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**F. No. 7/1/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi -110001**

Dated: 8th October, 2021

**NOTIFICATION
FINAL FINDINGS
(Case No. ADD-SSR-01/2021)**

Subject: Sunset Review of the anti-dumping investigation concerning imports of ‘1,1,1,2-Tetrafluoroethane or R-134a’ originating in or exported from China PR-reg.

F. No. 7/1/2021-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the “Anti-Dumping Rules” or “the Rules”) thereof, the Designated Authority (hereinafter referred to as “Authority”) received an application from M/s SRF Limited (hereinafter also referred to as the “applicant” or the “petitioner”) requesting the initiation of the sunset review of the anti-dumping duty imposed on the imports of ‘1,1,1,2-Tetrafluoroethane or R-134a’ (hereinafter referred to as the “subject goods” or the “product under consideration” or the “PUC”) originating in or exported from China PR (hereinafter referred to as the “subject country”).

A. BACKGROUND OF THE CASE

2. The Authority had initiated the original anti dumping investigation concerning the imports of ‘1,1,1,2-Tetrafluoroethane or R-134a’ originating in or exported from China PR and Japan vide notification no. 14/24/2009-DGAD dated 19th August, 2009. The final findings notification was issued by the Authority vide notification no. 14/24/2009-DGAD dated 10th May, 2011, recommending the imposition of the definitive anti-dumping duty on the imports of the subject goods, originating in or exported from China PR and Japan. The definitive anti-dumping duties (ADD) were imposed by the Department of Revenue vide notification no. 61/2011 – Customs (ADD) dated 15th July, 2011.
3. The Authority had initiated the first sunset review investigation concerning the imports of ‘1,1,1,2-Tetrafluoroethane or R-134a’ originating in or exported from China PR vide notification no. 15/23/2014-DGAD dated 10th April, 2015. The final findings notification was issued by the Authority vide notification no. 15/23/2014-DGAD dated 30th May, 2016 recommending extension of the anti-dumping duty in force on the imports of the subject goods, originating in or exported from China PR. The anti-dumping duties were extended by the Department of Revenue vide notification no. 30/2016 – Customs (ADD) dated 11th July, 2016.

4. The Authority had initiated a new shipper review investigation concerning the imports of '1,1,1,2-Tetrafluoroethane or R-134a' originating in or exported from China PR vide notification no. 15/22/2016-DGAD dated 27th February, 2017. The final findings notification was issued by the Authority vide notification no. 15/22/2016-DGAD dated 26th July, 2018 vide which the shipper review investigation was terminated.
5. In terms of Section 9A (5) of the Act, ADD imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of ADD is likely to lead to continuation or recurrence of the dumping and the injury. Further, Rule 23 (1B) of the Rules provides as follows:

“any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”
6. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.
7. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 7/1/2021-DGTR dated 19th February, 2021, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A(5) of the Act read with Rule 23 of the Rules to review the need for continued imposition of the anti-dumping duty in respect of the subject goods, originating in or exported from the subject country and to examine whether the expiry of the said ADD is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
8. Pending the conclusion of the investigation, the anti-dumping duties were extended up to and inclusive of 10th January, 2022 vide Notification No. 30/2021-Customs (ADD) dated 24th May, 2021.
9. The scope of the present review covers all the aspects of the final findings notification no. 15/23/2014-DGAD dated 30th May, 2016 which had recommended the extension of the anti-dumping duty on the imports of the subject goods originating in or exported from the subject country.

B. PROCEDURE

10. 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 receipt of the application for the sunset review investigation before proceeding to initiate the present investigation in accordance with Sub-Rule (5) of Rule 5 of the Anti-Dumping Rules.

- b. The Authority issued a public notice dated 19th February, 2021 published in the Gazette of India Extraordinary, initiating the sunset review investigation concerning the anti-dumping duty imposed on the imports of the subject goods originating in or exported from the subject country.
- c. The Authority sent a copy of the initiation notification dated 19th February, 2021 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 the relevant information in the form and manner prescribed and to 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 file the Questionnaire Responses vide communication dated 25th March, 2021, up to 15th April, 2021.
- 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 Juhua Group I/E Co. Ltd.
 - ii. M/s Shandong Dongyue Chemical Ltd.
 - iii. M/s Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd.
 - iv. M/s Jiangsu Kangtai Fluorine Chemical Co. Ltd.
 - v. M/s Changshu 3F Zhonghao New Chemical Materials Co. Ltd.
 - vi. M/s Zhejiang Fotech International Co. Ltd.
 - vii. M/s Du Pont China Holding Co. Ltd.
 - viii. M/s Zhejiang Pujiang Bailian Chemical Co. Ltd.
 - ix. M/s Mitsui DuPont Fluorochemicals Co. Ltd.
 - x. M/s Jiangsu Bluestar Environmental Protection Technology Co. Ltd.
 - xi. M/s Sinochem Modern Environmental Protection Chemicals (Xián) Co. Ltd.
 - xii. M/s Jiangsu JIN XUE Group Co. Ltd.
 - xiii. M/s Jiangsu Yonghe Fluorochemical Co. Ltd.
 - xiv. M/s Zhejiang Sanmei Chemical Ind. Co. Ltd.
- h. In response to the above notification, the following producers/exporters and their related exporters/traders have responded and submitted/filed exporters' questionnaire responses and/or legal submissions:

- i. M/s Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. (Producer/ Exporter)
 - ii. M/s Shaanxi Sinochem Lantian New Chemical Material Co. Ltd. (Producer/ Exporter)
 - iii. M/s Shandong Dongyue Chemical Co. Ltd. (Producer/ Exporter)
 - iv. M/s Zhejiang Sanmei Chemical Ind. Co. Ltd. (Producer/ Exporter)
 - v. M/s Zhejiang Quhua Fluor-chemistry Co. Ltd. (Producer/ Exporter)
 - vi. M/s Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. (Producer/ Exporter)
 - vii. M/s Sinochem Lantian Trading Co. Ltd. (Domestic seller)
 - viii. M/s Sinochem Xián Jincool New Chemical Materials Co. Ltd. (Trader)
 - ix. M/s Sinochem Lantian Fluoro Materials Co. Ltd. (Domestic seller)
 - x. M/s Sinochem Modern Environmental Protection Chemical (Xián) Co. Ltd. (Formerly producer)
- 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 E.I. DuPont India Pvt. Ltd.
 - ii. M/s Navine Fluorine International Ltd.
 - iii. M/s Stallion Enterprises
 - iv. M/s Value Refrigerants Pvt. Ltd.
 - v. M/s Mangali Petrochem Ltd.
 - vi. M/s KPL International Ltd.
 - vii. M/s KIRO Refrigerants Pvt. Ltd.
 - viii. M/s Honeywell International (I) Pvt. Ltd.
 - ix. M/s O.B. Fluoro Chems Pvt. Ltd.
 - x. M/s Brenntag India Pvt. Ltd.
 - xi. M/s Cipla Ltd.
- j. In response to the above notification, none of the importers or users responded or submitted importer/user questionnaire responses/legal submissions and/or registered as the interested parties.
- k. 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 ongoing Covid-19 global pandemic.
- l. The period of investigation (POI) for the purpose of the present investigation is 1st October, 2019 to 30th September, 2020 (12 months). The injury examination period has been considered as the period from 2017-18, 2018-19, 2019-20 and the POI.
- 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 POI, and analysed the data after due examination of the transactions.

- n. The verification of the data provided by the domestic industry and the responding exporters was conducted to the extent considered necessary for the purpose of the present investigation.
- o. The non-injurious price (hereinafter referred to as the “NIP”) based on the cost of production and reasonable profits of 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 Rules, has been worked out so as to ascertain whether the 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 24th May, 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 the other interested parties and were advised to offer their rebuttals.
- q. The submissions made by the interested parties, arguments raised and the information provided by the 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 the 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 finding, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.
- s. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, the parties providing the information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- t. In accordance with the Rules, the Authority disclosed the essential facts of the case that would form the basis of its findings in the form of a disclosure statement on 30.09.2021 and the interested parties were allowed time up to 6.10.2021 to comment on the same. The comments of the interested parties, to the extent relevant, have been considered by the Authority and have been addressed in this finding.
- u. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority has considered such interested parties as non-cooperative and recorded this final finding on the basis of the facts available.
- v. ‘***’ in this final findings notification represents the 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 US \$1=74.38.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1.Submissions of the other interested parties

11. The other interested parties have made the following submissions with regard to the product under consideration and the like article:
- The PUC is defined without making any differentiation for the packed and the unpacked material and even the entire import data is presented in such manner except for a few parameters for the subject country as cherry picked by the petitioner.
 - The proposed separate examination of the packed and the unpacked forms is not substantiated by the domestic industry.

C.2.Submissions of the domestic industry

12. The submissions made by the domestic industry with regard to the product under consideration and the like article are as follows:
- The product under consideration is '1,1,1,2-Tetrafluoroethane or R-134a'. Since the present investigation is a sunset review, the product under consideration remains the same as defined in the previous investigation. There are no developments in the product that took place over the period.
 - The product manufactured by the domestic industry is like article to the product imported from the subject country. The issue of like article has already been examined by the Authority in the previous investigations as well.
 - The packed and the unpacked forms of the product have a difference in the cost and price of the product under consideration, and it does not constitute a different product to be separately mentioned in the product description. The domestic industry has provided the import statement, the statement of the price undercutting, the dumping margin and the injury margin as packed and unpacked. Separate dumping and injury margins should be calculated for the packed and the unpacked forms and thereafter for the product under consideration, as done in the previous investigation.

C.3.Examination by the Authority

13. The Product Under Consideration in the present investigation is "1,1,1,2-Tetrafluoroethane or R-134a". The product under consideration is the same as defined in the previously conducted investigation, which was defined as follows in the final findings:

The product under consideration in the present investigation is 1,1,1,2-Tetrafluoroethane or R-134a of all types. R-134a, is also called as Tetrafluoroethane, Genetron 134a, Suva 134a or HFC-134a, HFA- 134a, and Norflurane. It is a haloalkane refrigerant with thermodynamic properties similar to R-12 (dichlorodifluoromethane), but without its ozone depletion potential. It has the chemical formula CH₂FCF₃, and a boiling point of -26.3 °C (-15.34 °F). It is an

inert gas used primarily as a high temperature refrigerant for domestic refrigeration and automobile air-conditioners. Other uses of the subject goods include plastic foam blowing, as a cleaning solvent and as a propellant for the delivery of pharmaceuticals (e.g., bronchodilators), gas dusters, and in air driers, for removing the moisture from compressed air.

The subject goods are being imported under Chapter 29 of the Customs Tariff Act under subheading 2903 under "Halogenated Derivatives of Hydrocarbons", under subheading 29033919 as "Other Fluorinated Derivatives", under the Indian Trade Classification (based on Harmonized Commodity Description and Coding System). The petitioner has, however claimed that the product under consideration does not have any dedicated customs classification code and are being imported under various other Customs sub-headings. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

However, the cGMP approved pharma grade is excluded from the purview of the PUC, since the same is neither produced by the domestic industry nor imported from the subject country."

The product is classified under Chapter 29 in heading 2903, "Halogenated Derivatives of hydrocarbons", under subheading 29033919 as "Other Fluorinated Derivates". The customs classification is only indicative and is not binding on the scope of the present application and the proposed review investigation."

