

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES**

NOTIFICATION

**NEW DELHI
Dated the 25th July, 2011**

FINAL FINDINGS

Sub:- Final Findings of Sunset Review of anti dumping duty imposed on imports of Polytetraflouroethylene (PTFE) originating in or exported from China PR.

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15/8/2010-DGAD – Having regard to Customs Tariff Act, 1975 as amended from time to time (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 thereof, as amended from time to time (hereinafter referred to as the AD rules).

A Background of the Case

1. The Authority, having regard to the Customs Tariff Act, 1975, as amended from time to time (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, as amended from time to time, (hereinafter referred to as the AD Rules); recommended imposition of Anti Dumping duty on the imports of Polytetraflouroethylene (hereinafter also referred to as PTFE or the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country) falling under Sub-heading 39046100. The final findings notification of the Authority was published vide notification No 14/25/2003-DGAD dated 25.07.2005. On the basis of the findings, definitive anti dumping duties on the subject goods imported from the subject country were imposed by the Central Government vide notification No. 91/2005 - Customs dated 17.10.2005. Subsequently the Authority conducted a midterm review of the said definitive anti dumping duty and modified the duty vide notification no 15/33/2008-DGAD dated 26th February 2010 and such modified duty was imposed by the Central Government Vide Custom notification No. 42/2010 dated 5th April 2010. The petition in the original case was filed by M/s Hindustan Fluorocarbons Ltd and Midterm Review petition was filed by M/s Gujarat Fluorochemicals Limited and M/s Hindustan Fluorocarbons Ltd, as Domestic Industry.

B. Procedure

2. The following procedure has been followed in the present investigation:

- a. Under Section 9A(5) of the Customs Tariff (Amendment) Act 1995 the antidumping duties imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition of duty and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In this regard, Hon'ble Delhi High Court in WP No 16893 of 2006 held that sunset review is mandatory. Therefore, pursuant to the above orders of the Hon'ble High Court, the Designated Authority, vide notification No.15/8/2010-DGAD dated 26.7.2010, initiated *suo-motu* sunset review in accordance with section 9A(5) of the Act read with Rule 23 of Antidumping Rules to examine whether cessation of the duty would lead to continuation or recurrence of dumping and injury.
- b. In response to initiation, the Authority received a duly substantiated application from M/s. Gujarat Fluorochemicals Ltd. and M/s. Hindustan Fluorocarbons Limited for Sunset Review, requesting for review, enhancement and continuation of the duty. The petitioner submitted prima facie evidence in this regard, requesting for review, continuation and enhancement of the anti dumping duty in force.
- c. The scope of the present review covers all aspects of the previous notifications.
- d. The Embassy of the subject country in New Delhi was informed about the initiation of the investigation in accordance with Rule 6(2).
- e. The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassy of subject country in accordance with Rules 6(3) supra. A copy of the non-confidential application was also provided to other interested parties, wherever requested.
- f. The Authority forwarded a copy of the public notice to the known exporters (whose names and addresses were made available to the Authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4).
 - i) DuPont (Changshu) Fluro Technology Company Limited
Changshu City, Jiangsu Province, China,
 - ii) M/s. Zhengxin Fluorocarbons
Jiangsu, China,

- iii) Shandong Dongyue Chemical Co., Ltd
Shandong, China
- iv) Changzhou Xiangtong Chemical Co.,Ltd, China
- v) Taizhou Meilan Resin Process Co. Ltd
Jiangsu,China , Taizhou , Jiangsu, China,
- vi) ShanDong DongYue Polymer Material Co., Ltd
ZiBo City, Shandong, China

g. Response to exporter's questionnaire was received from the following producer/exporter of the subject goods from the subject country:

M/s DuPont (Changshu) Fluoro Technology Co. Ltd, China
PR ,

h. The Authority forwarded a copy of the public notice to all the following known importers (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4).

- i. Goenka & Sons, Mumbai
- ii. Pragati International, New Delhi
- iii. Venus Industries, New Delhi
- iv. Mechanical Packing Industries, Mumbai
- v. Mach Polymers, Pune
- vi. Tee Coating Industries, Ahemdabad
- vii. Pragati Plastic Pvt. Ltd, New Delhi
- viii. Automate Industries, Ahemdabad
- ix. Dip Flon Engineering Co., Ahemdabad
- x. Plastic Product Engineering Co,Ahemdabad
- xi. Corrosion Engineers, Ahemdabad.
- xii. Sanghvi Products,
- xiii. Meerut PTFE Products Pvt. Ltd.
- xiv. Tonk & Associates (P) Ltd.,
- xv. Trestar Elektroniks,
- xvi. E.I. Dupont India (P) Ltd.,
- xvii. T& F Insulations (P) Ltd.

The following importers responded to the notice of initiation.

- i. Trestar Elektroniks,
 - ii. Ghaziabad Flopol Insulations Pvt. Ltd.
 - iii. Meerut PTFE Products Pvt. Ltd.
 - iv. Tefkot Cable Co.
 - v. T& F Insulations (P) Ltd.
 - vi. Tonk & Associates (P) Ltd.,
 - vii. E.I. Dupont India (P) Ltd. – the company has however not filed response to importer's questionnaire in the form and manner prescribed.
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- i. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
 - j. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
 - k. A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters and embassy of China PR with a request to provide relevant information to the Authority within the prescribed time.
 - l. Information was sought from the applicants to determine non-injurious price based on the cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
 - m. Verification of petitioner's information, to the extent considered appropriate, was carried out.
 - n. The Authority held a public hearing on 04.05.2011 to hear the interested parties orally. The interested parties present at the time of hearing were advised to file written submissions of the views expressed orally and were also given an opportunity to file rejoinder to the views expressed by other interested parties. The written submissions and rejoinders received from interested parties have been, to the extent relevant, examined/addressed in these findings.
 - o. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed to known interested parties and comments received on the same, to the extent relevant and appropriate, have been duly addressed/examined in these findings.

