

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
NOTIFICATION

Udyog Bhavan, New Delhi-110011
Dated the 19th February, 2010

Preliminary Findings

Subject: Anti-dumping investigation concerning imports of 1,1,1,2-Tetrafluoroethane or R-134a of all types originating in or exported from China PR and Japan.

NO. 14/24/2009-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 and thereafter (hereinafter 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, (hereinafter referred as Rules) thereof;

1. Whereas M/s SRF Ltd , Gurgaon (hereinafter referred to as the applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act and Rules alleging dumping of 1,1,1,2-Tetrafluoroethane or R-134a of all types (herein after referred to as subject goods) originating in or exported from China PR and Japan (hereinafter referred to as "subject countries") and requested for initiation of Anti-Dumping investigations for levy of anti dumping duties on the imports of the subject goods originating in or exported from the subject countries.

2. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice dated 19th August,2009, published in the Gazette of India, Extraordinary, initiating Anti-Dumping Investigations concerning imports of the subject goods originating in or exported from the subject country, in accordance with the sub Rule 5(5), of the Rules, to determine the existence, degree and affect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

3. The procedure described below has been followed with regard to this investigation after issuance of the Public Notice notifying the initiation of the above investigation by the Authority:

- i. The Embassies of the subject countries in New Delhi were informed about the initiation of the anti-dumping investigations in accordance with the sub-rule (5) of Rule 5 supra;
- ii. The Designated Authority sent copies of the initiation notifications dated 19th August,2009 to the embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, and the domestic industry, as per the information available with it. The known interested

parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, petition and questionnaire sent to the exporter were also sent to the Embassies of the subject countries along with a list of known exporters/ producers with a request to advise the exporters/producers from the subject countries to respond to the questionnaire within the prescribed time.

iii. Copy of the non-confidential version of the application filed by the domestic industry was made available to the known exporters and the Embassies of the subject countries in accordance with Rules 6(3) supra.

iv. Questionnaires were sent to the known exporters from subject countries in accordance with the rule 6(4) to elicit relevant information. Whereas no response has been received from Japan, responses to exporter's questionnaire have been received from the following exporters of the subject goods from China PR :

- a) Zhejiang Juhua Co. Ltd., Kecheng District, Quzhou City, Zhejiang Province, China PR – 324004
- b) Zhejiang Quhuaflour – Chemistry Co., Ltd., Juhua Group, Kecheng District, Quzhou City, Zhejiang Province
- c) Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd., 18, South of Binjiang Road, Shihua Industrial Park, Taicang Port, , Jiangsu Province, China PR - 215433
- d) Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd., Jinghe Industrial Area, Xian Economic-Technological Development Zone, Xian, China PR.
- e) DuPont Trading (Shanghai) Co. Ltd., 10/F Building # 11, 399 Keyuan Road, Zhangjiang Hi-Tech Park, Pudong New District, Shanghai – 201203, China PR
- f) M/s Zhejiang Juhua Gonglian Foreign Trade Co Ltd., 2nd Floor, No. 243, Juhua Centre Road, Quzhou China.

v) Post initiation views/comments were also received from the China Association of Fluorine & Silicon Industry.

vi) Questionnaires were sent to the known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4) and response to the importers questionnaire has been received from the following importers of the subject goods in India;

- a) Navine Fluorine International Ltd., 35-C, Shivaji Marg, New Delhi - 110015
- b) E.I. DuPont India Private Limited, DLF Cyber Greens, 7th Floor, - 'C' Tower

25A – DLF City, Phase III Gurgaon 122002, Haryana.

vii) Post initiation views/comments were also received from the importers/users of the subject goods viz; M/s Refex Refregerants Ltd , M/s Chenai Marine Trading Pvt Ltd, M/s Stallion Enterprises and M/s Honneywell International Pvt Ltd .

viii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

ix) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the injury period including the period of investigation.

x) The Non-Injurious Price based on the cost of production on the basis of the accounting information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) was worked out provisionally so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

xi) The Authority initiated the investigation with Non-Market Economy presumption in respect of People's Republic of China in terms of Para 8 of Annexure I to the Rules and provided an opportunity to the country concerned and the exporters from People's Republic of China to rebut the said presumption under the said Rule. It was also mentioned in the said notification that the Authority may however, notify an appropriate third country, in the due course, for the purpose of determination of normal value in China PR in terms of para 7 of Annexure I to the Rules. However, none of the interested parties, including the applicants, have placed any material fact before the Authority to select an appropriate market economy third country for the above purpose.

xii) The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated confidential.

xiii) *** in this finding represents information furnished by the domestic industry and other interested parties on confidential basis and so considered by the Authority under the Rules.

xiv) The exporters, producers, importers, consumers and other interested parties who have not supplied information in this investigation have been treated as non co-operating interested parties.

xv) As per the practice adopted by the DGAD, the injury period covers POI and preceding three years. The period of investigation in the subject case is starting from 1st April 2008 to 31st March 2009 (12 months). However, in the subject case

the injury investigation period shall cover the period 2007-08 and the POI, as the applicant has started commercial production in the year 2007-08 only.

B. Comments of the interested parties on the initiation of investigation and examination by the Authority.

B.1. Views of Exporters

4. There is no response from Japan. The responding exporters from China PR have not offered any specific comments in their exporters questionnaire responses on the initiation of investigation. However, China Association of Fluorine & Silicon Industry has expressed the following views:

1. According to the petitioner, the PUC does not have any dedicated customs classification; hence data supplied by the petitioner becomes irrelevant.
2. Chinese enterprises follow Gas Phase Method for the production of PUC during POI whereas DI adopts Liquid Phase Method.
3. Purity is one of the major parameters to classify R134 A; hence any difference on the basis of purity can't be ignored.
4. It has further been submitted that there are apparent and critical difference between the PUC imported from China and produced by SRF, including purity, production process and manufacturing cost, which makes it is incomparable.
5. Even if one would take into account the statistics provided by the petitioner, then one would reach the conclusion that it is because of increase in demand in the Indian market that resulted in increase in exports from China in 2006-07.
6. The statistics data of exports from China to Indian Market, provided by the respondent suggests that exports from China has reduced, and export prices have shown an increasing trend.
7. Sales quantity of the DI shows an increase of 56.33% in 2008-09.
8. SRF started with commercial production only in the year 2007-08, hence it had to face low level of capacity utilization at the initial stage.
9. Due to difference in product process technology, calculation of normal value becomes incorrect.
10. During 2007-08 and 2008-09, the petitioner had exported the PUC. Like the domestic price of the petitioner, the exports price of the petitioner is also in the red. It apparently indicates that low price is the petitioner's consecutive market strategy
11. The product process method adopted by DI i.e; the liquid phase method is more expensive and generates by product Potassium Chloride and TFEA. Cost distribution for these by- products have been ignored.
12. Negative profitability, return of investment and cash flow is not due to imports but because of the outdated production process and wrong investment decision taken by the petitioner.
13. No change in employment wages shows that labour is employed in excess and hence can be one of the reasons for high production costs.
14. Petitioner, itself confesses that the productivity has increased.
15. Inventories have significantly decreased.
16. Annual report of the petitioner shows that ability to raise capital has remained unaffected as the turnover proportion of PUC constitutes a very small in the whole company.
17. The price behavior of the domestic industry is not guided by the landed value of the imports. Both show an inverse relationship.

