

MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 15th February, 2002

PRELIMINARY FINDINGS

Sub: Anti-Dumping Investigation concerning imports of Hydrofluoric Acid from People's Republic of China.

No.62/1/2001-DGAD - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation:
 - i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from M/s All India Hydrofluoric Acid Manufacturers (AHF) (hereinafter referred to as petitioner) on behalf of domestic industry, alleging dumping of Hydrofluoric Acid (hereinafter also referred to as subject goods) originating in or exported from People's Republic of China (hereinafter referred to as subject country). The petition was also supported by M/s Tanfac Industries Ltd., Cuddalore and M/s Navin Flourine Ltd., Mumbai. M/s Shriram Fibres Ltd., New Delhi and M/s Gujarat Fluorine Chemiclas Ltd., Vadodara the other two producers of the subject goods consume Hydrofluoric Acid captively.
 - ii. Preliminary scrutiny of the application filed by the petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.
 - iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of subject goods from People's Republic of China. The Authority notified the Embassy of People's Republic of China in New Delhi about the receipt of dumping allegation before

proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules.

- iv. The Authority issued a public notice dated 11.12.2001 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods classified under Chapter 28 of the Customs Tariff Act. 1975 and under Customs Sub-heading 281111 originating in or exported from People's Republic of China.
- v. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by petitioner) and gave them an opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2):
- vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non-confidential petition was also provided to other interested parties, wherever requested.
- ix. The Authority sent a questionnaire to elicit relevant information to the following known exporters/producers, in accordance with the Rule 6(4):
 1. M/s Quzhua Fluorine Chemical Company Ltd. Zhejiang, China
 2. M/s Yingpeng Chemical Company Ltd., Zhejiang, China
 3. M/s Yingguang Chemical Company Ltd., Zhejiang, China
 4. M/s Sanmei Chemical Industry Co. Ltd., Zhejiang, China
 5. M/s Yongfei Chemicals Co. Ltd., Fujian, China
 6. M/s 3-F Jinan Chemical Co. Ltd., Shandong, China
 7. M/s Dongyue Chemical Co. Ltd., Shandong, China
 8. M/s Melian Chemical Co. Ltd., Jiangsu, China
 9. M/s Ato-3F Changsu Chemical Co. Ltd., China
 10. M/s Xiangxiang Aluminium Plant, China
 11. M/s Shyeyang, Jaingsu, China
 12. M/s Fudu Chemical Co. Ltd., Jiangsu, China
 13. M/s Xinhua Chemical Plant, Jiangsu, China
 14. M/s Shanghai tianyuan Fluorine Chemical Co. Ltd., Shanghai, Chennai

No Response/information to the questionnaire/notification was filed by any of the exporters.

I. The Embassy of the subject country in New Delhi was informed about the initiation of the investigation in accordance with **Rule 6(2)** with a request to advise all concerned exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the known exporters was also sent to the Embassy of the subject country in accordance with Rule 6(3).

II. A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):

1. M/s Competent Dyestuff & Allied Products Pvt. Ltd. Ghaziabad
2. M/s Oswal Enterprises, Ahmedabad
3. M/s MFPL Fluorine Products Ltd. Chennai

Response/information to the questionnaire/notification was filed by M/s Oswal Enterprise, Ahmedabad regarding the domestic selling prices. However M/s Oswal has stated that no imports was made during the Period of Investigation

- xii. Information regarding injury was sought from the petitioner(s), which was also furnished by the petitioner.
- xiii. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
 - i. Cost investigation was also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner.
 - ii. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - iii. Investigation was carried out for the period starting from 1st April, 2001 to 30th Sept., 2001 i.e. the period of investigation (POI).

B . VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

1. PETITIONER'S VIEWS

a. PRODUCT UNDER CONSIDERATION

Hydrofluoric acid can be Anhydrous Hydrofluoric Acid or dilute Hydrofluoric Acid. It is a colourless liquid. It is produced and sold in various purity levels. The difference in the purity level, however, does not render the product as different, as it has the same physical and chemical characteristics, raw material contents, employs the same production technology and manufacturing process, serves the same general purpose and falls under the same tariff classification. All forms and purities of Hydrofluoric Acid are subject matter of the present petition.