- p. Investigation has been carried out for the period starting from April 1, 2009 to March 31, 2010 (also referred to as the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 2006-2007, 2007-2008, 2008-2009 & the POI.
- q. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- r. The exchange rate for the POI has been taken as Rs.48.30=1 US\$

C. Product under consideration and like article

- 3. The Authority notes that in the Mid Term Review Investigation concerning the subject goods, the following was held to be the product under consideration vide MTR Final Findings dated 26.2.2010.
 - i. The product under consideration in the present case is "Polytetrafluoroethylene (also referred to as PTFE) originating in or exported from China PR. PTFE is produced in various grades, such as molding grade, fine powder, aqueous dispersions and compound grades of filled grades.
 - ii. PTFE is primarily used in electrical, electronic, mechanical and chemical industries for their unique characteristics which are chemical inertness, electrical and thermal insulation, low coefficient of friction, non toxic, non flammable, resistance to radiation, low level of static and dynamic friction and outstanding electrical properties over a wide frequency range.
 - iii. Polytetrafluoroethylene (PTFE) is classified under subheading no 390461 under Customs tariff Act and at subheading no. 39046100. Customs classifications are indicative only and, in no way, binding on the scope of the investigation.

Views of the Domestic Industry

- 4. The domestic industry has submitted as follows –
 - a. The present investigation being the Sunset Review, the scope of the product under consideration must remain same as that in the original investigation.
 - b. No substantial processing is required to convert TFE into Polytetrafluoroethylene.
 - c. TFE is not a raw material but an inter-mediate stage before finally producing Polytetrafluoroethylene.

Views of other interested parties:

5. The exporter and importers/consumers have submitted as follows
 - a. It has been argued by M/s DuPont (Changshu) Fluoro Technology Co. Ltd, that the scope of the product under consideration is too broad as the notice of initiation includes all the grades of PTFE whereas the applicant M/s Gujarat Fluoro Chemicals limited produces only one grade of PTFE, i.e., Granular Resin.
 - b. It has also been argued that the grades which are not manufactured by the domestic industry should be excluded from the purview of the product under consideration.
 - c. TFE is a raw material for Polytetrafluoroethylene.
 - d. No substantial processing is required to convert TFE into Polytetrafluoroethylene is wrong.
 - e. Scope of product to be reviewed and curtailed only to granular grade of Polytetrafluoroethylene:

Examination by the Authority

6. The Authority notes that the present investigation is a Sunset Review of anti dumping duties imposed on imports of PTFE on the basis of recommendation earlier made by the Authority. Hindustan Fluorocarbons Limited comprised domestic industry in the original investigation, while Gujarat Fluorochemicals Ltd. and Hindustan Fluorocarbons Limited constituted domestic industry in the midterm review investigation. In response to notice of initiation of present proceedings, Gujarat Fluorochemicals Ltd. and Hindustan Fluorocarbons Limited have responded as domestic industry and have provided the relevant information. The Authority has examined the contentions of various interested parties regarding the scope of the product under consideration, including arguments that some of the grades pertaining to product under consideration being imported from the subject country are not being manufactured in India or there is no domestic like product or the product range is too broad. After due examination and considering the final findings notified by the Authority in the original investigation as also in the midterm review investigation, it is noted that a particular grade of the product under consideration cannot be excluded so long as the like article is being produced by the domestic industry. In the present investigation, the domestic industry comprises of Gujarat Fluorochemicals Ltd. and Hindustan Fluorocarbons Limited. Hindustan Fluorocarbons Limited constituted the domestic industry at the time of original investigation. It was established in the original investigation that the domestic industry produced and supplied like article to the product under consideration.
7. Since both Gujarat Fluorochemicals Ltd. and M/s Hindustan Fluorocarbons Limited have cooperated with the Authority in the present investigation and have provided all relevant information, the scope of product under consideration and like articles is required to be decided based on the goods produced and supplied by these two companies. After examining the submissions and verification of domestic industry, it is noted that the

domestic industry manufactures the product under consideration in all its grades as defined in this final findings.

8. The Authority, therefore, holds that for the purpose of this Sunset Review, the scope of the product under consideration remains the same as that in the Final Findings of the original and mid- term review investigation.

D. Domestic Industry and Standing

Views of Exporters

9. It has been contended that the scope of Domestic Industry cannot be changed in Sunset Review.

Examination by the Authority

10. The Authority notes that in response to the notice of initiation, application seeking extension of anti dumping duties has been jointly filed by Gujarat Fluorochemicals Ltd., Noida and Hindustan Fluorocarbons Limited, Hyderabad, who have provided the requisite information for the present proceedings. In the original investigation, Hindustan Fluorocarbons Limited had filed the petition before the Designated Authority.
11. Gujarat Fluorochemicals Ltd., had set up a new plant for production of PTFE with an installed capacity of 5500 MT, which commenced commercial production in December 2007. The Authority notes that production by Gujarat Fluorochemicals Ltd., and Hindustan Fluorocarbons Limited accounts for 100% of the production of the subject goods in India.
12. The Authority has examined the scope of Domestic Industry and issues raised in relation thereto. Authority holds that scope of the domestic industry is required to be determined in each investigation. The Authority notes that in the original investigation there was only one company as Domestic Industry. Scope of Domestic Industry changed in Midterm review investigation. In the present investigation, two domestic producers namely, Hindustan Fluorocarbons Limited and Gujarat Fluorochemicals Ltd., comprise the domestic industry. Authority has considered Hindustan Fluorocarbons Limited and Gujarat Fluorochemicals Ltd. as Domestic Industry in the current Sunset review investigation.

Confidentiality

13. The Authority examined the confidentiality claims of the interested parties. Considering the legal provisions and on being satisfied with regard to claim on confidentiality, the same has been allowed.

