

To be published in Part-I Section I of the Gazette of India Extraordinary

F. No. 06/33/2020-DGTR

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Trade Remedies

Jeevan Tara Building, Parliament Street, New Delhi

Dated: 23rd September, 2021

NOTIFICATION

FINAL FINDINGS

Case No. AD (OI)-28/2020

Subject: Final Findings in anti-dumping investigation concerning imports of Hydrofluorocarbon (HFC) Component R-32, originating in or exported from China PR -reg.

A. BACKGROUND OF THE CASE

F. No. 6/33/2020-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as “the Rules”) thereof.

1. The Designated Authority (hereinafter referred to as “the Authority”) received an application (also referred to as the “petition”) from M/s SRF Limited (hereinafter also referred to as the “Applicant” or the “Domestic Industry”) requesting initiation of anti-dumping investigation under the Act and the Rules on imports of “Hydrofluorocarbon (HFC) Component R-32” (hereinafter also referred to as the “product under consideration” or “PUC” or “subject goods”) originating in or exported from China PR (hereinafter referred to as the “subject country”). The Applicant, namely, M/s SRF Limited has provided the prescribed information in the application.
2. The Authority, on the basis of prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 6/33/2020-DGTR dated 28th September, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described below has been followed with regard to the subject investigation:
- a. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 28th September, 2020, published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject country.
 - c. The Authority sent a copy of the initiation notification dated 28th September, 2020, to the Embassy of the subject country in India, the known producers and exporters from the subject country, known importers, importer/user Associations and other interested parties, as per the addresses made available by the Applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules.
 - e. The Embassy of the subject country in India was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to it along with the names and addresses of the known producers/exporters from the subject country.
 - f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties from time to time up to 20th December, 2020 to file their Questionnaire response/submissions.
 - g. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules:
 - i. M/s Zhejiang Yonghe Refrigerants Co. Ltd.
 - ii. M/s The Chemours 3F Fluorochemicals (Changshu) Co. Ltd.
 - iii. M/s Ninhua Group Co. Ltd.
 - iv. M/s Sinochem Environmental Protection Chemical (Taicang) Co. Ltd.
 - v. M/s Zhejiang Sanmei Chemical Ind Co. Ltd.
 - vi. M/s Zibo Feiyuan Chemicals Co. Ltd.
 - vii. M/s Sinochem Environmental Protection Chemical Co. Ltd.
 - viii. M/s Jinhua Yonghe Fluorochemical Co. Ltd.
 - ix. M/s Hangzhou Juming Imp/Exp Co. Ltd.
 - x. M/s Dongyang Weihua Refrigerants Co. Ltd.
 - xi. M/s Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd.
 - xii. M/s Lu Xi Chemical (Hong Kong) Co. Limited.
 - xiii. M/s The Chemours Chemical (Shanghai) Co. Ltd.
 - xiv. M/s Daikin Arkema Refrigerants Asia Limited.

- xv. M/s Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.
- xvi. M/s Fluo Shanghai International Trade Co. Ltd.
- xvii. M/s Beijing Straget Chemicals Co. Ltd.
- xviii. M/s Zibo Feiyuan Chemical Co. Ltd.
- xix. M/s Zhejiang Fotech International Co.
- xx. M/s Sinochem Lantian Fluoro Materials Co. Ltd.
- xxi. M/s Zhejiang Orient Multitex I/E Co. Ltd.
- xxii. M/s Ace Prosper Corporation.
- xxiii. M/s Dyaninc Limited.
- xxiv. M/s Daikin Fluorochemicals (China) Co. Ltd.
- xxv. M/s Jiangxi Lee & Man Chemical Limited.
- xxvi. M/s Sc Ningbo International Ltd.
- xxvii. M/s Shandong Huaan New Material Co. Ltd.
- xxviii. M/s Liancheng Ruijin (Hong Kong) Co. Limited.
- xxix. M/s Zhejiang Quhua Fluor-Chemistry Co. Ltd.

- h. In response to the above notification, the following exporters/ producers and their related exporters/traders have responded and submitted/filed exporter's questionnaire responses and/or legal submissions:
 - i. M/s Zhejiang Quzhou Juxin Fluorine Chemical Co. Ltd. (Producer)
 - ii. M/s Zhejiang Sanmei Chemical Ind. Co. Ltd. (Exporter)
 - iii. M/s Zibo Feivuan Chemical Co. Ltd. (Producer and exporter)
 - iv. M/s Shandong Dongyue Chemical Co. Ltd. (Producer and exporter)
 - v. M/s Zhejiang Quhua Fluor-chemistry Co. Ltd. (Exporter)
 - vi. M/s Fujian Qingliu Dongying Chemical Ind. Co. Ltd. (Producer)
 - vii. M/s Jiangsu Sanmei Chemical Ind. Co. Ltd. (Producer)
 - viii. M/s Taixing Meilan New Materials Co. Ltd. (Producer)
 - ix. Taizhou Qingsong Refrigerant New Material Co. Ltd. (Producer and exporter)
 - x. M/s Sinochem Lantian Fluoro Materials Co. Ltd. (Exporter)
 - xi. M/s Taixing Meilan Zhinglan New Materials Co. Ltd. (Trader)
- i. The Authority sent questionnaires to the following known importers and users of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. M/s Gorakhram Haribux.
 - ii. M/s Kiro Refrigerants Private Limited.
 - iii. M/s Stallion Enterprises.
 - iv. M/s Mangali Petrochem Ltd.
 - v. M/s Ajay Air Products (P) Ltd.
 - vi. M/s Gujarat Fluoro Chemicals Ltd.
 - vii. M/s Stallion India Fluorochemicals Pvt. Ltd.
 - viii. M/s Coolmate Refrigerants Pvt. Ltd.
 - ix. M/s Chillaire Solutions.
 - x. M/s Mihama India Pvt. Ltd.
 - xi. M/s Value Refrigerants Private Limited.

- xii. M/s MPCL Industries Limited.
- xiii. M/s Navin Fluorine International Limited.
- xiv. M/s Vijay Petrochem Private Limited.
- xv. M/s Shravan Engineering Enterprises P. Ltd.
- xvi. M/s Sikelan Chemicals India Pvt. Ltd.
- xvii. M/s Reflex Industries Limited.
- xviii. M/s Mexfluor India Private Limited.
- xix. M/s T.T. International Co. Ltd.
- xx. M/s Weitron International Refrigeration Equipment (Kunshan) Co. Ltd.
- xxi. M/s Aone 9 Star Future Pvt. Ltd.
- xxii. M/s Unique General Trader.
- xxiii. M/s Karthik Traders.
- xxiv. M/s Hindustan Refrigeration Stores.
- xxv. M/s Cool Chem (Op) Private Limited.
- xxvi. M/s Koolane Refrigerants.

- j. In response, the following importers or users have responded and submitted importer/user questionnaire responses/legal submissions:
 - i. M/s Reflex Industries Ltd. (Importer)
 - ii. M/s MPCL Industries Ltd. (Importer)
 - iii. M/s Stallion India Fluorochemicals Pvt. Ltd. (Importer)
 - iv. M/s Mihama India Pvt. Ltd. (Importer)
- k. The Authority made available non-confidential version of the evidence presented by various interested parties. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to restrictions on physical movements owing to ongoing global Covid-19 pandemic.
- l. The period of investigation for the purpose of present investigation is 1st April, 2019 to 31st March, 2020 (12 months). The injury examination period is the period 1st April 2016-31st March 2017, 1st April 2017-31st March 2018, 1st April 2018-31st March 2019 and the period of investigation.
- m. The Authority obtained transaction-wise import data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) for the subject goods for the injury period, including the period of investigation, and analysed the data after due examination of the transactions.
- n. Verification of the data provided by the domestic industry and the responding exporters was concluded to the extent considered necessary for the purpose of the present investigation.
- o. The non-injurious price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits for the subject goods in India, having regard to the

information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- p. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 30th June, 2021. The parties, which presented their views in the oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.
- q. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final findings.
- r. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties which forms the basis of this final findings, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant.
- s. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- t. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 26th August, 2021, and comments received thereon, considered relevant by the Authority, have been addressed in these Final Findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiterations of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
- u. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such party as non-cooperative and recorded the present final findings on the basis of the facts available.
- v. '****' in this final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

- w. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. At the stage of initiation, the product under consideration was defined as-

"3. The product under consideration in the present application is "Hydrofluorocarbon (HFC) Component R-32 or Difluoromethane". R-32 or Difluoromethane has the chemical formula CH₂F₂ and is registered as CAS No. 75-10-5. It is also known as HFC-32, FC-32, Freon-32, Methylene difluoride, Methylene fluoride, Carbon fluoride hydride, halocarbon R32, fluorocarbon R32, and UN 3252. The HFC Component R-32 is mainly used in residential air conditioning systems.

4. The subject goods are classified under Chapter 29 of the Customs Tariff Act, 1975 under customs sub-heading no. 290339. The customs classification is, however, indicative only and in no way binding on the scope of the present investigation."

C.1. Submissions of the domestic industry

5. The submissions made by the domestic industry with regard to product under consideration and the like article that are considered relevant by the Authority are as follows:
- a. Hydrofluorocarbon (HFC) Component R-32 or Difluoromethane has the chemical formula CH₂F₂ and is registered as CAS No. 75-10-5. It is also known as HFC-32, FC-32, Freon-32, Methylene difluoride, Methylene fluoride, Carbon fluoride hydride, halocarbon R32, fluorocarbon R32, and UN 3252. HFC Component R-32 is used in residential air conditioning systems.
 - b. This product is classified under Customs Tariff heading no. 290339.
 - c. The Applicant has produced like article to the imported products.
 - d. The domestic industry has no objection to separate margins being calculated for packed and unpacked forms of the PUC.

C.2. Submissions of other interested parties

6. The following submissions have been made by the exporters/producers/other interested parties regarding the product under consideration and like article:
- a. Packed and unpacked forms of the PUC have a cost and price difference of 20-30%. No such differentiation is made for goods while claiming dumping and injury in the petition. The Authority should compare them separately and separate margins should be determined

C.3 Examination by the Authority

7. The product under consideration in the present investigation is “Hydrofluorocarbon Component R-32” or “Difluoromethane”.
8. Hydrofluorocarbon (HFC) Component R-32 or Difluoromethane has the chemical formula CH_2F_2 and is registered as CAS No. 75-10-5. It is also known as HFC-32, FC-32, Freon-32, Methylene difluoride, Methylene fluoride, Carbon fluoride hydride, halocarbon R32, fluorocarbon R32, and UN 3252. HFC Component R-32 is used in residential air conditioning systems.
9. The product is classified under Customs Tariff heading no. 290339. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
10. As regards the argument of separate dumping margin of packed and unpacked product under consideration, it is clarified that the Authority has determined separate margins for packed and unpacked forms. The dumping and injury margins have been determined as the weighted average of the dumping margins for the packed and unpacked forms.
11. It is seen from the information available on record that the product produced by the domestic industry is like article to the product under consideration imported from the subject country. The product produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority holds that the subject goods produced by the domestic industry are like article to the product imported from the subject country in terms of Rule 2(d) of the Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1 Submissions of the domestic industry

12. The domestic industry (DI) has made the following submissions with regard to the scope of domestic industry and standing:
 - a. The Applicant, namely M/s SRF Limited, constitutes 100% of the domestic production for the subject goods in India.
 - b. The Applicant has not imported the subject goods in the period of investigation from the subject country.
 - c. The Applicant is not related to any exporters in the subject country or importers of the subject goods in India.