Hydrofluoric Acid is an inorganic chemical and classified under Chapter 28 of the Customs Tariff Act (Custom Sub-head 281111).

The Basic Custom Duties on Hydrofluoric Acid in 2000-2001 is 35%.

There are no restrictions on imports of Hydrofluoric Acid as the product is categorised under OGL.

Hydrofluoric Acid is used as a catalyst for gasoline alkylation and reactions of isomerisation, condensation, dehydration and polymerisation, in manufacture of inorganic fluorides like Aluminium Fluoride and Cryolite, as a raw material for manufacture of fluorinated hydrocarbon compounds used as Refrigerants, Propellants, Blowing Agents, Cleaning Agents and Firefighting Agents, used in manufacture of drugs, in refining of Uranium and manufacture of Uranium Hexafluoride and also as an etching agent in electronic industry in preparation of micro electronic circuits. It is also used as pickling agent for descaling stainless strips and High Silicon Steels, purifying glass making silica, sand and feldspar for glazing porcelain, etching, glass frosting and polishing, Oilwell drilling, in manufacture of inorganic fluoride compounds, reclaiming grains from vitrified abrasive and also as a depressant in froth floatation of ores.

Anhydrous Hydrofluoric Acid in liquid form is colourless, fuming (Commercial acid may be slightly tinted), pungent, irritating and has nonflammable flammability.

Anhydrous Hydrofluoric Acid in gas form is colourless, forms white mist in contact with air, pungent irritating and has nonflammable flammability.

Aqueous Hydrofluoric Acid is colourless (commercial acid may be slightly tinted), pungent, irritating, where relative density and boiling point and varies with strength and has nonflammable flammability.

The product under consideration is categorised under OGL. The product can be imported freely in any quantity.

The raw material used in the manufacturing of Hydrofluoric Acid is Acid Grade Fluorspar(CaF_2), Sulphuric Acid (98% H_2SO_4) and Oleum.

The manufacturing process of Hydrofluoric Acid consists of two main operations:

1. Hydrogen Fluoride (Hydrofluoric Acid) gas production with Anhydrite as by product.
2. Hydrofluoric Acid gas condensation (liquification) and purification (by distillation).

1. WET FLUORSPAR DRYING

Fluorspar as imported is wet in nature. It contains about 10% moisture. Prior to feeding to Hydrofluoric Acid Plant, the wet Fluorspar is dried by hot flue gases in a dryer. The hot flue gases are generated by burning Light Diesel Oil (LDO). The dried fluorspar is pneumatically conveyed to the storage silo situated in HF Plant. The Fluorspar fines/dust generated during drying process are separated and collected (from the outgoing flue gases) by means of a cyclone and bag House. The clean gases escape through the stack.

2. H F GAS PRODUCTION:

1. Fluorspar and Sulphuric Acid/oleum mixture are fed into prereactor at a constant predetermined rate. Prereactor mixes and leads the fluorspar and sulphuric acid/oleum into a homogeneous mixture. About 30% of the reaction takes place in prereactor itself. Prereactor pushes the homogeneous mixture into the H F Reactor.
2. H F reactor which is rotating at a rpm of 2 is heated externally by means of circulating hot flue gases through the stationary jackets provided around the rotating H F reactor. The flue gases are generated by burning LDO. The reactor temp of 380-400°C is maintained to complete the reaction. The material moves from one end to other end of H F reactor in about 4-5 hours time when entire reaction gets completed.

H F gas is drawn from the feed end into prescrubbing tower where as the anhydrite by product is withdrawn from the other end. anhydrite is conveyed to a storage silo through a crusher.

3. HYDROFLUORIC ACID GAS LIQUIFICATION

1. The H F gas from the kiln passes through a prescrubbing tower. It is a packed column with carbon packings. Here prescrubbing acid (which is a mixture of H₂SO₄, H F and water) is circulated. The circulating prescrubbing acid washes the H F gas and remove dust, moisture and part of silica and P₂O₅ in the Gas
2. Then the gas passes through upper part of prescrubbing column (reflux column) where it is washed with hydrofluoric acid Reflux. Here a major portion of Sulphuric Acid, moisture and dust in the scrubbed H F gas (coming from prescrubbing tower) is removed.
3. Now the H F gas enters the two H F condensers in series and gets condensed (liquified) into liquid H F and stored in crude H F tank. At this stage most of the Silicon Tetra fluoride (SiF₄) gets separated from H F. H F gas is condensed by chilled Calcium Chloride Solution.