Submissions and issues raised

14. The Authority notes that the following producer/exporter has filed questionnaire response –

DuPont (Changshu) Fluoro Technology Co. Ltd, China PR

15. Further, importers/users namely, Meerut PTFE Products Pvt. Ltd. Tonk & Associates (P) Ltd., Ghaziabad, Flopol Insulations Pvt Ltd., Tefkot Cable Co., Trestar Elektroniks, T& F Insulations Pvt. Ltd., E.I. Dupont India (P) Ltd., have also responded. However, E.I.Du-Pont India have not submitted importer's questionnaire response.
16. Views expressed by the interested parties have been appropriately examined in these findings.

E. Determination of Dumping Margin

Market economy claims

17. The Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise producers/exporters in their country to provide information.
18. 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 establish to the contrary. The cooperating exporter/ producer of the subject goods from 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:-
 - i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, 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;
 - ii. 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;
 - iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - iv. The exchange rate conversions are carried out at the market rate.

Submission by the domestic industry

19. Domestic industry has submitted the following with regard to determination of dumping margin:

- i. Dupont has resorted to significant dumping in the Indian market. Dupont appears to have started production in some new form sometimes during the period of investigation.
- ii. Dupont is engaged in production along with Shanghai 3F, which is a State owned/controlled company, making financial losses for quite some times.
- iii. The import price from China is unreliable. On comparing Indian data with that of China it can be seen that even when import volumes are almost in similar region, the values are significantly different. Even when it is appreciated that one of the values is FOB and the other is CIF, the difference in the two is much higher than this.
- iv. For the calculation of Normal Value, India should be considered as the surrogate country.
- v. Comparison of normal value with export price would show that the dumping margin in the present case is materially higher than the dumping margin earlier established, thus making the need to enhance the Anti-Dumping Duty essential.
- vi. No individual duty may be given to Du Pont (Changshu).

Submission by M/s Du Pont (Changshu)

- i. DuPont (Changshu) has not filed response to MET questionnaire nor has claimed market economy status. Infact, the Company is ready to offer price undertaking to the Authority as it is not engaged in any kind of dumping practice.
- ii. Export price from Chinese customs data and import volume from DGCI&S is not proper.
- iii. Du-Pont should be given an Individual duty rate as done in Midterm Review.
- iv. Du-Pont (Changshu) should be given an Individual duty rate as done in Midterm Review.
- v. Non furnishing costing information does not render Du-Pont (Changshu) as non co-operative as the company is not claiming MET
- vi. India cannot be taken as surrogate country

Examination by Authority

20. The Authority notes that Du-Pont (Changshu) has not claimed market economy treatment. No other Chinese exporter/producer has submitted exporters' questionnaire response or MET response. The domestic

industry claimed that the Chinese producers should be considered as operating in non market economy environment. In the absence of cooperation in this regard from the Chinese producers/exporters, the Authority grants non-market economy status to all producers/exporters of China PR. As regards Du Pont (Changshu)'s price undertaking offer, the Authority notes that the said company has neither submitted MET questionnaire response nor claimed MET status. Consequently the requisite production data for determination of their normal value and dumping margin are not on record. In the circumstances there are likely to be practical difficulties in effectively monitoring the price undertaking. Hence, considering the facts and circumstances of the case Du Pont (Changshu)'s offer of price undertaking is not being accepted.

E.1 Normal Value for China PR

21. As none of the producers/exporters from China PR has submitted MET questionnaire response, the Authority is unable to grant market economy status either to DuPont or to Chinese producers in general for the purpose of proposed determination. Therefore, the Authority has determined normal value on the basis of Para-7 to Annexure-I to the Rules. Para 7 of Annexure I of the Anti-dumping Rules provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis if 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.”

22. In accordance with the para 7 of the Annexure 1 of the Anti dumping rules as mentioned above, normal value is required to be determined on the basis of costs or prices in market economy third country. It is noted in this regard that domestic industry has not provided any information with regard to cost or price of the product under consideration in a market economy third country. Domestic industry has provided information with regard to the countries where the product under consideration is produced and stated that DuPont has production facilities at a number of places outside China and thus was in a position to provide information with regard to

normal value based on cost of production or price in market economy third country. Authority further notes that DuPont (Changshu) has neither claimed market economy status nor provided any information with regard to cost or price of the product under consideration in market economy third country. At the time of midterm review investigation, the Authority had determined normal value on “any other reasonable basis”. In the circumstances, the Authority has determined normal value for all producers/exporters of China PR on the basis of constructed cost of production. The normal value has been constructed based on best available information by taking into account international price of the major inputs and consumption norms, conversion cost duly adjusted for optimum capacity utilization and SGA expenses of efficient domestic producer and a reasonable profit margin of 5%. The normal value so constructed works out to US\$ ***/kg.

E.2 Export Price in case of M/s DuPont

23. Export price is determined on the basis of information provided by Du-Pont (Changshu), considering weighted average price of the goods exported during the POI. The Authority has allowed price adjustments, as claimed by the exporter, on account of inland freight, ocean freight, marine insurance, port expenses, non-refundable portion of VAT and bank charges. The net export price in respect of Du-Pont (Changshu), as determined after the said adjustments, is US \$ ***/ Kg.

E.3 Export Price for Other Exporters from China PR:

24. The Authority notes that no other producer/exporter from China has submitted questionnaire response giving details of export price. Therefore, the Authority has determined the export price for residual producers/exporters of China PR on the basis of the representative lower price of DuPont’s (Changshu) export prices to India during the POI as reported in the Questionnaire response. The Authority has made adjustments on account of inland freight, ocean freight, marine insurance, port expenses, non-refundable portion of VAT and bank charges as claimed by DuPont (Changshu). Thus, net export price is determined as US\$ ***/Kg for all other exporters of China PR.