14. Since the present investigation is a sunset review investigation, the product under consideration remains the same as defined in the previously conducted investigation. The subject goods are classified under Chapter 29 of the Customs Tariff Act under subheading 2903 39 19. However, the customs classification is only indicative and not binding on the scope of the product under consideration.

15. The Authority notes 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 is being sold both in packed and unpacked (bulk) form and the only difference in both the forms is in the cost and price of the product under consideration, but the two do not constitute a different product to be separately mentioned in the product description. The domestic industry has provided the import statement, the statement of the price undercutting, the dumping margin and the injury margin as packed and unpacked. The product produced by the domestic industry is comparable to the goods imported from the subject country 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, therefore, holds that the subject goods produced by the domestic industry are the 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 AND STANDING

D.1.Submissions by the other interested parties

16. No submissions have been made by the other interested parties with regard to the scope of domestic industry and its standing.

D.2.Submissions by the domestic industry

17. The domestic industry has made the following submissions with regard to the scope of domestic industry and its standing:

- a. The applicant, namely, M/s SRF Limited, is not related to any exporters of the subject goods in the subject country or any importer of the subject goods in India.
- b. The applicant also constitutes 100% of the Indian production of the like article.

D.3.Examination by the Authority

18. Rule 2(b) of the Anti-Dumping Rules defines the 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”.

19. The application has been filed by M/s SRF Limited. The applicant accounts for 100% of the total Indian production. The applicant accounts for a major proportion in the Indian production of the subject goods. The applicant has certified that it is neither related to any exporters or producers of the product under consideration in the subject country nor any importer of the product under consideration in India.

20. The Authority holds that the applicant constitutes the 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 other interested parties

21. The other interested parties have made the following submissions with regard to the confidentiality:

- a. The petitioner has filed an incomplete petition and has not provided adequate non confidential summaries of the information claimed confidential under Annexure 6 (Costing Information), without any reasonable justification, thereby violating the Rules and Trade Notices.
- b. The confidentiality claimed is as per the Rules after providing reasoning. The claims of deficiency are all incorrect.

E.2.Submissions by the domestic industry

22. The domestic industry has made the following submissions with regard to the confidentiality:

- a. The responses filed by the other interested parties are deficient and in violation of Trade Notice 10/2018, thereby preventing the domestic industry from defending their rights. The exporters have claimed the information in the public domain as confidential, excessive confidentiality on mala fide grounds of business propriety, and failed to even provide responses.
- b. The costing information is a business proprietary information and is not amenable to summarization. The domestic industry has referred and relied upon CESTAT orders in Anwar Jute Spinning Mills Ltd. v. Union of India/DA and Nitro Chemical Industry Ltd. v. DA. The exporters are arguing for its disclosure when they themselves have not disclosed.

E.3. Examination by the Authority

23. 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 rule12, 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 authorization 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 summarization 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 generalized or summary form, it may disregard such information.”

24. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly 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 the 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.

25. 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).

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the other interested parties

26. The following miscellaneous submissions have been made by the other interested parties:

- a. The domestic industry is seeking undue protection since 2009 and should not be allowed to misuse trade remedial measures to attack foreign producers and the exporters with the sole purpose of retaining monopoly. Further extension of the anti-dumping duties will provide unfair advantages to the petitioner.
- b. The period of investigation should be from October, 2019 to March, 2020 (six months) instead of October, 2019 to September, 2020 (12 months) as the COVID-19 crisis disrupted all the business activities post-March, 2020. All the sectors have been adversely affected as the domestic demand and the exports sharply plummeted.
- c. There are no special or exceptional circumstances which call for continuation of the antidumping duty. The reference has been made to Dry Cell Batteries and Nylon Filament Yarn wherein continuation of the duty was not recommended as it had served its intended purpose.
- d. Further extension of the duty can severely affect the end-users and downstream industry who are dependent on internationally competitive raw material to manufacture the value-added products that can compete with other South Asian countries, causing significant loss of livelihood, wide gap between demand and supply, reduction in export of finished goods by MSMEs and market asymmetry between the manufacturers of the product.
- e. The improper implementation of the anti-dumping measures as means of trade protection cannot play the role of protecting the industry and will cause an unfair competitive environment and damage the fundamental interests of their respective industries in the long term.
- f. Since the period of investigation should end as close to the date of initiation as possible, a longer period may be selected, as has been recognized in the recent investigations concerning cold-rolled steel, hot-rolled steel, tyre curing presses, seamless tubes pipes and hollow profiles of iron or non-alloy steel, polyurethane leather and solar cells. The initiation notice of solar cells notes that the 18-month POI was due to the pandemic.
- g. The Post-POI data should be circulated to the interested parties, after which a second oral hearing should be conducted. Since the duty has been extended until 10th January, 2022, revised imports should be called for and post-POI should be analysed.
- h. The allegation that the Chinese producers are absorbing the duty is baseless. The decline in the subject imports evidence the same. Moreover, the margins in the previous investigation were based on the facts available unlike the present case. The absorption cannot be determined by mere comparison of margins. There should be sufficient evidence of the same. The landed price from non-subject country has remained lower.
- i. The claim for enhancement of the duty must be rejected since the domestic industry has not suffered any continued injury. The margins in the previous investigation were based on facts available unlike the present case. Hence, it is not a ground for enhancement of the duty.

F.2. Submissions by the domestic industry

27. The following miscellaneous submissions have been made by the domestic industry:

- a. The Chinese producers are absorbing the anti-dumping duty imposed earlier, as is established by the significantly higher injury margins and dumping margins compared to previous sunset review.
- b. The enhancement of the quantum of the duties may be considered since the exporters have intensified the dumping of the product under consideration in India and a cessation of the anti-dumping duty will result in aggravated injury to the domestic industry.
- c. The anti-dumping duty is not a protection and is only a remedy to address the unfair pricing. There is no excessive protection to the domestic industry.
- d. The extension of the anti-dumping duty has been sought due to continued dumping and the consequent injury to the domestic industry as well as the likelihood of injury in the event of cessation of the duties. The investigation was initiated by the Authority only after being prima facie satisfied with the petitioner's claims. The exporters are habitually exporting the product under consideration at dumped prices.
- e. There is no requirement of causal link in a sunset review. The dumping need not be the primary cause of the injury. The volume and the market share of the subject imports increased during the covid period, while the market share of the domestic industry has declined in the period of investigation as compared to the previous year.
- f. As regards the period of investigation, the period of investigation could not have been October, 2019 to March, 2020 in view of Rule 3(A), since the period of investigation would have been six months older.
- g. As dumping from the subject country has increased compared to the previous investigations, the anti-dumping duties must be enhanced. The Authority has recommended duties in the various sunset review investigation irrespective of the duration of the duties along with the authorities in US, Canada, EU and Brazil. The facts of dry cell batteries case were totally different, and its rationale was not applied in the subsequent cases.
- h. None of the users or the importers have taken part in the investigation since the anti-dumping duty does not adversely impact them. The domestic industry has sufficient capacities to meet the Indian demand, and thus the downstream industry will never face shortage of supply. None of the interested parties have submitted the relevant evidence of the alleged impact, though the duties have been in force for 10 years.
- i. As regards the post-POI data, the post POI information is not a mandated requirement in a sunset review investigation. The Authority has established the likelihood of dumping and the consequent injury to the domestic industry without considering the post POI information in several previous cases.

F.3. Examination by the Authority

28. The Authority has considered the submissions of the parties and determines as follows:

- a. As regards the excessive protection, the Authority notes that there is no bar on the number of times a sunset review can be conducted, and the antidumping duty extended. The Rules require the Authority to determine whether cessation of ADD is likely to lead to continuation or recurrence of the dumping and the injury to the domestic industry. It is further noted that the recommendation for extension of anti-dumping duty is made only when the requisite legal requirements are met. It is further noted that the domestic industry is engaged in the production of 71 products and at present the anti-dumping duty is levied only on four products.

- b. As regards the argument of the impact of the ADD on the user industry, it is noted that no users/user associations has cooperated in the present investigation. This leads to the presumption that the user industries in India are not adversely impacted by the extension of ADD on the subject goods. Though the ADD on the subject goods has been in force for more than 10 years, there is no evidence to show that the same has led to curtailment of the subject imports leading to any adverse impact on either the user industry or the consumers in India. Further, even if it is considered that the extension of the ADD might affect the price levels of the products manufactured using the subject goods, it is noted that fair competition in the Indian market will not be reduced by the ADD. The objective of imposition of the anti-dumping measure is to remove the unfair advantages gained by the dumping practices, to prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
- c. As regards period of investigation, the Rules state as follows:
- The period of investigation shall, -*
- (i) not be more than six months old as on the date of initiation of investigation;*
- (ii) be for a period of twelve months normally and for reasons to be recorded in writing, the designated authority may consider a minimum of six months or maximum of eighteen months.*
- d. The Authority has considered the period of investigation (POI) for the purpose of the present investigation as 1st October, 2019 to 30th September, 2020 (12 months). The injury examination period has been considered as the period from 2017-18, 2018-19, 2019-20, and the POI. The period of investigation is found appropriate and in accordance with the AD Rules.
- e. As regards the post-POI data, it is noted that the examination of the post-POI data is not mandatory in a sunset review investigation. The likelihood analysis conducted by the Authority, herein below, is sufficient to analyse whether there is a need for extension of the ADD on the subject goods.

G. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Normal Value, Export Price and Determination of Dumping Margin

G.1. Submissions of the other interested parties

29. The following submissions have been made by the other interested parties with regard to the normal value, the export price and the dumping margin:

- a. The surrogate country methodology should not be used in calculating the normal value for this case, regardless of whether China PR is treated as a market economy country. India has no basis for calculating the normal value using the non-market economy methodology.
- b. India is bound by 'pacta sunt servanta' and must fulfil its obligations under the relevant agreements and recognize China PR's full market economy status by amending the relevant domestic regulations.
- c. The Authority cannot use the import price from USA to determine the normal value as it would go against the previous findings of the Authority. An examination as to

whether such methodology which was rejected previously can be adopted in subsequent reviews should be provided.

- d. The domestic industry has failed to clarify what adjustments were made to the import price (CIF) to arrive at the ex-factory normal value.
- e. The claim of the dumping margin is exaggerated and incorrect even if the claim of the domestic industry regarding the basis for determination of the normal value is accepted.

G.2. Submissions of the domestic industry

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

- a. The Authority shall follow Para 1-6 of Annexure I for determination of the normal value only if the responding companies from China PR establish that their costs and price information is such that an individual normal value and the dumping margin can be determined. If the responding companies from China PR are not able to demonstrate that their costs and the price information can be adopted, the Authority shall reject the claim of an individual dumping margin
- b. Unless the producers / exporters in China PR establish that their costs and the prices are reliable, their domestic costs and the prices cannot be accepted for determination of the normal value. In view of the failure of the producers and exporters to demonstrate that they are operating under market economy conditions, the normal value should be determined in accordance with the provisions of para 7 of Annexure – I to the Anti-Dumping Rules.
- c. China PR is not being treated as a non-market economy merely based on domestic regulations, but also on the basis of Article 15(a)(i) of China's Accession Protocol which continues to operate even after 11th December, 2016.
- d. China PR has failed to fulfil its obligations under the Accession Protocol and failed to remove distortions to allow the prices to be set by the market, as a result of which even other WTO members, including USA and the European Union have continued to treat China PR as a non-market economy.
- e. The applicant claims that since the normal value cannot be determined on the basis of the price or the constructed value in a market economy third country for the reason that the relevant information is not publicly available, the determination of the normal value for China PR should be on the basis of the price from a market economy third country to the other country including India. The applicant has used the import price of the subject goods from the USA into India.
- f. The USA is an appropriate market economy third country since it is a major producer and exporter of the subject goods into India with significant volumes and China PR is comparable to USA in the level of economy and development. The subject goods produced in the USA are also like article to those produced in China PR and India, using the similar manufacturing process. The exports from USA to India are also in the ordinary course of trade.
- 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 above de-minimis but also significant for the subject country.
- i. The CESTAT in Kuitun Jinjiang Chemical Industry Co. Ltd vs Union of India held that the level of development is not a relevant consideration while considering the import

price of a surrogate country as the normal value. The previous findings of the Designated Authority in rejecting import price of USA as the normal value are against the CESTAT order and, therefore, not binding on the Authority.