4. PURIFICATION OF H F

The liquid H F from 3.3 still contains some Sulphuric Acid, water, SiF₄, CO₂ and SO₂.

The above impurities are removed from H F in two stages by two separate distillation process:

1. The crude H F from crude H F tank is pumped into Distillation Column 1 and distilled using steam for evaporation and cooling water for condensing H F. In this column impurities, SO₂, CO₂ and SiF₄ are vented out from the top of the column. The H F liquid free of the above impurities then gets transferred to Distillation column 11 from the bottom of Distillation Column
2. In Distillation Column 11 impurities Sulphuric Acid, water and P₂O₅ are removed. Here also steam and cooling water are used for H F evaporation and H F condensation. The impurities get collected at the bottom of Distillation Column 11 from where it is withdrawn time to time. The pure H F is withdrawn from top of the column. The pure H F is cooled by cooling water in a tabular heat exchanger and sent to AHF storage tanks.

5. H₂SiF₆ FORMATION

The off gases from HF condensers from 3.3. above containing mostly non condensable like CO₂, air, all SiF₄ and very little H F pass through acid absorption system (Sulphuric Acid Absorption Column) where all the H F is absorbed in fresh Sulphuric Acid and returned to prereactor along with Oleum.

1. The HF free gases which escape from Acid absorption system are absorbed in water in silica removal system. Here all the SiF₄ gets converted to Hydro fluosilicic acid and stored in H₂SiF₆ storage tanks.
2. The off gases from Silica removal system then passes through central absorption tower. The Central absorption tower absorbs all the residual H F from the gases. Finally noncondensables like air etc. are vented to atmosphere by means of blower (Central Absorption Blower).

b. DOMESTIC INDUSTRY

The petition is being filed by AHF Manufacturers Association representing the Domestic Industry. Major producers of Hydrofluoric Acid are members of the Association which are as follows:-

- a. Tanfac Industries Ltd.
- b. Navin Fluorine Ltd.
- c. Shriram Fibres Ltd.
- d. Gujarat Fluorine Chemicals Ltd.

M/s Tanfac Industries Limited and M/s Navin Fluorine Ltd. have specifically consented to participate in the investigation. Most of the producers are producing Hydrofluoric Acid largely in captive consumption. The merchant market is largely catered by M/s Tanfac and M/s Navin. In fact M/s Tanfac is commanding more than 80% of the merchant sales of the Hydrofluoric Acid in India. The total domestic production of Hydrofluoric Acid in 2000-2001 was 30686 MT out of which 25516 MT was used for captive consumption and 5170 MT was sold in the market. M/s Tanfac Industries Ltd. accounted for 3774 MT (72.9%) of the sales whereas M/s Navin Fluorine Ltd. accounted for 1396 MT (29.1%) of sales and thus have the standing to file the petition on behalf of the Domestic Industry as per Rule 5(a) and (b) of Anti-Dumping Rules.

c. LIKE ARTICLE

- i. There is no known difference in the technology adopted by the Domestic Industry and the manufacturers in China. The technology adopted by the Domestic Industry is comparable to the technology adopted by the manufacturers of Hydrofluoric Acid in China. However, every manufacturer fine tunes its production process on the basis of necessities and available facilities.
- ii. There is no known difference in Hydrofluoric Acid produced by the Indian industry and Hydrofluoric acid exported from China. Hydrofluoric acid produced by the Indian industry and Hydrofluoric Acid imported from China are comparable in terms of characteristics such as physical and chemical

characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution, and marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. Hydrofluoric acid produced by the petitioner companies and imported from China should be treated as like article in accordance with the anti dumping rules.

iii. There is no viable substitute for Hydrofluoric Acid.

d. DUMPING

The petitioner has drawn attention to the definition of Normal Value as defined under Section 9A(1) (c). The petitioner has also drawn attention to the Custom Notification No. 44/1999 NT dated 15.07.1999 and Custom Notification No.28/2001 NT dated 31.05.2001. On the basis of the above, the petitioner has indicated that the normal value in a non-market economy country can be determined on the basis of the following:-

1. The price in a market economy third country,
2. Constructed value in a market economy third country,
3. The price from such a third country to other countries, including India,
4. The price actually paid in India, adjusted to include a reasonable profit margin,
5. The price actually payable in India, adjusted to include a reasonable profit margin.

