 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 1997 and ending in September 2000. 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 ***. *** estimate is higher at *** percent.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Indonesian rupiah depreciated by 69.7 percent relative to the U.S. dollar from January 1997 to June 1999 (figure V-2). The real value of the Indonesian rupiah depreciated by 26.2 percent vis-a-vis the U.S. dollar in that time period.

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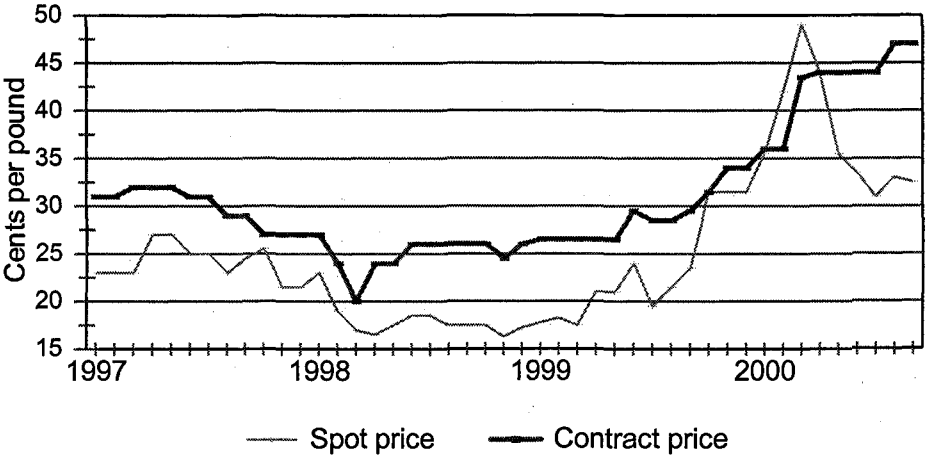
[1] Mr. Ju Hong Lee states that, "It (monomer) is 92 to 93 percent of the weight of the EPS end product. Six percent is pentane." Conference transcript, p. 70.

[2] Petitioners' postconference brief, p. 10; testimony of John Reilly on behalf of respondents, conference transcript, p. 65.

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

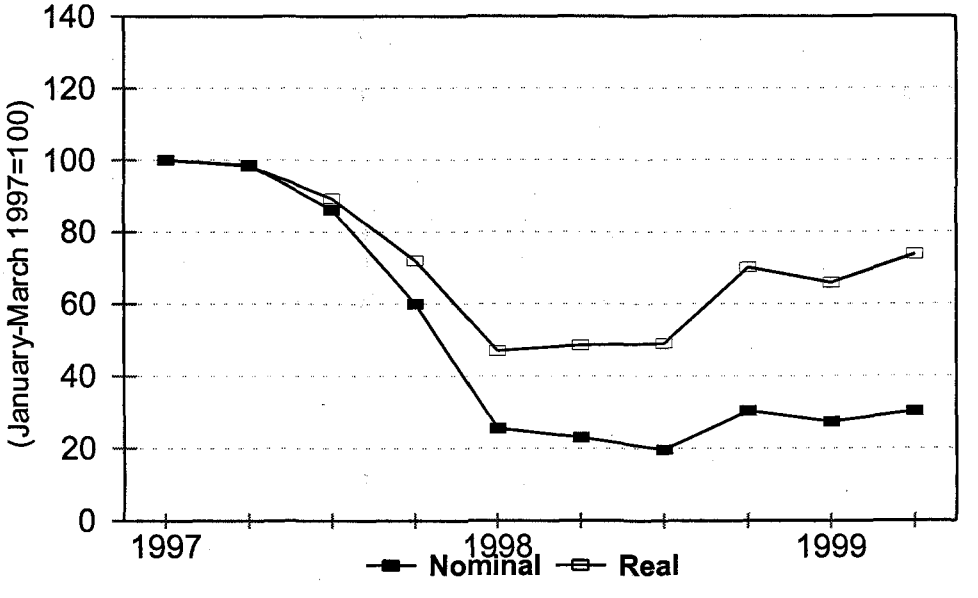
[4] Petitioners have submitted 2 models using different data but similar methodology. The first model finds that lagged monomer prices "Granger cause" prices of domestic EPS resins, petitioners' postconference brief, exhibit 8. The second model finds that lagged monomer prices do not "Granger cause" prices of domestic EPS resins, petitioners' prehearing brief, exhibit 11. These two findings are contradictory.

Figure V-1
Spot and contract prices of styrene, January 1997-September 2000



Source: *Chemical Week*, January 1997-September 2000.

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 1997 to June 1999[1]



[1] Data for Indonesia are only available through June 1999.

Source: International Monetary Fund, *International Financial Statistics*, August 2000.