18. There is bound to be a change in consumption factor as the domestically produced R 134 A is a substitute of CFC gas, which will be phased out in 2010.

19. It is not clear as to what percentage of profit has been claimed by domestic industry as reasonable to arrive at the NIP.

20. We undertake it as 22% as adopted by the authority as return on capital employed. It is unreasonable as it gives undue protection to DI and violates the lesser duty rule (Debt portion of capital employed which attracts about 10 to 125 interest rate is provided 22% which in turn results in providing more than 22% return on net worth portion of capital employed.)

21. With regard to the non-market economy treatment China Association of Flourine & Silicon Industry, expressed the following views:

- Every company runs under some or the other kind of state interference, but it is for the authority to see that such interference should be in decision-making process.
- For making analysis of market value of prices of major inputs it becomes an important consideration if the prices at which the exporter procures raw material are market driven and unaffected from state interference.
- It is not a law mandate to maintain books of accounts in accordance with the International Accounting Standards.
- Law nowhere requires response from the group as a whole.
- In case of acquisition through transformation, MET is not granted where it is an acquisition of a state owned company.

22. With regard to the approach on construction of normal value, in case of non-market economy China Association of Flourine & Silicon Industry, expressed the following views:

- Consumption factor of the domestic industry should not have been taken into consideration due to difference in the production process.
- DI is operating only at 44.77% and conversion cost based on such unutilized capacity gives abnormally high and distorting conversion cost.
- Depreciation calculated on the aforementioned basis, also becomes abnormally high.
- No claim has been made of credit for by products and joint products.
- Very high interest cost has been taken into consideration. Interest rates in China are almost half as compared to that in India.

B.2 Importers and other Interested Parties

5. The following views were expressed by the importers/users such as M/s Refex Refrigerants Ltd, M/s Chennai Marine Trading Pvt Ltd, M/s Stallion Enterprises and M/s Honeywell International Pvt Ltd on the initiation of the investigation:

- i) M/s SRF has an installed capacity of 2500 MT R-134a per annum at Alwar, Rajasthan.
- ii) HFC134a is a non ozone depleting gas and is an immediate replacement for R12 refrigerant gas, an ozone depleting gas, which is phased out in India.

- iii) The estimated annual demand in India is approximately 8000 MT per annum(6000 MT in the year 2007 as per a survey by an international agency), out of which production of 2500 MT is done in India by M/s SRFLtd. Even SRF imports some quantity to meet their deficit demand of this product.
- iv) As per the data available the import of R134a is approximately 5500 MT from various countries such as China, Japan, USA.
- v) The demand for this product is expected to go up by 15-20% annually due to phasing out of CFCs and reduction of the use of HCFC.
- vi) M/s SRF will not be able to cater to the growing demand for the subject product.
- vii) The Chinese and Japanese use advance technologies to produce these gases cost effectively and they are priced at par with the global prices.
- viii) SRF has received heavy subsidy from various Govt Departments to phase out their CFC12C production and begin the 134a production. In certain cases the import duty for equipment has also waived by there Govt.
- ix) If ADD is imposed there will be cartelization by SRF to control the Indian market resulting in price hike and eventually the consumer and industry suffering the higher cost.
- x) Genetron 134a is the registered tradename of Honeywell and have been importing Genetron 134a in to India from China at the highest recorded price.

B.3 EXAMINATION BY THE AUTHORITY

6. The views expressed by the China Association of Flourine & Silicon Industry and the importers/users are examined by the Authority as follows:

- i) As regards the view of China Association of Flourine & Silicon Industry on dedicated classification of PUC the Authority notes that the import data has been analyzed on the basis of description of the PUC under various classifications due to non availability of dedicated classification.
- ii) As regards the view of China Association of Flourine & Silicon Industry that Chinese enterprises follow Gas Phase Method for the production of PUC during POI whereas DI adopts Liquid Phase Method, the Authority notes that the Domestic Industry has clarified that they follow the Gas Phase Method for the production of PUC. The Authority further notes that the nature of the PUC does not change with the level of purity and the subject goods produced by the Domestic Industry and the exporters, by following the same gas phased method, may not differ on account of purity.
- iii) The Authority notes that differences due to change in production process, purity and manufacturing cost does not lead to difference in the PUC. Moreover, the domestic industry and the producers from China PR adapt the gas phased production method.
- iv) The views of the China Association of Flourine & Silicon Industry regarding various economic parameters, market economy treatment issues and other issues are duly examined in the relevant portions of this finding.
- v) The importers and other interested parties have not raised any specific view on any aspect of the initiation of investigation. However, as regards their view that Chinese and Japanese use advance technologies to produce these goods cost effectively , the Authority notes that there is no co-operation from producers/exporters from Japan and as far as China is concerned, both the Chinese and the Domestic Industry adopt the same Gas Phase Method for the production of PUC.

C. Product under Consideration and Like Article

7. 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 CH_2FCF_3 , and a boiling point of $-26.3\text{ }^{\circ}\text{C}$ ($-15.34\text{ }^{\circ}\text{F}$). 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.
8. 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.
9. The applicant has claimed that there is no known difference between the products manufactured by them and the subject goods imported from the subject countries, which can have any impact on price, usage, quality etc. The applicant also claims that the technology and primary production process employed by them and the foreign producers are comparable; however, every producer fine-tunes its production process based on available facilities and necessities.
10. No argument has been received from any interested party on the scope of product under consideration or like article except China Association of Fluorine & Silicon Industry . The Authority notes that the Domestic Industry follows the Gas Phase Method for the production of PUC as the Chinese enterprises and the nature of the PUC does not change with the level of purity. Examination of the product and import data submitted by the applicant indicates that there is no difference between subject goods produced by the Domestic Industry and imported from China. In view of the similarity in manufacturing process and substitutability, the Authority provisionally holds that the two are required to be treated as alike and one product for the purpose of defining the 'product under consideration' in this case.