D.2. Submissions of other interested parties

13. No submissions have been made by the exporters/producers/other interested parties regarding the scope and standing of the domestic industry.

D.3.Examination by the Authority

14. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.

15. The Application has been filed by M/s SRF Limited. The Applicant accounts for 100% of the Indian production. The Applicant has certified that neither they have imported the PUC from the subject country in the period of investigation nor they are related to any exporter or producer of PUC in the subject country or any importer of the PUC in India.
16. The Authority holds that the Applicant constitutes domestic industry under Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

17. The domestic industry has made the following submissions with regard to confidentiality:
- a. The Non-Confidential Version (NCV) of the petition and Annexure A filed are as per Rule 7 of the AD Rules, Trade Notices 1/2013 and 10/2018.
 - b. Mihama India, Stallion India and MPCL have not circulated the NCV of their submissions to the DI in violation of relevant legal provisions, trade notices issued by the Authority and global best practices. They have also not participated in the hearing. These parties should not be considered interested parties. CESTAT order in HR Johnson v. Designated Authority is relied upon.
 - c. Several responding parties have claimed their related party information confidential in violation of Trade Notice 10/2018.
 - d. All interested parties have resorted to excessive confidentiality on multiple grounds. This impairs the right of defense of the domestic industry and violates principles of natural justice.
 - e. NIP is business sensitive information, not amenable to summarization.
 - f. DGCI&S data is third party data which the DI is not authorized to disclose. The same may be obtained following Trade Notice 7/2018. Final Finding in AD investigation on

‘PET Resin’ from China is relied upon. There is no obligation on the DI to provide both sorted and unsorted data to all interested parties.

E.2. Submissions of other interested parties

18. The other interested parties have made the following submissions with regard to confidentiality:
- a. NIP has not been provided as per prescribed deviation of +/- 10%. The confidentiality claim provides no reasonable estimate of NIP claimed.
 - b. The Authority may disregard information on which confidentiality claim is not to the satisfaction of the Authority and the petitioner is unwilling to make information public.
 - c. The non-confidential version is not a replica of the confidential version and, therefore, the investigation should be terminated. During the oral hearing, the domestic industry mentioned that replica of Confidential Version (CV) petition in NCV has no meaning and made its submissions as if it has got the right to provide the information as it likes and in no case it will provide the replica of the confidential version.
 - d. The non-confidential version of the petition violates requirements of the Rules, relevant trade notices and the right of defence of the interested parties by not furnishing any information in response to Annexure A (Injury Statement) and Annexure 4 (Costing Information).
 - e. The petitioner does not claim that the production process is patented and the raw material used is proprietary to them. Even a broad description of the manufacturing process has been kept confidential on vague grounds.
 - f. The domestic industry has kept lots of information confidential without any legitimate reasons and in violation of rules and procedure of the Authority. Item-wise details of normal value, evidence of adjustments for export price, profit/loss and return on capital employed in percentage terms, price underselling and injury margin, share in total production, details of wages have been kept confidential.
 - g. Formats A to L are left completely blank without even disclosing basic information.
 - h. On a number of other parameters also like R&D expenses, funds raised, export price/unit, PBIT per unit, purchase of PUC, and NIP calculation, the Applicant has violated the trade notice without good cause for claiming excessive confidentiality. The information for these parameters should be disregarded.
 - i. The petitioner has also not provided transaction-wise import data. CESTAT decision in Exotic Décor is relied upon.
 - j. The DI has claimed excessive confidentiality on related party transactions.
 - k. Responding to the submission of the domestic industry, the interested parties have contended the following:
 - i. The DI is wrong in arguing that excessive confidentiality has been claimed by the exporters.
 - ii. Zibo Feuyuan has provided cost, price, and PBIT of export to India in confidential version.
 - iii. DI's objections to confidentiality are without a proper review of questionnaire response. While exporters have claimed manufacturing process is claimed confidential, the same has been claimed by the DI too. The confidentiality claimed

is permissible under the Rules by providing reasons which are not disputed by the DI.

- iv. Shandong has provided information on related parties in the confidential version as per the Rules.

E.3. Examination by the Authority

19. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information.”

20. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of a significant competitive advantage to a competitor or because its disclosure would have a significant adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.
21. The Authority has considered the claims of confidentiality made by the Applicant and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority made available to all interested parties the non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).
22. As regards submission of importer’s questionnaire response by Mihama India Pvt. Ltd., Stallion India Fluorochemicals Pvt. Ltd., and MPCL Industries Limited, it is seen that these companies have not provided a meaningful summary of the confidential submissions in the form of non-confidential version. The Authority therefore rejects the questionnaire response filed by these companies.

23. With regards to DGCI&S data, the Authority notes that the data has been shared with interested parties relating to volume & value of imports from exporting countries into India. It is also noted that any interested party can obtain data independently from the DGCI&S and lodge its own counter claim based on the data so received. The Authority holds that procedure for sharing and procuring import data has been laid down in the Trade Notice 07/2018 dated 15th March, 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy & (ii) interested parties can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. Due to Covid-19, a scanned copy of the sorted import data was made accessible to the interested parties based upon declaration/undertaking as per the prescribed format. The Authority thus notes that the procedure now being applied is consistent, uniform across parties and investigations and provides adequate opportunity to the interested parties to defend their interests
24. The Authority notes that both set of interested parties have claimed similar information as confidential and have yet pointed out at confidentiality claimed by other interested parties on similar information. The Authority notes that the information claimed confidential by these interested parties on these accounts are normally allowed to be filed on confidential basis. Since the Authority has allowed confidentiality on such information in the past, the same has been allowed in the present case as well.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

25. The following miscellaneous submissions have been made by the domestic industry:
- a. The questionnaire responses filed by the Chinese producers are incomplete in so far as these do not include questionnaire response of the affiliated parties. All related parties of the responding companies had responded in the investigation conducted by the US. However, some of these parties have not responded in the instant investigation. Further, as per the instructions contained in the questionnaire, all related entities engaged in the PUC and unrelated exporters exporting the PUC should file questionnaire responses. If such related parties have failed to cooperate, the responding party should also be held non-cooperative.
 - b. From publicly available information, certain related parties of Sinochem Lantian, Zhejiang Sanmei, and Shandong Dongyue engaged in the PUC are non-cooperative, as these parties have not filed questionnaire response.
 - c. The imposition of the ADD will not be against public interest. The objective of ADD is to redress unfair price discrimination which is injurious to the industry in India. It establishes a level playing field, removes trade distortion and allows fair competition. It addresses the decline in the DI's performance and does not adversely impact eventual end customers. It will not restrict imports or affect availability of the product. Indigenous production guarantees reliability of supply.
 - d. Participation by consumers and importers is quite minimal. No users or user Association in India has opposed the imposition of the ADD. This shows they do not

- consider any significant adverse impact as a result of the investigation. Since the cost of the PUC on the final product is very minimal, there is no effect on the end-users.
- e. Considering number of products produced by SRF, the company has not frequently approached the Authority seeking imposition of ADD. This shows the Applicant is responsible and a fair player.
 - f. The commencement of production of the PUC by the Applicant is in line with the PM's Atma Nirbhar Bharat initiative. It is in the interest of the public at large to have a strong competitive domestic production of the subject goods. If injury to the DI continues, the consumers will be completely at the mercy of foreign producers.
 - g. DI filed data for 11 months since the DGCI&S data for March 2020 was not available at the time of filing.

F.2. Submissions of other interested parties

26. The other interested parties have made the following miscellaneous submissions:
- a. The domestic industry has provided import data for only 11 months and not the entire period of investigation. Since DGCI&S data and the sorted import data is not being provided to the interested parties, it is very easy for the domestic industry to manipulate import data. Domestic industry has hidden the information. The Authority should make it mandatory for the domestic industry to provide raw import data, sorted import data and excluded import data.
 - b. Incorrect calculation of import price by the use of only 11 months data has led to incorrect calculation of dumping margin. Hence, petition is unreliable and information provided by the producers/exporters should be considered. The petitioners should be directed to revise the petition to include data till March 2020.
 - c. AD and SSR investigations on R134a and AD investigation on imports of HFC Blends show that the petitioner has been seeking undue protection from the Authority for 12 years to attack the producers and exporters in China PR, maximise profits and gain monopolistic advantage.
 - d. The DI uses trade remedy as a strategic decision to offset their immense increase in costs during the POI. The same should be examined.
 - e. Since SRF is the sole producer, the whole market will be served only by them regardless of the quality and will derive market power from barriers to entry of potential competitors, thereby harming competitive environment and healthy development of industry of India. There are 100% chances of price extortion and price discrimination.
 - f. Annual Report 2019-20 shows that 13% of customer complaints were in the fluorochemical business, which includes HFC R-32 and demonstrates that the product is of poor quality thereby preventing them from producing quality grades and speciality grades of product under consideration.
 - g. Imposition of anti-dumping duty will affect end-users and downstream industry who are dependent on internationally competitive raw material to manufacture value-added products that can compete with other countries. It would cause tremendous loss of livelihood, reduction in exports by MSMEs, market asymmetry between manufacturers and limited availability of inferior quality of goods. Petitioner's

- capacity to produce PUC is limited. Users in India prefer imports to cater to high demand requirement.
- h. Imposition of ADD will also limit choices in ACs for consumers in India as Government has already prohibited import of ACs with refrigerants in India. ADD will strengthen the monopoly of the petitioner and lead to abuse of dominance. Petitioner is seeking ADD to protect its investment from legitimate competition and strengthen their monopoly.
 - i. PUC is crucial for measures against climate change. Many downstream manufacturers in India are moving to the PUC as constituent gas. Hence, imposition of ADD will affect its affordable availability forcing use of gases with higher Global Warming Potential (GWP) like R-410A. The PUC has several inherent advantages over R-410A. Hence, the affordability of the PUC is also important in public interest.
 - j. Public interest should be considered before imposition of duty, if any. Imposition of ADD will create loss of livelihood in the downstream industry and small end users, wide gap in demand and supply, reduction in export of finished goods in MSME industries, and market asymmetry between manufacturers. Public interest is in favour of non-imposition.
 - k. The subject goods cannot be substituted. Imposition of ADD will affect the commercial viability for imports of this group of refrigerants. Since most ACs in India have shifted to the PUC and can't be later substituted, the imposition of ADD will impact the users.
 - l. PUC is the most commercially viable, environment friendly, and practically convenient refrigerant gas.