G.3. Examination by the Authority

31. 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, where 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 trans shipped 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.**

32. 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 Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. (Producer/ Exporter)
- ii. M/s Shaanxi Sinochem Lantian New Chemical Material Co. Ltd. (Producer/ Exporter)
- iii. M/s Shandong Dongyue Chemical Co. Ltd. (Producer/ Exporter)
- iv. M/s Zhejiang Sanmei Chemical Ind. Co. Ltd. (Producer/ Exporter)
- v. M/s Zhejiang Quhua Fluor-chemistry Co. Ltd. (Producer/ Exporter)
- vi. M/s Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. (Producer/ Exporter)
- vii. M/s Sinochem Lantian Trading Co. Ltd. (Domestic seller)
- viii. M/s Sinochem Xián Jincool New Chemical Materials Co. Ltd. (Trader)
- ix. M/s Sinochem Lantian Fluoro Materials Co. Ltd. (Domestic seller)
- x. M/s Sinochem Modern Environmental Protection Chemical (Xián) Co. Ltd. (Formerly producer)

Market Economy Status for Chinese Producers

33. 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 non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

34. 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 this questionnaire in the form and manner prescribed, the normal value computation is required to be done as per the provisions of Para 7 of Annexure I of the Rules.

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

G.4. Determination of the Normal Value

36. 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.

37. The Authority notes that the prices or the constructed value of the product in an appropriate market economy third country have neither been made available by the applicant or any other interested party nor it is available with the Authority from any public source. It is also noted that the interested parties have not provided any verifiable information which could have been adopted by the Authority. However, the Authority notes that the verifiable evidence and the published information is available on the import price of the subject goods from USA to India. USA is also a major producer and exporter of the subject goods into India and employs similar manufacturing process. Further, the imports from USA constitute the second largest imports of the subject goods after the subject country. Therefore, the Authority finds USA to be an appropriate surrogate country for China PR. Also, the determination of the normal value on the basis of the import price from the market economy third country to India was upheld by the CESTAT in the matter of Kuitun Jinjiang Chemical Industry Co. Ltd. The subject goods imported into India from the USA are the like article to those produced in the subject country and in India. The normal value so determined is given below in dumping margin table.

G.5. Determination of the Export Price

Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (Producer) and Shaanxi Sinochem Lantian New Chemical Material Co., Ltd. (Producer)

38. During the POI, Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd., has exported *** MT of PUC to India both in packed and unpacked forms for invoice value of *** US\$, out of which *** MT of the PUC has been exported to India by Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd., through another trader, namely, Honeywell Trading (Shanghai) Co., Ltd., China PR. However, this trader has not filed its

response with the Authority and, therefore, the Authority has applied the best facts available for the exports made by this trader for the final determination export price for the producer.

39. It is further noted that during the POI, Shaanxi Sinochem Lantian New Chemical Material Co., Ltd., a producer/exporter of subject goods, has directly exported *** MT of PUC to India in unpacked forms for invoice value *** US\$. Shaanxi Sinochem Lantian New Chemical Material Co., Ltd. is a related company of Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.

40. Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd., and Shaanxi Sinochem Lantian New Chemical Material Co., Ltd., China PR have claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and packing expenses, which have been allowed. Accordingly, the weightage average export price at ex-factory level for Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd., and Shaanxi Sinochem Lantian New Chemical Material Co., Ltd., China PR has been determined and same is shown in Dumping Margin table below.

Shandong Dongyue Chemical Co. Ltd. (Producer)

41. During POI, Shandong Dongyue Chemical Co., Ltd. has directly exported *** MT of PUC to India in packed form for invoice value of *** US\$. Shandong Dongyue Chemical Co., Ltd., has claimed adjustments on account of ocean freight, inland transportation, port and other related expense, packing expenses and bank charges, which have been allowed. Accordingly, the net export price at ex-factory level for Shandong Dongyue Chemical Co., Ltd., has been determined and same is shown in Dumping Margin table below.

Zhejiang Sanmei Chemical Ind. Co., Ltd. (Producer)

42. Zhejiang Sanmei Chemical Ind. Co., Ltd. is a producer cum exporter of the subject goods who has exported *** MT of the subject goods to India directly in the POI in unpacked form. The adjustments have been claimed on account of ocean freight, marine insurance, inland transportation & port expenses, which have been allowed by the Authority. Accordingly, the net export price at ex-factory level has been determined and the same is shown in Dumping Margin table below.

Zhejiang Quhua Fluor-Chemistry Co., Ltd and Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd

43. Zhejiang Quhua Fluor-Chemistry Co. Ltd. (“Quhua”) and its related company, namely, Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. (“Lianzhou”) are the producers of the subject goods in China PR and have exported the subject goods to India directly to unrelated customers.

44. During the POI, Quhua and Lianzhou have exported *** MT and *** MT of subject goods respectively directly to the unrelated customers in India both in packed and unpacked forms. The responding producers/exporters have claimed adjustments on accounts of ocean freight, insurance, inland transportation, handling charges, bank charges and credit cost which have been allowed by the Authority. The ex-factory export price of Quhua and Lianzhou so determined is given in the dumping margin table below.

Non-cooperative exporters from China PR

45. The export price in respect of other exporters from China PR has been determined as per the facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered the imports as reported in the DGCI&S and the questionnaire response of the cooperating producer and exporters.

G.6. Determination of the Dumping Margin

46. It is noted that in the subject investigation many 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. This is, in particular, because calculating the individual dumping margins might encourage circumvention of the anti-dumping measures, thus, rendering them ineffective by enabling the related exporting producers to channelise their exports to India through the company with the lowest individual dumping margin.

47. Considering the normal value and the export price for the subject goods, the dumping margins for the subject goods from subject country have been determined as follows:

| SN | Producers | CNV (US\$/MT) | NEP (US\$/MT) | Dumping Margin (US\$/MT) | Dumping Margin (%) | Dumping Margin (Range %) |
|----|--|------------------|------------------|--------------------------------|--------------------------|--------------------------------|
| 1. | Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. and Shaanxi Sinochem Lantian New Chemical Material Co., Ltd. | *** | *** | *** | *** | 60-70 |
| 2. | Shandong Dongyue Chemical Co., Ltd. | *** | *** | *** | *** | 110-120 |
| 3. | Zhejiang Sanmei Chemical Ind. Co. Ltd. | *** | *** | *** | *** | 50-60 |
| 4. | Zhejiang Quhua Fluor-chemistry Co. Ltd. and Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | *** | *** | *** | *** | 45-55 |
| 5. | Non-cooperative/ residual exporters | *** | *** | *** | *** | 125-135 |

H. ASSESSMENT OF INJURY AND THE CAUSAL LINK

H.1. Submissions of the other interested parties

48. The following submissions have been made by other interested parties with regard to the injury and the causal link:
- a. The petitioner has withheld information regarding the temporary shutdown of Dahej site, as mentioned in Annual Report 2019-20. Therefore, the injury is attributable to the shutdown and not to the imports from China PR.
 - b. The claims of the petitioner contradict the information in their 49th Annual Report.
 - c. The petitioner has claimed artificial injury to obtain undue protection. The claim of the increase in the imports of the PUC is baseless. The decline in the import volume from the subject country is more than the decline in the import volume from the other countries. The domestic industry is targeting China PR when injury could have possibly been caused due to the imports from the other countries.
 - d. The decline in the sales of the domestic industry in the period of investigation along with the total demand is due to COVID-19 as already admitted by the domestic industry in the oral hearing. The imports are not the cause of the material injury to the domestic industry. Further, the market share of the domestic industry increased while that of the subject imports and the imports from the other countries declined.
 - e. The claim of losses during the period of investigation does not match with the Annual Report of the company and, therefore, should be critically examined.
 - f. The losses, if any, are due to underutilization of the petitioner's capacities and increase in the captive consumption. The expansion of the capacity and the production of the PUC despite decline in demand is also a reason for the injury suffered. If the petitioner had the capacity much more than the demand, it should have increased its price in order to recover any loss. The available information indicates that the capacity utilisation of the domestic industry has been historically low and is low in the POI.
 - g. The increase in the wages of the employees is possible only when the company is making profits. The petitioner has manipulated the data to show artificial injury to get protection.
 - h. The cash profits increased from 16 to 36 in the period of investigation and, therefore, the decline is due to COVID-19 and not attributable to the subject imports. The overall performance of the domestic industry has remained healthy during the entire injury period and the period of investigation.
 - i. The 49th Annual Report for the year ended March 31, 2020 shows excessive growth in the PBT, the Profit Before Interest, the Depreciation & Tax (PBIDT), the total income in the POI compared to the financial year 2018-19.
 - j. The demand for the subject product in India is in Range of 8000 MT to 9000 MT while India has the capacity in the range of 13000 MT to 15000 MT. Major share of the Indian demand is catered by the petitioner itself and the imports from China PR are very low.
 - k. There is no causal link between the imports from the subject country and the alleged injury. The absence of the causal link is evident from the lack of correlation between the landed price, the price undercutting and the profitability.
 - l. The material injury also occurred due to the higher fixed cost on account of the increased capacity which is much in excess to the present demand and should not be attributed to China PR.
 - m. It cannot be claimed that the current injury and the causal link are immaterial in a sunset review application as the petitioner itself claimed that there is a causal link between the injury and the imports from China PR.
 - n. The petitioner did not reduce the price despite fall in cost of sales, thereby, showing superior pricing power.

- o. There is an inverse relation between the landed price from China PR and the profitability of the petitioner, showing that there was something else hindering the profits of the petitioner. The ROCE also showed similar movement. The decrease in the profits is due to the increase in the interest costs and the depreciation due to the increase in the capital expenditure and the capacity enhancement.
- p. The imports from the US are in significant volumes and higher than the import volumes from the subject country. It is not clear how the injury caused due to the imports from the US will be segregated and will not be imputed on the subject imports from China PR.