D. Domestic Industry and Standing

11. The application has been filed by M/s. SRF Ltd., Gurgaon. The producer has claimed to be the sole producer of the product in India and no interested party has disputed this

fact in their post initiation submissions. Therefore, the Authority is of the opinion that the applicant commands a major proportion of the production of the subject goods in India and holds that for the purpose of this investigation the applicant M/s SRF Ltd. commands the standing in terms of Rule 5(3) and constitutes the domestic industry in terms of Rule 2(b).

E. De Minimis Limits

12. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources, as well as the data furnished by the cooperating exporters from China PR, the import of the subject goods from the subject countries are above the de minimis level.

F. Determination of Dumping Margin

F.1. Examination of Market Economy Claims

13. The Authority, notes that in the past China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure of Anti-dumping Rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.
14. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-
 - a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and,
 - d) the exchange rate conversions are carried out at the market rate.
15. The Authority notes that following producers and exporters of the subject goods from China PR have submitted their Exporters Questionnaire responses and Market Economy Questionnaire responses, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. The Exporters Questionnaire responses and the Market Economy Questionnaire responses of the

following responding producers and exporter have been examined for determination of the normal value:

- a) Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd.
- b) Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd.
- c) Zhejiang Juhua Co. Ltd.
- d) Zhejiang Quhuaflour Chemistry Co., Ltd.
- e) Zhejiang Juhua Gonglian Foreign Trade Co Ltd
- f) Du-Pont Trading (Shanghai) Co. Ltd.

Submissions by M/s Sinochem Environmental Protection Chemicals (Taicang) Co . Ltd. (Producer/Exporter).

16. It has been submitted by the Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. that they are a Chinese foreign equity joint venture company established on Oct 14, 2005. It has also been submitted that there were three shareholders in Taicang before Dec., 2008 namely Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd., Sinochem Europe Capital Corporation Ltd., and Sinochem Ningbo (Group) Co.Ltd. which were holding share percentage of **%, **% and **% in the company. Further, in Dec., 2008 shareholder Sinochem Ningbo (Group) Co., Ltd. transferred all its shares to China New Technology Development Trade Co., Ltd.
17. As regards procurement of raw materials, M/S Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. has submitted that they have purchased one of the major raw materials viz. TCE from related company. Other raw materials, including TCE and AHF, used for production has been purchased from independent suppliers.

Submission by M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd.(Producer/Exporter)

18. It has been submitted by the Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. that **% shares of their company are held by the state owned companies namely M/S China New Technology Development Trade Co., Ltd..
19. As regards procurement of raw materials, M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd. has submitted that they have purchased one of the major raw materials viz. TCE from related company. Other raw materials, including TCE and AHF, used for production has been purchased from independent suppliers.

Submission by M/S Zhejiang Juhua Co. Ltd.(Producer)

20. In their response to the MET questionnaire, M/S Zhejiang Juhua Co., Ltd. has submitted that they are a subsidiary of Zhejiang Juhua Group, which is solely owned by the state owned Assets Supervision and Administration Commission of Zhejiang province. The company has also submitted that they have produced TCE captive and procured AHF at market price. It has been further mentioned in the list of suppliers of raw materials that major raw materials are procured from affiliated companies.

Submission by M/S Zhejiang Quhuaflour Chemistry Co., Ltd (Exporter)

21. In their response to the MET questionnaire, M/S Zhejiang Quhuaflour Chemistry Co., Ltd. has submitted that they are a subsidiary of Zhejiang Juhua Co. Ltd.

Submission by M/S Zhejiang Juhua Gonglian Foreign Trade Co. Ltd. (Exporter)

22. In the MET questionnaire, they have submitted that their company is a subsidiary of M/S Zhejiang Juhua Group import and export Co. Ltd. and export agent of Zhejinag Quhufluor Chemistry Co. Ltd.. Further, M/S Zhejiang Juhua Group import and export Co. Ltd., Zhejinag Quhufluor Chemistry Co. Ltd. and M/S Zhejiang Juhua Co. Ltd. are related companies and belong to Zhejinag Juhua Group.

Submission by M/S Du-Pont Trading (Shanghai) Co. Ltd. (Exporter)

23. It has been submitted by M/S Du-Pont Trading Shanghai Co. Ltd., China that they are a 100% subsidiary of M/s Du-Pont China Holding Co. Ltd. It has further been submitted that M/S Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd., a corporation organized under the laws of China is the only supplier (un-related) of R-134a and has multi year contract with them starting from Sep., 2008.

Examination by the Authority

24. The Authority has taken cognizance that the exporters from China PR have submitted responses along with relevant facts with which they want to rebut the presumptions as mentioned in Para 8 of Annexure 1 of the Rules and Non Market Economy Questionnaire sent to them regarding grant of market economy status to their companies. As regards procurement of raw materials and other relevant inputs, which mainly includes AHF and TCE, the producer/exporters have submitted that they have procured partly from affiliated/related companies and partly from private parties at Chinese market price. The Authority notes that the issue of raw material prices paid by the companies is vital to an examination of both market economy treatment as also correct assessment of its cost of production. The exporters have not so far established with verifiable evidence that "prices of major inputs substantially reflect market values". In a situation where the raw material prices are significantly lower than the prevailing market rates in the international market, not only a vital condition for market economy treatment is not satisfied but also costs may be underestimated. Further, the Authority notes that the producers/exporters from China PR are either directly or through their subsidiaries and suppliers are state controlled.

25. The Authority notes that even if one of the critical parameters of market economy treatment is not satisfied, it would not be feasible to grant market economy status to the responding companies.

26. In view of the above, for the purpose of preliminary findings, the Authority has not granted market economy status to the responding producers/exporters from China PR.

G. Determination of Normal Value

27. Thus, the Authority has constructed the normal value for China PR by treating them as non market economy and for Japan, since no response has been received from them, by taking into account international raw material prices and duly adjusted conversion

cost of the Domestic Industry, selling, general & administrative expenses and reasonable profit.