F.3. Examination by the Authority

27. The Authority considered the submissions of the opposing parties and the domestic industry as follows:
- a. The Authority has examined the information on related parties filed by the cooperating producers/exporters and has ensured that all related parties engaged in the subject goods have filed required information as mandated by the Authority.
 - b. As regards the argument of impact of the ADD on the user industry, it is noted that the interested parties have not demonstrated how the prices of subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted information showing that the impact of the proposed anti-dumping duty on the user industry would be miniscule. The domestic industry submits that the cost of product under consideration in the final product is very minimal and will have almost no effect on the end-users. For example, assuming that an air conditioner of a capacity of 1 Ton costs around Rs. 40,000. The amount of HFC Component R-32 used in the air conditioner would be less than 1 kg. Assuming that 1 kg of HFC Component R-32 costs around Rs. 200, the cost of the product under consideration on the end-consumer of the final product is very meagre.

- c. It is, thus, noted that while the interested parties have not established impact of proposed ADD on the user industry with verifiable information, even if it is considered that the imposition of ADD might affect the price levels of the product manufactured using the subject goods, the impact of the antidumping duty on the eventual product would be grossly insignificant. Further, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. The objective of imposition of anti-dumping measure is to remove the unfair advantages gained by dumping practices; to prevent the injury to the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
- d. As regards the use of only 11 months data by the domestic industry in filing their petition, the Authority has considered the import data for the entire POI in their assessment of export price, resultantly the dumping margin and injury parameters in the present determination.
- e. As regards excessive protection to the domestic industry, the Authority notes that the recommendation for imposition of duty is made only when the requisite legal requirements are met. Further, there is no bar on the number of times a duty can be imposed or extended on a given product. It is, however, noted that the domestic industry has reported that it is engaged in production of 71 products and is at present protected by ADD in 4 products. Further, the ADD earlier in force on imports of nylon tyre cord fabric and methylene chloride from China is no longer in force.
- f. As regards the argument that anti-dumping duty will create monopoly for domestic industry, the Authority notes that the PUC is produced globally in China, US, India and Japan. The product is under free category and, therefore, can be freely imported from various countries. Imposition of the anti-dumping measures would not restrict imports from China in any way and, therefore, would not affect the availability of the product to the consumers. 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. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. Moreover, there is a separate entity to look into the allegations of monopoly and anti-competitive measures.

G. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions of the domestic industry

- 28. The following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:

- a. The Authority shall follow Para 1-6 of Annexure I for determination of the normal value only if the responding Chinese companies establish that their costs and price information is such that individual normal value and dumping margin can be determined.
- b. Since the Chinese producers are not entitled to market economy treatment, Para 7 of Annexure I may be followed to determine the normal value.
- c. The Authority considered China as NME in the initiation stage. Since none of the producers have demonstrated nor claimed market economy treatment, the normal value should not be calculated on the basis of domestic selling price or costs of the exporters. It should be based on Para 7 of Annexure I of the AD Rules. The same basis as in initiation notification should be followed.
- d. The China is treated as an NME as per Article 15 of the Accession Protocol. Only Article 15(a)(ii) expired after 11th December, 2016. Article 15(a)(i) continues to remain in force. Hence, the domestic prices or costs of China is to be taken only if producers can show existence of market economy conditions. In the present case, they have failed to do so. The observations of the Appellate Body in EU-Fasteners are merely obiter dicta. The Authority has considered China as NME in all recent investigations. Final Finding in SSR investigation on imports of 'Electric Insulators' from China is relied on. The same view has been taken in other Findings as well.
- e. The normal value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available.
- f. The Applicant has claimed the determination of normal value for China on the basis of price payable in India duly adjusted. For the determination of Normal Value in the subject country, the Applicant has taken the cost of production of the domestic industry, duly adjusted, and after adding selling, general, and administrative expenses and reasonable profit margin.
- g. The Applicant has taken the CIF price and adjusted the same for ocean freight, inland freight, marine insurance, port expenses, commission, bank charges and VAT to determine the export price.
- h. The dumping margin is not only significant but also substantial for the subject country.
- i. Adverse inference should be drawn on non-participation. On non-cooperation, facts available should be applied.
- j. For producers with exports through unrelated non-cooperative exporters, the Authority is requested to determine share of exports through such exporters. In case the share is not significant, the responding producer should be held non-cooperative. Para 16.26 of the Manual of Operating Practices is relied on. Even if it is below the threshold, export price should be calculated for all sales and adverse facts should be applied.
- k. The adjustments claimed by the DI are consistent with practice of the Authority. The DI has no objection to export price and dumping margin being determined based on information filed by the exporters subject to its accuracy and adequacy. However, since none has claimed NME, normal value shall be based on information provided by the domestic industry.

G.2. Submissions of other interested parties

29. The other interested parties have made the following submissions regarding the normal value, export price and dumping margin:
- a. The export price and dumping margin should be determined as per actual data provided by the respondents.
 - b. According to the protocol on China's accession to the WTO, the surrogate country practice in anti-dumping actions should be lacking in multilateral legal basis since 11th December, 2016. The surrogate country methodology should not be used in calculating the normal value for this case, regardless of whether China is treated as a market economy country. India has no basis for calculating normal value using the non-market economy methodology. Ref: EU – Fasteners wherein it was stated that interpretation of relationship between 15(a) and 15(b) of the protocol justifies China automatically obtaining the market economy status once Article 15 of the protocol expires.
 - c. China must be treated in the same way as any other WTO member for anti-dumping investigations, a view that was shared by US and EU until recently. The Authority is requested to grant market economy status to China, conduct normal value calculation as per Art. 2 of the ADA and apply the data on costs and prices in this response for the determination of the normal value rather than applying analogue country data in this investigation.
 - d. The domestic industry has arbitrarily constructed normal value without following due procedure as per para 7 of Annexure I of the AD Rules. Ref: SC decision in Shentang Matsushita – proceedings cannot continue in view of absence to follow mandatory procedure. The normal value has been inflated due to non-utilization of optimum capacity by the domestic industry.
 - e. Though exports were also made by a Chinese producer through an unrelated exporter, the share of exports through co-operating exporter is more than the threshold for individual margin determination. Non-cooperation by an unrelated party should not be held against the cooperating parties.
 - f. Petitioner's claim on increase in basic raw material price (fluorspar) needs scrutiny. Exaggerated numbers are apparently used to inflate dumping margin and has no basis.
 - g. Applicant has not provided evidence for deductions made on ocean freight, marine insurance, port expenses, inland freight, commission, bank charges, and VAT paid by Chinese exporters for calculation of export price. Deduction on marine insurance is grossly inflated and liable to be rejected. The same should be verified from exporter responses.
 - h. A separate comparison of packed and unpacked forms should be undertaken.
 - i. The claims of dumping margin by the DI is a result of constructed normal value to inflate it.

G.3. Examination by the Authority

30. 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

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);

(b) 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 transhipped 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.

31. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:

- i. M/s Zhejiang Quzhou Juxin Fluorine Chemical Co. Ltd.
- ii. M/s Zhejiang Sanmei Chemical Ind. Co. Ltd.
- iii. M/s Zibo Feivuan Chemical Co. Ltd.
- iv. M/s Shandong Dongyue Chemical Co. Ltd.
- v. M/s Zhejiang Quhua Fluor-chemistry Co. Ltd.
- vi. M/s Fujian Qingliu Dongying Chemical Ind. Co. Ltd.
- vii. M/s Jiangsu Sanmei Chemical Ind. Co. Ltd.
- viii. M/s Taixing Meilan New Materials Co. Ltd.
- ix. Taizhou Qingsong Refrigerant New Material Co. Ltd.
- x. M/s Sinochem Lantian Fluoro Materials Co. Ltd.
- xi. M/s Taixing Meilan Zhinglan New Materials Co. Ltd.

Market Economy Status for Chinese Producers

32. Article 15 of China's Accession Protocol in WTO provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

33. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in Para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/exporters from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of Para 7 of Annexure I of the Rules.

34. The normal value and export price for all producers/exporters from the subject country have been determined as below.

G.4 Determination of normal value

35. Para 7 of Annexure I of the Rules reads as under:

In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

36. The Authority notes that the prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, including India, have neither been made available by the Applicant or an interested party, nor is available with the Authority from any public source. The Authority notes that the Authority is required to select an appropriate country on the basis of information and evidence brought on record by the interested parties. It is also noted that the interested parties have not provided any verifiable information which could have been adopted by the Authority. Thus, the Authority is of the opinion that the only option available is to determine the normal value considering price actually paid or payable in India for the like article which has been determined considering optimised cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The normal value so determined is given in the dumping margin table below.

G.5. Determination of export price for China PR

Shandong Dongyue Chemical Co. Ltd. (Producer/Exporter)

37. M/s Shandong Dongyue Chemical Co., Ltd. has filed a questionnaire response in the form and manner prescribed and furnished the requisite information to determine the net export price. During the POI, M/s Shandong Dongyue Chemical Co., Ltd. has directly exported *** MT of PUC for *** US\$ to India in unpacked form. M/s Shandong Dongyue Chemical Co., Ltd. has claimed adjustments on account of ocean freight, insurance, inland transportation and port and other related expenses, which have been allowed by the Authority. Accordingly, the net export price at ex-factory level for M/s Shandong Dongyue Chemical Co., Ltd. calculated by the Authority is given in the dumping margin table below.

Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. (Producer) and Zhejiang Quhua Fluor-Chemistry Co., Ltd. (Exporter)

38. M/s Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. ("Juxin") and Zhejiang Quhua Fluor-Chemistry Co., Ltd. ("Quhua") are limited companies by shares under the Company Law of China PR. Juxin is the producer of the subject goods in China PR and has exported subject goods to unrelated Indian customers through Quhua. Both the companies have

provided all the relevant information in requisite questionnaire formats. It is noted that during the POI, Juxin has exported *** MT of subject goods for *** US\$ through Quhua to unrelated customers in India in unpacked form. Juxin and Quhua have claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, bank charges and credit cost which have been allowed by the Authority. The ex-factory export price calculated by the Authority is given in the Dumping Margin Table below.