H.2. Submissions of the domestic industry

49. The following submissions have been made by the domestic industry with regard to the injury and the causal link:
- a. The imports have continued to enter in the Indian market at dumped prices.
 - b. The subject imports have increased in the POI in absolute terms as well as in relation to the production and consumption in India.
 - c. The imports are undercutting and underselling the prices of the domestic industry.
 - d. The imports have been suppressing the domestic prices.
 - e. The profitability of the domestic industry has significantly declined over the injury period.
 - f. The performance of the domestic industry in respect of cash profits, PBIT and the return on the capital employed has declined significantly over the injury period. In the event of cessation of the duties, the profitability of the domestic industry would be further impacted.
 - g. The inventories with the domestic industry have increased significantly over the injury period.
 - h. The production, sales and the capacity utilization of the domestic industry have declined significantly in the POI.
 - i. There exists a causal link between the dumped subject imports and the injury suffered by the domestic industry.
 - j. As regards the temporary shutdown of Dahej plant, the shutdown was in the first quarter of the period and was related to speciality chemical business segment. The product under consideration is part of the refrigerant business segment & not part of the speciality chemical business segment and hence the injury claimed by the domestic industry is not attributed to the shutdown.
 - k. As regards the imports from the other countries causing injury, China PR constitutes the highest share in the total imports into India and the Chinese import prices are the lowest during the injury period except in 2018-19.
 - l. As regards matching the claim of losses with Annual Reports, the domestic industry has claimed injury only for the domestic performance while the Annual report covers overall performance including the non-PUCs, the performance in the export markets, etc.
 - m. The increase in the capacity is required in order to cater to the applicant's own captive requirement and demand in India and ensures continued supply of the product under consideration. Even if the capacity is considered at the same level, it will still show decline in the capacity utilization due to continuous presence of the dumped imports into India.

- n. As regards the captive consumption, the captive consumption of the domestic industry has declined during the period of investigation whereas the imports have increased. The losses to the domestic industry are not because of increase in the captive consumption.
- o. The domestic industry has not claimed injury on the basis of employment, wages or the productivity. The exporters are trying to mislead the Authority away from the facts by raising irrelevant arguments.
- p. The decline in the profits of the domestic industry clearly shows that the domestic industry is unable to move its prices in proportion to the cost.
- q. The interest and the depreciation cost of the domestic industry have declined during the period of investigation as compared to 2018-19.
- r. The domestic industry has not filed any petition for the USA in the current period. Further, the imports price from USA are significantly higher than the import prices from China PR. The injury to the domestic industry is due to the dumped imports from China PR.
- s. As regards the COVID-19 situation, the position of the domestic industry must be considered, not in the context of ideal conditions but in the specific circumstances of the domestic industry. The companies are affected by Covid-19 globally.

H.3. Examination by the Authority

50. The submissions made by the domestic industry with regard to the injury and the 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.

51. The Authority has taken note of the arguments and counter-arguments of all the interested parties with regard to the injury to the domestic industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.

52. 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 the Annual Reports of the domestic industry, the Authority notes that the injury analysis carried out hereunder is self-explanatory.

53. As regards the submission that the alleged injury to the domestic industry is due to temporary shutdown of Dahej site, it has been clarified by the domestic industry that the shutdown was in the first quarter of the period and was related to speciality chemical business segment which is not the business segment of the product under consideration. The product under consideration is part of the refrigerant business segment.

54. Rule 11 of the Rules read with its Annexure-II thereto 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 the dumped imports, their effect on the prices in the domestic market for like articles and the consequent effect of such imports on the domestic producers of such articles."

55. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in the case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period,

the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of the injury to the domestic industry.

56. The Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of the dumping and the injury on account of the imports from the subject country. It has been examined as to whether there is an increase in the imports, in absolute terms or in relation to the production or the consumption. In considering the effect of the dumped imports on the 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 the prices to a significant degree or prevent the 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, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of the various submissions of the domestic industry and the other interested parties, and has analysed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the parties.

H.3.1. Volume effect of dumped imports on domestic industry

a. Assessment of demand/apparent consumption

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

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|--|--------------|----------------|----------------|----------------|------------|
| Sales of Domestic Industry | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>115</i> | <i>114</i> | <i>94</i> |
| Sales of Other Indian producer including supporter | MT | - | - | - | - |
| Subject Country- China | MT | 2,053 | 1,214 | 1,074 | 1,309 |
| Imports from Other Countries | MT | 2,975 | 2,864 | 2,964 | 2,171 |
| Total Indian Demand | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>98</i> | <i>97</i> | <i>82</i> |

58. It is seen that the demand for the subject goods declined over the injury period and the period of investigation. However, the subject imports increased in the period of investigation as compared to 2018-18 and 2019-20 despite a decline in demand.

b. Import volumes from the subject country.

59. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to the production or the consumption in India. For the purpose of the injury

analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The factual position is as follows:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|--|--------------|---------|---------|---------|-------|
| Subject Country- China | MT | 2,053 | 1,214 | 1,074 | 1,309 |
| <i>Trend</i> | <i>Index</i> | 100 | 59 | 52 | 64 |
| Subject Country Imports in relation to | | | | | |
| Total Imports | % | 41 | 30 | 27 | 38 |
| <i>Trend</i> | <i>Index</i> | 100 | 73 | 65 | 92 |
| Production | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 54 | 46 | 65 |
| Consumption | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 60 | 54 | 78 |

60. It is seen that:

- a. The imports from the subject country have declined in 2018-19 and further in 2019-20 but have increased thereafter in the period of investigation.
- b. The import from the subject country has shown the same trend in relation to the production and the consumption in India. The imports from the subject country have increased in relation to the production and consumption during the period of investigation as compared to 2018-19 and 2019-20.
- c. The imports have increased during the period of investigation despite anti-dumping duty in existence.

H.3.2. Price effect of the dumped imports

61. With regard to the effect of the dumped imports on the 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 the prices or prevent the 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 the price undercutting, the price suppression and the price depression, if any. For the purpose of this analysis, the cost of production, the non-injurious price (NIP) and the net sales realization (NSR) of the domestic industry have been compared with the landed price of the imports of the subject goods from the subject country.

a. Price undercutting

62. For the purpose of the price undercutting analysis, the selling price of the domestic industry has been compared with the import price from the subject country. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|-----------------------|--------------|---------|---------|---------|-----|
| Total | | | | | |
| Net Sales Realisation | ₹/KG | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 102 | 106 | 105 |
| Landed price | ₹/KG | 270 | 332 | 307 | 271 |

| | | | | | |
|-----------------------|---------|-------|-------|-------|-------|
| Price undercutting | ₹/KG | *** | *** | *** | *** |
| Price undercutting | % | *** | *** | *** | *** |
| Price undercutting | % Range | 20-30 | 0-10 | 10-20 | 20-30 |
| Unpacked | | | | | |
| Net Sales Realisation | ₹/KG | *** | *** | *** | *** |
| Trend | Index | 100 | 102 | 108 | 107 |
| Landed price | ₹/KG | 221 | 300 | 238 | 210 |
| Price undercutting | ₹/KG | *** | *** | *** | *** |
| Price undercutting | % | *** | *** | *** | *** |
| Price undercutting | % Range | 20-30 | 0-10 | 20-30 | 30-40 |
| Packed | | | | | |
| Net Sales Realisation | ₹/KG | *** | *** | *** | *** |
| Trend | Index | 100 | 102 | 100 | 97 |
| Landed price - China | ₹/KG | 309 | 360 | 334 | 309 |
| Price undercutting | ₹/KG | *** | *** | *** | *** |
| Price undercutting | % | *** | *** | *** | *** |
| Price undercutting | % Range | 30-40 | 20-30 | 20-30 | 20-30 |

63. It is seen that the imports from the subject country, both in packed as well as unpacked forms, are entering at a price below the domestic selling price of the domestic industry resulting in positive undercutting.

b. Price suppression and depression

64. 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 the price increase which otherwise would have occurred in the normal course, the changes in the costs and the prices over the injury period have been examined. The table below shows the factual position:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|----------------------------|-------|---------|---------|---------|------|
| Cost of sales - Domestic | ₹/KG | *** | *** | *** | *** |
| Trend | Index | 100 | 123 | 133 | 137 |
| Net Sales Realisation | ₹/KG | *** | *** | *** | *** |
| Trend | Index | 100 | 102 | 106 | 105 |
| Landed Price | ₹/KG | 270 | 332 | 307 | 271 |
| Trend | Index | 100 | 123 | 113 | 100 |
| Decline over previous year | | | | | |
| Cost of sales - Domestic | ₹/KG | - | 63 | 28 | 11 |
| Selling price - Domestic | ₹/KG | - | 7 | 14 | (3) |
| Landed price | ₹/KG | - | 61 | (25) | (35) |

65. It is seen that the landed price of the imports is below the costs of the domestic industry over the injury period. While the costs have increased over the injury period, the domestic industry is unable to increase their selling price in proportion to the increase in the cost, resulting in price suppression.

H.3.3. Economic parameters of the Domestic industry

66. Annexure II to the Rules provides 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 the indices having a bearing on the state of the industry, including the actual and potential decline in the sales, the profits, the output, the market share, the productivity, the return on investments or the utilization of capacity; the factors affecting the domestic prices, the magnitude of the margin of dumping; the actual and potential negative effects on the cash flow, the inventories, the employment, the wages, the growth, the ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

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

i. Production, capacity, capacity utilization and sales

68. The capacity, production, sales and the capacity utilization of the domestic industry over the injury period is given in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|-------------------------|--------------|---------|---------|---------|-----|
| Capacity | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 100 | 115 | 130 |
| Production Quantity PUC | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 109 | 113 | 99 |
| Capacity Utilization | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 109 | 98 | 76 |
| Domestic Sales | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 115 | 114 | 94 |

69. It is seen that:

- i. The domestic industry expanded its installed capacity in 2019-20 and further in the period of investigation.
- ii. The production of the domestic industry increased till 2019-20 but declined thereafter in the period of investigation.
- iii. The capacity utilization increased in 2018-19 but declined in 2019-20 and further significantly in the period of investigation.
- iv. The domestic sales of the domestic industry increased in 2018-19 but declined in 2019-20 and further significantly in the period of investigation.

ii. Market Share in the demand

70. The market share of the domestic industry is shown in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|--------------------------|--------------|---------|---------|---------|-----|
| Domestic Industry | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 118 | 118 | 116 |
| Subject Country China PR | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 60 | 54 | 78 |
| Other Countries | % | *** | *** | *** | *** |

| | | | | | |
|--------------|--------------|-----|-----|-----|-----|
| <i>Trend</i> | <i>Index</i> | 100 | 98 | 103 | 89 |
| Total | % | 100 | 100 | 100 | 100 |

71. It is seen that whereas the market share of the domestic industry increased and of other countries declined in comparison to the base year, the market share of the subject country has increased during the period of investigation over the previous year. The market share of the subject country had increased despite the decline in the demand and the anti-dumping duty in existence.

iii. Inventories

72. The inventory position with the domestic industry over the injury period and the POI is given in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|---------------|--------------|---------|---------|---------|-----|
| Opening Stock | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 103 | 87 | 70 |
| Closing Stock | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 85 | 148 | 195 |
| Average Stock | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 94 | 118 | 133 |

73. It is seen that the average inventories with the domestic industry have increased substantially in the period of investigation.

iv. Profitability, cash profits and return on capital employed

74. The profitability, cash profits and the return on investment of the domestic industry over the injury period are given in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|--|--------------|---------|---------|---------|-----|
| Profit/(Loss) Before Tax | ₹/KG | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 33 | 19 | 5 |
| Profit/Loss Before Tax | ₹ Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 38 | 21 | 4 |
| Cash Profit | ₹ Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 56 | 42 | 31 |
| Profit Before Tax, Interest & depreciation | ₹ Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 66 | 52 | 41 |
| Return on Capital Employed | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 56 | 33 | 18 |

75. It is seen that:

- The profits of the domestic industry have declined significantly over the injury period and the period of investigation.
- The cash profits and the return on capital employed has also declined over the injury period including the period of investigation.