E.4 Dumping Margins

25. Comparing the normal values and export prices at ex-factory level as determined above, the dumping margin for the producers/exporters of subject country is worked out as under:-

Particulars	US\$/kg	
	DuPont (Changshu)	Any other Chinese producer/ exporter
Normal value	***	***

Net Export price	***	***
Dumping Margin \$	***	***
Dumping margin % range	40-50	80-90

F. INJURY DETERMINATION

Views of Domestic Industry

26. The Domestic Industry has submitted that subject goods from China have caused injury to the Domestic Industry as evident from the following:

- i. Demand has increased over the injury period.
- ii. Imports have increased inspite of Anti Dumping Duty being in force.
- iii. The share of Domestic Industry has not increased to the extent it should have given fresh capacities set up in the Country.
- iv. Domestic Industry is not able to utilize its capacity despite significant demand of the subject goods in the market.
- v. Inspite of duty being in force, the imports from China PR are high and significant. The share in demand has remained on the higher level throughout the injury period. Due to this, Domestic Industry is unable to increase its market share to the extent which it could have in absence of imports form the subject country.
- vi. Domestic Industry is suffering in terms of profits, cash profit and return on investment. The profitability of Domestic Industry over the injury period has deteriorated and continues to be negative.
- vii. Production, domestic sales, market share, productivity of the Domestic Industry has improved over the injury period. However, the domestic industry could have produced much higher, sold much higher and could have achieved much higher level of market share in the absence of dumping of the product in the Country.
- viii. Inventory level has increased significantly over the injury period.

Views of Exporter, Importers & Users

27. Following arguments have been advanced by the various exporters, importers and users

- i. The domestic industry has not suffered continued material injury.
- ii. Injury to Domestic Industry is due to excess capacity, inter alia competition between the domestic producers, higher cost of production.
- iii. Capacity, capacity utilization, sales volume, selling price, profitability shows positive growth.
- iv. Domestic Industry is selling the goods below reference price and no reasonable explanation provided.

- v. Transfer pricing of R-22 cannot be taken for determining cost of Polytetrafluoroethylene and same can be higher or lower than the cost.
- vi. Plant and machinery not utilized during Period of Investigation must be excluded from capital employed for determination of injury and NIP.
- vii. No evidence submitted by Domestic Industry with regard to likelihood of continuance of injury.

Post-disclosure comments of the interested parties:-

28. The following post-disclosure submissions have been made by various interested parties:-

- a. There is no requirement that the company proposing to give a price undertaking should also submit a MET Questionnaire response and rejection of price undertaking proposal because of this reason is totally frivolous.
- b. The authority has neither granted any hearing on the issue of price undertaking to arrive at the modalities of price undertaking nor given any opportunity to the exporter to explain its case for acceptance of its offer of price undertaking.
- c. The acceptance or rejection of price undertaking is an important step in an anti-dumping investigation and due procedure such as hearing deliberations needs to be followed before arriving at any decision in this respect.
- d.** The consideration of the price undertaking under Rule 15 of AD Rules, 1995 is a most crucial exercise to be undertaken by the Designated Authority and a validly given undertaking cannot be brushed aside casually.
- e. In the present case, the price undertaking proposal has been rejected without any cogent reasons and therefore, the authority is requested to reconsider its decision.
- f. In case of antidumping investigation concerning import of Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR, the authority has accepted the price undertaking offered by the exporter, even though market economy status was not granted to the concerned exporter.
- g. The fall in share of Chinese imports coupled with increase in share of domestic producers by more than 294 percent clearly establishes the fact there is no volume effect of dumping. The disclosure statement does not address the issue of volume and price effects of the imports on the domestic industry. In the

absence of adverse volume and price effect, it is submitted that the investigation may kindly be terminated with immediate effect.

- h. It is further submitted that GFL's annual report of 2009-10 reveals improving production, captive consumption and sales levels in the past two years. The report also suggests that the key threats to the business are availability and cost of energy (being one of the key inputs) and the company's ability to meet the stringent quality standards of the export markets.
- i. The losses reported by the domestic industry must be viewed against the backdrop of increase in cost of inputs and the increase in imports from Russia and other countries.
- j. For a market size of around 2,500 MT per annum, there was no requirement to set up a plant with a capacity of 6,000 MT. This surplus capacity has resulted in substantially increasing the per unit cost of production.
- k. None of the foreign producers have fully cooperated with the Designated Authority. The questionnaire responses being deficient, the Designated Authority is fully justified in proceeding with best available information.
- l. It is noted that authority has accepted the export price claimed by DuPont. Petitioners believe that the authority had accepted the export price in the previous Midterm Review as well. The petitioners, however, wish to point out that the resale price of DuPont has been quite lower than the price that can be constructed if DGCI&S prices are adopted. The price claimed by the exporter may be compared with the China customs price before the same is accepted. This is all the more relevant and necessary for the reason that the DGCI&S price is unreliable.
- m. Even when the volume reported in DGCI&S and China Customs are comparable, there is significant price difference between DGCI&S and China Customs prices. While it is appreciated that the DGCI&S reports CIF price and China Customs reports the FOB price and there can be some difference in the volumes on account of dispatch and arrival date difference; yet the price difference between DGCI&S and China Customs is far beyond what can be accounted by the sea freight, etc.
- m) Petitioner submits that the anti dumping duty may be imposed only on fixed amount basis. Following are relevant in this regard

- i. The previous Anti Dumping Duty imposed on the subject goods were recommended in the form of fixed duty.
- ii. There have been no arguments or even any representation by any other interested parties to change the form of Anti Dumping Duty.
- iii. One of the basic purpose of seeking midterm review was to get the duty form changed, as the imports were being reported at a price which was much higher than real import price (as reflected in China customs data).
- n) The injury to domestic industry was due to other factors such as higher cost of production, old technology, lower capacity utilization and lower exports vis-à-vis plant capacity.
- o) GFL is unable to produce grades other than granular grades of PTFE. Hence anti-dumping duty should not continue on such grades which GFL is unable to produce.
- p) The disclosure statement is based on wrong import data in as much as the same has not been properly filtered.
- q) Issue whether PTPTFE is a part of PUC or not has not been dealt in the disclosure statement. Raw material and value added finished products cannot be treated as like products and put in a same basket for injury analysis. PTFE and PTPTFE are distinct products
- r) Anti dumping duty, if any, may be imposed on the reference price basis as the prices of the PTFE has been increased phenomenally in the recent past.
- s) Transfer price of R-22 should be arm's length price.
- t) As regards freely disposable production capacities of subject countries, it is submitted that instant investigation and midterm review investigation are separate investigation; therefore, acceptance of evidence in the midterm review cannot be relied upon in the present case.
- u) Income from carbon credits should be adjusted in the cost of R-22.
- v) The claim of DI that it has not been selling to domestic market due to alleged dumping is not factually correct in the light of the news item which states that M/s GFL has set up its plant mainly for export purposes.
- w) Export price of China PR to India and third countries are significantly higher than the domestic selling price resulting in negative price undercutting. Therefore, the argument of price attractiveness is self defeating. Therefore, there is no likely injury to DI in the event of revocation of duty.
- x) The comparison of weighted average export price of China PR to various countries of the world, would give distorted picture as there is significant difference in the prices of PTFE grades.