China is a non-market economy. The normal value in China can be determined on any of the above mentioned basis. The normal value in China can thus be determined on the basis of estimates of cost of production including selling, general and administrative expenses and profit. The normal value has been determined accordingly by the petitioner and provided on confidential basis.

e) EXPORT PRICE

The petitioners have provided the information on exports of subject goods by PR China as per the data available from DGCI&S and on the basis of the secondary sources viz. Bill of Entry furnished in respect of one of the importers. The petitioners have claimed adjustments on ocean freight, marine insurance, commission, inland freight and port expenses to an extent of ****, ****, ****, **** and **** \$/PMT respectively.

On the basis of the information as provided from DGCI&S and secondary sources, the petitioners have claimed an ex-factory export price of ****\$/PMT.

Based on the above constructed normal value and the ex-factory export price, the dumping margin has been claimed at ****.

f) INJURY & CAUSAL LINK

- i. The landed price of the imported material is significantly below the selling prices of the Domestic Industry. The Domestic Industry has already started losing sales.
- ii. The Chinese producers are understood to be holding significant capacities for Hydrofluoric Acid. The large scale imports are imminent, should be dumping not be checked at this stage.
- iii. The landed price of the imports is significantly below the cost of production of the Domestic Industry. The Domestic Industry would be forced to face cash losses in case it has to sell at matching prices. The imports are having severe depressing effect on the prices in the market.
- iv. The dumping margins are very significant. The price at which material is being exported does not permit recovery of even raw material costs.
- v. Though production, capacity utilisation and sales volumes of Domestic Industry have not declined, as stated earlier, should be Chinese continue to sell at the present price, the Domestic Industry would not succeed in selling the material.
- vi. Though the selling price has not declined so far, the Domestic Industry would have no option but to reduce the price to retain the sales, should be Chinese producers continue to sell at the present prices.
- vii. The imports are at so significantly dumped prices that the landed price of imports is significantly below the selling price of the Domestic Industry. Dumped imports are causing severe price undercutting.
- viii. Landed value of the dumped imports is significantly below the cost of production of the Domestic Industry. Should the present trend of prices continue from China, the imports would have severe suppressing/depressing effect on the Domestic Industry .
- ix. There are very limited consumers of Hydrofluoric Acid in India. Once the prices at which the imports have taken place now, we are afraid, even other producers would also switch over to the Chinese material, as China has been otherwise supplying the material to India for quite some time.
- x. The employment level of the company has not undergone any significant change so far. Should the industry continue to face the present undercutting and underselling., the Domestic Industry would be forced to curtail the employment levels.
- xi. Imports from China are not only beyond de-minimis but substantial also. Imports from other countries are at much higher prices.

- xii. The demand of Hydrofluoric Acid is increasing. Possible decline in demand is, therefore, not a reason for injury to the Domestic Industry.
- xiii. The Domestic Industry is not having obsolete technology. The technology available with the Domestic Industry is at par with the producers world over. In fact, the Domestic Industry is exporting to various countries in the world, which establishes that the technology employed by the Domestic Industry is comparable with the producer's world over. Export performance of the Domestic Industry has not suffered.

C. EXAMINATION BY AUTHORITY

The foregoing submissions made by petitioner, to the extent these are relevant as per Rules and have a bearing upon the case, have been examined, considered and dealt with at appropriate places in these findings.

1. PRODUCT UNDER CONSIDERATION

The product involved in the present petition is Hydrofluoric Acid in various forms viz. Anhydrous Aqueous and in different purities and concentrations originating in or exported from the PR China and classified under Customs Sub-heading 281111 of the Customs Tariff Act, 1975. Hydrofluoric Acid could be Anhydrous Hydrofluoric Acid in liquid and gas form or Aqueous. It is an inorganic chemical classified under Chapter 28 of the Customs Tariff Act under Customs Sub-heading 281111 of the Customs Tariff Act, 1975 and is used as a catalyst for gasoline Alkylation manufacture of Inorganic Fluorides, Fluorinated Hydrocarbon Compounds, Refrigerants. It is also used as a pickling agent for descaling stainless strips and high silicon sheets, glass etching and also for production of misc. fluorides. The product is available in various forms and purities. The classification, is, however, indicative only and is in no way binding on the scope of the present investigation.

