

UNITED STATES TARIFF COMMISSION

POLYCHLOROPRENE RUBBER FROM JAPAN

Determination of Injury or Likelihood Thereof in
Investigation No. AA1921-129
Under the Antidumping Act, 1921,
as Amended



TC Publication 622
Washington, D. C.
October 1973

UNITED STATES TARIFF COMMISSION

Catherine Bedell, *Chairman*

Joseph O. Parker, *Vice Chairman*

Will E. Leonard, Jr.

George M. Moore

J. Banks Young

Italo H. Ablondi

Kenneth R. Mason, *Secretary*

Address all communications to

United States Tariff Commission

Washington, D. C. 20436

UNITED STATES TARIFF COMMISSION
Washington, D.C.

October 31, 1973

AA1921-129

POLYCHLOROPRENE RUBBER FROM JAPAN

Determination of Injury or Likelihood Thereof

The Treasury Department advised the Tariff Commission on July 31, 1973, that polymerized chlorobutadiene, commonly known as polychloroprene rubber, from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation AA1921-129 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a hearing to be held in connection therewith was published in the Federal Register of August 17, 1973 (38 F.R. 22258). The hearing date was September 20, 1973. Notice of the rescheduling of the hearing date from September 20, 1973, to September 28, 1973, was published in the Federal Register of August 24, 1973 (38 F.R. 22834).

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission determined by a vote of 4 to 1 1/ that an industry in the United States is being, is likely to be, injured 2/ by reason of the importation of polychloroprene rubber from Japan that is being or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

1/ Chairman Bedell, Vice Chairman Parker, and Commissioners Leonard and Moore determined in the affirmative; Commissioner Ablondi determined in the negative. Commissioner Young did not participate in the decision.

2/ Chairman Bedell and Commissioners Leonard and Moore determined that an industry in the United States is being injured; Vice Chairman Parker determined that an industry in the United States is likely to be injured.

Statement of Reasons for Affirmative Determination of
Chairman Bedell and Commissioner Moore 1/

In our opinion, an industry in the United States is being injured by reason of the importation of polychloroprene rubber from Japan which the Department of the Treasury found is being or is likely to be sold at less than fair value (LTFV) within the meaning of the Antidumping Act of 1921, as amended. The industry so injured consists of the facilities in the United States devoted to the production of polychloroprene rubber.

U.S. imports of polychloroprene rubber from Japan, the predominant foreign supplier of that product, have increased steadily in most recent years. The volume of sales of the Japanese product in the United States in 1972 was nearly three times that in 1968. During the period of the Treasury's investigation which covered part of 1972, all of the imports from Japan were found to have been sold at less than fair value, and the margin by which sales were made below fair value was substantial. U.S. imports of polychloroprene rubber from Japan have been smaller in 1973 than in 1972 (and are now suspended), reflecting the prospects of the imposition of an antidumping duty as well as shortages of supply abroad.

1/ Vice Chairman Parker concurs in the result but would rest his determination principally upon the likelihood of injury. To the extent that there was present injury under the statute, it occurred in 1972. Any injury in 1973 was removed by a shortage of polychloroprene rubber in the United States and abroad. In the absence of the present abnormal short supply condition, the sale at less than fair value of polychloroprene rubber from Japan, however, is likely to cause injury to the domestic industry.

Based on evidence obtained in the Commission's investigation, we have concluded that the LTFV sales of polychloroprene rubber from Japan have contributed to a depression in sales and profits experienced by the U.S. industry. U.S. sales of polychloroprene rubber by the domestic producers were about a tenth smaller in 1970 and 1971 than in 1968 and 1969. In 1972, despite an increase in domestic demand, sales by the producers barely recovered to the earlier level. Meanwhile, the sales of Japanese polychloroprene rubber were growing. In 1972, when Treasury found such sales to have been made at less than fair value, they took a significant share of the domestic market.

The increase in sales of Japanese polychloroprene rubber was accompanied by a growing impact on prices in the domestic market. The imported Japanese product consistently sold below the list prices of the domestic producers. The differences grew steadily in recent years, and were substantial in 1972. The domestic producers increasingly found it necessary to negotiate lower prices to retain sales. While LTFV sales adversely affected the prices obtained for polychloroprene rubber by both domestic producers, the effect on the smaller producer was more pronounced as it confronted active price competition from the Japanese supplier at the time it was trying to gain a foothold in the U.S. market.

The profits earned by the domestic industry on sales of polychloroprene rubber declined from 1968 to 1971; they were somewhat larger in 1972 than in 1971, but they remained far below those of the earlier years. The financial experience of the smaller domestic producer, which has been attempting to establish itself in the domestic market, has been affected by start-up costs and production problems. Nevertheless, the price

competition afforded by the LTFV sales of the Japanese product contributed significantly to its poor profit-and-loss results.

In recent months, the U.S. demand for polychloroprene rubber has strengthened greatly. As a consequence, both domestic producers have operated at capacity; the supply of polychloroprene rubber in the United States has become limited relative to demand; and U.S. prices for the product have firmed. As noted above, imports of polychloroprene rubber from Japan have declined, as a result of the antidumping investigation and shortages of the product abroad. Despite the recent market changes, however, it is clear, in the light of developments discussed above, that an industry in the United States is being injured within the terms of the Antidumping Act, 1921.

Based upon the evidence available to the Commission, we are of the opinion that an industry in the United States is being injured by reason of LTFV sales of polychloroprene rubber from Japan. We have, therefore, made an affirmative determination.

Concurring Statement of Commissioner Leonard

While I concur in the determination of the majority and agree generally with the statement of reasons of my colleagues, additional matters deserve comment.

The domestic manufacturers are today, in October 1973, enjoying excellent business, hampered only by raw material supply shortages or fabricating capacity limitations. However, a permissible interpretation of the statutory language "is being injured" requires the Commission to also look at the industry's condition during the time of Treasury's investigation of LTFV sales, a four-month period in 1972. The domestic manufacturers' sales in the domestic market were then below the level of 1968-69, notwithstanding the stimulus provided by the entry of the second (the only other) producer.

Between 1968 and 1972, Japanese imports of polychloroprene rubber trebled. Of the imports examined by the Treasury during the period covered by its investigation, all sales of this product had been made at LTFV prices and at a substantial margin below the Japanese home market price. The volume of LTFV imports found by Treasury was substantial, and they contributed materially to the increase in imports of polychloroprene rubber from Japan in that year.

The LTFV margins applicable to this product were for the most part significantly greater than the margin of underselling in the United States. This indicated that the Japanese home market price

was significantly higher than the U.S. market price. The Japanese manufacturers would probably have made few, if any, sales had these sales been made at fair value prices. It is clear that in the absence of the LTFV sales (1) the Japanese would not have enjoyed the same price advantage vis-a-vis the domestic product, (2) the market penetration achieved by Japanese polychloroprene rubber would have been appreciably less, (3) sales by the domestic producers would have been reduced only slightly, if at all, (4) prices would not have dropped to the extent that they did, (5) the profits of the dominant domestic producer would not have decreased to the extent that they did, and (6) the losses incurred by the second domestic producer would not have been as severe as they were.

Thus it is clear that the sales of the polychloroprene rubber from Japan at LTFV were at the expense of the U.S. producers and thus were an identifiable cause of injury to the U.S. industry.

Statement of Commissioner Ablondi

In my opinion no industry in the United States is being injured or is likely to be injured by reason of the importation of polychloroprene rubber from Japan which is being sold at less than fair value (LTFV) within the meaning of the Antidumping Act of 1921, as amended.