G.1 Normal Value for Japan

28. No exporter from Japan has cooperated and responded to the investigation initiation notification issued by the Authority and submitted any information. In view of that the Authority has made efforts to ascertain information from public domain regarding domestic selling price of the subject goods in Japan. But, in absence of relevant credible data in the public domain, the Authority has relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules and provisionally constructed the normal value in respect of Japan on the basis of facts available. For constructing normal value, the international prices of raw materials, and in case of non availability of international prices, domestic price of raw materials has been relied upon. The raw material consumption norms, duly adjusted conversion cost and misc. Income, have been considered as per domestic industry. Further, after adding a reasonable profit margin of 5%, constructed normal value has been determined as US\$ *** Per Kg.

G.2 Normal Value for China PR

29. As recorded above there are significant issues of market economy determination in respect of the responding exporters from China PR that requires further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporters and producers from China PR, in respect of their market economy claims, for the purpose of the preliminary finding, the authority has provisionally constructed the normal value in China PR on the basis of Para-7 to Annexure-I to the Rules.

30. In this connection Para 7 of Annexure I of the Anti-dumping Rules provide that:

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.

31. The Authority indicated, in the Initiation Notification, that the Authority may notify an appropriate third country, in the due course, for the purpose of determination of normal value in China PR in terms of the above provision. However, none of the interested parties, including the applicants, have placed any material fact before the Authority to select an appropriate market economy third country for the above purpose. The domestic industry has submitted that they have made efforts to collect information on price and cost data of the subject goods in market economy third

countries but no publicly available information could be collected in this regard. It has also been argued that for determination of normal value based on third country cost and prices, the Authority would require complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country, which the applicant is unable to obtain. The responding Chinese companies have made no claim with regard to an appropriate market economy third country. Therefore, the domestic industry has submitted that India should be treated as an appropriate surrogate country for China in this matter and the normal value should be determined accordingly.

32. Pending further examination of the issues, for the purpose of preliminary determination the Authority proceeds to provisionally determine the normal value in China PR on other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Accordingly, the ex-works Normal Value of the product under consideration for all exporters from China PR has been provisionally constructed based on facts available. The Normal Value has been constructed taking into account consumption norms of producer/exporter and international prices of major raw material and domestic price of raw materials in case of non-availability of international price. Further, duly adjusted conversion cost and SGA expenses of the domestic industry have been adopted for determination of the normal value. After adding a reasonable profit margin of 5% constructed normal value has been determined as US\$ *** per Kg. in respect of the China PR.

H. Determination of Export Price

H.1 Export Price for co-operating exporters from China PR

M/S Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.

33. The exporter has provided transaction wise details of exports to India during the period of investigation. For the purpose of preliminary finding all export transactions have been taken into consideration for determination of export price. The expenses claimed on account of packing, inland freight & port charges, overseas freight, overseas insurance, clearance and handling charges and other misc. charges have been allowed, subject to verification. By this methodology the ex factory weighted average export price has been determined as US\$ *** Kg.

M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd.

34. The Authority notes that M/S Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd and M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd are related and major shareholder in M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd is also a shareholder in M/S Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. Further, M/S Sinochem Environmental Protection Chemicals (Taicang) 's parent company is admittedly M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd, which produces and sales the subject merchandise. M/S Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd has much larger production capacity than that of M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. The Authority also notes that the Gross price charged by both these companies is substantially different despite having almost similar range of cost of production. It is noted from the information submitted that the difference is primarily on account of Bulk Discount. The exporter has provided

transaction wise details of exports to India during the period of investigation. For the purpose of preliminary finding all export transactions have been taken into consideration for determination of export price. The expenses claimed on account of packing, inland freight & port charges, overseas freight, overseas insurance have been allowed, subject to verification. In view of the above, to arrive at the ex-factory price, the Authority has also taken an adjustment of *** RMB per kg on account of discount due to similar range of cost of production. By this methodology the ex factory export price for M/S Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd. has been determined as US\$ ***/Kg.

M/S Dupont Trading (Shanghai) Co., Ltd.

35. The exporter has provided transaction wise details of exports to India during the period of investigation. For the purpose of preliminary finding all export transactions have been taken into consideration for determination of export price. While arriving at net export price the exporter has made adjustments towards packing charges, inland freight, sea freight and insurance premium. Further, adjustments of domestically procured goods and profit margin of Du-Pont Trading has also been made to arrive at the ex factory weighted average export price. By adopting this methodology the ex factory export price in respect of M/S Du-pont (Shanghai) Co. Ltd. has been determined as US\$ ***/Kg.

M/S Zhejiang Quhuafluor – Chemistry Co., Ltd. & Zhejiang Juhua Gonglian Foreign Trade Co., Ltd.

36. M/S Zhejiang Quhuafluor – Chemistry Co., Ltd. has provided the transaction wise details of exports to India during the period of investigation and submitted that after procurement of subject goods from M/S Zhejiang Juhua Co. Ltd., (producer of the subject goods) appointed M/S Zhejiang Juhua Gonglian Foreign Trade Co., Ltd. as their export agency and shipped and declared at the customs after they received L/C, negotiated payment and received payment. However, while going through their response it is observed by the Authority that the copies of sample invoices and other export documents are held in the name of M/S Zhejiang Juhua Gonglian Foreign Trade Co., Ltd., thereby making them the actual exporter to India. Further, M/S Zhejiang Juhua Gonglian Foreign Trade Co., Ltd., who also have submitted the Exporters and MET questionnaire responses, has submitted that they are not the actual exporter of the product under investigation and just an export agent. However, Authority notes that all export documents are in the name of M/S Zhejiang Juhua Gonglian Foreign Trade Co., Ltd.. As the linkage between production and export of the subject goods to India has not been clarified in complete satisfaction to the Authority, for purpose of preliminary findings no separate export price has been determined in respect of either Zhejiang Quhuafluor Chemistry Co. Ltd. or Zhejiang Juhua Gonglian Foreign Trade Co., Ltd.

H.2. Export price for Non-cooperating Exporters from China

37. Since, no response has been received from any other producer/exporter of the subject goods from China PR; the Authority has decided to determine their Export Price as per facts available in terms of Rule 6(8) of the AD Rules. The data has been collated as per the information provided by the Applicant based on IBIS source and the expenses on account of packing, inland freight & port charges, overseas freight, overseas insurance, clearance and handling charges and other misc. charges have been adjusted on the basis of data furnished by co-operative exporters to arrive at the ex-factory price in respect of non- cooperative exporters from China PR. By adopting the above method

the ex-factory export price for non-cooperative exporters from China PR has been calculated as US\$ *** per /Kg.