Jiangsu Sanmei Chemical Ind. Co., Ltd. (Producer), Fujian Qingliu Dongying Chemical Ind. Co., Ltd., (Producer) and Zhejiang Sanmei Chemical Ind. Co., Ltd., (Related Exporter)

39. Exporter Questionnaire Responses have been filed by M/s Jiangsu Sanmei Chemical Ind. Co., Ltd. and M/s Fujian Qingliu Dongying Chemical Ind. Co., Ltd who are two related producers of the subject goods in China. Subject goods produced by these two related producers have been exported to India through a related exporter, namely, M/s Zhejiang Sanmei Chemical Ind. Co., Ltd. Responses of all the three companies are available in the prescribed format and, hence, the chain of exports to India is noted as complete. It is noted from the response that during the POI, Zhejiang Sanmei Chemical Ind. Co., Ltd has exported *** MT of the subject goods to India, out of which *** MT have been produced by M/s Fujian Qingliu Dongying Chemical Ind. Co., Ltd and balance *** MT were produced by Jiangsu Sanmei Chemical Ind. Co., Ltd. It is claimed that all these materials are exported in unpacked form only. Exporter has claimed adjustments on account of ocean freight, inland transportation, marine insurance which have been allowed by the Authority. Accordingly, the net export price at ex-factory level for the group calculated by the Authority is given in the Dumping Margin Table below.

Zibo Feiyuan Chemical Co., Ltd. (Producer/Exporter)

40. The Authority notes that M/s Zibo Feiyuan Chemical Co., Ltd., China, has responded in this investigation and has provided the requisite information to determine the net export price. During the POI, the company has directly exported ***MT for US\$ *** to India in unpacked form. The exporter has claimed adjustments on account of ocean freight, marine insurance, inland transportation, port and handling expenses, credit cost and bank charges which have been allowed by the Authority. Accordingly, the net export price at ex-factory level for the company calculated by the Authority is given in the Dumping Margin Table below.

M/s Taixing Meilan New Materials Co., Ltd. and Taizhou Qingsong Refrigerant New Materials Co., Ltd. (Producer); M/s Sinochem Lantian Fluoro Materials Co., Ltd. (Exporter/Trader) and M/s Taixing Meilan Zhonglan New Materials Co., Ltd. (Domestic Seller), China PR

41. During the POI, M/s Taixing Meilan New Materials Co., Ltd. and Taizhou Qingsong Refrigerant New Materials Co., Ltd. (Producer) has indirectly exported *** MT of PUC of value *** US\$ to India through Honeywell Trading (Shanghai) Co., Ltd. in unpacked form.

Further, it is noted that M/s Sinochem Lantian Fluoro Materials Co., Ltd., a related company of M/s Taixing Meilan New Materials Co., Ltd., has directly exported *** MT of the PUC for *** US\$ to India. However, Honeywell Trading (Shanghai) Co., Ltd. has not filed its exporter's questionnaire response with the Authority. Since, the information in respect of significant exports is not available, the Authority does not consider the responses filed by the producer and exporter for determination of the export price. Therefore, the producer is treated as non-cooperative.

Non-cooperative Exporters from China PR

42. Export price in respect of other (non-cooperative) exporters from China PR calculated as per the facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered imports as reported in the DGCI&S and the questionnaire response of the producers and exporters.

G.6 Determination of Dumping Margin

43. It is noted that a number of cooperating producers and exporters are related to each other and form a group of related companies. It has been the consistent practice of the Authority to consider related exporting producers and exporters as one single entity for the determination of a dumping margin and, thus, to establish one single dumping margin for them. Therefore, all related producers and exporters have been treated as one single entity and attributed one single dumping margin, which was calculated on the basis of the weighted average of the dumping margin of these cooperating related producers and exporters.
44. Considering the normal value and export price for subject goods calculated as above, the dumping margins for the subject goods from subject country is as follows:

Dumping Margin Table

Sl. No.	Producer	CNV (US\$/MT)	NEP (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin (%)	Dumping Margin (Range %)
1.	Shandong Dongyue Chemical Co., Ltd.	***	***	***	***	50-60
2.	Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. exported through Zhejiang Quhua Fluor-Chemistry Co., Ltd.	***	***	***	***	70-80
3	Jiangsu Sanmei Chemical Ind. Co., Ltd. and Fujian Qingliu Dongying Chemical Ind. Co., Ltd;	***	***	***	***	70-80

	exported through Zhejiang Sanmei Chemical Ind. Co. Ltd.					
4.	M/s Zibo Feiyuan Chemical Co., Ltd.	***	***	***	***	60-70
5.	All Others	***	***	***	***	90-100

H. ASSESSMENT OF INJURY AND CAUSAL LINK

H.1. Submissions of the domestic industry

45. The following submissions have been made by the domestic industry with regard to the injury and causal link:

- a. The injury information provided by the DI pertains only to the subject goods. The data is normated since capacity utilization was very low in the base year due to new plant. The DI provided data considering maximum capacity utilization/ projected capacity utilization. Still most parameters show deterioration.
- b. Section 11(2) of the AD Rules require the Authority to determine injury to DI which under Rule 2(b) means domestic producers “as a whole”. A plant wise assessment is not permitted.
- c. Imports from the subject country constitute 100% of the imports of the subject goods into India. This shows the inability of producers from other countries to match the prices offered by the Chinese producers. This would not have been possible without high capacities. The subject imports have increased significantly throughout the injury period in absolute as well as relative terms.
- d. The import price of the subject imports has declined significantly during the POI. The subject imports are undercutting, suppressing and depressing the prices of the domestic industry. The landed price is below cost of the DI throughout the injury period except 2017-18. Price undercutting and positive injury margin are “one of the factors” to determine whether dumped imports are causing injury to the DI.
- e. There is no requirement in law to provide price underselling or injury margin information at petition stage.
- f. The purpose of four-year injury period is for the assessment for the entire period. Since DI commenced production shortly before the injury period, it is natural that performance is weak in the base year.
- g. The capacity expansion in the POI is a result of the DI’s long-term commitment in keeping up with the increasing domestic demand and making India Atmanirbhar with respect to the subject goods. Major sales have taken place from the old plant. The increase in interest cost, which is insignificant compared to total costs, has no impact on injury data.
- h. Demand higher than domestic capacity justifies imports but not dumping. Considering the volume of imports, DI is forced to follow import prices while offering its prices.

- i. The DI suffered adverse volume effect and severe price injury. The CESTAT decision in DSM Idemitsu Limited v. Designated Authority and Final Finding in AD investigation on 'Natural Mica based Pigments excluding cosmetic grade' from China are relied on.
- j. The capacity utilization of the domestic industry declined significantly in the POI. The domestic industry has been unable to increase its market share after 2018-19, which would have been 67% in the absence of the dumped subject imports. The market share of the DI is very low compared to that of the subject imports. The inventories with the domestic industry have increased significantly in the POI. The ratio between domestic sales and inventory deteriorated significantly in the POI showing the impact of dumping.
- k. The profitability of the domestic industry has declined significantly over the injury period. A significant decline is seen in the POI in terms of PBIT, cash profits, and ROCE. The domestic industry is suffering losses in the POI. The growth of the domestic industry is negative in almost all injury parameters. The domestic industry's ability to raise capital has also weakened.
- l. China has significant surplus capacity which is sufficient to meet demand in all prominent markets. The producers of the subject goods in China hence rely on export markets substantially. However, the US market is closed to them due to imposition of ADD. The imposition of ADD on the subject goods from China by the US shows the Chinese producers are not only dumping in India but also in other countries. The quantum of duties imposed shows the significant dumping by Chinese producers.
- m. The analysis of the questionnaire responses filed by the responding producers/exporters shows that they have enhanced their capacities despite surplus capacities available. The landed price of subject imports declined despite increase in prices of fluorspar. This shows cost and prices of subject imports are not fixed based on raw material prices. The respondents have relied on East China Fluorspar prices without providing source of information and it does not reflect prices in China. It also shows the NME status of China. The respondents have not disputed the fact that despite increase in fluorspar prices, landed price has declined.
- n. Price undercutting being caused by the dumped subject imports has led to the significant suppressing and depressing effect on the prices in the domestic market. Consequently, profitability of the domestic industry declined significantly to such an extent that the domestic industry was unable to cover its cost of production. Deterioration in profits, return on capital employed and cash profits are directly a result of dumped imports. The fact that productivity has increased shows that injury is not due to productivity of the DI.
- o. The Annual Report of the domestic industry refers to the business segment that includes the PUC and other products. The Annual Report refers to the company as a whole and not just the domestic performance and that of the PUC. The shutdown of the Dahej plant for 8 days cannot be a reason for overall deterioration of the DI. Other public statements also do not alter the cause of injury to the DI. The respondents have not provided any evidence to show the product by the DI is inferior. Dahej plant commenced production in August, 2019 and hence, the argument of effect of flood is factually incorrect.

H.2. Submissions of other interested parties

46. The other interested parties have made the following submissions regarding injury and causal link:

- a. No methodology has been provided by the DI for selection of the narrowest group/ range of products for injury analysis. The Authority should conduct detailed verification of cost allocation by the DI between PUC and other products.
- b. There is inconsistency in the information on production of the DI as per Annexure 2.2 and Proforma IV-A. The petitioner should be directed to clarify why data in Format H is normated.
- c. DI has performed extremely well in the POI compared to the base year and has not suffered any injury. Claims by DI on dumping and fall in landed price has no meaning when seen in the context of import of the subject goods in India and performance of the DI amid alleged dumping. Decline in landed price is not actionable. The import trend for China does not reflect pressure of excess capacity. The market share of the imports declined while that of DI increased significantly. Thus, DI claimed market share even when price undercutting claimed is very significant.
- d. Increase in subject imports should be seen in light of increase in demand and DI's commencement of production only in 2016-17. The increase in domestic sales of DI is much more than increase in import volumes leading to capturing of market share. Subject imports increased only commensurate with demand increase. The decline in landed price in the POI compared to the previous year was due to developments in the HFC market in 2020, i.e., increased global demand. Import price has to be viewed in this background.
- e. DI's capacity has not increased corresponding to the increase in demand. If DI did not have sufficient capacity to meet domestic demand from 2016-17 to 2018-19, the downstream industry would have no option but to import the subject goods and the subject imports would not have displaced domestic sales. The petition does not explain how DI increased its market share and profitability despite significant price undercutting.
- f. PBIT, cash profits, and ROCE is seen to increase significantly in the POI. Fall in profitability in POI compared to previous year has no merit as there is a significant rise compared to base year. The abnormal profits in the base year have only increased in the POI.
- g. Capacity utilization declined only in the POI when capacities were added. It is unreasonable to expect ROCE to increase in the same year in which capacity additions were undertaken. Productivity increased throughout the injury period and period of investigation. Average capital employed and return on capital employed has increased phenomenally in the period of investigation. There is no impact on number of employees, wages, growth and ability to raise capital investment. Mere existence of positive price undercutting, injury margin per subject exporter does not imply that domestic industry has suffered injury. By not claiming price underselling, the petitioner has admitted there is no price underselling. Hence, as per lesser duty rule and injury margin being negative, the investigation should be terminated.