Examination by the Authority

29. The Authority has examined the views of the interested parties with regard to injury to the domestic industry. It is noted that:

- i. With regard to alleged excessive capacities, the Authority notes that the imports at dumped prices are being reported despite alleged excessive capacities. The Authority further notes that it is unable to cater to the demand in the Indian market due to persistent dumping of the product.
- ii. With regard to Domestic Industry selling the goods below reference price and no reasonable explanation provided, the authority notes that the export price reported in China customs is much lower than the price reported in Indian customs. Further, the goods are being imported by related parties as well and therefore the resale price of such goods becomes important. The Chinese exporters have also not established that the goods are indeed being exported at prices higher than the price at which the goods are being sold by the domestic industry.
- iii. With regard to the issue of transfer pricing of R-22, Authority has considered the price of R-22 on the basis of GAAP and based on records maintained by the companies.
- iv. With regard to the issue that the plant and machinery not utilized during Period of Investigation must be excluded from capital employed for determination of injury and NIP, Authority has verified the data and adopted the same on the basis of financial records maintained by the company, which are consistent with generally accepted accounting principles. Further, the Authority has determined the non injurious price of the domestic industry on the basis of Annexure-III to the Rules.
- v. With regard to non-acceptance of price undertaking of Du-pont (Changshu), the Authority notes that:
 - a) Rule 15 of AD Rules confers a discretion on the Designated Authority to accept or not accept the price undertaking offer by an exporter, if it considers that the acceptance of such undertaking is impractical or un acceptable for any other reason. In the present investigation the exporter in their exporter questionnaire response have not submitted the information relating to normal value and cost of production which are critically required for effective monitoring of price undertaking, particularly when the designated Authority, in case of violation of price undertaking, is mandated under Rule 15 to inform the Central Government on such violation and recommend imposition of provisional duty from the date of such violation.
 - b) In any case, the Authority notes that the present case is in the nature of a sunset review governed under Rule 23. In

- terms of Rule 23 of AD Rules, provisions of Rule 15 are not applicable in the case of a review.
- vi) Volume and price effect of dumped imports have duly been examined in the disclosure statement in para 33 to 38 and in the present findings as well.
 - vii) The Authority notes that there are substantial imports from three other countries during POI namely Russia, USA and Netherland, as per DGCI&S data. However, the import price from USA and Netherland is much higher than the same from China PR. Imports from Russia is already attracting anti dumping duty.
 - viii) The Authority is of the view that creation of new capacity is not solely based on the present market size but also, inter-alia, on future projections. Further, the Authority has duly adjusted the capacity factor in the construction of normal value and, thus, in the determination of dumping margin.
 - ix) The issue of DGCI&S data vis-à-vis. China Customs data has duly been examined in the present findings.
 - x) With regard to higher cost of production because of lower capacity utilization, the Authority notes that with the amendment in Rules, non injurious price has been determined based on the optimum capacity utilization in the injury period which duly factors in the low capacity utilization. Further, the Authority has duly adjusted the capacity factor in the construction of normal value and, thus, in the determination of dumping margin.
 - xi) The present investigation is a sunset review of the anti dumping duty already in force on imports of PTFE on the basis of recommendation made by the Authority in the original investigation. The Authority notes that no grade wise distinction of subject goods was made in the original investigation nor in the Mid Term Review, the final findings of which were issued on 26th February, 2010. The Authority has examined the contentions of the interested parties in this regard and has noted that a particular grade of the product under consideration cannot be excluded so long as it is a like article to the goods produced by the domestic industry. In the present investigation both M/s GFL and M/s HFL comprise domestic industry and it is noted that the domestic industry manufactures the like product to the product under consideration.
 - xii) As regards the basis of export data, it is stated that, the Authority relied upon DGCI&S data for both volume as well as price.
 - xiii) It is noted that the difference between PTFE and PTPTFE is only one of cutting of higher microns i.e. PTFE into lower microns i.e. PTPTFE. This does not render them dislike articles.

- xiv) As regards form of duty, the Authority notes that in the mid-term review of the original anti dumping duty, the Authority had changed the form of duty from reference price to fixed form. In the present investigation, it has been noted that the subject goods from subject country continued to be exported at dumped prices despite the anti dumping duty in place and current dumping margin is quite substantial. This establishes the need for fixed form of duty.
- xv) The Authority notes that transfer price of R-22 has been adopted by the Designated Authority after duly considering the prevailing international prices.
- xvi) In the likelihood analysis, the authority has not only relied on the the freely available production capacities with the subject country drawn from the mid term review findings, it has also relied upon the World trade Atlas source to conclude that the subject country has substantial volume of exports to third countries such as USA, Germany, Brazil and Italy and Australia at a lower price vis-à-vis the price to India during POI, which are likely to be diverted to India in case of revocation of duty.
- xvii) The Authority notes that carbon credit is received from R-23 which is not raw material for the subject goods. With regard to the adjustment of income from carbon credits in the cost of R-22, the Authority has treated the same as an income of exceptional/ non-recurring nature.