The raw materials used in the manufacture of Hydrofluoric Acid are Acid Grade Fluorspar, Sulphuric Acid and Oleum. Raw material Fluorspar contains moisture. It is first dried by hot flue gases in a dryer. It is then fed to Hydrofluoric gas production plant. Fluorspar and Sulphuric Acid/oleum mixture are fed into prereactor at a constant predetermined rate. Prereactor mixes these and converts into a homogeneous mixture. The prereactor then pushes the homogeneous mixture into the Hydrofluoric Acid reactor. H F gas is drawn from the feed end into prescrubbing tower whereas the Anhydrite by product is withdrawn from the other end. H F gas passes through upper part of prescrubbing tower which washes the Hydrofluoric Acid gas and remains dust and moisture the gas is then washed with the H F Acid reflex. The gas then goes into two HF condensers and thereafter the gas is condensed by chilled Calcium

Chloride solution. The liquid H F is then purified for removal of impurities by two separate distillation processes

2. LIKE ARTICLE

The Authority notes that the petitioner has claimed that the goods produced by them are like article to the goods produced, and exported from the subject country. Also both are technically and commercially substitutable, the consumers are using the domestically produced and imported goods interchangeably. The Authority also notes that none of the exporters/other interested parties has filed any response and therefore no issue has been raised regarding the like article. One of the importers i.e. M/s Oswal, Vadodara who has filed the information did not raise any argument on the issue of like article. The Authority notes that the subject goods imported from the subject country and that produced by the petitioner companies are technically and commercially substitutable and have been used interchangeably. The Authority also notes that one of the importers who has been the beneficiary of the dumped subject goods is also a customer of the Domestic Industry.

The Authority after noting the above submissions for the purpose of preliminary determination pending final determination holds that the goods produced by the Domestic Industry and those exported from the subject country are like article within the meaning of the Rules 2(d).

3. DOMESTIC INDUSTRY

The petition has been filed by the M/s All India Hydrofluoric Acid Manufacturers (AHF) Association, Cuddalore. The petition is supported by M/s Tanfac Industries Ltd and M/s Navin Fluorine Ltd. M/s Shriram Fibres Ltd. and M/s Gujarat Fluorine Chemicals Ltd., the other two producers consume Hydrofluoric Acid captively. The production of M/s Tanfac Industries Ltd, Cuddalore and M/s Navin Fluorine Ltd., Mumbai for merchant purposes is 5752 MT and 4496 MT respectively in the POI. The total domestic production by all producers for merchant sales in POI is 15191 MT. The petitioners therefore account for 67.4% of the total domestic production for merchant purposes and thus have the standing to file the petition on behalf of the Domestic Industry as per Rule 5(a) and (b) and also represent the domestic industry as per Rule 2(b).

4. NORMAL VALUE & EXPORT PRICE

Under Section 9A(1)(c), normal value in relation to an article means:

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
 - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

The normal value and ex-factory export price determination is illustrated below.

A. NORMAL VALUE

The Authority notes that none of the exporters/producers from PR China has provided their response. The Authority also notes that the petitioner has claimed normal value based on the constructed cost of production as per the Anti Dumping Rules. The Authority keeping in view the Notifications No. 44/1999 NT dated 15.07.1999 and No.28/2001 NT dated 31.05.2001 and the non-cooperation from producers/exporters in PR China considers it appropriate to construct the normal value on the basis of the available international prices of the major raw materials. The Authority has appropriately benchmarked the best consumption norms and productivity factors for constructing the normal value.

The Authority has determined the normal value separately for different concentrations of the subject goods keeping in view their different end uses and non-substitutability and in view of this the constructed normal value for 70% and 60% concentration of the subject goods comes to **** and ****\$/PMT respectively.