v. Employment, wages and productivity

76. The employment, the wages and the productivity of the domestic industry over the injury period are given in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|---------------------------|--------------|---------|---------|---------|-----|
| Wages | ₹ Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 147 | 187 | 174 |
| Employment | Nos. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 149 | 141 | 130 |
| Wages Per Unit | Rs/MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 135 | 167 | 176 |
| Productivity per Employee | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 74 | 80 | 76 |
| Productivity per day | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 109 | 113 | 99 |

77. It is seen that the wages and the employment of the domestic industry have increased in the period of investigation compared to the base year. However, the productivity, both in terms of the employee and the days, has declined in the period of investigation compared to the previous year as well as the base year.

vi. Growth

78. The growth of the domestic industry in terms of the production, the inventories, and the profits is as per given in the table below:

| Particular | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|------------------------|------|---------|---------|---------|------|
| Production | Y/Y% | - | 9 | 3 | (12) |
| Domestic Sales Volume | Y/Y% | - | 15 | (2) | (17) |
| Cost of sales domestic | Y/Y% | - | 23 | 8 | 3 |
| Selling price domestic | Y/Y% | - | 3 | 5 | (0) |
| Profit/Loss domestic | Y/Y% | - | (67) | (44) | (74) |
| Average stock | Y/Y% | - | (6) | 26 | 13 |

79. It is seen that the growth of the domestic industry is negative with respect to major volume parameters like the production, the domestic sales and the profits.

vii. Magnitude of dumping margin

80. The magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive in the period of investigation.

viii. Ability to raise capital investment

81. The domestic industry has not claimed injury on this account. It is seen that the domestic industry is a multi-product company. The investment decisions may not be based

solely on the performance of a particular product during the injury period and may be governed by the long-term prospects of the product.

ix. Factors affecting domestic prices

82. It is seen that the domestic industry is the sole domestic supplier of the product. Further, the landed price of the imports is below the cost of the domestic industry throughout the injury period. Resultantly, the domestic industry is unable to increase its prices in proportion to the increase in the cost. It is thus seen that the import prices are directly affecting the prices of the domestic industry in the market. The price suppression suffered by the domestic industry is due to lower price of the imports.

83. The dumped imports are impacting the prices of the domestic industry. Hence, it is concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods.

x. Magnitude of price underselling/injury margin

84. The Authority has determined the NIP for the domestic industry on the basis of the principles laid down in the Anti-Dumping Rules, read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials of the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of the production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on the average capital employed (i.e., average net fixed assets plus average working capital) for the PUC 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 the unpacked and the packed form of the product. The NIP so determined has been considered for calculating injury margin.

85. The landed price for the cooperating exporters has been determined from the CIF export price adopted for the purpose of dumping margin determination. The applicable customs duties have been added to determine the landed price of the imports. For all the non-cooperative producers/ exporters from the subject country, the Authority has determined the landed price based on the facts available.

86. Based on the landed price and the NIP determined as above, the injury margin for the producers/exporters from China PR is provided in the table below.

| SN | Producers | Non-Injurious Price (US\$/MT) | Landed Value (US\$/MT) | Injury Margin US\$/MT | Injury Margin (%) | Injury Margin (Range %) |
|----|--|-------------------------------|------------------------|-----------------------|-------------------|-------------------------|
| 1. | Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. and Shaanxi Sinochem Lantian New Chemical Material Co., Ltd. | *** | *** | *** | *** | 70-80 |
| 2. | Shandong Dongyue Chemical Co., Ltd. | *** | *** | *** | *** | 70-80 |
| 3. | Zhejiang Sanmei Chemical Ind. Co. Ltd. | *** | *** | *** | *** | 80-90 |
| 4. | Zhejiang Quhua Fluor-chemistry Co. Ltd. and Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | *** | *** | *** | *** | 60-70 |
| 5. | Non-cooperative/residual exporters | *** | *** | *** | *** | 120-130 |

H.3.4. Conclusion on injury

87. The examination of the imports of the subject goods and the performance of the domestic industry clearly shows that the volume of dumped imports from the subject country has increased in absolute terms and in relative terms in the period of investigation as compared to 2018-19 and 2019-20. The imports from the subject country are undercutting the prices of the domestic industry and the price underselling is positive. The imports from the subject country are suppressing the prices of the domestic industry. The production, sales, market share and the capacity utilization has declined during the period of investigation as compared to previous year and inventories have increased for the domestic industry in the period of investigation. The performance of the domestic industry has significantly deteriorated in respect of profitability, profits, cash profits and return on capital employed. In view of the foregoing, the Authority concludes that the domestic industry has suffered injury despite the anti-dumping duty in existence.

I. CAUSAL LINK & NON-ATTRIBUTION ANALYSIS

88. The Authority also 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. The factors which are relevant in this respect include, inter-alia, the volume and the prices of the imports not sold at the dumped prices, the contraction in demand or the changes in the patterns of consumption, the trade restrictive practices of and the competition between the foreign and the domestic producers, the developments in technology and the export performance and the

productivity of the domestic industry. The Authority examined whether factors other than the dumped imports could have contributed to the injury to the domestic industry.

a) Volume and prices of imports from third countries

89. It is seen that the imports from the other countries (other than dumped imports) are either de-minimis or at higher prices. Thus, third country imports could not have been a cause of the injury to the domestic industry.

b) Contraction in Demand

90. It is seen that the demand for the product under consideration has declined over the injury period and the period of investigation. However, the subject imports have increased in the period of investigation despite a fall in the domestic demand and the anti-dumping duty in existence. Therefore, the contraction in the demand cannot be considered as a reason for the injury to the domestic industry.

c) Changes in Pattern of consumption

91. No evidence has been brought forward by any interested parties about any material change(s) in the pattern of consumption of the product under consideration. Therefore, possible changes in the pattern of consumption are not the cause of the injury considered by the Authority.

d) Conditions of competition and trade restrictive practices

92. The Authority notes that the investigation has not shown that conditions of competition or the trade restrictive practices are responsible for the injury considered by the Authority.

e) Developments in technology

93. No evidence has been brought forward by any interested parties about the existence of significant changes in the technology that could have caused the injury to the domestic industry.

f) Export performance of the domestic industry

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

g) Performance of other products

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

96. Thus, the Authority concludes that the domestic industry has not suffered injury in the POI due to other factors.

I.1. Conclusion on the Causal Link

97. 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 the subject dumped imports:

- a. The import price is consistently below even the cost of sales of the domestic industry. As a result, the domestic industry is unable to increase its selling price along with the increase in the cost of sales.
- b. The imports are undercutting the prices of the domestic industry. The landed price of the 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 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 its profitability. Resultantly, this has caused a significant deterioration in profits, cash profits and the return on capital employed.
- e. As a result of the low-priced imports, the market share of the domestic industry has declined whereas that of subject imports has increased. As a result, the production, sales and the capacity utilization of the domestic industry has declined and the inventory with the domestic industry has increased.
- f. The growth of the domestic industry has become negative in respect of the several economic parameters.

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

J. LIKELIHOOD OF CONTINUATION/ RECURRENCE OF DUMPING AND INJURY

99. In a review investigation, the Authority is required to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether the injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is allowed to cease.

J.1 Submissions by the other interested parties

100. The following submissions have been made by the other interested parties with regard to the likelihood:

- a. The claims of the petitioner in respect of the excess production capacities, the unutilized capacities, the market share, the export orientation and India being a lucrative market for the exporters from China PR etc. are just imaginary, concocted and not based on the facts. Disposable capacities with the exporters do not imply that the unutilized capacities are used only to export to India. There is no likelihood of continued or recurrence of dumping and the consequent injury.
- b. The excess capacity in China PR cannot be more than 5-10K MT. Such capacity is normal and is a buffer required to meet production disruptions. There is no major idle capacity.
- c. The figures for excessive, freely disposable and idle capacities are not sacrosanct as they cover various HFCs which are not the product under consideration. The reliance on such figures can result in completely distorted findings.
- d. The alternative data from a 2017 finding by USITC in AD investigation concerning R-134a should be relied upon instead. USITC observed a capacity of 169000MT, capacity utilization of 94% and observed that the Chinese producers may have limited unused capacity. Sanmei is not aware of any significant capacity additions

in China PR in the recent times and the overall capacity observed by USITC may be still relevant.

- e. The petitioner has claimed the unutilised capacity of China PR to be at about 79,160 Metric Tons. However, the excess capacity may not be even in the range of 5000 to 10000 assuming the capacity utilization to be in range of 94% to 95%.
- f. The petitioner alleged that the duties in force were absorbed fully which is patently incorrect from the statistics as the imports were completely range bound. Thus, the imports from China PR clearly cannot be considered to be a threat to the domestic industry. There is no relevant basis for the likelihood as historical volume of the imports negates such claims as bereft of any merit.
- g. The limited impact of the PUC is reflective of the fact that there is no significant idle capacity in China PR.
- h. The anti-dumping duties were imposed by the other countries as early as 2017 and after 2017, the exports to India have not increased. It cannot be believed that the exporters will hold on and continue with any such idle capacity for years waiting for the duty to expire so that they can cater to very minimal demand in India.
- i. The fall in demand in the major market like the EU and the USA due to banning of use of the product can lead to fall in export of subject goods to such countries. But even in that event, any utilized capacity will undergo closure or modifications and will not be kept alive for the limited Indian market for the PUC.
- j. The product under consideration is expected to be phased out of production and the supply due to its environmental impact. Thus, it is not reasonable to presume that the substantial share of total HFC capacity by the producers/exporters in the subject country will be devoted towards the PUC.
- k. The claim of the surplus capacities should be verified based on the data provided in the questionnaire responses of the participating exporters.
- l. The excess capacities do not imply intention to offload in India at the dumped prices as held in Graphite Electrodes from China PR, and this cannot be considered as posing a clearly foreseen and imminent threat of the injury as held in Indian Spinners Association v. Designated Authority.
- m. Since India is also a signatory to the Kyoto Protocol and consequently the PUC is also expected to be phased out in India, the demand is likely to decline in India as well, just like the USA and the EU.
- n. The analysis of the performance parameters of the exporters by the domestic industry is based on indexed data and not the actual information. There is no capacity addition by Zhejiang Quzhou Lianzhou. Sales to India is insignificant compared to the domestic sales. There is sufficient demand domestically and in third countries to dispose of the excess capacities. The allegation of discriminatory pricing is incorrect. The exports to India declined in the POI.
- o. The capacity addition of Quhua Fluo-chemistry is inconsequential since the export is made in unpacked form while substantial Chinese export is in packed form. The sales to India are insignificant. There is no incentive for the respondent to incur loss and capture market when the product is being phased off.
- p. Export price of the Chinese producers to the third countries is higher than that to India; therefore, India is not a price attractive market.

