

Cease and Desist Orders and Surcharge Payment Orders against Manufacturers and  
Distributors of Cross-linked High-Foaming Polyethylene Sheets  
( Tentative Translation )

March 30, 2009  
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) investigated the manufacturers and distributors of cross-linked high-foaming polyethylene sheets <sup>(Note 1)</sup> in accordance with provisions of the Antimonopoly Act and found that the manufacturers and distributors were in violation of the provision of Article 3 of the Act (Prohibition of unreasonable restraint of trade). Accordingly, the JFTC today issued cease and desist orders in accordance with the provision of Paragraph 2, Article 7 of the Act and surcharge payment orders in accordance with the provision of Paragraph 1, Article 7-2 of the Act as shown below .

Note1: Cross-linked high-foaming polyethylene sheets are foaming sheets, which are made from polyethylene system resins such as polyethylene resin and ethylene vinyl acetate copolymer resin; they are then subjected to cross-linking treatment and are foamed in high magnification.

1. Violating Entrepreneurs, Entrepreneurs Subject to the Cease and Desist Order and the Surcharge Payment Order as well as their Surcharge Amounts

No.	Name of violating entrepreneurs	Location of headquarters	Cease and desist order	Surcharge payment order
1	The Furukawa Electric Co., Ltd.	2-3, Marunouchi 2-chome, Chiyoda-ku, Tokyo	○	793,130,000 yen
2	Hitachi Chemical Co., Ltd.	1-1, Nishi-Shinjuku 2-chome, Shinjuku-ku, Tokyo	○	165,370,000 yen
3	Toray Pef Products, Inc.	1916, Shimoda Aza Kiriyama, Konan-shi, Shiga	○	105,850,000 yen
4	Toray Industries, Inc.	1-1, Nihonbashi Muromachi 2-chome, Chuo-ku, Tokyo	○	-
5	Sekisui Chemical Co., Ltd.	4-4, Nishitenma 2-chome, Kita-ku, Osaka	-	-
Total			4 companies	1,064,350,000 yen

Note 2: “○” in the Table indicates that the cease and desist order was issued to the entrepreneur.

Note 3: “ - ” in the Table indicates that the entrepreneur is the violating entrepreneur to which the cease and desist order or the surcharge payment order was not issued.

## 2. Outline of the Violation

(1) The price of polyethylene system resin, which is the raw material for cross-linked high-foaming polyethylene sheets, inflated and, for that reason, the Furukawa Electric Co., Ltd. (hereinafter referred to as “Furukawa Electric”); Hitachi Chemical Co., Ltd. (hereinafter referred to as “Hitachi Chemical”); Toray Pef Products, Inc. (hereinafter referred to as “Toray Pef Products”); and Sekisui Chemical Co., Ltd. (these 4 companies shall be hereinafter referred to as the “4 Companies”) and Toray Industries, Inc. (hereinafter referred to as “Toray”) (these 5 companies shall be hereinafter referred to as the “5 Companies”) agreed in late March 2004 at the latest that:

(i) the 5 Companies would jointly increase the delivery price to the consumers of the cross-linked high-foaming polyethylene sheets that were sold by the 4 Companies in the future, corresponding to the inflation in the price of the polyethylene system resin, which is the raw material for cross-linked high-foaming polyethylene sheets; and

(ii) the 5 Companies would decide the specifics of the method for the increase of the delivery price to consumers by negotiation in the meeting they hold etc.

Through such agreement, the 5 Companies substantially restrained competition in the field of sales of cross-linked high-foaming polyethylene sheets in Japan, contrary to public interest.

(2) On the basis of the agreement described in (1) above, the 5 Companies repeatedly decided the specific method to increase the delivery price to consumers by holding meetings that were attended by the 4 Companies or the 5 Companies in order to jointly increase the delivery price to consumers of the cross-linked high-foaming polyethylene sheets that were sold by the 4 Companies corresponding to the inflation of the price of the polyethylene system resin. And the 4 Companies, pursuant to the decisions at the above meetings, respectively proposed to the consumers of cross-linked high-foaming polyethylene sheets on the increase of price and actually increased the delivery price to the consumers, as detailed below:

(i) By late March of 2004 at the latest, it was decided that they would aim to increase the delivery price to the consumers of cross-linked high-foaming polyethylene sheets (excluding those that were mainly used for lining of roofs (hereinafter referred to as the “Roofing Products”)) by 5% of the then current price from April 2004.