PRICING PRACTICES

Pricing Methods

EPS resins are typically priced on a per-pound basis. Prices are typically negotiated transaction by transaction. A large majority of domestic producer sales are made on a spot basis, while 100 percent of *** sales are on a contract basis. *** contracts are short-term, ranging from 1 to 3 months, are continuously renegotiated based on market conditions, fix both price and quantity, and do not contain a meet-or-release provision.

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] ***. *** did not give discount information. While sales terms vary, domestic producers and importers require payment in either 30 or 60 days.

Domestic producers reported that they provided 507,000 pounds of EPS resin[6] as samples to customers at no or minimal cost in 1999 for marketing purposes.[7] Purchasers were also asked if they had received free or low-priced samples of EPS resins from any supplier since 1997. Out of 14 purchasers, 11 reported that they had received free or low-priced samples from their suppliers since 1997. Five of those 11 reported actual domestic quantities of 13,000 pounds in 1997, 14,000 pounds in 1998, and 17,000 pounds in 1999, while the other six purchaser responses are as follows: (1) yes, from all suppliers, (2) yes, many times, (3) yes, *** will sometimes offer this to lower average cost without lowering price, (4) *** for production qualification, (5) all suppliers have done this in small lots throughout the period, ***, and (6) usually 50-percent discount or no charge from ***.

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 1997 through June 2000. 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.

Product 3.– Shape (regular) grade EPS resin, bead size ranging from 0.6 mm to 1.4 mm, containing blowing agents > 5.5 percent.

Product 4.– Block (modified) grade EPS resin, bead size ranging from 0.6 mm to 1.4 mm, containing blowing agents > 5.5 percent.

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

[6] Compiled from data in responses to Commission questionnaires.

[7] Petitioners commented that off-spec material sold at discounts generally amounts to 2 percent of NOVA's sales, hearing transcript, p. 97.

Four U.S. producers and one importer provided usable pricing data for sales of the requested products, although not all firms reported selling the products in all quarters. Pricing data reported by these firms accounted for approximately 93.7 percent of U.S. producers' shipments of EPS resins and *** percent of U.S. shipments of imports from Indonesia in 1999. Included in the domestic producers' pricing data are relatively small amounts of free and "off-spec" EPS resins shipped by ***. *** limited free or "off-spec" shipments are not included in the pricing data.

Price Trends

Tables V-1 to V-4 and figures V-3 and V-4 show the weighted-average prices and margins of underselling/(overselling) for U.S.-produced and Indonesian EPS resins from the first quarter of 1997 through the second quarter of 2000. The Indonesian imports are high pentane EPS resins (product 3) sold *** to one shape molder, Tuscarora.

Prices of EPS resins are quoted in average unit values. Over the course of the period of investigation, the price of domestic shape-grade EPS resins with less than 5.5 percent blowing agents ranged from 40 to 58 cents per pound, while the price of similar block-grade materials ranged from 40 to 56 cents per pound. Prices of shape-grade EPS resins with more than 5.5 percent blowing agents ranged from 39 to 58 cents per pound and, likewise, the prices of block-grade EPS resins with more than 5.5 percent blowing agents ranged from 39 to 58 cents per pound. Based on the price data received, there does not appear to be a price differential between low- and high-pentane products.[8] Domestic prices trended downward, reaching a low of 40 cents for low-pentane products and 39 cents for high-pentane products between the first and second quarters of 1999, before rebounding to prices similar to those in the first quarter of 1997.

EPS resins from Indonesia are high-pentane products sold *** to Tuscarora, a domestic shape molder. Prices were somewhat erratic, but in general followed trends similar to those of domestic prices. Indonesian prices fell from *** cents per pound in the third quarter of 1997 to a low of *** cents per pound in the second quarter of 1999 before rebounding to a high of *** cents per pound in the second quarter of 2000.

Purchasers were requested to indicate how much higher the price for the imported product would have to have been in 1999 before they would have purchased U.S.-produced EPS resins. *** reported that ***.

[8] *** stated that due to a marketing snafu, low- and high-pentane EPS resins are priced similarly, ***, September 7, 2000.

Table V-1
EPS resins: Weighted-average f.o.b. prices and quantities of domestic product 1, by quarters, January 1997-June 2000

* * * * * * *

Table V-2
EPS resins: Weighted-average f.o.b. prices and quantities of domestic product 2, by quarters, January 1997-June 2000

* * * * * * *

Table V-3
EPS resins: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * * * *

Table V-4
EPS resins: Weighted-average f.o.b. prices and quantities of domestic product 4, by quarters, January 1997-June 2000

* * * * * * *

Figure V-3
Weighted-average f.o.b. prices for EPS resin products 1 and 2, by quarters, January 1997-June 2000

* * * * * * *

Figure V-4
Weighted-average f.o.b. prices for EPS resin products 3 and 4, by quarters, January 1997-June 2000

* * * * * * *

Price Comparisons

The following tabulation summarizes the quarters of overselling and underselling by Indonesia for the four products for which data were collected.