J.2 Submissions by the domestic industry

101. The following submissions have been made by the domestic industry with regard to the likelihood:

- a. The dumping margins in the original investigation and the subsequent investigations have been significant. The subject goods are being dumped despite the ADD in force. Hence, in the event of cessation of the ADD, the dumping and consequent injury would continue.
- b. The Chinese producers of the subject goods have capacities significantly higher than the Chinese demand. In the event of cessation of the ADD, India will become an attractive market for them.

| Particulars | Quantity (tonnes per annum) |
|--|-----------------------------|
| Total capacity of Chinese producers | 237,160* |
| Production of subject goods in China (2019) | 158,000 |
| Consumption of subject goods in China (2019) | 57,000 |
| Export of subject goods from China (2019) | 101,000 |

*Not entirely dedicated to the subject goods

- c. The Chinese producers of the subject goods have an unutilised capacity of 79,160 MT and freely disposable capacity of 180,000MT which is significantly higher than the Indian demand. In the event of cessation of the ADD, these capacities will likely be diverted to India at dumped prices.

| Particulars | Quantity (tonnes per annum) |
|--|-----------------------------|
| Total capacity of Chinese producers | 2,37,160 |
| Production of subject goods in China (2019) | 1,58,000 |
| Consumption of subject goods in China (2019) | 57,000 |
| Export of subject goods from China (2019) | 1,01,000 |
| Unutilized capacities | 79,160 |
| Freely disposable capacities | 1,80,160 |

- d. The USA and the EU have taken measures to phase out the use of the subject goods following the ratification of the Kyoto Protocol. With significant decline in the demand in these countries, the Indian market would become more attractive. Hence, in the event of cessation of the ADD, there would a substantial increase in the dumped imports into India from the subject country.
- e. The US, in 2017, imposed the ADD on the imports of the subject goods from China PR into the USA. This affects Chinese access to their largest export market. Hence, there would a surge in the subject imports to India in the event of cessation of the ADD.
- f. India is the most lucrative market for the subject country since the subject country has a long history of dumping in India. India is one of their largest export destinations. Significant Chinese produce of the subject goods is being exported and the demands in the USA and the EU is declining.
- g. The analysis of the exporter questionnaire responses shows that there exists a likelihood of the dumping and the consequent injury to the domestic industry. The exports to India increased while the exports to the third countries declined. There is significant reduction in the PBIT and the increase in the inventories, the production and the capacities by the exporters as well as discriminatory pricing behaviour between the domestic and the export sales.

- h. The interchangeability of the production facilities itself establishes that the producers can switch their production as per the market conditions. In the event of cessation of the antidumping duty, the producers can easily increase their production of the product under consideration and increase the export to India.
- i. Zhejiang Quhua Fluor-Chemistry Co., Ltd has increased its capacity by 17% in the year 2018.
- j. The product under consideration is not phasing out in India in the next five years and the domestic industry has requested extension of the duties for next 5 years only. Further, if the PUC phases out within 5 years, then the extension of anti-dumping duty will have no effect on the exporter concerned.
- k. Since only few exporters have responded, their capacities should not be considered as the entire capacity in China PR.

J.3 Examination by the Authority

102. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping and injury in the event of cessation of the duty. The Authority has considered the information as made available by the domestic industry and the other interested parties in order to evaluate the likelihood of continuation or recurrence of the dumping and the injury.

103. The Authority has examined the likelihood of continuation or recurrence of the injury considering the requirement laid down under Section 9A (5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure – II (vii) of the Rules and other relevant factors brought on record by the interested parties. The present investigation is a sunset review of ADD earlier imposed on the imports of the subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of the ADD is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. There are no specific methodologies available to conduct such a likelihood analysis. However, clause (vii) of Annexure II of the Rules provides, inter-alia, for factors which are required to be taken into consideration viz.:

- i. A significant rate of increase of the dumped imports into India indicating the likelihood of substantially increased importation;
- ii. Sufficient freely disposable, or an imminent, substantial increase in, the capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- iii. Whether the imports are entering at the prices that will have a significant depressing or suppressing effect on the domestic prices and would likely increase the demand for further imports; and
- iv. The inventories of the article being investigated.

i. Continued & existing dumping and injury

104. The Authority notes that the imports of the product under consideration in the current period of investigation are at dumped prices despite anti-dumping duty in existence. It is also noted that the performance of the domestic industry has significantly deteriorated in respect of the profits, cash profits and the return on capital employed. It is also seen that the subject imports are undercutting the prices of the domestic industry.

ii. Surplus capacities in the subject country

105. The analysis of the questionnaire responses filed by the responding exporters shows as follows:

| Particular - POI | Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. | Shaanxi Sinochem Lantian New Chemical Material Co. Ltd. | Shandong Dongyue Chemical Co. Ltd. | Zhejiang Sanmei Chemical Ind. Co. Ltd. | Zhejiang Quhua Fluor-chemistry Co. Ltd. | Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd | Total |
|-----------------------------------|--|---|------------------------------------|--|---|--|--|----------|
| Capacity - (MT) | *** | *** | *** | *** | *** | *** | *** | 1,71,000 |
| Production - (MT) | *** | *** | *** | *** | *** | *** | *** | 1,49,871 |
| Capacity utilization - (%) | *** | *** | *** | *** | *** | *** | *** | 88 |
| Domestic sales - (MT) | *** | *** | *** | *** | *** | *** | *** | 1,07,817 |
| Exports to India - (MT) | *** | *** | *** | *** | *** | *** | - | 1,084 |
| Exports to other countries - (MT) | *** | *** | *** | *** | *** | *** | - | 63,019 |

106. As per the information on record, the producers of the subject goods in the subject country are having:

- a. The capacities far higher than the Indian demand. The unutilised capacity of the responding Chinese producers is 8 times the demand for the subject goods in India.
- b. Significant exports to the other countries which in the event of cessation of ADD could be diverted to India. Considering the decline in demand in major markets like the US and EU, as discussed below, India becomes a potential destination for trade diversion.

iii. Decline in demand in other major markets

107. The applicant has submitted evidence to show that the post-ratification of the Kyoto Protocol, measures have been taken by the USA and the EU for phasing out the usage of the subject goods within their jurisdictions. The responding producers/exporters have also admitted that the fall in demand in major market like the EU and the USA due to banning of the use of the product can lead to fall in export of subject goods to such countries. The applicant says that in the event of cessation of the existing duties, India would be a target of trade diversion by the producers of the subject goods in China PR.

iv. Imposition of ADD by USA

108. The applicant has submitted that as per the information available on record, there are trade remedial measures in place on the imports of the subject goods from China PR into the USA since 2017. The producers and exporters in China PR are dumping the product under

consideration in the USA. The exporters and producers of the product under consideration from China PR are dumping the product under consideration into India despite anti-dumping duty in force. The applicant says that this clearly establishes that in the event of cessation of the anti-dumping duty, the producers/exporters from the subject country will continue to dump the product into India.

v. Attractiveness of the Indian market

109. It is also seen that the imports from the subject country are undercutting the prices of the domestic industry during the POI, and the undercutting margin is significant, which suggests that the cessation of the ADD currently in place is likely to lead to intensified dumping causing injury to the domestic industry.

110. The following exporters have filed questionnaire responses in the form and manner prescribed, including questionnaire response, relevant for sunset review investigation. Therefore, the Authority has examined the questionnaire response and ascertained the volume of exports by these exporters to the third countries at prices below the normal value (i.e., dumped) and the injurious prices (i.e., below NIP of the domestic industry).

111. The table below shows the volume of the exports by these exporters to the third countries at the dumped and the injurious prices.

| Parameters | Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. | Shaanxi Sinochem Lantian New Chemical Material Co. Ltd. | Shandong Dongyue Chemical Co. Ltd. | Zhejiang Sanmei Chemical Ind. Co. Ltd. | Zhejiang Quhua Fluor-chemistry Co. Ltd. | Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | Sinochem Lantian Fluoro Materials Co., Ltd | Total |
|--|--|---|------------------------------------|--|---|--|--|--------|
| Volume below NIP | *** | *** | *** | *** | *** | *** | *** | 63,422 |
| Volume above NIP | *** | *** | *** | *** | *** | *** | *** | 161 |
| Volume below normal value | *** | *** | *** | *** | *** | *** | *** | 63,072 |
| Volume above normal value | *** | *** | *** | *** | *** | *** | *** | 512 |
| Demand in India | *** | *** | *** | *** | *** | *** | *** | |
| Export Volume below normal value/NIP as % of demand in India | | | | | | | | |
| Normal value | *** | *** | *** | *** | *** | *** | *** | >700% |
| NIP | *** | *** | *** | *** | *** | *** | *** | >700% |

112. It is seen that:

- a. Significant volume (almost 99%) of the exports by these exporters to the third countries at the dumped and the injurious prices.
- b. The volume of exports to third countries at dumped/ injurious prices is 8 times the demand for the subject goods in India.

vi. Export orientation of the producers in the subject countries

113. The Authority notes from the responses that the producers in the subject countries are export oriented.

Conclusion on Likelihood of Dumping and Injury

114. The evidence on record shows that the imports of the product under consideration in the current period of investigation are at dumped prices despite anti-dumping duty in existence. The capacities with the responding Chinese exporters are far higher than the Indian demand. The unutilised capacity of the responding Chinese producers is 8 times the demand for the subject goods in India. Significant exports to the other countries which in the event of cessation of ADD could be diverted to India. Considering the decline in demand in major markets like the US and EU, India becomes a potential destination for trade diversion. The responding producers/exporters have also admitted that the fall in demand in major market like the EU and the USA due to banning of the use of the product can lead to fall in export of subject goods to such countries. There are trade remedial measures in place on the imports of the subject goods from China PR into the USA since 2017. The exporters and producers of the product under consideration from China PR are dumping the product under consideration into India despite anti-dumping duty in force. The imports from the subject country are undercutting the prices of the domestic industry during the POI, and the undercutting margin is significant, which suggests that the cessation of the ADD currently in place is likely to lead to intensified dumping causing injury to the domestic industry. Significant volume (almost 99%) of the exports by these exporters to the third countries at the dumped and the injurious prices. The producers in the subject countries are export oriented. Export price from subject country to other countries are lower than the price at which the product is exported into India. India is the prices attractive market for the responding exporters and in the event of cessation of Anti-dumping duty, the imports from China PR are likely to increase at dumped price causing injury to the domestic industry. In view of the above, it is concluded that there is a likelihood of dumping and injury in the event of cessation of existing anti-dumping duty.

K. POST-DISCLOSURE COMMENTS

K.1. Submissions of the other interested parties

115. The following post-disclosure comments have been made by the other interested parties:

- a. Correct facts relevant for the consideration of parameters relating to the threat of material injury has not been considered and hence it is requested that Annexure II (vii) be separately examined for Sanmei.
- b. The claims of likelihood are unsubstantiated and the slight increase in imports in the POI cannot be considered the basis for likelihood. Further, Sanmei exported a higher volume to other countries for a higher price, and the inventory level of the company has also substantially reduced in the POI.
- c. The loss of market in third countries have not contributed to the injury as the subject imports from Sanmei have declined over the years to India and recorded the lowest during the POI.
- d. Other factors such as third country imports, fall in demand etc. has to be addressed properly by the Authority.