B. EXPORT PRICE

The Authority notes that none of the exporters/producers from the subject country has provided the response to the questionnaire. The Authority also notes that the petitioner has provided data from Directorate General of Commercial Intelligence & Statistics (DGCI&S) and also from secondary sources evidenced in the form of bill of entry of one of the importers indicating the import price of the subject goods from the subject country during the POI. The Authority also notes that the petitioner has claimed adjustments on ocean freight, marine insurance, commission, inland freight and port expenses to an extent of ****, ****, ****, **** and **** \$/MT respectively.

The Authority in view of the non-cooperation and on the basis of available data from DGCI&S and secondary evidences as provided by the petitioner has evaluated the ex-factory export price on the basis of the above adjustments which comes to ****\$/PMT for 60% concentration of subject goods and ****\$/PMT for 70% concentration of subject goods respectively.

5. DUMPING-Comparison of Normal Value & Export Price

The rules relating to comparison provides as follows:

"While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability."

The Authority has carried out weighted average normal value comparison with the weighted average ex-factory export price in Period of Investigation, for evaluation of the dumping margin for all the exporter/producers of the subject country.

The Dumping Margins of concentrations other than 60% and 70% have been referenced on the basis of the data available for 60% concentration.

The dumping margin for all exporter/producers comes as under:

Exporter	Normal value(NV) \$/MT	Export Price(EP) \$/MT	Dumping margin as % of EP
PR China All exporters/Producers in China PR	****	****	De-minimis

Hydrofluoric Acid of 70% concentration in all forms	****	****	38.2%
Hydrofluoric Acid of 60% concentration in all forms	****	****	38.2%
All other concentrations of Hydrofluoric Acid in all forms			

The dumping margins of all concentrations of the subject goods other than 70% concentration are above the de-minimis level.

6. INJURY AND CAUSAL LINK

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, ".....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

For the examination of the impact of the dumped imports on the domestic industry in India, we may consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II(iv) of the rules supra.

As regards the threat of injury, the Authority notes that the Anti-Dumping Rules states as follows:

"A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the DA shall consider, inter-alia, such factors and;

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports

to Indian market, taking into account the availability of other export markets to absorb any additional exports;

- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and,
- d. inventories of the article being investigated.

The Authority notes and observes the following economic parameters in the case of domestic producers who had supported the petition.

(i) The capacity, production and capacity utilisation of the domestic industry for the year 1998-99, 1999-2002 and 2000-2001 and Period of Investigation are as under:-
production,

(in MT)

	1998-99	1999-2000	2000-2001	April 2001-September 2001 (POI)	POI Annualised
Capacity	23035	23035	23035	11518	23036
Production	20338	21650	19452	10248	20496
Capacity Utilisation	88.29%	93.99%	84.45%	88.97%	88.97%
Domestic merchant Sales	3655	4863	4630	2042	4084

The Authority notes that as compared to 2000-2001, there has been increase in the production and as well as the capacity utilisation of the Domestic Industry. As regards the domestic merchant sales, it has declined from 4863 MT in 1999-2000 to 4630 MT in 2000-2001 and 4084 MT in Period of Investigation (Annualised).

(ii) The Net Sales Realisation (NSR) of Hydrofluoric Acid in 60% concentration by the Domestic Industry in POI of ****\$/MT which has been lower than the Non Injurious Price(NIP) for the Domestic Industry during the POI.

(iii) The domestic industry has suffered financial losses on account of price undercutting and price suppression caused by the dumped subject goods of 60% concentration during the POI.

(iv) The demand of the subject goods evaluated on the basis of the merchant sales has declined from 4961 MT in 1999-2000 to 4804 MT in 2000-2001 and to 4215 MT in POI (annualised). However, the total demand including the captive consumption has increased from 30685 MT in 1999-2000 to 31340 MT in POI (annualised). Therefore the demand has not been a contributing factor to the injury caused to the domestic industry.

Also in order to eliminate effect of any inefficiencies in the production process of the subject goods Domestic Industry, which could be a contributing factor to the injury to the Domestic Industry, the Authority has determined a Non Injurious Price (NIP) for the Domestic Industry during the POI. The Non Injurious Price has been evaluated by normating and benchmarking the best utilisation and consumption norms of various cost entities viz. raw material, utilities and consumables etc. for the Domestic Industry in the POI.