Period	Number of quarters of underselling	Number of quarters of overselling
1997	4	0
1998	4	0
1999	4	0
2000 through (Q2)	0	1
Total	12	1

The following tabulation provides a summary of the range of margins of under- or overselling by product.

Period	No. of quarters of underselling	Range of margins *(percent)*	No. of quarters of overselling	Range of margins *(percent)*
Product 1	-	-	-	-
Product 2	-	-	-	-
Product 3	12	7.7-32.6	1	(4.3)
Product 4	-	-	-	-

Granger Causality Study[9]

Petitioners submitted the results two "Granger causality" tests of the proposition that lagged values of subject import prices improve the prediction of current domestic prices of EPS resins. Petitioners' results of both tests 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.[10] Respondents are correct in pointing out that Granger causality tests do not "prove" causation, only that lower import prices preceded lower domestic prices.[11] In the second test, petitioners addressed staff's earlier concerns by including a measure of construction and showing that this variable is a statistically significant determinant of domestic prices. Unfortunately, a different data set was used in the second analysis, making it difficult to compare results. Additionally, the two models show conflicting results as to whether the variable measuring styrene prices is a significant predictor of EPS resin prices. The first model shows that it is significant while the second model does not. It is not clear how the addition of the construction variable to the second model has affected these results. Both parties do agree, however, that styrene prices affect EPS resin prices. Finally, given the fact that Commerce made a negative determination with respect to Korea, the price data for subject and nonsubject imports in the test are no longer correct.

LOST SALES AND LOST REVENUES

Petitioners did not submit lost sales or lost revenue allegations against Indonesia.

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[9] 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.

[10] Petitioners' postconference brief, exhibit 1, and petitioners' prehearing brief, exhibit 11.

[11] Dr. Kaplan (petitioners' economist) acknowledged as much in his public testimony at the conference, but correctly responded that the evidence is consistent with a model in which such causation actually occurs. Conference transcript, pp. 50-51.

PART VI: FINANCIAL EXPERIENCE AND CONDITION OF U.S. PRODUCERS

BACKGROUND

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

BASF, a wholly-owned subsidiary of BASF AG (Germany), produces EPS resins at its South Brunswick, NJ plant. Huntsman, a privately-held company, produces EPS resins at its Peru, IL plant, which increased its capacity in 1998 after Huntsman closed its Rome, GA plant in 1996. NOVA, a public company, produces EPS resins at its Monaco, PA and Painesville, OH plants, which it acquired from Arco Chemical in 1996, and StyroChem, a privately held company, produces the product at its Fort Worth, TX and Saginaw, TX plants. It 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. The industry was profitable in 1997 but incurred operating losses for all other periods. Aggregate sales volumes increased over the period of investigation. However, other key financial indicators declined until the 2000 interim period. These include aggregate sales values, unit sales values,[1] aggregate cost of goods sold, and aggregate unit costs. Unit raw materials costs (the major cost item) also decreased over the period of investigation until the interim 2000 period, whereas unit labor and overhead costs were relatively stable between 1997 and interim 2000. Selling, general, and administrative (SG&A) expenses increased in 1998 compared to 1997 primarily because ***. There was a large increase in fixed assets in 1998 and, as a result, depreciation increased beginning in 1998.

[1] Unit export sales prices (included in the aggregate sales data) followed the same price trends as the domestic prices, i.e., a decline over the period of investigation until interim 2000. Refer to tables V-1 through V-4 in Part V of this report.

Table VI-1
Results of operations of U.S. producers in the production of EPS resins, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity *(1,000 pounds)*				
Net sales	600,305	603,477	643,252	326,711	343,889
	Value *($1,000)*				
Net sales	326,687	296,469	269,816	130,814	180,621
Cost of goods sold	278,928	270,781	259,024	126,250	173,480
Gross profit	47,759	25,688	10,792	4,564	7,141
SG&A expenses	24,060	34,632	32,144	13,992	15,813
Operating income or (loss)	23,699	(8,944)	(21,352)	(9,428)	(8,672)
Interest expense	128	2,832	1,937	961	737
Other expense	1,862	2,539	3,216	1,443	1,786
Net income or (loss)	21,709	(14,315)	(26,505)	(11,832)	(11,195)
Depreciation/amortization	7,959	11,772	12,768	6,055	6,038
Cash flow	29,668	(2,543)	(13,737)	(5,777)	(5,157)
	Ratio to net sales *(percent)*				
Cost of goods sold	85.4	91.3	96.0	96.5	96.0
Gross profit	14.6	8.7	4.0	3.5	4.0
SG&A expenses	7.4	11.7	11.9	10.7	8.8
Operating income or (loss)	7.3	(3.0)	(7.9)	(7.2)	(4.8)
	Value *(per pound)*				
Net sales	$0.54	$0.49	$0.42	$0.40	$0.53
Cost of goods sold:					
Raw materials	0.32	0.30	0.28	0.26	0.38
Direct labor	0.03	0.03	0.03	0.03	0.03
Factory overhead	0.11	0.12	0.09	0.10	0.10
Total	0.46	0.45	0.40	0.39	0.50
Gross profit	0.08	0.04	0.02	0.01	0.02
SG&A expenses	0.04	0.06	0.05	0.04	0.05
Operating income or (loss)	0.04	(0.01)	(0.03)	(0.03)	(0.03)