H.3. Export price for Exporters from Japan

38 No exporter from Japan has responded to the initiation of notification. Therefore, the data reported by the IBIS, Mumbai for exports from Japan has been relied upon to calculate the ex-factory export price. As the transactions are on CIF basis, therefore, to determine ex factory export price, adjustment on account of ocean freight, marine insurance, handling charges, port expenses have been adjusted to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price for exporters from Japan has been calculated as US\$ *** per /Kg.

I. Dumping Margin

39. For the purpose of determination of dumping margin the ex-works normal value and export prices so determined provisionally have been compared at the same level of trade and dumping margin has been provisionally determined for the exporters from the subject countries.. On the basis of normal values and export prices as determined above, the dumping margins for exporters are determined as per table below: -

Exporter/Producer From	Normal Value (USD)	Export Price (USD)	Dumping Margin (USD)	Dumping Margin (%)
Japan	***	***	***	55 – 65
China PR	***	***	***	
Sinochem Environmental Protection Chemicals (Taicang)	***	***	***	30 – 40
Sinochem Environmental Protection Chemicals (Xi'an)	***	***	***	30 – 40
Du-Pont	***	***	***	35 – 45
Others	***	***	***	45 - 55

40. The dumping margins so determined provisionally are significant and above de-minimis level.

J. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

J.1 Views of the Exporters, Importers and other Interested parties

41. No specific views have been offered by the responding exporters, importers and other interested parties, except the China Association of Flourine & Silicon Industry whose views are reflected at Para 4 of this finding, denying the impact of the imports of the subject goods from the subject countries on the Domestic Industry.

J.2 Views of the domestic industry

42. The followings are the views of domestic industry: -

- a) Export price from the subject countries has remained at dumped level during POI. Further, these prices have been declined more than input prices.
- b) Profit/Loss (PBT, PBIT and PBDIT) of the domestic industry have all shown significant decline even become negative in POI.
- c) Import from each of the subject countries has been undercutting the prices of the domestic industry to a significant degree.
- d) Imports from the subject countries have forced the domestic industry to reduce the price steeply during investigation period. Thus, the imports were depressing the prices in this period.
- e) Market share of the imports from subject countries remained at a very significant level. As a direct consequence, the market share could not be adequately improved in the fact and circumstances of the case..
- f) Employment levels with the domestic industry have not undergone any significant change.
- g) Salary & wages: - Salary and wages per unit of production, shows a decrease.
- h) Demand and market share: -Whereas the market shares of the imports have increased, that of the domestic industry could not be improved because of the dumped imports from the subject countries.
- i) Growth: - Growth of the domestic industry became negative in respect of a Profit, return on investment and cash profit.

J.3. Examination by the Authority

43. The Authority notes that no specific views in respect of injury to the domestic industry have been offered by the responding exporters, importers and other interested parties, except the China Association of Flourine & Silicon Industry whose views are reflected at Para 4 of this finding, denying the impact of the imports of the subject goods from the subject countries on the Domestic Industry. However the views offered by the named association from China have not been substantiated by any evidence whatsoever.

44. Having examined the degree and extent of dumping from China and Japan, the Authority has examined the injury caused to the domestic industry, if any, and the causal link between the dumped imports and injury so suffered by the domestic industry. The Authority holds that the applicant Company, i.e., M/s SRF Ltd constitutes a major proportion of Indian production of the subject goods during the period of investigation under Rule 2(b) of Anti-dumping Rules. Therefore, for the purpose of injury determination the applicant company has been held to constitute the domestic industry within the meaning of the Rules.

45. As per the Supreme Court Judgment in Reliance Industries Vs Designated Authority matter, all the known producers of the subject goods are required to be requested to file their cost and injury information for the purpose of injury determination and determination of non-injurious price for the domestic industry as a whole. However in the subject case, M/s SRF Ltd being the sole producer of the subject goods in the country, for the purpose of preliminary determination, the cost and injury information of the applicant domestic producer, constituting the domestic industry as defined in Rule 2(b), has been examined.

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

47. 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 supra.

48. The following are the essential facts before the Authority in respect of alleged injury to the domestic industry caused by dumped imports from China and Japan, which will form the basis for the preliminary determination by the Authority. As per practice adopted by the DGAD, the injury period consist of the POI and preceding three years. The period of investigation in the subject case is starting from 1st April 2008 to 31st March 2009 (12 months). However, the injury investigation period will cover the period 2007-08 and the POI, as the applicant has started commercial production in the year 2007-08 only. Thus, all economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume etc. have been examined for the injury period adopted. However, as information pertaining to Imports (Volume and Value) is available for previous three years as well, the injury analysis has been carried out by adopting the period of four years that is POI and previous three years.

K Cumulative assessment of injury

49. As per annexure-II (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to Anti-dumping Investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that

- a. The margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article, and,

- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.
- 50. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.
- 51. With a view to assess the conditions of competition between imported products and the like domestic product, the Authority notes that -
 - a. The subject goods supplied by Foreign Producers and by the domestic industry are inter-se like articles.
 - b. The Authority has found that the imported subject goods are commercial substitutes of the domestically produced R-134a.
 - c. The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete in the same market, as these are like products.
- 52. Therefore, the Authority notes that it is appropriate to, cumulatively assess the effect of imports of the subject goods on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.
- 53. The Authority has taken note of various arguments put forth by the Domestic Industry (There was no response from other interested parties).
- 54. Annexure II of the AD Rules requires that determination of injury shall involve objective examination of both:
 - a) The volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and
 - b) Consequent impact of these imports on domestic producers of such products.
- 55. The Authority while examining the volume of dumped imports is required to examine whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase which otherwise would have occurred to a significant degree.
- 56. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on all relevant economic factors and indices having a bearing on the state of industry to evaluate the existence of injury and causal links between the dumping and injury, if any. Since significant dumping margins have been established for the exports from the subject countries, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal link examination.