- e. The petitioners failed to establish beyond doubt that expiry of the existing anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry as envisaged in Rule 23 (1B) of the Anti-dumping Rules. On the contrary, the submissions by the company show absence of likelihood or recurrence of dumping and injury to the domestic industry in the event of expiry of present duties.
- f. The facts of the present case clearly show that the petitioner did not suffer any injury and the petitioner is not vulnerable to any injury on account of import of the PUC from China PR as their performance is not influenced by imports from China PR but by other factors. The overall situation justifies expiry of present anti-dumping duties applicable on imports of the subject goods from the subject country.
- g. The PUC from USA is primarily in unpacked form and the PUC from China PR are mostly in packed form. Thus, USA cannot be considered an appropriate surrogate.
- h. Normal value adopted on the basis of USA import price in the petition varies from the constructed normal value disclosed. It is unclear how import price of 291 INR/KG from the USA can be used to calculate normal value of 356 INR/KG.
- i. The disclosure statement does not state whether ocean freight, insurance, credit cost, etc adjustments were made to the import price from the USA to bring it to ex-factory price before being considered as normal value for the purposes of this review.
- j. The volume of imports in relation to production and consumption has decreased during the injury investigation period. The volume of imports in relation to production and consumption declined by 35 and 22 index points respectively in the POI as compared to the base year. The increase in import volumes between 2018-19 and the POI is nominal.
- k. The market share in demand of the domestic industry has grown by 16% in the POI as compared to the base year whereas that of the subject imports has declined.
- l. Price undercutting in 2018-19 was at lowest in the injury period at 0-10% whereas the landed price in the same year was highest at 332 Rs/Kg. However, the domestic industry experienced sharpest reduction in profit per unit in 2018. The domestic industry's performance during the POI include periods where the Covid-19 pandemic was at its peak. The Covid-19 pandemic that gripped 2020 must also be considered as a factor for any alleged injury to the domestic industry during the POI.
- m. The existence of duty in the US will not directly lead to export destination substitution for the exports of the PUC from China PR into India due to the fact that the demand in the Indian market has declined steadily from the base year to the POI. Regardless of duty imposition by the US, India will not be attractive to exporters because of declining demand.
- n. The Authority has stated that the producers in the subject countries are export oriented. However, the domestic sales of the respondents are far more significant than their exports to India, hence they are not export oriented and their primary market is domestic.

- o. There is a significant difference between net export price and landed price determined by the DGTR and the actual submission. The ex-factory export price and landed value for both the participating producers/exporters are required to compute separately and then compute the weightage average ex-factory export price and landed value for both participating producers/exporters as group.
- p. A bulk to bulk and pack to pack comparison to determine dumping and injury margins by undertaking separate analysis for packed and unpacked forms of the PUC is required.
- q. Constructed normal value and non-injurious price determined by the Authority is excessively high and undue/inflated dumping margin and injury margin would lead to the monopolistic market which will significantly harm the competitive environment and healthy development of the Indian industries.
- r. The significant reduction by 36% in terms of imports of the PUC from China PR and substantial increment in net selling price of the domestic industry during the POI prove that the injury sustained by the petitioner is not due to imports from China PR.
- s. A reasonable return of 22% on capital employed is highly inflated and gives undue advantage and protection to the domestic industry. The Director General should consider the return earned by the petitioner in the past when there was no allegation of dumping as reasonable return and adopt the same as reasonable return to arrive at the non-injurious price.
- t. No surplus capacities are available with the producers/exporters from China PR as Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. is already operating at more than 100% capacity utilization. Thus, the claim of idle capacities and freely disposable capacity in China PR should be out rightly rejected as any relevant basis to determine likelihood in the matter as the historical volume of imports nullifies such claims as bereft of any merit. Reference is placed on Indian Spinners Association v. Designated Authority, (2004 (170) ELT 144).
- u. The applicant made losses in the financial year of 2019-20 when further additions in capacity were made. The capacity addition was carried out when the prevailing capacity was also underutilized and any injury on such self-inflicted causes should not be attributed to subject imports.
- v. As mentioned in SRF Limited's Annual Report 2019-2020, there are 13% customer complaints registered against the petitioner in the Fluorochemicals Business which demonstrates the fact that the PUC produced in SRF Limited is of poor quality that prevents them from producing quality grades and specialty grades of the PUC.
- w. Not only does the petitioner have superior pricing capacity, but also there is an inverse relation between the landed price from China PR and the profitability of the petitioner.

- x. When the landed price increased from Rs 270 Kg during the base year to Rs 304 Kg in the financial year of 2019-20, profitability moved from 100 to (12) points which indicates that it is not the imports obstructing the profits of the petitioner. Further, when the landed price declined between POI and the previous year, profitability of the DI increased from (12) points to 11 points as well as selling price which would not have been possible if the petitioner was impacted by the fall in landed price.
- y. The anti-dumping duty has been in force for 12 years. The information provided by the domestic industry does not indicate existence of any special circumstance that require continuation of antidumping duty beyond a 12 years period. Reliance is placed on the findings in Dry Cell Batteries where the Authority endeavors to not continue duty beyond a period of 10 years except in special cases.

K.2. Submissions of the domestic industry

116. The following post-disclosure comments have been made by the domestic industry.

- a. Sinochem Taicang has the obligation to ensure all their export sales of the subject goods to India are accounted. They have provided misleading and false information on channel of marketing of the goods for export sales to India in their questionnaire response.
- b. Sinochem Taicang concealed the fact that one of their exporters remained non-cooperative. This impairs the rights of the domestic industry and misdeclaration of such information warrants rejection of response. Instruction 4 to the exporter questionnaire and the certificate filed by the producer and declaration by the legal representative are relied on.
- c. The Authority failed to note the share of exports of Sinochem Taicang through the non-cooperative trader.
- d. The export price for the sales channel with the non-cooperative unrelated exporter should be calculated based on sale price of the subject goods from Sinochem Taicang to first exporter adjusted for ex-factory expenses.
- e. The non-cooperative unrelated exporter, Honeywell Trading (Shanghai) Co. Ltd. has a practice of non-cooperation despite exporting significant volumes to India. A responding producer from China PR was held non-cooperative in the recent final finding in AD investigation on “HFC Component R-32” due to non-cooperation by the same exporter.
- f. The residual dumping margin in the present investigation has tripled compared to previous investigations. The present residual injury margin is also significantly higher than those in previous investigations. The injurious effect of Chinese imports has increased in every investigation. As per Rule 23(1) of the AD Rules, the quantum of ADD maybe enhanced if necessary to counteract dumping which is causing injury. Hence, enhancement of ADD is warranted.’
- g. The Authority may determine normal value on the basis of imports of the subject goods from UK to India since UK is an appropriate surrogate country to China PR. The

information on the same, segregated as packed and unpacked, has already been provided by the domestic industry. UK is also a major producer and exporter to India using similar manufacturing process. The subject goods imported from UK to India is like article to those imported from China PR and those produced in India.

- h. The domestic industry has been unable to base their pricing decisions on their cost of sales. Since, the subject imports are not just undercutting but are also below the cost of sales of the domestic industry, it acts as the price benchmark for the PUC in the Indian market. During the POI, the domestic industry was forced to reduce selling price despite increase in costs leading to significant erosion of profits. Further the Authority may conclude the existence of a causal link.
- i. There is a likelihood of continuation/recurrence of dumping and injury in the event of cessation of ADD in light of the following:
 - i. Just 38% of the unutilized capacities of the Chinese producers is sufficient to meet the entire Indian demand. Their capacity utilization of responding exporters have declined in the POI which shows they are capable of achieving higher capacity utilization. The Chinese producers maintain significant inventories which the Authority is requested to examine. Since the EU and the USA are phasing out the subject goods, the exports of the Chinese producers to third countries, which is 8 times the Indian demand, be largely diverted to India. Since India is not allowed to expand capacity for the subject goods after 2023 as per Kigali Amendment to the Montreal Protocol and China PR has established very large surplus capacities, the Chinese producers are incentivized to dump the product. In the event of cessation of the ADD, the subject imports to India would increase. Failure to protect domestic HFC industry will weaken the automobile manufacturing supply chain.
 - ii. Since normal value is below the selling price of the domestic industry, third country exports below the normal value are also below selling price of the domestic industry, which makes Indian market attractive. The Authority is requested to compare prices for exports to third countries and those to India as it would show significant volumes is below export price with ADD to India making Indian market attractive.
 - iii. Considering the declining demand in the USA and EU, the exports to India is bound to increase in light of the Authority's finding that the responding producers are export oriented.
- j. None of the users/ importers have provided any relevant information for non-imposition of the ADD. The only interested parties are the exporters who seek to protect their unfair trade practices. Lack of participation by users/ importers shows no adverse impact on them.
- k. The following shows that the ADD has no adverse impact on consumers and public at large:
 - i. Extension of ADD will arrest the deterioration in performance of the domestic manufacturer that is suffering injury due to dumping. Despite no demand-supply gap, the domestic industry has only 56% market share and 57% capacity utilization.

- ii. If domestic industry is allowed to suffer injury, they would be wiped out and Chinese imports would gain total monopoly. The Indian consumers would be at their mercy and will have to maintain higher inventories and incur additional costs for the same. Procuring from the domestic industry will ensure fair price stability, uninterrupted supply, growth of downstream industry and a stable and reliable business partner.
- iii. It is in public interest to have a strong, competitive domestic production of the subject goods. The objective of ADD is price correction and ensuring fair competition by encouraging imports from USA and UK.
- iv. The cost of the PUC in the final product is very minimal and will have almost no effect on end users.
- v. The domestic industry quadrupled their capacity with a huge investment to make India self-sufficient on imposition of the ADD in 2011. The domestic industry can meet current and potential demand in India. If injury continues, sustainable returns on these investments would not be generated.
- vi. In the absence of dumped imports, the domestic industry would have capacity utilization of 87% compared to present 57%.
- vii. Since India is not allowed to increase capacity on subject goods after 2023, the domestic industry had made investments and increased capacities. Safeguarding the domestic HFC industry is essential to protect existing investment and promote fresh investments.
- viii. Adoption of innovative and viable alternatives to HFCs by the domestic industry will provide India a global competitive edge in the industry and boost growth. If injury is sustained, the domestic industry will be unable to invest in R&D to develop alternatives.
- ix. There exist other sources that export the subject goods to India and have significant market share. Since the subject goods is phased out in EU and USA, any production would only serve export markets including India. Extension of ADD will neither give the domestic industry a monopoly not affect availability of the subject goods.
- x. The domestic industry is able to maintain positive trade balance despite the dumping. If injury is allowed to continue, the same cannot be maintained.

K.3. Examination by the Authority

117. The Authority has examined the post disclosure submissions made by all the interested parties and notes that some of the arguments 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:

- i. As regards the normal value, the likelihood, the injury and the public interest, the same are addressed by the Authority in the relevant paragraphs of these findings
- ii. As regards the argument of rejection of the response filed by Sinochem Taicang, the Authority notes that the non cooperating trader Honeywell Trading (Shanghai) Co. Ltd accounts for very less percentage of the total exports by Sinochem Taicang and, therefore,

the response of the producer has been accepted. As regards the unreported exports, the Authority has applied best facts available for the exports made by this trader for the final determination of the export price for the producer.