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

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 (table VI-2) show that the unit selling prices of EPS resins and unit polystyrene monomer raw material prices (and all raw material costs) both declined until interim 2000, when both rose sharply. Other (non-monomer) raw materials costs do not reflect the relationship with selling prices. Over the course of the period of investigation, the spread between (1) unit selling prices and (2) unit polystyrene monomer prices and unit values for all raw material costs, has narrowed. This declining spread was a major factor in the decline in profitability over the period of investigation.

Table VI-2
Results of operations of U.S. producers in the production of EPS resins, by firm, fiscal years 1997-99, January-June 1999, and January-June 2000

* * * * * * *

The major raw material is polystyrene monomer and producers obtain it from different sources; ***[2] ***.

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-3. 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.

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-4.

CAPITAL AND INVESTMENT

The Commission requested the producers to describe any actual or potential negative effects of imports of certain 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 F.

[2] ***.

Table VI-3
Variance analysis for EPS resin operations, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Calendar years			January-June
	1997-99	1997-98	1998-99	1999-2000
	Value (*$1,000*)			
Total net sales:				
Price variance	($80,243)	($31,944)	($46,193)	$42,929
Volume variance	23,372	1,726	19,540	6,878
Total net sales variance	(56,871)	(30,218)	(26,653)	49,807
Cost of sales:				
Cost variance	39,859	9,621	29,604	(40,592)
Volume variance	(19,955)	(1,474)	(17,847)	(6,638)
Total cost variance	19,904	8,147	11,757	(47,230)
Gross profit variance	(36,967)	(22,071)	(14,896)	2,577
SG&A expenses:				
Expense variance	(6,363)	(10,445)	4,771	(1,085)
Volume variance	(1,721)	(127)	(2,283)	(736)
Total SG&A variance	(8,084)	(10,572)	2,488	(1,821)
Operating income variance	(45,051)	(32,643)	(12,408)	756
Summarized as:				
Price variance	(80,243)	(31,944)	(46,193)	42,929
Net cost/expense variance	33,496	(824)	34,375	(41,677)
Net volume variance	1,696	125	(590)	(496)

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

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

Table VI-4
Value of assets, capital expenditures, and research and development expenses of U.S. producers of EPS resins, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Calendar years			January-June	
	1997	1998	1999	1999	2000
	Value (*$1,000*)				
Capital expenditures	21,344	14,201	19,650	7,251	6,853
R&D expenses	4,913	5,517	5,800	2,662	3,246
Fixed assets:					
Original cost	121,445	157,852	177,102	165,421	183,609
Book value	100,228	119,629	126,843	125,021	129,528
Source: Compiled from data submitted in response to Commission questionnaires.					

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 Part VI. 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

Of the three known firms producing EPS resins in Indonesia, one firm, PT Risjad, responded to the Commission's questionnaire.[1] It is believed to account for *** of exports to the United States from Indonesia and *** of total Indonesian production during the period of investigation.[2] Data for PT Risjad's capacity, production, shipments, and inventories of EPS resins are presented in table VII-1. PT Risjad estimates that EPS resins made up *** percent of its total sales during 1999. It indicated ***. Production technologies for EPS resins in Indonesia are essentially identical to those employed in the United States.[3]

Table VII-1
EPS resins: Reported Indonesian production capacity, production, shipments, and inventories, 1997-99, January-June 1999, January-June 2000, and projected 2000-01

* * * * * * *

U.S. INVENTORIES OF PRODUCT FROM INDONESIA

The *** U.S. importer of Indonesian product reported *** inventories during the period of investigation. U.S. importers' inventories of EPS resins are reported in table VII-2.

Table VII-2
EPS resins: U.S. importers' end-of-period inventories of imports from Indonesia and from all other sources, 1997-99, January-June 1999, and January-June 2000

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

No firm reported imports or arrangements for the importation of EPS resins from Indonesia after June 30, 2000.

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[1] The two other known Indonesian producers of subject imports (Polychem Lindo and PT Maspion) did not respond to the Commission's questionnaire. They had capacities of *** million pounds and *** million pounds, respectively, in 1999. Petitioners' prehearing brief, p. 35.

[2] Petition, p. 7, and PT Risjad's questionnaire response.

[3] Conference transcript, p. 94.