L. Volume Effect of dumped imports and Impact on domestic Industry

57. With regard to the volume of the dumped imports, the Designated Authority is required to consider whether there has been a significant increase in dumped imports, in absolute terms or relative to production and consumption in India. As far as import volume is concerned the DGCI&S import data as well as import data reported in secondary sources i.e. IBIS have been examined. The Authority notes that the DGCI&S data does not capture the imports of the subject goods being imported in to India in different nomenclature and under different Customs classifications and therefore relied upon the data from the IBIS source. Therefore, the transaction level data on the basis of IBIS source has been relied upon and the volume and value of imports have been analyzed as follows:

L.1 Import volumes and share of subject countries

58. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.
59. The Authority has examined the volume of imports of the subject goods from the subject countries based on the transaction-wise import data from the IBIS source as follows:

	Qty. in Mt			
Period	2005-06	2006-07	2007-08	POI
Country				
China PR	551	687	1123	1313
Trend	100	125	204	238
Japan	1057	564	992	957
Trend	100	53	94	91
Others	812	1059	1318	1281
Trend	100	130	162	158
Total	2420	2310	3433	3551
Trend	100	95	142	147
Share of subject countries (%)	66	54	62	64
Trend	100	82	94	97

60. The above data shows that volume of imports from China PR in absolute terms has consistently increased from 551 Mt during 2005-06 to 1313 Mt during 2008-09 (POI). In case of Japan the import volume decreased substantially from 1057 Mt during 2005-06 to 564 Mt during 2006-07 and increased substantially thereafter to 992 Mt during 2007-08 and marginally decreased to 557 Mt during 2008-09. Share of subject countries in total imports has remained almost at the same level during POI in comparison to 2005-06 as well as 2007-08.

L.2. Demand, Output and Market shares

L.2.1. Growth in Demand

	Unit	2005-06	2006-07	2007-08	POI
Assessment of Demand					
➤ Imports from China	Mt	551	687	1123	1313
➤ Imports from Japan	Mt	1057	564	992	957
➤ Subject countries	Mt	1608	1251	2115	2270
➤ Imports from Other Countries	Mt	812	1059	1318	1281
Sales of Domestic Industry	Mt	-	-	909	1421
Assessed Demand	Mt	2420	2310	4342	4972

61. Though the commercial production of the domestic industry has been started during the year 2007-08, the demand has been analyzed for the year 2005-06 and 2006-07 also basing on the imports. The Authority notes that demand of the subject goods in the country has increased by more than 100% during POI in comparison to the year 2005-06 and by 15% during POI in comparison to immediate preceding year. It is further noted that demand in absolute terms has increased by 630 Mt during POI in comparison to the immediate preceding year and share of domestic industry has increased by 512 Mt during the same period.

L.2.2 Market share in Demand

Market Share in Demand	Unit	2007-08	2008-09
Imports from China	%	25.86	26.41
Imports from Japan	%	22.85	19.25
Import from subject countries	%	48.71	45.66
Imports from Other Countries	%	30.35	25.76
Domestic Industry	%	20.94	28.58
Other Producers	%	0	0

62. It is observed by the authority that the imports from China has increased marginally and imports from Japan has decreased marginally during POI viz-a-viz. preceding year. However, cumulatively the import share of subject countries and other countries have gone down during this period. On the contrary, share of the domestic industry has gone up during the POI vis-à-vis the preceding year. However, the Authority notes that the Domestic Industry has commenced commercial production only in the year 2007-08 and therefore some decline in the imports is obvious as a direct result of commencement of new production facility in the country. However, the applicant had anticipated/ projected (as per their project report) significantly

higher sales/ market share in the increasing demand as opposed to much lower levels achieved during the POI.

L.3. Capacity, production and capacity utilization of the Domestic Industry

	Unit	2007-08	2008-09
Capacity	MT	3,000	3,000
Production	MT	1,061	1,343
Capacity Utilization	%	35.37%	44.77%
Domestic Sales	MT	909	1,421
Demand	MT	4,342	4,972

63. The Authority notes that production, capacity utilization and sales of the domestic industry have increased both in absolute and relative term. However, the domestic industry operated at much lower level of capacity utilization as planned/ projected despite high demand in domestic market. The dumping has thus prevented the domestic industry to adequately utilize its capacity.

M. Price Effect of the Dumped imports on the Domestic Industry

64. With regard to the effect of dumped imports on prices as referred to in sub-rule (2) of rule 18, the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared to the price of like product in India or whether effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred to a significant degree.

65. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries.

M.1. Evaluation of price over period under consideration

	Unit	2007-08	2008-09
Cost of sales	Rs./Kg	***	***
Trend	Indexed	100	94
Selling Price (NSR)	Rs./Kg	***	***
Trend	Indexed	100	96

66. The Authority notes that cost of sales of the domestic industry has gone down by *** during POI in comparison to previous year. Similarly, the net selling price of the domestic industry has also decreased by *** during the corresponding period.

M.2. Price undercutting and underselling effects

	Unit	2007-08	2008-09
Net sales realization	Rs./Kg	***	***
Landed price			
Japan	Rs./Kg	***	***
China PR	Rs./Kg	***	***
Total subject countries	Rs./Kg	***	***
Price undercutting			
Japan	Rs./Kg	-	***
China PR	Rs./Kg	-	***
Total subject countries	Rs./Kg	-	***
Price undercutting (%)			
Japan	%	-	10-20
China PR	%	-	1 - 10
Total subject countries	%	-	5 - 15
Non Injurious Price	Rs./Kg	-	***
Price Underselling			
Japan	Rs./Kg	-	***
China PR	Rs./Kg	-	***
Total subject countries	Rs./Kg	-	***
Price Underselling (%)			
Japan	%	-	50 – 60
China PR	%	-	40 – 50
Total subject countries	%	-	45 - 55

67. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been deducted. Price undercutting has been determined by comparing the landed value of dumped imports from the subject countries over the entire period of investigation with the net sales realization of the domestic industry for the same period. Price undercutting has been determined individually for China PR and Japan and for subject countries as a whole. For this purpose landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty to the value reported in the IBIS data of import prices from the subject countries. The price undercutting from China PR and Japan has been determined as *** % and *** % respectively and cumulative price undercutting from subject countries has been determined as *** % during POI.

68. For the purpose of price underselling the landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. The price underselling from China PR and Japan has been determined as ***% and ***% respectively and cumulative price underselling from subject countries has been determined as ***% during POI.