Examination by the Authority of injury parameters

30. 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 suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
31. 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.
32. The present investigation is a Sunset Review investigation of anti dumping duties in force. Rules 23 provides that provisions of Rule 11 shall apply

mutates mutandis basis in case of a review as well. The Authority has therefore determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti dumping duties on the product of imports from China PR is required to be considered while examining injury to the domestic industry.

33. The product under consideration was being produced in India only by Hindustan Fluorocarbons Limited at the time of original investigation. Gujarat Fluorochemicals Ltd. commenced commercial production after the original investigations. Both Gujarat Fluorochemicals Ltd. and Hindustan Fluorocarbons Limited have participated in the present investigations and have provided information relevant for the present determination. Both the companies were considered as domestic Industry during Midterm Review investigation. The Authority has determined injury to the domestic industry by considering information furnished by Gujarat Fluorochemicals Ltd. and Hindustan Fluorocarbons Limited.

Volume Effects of Dumped Imports: Import volumes and market shares

34. 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.
35. Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources. The share of subject country in total imports and demand in India are as follows:

Particulars	Unit	2006-07	2007-08	2008-09	POI
Imports from China PR	MT	778	1,153	991	918
Third countries imports	MT	950	1,012	1,021	992
Total Imports	MT	1,728	2,165	2,013	1,910
Share of subject country in imports	%	45.01	53.27	49.23	48.06
Sales of domestic industry	MT	269	184	560	854
Demand in India	MT	1,996	2,349	2,573	2,765
Market share in Demand					
Domestic industry	%	13.48	7.83	21.76	30.89
China	%	38.98	49.08	38.52	33.21

Third countries	%	48	43.09	39.72	35.90
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36. The Authority notes that:

- i. Despite the fact that anti dumping duties is in place on imports from China, the volume of imports has increased during POI compared to base year. On overall basis, imports from 2006-07 to POI have shown increase of 18% , which is quite significant considering the product is attracting Anti Dumping Duty .
- ii. Market share of China in demand of PTFE in India was as high as 33.21 % in Period of Investigation. Even though the market share of China declined over the injury period, yet, the same is quite significant, particularly considering the anti dumping duty in force.

Price effect of imports

37. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with 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. A comparison for product concerned was made between the landed value of imports and the average net selling price of the domestic industry as under. Selling price of the domestic industry has been determined net of all rebates and taxes, at the same level of trade.

38. The domestic industry argued that the import price reported in Indian customs data is significantly higher than the import price reported in China customs data. It is seen that there is significant difference in the price reported in DGCI&S and China Customs. The table below demonstrates.

Particular	Units	China Customs	DGCI&S
Volume	MT	1,014	918
Value	Rs.Lacs	2,894.08	3,087.62
Rate	Rs/Kg	285.45	336.28

However, the Authority notes that the China customs data (World Trade Atlas) reports the volume of subject goods which have been despatched from China PR, while DGCI&S captures the data regarding volume of the goods which have actually arrived in India. Therefore, the Authority has considered the DGCI&S data (both volume and value) for the purpose of injury analysis. Thus, the landed value of imports of subject goods from subject country based on DGCI&S data has been compared with the net

selling price of the domestic industry as under. The comparison showed that price undercutting effect of dumped imports from China PR is negative.

Particulars	Unit	POI
Landed Price of imports	Rs. Kg	***
Net sales realization	Rs. Kg	***
Price undercutting amount	Rs. Kg	Neg.
Price undercutting	%	Neg.

39. The Authority has also noted that the landed value of subject imports from subject country is significantly below the cost of production and non-injurious price of domestic industry, thus having significant price underselling effects as demonstrated in the following table.

Particulars	Unit	Du-Pont	Other non co-operating exporters
Landed Price of Imports	Rs./Kg	***	***
Non Injurious price (NIP) of DI	Rs./Kg	***	***
Cost of Sales of DI	Rs./Kg	***	***
Price Underselling	Rs./Kg.	***	***
Price Underselling	%age Range	70 -80	120 - 130

Economic parameters of the domestic industry

40. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. However, the present investigations being a Sunset review investigations, injury to the domestic industry is required to be assessed on mutates

mutandis basis. The various injury parameters relating to the domestic industry are discussed below.

Production, sales and capacity utilization:

41. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry.

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Installed capacity	MT	500	2,333	6,000	6,000
Production	MT	245	826	1,657	2,050
Capacity Utilization	%	49.00	35.38	27.61	34.17
Sales of Domestic Industry	MT	269	184	559	854

42. It is noted that:

- i. Capacity for the product under consideration enhanced in 2007-08 by M/s GFL this is because of setting up of fresh capacities by the company. In the year 2006-07 capacity was available for M/s HFL. Therefore, capacity utilization during the POI has been compared with the year 2007-08 and the same appears to have marginally reduced. Capacity utilization of the domestic industry declined over the period despite duty being in force
- ii. Production of Domestic Industry increased over the injury period, which is reflective of commencement of fresh production capacities in the Country.
- iii. Sales volumes of the domestic industry increased over injury period.

Market share:

43. The effects of the dumped imports on the domestic sales and market share of the domestic industry have been examined as below:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)

Import from China PR	MT	778	1,153	991	918
Import from other countries	MT	950	1,012	1,021	992
Sales of domestic industry	MT	269	184	559	854
Total Demand in India	MT	1,996	2,349	2,571	2,764
Market share in Demand					
Share of Domestic Industry	%	13.46	7.84	21.78	30.90
Share of China PR	%	38.95	49.09	38.52	33.21
Share of other countries	%	47.59	43.07	39.70	35.89
Total	%	100	100	100	100

It is noted that

- i. Market share of the domestic industry has shown an increase during POI compared to base year as well as year 2007-08. This is due to addition of the fresh capacity in 2007-08 .
- ii. The market share of China continues to be significant despite existing anti dumping duties.

Profits/Loss, cash flow and return on investments

44. The Authority determined the position of the domestic industry with regard to profits, cash flow and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market. The verified information shows as follows. In view of exports by the domestic industry, the Authority considered only the domestic market sales for the purpose of analysis of aforesaid parameters.