- h. Increase in capacity by the domestic industry has resulted in increase in interest cost, depreciation costs, wages and other overheads, thereby causing injury. The failure of causal link through abnormally high depreciation and finance charges leading to losses was found in safeguard investigation on Cold Rolled Flat Products of Stainless Steel of 400 series. Same facts are seen in the present case. Separate plant wise assessment of cost of production and injury parameters is necessary for objective assessment.
- i. Increase in inventories is due to increase in production quantity, installed capacity and capacity utilization. CESTAT order in *Bridge Stone Tyre Manufacturing (Thailand) v. Designated Authority* is relied upon where the relation between increase in inventories and increase in sales was discussed. In the present case, inventories increased with sales volume. Inventories must be seen in relation to production quantity and not in absolute quantity. In the present case, there is no relative increase.
- j. The PBIT of Chemical Segment of SRF Limited shows that the petitioner has been continuously making profits since 2016 which was highest in March, 2020. Since no separate information is provided for Fluorochemicals, it is assumed that the Chemical Segment includes both Fluorochemicals and Speciality chemicals. The Annual Report 2019-20 mentions a temporary shutdown in the Dahej site due to COVID -19 which the petitioner failed to mention in the petition. Injury to the domestic industry is due to the prolonged and severe slowdown in the auto and white goods sector as mentioned in the Annual Report. Petitioner's capacity utilization has increased despite increase in subject imports. The trend indicates petitioner increasing economies of scale. As per earnings call by the petitioner with its investors, their capacity utilization is 70-75% in the POI which is optimum for the industry.
- k. There is also a lack of correlation between import price/ price undercutting and profitability. The operations of the Dahej plant were affected and costs increased in Aug, 2019 due to floods in Dahej. Petitioner's capacity to produce PUC is limited. Technology available with the DI is obsolete. This has contributed to lower economies of scale and higher cost of production.
- l. No evidence has been provided by the DI on the argument that China has surplus capacities. The DI has not considered the attractiveness of the market. The method of calculating surplus is also flawed. Surplus is calculated by deducting consumption of product in all markets and not just domestic market. The allegation is also immaterial since the source of information has not been disclosed, irrelevant in an original investigation, the understanding of "surplus capacity" is flawed, and there is no merit in the data. The DI must prove likelihood of diversion of surplus capacities to India. As held in *Indian Spinners Association v. Designated Authority*, mere surplus capacity cannot be seen as a foreseen and imminent threat of injury to the DI. Exports from China or excess capacity or increase in capacity do not necessarily mean dumping. Nothing concrete has been placed on record by the DI.
- m. The DI has not provided source for information on fluorspar prices. The rate of increase claimed by the DI is incorrect. Since two by-products are produced on the production of hydrogen fluoride from fluorspar, the changes in fluorspar prices do not directly affect prices of subject goods. The position of prices of fluorspar and subject goods is same as that of the DI. The DI itself has not stated that it uses fluorspar as its raw material. The prices of subject goods are affected by more important raw materials, market competition, supply chain and other matters.

- n. The imposition of ADD by the US is not relevant for the present investigation. The DI was itself investigated for circumvention. Hence, DI has no locus to rely on the argument. The imposition of ADD in the US did not lead to a spike in imports in India or impact on the DI. The imports are to meet demand-supply gap in India.
- o. Petitioner has not provided any evidence to support their claim that absence of third country imports is due to inability to match Chinese prices. The PUC is a new product that emerged in the international market which producers in China have prioritized unlike third country producers. Importers in India also prefer Chinese import due to reliability of supply. The domestic industry does not supply to refillers in India.
- p. The DI has claimed several expenses (advertising, other admin overheads, other selling and distribution overheads, commission on sales, discount/ rebate on sales, freight outward, and export related expenses) which should not be considered as per Annexure III of the AD Rules. NIP should be considered at ex-factory level.

H.3. Examination by the Authority

- 47. The submissions made by the domestic industry with regard to the injury and causal link related issues have been examined. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.
- 48. The Authority has taken note of the arguments and counter-arguments of all the interested parties with regard to injury to the domestic industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.
- 49. As regards the submission that alleged injury to the domestic industry is due to other reasons and there is no injury as per statements in annual reports of the domestic industry, the Authority notes that the injury analysis carried out hereunder is self-explanatory.
- 50. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate 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, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

H.3.1 Volume effect of dumped imports on domestic industry

- a. **Assessment of demand / apparent consumption**

51. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of Indian producers and imports from all sources.

Demand in India	Unit	2016-17	2017-18	2018-19	POI
Sales of domestic industry	MT	***	***	***	***
Trend	Index	100	3429	7494	10235
Import from Subject Country- China	MT	634	1,974	3,810	5,503
Trend	Index	100	311	601	868
Imports from Other Countries	MT	-	-	-	-
Indian Demand/consumption	MT	***	***	***	***
Trend	Index	100	393	782	1113

52. It is noted that the import of the subject goods from the subject country and the demand for the subject good have increased throughout the injury period. The Authority notes that the product is consumed in residential air conditioning and the domestic industry has stated that a surge is projected in the domestic AC production and India is likely to witness a robust growth in HFCs in the next decade due to robust growth in Air Conditioner (AC) market, coupled with substitution of HCFC 22 with HFC 32 & HFC 410A. Further, as against the present demand for the product established in the POI, the capacity with the domestic industry at the end of the POI was *** MT. The domestic industry has now announced further capacity expansion in respect of various flourochemicals, including the subject goods, and it has now been decided to expand capacities further.

b. Import Volumes from the subject country

53. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. Factual position is as follows-

Particulars	Unit	2016-17	2017-18	2018-19	POI
Subject Country- China	MT	634	1,974	3,810	5,503
Trend	Index	100	311	601	868
Subject Imports in relation to					
Total Imports	%	100	100	100	100
Trend	Index	100	100	100	100
Production of PUC	MT	***	***	***	***
Production	%	***	***	***	***
Trend	Index	100	69	110	142
Consumption	%	***	***	***	***
Trend	Index	100	79	77	78

54. It is noted that:

- a. The volume of imports from the subject country has increased consistently over the injury period and the POI. The increase is consistent and significant.
- b. The subject imports constitute 100% of the total imports of the subject goods into India.
- c. The subject imports declined in 2017-18 in relation to Indian production, but increased thereafter in 2018-19 and the POI.

H.3.2 Price effect of the dumped imports

55. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production and selling price of the domestic industry have been compared with landed price of imports of the subject goods from the subject country.

a. Evolution of import prices over the injury period

Month	Rate (Rs/MT)
2016-17	1,70,236
2017-18	2,00,019
2018-19	2,34,355
Apr'19	1,79,410
May'19	1,71,542
June'19	1,70,841
Jul'19	1,68,412
Aug'19	1,67,745
Sep'19	1,69,991
Oct'19	1,76,855
Nov'19	1,45,214
Dec'19	1,46,086
Jan'20	1,35,687
Feb'20	1,37,294
Mar'20	1,38,952

b. Price undercutting

56. For the purpose of price undercutting analysis, net selling price of the domestic industry has been compared with the landed value of imports from China. The Authority has calculated separate price undercutting for packed and unpacked forms in view of submissions by the interested parties and significant difference in the costs of packed and unpacked product.

Price Undercutting - POI	Unit	Total	Unpacked	Packed
--------------------------	------	-------	----------	--------

Net Selling Price	₹/MT	***	***	***
Landed price (Subject Country China)	₹/MT	1,66,629	1,66,431	2,36,244
Price undercutting	₹/MT	***	***	***
Price undercutting	%	***	***	***
	Range	40-50	40-50	80-90

57. It is noted that the Chinese imports are undercutting the prices of the domestic industry in both packed and unpacked forms.

b. Price suppression and depression

58. In order to determine whether the dumped imports are depressing or suppressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period have been examined. The Table below shows factual position:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of sales – Domestic	₹/MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>60</i>	<i>72</i>	<i>81</i>
Selling price - Domestic	₹/MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>60</i>	<i>66</i>	<i>60</i>
Landed Price	₹/MT	1,83,387	2,15,471	2,53,690	1,66,629
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>117</i>	<i>138</i>	<i>91</i>

59. It is noted that:

- Whereas the cost of production of the domestic industry has declined over the injury period, the selling price of the domestic industry has declined more than decline in cost of the domestic industry. The imports are depressing the prices of the domestic industry.
- During the period of investigation, the landed price of imports is below the cost of the domestic industry. Resultantly, whereas the cost has increased, the selling price of the domestic industry has declined during the period of investigation.

60. It is noted that the subject imports are depressing the prices of the domestic industry in the market.

H.3.3 Economic parameters of the domestic industry

61. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories,

employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

62. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties.

i. Production, capacity, capacity utilization and sale

63. Capacity, production, sales and capacity utilization of the domestic industry over the injury period are given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Capacity	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>154</i>
Production of PUC	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>454</i>	<i>545</i>	<i>611</i>
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>454</i>	<i>545</i>	<i>396</i>
Production including trial production at new plant	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>454</i>	<i>545</i>	<i>662</i>

64. It is noted that:

- The domestic industry was earlier undertaking manufacturing of HFC component in Bhiwadi Plant. The company commenced production of this product in 2016-17, which is the base year of the injury period in the present investigations. The plant has a capacity of *** MT.
- The domestic industry has expanded capacity and submitted that the same was in view of present and potential demand for the product in the country. However, the capacity expansion has been undertaken at Dahej. Further, whereas the Bhiwadi plant was of *** MT capacity, the Dahej plant has been set up with a capacity of *** MT and has commenced commercial production since November, 2019.
- With the commencement of production at Dahej in November, 2019, the domestic industry has submitted that it discontinued production at Bhiwadi. Therefore, the proportionate production for POI has been taken as *** MT.
- Since the company commenced commercial production at Bhiwadi plant in March, 2016, production was quite low in 2016-17 and increased thereafter. Resultantly, the capacity utilization of the plant was also low in 2016-17 and increased thereafter till 2018-19. The capacity utilization, however, declined once again in the period of investigation.
- While production has increased consistently over the injury period, the capacity utilisation declined in the POI.
- The domestic industry had very low (practically negligible) volume of sales in 2016-17 and the production was largely consumed captively or was exported or was lying in stocks. Sales volumes, however, increased significantly thereafter till period of investigation.

g. The domestic industry captively consumed part of the production.

ii. Market share in Demand

65. Market share of the domestic industry is shown in table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Domestic Industry	%	***	***	***	***
Trend	Index	100	894	982	941
China PR	%	***	***	***	***
Trend	Index	100	79	77	78
Total	%	100	100	100	100

66. It is noted that the market share of the domestic industry increased till 2018-19 and declined thereafter during the POI. The market share of the subject country declined throughout the injury period and increased slightly in the POI. However, the market share of the subject country has remained significantly high throughout the injury period and POI.