69. Volume and Import price movement of the subject countries has been analyzed for the years 2005-06 onwards in the following table:

Volume of Imports	Unit	2005-06	2006-07	2007-08	POI
China	Mt	551	687	1123	1313
Japan	Mt	1056	564	991	957
Average import price					
China	Rs./Kg	***	***	***	***
Japan	Rs./Kg	***	***	***	***
Domestic net selling price	Rs./Kg	---	---	***	***

70. The Authority notes that export price from China PR was to the tune of Rs. ***per Kg during the year 2005-06 and reduced to Rs. ***per Kg during 2006-07 and further reduced to Rs. ***during the year 2007-08. Similarly, export prices from Japan was to the tune of Rs *** per Kg during the year 2005-06 and after marginal increase to Rs ***per kg during the year 2006-07, steeply decreased to Rs ***during the year 2007-08 and again marginally increased to Rs *** per Kg during POI. It is evident that both the subject countries steeply reduced the prices during the year 2007-08 in which the domestic industry started the commercial production. Despite such discouraging market behavior of the subject countries, as the domestic industry could realize prices higher than the import prices, both the subject countries increased their prices during the year POI, still causing injury to the domestic industry.

M.3 Price suppression and depression effects of the dumped imports:

71. Price suppression and depression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries. The price depression exists when the industry's prices are lower than the level of the previous period. Price suppression occurs when dumping prevents price increase that would otherwise take place due to increase in cost.

Particular	Unit	2007-08	POI
Cost of Sales	Rs./Kg	***	***
Trend	Index	100	94
Selling Price	Rs./Kg.	***	***
Trend	Index	100	96
Landed Price	Rs./Kg.		
Japan	Rs./Kg.	***	***
China PR	Rs./Kg.	***	***
Subject Countries	Rs./Kg.	***	***
Trend	Index	100	117

72. From the above table it is evident that price depression is there as domestic industry's selling price during POI is lower than the price during the preceding year. The Authority notes that cost of sales is much greater than selling price of domestic industry. Despite the second year of its operations, the prices of domestic industry remained significantly depressed at the level significantly below its cost of production due to dumped imports. Although the Cost of sales of the domestic industry has gone down during POI in comparison to preceding year, but the same continuous to be much higher than the selling price of the domestic industry and due to cheaper import domestic industry could not realize even up to the level of cost of sales. From the above table the Authority notes that the domestic industry on the one hand is not able to realize at least its cost of sales and on the other hand is not able to compete with the exporters of the subject countries due to dumped imports.

N. Examination of other Injury Parameters

73. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

N.1. Profits and actual and potential price effects on the cash flow

	Unit	2007-08	2008-09
Cost of sales	Rs./Kg	***	***
Trend	Indexed	100	94
Selling Price (NSR)	Rs./Kg	***	***
Trend	Indexed	100	96
Profit/Loss	Rs./Kg	***	***
Trend	Indexed	-100	-91
Profit/Loss before Tax	Rs.Lacs	***	***
Trend	Indexed	-100	-142
PBIT	Rs.Lacs	***	***
Trend	Indexed	-100	-150
Cash Profit	Rs.Lacs	***	***
Trend	Indexed	-100	-183

74. The data indicate that cost of sales of the domestic industry decreased by ***% during POI as compared previous year against which the selling price decreased by ***% during POI. Though, the loss per unit has come down during POI in comparison to previous year but domestic Industry continuous to incur huge losses in the POI.

N.2. Return on investment and ability to raise capital

	Unit	2007-08	2008-09
PBIT	Rs.Lacs	***	***
Trend	Indexed	-100	-150
Net Fixed Assets	Rs.Lacs	***	***
Trend	Indexed	100	96
Working Capital	Rs.Lacs	***	***
Trend	Indexed	100	62
Capital Employed	Rs.Lacs	***	***
Trend	Indexed	100	92
Return on Capital Employed (NFA basis)	%	***	***
Trend	Indexed	-100	-162

75. The Authority notes that the return on the capital employed for domestic sales of the domestic industry has declined significantly during the POI as compared to the preceding year and during the POI as well as the preceding year the domestic industry had a negative return from the subject goods.

N.3 Productivity

	Unit	2007-08	2008-09
Production	Mt	1,061	1,343
Trend	Index	100	127
No. of Employees	Nos.	24	27
Productivity per employee	MT/No.	44.20	49.75
Trend	Indexed	100	113

76. The data on production per employee shows that productivity per employee has increased by 13% in POI as compared previous year.

N.4 Employment and wages

	Unit	2007-08	2008-09
Employment (Manpower strength)	Nos.	24	27
Trend	Indexed	100	113
Wages	Rs.Lacs	***	***
Trend	Indexed	100	111

77. The employment level and wages do not show significant change. This may be attributable to the fact that the domestic industry has commenced its production of the subject goods during 2007-08 only. Despite incurring huge losses, the domestic industry could increase the wages by ***% during POI.

N.5 Inventories

Inventories	Unit	2007-08	2008-09
Average	Mt	255	164
Trend	Indexed	100	64

78. The Authority notes that the average inventory of domestic industry has reduced from 255 Mt during the year 2007-08 to 164 Mt during POI. The average inventory in indexed form has reduced from 100 during the year 2007-08 to 64 during the POI.

N.6. Growth

79. The Authority notes that the domestic industry has shown positive growth in terms of increase in production and domestic sales, increase in capacity utilization, increase in productivity, reduction in loss per unit and decrease in closing inventory. However, despite such positive growth indicators, the domestic industry continuous to incur huge losses due to low selling price.

N.7. Ability to raise fresh Investment

80. The authority notes that the domestic industry had not changed the capacity of subject goods and there has been no fresh investment by the domestic industry during the period of investigation as the petitioner has recently commenced commercial production.

N.8 Magnitude of Dumping

81. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries, for the POI, are significant.

N.9. Factors affecting prices

82. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred to a significant degree. In order to assess the effect of imports on the domestic market, the Designated Authority analyzed import prices over the injury period. It was found that the landed value per KG in POI was lower than both the net selling price and non-injurious price of R-134a in respect of both the subject countries. Change in cost structure if any, due to competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors that might be affecting the prices in the domestic market. The cost of production has decreased by ***% during POI whereas the net selling prices decreased by***% during the same period. However, the Authority notes that despite the second year of its operations, the prices of

domestic industry remained significantly depressed at the level significantly below its cost of production. The Authority notes that Landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The price undercutting during POI was in the range of 5-15 % and underselling was in the range of 45-55% during POI.