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of sales –	Rs./Kg	***	***	***	***
Trend	Indexed	100	121	89	74
Net Selling Price – Domestic	Rs./Kg	***	***	***	***

Trend	Indexed	100	96	72	74
Profit/Loss (PBT) –	Rs./Kg	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(165)	(117)	(73)
Profit/Loss (PBT)	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(113)	(243)	(232)
Profit/Loss (PBIT)	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(116)	(229)	(204)
Cash Profit/(loss)	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(148)	(259)	(223)
Return on Capital Employed on NFA basis	%	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(7.45)	(8.75)	(7.29)

45. From the above it is noted thatt:

- i. The domestic industry suffered continued financial losses despite anti dumping duty in force. The financial losses are quite significant.
- ii. Selling price of the domestic industry declined significantly by about 25% over the injury period.
- iii. The domestic industry had significantly high costs in the beginning. This was partly due to commencement of new production facilities with Gujarat Fluorochemicals Ltd. and low volume of production in Hindustan Fluorocarbons Limited due to persistent dumping of the product. As the domestic industry increased its production, its cost of production declined significantly due to apportionment of fixed expenses over larger production. It is noted that the decline in cost of production is largely due to decline in incidence of fixed overhead costs and not due to decline in input prices.
- iv. Cash losses have increased during the injury period. The domestic industry has suffered negative cash profits throughout the injury period.
- v. Return on Investment remained negative throughout the injury period. Further, the improvement in return on investment in 2007-08 is due to commencement of new production facilities and consequent increase in capital employed. The return on capital employed improved from negative ***% during base year to negative ***% during POI.

- vi. Cash profit, profit before tax and profit before interest and tax has remained negative throughout the injury period. This situation is despite existence of Anti Dumping Duty.

Employment, productivity and wages

46. Verified information with regard to number of employees , productivity and wages shows as follows

Particulars	Unit	2006-07	2007-08	2008-09	(POI)
Employment	Nos.	146	167	300	264
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	215	277	305
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	294	329	463

47. Employment with the domestic industry has increased. The increase in employment is because of addition of capacities during the investigation period. Wages paid have also increased. Productivity of the domestic industry has shown significant improvement .

Inventories

48. Authority notes that inventories of the product with the domestic industry have shown a significant surge in the investigation period. While it is noted that some increase in inventories could be due to one more company commencing production, the increase in the inventories is too significant to contribute to this reasoning.

Particulars	Unit	2006-07	2007-08	2008-09	(POI)
Opening Stock	MT	32	8	490	752
Closing Stock	MT	8	490	752	972
Average Stock	MT	20	249	621	862
Number of days	Nos.	11	972	490	415

sales in stock					
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Magnitude of Dumping

49. The dumping margins determined are above de minimis level and are significant despite anti dumping duty in force.

Growth

50. The domestic industry continues to face negative growth in terms of a number of parameters. Domestic Industry has registered a negative growth in terms of profits, return on investment and cash flow . Even though growth on account of production, capacity utilization, sales and market share was positive, the same is adverse as compared to existing capacities and demand for the product in the Country. This situation is despite existence of Anti Dumping Duty in force.

Ability to raise fresh investment

51. While one of the domestic industry (Gujarat Fluorochemicals Ltd.) is a multi product company, the other (Hindustan Fluorocarbons Limited) is a subsidiary of HOCL, which is also a multi product company. It is noted that the domestic industry has been suffering financial losses for quite some time on the subject goods, which is a constraint on their ability to raise fresh investment. However, Gujarat Fluorochemicals Ltd. has claimed to have invested further for producing more grades of the product under consideration so as to ensure continued efforts of the domestic industry to increase product types that can be offered by the domestic industry.

Conclusions on injury

52. Keeping in mind the aforesaid analysis of the injury parameters and considering the fact that anti-dumping duties are in place on the subject goods from the subject country, the Authority has concluded that performance of the domestic industry has deteriorated in terms of parameters such as inventories, profits, cash profits. Further, even though the performance of the domestic industry improved in terms of capacity, production, domestic sales and market share of the domestic industry, it is noted that the capacity utilization and market share of the domestic industry is still very low. Inventories with the domestic industry have increased significantly. Subject imports have a price underselling effect on the domestic industry. The domestic industry has thus suffered continued material injury.

G. Causal Link

53. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than the dumped imports which at the

same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry. It was found that

- i. **Imports from Third Countries:** - The Authority notes that price of imports of the subject goods from third countries are significantly higher than that of the subject country except Russia. However, imports from Russia are currently attracting Anti Dumping Duty.
 - ii. **Contraction in Demand:** - There is no contraction in the demand during injury period. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. Possible decline in demand is not a possible cause of injury to the domestic industry.
 - iii. **Pattern of consumption:** - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.
 - iv. **Conditions of competition:** - the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.
 - v. **Developments in technology:** - the investigation so far has not shown that there was any significant change in technology which could have caused injury to the domestic industry.
 - vi. **Export performance of the domestic industry:** - the export volumes of the domestic industry have increased significantly. However, the volume, price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment.
 - vii. **Carbon Credits** –some interested parties argued that the domestic industry is earning good revenue from sale of carbon credits. The Authority notes that the credits are being generated from R-23, and not from the production of subject goods. Further, R-23 is not a raw material for the product under consideration. The issue has already been examined by the Authority in the Midterm Review investigation concerning the same product where it was held that the Carbon credits do not accrue from the production and sale of subject goods.
54. While above non attribution analysis shows that injury to the domestic industry has been caused by other known factors, Authority examined whether continued injury to the domestic industry is being caused by continued dumped imports. Following parameters show that injury to the domestic industry has been caused by dumped imports:

- a. The domestic industry's net selling prices during POI are much below the level of NIP.
- b. Landed price of subject imports have caused price underselling in the Indian market. Resultantly, lower landed prices have prevented the domestic industry from increasing their prices to recover its NIP. The domestic industry has not been able to increase its prices in order to come out of the injury suffered in the past. Thus, continued adverse performance on account of profits, return on investments and cash profits is due to presence of dumped imports in the market.