DUMPING IN THIRD-COUNTRY MARKETS

There is no indication that EPS resins from Indonesia have been subject to any other import relief investigations in the United States or in any other countries.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–861 (Final)]

Certain Expandable Polystyrene Resins From Indonesia

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury and the establishment of an industry in the United States is not materially retarded, by reason of imports from Indonesia of certain expandable polystyrene resins, provided for in subheading 3903.11.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 22, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by BASF Corp., Mount Olive, NJ; Huntsman Expandable Polymers Co. LC, Salt Lake City, UT; NOVA Chemicals, Inc., Moon Township, PA; and StyroChem U.S., Ltd., Radnor, PA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain expandable polystyrene resins from Indonesia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing 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 August 9, 2000 (65 FR 48731, August 9, 2000). The hearing was held in Washington, DC, on November 7, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on December 20, 2000. The views of the Commission are contained in USITC Publication 3377 (December 2000), entitled Certain Expandable Polystyrene Resins from Indonesia: Investigation No. 730–TA–861 (Final).

By order of the Commission.

Issued: December 13, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–32255 Filed 12–18–00; 8:45 am]

BILLING CODE 7020–02–P

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

INTERNATIONAL TRADE COMMISSION

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

Certain Expandable Polystyrene Resins from Indonesia and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–861–862 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value 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.[1]

[1] For purposes of these investigations, Commerce has defined the subject merchandise as "certain expandable polystyrene resins in primary forms; namely, raw materials or resins 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.

Continued

For further information concerning the conduct of this phase of these investigations, hearing procedures, 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 C (19 CFR part 207).

EFFECTIVE DATE: June 23, 2000.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or e-mail at fruggles@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, 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.—The final phase of these investigations are being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain expandable polystyrene resins from Indonesia and Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 22, 1999, by BASF Corp., Mount Olive, NJ; Huntsman Expandable Polymers Co. 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, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 24, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 7, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 31. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 2, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 31. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 14; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigations on or before November 14. On December 5, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 7, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 Commission's 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 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 4, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–20114 Filed 8–8–00; 8:45 am]

BILLING CODE 7020–02–P

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

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-843]

Notice of Final Determination of Sales at Not Less Than Fair Value: Expandable Polystyrene Resins from the Republic of Korea

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

EFFECTIVE DATE: November 16, 2000.

ACTION: Notice of final determination of sales at not less than fair value.

FOR FURTHER INFORMATION CONTACT: Valerie Ellis or David Layton, at (202) 482-2336 or (202) 482-0371, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Applicable Statute and Regulations

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

Final Determination

We determine that expandable polystyrene resin (EPS) from the Republic of Korea (Korea) is not being sold, nor is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at not LTFV are shown in the "Termination of Liquidation" section of this notice.

Case History

The preliminary determination in this investigation was issued on June 20, 2000. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Expandable Polystyrene Resins From the Republic of South Korea,* 65 FR 39351 (June 26, 2000). The investigation covers two manufacturers/exporters: Shinho Petrochemical Co., Ltd. (Shinho) and Cheil Industries Incorporated (Cheil). Both of these companies are located in Seoul, Korea.

The Department verified the responses of Cheil Industries Incorporated in Seoul, South Korea from August 21, 2000 to August 25, 2000; Shinho Petrochemical Co., Ltd. in Seoul, South Korea from August 28, 2000 to September 1, 2000; Samsung America Incorporated (SAI), Cheil's affiliated importer, at Ridgefield Park, New Jersey from September 27, 2000 to September 28, 2000; and Cheil's Los Angeles branch and the division of Samsung America, Incorporated located in the same building, in La Mirada City, California, on September 29, 2000.

Scope of Investigation

For purposes of this investigation, the products covered includes EPS 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 this investigation are 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.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are listed in an appendix to this notice, are addressed in the "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Expandable Polystyrene Resins from South Korea" (Decision Memorandum), from Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Assistant Secretary for Import Administration, dated November 8, 2000, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building and on the Web at: *www.ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made changes in the margin calculations for both companies under review. These changes are discussed in the relevant sections of the Decision Memo.

Termination of Suspension of Liquidation

Pursuant to section 735(c)(2) of the Act, we are instructing Customs to terminate suspension of liquidation of all entries of EPS from South Korea that are entered, or withdrawn from warehouse, for consumption on or after June 26, 2000, the date of publication of the preliminary determination. The Customs Service shall refund any cash deposit and release any bond or other security previously posted in connection with this case.