iii. Inventories

67. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Opening Stock	MT	-	***	***	***
Trend	Index	-	100	76	127
Closing Stock	MT	***	***	***	***
Trend	Index	100	76	100	256
Average Stock	MT	***	***	***	***
Trend	Index	100	176	176	383

68. It is noted that the inventories with the domestic industry have increased throughout the injury period. The domestic industry is holding 35 days inventories in stock, which is quite high considering the significant demand for the product.

iv. Profitability, cash profits and return on capital employed

69. Profitability, cash profits and return on investment of the domestic industry over the injury period is given in the table below. Further, in view of the arguments of the interested parties that profits have declined due to increase in interest and depreciation costs, the profitability has also been examined by considering profit before interest and depreciation.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Profit/(Loss) per unit	₹/MT	***	***	***	(***)
Trend	Index	100	61	46	-14
Profit/Loss	₹ Lacs	***	***	***	(***)

<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>2131</i>	<i>3501</i>	<i>(***)</i>
Cash Profit	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>340</i>	<i>365</i>	<i>128</i>
Profit before return & depreciation	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>345</i>	<i>382</i>	<i>158</i>
Return on Capital Employed	%	***	***	***	(***)
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>269</i>	<i>242</i>	<i>-52</i>

70. It is noted that –

- Profitability has declined over the injury period. The domestic industry has suffered financial losses in the POI.
- Since the domestic industry had produced very low volumes in 2016-17 (after starting the plant), and sales increased over the injury period, profit before tax increased till 2018-19. Profit before tax however declined in the POI and the domestic industry suffered financial losses.
- Cash profit has improved slightly as compared to base year. Whereas profit per unit declined steeply over the injury period, gross profit earned on domestic sales increased till 2018-19.
- The Return on investment has increased in 2017-18 but declined as compared to the base year. Further, ROI was negative in the POI. It is seen that the performance of the domestic industry declined in respect of profit after interest.
- The Authority examined the reasons for so significant decline in profits, cash profits and ROI. It is noted that while some marginal decline could be attributed to increase in interest and depreciation costs, the decline in profits, cash profits and ROI is primarily due to decline in the selling prices.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Selling price	₹/MT	***	***	***	***
Trend	Index	100	60	66	60
Cost of production	₹/MT	***	***	***	***
Trend	Index	100	60	72	81
Profit/loss	₹/MT	***	***	***	(***)
Trend	Index	100	61	46	(14)
Depreciation	₹/MT	***	***	***	***
Trend	Index	100	44	21	39
Interest	₹/MT	***	***	***	***
Trend	Index	100	59	71	86

v. Employment, wages and productivity

71. Employment, wages and productivity of the domestic industry over the injury period is given in the table below-

Particulars	Unit	2016-17	2017-18	2018-19	POI
Wages	₹ Lacs	***	***	***	***
Trend	Index	100	684	1444	3117
Employment	Nos.	***	***	***	***
Trend	Index	100	175	400	1238
Wages Per Unit	Rs/MT	***	***	***	***
Trend	Index	100	151	265	510
Productivity per Employee	MT	***	***	***	***
Trend	Index	100	161	95	94
Productivity per day	MT	***	***	***	***
Trend	Index	100	454	545	611

72. It is noted that the wages, productivity and number of employees of the domestic industry have increased over the injury period. It is, however, noted that these were first a result of commencing new production at Bhiwadi in 2016 and then new production at Dahej in 2019. Further, the domestic industry has given the information only in so far as it relates to the PUC plant. There are captive inputs involved. The domestic industry has, however, not included that employment. In any case, the domestic industry has not claimed injury on this account. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry.

vi. Growth

73. It is noted that the growth of the domestic industry was positive in respect of volume parameters and negative in respect of price parameters. Further, growth of the domestic industry in respect of volume parameters was below the optimal levels considered by the Authority.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Production	Y/Y%	-	354	20	12
Domestic Sales	Y/Y%	-	3413	118	37
Cost of Sales	Y/Y%	-	2017	160	55
Selling Price	Y/Y%	-	-40	9	-9
Profit/Loss	Y/Y%	-	2031	64	-143
ROCE	Y/Y%	-	169	-10	-122

vii. Magnitude of Dumping Margin

74. Magnitude of dumping is an indicator of the extent to which the imports are being dumped into India. The investigation has shown that dumping margin is positive and significant in the investigation period. The domestic industry has submitted that the US Authorities have determined a dumping margin to the extent of 221% in respect of the product under consideration despite higher export price from China to USA as compared to India.

viii. Ability to raise capital investment

75. The domestic industry has not claimed injury on this account. It is seen that the domestic industry is a multi-product company. Investment decisions may not be based solely on the performance of a particular product during the injury period and may be governed by long term prospects of the product.

viii. Factors affecting domestic prices

76. It is seen that the domestic industry is the sole domestic supplier of the product. Further, product has been imported only from China, even though there is significant production in US and Japan (as stated by the domestic industry). Further, whereas the landed price of imports increased till 2018-19, the same has declined significantly in the POI. Further, the selling price of the domestic industry has also declined significantly over the period and in the POI. It is thus seen that import prices are directly affecting the prices of the domestic industry in the market. It is also seen that the landed value of the subject goods is below even the cost of production of the domestic industry in POI. The domestic industry submitted that it was not able to retain even the current prices in view of lower price of imports and resultant increasing imports. The price depression or suppression suffered by the domestic industry is due to lower price of imports. Therefore, it is concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject country.

ix. Magnitude of price underselling/injury margin

77. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined after detailed scrutiny of the information/data relating to the cost of production provided by the domestic industry, duly certified by practicing accountant. For determining the non-injurious price, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed. Separate NIP has been determined for loose and packed form of the product. The NIP so determined has been considered for calculating injury margin.
78. Landed price for the cooperating exporters has been determined from the CIF export price adopted for the purpose of dumping margin determination. Applicable customs duties have been added to determine landed price of imports. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
79. Based on the landed price and NIP determined as above, the injury margin for producers/exporters from China PR has been calculated by the Authority and the same is

provided in the table below. Since the exporters have exported the product in unpacked form, the NIP of the domestic industry has been considered accordingly.

Sl. No.	Producer	Non-Injurious Price (US\$/MT)	Landed Price (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin (%)	Injury Margin (Range %)
1.	Shandong Dongyue Chemical Co., Ltd.	***	***	***	***	60-70
2.	Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. exported through Zhejiang Quhua Fluor-Chemistry Co., Ltd.	***	***	***	***	80-90
3.	Jiangsu Sanmei Chemical Ind. Co., Ltd. and Fujian Qingliu Dongying Chemical Ind. Co., Ltd; exported through Zhejiang Sanmei Chemical Ind. Co. Ltd.	***	***	***	***	70-80
4.	M/s Zibo Feiyuan Chemical Co., Ltd.	***	***	***	***	60-70
5.	All Others	***	***	***	***	90-100

H.3.4 Conclusion on Injury

80. It is noted that:

- i. The examination of the imports of the subject product and the performance of the domestic industry clearly shows that the volume of dumped imports from subject country has increased in absolute terms and in relative terms.
- ii. The imports from the subject country are undercutting the prices of the domestic industry and the price underselling is positive.
- iii. The imports from the subject country are depressing the prices of the domestic industry.
- iv. The capacity utilization has declined significantly and inventories have increased for the domestic industry in the period of investigation.

- v. The performance of the domestic industry has significantly deteriorated in respect of profitability, profits, cash profits and return on capital employed. The domestic industry is suffering losses, cash losses and negative return on investments.

In view of the foregoing, it is concluded that the domestic industry has suffered material injury.

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

- 81. The Authority has examined any known factors other than the dumped imports which at the same time might have been injuring the domestic industry, so that the injury caused by these other factors, if any, is not attributed to the dumped imports. Factors which are relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority examined whether factors other than dumped imports could have contributed to the injury to the domestic industry and notes as under:
 - a) **Volume and value of imports not sold at dumped prices**
 - 82. Imports from China PR constitute 100% of the total imports of the subject good into India. There are no other countries which have exported the subject good to India during the POI.
 - b) **Contraction in demand**
 - 83. The demand of the subject good has consistently increased during the injury period and the POI. In fact, considering the present and potential demand for the product in the country, the company has announced further expansion of the production capacities. The Authority notes that the domestic industry is fully capable of meeting the demand for the product in the country. However, the domestic industry is faced with unfair competition from imports at dumped prices.
 - c) **Changes in Pattern of consumption**
 - 84. There have been no material adverse changes in the pattern of consumption of the product under consideration. Rather, the pattern of consumption is improving in favour of the product, as is evident from the rising consumption in the country. The injury to the domestic industry found in the present investigation could not have been due to adverse changes in the pattern of consumption.
 - d) **Conditions of competition and trade restrictive practices**
 - 85. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry. The PUC is produced only by one company in India and was exported only by one country.
 - e) **Developments in technology**

86. No evidence has been brought by any interested parties about existence of significant changes in the technology that could have caused injury to the domestic industry. Further, the domestic industry has set up first plant in 2016 and second plant in August, 2019.

f) Export performance of the domestic industry

87. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the domestic industry.

g) Performance of other products

88. The domestic industry has provided the injury data of PUC and the same has been adopted by the Authority for the purpose of injury analysis. Therefore, performance of other products produced and sold by the domestic industry is not a possible cause of the injury to the domestic industry.

Conclusion on Causal Link

89. The Authority concludes that the domestic industry has not suffered injury in the POI due to other factors. Further, the following factors show that the injury to the domestic industry is due to subject dumped imports:

- a. The import price of the PUC increased between 2016-17 to 2018-19. The import price, however, declined steeply in the POI and was below even the levels prevalent in the base year. As a result of steep decline in the import price, selling price of the domestic industry increased in 2018-19 and then declined in the POI. As far as selling price of the domestic industry in 2016-17 is concerned, the Authority notes that the volume of sales was quite low and constituted primarily initial pricing offered by the domestic industry. There was 34% decline in the landed price of imports in the POI as compared to the preceding year. Resultantly, the domestic industry prices declined. However, the domestic industry reduced prices only by 9% and the same were already below cost of sales.
- b. Despite price reduction by the domestic industry, the imports are undercutting the prices of the domestic industry. The landed price of imports is not only below the selling price of the domestic industry but also the cost of production in the POI.
- c. The dumped imports are causing a significant suppressing and depressing effect on the prices of the product in the market.
- d. The adverse impact of the imports on the selling price of the domestic industry has led to a significant decline in profitability. Resultantly, this has caused a significant deterioration in profits, cash profits and return on capital employed. The domestic industry is suffering financial losses, cash losses, and negative returns in the POI.
- e. The growth of the domestic industry has become negative in respect of several economic parameters.

90. The Authority, thus, concludes that there exists a causal link between the dumping of the subject goods and injury to the domestic industry.