H. Likelihood of continued injury

55. The current investigation is a Sunset review of anti-dumping duties earlier imposed on imports of PTFE from China. Under the Rules, the Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. The Authority has conducted investigation and examined dumping and consequent injury in the context of the application filed by the domestic industry and submissions made by the interested parties, wherein the domestic industry claimed that despite the anti-dumping duties being in force, the imports from subject country has remained significant throughout the injury period. There has been a midterm review investigation as the Anti Dumping Duty imposed was not serving the intended purpose of eliminating injurious dumping. There are evidences of dumping of the subject goods by the subject country in different parts of the world along with dumping in Indian market. The evidence regarding significant capacities have been provided. Existence of significant capacities and positive price underselling effect clearly implies that the consumers would find Chinese product cheaper and would increase their sourcing from China, should the present duties cease.
56. It has been contended by Domestic Industry that there is a significant price difference in the Indian market and the price at which Chinese manufacturers are willing to sell the product. The Indian market would therefore be reasonably attractive to the Chinese producers, thus leading to significant increase in imports. If the domestic industry attempts to respond to this possible situation, the domestic industry will have to reduce the prices in the domestic market. If the domestic industry reduces the prices, the losses being suffered by the domestic industry would increase further. However, the information released by China Customs clearly establishes that the material is continuously exported at lower prices.
57. The Authority has considered following parameters while examining likelihood of continued dumping and injury in case of withdrawal of anti-dumping duty –
 - i. Dumping margins determined in the original, Midterm review investigation and the current investigation are significant. The

product continues to be exported by the subject country during the present POI at significantly dumped prices in spite of existing anti-dumping duties;

- ii. Volume of imports has increased further after imposition of anti-dumping duties. The volume of imports in the current investigation period is higher than even the original investigation period.

Years	China	Other Countries	Total
	MT	MT	MT
2000-01	9	483	492
2001-02	11	723	734
2002-03	53	810	863
Jan.-Dec., 2003	233	775	1009
2003-04	272	856	1128
2004-05	736	748	1484
2005-06	644	777	1421
2006-07	778	950	1728
Oct., 07 – Sept., 08	1180	1137	2317
2007-08	1153	1012	2165
2008-09	991	1021	2013
2009-10	918	992	1910

Source: Findings issued by the authority and DGCI&S

- iii. Freely disposable production capacities – The information provided by the domestic industry and not contested by other interested parties shows existence of significant un-utilized capacities in China. The same has also been confirmed in the Midterm Review final findings dated 26th February, 2010. The following table demonstrates the subject country's unutilized capacities:

SN	Country	Names of the producers	Collective capacity (MT)

1.	China	<ul style="list-style-type: none"> • Shanghai 3F • Meilan • Dongyue • Fuxin • Jinan 3F • Juhua • Daikin Changsue • Chenguang 	34,000
2.	Other countries		93,500
3.	Global - Total		1,27,500

- iv. Information available from World Trade Atlas shows that China PR has exported substantial quantities of subject goods to countries like Korea RP, Italy, Germany, Australia, U.K. and Brazil etc. (which constitute about 45% share of total world export by China PR) with average export prices lower than the average export price to India. Thus, there is a likelihood of diversion of these exports to India in case of withdrawal of anti dumping duty.
- v. Domestic industry claimed that its situation continues to be vulnerable despite current duties. Injury to the domestic industry is therefore likely to continue.

I. Magnitude of Injury and injury margin

58. The non-injurious prices for the subject good has been determined following the principles laid down in Annexure-III to the rules and the same has been compared with the landed value of the imports from the subject country for determination of injury margin. The weighted average landed price of the imports from the subject country and injury margin have been worked out as follows:

Particulars	Unit	DuPont	Other non cooperating exporters
Landed price of imports	US\$/Kg	***	***
Non injurious price of the domestic industry	US\$/ Kg	***	***
Injury margin	US\$/ Kg	***	***

J. Indian industry's interest & other issues

58. 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 countries in any way, and, therefore, would not affect the availability of the products to the consumers.

K. Conclusion

59. The Authority has, after considering the foregoing, come to the conclusion that:

- (i) The subject goods have been exported to India from the subject country below the normal value despite the anti-dumping duty in place.
- (ii) The domestic industry has suffered material injury;
- (iii) The material injury has been caused by the dumped imports from the subject country and is likely to be caused by dumping of subject goods from China PR in case of revocation of duty.
- (iv) The dumped imports and the consequential injury are likely to continue in case of withdrawal of anti-dumping duty, given the huge unutilized production capacities available with the subject country and large volume of the subject country's exports to other countries of the world at a price below their export price to India.

L. Recommendation

60. Having initiated and conducted an investigation into dumping, injury and causal link between dumping and injury to the domestic industry, in terms of the Rules laid down, and having established positive dumping margin in respect of the subject country and a positive determination of likelihood of dumping and injury on account of imports from subject country, and having concluded that the domestic industry suffered material injury, the Authority holds that imposition of definitive anti dumping measure is required in respect of the subject country to prevent injury to the domestic industry. Therefore, Authority considers it necessary to recommend continued imposition of definitive anti-dumping duty on imports of subject goods from the subject country, in the form and manner described hereunder.

61. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping 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 country.

Duty Table

S. No	Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount (US\$/kg)
1	2	3	4	5	6	7	8

1.	3904 61	Polytetra- fluoro- ethylene (PTFE)	China PR	China PR	DuPont (Changshu) Fluoro Technology Company Limited	DuPont (Changshu) Fluoro Technology Company Limited	2.48
2.	- do -	- do -	China PR	China PR	- do -	Any other than DuPont (Changshu) Fluoro Technology Company Limited	3.87
3.	- do -	- do -	China PR	Any	Any except above	Any	3.87
4.	- do -	- do -	Any except China PR and country attracting AD duty	China PR	Any	Any	3.87

62. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Vijaylaxmi Joshi)
Designated Authority