We determine that the following *de minimis* weighted-average dumping margins exist for October 1, 1998, through September 30, 1999:

Manufacturer/Exporter	Weighted Average Margin (percent)
Cheil Industries Incorporated ...	0.82
Shinho Petrochemical Co.	0.83

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is negative, this proceeding is terminated and all securities posted will be refunded.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: November 8, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix

Issues Covered in Decision Memorandum

I. General Issues

1. Allegations of Mexican Transshipments
2. Using Monthly Averaging Groups in Place of Annual Averages to Calculate Normal Value

II. Issues Specific to Cheil Industries, Inc. (Cheil)

3. Constructed Export Price Offset
4. Duty Drawback
5. Credit Expense—Home Market Interest Rate
6. Reclassification of Certain Sales from Constructed Export Price to Export Price
7. General & Administrative Expense
8. Inclusion of Import Duties in the Cost of Manufacture

III. Issues Specific to Shinho Petrochemical Co., Ltd (Shinho)

9. Credit Expense
10. Gain on Foreign Currency Translation

[FR Doc. 00–29405 Filed 11–15–00; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–810]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Expandable Polystyrene Resins From Indonesia

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

EFFECTIVE DATE: November 16, 2000.

FOR FURTHER INFORMATION CONTACT: Charles Riggle at (202) 482–0650 or David Layton at (202) 482–0371, AD/CVD Enforcement, Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 of Commerce (the Department) regulations refer to the regulations codified at 19 CFR Part 351 (2000).

Final Determination

We determine that certain expandable polystyrene resins from Indonesia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on June 20, 2000. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Expandable Polystyrene Resins From Indonesia*, 65 FR 39349 (June 26, 2000) (*Preliminary Determination*). No briefs were filed in this investigation.

On August 3, 2000, the Department published a **Federal Register** notice postponing the deadline for the final determination until no later than November 8, 2000. *See Notice of Postponement of Final Antidumping*

Duty Determination: Certain Expandable Polystyrene Resins from Indonesia, 65 FR 47713 (August 3, 2000).

Scope of Investigation

The scope of this investigation 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 this investigation are 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.

Period of Investigation

The period of investigation is October 1, 1998, through September 30, 1999.

Facts Available

In the preliminary determination, the Department based the dumping margin for the mandatory respondent, PT Risjad Brasali Styrindo (Brasali), on facts otherwise available, pursuant to section 776(a)(2)(A) of the Act. The use of facts otherwise available was required because the record did not contain company-specific information, given the respondent's failure to respond to the Department's antidumping questionnaire. For purposes of the preliminary determination, the Department also found that Brasali failed to cooperate by not acting to the best of its ability to comply with the Department's request for information, pursuant to section 776(b), and determined to use an adverse inference in selecting from among the facts otherwise available. Specifically, the Department assigned to the mandatory respondent the highest margin alleged in the petition, which was corroborated as required by section 776(c) of the Act. *See Preliminary Determination.* Following the preliminary determination, interested parties did not file any comment and have not objected to the Department's decision to use adverse facts available for the mandatory respondent in this investigation, or to the Department's choice of facts available. Accordingly, for the reasons discussed in the *Preliminary Determination*, for this final determination the Department is continuing to use the highest margin alleged by the petitioners for the mandatory respondent in this proceeding. In addition, the Department has left unchanged from the preliminary determination the "All Others Rate" in this investigation, which is the average of all the rates provided in the petition.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of expandable polystyrene resins from Indonesia, that are entered, or withdrawn from warehouse, for consumption on or after June 26, 2000, the date of publication of our preliminary determination. The Customs Service shall require a cash deposit or bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice. The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
PT Risjad Brasali Styrindo	96.65
All Others	95.79

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: November 8, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 00–29406 Filed 11–15–00; 8:45 am]

BILLING CODE 3510–DS–P

Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained 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).

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.
Issued: December 1, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–31178 Filed 12–06–00; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–862 (Final)]

Certain Expandable Polystyrene Resins From Korea

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On November 16, 2000, the Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation (65 FR 69284). Accordingly, pursuant to § 207.40(a) of the Commission's rules of practice and procedure (19 CFR 207.40(a)), the antidumping investigation concerning certain expandable polystyrene resins from Korea (Investigation No. 731–TA–862 (Final)) is terminated.

EFFECTIVE DATE: November 16, 2000.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW,

APPENDIX B

HEARING WITNESSES

CALENDAR OF THE PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Certain Expandable Polystyrene Resins from Indonesia and Korea
Inv. Nos.:	731-TA-861-862 (F)
Date and Time:	November 7, 2000 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

King & Spalding
Washington, DC
on behalf of

Petitioner Companies

Grant Thomson, Vice President, Investor Relations,
NOVA Chemicals, Incorporated

Robert A. Stoffa, EPS Business Director, Styrenics,
NOVA Chemicals, Incorporated

Michael Pate, Vice President and General Manager,
StyroChem U.S., Limited

Lester Hellewell, Director of Sales, Huntsman Expandable
Polymers Company LC

Steve Smith, Director of National Accounts, Huntsman Expandable
Polymers Company LC