J. POST DISCLOSURE SUBMISSIONS

J.1 Submissions by the domestic industry

91. The submissions made by the domestic industry is as follows:
- a. The questionnaire responses filed by Mihama India Pvt. Ltd., Stallion India Fluorochemicals Pvt. Ltd. and MPCL Industries Ltd. should be disregarded as they failed to provide any non-confidential version.
 - b. Normative performance of the domestic industry should be considered which shows injury to the domestic industry instead of considering actual capacity utilization.
 - c. As regards constructed normal value, wherever captive inputs are involved, reasonable profits are to be added to the captive inputs. The international raw material price may also be adopted.
 - d. The dumping margin is positive and substantial throughout the injury period and in the period of investigation.
 - e. No users or OEM or user associations have filed any verifiable information showing that there will be no significant or adverse impact on them.
 - f. Imposition of duties will arrest decline in the performance of the industry, redress the injury suffered and enable domestic producer to remain viable and competitive, and therefore in the interest of the consumers and the public at large.
 - g. If the current situation continues, the industry will face further injury and eventually be wiped out, giving the Chinese producers increased leverage, and the consumers will be left at their mercy. The consumers will have to maintain higher degree of inventory if they have to depend on imported material, while, in case of procurement from the domestic industry, inventory holding can be kept at much lower levels.
 - h. China's obligations to fulfil its commitments to the Kigali Amendment to the Montreal Protocol even before India's timelines only provides more incentive for China to dump the product under consideration so as to build a higher baseline before the phasing down begins.
 - i. The domestic industry has increased capacities to cater to the existing demand and has also planned to install more capacities to meet the rising demand.
 - j. Anti-dumping duty will provide a level playing field not only to the domestic industry but also encourage imports from USA and Japan, leading to healthy competition.
 - k. The imposition of duties is also consistent with the policy of the Government of India as the Central Government has been promoting the domestic manufacturing of air conditioners in the country through various policy measures.
 - l. The increase in investments by the domestic industry will only lead to more employment, thereby benefitting the Indian economy as a whole. Further, it is of strategic importance for the country to have viable and environment friendly substitutes before the phase down of HFCs starts in the year 2032, which will only be possible if the industry is protected from dumping.
 - m. It is in the country's interest as a whole to balance development within the country while also achieving its sustainable development goals. Failure to protect the domestic HFC industry will leave a weak link in the AC manufacturing supply chain and likely to be exploited by the Chinese manufacturers.
 - n. Indigenous manufacturing helps ensure price stability of the product in the market, seamless supply, dependability on a reliable partner, import substitution, reduced foreign trade risk, growth of downstream industries.

- o. Due to the widening trade deficit and dwindling forex reserves, it is important to rely more on the domestic production capacities and reduce import dependence.
- p. The domestic industry is backward integrated and have made significant investments in the product under consideration. Therefore, there is a significant value addition done in the captive inputs.
- q. Since normal value is based on the data of the domestic industry, the same should be disclosed.
- r. The Authority should disclose the non-confidential version of the communication sent to participating exporters and replies if any, post filing of questionnaire responses, and verification reports.

J.2 Submissions by the other interested parties

92. The submissions of the other interested parties are as follows:

- a. Disregarding the details of the Chinese companies when determining normal value will nullify the provisions of the Article 15 (a) (ii) of China's Accession Protocol. The normal value for the respondent company should be determined on the basis of costs submitted by them which reasonably reflect the costs associated with the production and sale of the product under consideration. No details regarding the proposed determination of normal value for Chinese producers has been disclosed or provided.
- b. The statements made by the domestic industry regarding injury have been accepted on their face value without objective examination of injury. Submissions on how the domestic industry has not suffered any injury due to the alleged imports have not been included or analysed in the disclosure statement.
- c. The figures of interest and depreciation of costs are given as per MT as compared to the petition to camouflage the information for these factors.
- d. Absence of examination or analysis on the submissions on non-attribution analysis in the disclosure statement, leads to the conclusion that injury is not due to the alleged imports but due to the impact of the other factors. There is no causal link between the alleged imports and the injury to the domestic industry.
- e. The dumping margin and injury margin should be determined based on quarterly analysis of prices, due to significant fluctuation in prices in different quarters of the period of investigation. Quarterly analysis for determination of dumping and injury margin was conducted in the *Sunset Review of anti-dumping duty on Viscose Staple Fibre from China PR*. The Respondents exported substantial quantities in the last two quarters when there was substantial decline in prices.
- f. The imports in relation to consumption has declined as such, the rate of increase in imports from China PR is in fact much lower than the rate of increase in demand. The Authority has not noted the improving trend in the injury parameters including production, sales volume, capacity, and capacity utilisation.
- g. Decline in market share during the POI is inconsequential and observation made on the same is not an objective assessment of the economic parameters.
- h. The closure of Bhiwadi plant during the POI was not informed to the interested parties thereby limiting opportunity to comment on the change and impact on injury. The

commencement of new plant and the discontinuation of the old plant has resulted in higher costs in the POI and cannot be attributed to alleged imports.

- i. The Authority should clarify if actual figures are taken for determining the economic parameters such as production for the POI.
- j. The impact of increased cost of sales in the period of investigation for NIP should be disregarded. The NIP has to be disclosed in range for each PCN as per Trade Notice No. 10/2018.
- k. The decline in profitability to the domestic industry is due to capacity expansion and due to resultant increase in finance cost and interest cost and the Authority has declined to recommend imposition in this regard in previous cases. The domestic industry will become profitable again once the production at Dahej normalises. The total increase in depreciation and total increase in interest cost has to be specifically noted.
- l. Veracity of information on the significant increase in wages per unit has to be ensured by the Authority.
- m. The decreased import price in the POI is because of consistent reduction of the Respondents cost of sales during the injury investigation period. There is no increased dumping in the period of investigation by the respondents.
- n. The significant difference in the information relating to profitability parameters provided in the petition and disclosed by the Authority in the disclosure statement requires clarification as the previous injury submissions are made based on the petition.
- o. Even though the imports of subject goods have increased, the rate is much lower than the growth in sales of the domestic industry and hence there is no volume injury. The decline in productivity indicate that injury is on account of inefficient work force management.
- p. Rejection of complete responses filed by the Sinochem Group is in violation of f Para 5 of the Annex II of Anti-Dumping Agreement. Export price of Qingsong, who is the exporter of the product under consideration has to be determined as sales price to Honeywell, who is the first independent buyer regardless of where the buyer is situated.
- q. Honeywell is an unrelated buyer and by imposing an overburden on their lack of assistance to the investigation on Qingsong and rejecting their response on this ground is not only violative of the principles of natural justice but arbitrary and violative of precedence and international practices. Sinochem Group has met all conditions required by the law when reporting the sales transactions.
- r. Qingsong is the exporter of product under consideration and issues commercial invoices to Honeywell and is also responsible for export declaration to China customs.
- s. Reliance is placed on the export price treatment by different jurisdictions such as EU, Canada and Australia, where export price has been determined by the sale price to the first independent buyer, which clearly shows that the export data of co-operating exporter cannot be rejected based on value chain.
- t. Imposing anti-dumping duties will have an adverse impact on the interests of the downstream industry and end users in India.
- u. The constructed normal value and non-injurious price determined by the Authority is highly excessive. The determination of export price and dumping margin has to be made as per the actual data provided by the respondent.

- v. A bulk-to-bulk comparison has to be made to determine the dumping and injury margin with separate analysis for packed and unpacked forms of product under consideration.
- w. The imposition of duty will result in monopolistic market as the petitioner is the sole producer of the subject good and subsequently affect the public interest and hinder the development of the industry in India.
- x. The domestic industry has not demonstrated how prices of subject goods have adversely impacted consumers. The process of filling the product under consideration in the AC is not a one-time process and needs to be carried out a number of times. The imposition of the duty is not in the consumer interest or the environmental objectives of the Government of India as the retail market for the product under consideration is cost sensitive.
- y. The duty protection is sought by the petitioner to protect its recent capacity expansion and investments from legitimate competition from Chinese imports. There is growing demand for the subject goods which cannot be met by the domestic industry alone.
- z. The increase in volume of subject imports should be seen in light of the demand supply gap for the product under consideration. The volume of imports in relation to demand declined as the domestic market share increased, indicating that subject imports are not a threat to the petitioner's growth.
- aa. The domestic industry has captively consumed part of its production which leaves the users and importers in the country to rely on imports from China and shows unreliability of petitioner.
- bb. No reason has been given for the discrepancy in the difference between high profitability parameters in the petition and the low profitability considered by the Authority. The data for aggregate profit/loss has not been disclosed for the period of investigation.
- cc. The petitioner's profitability has significantly improved over the injury period contrary to what has been observed by the Authority. The decline in financial performance during period of investigation is due to the decline of operational parameters.
- dd. Contrary to the claim of the petitioner, the performance of the economic parameters such as wages, employment and productivity is relevant to the determination of injury to the domestic industry.
- ee. The petitioner's refusal to supply product under consideration to refillers such as the respondent is commercially restrictive and an unfair trade practice.
- ff. The Authority is requested to limit the period of duty, if imposed, to a minimum period keeping in view the national strategy for phase-down of HFC to allow appropriate control of the production and consumption of HFC to ensure compliance with the Kigali Amendment by mid-2024.
- gg. Mihama imports product under consideration from its parent Company in Japan, which causes an already expensive product to be overpriced for sale in the Indian Market.
- hh. Since Mihama does not have a license for manufacturing and repackaging, utilization of contractors and sub-contractors for the same will increase overall cost of product under consideration.
- ii. The parent company of Mihama in Japan has established the subsidiary in India since the GOI would favour Japanese entities under various FTAs and has invested heavily with a

view to establish and expand operations in India. Imposition of ADD will hinder further investments by the company.

- jj. The petitioner has grown manifold in the absence of injury as is evident from their operating cash flow statement. The client base of the petitioner outshines those of foreign exporters and importers. Levy of ADD will increase the market share of the petitioner from 50% to 90% resulting in price regulation and monopoly.