- iii. As regards the calculation of the weightage average ex-factory export price and the landed value computed for Sinochem group, the Authority notes that the same has been calculated as per the Rules laid down and the prevailing practice of the Authority.
- iv. As regards the comparison on the packed and the unpacked forms of the PUC, the Authority notes that dumping margin and injury margin have been compared for the packed and the unpacked forms and then weighted average has been taken.
- v. As regards the calculation of the NIP, the Authority notes that the determination has been made as per the Rules laid down and the prevailing practice of the Authority.
- vi. As regards the inferior quality of the product produced by the domestic industry as compared to the imported product under consideration, the Authority notes that the other interested parties have not provided adequate information to establish the same. Also, in DSM Idemitsu vs DA [(2000(119) E.L.T.308], the Hon'ble Tribunal has noted that the difference in quality cannot be the relevant criteria for considering the imported product as different from the domestic like product.
- vii. As regards the argument on the statements in the annual report, the Authority notes that SRF manufactures around 71 products. The consolidated statement in the annual report is not reflective of the performance of the product under consideration. Further, the injury analysis carried out in the relevant paragraphs of these findings is self-explanatory to establish that the dumping has caused continued injury to the domestic industry. Further, the public statements like the annual reports of the company do not alter the conclusion that the dumping of the product has caused injury to the domestic industry.
- viii. As regards the argument of inverse relation between the landed price from China PR and the profitability of the petitioner, it is noted that the landed price of the imports is below the costs of the domestic industry over the injury period. Therefore, even after an increase in the landed price of the imports, it was still below the cost of sales of the domestic industry. Resultantly, while the costs have increased over the injury period, the domestic industry is unable to increase its selling price in proportion to the increase in the cost, resulting in price suppression and decline in the profitability.
- ix. As regards the need for extension of the anti-dumping duty, the Rules require the Authority to determine whether cessation of ADD is likely to lead to continuation or recurrence of the dumping and the injury to the domestic industry. It is further noted that the recommendation for extension of the anti-dumping duty is made only when the requisite legal requirements are met.
- x. As regards the argument on the appropriateness of the import price from the USA into India for considering the normal value, the same is addressed by the Authority in the relevant paragraphs of these findings. Para 7 of the Annexure I lays down hierarchy for determination of the normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from

such a third country to the other countries, including India, or where it is not possible, 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. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Para 7 of the Annexure I. There is no information provided by any interested party to consider application of the first proviso of para 7 nor any material is available with the Authority for the same. The imports from USA constitute second largest imports of the product under consideration into India. Therefore, the Authority has considered USA as an appropriate surrogate country and determined the normal value based on the imports price from USA to India. As regards the argument on difference in level of development of China PR and USA, the Authority refers to Kuitun Jinjiang Chemical Industry Co. Ltd. vs Union of India wherein the Hon'ble CESTAT held that the level of development would be relevant only if the domestic sale price or the cost of production of a market economy third country is adopted since the level of development affects the price and the cost. The price in the international trade is a function of demand and supply in the international market and it is not affected by the level of development of the supplier country. The price to India is, therefore, the price meant for consumption in the Indian market. When the second option under paragraph 7 is exercised for determination of the normal value, what is relevant is the volume of exports and the country concerned should not be dumping during the period of investigation, since these parameters will affect the price comparability in the Indian market. Further, it is noted that considering the cost of production in India as normal value would have led to higher dumping margin for all the responding exporters.

- xi. As regards the argument that the imports from the US are only in unpacked form, the Authority while calculating the normal value for the packed form has added verified packing cost. The Authority notes that since USA constitutes second largest share in the total imports into India, USA is being considered appropriate surrogate country.
- xii. As regards the argument on the likelihood of dumping and the injury, the relevant paragraphs of these findings address the same. As regards the argument on the price attractiveness, the Authority has examined the exports by responding exporters to third country. Summarized table is as follows:

| Volume in MT | Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. | Shaanxi Sinochem Lantian New Chemical Material Co. Ltd. | Shandong Dongyue Chemical Co. Ltd. | Zhejiang Sanmei Chemical Ind. Co. Ltd. | Zhejiang Quhua Fluor-chemistry Co. Ltd. | Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | Sinochem Lantian Fluoro Material Co., Ltd. | Total |
|-----------------------------------|--|---|------------------------------------|--|---|--|--|--------|
| Volume below DINSR | *** | *** | *** | *** | *** | *** | *** | 63,422 |
| Volume above DINSR | *** | *** | *** | *** | *** | *** | *** | 161 |
| Volume below CIF price into India | *** | *** | *** | *** | *** | *** | *** | 54,465 |

| | | | | | | | | |
|--|-----|-----|-----|-----|-----|-----|-----|--------|
| Volume above CIF price into India | *** | *** | *** | *** | *** | *** | *** | 9,118 |
| Volume below CIF price into India with ADD (Without BCD) | *** | *** | *** | *** | *** | *** | *** | 62,321 |
| Volume above CIF price into India with ADD (Without BCD) | *** | *** | *** | *** | *** | *** | *** | 1,262 |

xiii. It would be seen that

- a. 99.75% of exports from responding exporters are at a price lower than the export price to India.
- b. 85.66% of exports from responding exporters are at a price lower than the selling price of India
- c. 98.02% of exports from responding exporters are at a price lower than the CIF export price with Anti-dumping duty to India
- d. India is the prices attractive market for the responding exporters and in the event of cessation of Anti-dumping duty, the imports from China PR are likely to increase at dumped price causing injury to the domestic industry.

L. INDIAN INDUSTRY'S INTERESTS AND OTHER ISSUES

118. The Authority recognizes that the imposition of the 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 the anti-dumping measures. On the contrary, the imposition of the anti-dumping measures would remove the unfair advantages gained by the dumping practices, prevent the decline of the domestic industry and help maintain the availability of wider choice to the consumers of the subject goods. The purpose of the anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The imposition of the 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 the imports from the subject country in any way and, therefore, would not affect the availability of the product to the consumers. On the contrary, the extension of the ADD would encourage imports from other sources including the USA and the UK.

119. The Authority considered whether extension of ADD shall have adverse public interest. For the same, the Authority examined whether the extension 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.

120. 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 extension of ADD.

121. None of the users, importers, or user associations have opposed the present investigation. As already noted in these findings, this leads to the presumption that the user industry in India is not adversely impacted by the extension of the ADD on the subject goods. Further, in this regard, the Authority re-iterates that the extension of the anti-dumping measures would not restrict the imports from the subject country in any way and, therefore, would not affect the availability of the product to the consumers.

122. Even though the Authority has prescribed formats for the users to quantify the impact of ADD and elaborate how extension 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 minimal.

123. The Authority notes that the domestic industry has submitted that the PUC is produced globally. China has a capacity of 240 KTPA, North America has a combined capacity of 102 KTPA, and European Union and Japan have a capacity of 20 KTPA each. The product is in under free category and, therefore, can be freely imported from various countries. The extension 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 extension of anti-dumping duties, therefore, would neither affect the availability of the product to the consumers nor create monopoly.

124. USA has also investigated the imports of the product under consideration into USA from China PR. USA imposed a significant quantum of duties on the said imports, on finding that the imports are causing material injury to their domestic industry.

125. The Authority notes that the product is consumed mainly in automobile air conditioning and the domestic industry has stated that India is likely to witness a robust growth in HFCs in the next decade. The domestic industry has also submitted that they have quadrupled their capacity since the initial imposition of ADD on the subject imports in 2011 with an investment of Rs. 530 crores. The domestic industry is, hence, capable of meeting the present and potential demand of the product under consideration in India.

126. Further the capacity utilization of the domestic industry is low in the period of investigation and declined as compared to preceding year as well as the base 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.

127. 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 a compact car in India costs Rs. 2,50,000, the amount of R-134a used in the air conditioner would be less than 500g. Assuming that 500g of R-134a costs around Rs. 150, the cost of the product under consideration on the end-consumer of the final product is very meagre.

128. 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, the domestic industry has established the lack of any such adverse impact. Despite the ADD being in force for 10 years, there is no publicly available evidence showing an adverse impact on the user industry either. Thus, even if it is considered that the extension 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.

129. The Authority further notes that the recommendation for extension 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 only 4 products. The domestic industry has further submitted that they have not, in the past, taken advantage of the ADD in place on the subject goods to increase their selling price disproportionately. Considering the fact that the domestic industry has been able to maintain a positive trade balance in the subject goods, the health of the domestic industry is also in the interest of the economy of the country.

130. 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 extension of anti-dumping duty will be in public interest.

M. CONCLUSION & RECOMMENDATIONS

131. 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 petitioner 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 the like article to the product under consideration imported from the subject country.
- c. The petition contained all the 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 the 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 continued injury. The examination of the imports of the subject goods and the performance of the domestic industry clearly shows that the volume of the dumped imports from the subject country has declined over the injury period increased thereafter in absolute and relative terms in the period of investigation. The imports from the subject country are undercutting and suppressing the prices of the domestic industry. The capacity utilization, production, and domestic sales of the domestic industry has declined significantly in the POI. The domestic industry has been suffering significant deterioration in term of profits, cash profits and return on the capital employed.
- f. The material injury suffered by the domestic industry has been caused by the dumped imports.
- g. There exists a likelihood of continuation of dumping and injury in the event of cessation of anti-dumping duty in force in light of the surplus capacities maintained by the Chinese producers, declining demand for the subject goods in major markets like US and EU, tariff barriers placed on Chinese imports by the US, the attractiveness of the Indian market and the export orientation of the Chinese producers.
- h. Despite providing all formats for users/ importers to quantify the impact of ADD and elaborate on how extension of ADD will adversely impact them, none of the users/ importers have provided relevant information. The interested parties have not established impact of ADD on the user industry with verifiable information. Cessation of the anti-dumping duty in force will adversely impact the indigenous production of the product concerned and the fact that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, the Authority is of the view that the extension of anti-dumping duty will be in public interest.

132. 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 likelihood of recurrence/ continuation of dumping and injury. Having initiated and conducted the investigation into dumping, injury, causal link, and likelihood of recurrence/ continuation of dumping and injury in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that extension of anti-dumping duty is required to offset dumping and injury. The Authority considers it necessary and recommends extension of anti-dumping duty on imports of subject goods from the subject country.

133. 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

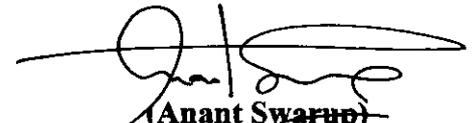
| SN | Heading | Description | Country of Origin | Country of Export | Producer | Amount | Unit | Currency |
|----|----------|--------------------------------------|-------------------|--------------------------------|---|--------|------|----------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1 | 29033919 | 1,1,1,2-Tetrafluoroetha or R-134 a * | China PR | Any country including China PR | Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. | 2.1 | KG | US\$ |
| 2 | -do- | -do- | China PR | Any country including China PR | Shaanxi Sinochem Lantian New Chemical Material Co., Ltd. | 2.1 | KG | US\$ |
| 3 | -do- | -do- | China PR | Any country including China PR | Shandong Dongyue Chemical Co., Ltd | 2.13 | KG | US\$ |
| 4 | -do- | -do- | China PR | Any country including China PR | Zhejiang Sanmei Chemical Ind. Co., Ltd. | 1.29 | KG | US\$ |
| 5 | -do- | -do- | China PR | Any country including China PR | Zhejiang Quhua Fluor-chemistry Co. Ltd. | 1.59 | KG | US\$ |
| 6 | -do- | -do- | China PR | Any country including China PR | Zhejiang Quzhou Lianzhou Refrigerants Co. Ltd. | 1.59 | KG | US\$ |
| 7 | -do- | -do- | China PR | Any country | Any other than at SN 1 to 6 | 3.24 | KG | US\$ |

| | | | | | | | | |
|---|------|------|--|--------------------------|-----|------|----|------|
| | | | | including China PR | | | | |
| 8 | -do- | -do- | Any other country other than China PR | China PR | Any | 3.24 | KG | US\$ |

* Note: The cGMP certified R134a is excluded from the purview of the PUC.

N. FURTHER PROCEDURE

134. 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