Robert A. Alford, Director of Plastic Foams Business,
BASF Corporation

Seth T. Kaplan, Vice President, Charles River Associates, Incorporated

Thomas R. Graham)–OF COUNSEL
Thomas D. Blanford)

In Opposition to the Imposition of Antidumping Duties:

Dorsey & Whitney LLP
Washington, DC
on behalf of

Korean Respondents

John P. O'Leary, President and CEO, Tuscarora Incorporated

Jon Lee, President, James Global Incorporated

Roy Duggan, President, Alamo Foam Incorporated

Young-Soo Kim, General Manager, Shinho Petrochemical Company, Limited

John G. Reilly, Economist, Nathan Associates

Philippe M. Bruno)–OF COUNSEL
Rosa Jeong)

White & Case LLP
Washington, DC
on behalf of

Indonesian Respondents

Adams C. Lee)–OF COUNSEL
William J. Moran)

APPENDIX C

SUMMARY DATA

Table C-1
EPS resins: Summary data concerning the U.S. market, 1997-99, January-June 1999, and January-June 2000

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

Item	Calendar year			January-June		Period changes			
	1997	1998	1999	1999	2000	1997-99	1997-98	1998-99	Jan.-June 1999-Jan.-June 2000
U.S. consumption quantity:									
Amount	621,223	662,372	745,702	366,076	387,158	20.0	6.6	12.6	5.8
Producers' share[1]	85.8	81.9	78.3	80.3	82.3	-7.5	-3.9	-3.6	2.0
Importers' share:[1]									
Indonesia	0.2	1.8	1.3	0.8	1.3	1.2	1.6	-0.5	0.5
Other sources	14.0	16.3	20.4	18.9	16.3	6.4	2.3	4.1	-2.6
Total	14.2	18.1	21.7	19.7	17.7	7.5	3.9	3.6	-2.0
U.S. consumption value:									
Amount	337,911	323,205	313,725	148,305	203,621	-7.2	-4.4	-2.9	37.3
Producers' share[1]	86.0	82.6	78.5	79.9	81.4	-7.5	-3.5	-4.1	1.5
Importers' share:[1]									
Indonesia	0.1	1.6	1.1	0.7	1.3	1.0	1.5	-0.5	0.6
Other sources	13.9	15.9	20.4	17.4	17.3	6.5	2.0	4.5	-2.1
Total	14.0	17.4	21.5	20.1	18.6	7.5	3.5	4.1	-1.5
U.S. imports from--									
Indonesia:									
Quantity	1,036	11,926	9,869	2,864	5,071	852.6	1,051.2	-17.2	77.1
Value	454	5,145	3,576	1,015	2,587	687.7	1,033.3	-30.5	154.9
Unit value	$0.44	$0.43	$0.36	$0.35	$0.51	-17.3	-1.6	-16.0	43.9
Ending inventory	0	0	0	0	0	0.0	0.0	0.0	0.0
Other sources:									
Quantity	86,929	107,762	151,836	69,231	63,286	74.7	24.0	40.9	-8.6
Value	46,801	51,242	63,875	28,767	35,303	36.5	9.5	24.7	22.7
Unit value	$0.54	$0.48	$0.42	$0.42	$0.56	-21.9	-11.7	-11.5	34.2
Ending inventory	3,510	3,105	3,959	2,579	2,165	12.8	-11.5	27.5	-16.1
U.S. imports from--									
All sources									
Quantity	87,965	119,688	161,705	72,095	68,357	83.8	36.1	35.1	-5.2
Value	47,255	56,387	67,451	29,782	37,890	42.7	19.3	19.6	27.2
Unit value	$0.54	$0.47	$0.42	$0.41	$0.55	-22.4	-12.3	-11.5	34.2
Ending inventory	3,510	3,105	3,959	2,579	2,165	12.8	-11.5	27.5	-16.1
U.S. producers'--									
Capacity quantity	618,306	640,903	701,400	346,200	360,440	13.4	3.7	9.4	4.1
Production quantity	604,321	586,898	636,871	311,583	354,301	5.4	-2.9	8.5	13.7
Capacity utilization[1]	97.7	91.6	90.8	90.0	98.3	-6.9	-6.2	-0.8	8.3
U.S. shipments:									
Quantity	533,258	542,684	583,997	293,981	318,801	9.5	1.8	7.6	8.4
Value	290,656	266,818	246,274	118,523	165,731	-15.3	-8.2	-7.7	39.8
Unit value	$0.55	$0.49	$0.42	$0.40	$0.52	-22.6	-9.8	-14.2	28.9

Table continued on next page.

