

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Nitrile Rubber from Japan, Inv. No. 731-TA-384 (Review)

On July 2, 1999, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Act, 19 U.S.C. §1675(c)(3)(B).

The Commission received a response to the notice of institution from one domestic producer, Zeon Chemicals L.P. (“Zeon”). The Commission unanimously determined that the domestic interested party group response was inadequate, but split evenly regarding the adequacy of the individual domestic producer response.¹

Vice Chairman Miller and Commissioners Hillman and Koplan determined that the individual response submitted by Zeon was adequate.² They nonetheless found that the domestic interested party group response was inadequate because Zeon accounted for a small percentage of overall domestic production in 1998.³ In reaching this conclusion, they examined Zeon’s production alone and did not include in this total any production of DSM Copolymer, Inc. Although Zeon entered an arrangement to market all of DSM Copolymer’s production, DSM Copolymer continues to be the producer of the domestic like product. DSM Copolymer did not file a response to the notice of institution in this proceeding.

Chairman Bragg, Commissioner Crawford and Commissioner Askey determined that the individual response from the domestic producer Zeon was inadequate because Zeon failed to include in its response domestic like product-specific production data, as required by the Commission in its notice of institution in this review. Moreover, Zeon failed to correct this error, although it was given an opportunity to do so by the Commission. Accordingly, because the only response received from a domestic party was inadequate, these Commissioners also concluded that the domestic interested party group response was inadequate.

The Commission did not receive a response from any respondent interested party. Accordingly, the Commission determined that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. The Commission therefore determined to conduct an expedited review.

¹ Because a majority of the Commission did not find that the individual response filed by Zeon was inadequate, the domestic producer is considered to have filed an adequate response for purposes of this expedited proceeding.

² Zeon provided a response to each of the items in the notice of institution other than the requested data regarding its production of the domestic like product and an estimate of total U.S. production of the domestic like product. However, Zeon provided a reasonable explanation of the reason it did not supply those data.

³ Uniroyal closed its domestic nitrile rubber production facilities in June 1999. However, Zeon represented a small percentage of domestic production even excluding Uniroyal’s 1998 production from the calculation.