O. Conclusion on injury

83. The above preliminary analysis of the factors indicates that inspite of the improvement in production and sales in absolute terms, increase in capacity utilization, increase in productivity, reduction in loss per unit, increase in market share, the domestic industry suffered huge losses due to decrease in selling price as against much high cost of sales and dumped imports from the subject countries.

84. Imports from subject countries are maintaining their significant presence and these had significant price effect resulting in price depression, price undercutting and price underselling.

85. On the basis of above analysis, the Authority provisionally concludes that the domestic industry has suffered material injury.

P. Causal Link & Other factors

86. Having examined the existence of material injury and volume and price effect of dumped imports on the prices of the domestic industry, in terms of its price undercutting, price underselling and price suppression and price depression effects, other indicative parameters listed under the Indian Rules and Agreements on anti dumping, have been examined to see whether there are any other factor, other than the dumped imports, that could have contributed to injury to the domestic industry. The following parameters have been examined in this regard.

P.1 Volume and prices of imports from other sources

87. The Authority notes that although there have been imports from other countries as well, but they are at much higher prices as compared to the imports from subject countries.

Rs./kg.	2007-08	2008-09
Import price		
China	***	***
Japan	***	***
Third countries	***	***
Difference	83.38%	57.88%

P.2 Contraction in demand and / or change in pattern of consumption

88. The Authority notes that the demand of the product under consideration has not registered any negative growth. In fact, demand shows significant positive growth. Thus, contraction in demand is not a possible reason that could have contributed to injury to the domestic industry. Also, the pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.

P.3 Trade restrictive practices of and competition between the foreign and domestic producers

89. The Authority notes that there is a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods produced by domestic industry. The Authority also notes that the imported product is sold to meet the similar commercial grades and specifications as domestically produced subject goods and that the imported subject goods and domestically produced goods are like articles and are used for similar applications/ end uses.

90. The Authority notes that there is no restricted practice prevalent in the industry, which could be attributed to the injury to the domestic industry.

P.4 Development of technology

91. On the basis of examination of the records of the petitioner, the Authority provisionally holds that development in technology has not been a relevant factor for the injury to the domestic industry. Further, domestic industry as well as the exporters from China PR are following the same process of production and there is no response from Japan.

P.5 Export performance

92. The Authority notes that the petitioner also exports a part of their production, and there has been increase in exports from 4 Mt during the year 2007-08 to 87 Mt during POI. But, the quantity that is exported constitutes a meager amount i.e.; just 6.4 %of the total production of the domestic industry in the POI. Hence, the Authority provisionally holds that material injury suffered by the domestic industry may not be as a result of the export performance of the domestic industry.

P.6. Productivity of the Domestic Industry

93. Productivity of the domestic industry in terms of production per employee has shown improvement.

94. No other factor, which could have possibly caused injury to the domestic industry, has been brought to the knowledge of the Authority.

Q. Conclusion On Causation

95. The causal link between the dumped imports and the injury to the domestic industry is established on the following grounds:

96. The volume of dumped imports from China PR has increased and in case of Japan the

same has marginally reduced. However, there is positive price undercutting and significant price underselling from both the subject countries.

97. Market share of imports from the subject countries remained at a very significant level. Price- undercutting and significant presence of the volume of dumped imports adversely affected the performance of the domestic industry in terms of profit before interest and tax, cash flow, and return on investment.
98. The Authority has therefore, provisionally concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti-dumping Rules and article 3.5 of Agreement of Anti- dumping.

M. Magnitude of Injury Margin

99. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The landed price of the exports from the subject countries and the injury margins have been worked out as follows:

L.1. Injury margin Calculations

Producer	Exporter	Injury Margin (USD)	Injury Margin (%)
China PR			
Sinochem Environmental Protection Chemicals (Taicang) Co Ltd.	Sinochem Environmental Protection Chemicals (Taicang) Co Ltd	***	40-50
Sinochem Environmental Protection Chemicals (Taicang) Co Ltd.	Du-Pont Trading (Shanghai) Co. Ltd.	***	45-55
Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd.	Sinochem Modern Environmental Protection Chemicals (Xi'an) Co. Ltd.	***	30-40
Any	Any	***	45-55
Japan			
Any	Any	***	50-60

N. Conclusions

100. The Authority has, after considering the foregoing, come to the conclusion that:
- a. The subject goods have been exported to India from the subject countries

below its normal value;

- b. The domestic industry has suffered material injury;
- c. The injury has been caused by the dumped imports from subject countries.

O. Indian industry's interest & other issues

101. The Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.
102. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

P. Recommendations

103. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping and injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.
104. Therefore, Authority considers it necessary to recommend provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.
105. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods, originating in or exported from the subject countries:

Duty Table

Sl. No	Sub Heading Of Tariff item	Description of Goods	Country Of Origin	Country Of Export	Producer	Exporter	Duty Amount	Unit of Measurement	Currency
1	2	3.	4.	5	6.	7.	8	9	10.
1	29033919	1,1,1,2-Tetrafluoroethane or R-134a	China PR	China PR	Sinochem Environmental Protection (Taicang) Co. Ltd.	Sinochem Environmental Protection (Taicang) Co. Ltd.	1.04	Kg	USD
2	- Do -	- Do -	China PR	China PR	Sinochem Environmental Protection (Taicang) Co. Ltd	Du-Pont Trading (Shanghai) Co. Ltd.	1.19	Kg	USD
3	- Do -	- Do -	China PR	China PR	Sinochem Environmental Protection Chemicals (Xian) Co. Ltd.	Sinochem Environmental Protection Chemicals (Xian) Co. Ltd	0.99	Kg	USD
4	- Do -	- Do -	China PR	China PR	Any Combination of producer and exporter other than Sl. No. 1 to 3		1.41	Kg	USD
5	- Do -	- Do -	China PR	Any country other than China PR	Any	Any	1.41	Kg	USD
6	- Do -	- Do -	Any country other than China PR	China PR	Any	Any	1.41	Kg	USD
7	- Do -	1,1,1,2-Tetrafluoroethane or R-134 a	Japan	Japan	Any	Any	1.63	Kg	USD
8	- Do -	- Do -	Japan	Any	Any	Any	1.63	Kg	USD
9	- Do -	- Do -	Any	Japan	Any	Any	1.63	Kg	USD

Q. Further Procedures

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

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would hold oral hearing to hear views of various interested parties orally.
- (e) The Authority would disclose essential facts before announcing final findings.

P.K.Chaudhery
The Designated Authority