(v) The imports from China PR of subject goods were 60 MT in 1999-2000 and have increased to 120 MT in 2000-2001. During POI (annualised) the imports are also at the same level of 120 MT. The market share of imports from PR China in total imports have however increased from 68.74% in 2000-2001 to 91.73% in POI (annualised). These levels are above the de-minimis limit.

(vi) The market share of imports from China in the total merchant sales demand increased from 1.2% in 2000-2001 to 2.5% in POI.

(vii) The Authority also notes that one of the importers viz. M/s Jindal Strips of the dumped subject goods during the POI is also one of the customers for the subject goods sold by the petitioner. The Authority notes that the petitioner companies have lost sales to this customer on account of dumping of the subject goods.

(viii) The Authority also notes that there is sufficient disposable capacity more than 1.6 lakh tonnes of the subject goods available in the exporting country and that the price undercutting phenomena by the recent dumped imports indicates an imminent threat to the domestic producers of the subject goods in India.

7. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

The Authority also recognises that though the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products, however, fair competition in the Indian market will not be reduced by these anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by the dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice of the subject goods to the consumers. Imposition of anti-dumping measures would also not

restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

8. LANDED VALUE

The landed value of imports for the purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

D. CONCLUSIONS:

It is seen, after considering the foregoing, that:

- a. The subject goods of all concentration other than 70% in all forms originating in or exported from the subject country have been exported to India below its normal value. The subject goods in 70% concentration have not been exported below the normal value.
- b. The significant capacity for export purposes available with the producers/exporters in PR China and the recent dumped imports of concentration other than 70% have caused price depression and is an imminent threat to the domestic producers of the subject goods in India.
- c. The domestic industry has also suffered material injury by way of financial losses due to depressed Net Sales Realisation (NSR) on account of price depression caused by low landed prices of the dumped subject goods.
- d. The injury has been caused to the domestic industry by dumping of the subject goods of all concentration other than 70% concentration originating in or exported from the subject country.
- e. The Authority recommends anti-dumping duty on imports of subject goods of all concentrations other than 70% concentration falling under Chapter 28 originating in or exported from the subject country.
- f. It was considered to recommend the amount of anti-dumping duty equal to the margin of dumping or less so as to remove the injury caused to the domestic industry on account of dumping. Accordingly, it is proposed that provisional anti dumping duties equal to the difference between the reference amount as indicated in Column 3 below and the landed value be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods except that in 70% concentration originating in or exported from People's Republic of China under Chapter 28 Customs sub-heading 281111 of the Customs Tariff, pending final determination.

SI. No.	Name of the exporter/producer	Reference Amount (US\$/MT)
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1.	<u>PR China</u>	
(a)	All producers/exporters	840.9
(b)	Hydrofluoric Acid of 100% concentration in all forms (loose/unpacked)	907.8
2.	Hydrofluoric Acid of 100% concentration in all forms (packed)	
(a)	Hydrofluoric Acid of 60% concentration in all forms (loose and unpacked)	504.5
(b)	Hydrofluoric Acid of 60% concentration in all forms (packed)	571.4
3.	Hydrofluoric Acid of 50% concentration in all forms (loose and unpacked)	420.4
(a)	Hydrofluoric Acid of 50% concentration in all forms (packed)	487.3
(b)		

The reference amount in Column 3 for subject goods in loose form would be determined on a pro-rata basis viz. reference amount for 60% concentration is equal to 60% of the reference amount of 100% concentration. The reference amount for packed form of subject goods of a particular concentration would be determined by adding \$66.9/MT as a fixed packaging cost to its reference value in loose form. To illustrate, the reference value of packed form of 60% concentration would be equal to \$504.5/MT(reference value of 60% concentration in loose form) plus \$66.9/MT(packaging cost), i.e \$571.4/MT.

E. FURTHER PROCEDURE

The following procedure would be followed subsequent to notifying the preliminary findings:

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. All Producers/Exporters in PR China, Importers, Petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would conduct verifications to the extent deemed necessary;
- d. The Authority would provide opportunity to all interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
- e. The Authority would disclose essential facts before announcing final findings.

(L V SAPTHARISHI),
Designated Authority