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

Item	Calendar year			January-June		Period changes			
	1997	1998	1999	1999	2000	1997-99	1997-98	1998-99	Jan.-June 1999-Jan.-June 2000
Export shipments:									
Quantity	67,047	60,792	59,256	32,730	25,130	-11.6	-9.3	-2.5	-23.2
Value	36,131	29,422	23,538	12,292	14,913	-34.9	-18.6	-20.0	21.3
Unit value	$0.54	$0.48	$0.40	$0.38	$0.59	-26.3	-10.2	-17.9	58.0
Ending inventory quantity	66,558	49,980	43,598	29,335	49,603	-34.5	-24.9	-12.8	69.1
Inventories/total shipments[1]	11.1	8.3	6.8	4.5	7.2	-4.3	-2.8	-1.5	2.7
Production workers	428	401	376	376	378	-12.2	-6.3	-6.2	0.5
Hours worked (*1,000 hours*)	960	910	879	438	439	-8.5	-5.2	-3.5	0.2
Wages paid (*1,000 dollars*)	21,859	21,827	19,906	9,917	11,030	-8.9	-0.1	-8.8	11.2
Hourly wages	$22.76	$23.97	$22.66	$22.65	$25.13	-0.5	5.3	-5.5	11.0
Productivity (*lbs. per hour*)	629.3	644.6	724.8	711.6	807.3	15.2	2.4	12.4	13.5
Unit labor costs	$0.04	$0.04	$0.03	$0.03	$0.03	-13.6	2.8	-16.0	-2.2
Net sales:									
Quantity	600,305	603,477	643,252	326,711	343,889	7.2	0.5	6.6	5.3
Value	326,687	296,469	269,816	130,814	180,621	-17.4	-9.3	-9.0	38.1
Unit value	$0.54	$0.49	$0.42	$0.40	$0.53	-22.9	-9.7	-14.6	31.2
COGS	278,928	270,781	259,024	126,250	173,480	-7.1	-2.9	-4.3	37.4
Gross profit or (loss)	47,759	25,688	10,792	4,564	7,141	-77.4	-46.2	-58.0	56.5
SG&A expenses	24,060	34,632	32,144	13,992	15,813	33.6	43.9	-7.2	13.0
Operating income	23,699	(8,944)	(21,352)	(9,428)	(8,672)	-190.1	-137.7	138.7	-8.0
Capital expenditures	21,344	14,201	19,650	7,251	6,853	-7.9	-33.5	38.4	-5.5
Unit COGS	$0.46	$0.45	$0.40	$0.39	$0.50	-13.3	-3.4	-10.3	30.5
Unit SG&A expenses	$0.04	$0.06	$0.05	$0.04	$0.05	24.7	43.2	-12.9	7.4
Unit operating income	$0.04	$(0.01)	$(0.03)	$(0.03)	$(0.03)	-184.1	-137.5	124.0	-12.6
COGS/sales[1]	85.4	91.3	96.0	96.5	96.0	10.6	6.0	4.7	-0.5
Operating income or (loss)/sales[1]	7.3	-3.0	-7.9	-7.2	-4.8	-15.2	-10.3	-4.9	2.4

[1] Period changes are in percentage points.

Note.–Because of rounding, figures may not add to the totals shown.

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

APPENDIX D

COMPAS PRESENTATION

ASSUMPTIONS

The COMPAS model[1] is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in Part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. EPS resin market. The model uses these estimates with data on market shares, Commerce's estimated margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry.

FINDINGS[2]

Estimated effects of the LTFV imports on the U.S. EPS resin industry are as follows: 0.2 percent to 1.3 percent reduction in revenue, 0.2 percent to 0.9 percent reduction in output, and 0.0 percent to 0.4 percent reduction in price. More detailed effects of the dumping and the full range of scenarios are shown in table D-1.

Table D-1
The estimated effects of LTFV pricing of imports from Indonesia

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[1] COMPAS version 1.4 (dumping, 6/1/93).

[2] Estimates are based on 1999 data.

APPENDIX E

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

Table E-1
EPS resins: U.S. imports, by sources, 1997-99, January-June 1999, and January-June 2000, as reported in responses to Commission questionnaires

Source	Calendar year			January-June	
	1997	1998	1999	1999	2000
			Quantity (*1,000 pounds*)		
Indonesia	***	***	***	***	***
Other sources	***	***	***	***	***
Total	21,135	66,921	100,399	44,381	42,446
			Value (*1,000 dollars*)[1]		
Indonesia	***	***	***	***	***
Other sources	***	***	***	***	***
Total	10,116	28,360	35,423	15,244	21,653
			Unit value (*per pound*)[1]		
Indonesia	***	***	***	***	***
Other sources	***	***	***	***	***
Average	$0.48	$0.42	$0.35	$0.34	$0.51
			Share of quantity (*percent*)		
Indonesia	***	***	***	***	***
Other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
Indonesia	***	***	***	***	***
Other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

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

APPENDIX F

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 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

BASF "***."

Huntsman "***."

NOVA "***."

Styrochem "***."

Anticipated Negative Effects

BASF "***."

Huntsman "***."

NOVA "***."

Styrochem "***."