J.3 Examination by the Authority

93. The Authority has examined the post disclosure submissions made by the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:

- a. As regards the argument of non-market economy status of China PR, material injury, causal link, injury due to increase in depreciation cost, anti-dumping duty will create monopoly for domestic industry, rejection of response by Mihama India Pvt. Ltd., Stallion India Fluorochemicals Pvt. Ltd. and MPCL Industries Ltd and public interest, the same is addressed by the Authority in the relevant paragraphs of these findings.
- b. As regards objective examination of data, camouflage of figure of interest and depreciation costs and the differences in the data provided in the petition and in the disclosure statement, the Authority notes that the Authority has considered verified data of the domestic industry, for injury analysis.
- c. As regards quarterly examination, it is noted that the mere decline in the selling price does not mean a need for quarterly determination. The interested parties have established that the normal value has also materially changed with time period.
- d. As regards closure of Bhiwadi plant and commencement of Dahej plant has led to increase in cost, it is noted that the cost and NIP of Dahej plant is lower than Bhiwadi plant. Further, these are merely two plants of the domestic industry, and not two different legal entities.
- e. As regards actual figures considered for injury analysis, it is clarified that the Authority has considered actual verified figures of the domestic industry for injury analysis
- f. As regards the inability of the domestic industry to meet the demand-supply gap in the country, the Authority based on the information on records, notes that the domestic industry has increased capacity from *** MT during 2016-17, *** MT as on March, 2020 and *** MT (as on Jan 2021) as against the demand of *** MT. Further the capacity utilization of the domestic industry is low in the period of investigation and has declined as compared to the preceding year. The domestic industry had the potential to cater the much higher degree of demand in India. However due to dumping of the product under consideration, the domestic industry was faced with unutilized capacity

and had a much smaller share in domestic market as compared to Chinese imports. The domestic industry has further announced increase in capacity by *** MT of fluorocarbon refrigerants and certain key raw materials by July 2023 with an investment of around *** crore; in order to cater the present and potential demand of the product under consideration in India. In any case, a possible demand-supply gap does not justify dumping of the product under consideration, particularly when such dumping is causing injury to the domestic industry.

- g. As regards disclosure of PCN wise NIP, it is clarified that the Authority has not considered PCN in the present investigation.
- h. As regards rejection of responses filed by the Sinochem Group, it is noted that since, the information in respect of exports made by Honeywell Trading (Shanghai) Co., Ltd, the Authority has not considered the responses filed by the producer and exporter for determination of the export price. The Authority has adopted its consistent practice while rejecting the response of the exporter where the details of major share of exports made by the responding producer is not on record.
- i. As regards the argument of addition reasonable profits to captive inputs while calculating normal value, it is clarified that the Authority has not added profits in captive inputs as per its practice. All captive inputs have been transferred at their cost of production and profit has been added as a percentage of total cost of production.
- j. As regards submissions of Mihama India Pvt. Ltd., it is clarified that the subject goods in concerned are imports of Hydrofluorocarbon (HFC) Component R-32, originating in or exported from China PR only.

K. INDIAN INDUSTRY INTERESTS AND OTHER ISSUES

- 94. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.
- 95. The Authority considered whether imposition of ADD shall have adverse public interest. For the same, the Authority examined whether the imposition of the anti-dumping duty on imports of the product under investigation would be against the larger public interest. This

determination is based on consideration of information on record and interests of various parties, including domestic industry, importers, and consumers of the product.

96. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers, and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of ADD on their operations. The Authority sought information on, inter-alia interchange ability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD.
97. Four importers, namely, M/s Refex Industries Ltd., M/s MPCL Industries Ltd., M/s Stallion India Fluorochemicals Pvt. Ltd. and M/s Mihama India Pvt. Ltd. have responded to the present investigation. Only M/s. Refex Industries Ltd. has filed the questionnaire response in the manner prescribed by the Authority. M/s MPCL Industries Ltd., M/s Stallion India Fluorochemicals Pvt. Ltd. and M/s Mihama India Pvt. Ltd., did not circulate non-confidential version of their responses/submissions to the other interested parties. The Authority has considered the arguments of all interested parties in the present finding and rejected response/submissions filed by M/s MPCL Industries Ltd., M/s Stallion India Fluorochemicals Pvt. Ltd. and M/s Mihama India Pvt. Ltd. None of the users, OEMs or user associations have opposed to the present investigation. Nor these parties have claimed that there shall be adverse effect of proposed ADD on public at large, or even their operations. As already noted in these findings, none of these importers have provided any verifiable information to demonstrate the effect of anti-dumping duty on the consumers. Further, in this regard, the Authority re-iterates that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.
98. Even though the Authority has prescribed formats for the users to quantify the impact of ADD and elaborate how imposition of ADD shall adversely impact them, it is noted that none of the interested parties have provided relevant information. It is, thus, noted that the interested parties have not established impact of ADD on the user industry with verifiable information. Further the domestic industry has quantified the impact of the recommended anti-dumping duty on the consumer industry and submitted that the impact is meagre.
99. The Authority notes that the domestic industry has provided evidence in their post hearing written submissions that the PUC is produced globally in China having capacity of 2,84,000 MT, US having capacity of 25,000 MT, India having capacity of *** MT; South Korea having capacity of 9500 MT and Japan having capacity of 6000 MT. The product is under free category and, therefore, can be freely imported from various countries. Imposition of the anti-dumping measures would not restrict imports from China in any way and, therefore, would not affect the availability of the product to the consumers. Imposition of anti-dumping duties, therefore, would neither affect the availability of the product to the consumers nor create monopoly.

100. The United States of America has also investigated the imports of the product under consideration into USA from China PR. The United States imposed a significant quantum of duties on the said imports, on finding that the imports are causing material injury to their domestic industry. The quantum of duties levied by the US Authorities ranges from 161%-221% which indicates the level of dumping that China is resorting to, in other countries.
101. The Authority notes that the product is consumed mainly in residential air conditioning and the domestic industry has stated that a surge is projected in the domestic AC production and India is likely to witness a robust growth in HFCs in the next decade due to robust growth in Air Conditioner (AC) market, coupled with substitution of HCFC 22 with HFC 32 & HFC 410A. The domestic industry has increased capacity from ***MT during 2016-17, *** MT as on March, 2020 and *** MT (as on Jan 2021). The domestic industry has further announced an investment of around Rs *** crore to increase the existing capacity from ***MT to ***MT of the product under consideration, by July 2023; in order to cater the present and potential demand of the product under consideration in India.
102. Further the capacity utilization of the domestic industry is low in the period of investigation and declined as compared to preceding year. The domestic industry had the potential to cater the much higher degree of demand in India. However due to dumping of the product under consideration, the domestic industry was faced with unutilized capacity and had a much smaller share in domestic market as compared to Chinese imports. The Authority also notes that even when there are significant capacities in US and Japan, there are no imports from these countries. The domestic industry contended that dumping by Chinese producers has prevented these countries from selling in the Indian market.
103. It is noted that the interested parties have not demonstrated how the prices of subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted quantified information showing that the impact of the proposed antidumping duty on the user industry would be miniscule. The domestic industry has submitted that the cost of product under consideration in the final product is very minimal and will have almost no effect on the end-users. For example, assuming that an air conditioner of a capacity of 1 Ton costs in the range of Rs. 20,000 to 40,000. The amount of HFC Component R-32 used in the air conditioner would be less than 1 kg. Assuming that 1 kg of HFC Component R-32 costs around Rs. 200, the cost of the product under consideration on the end-consumer of the final product is very meagre. The interested parties contended that use of the product is not one time and there are multiple refill. The Authority however notes that if the entire cost of the product in an AC is just Rs. 200, even costs on account of refill are not significant.
104. It is, thus, noted that while the interested parties have not established possible adverse impact of proposed ADD on the user industry with verifiable information. Thus, even if it is considered that the imposition of ADD might affect the price levels of the product manufactured using the subject goods, the impact of the antidumping duty on the eventual product would be grossly insignificant. Further, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. The objective of imposition

of anti-dumping measure is to remove the unfair advantages gained by dumping practices; to prevent the injury to the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

105. The Authority further notes that the recommendation for imposition of duty is made only when the requisite legal requirements are met. The interested parties contended that the domestic industry has been using trade defence quite often. It is, however, noted that the domestic industry has reported that it is engaged in production of 71 products and is at present protected by ADD in 4 products. The ADD earlier in force on imports of nylon tyre cord fabric and methylene chloride from China is no longer in force.
106. From the information on record, it is also noted that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, and the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

L. CONCLUSION & RECOMMENDATIONS

107. After examining the submissions made by the interested parties and issues raised therein, and considering the facts available on record, the Authority concludes that:
- a. The Applicant constitutes domestic industry under Rule 2(b) of the Rules and the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.
 - b. The product produced by the domestic industry is like article to the product under consideration imported from the subject country.
 - c. The application contained all information relevant for the purpose of initiation of investigation and the application contained sufficient evidence to justify initiation of the investigation.
 - d. Considering the normal value and export price for the subject goods, the dumping margins for the subject goods from the subject country have been determined, and the margins are significant.
 - e. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry clearly shows that the volume of dumped imports from China increased significantly in absolute terms and remained significant despite significant capacity addition by the domestic industry and increase in its production. The imports from the subject country are undercutting the prices of the domestic industry. The imports are depressing the prices of the domestic industry. The capacity utilization declined significantly after increasing upto 2018-19, inventories have increased industry in the period of investigation. The performance of the domestic industry has significantly deteriorated in respect of per unit profitability, profits, cash profits and return on capital employed. The domestic industry is faced with unutilised capacities despite significant demand in the Country, and demand-supply gap in the POI.
 - f. The material injury suffered by the domestic industry has been caused by the dumped imports.
 - g. Despite providing sufficient opportunity to interested parties to quantify the impact of ADD and elaborate on how imposition of ADD will adversely impact them, none of the consumers have demonstrated possible adverse effect. Information on record shows that non imposition of anti-dumping duty will adversely and materially impact the indigenous production, while imposition of duty will not materially impact the consumer or

downstream industry or public at large. On the basis of information provided by interested parties and investigation conducted, the Authority is of the considered view that the imposition of anti-dumping duty will not be against public interest.

108. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury, causal link and impact of proposed measures. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, and having quantified the impact of non imposition and imposition of ADD, the Authority is of the view that imposition of anti-dumping duty is required to offset dumping and injury. The Authority considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

109. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of antidumping duty on the imports of subject goods, originating in or exported from subject country, from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

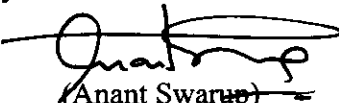
Duty Table

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	290339	Hydrofluorocarbon Component R-32	China PR	Any country including China PR	Shandong Dongyue Chemical Co., Ltd.	1,171.78	MT	US\$
2	-do-	-do-	China PR	Any country including China PR	Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd.	1,394.96	MT	US\$
3	-do-	-do-	China PR	Any country including	Jiangsu Sanmei Chemical Ind. Co.,	1,344.60	MT	US\$

				China PR	Ltd. and Fujian Qingliu Dongying Chemical Ind. Co., Ltd;			
4	-do-	-do-	China PR	Any country including China PR	Zibo Feiyuan Chemical Co., Ltd.	1,255.05	MT	US\$
5	-do-	-do-	China PR	Any country including China PR	Any other than S N 1 to 4	1,519.70	MT	US\$
6	-do-	-do-	Any other country other than China PR	China PR	Any	1,519.70	MT	US\$

M. FURTHER PROCEDURE

110. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the appropriate Forum.


(Anant Swarup)
Designated Authority