(ii) By the end of September 2004 at the latest, it was decided that they would aim to increase the delivery price to the consumers of Roofing Products among cross-linked high-foaming polyethylene sheets (excluding those that were mainly used for lining of the roofs with fireproof structure (hereinafter referred to as the “Fireproof Roofing Products”)) by 5% of the then current price from October 2004.

(iii) By mid February 2005 at the latest, it was decided that they would aim to increase the delivery price to the consumers of Roofing Products among cross-linked high-foaming polyethylene sheets by 5% of the then current price (and to increase the delivery price of the Fireproof Roofing

Products by 10% of the then current price), from late February 2005.

(iv) By early June 2005 at the latest, it was decided that they would aim to increase the delivery price to the consumers of cross-linked high-foaming polyethylene sheets (excluding the Roofing Products) by 5% of the then current price from mid-June 2005.

(v) By late November 2005 at the latest, it was decided that they would increase the delivery price of Roofing Products among cross-linked high-foaming polyethylene sheets to the target price which was set for the consumer to whom the prices had not been adequately increased, by March 2006.

(vi) By late September 2006 at the latest, it was decided that they would aim to increase the delivery price to the consumers of the Roofing Products among cross-linked high-foaming polyethylene sheets by 10% of the then current price from October 2005.

### 3. Outline of the Cease-and-Desist Order

(1) Furukawa Electric, Hitachi Chemical, Toray Pef Products, and Toray (hereinafter referred to as the “4 Addressees”) shall respectively have resolutions adopted at their Board of Directors to the effect that

(i) they will acknowledge the termination of the agreement described in item 2 (1) above

(ii) they will avoid joint decision on the delivery price to the consumers of cross-linked high-foaming polyethylene sheets among themselves (excluding the relationship between Toray Pef Products and Toray) or in cooperation with other companies and will decide independently the price in the future.

(2) The 4 Addressees shall respectively notify the measures adopted in accordance with item (1) above to the other 3 companies (in case of Toray Pef Products and Toray, to Furukawa Electric and Hitachi Chemical) and to the distributors and consumers of cross-linked high-foaming polyethylene sheets of their own (in case of Toray, to the distributors and the consumers of those of Toray Pef Products) and shall have the measures taken thoroughly disseminated to their employees.

(3) The 4 Addressees respectively shall not decide the delivery price to the consumers of cross-linked high-foaming polyethylene sheets among themselves (excluding the relationship between Toray Pef Products and Toray) or in cooperation with other companies in the future.

(4) The 4 Addressees shall respectively take necessary measures to perform the following matters in the future:

(i) Full dissemination to their employees of the behavior policies on compliance of the Antimonopoly Act in relation to the sales activities for their own products

(ii) Periodic training courses for the sales staff in charge of the cross-linked high-foaming polyethylene sheets and periodic audit by legal staff on compliance of the Antimonopoly Act in relation to the sales activities for cross-linked high-foaming polyethylene sheets

4. Outline of the Surcharge Payment Order

The Furukawa Electric, Hitachi Chemical, and Toray Pef Products shall, by July 1, 2009, pay the amount indicated in the “Surcharge payment order” in the Table under item 1 above (1,064,350,000 yen in total).

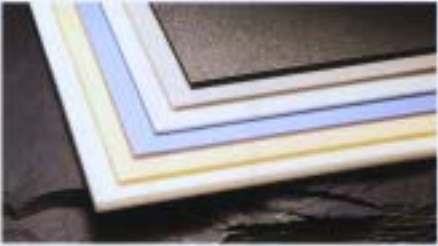
**1. Cross-linked high-foaming polyethylene sheets**

Cross-linked high-foaming polyethylene sheets are foaming sheets, which are manufactured by mixing polyethylene system resins such as polyethylene resin and ethylene vinyl acetate copolymer resin and foaming agents; they are then subjected to cross-linking treatment (electron beam irradiation or chemical reaction through chemical agent) and are foamed in high magnification in order to improve the intensity and heat resistance of the sheets.

Cross-linked high-foaming polyethylene sheets demonstrate advantages in heat insulation and waterproof properties etc. and are used in a wide range of applications such as construction and civil engineering materials for long gauge roofs, etc.; pipe covers; refrigerants and insulation materials for refrigerators, etc.; kickboards for swimming; bath mats and other sporting goods; and general merchandise.

Images of cross-linked high-foaming polyethylene sheets

Cross-linked high-foaming polyethylene sheets



Processed into various products through process manufacturers



Long gauge roofs attached to steel products



Pipe covers



Kickboards for swimming