

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

CERTAIN R-134a COOLANT
(OTHERWISE KNOWN AS 1,1,1,2-
TETRAFLUOROETHANE)

Investigation No. 337-TA-623
Enforcement Proceeding

NOTICE OF INSTITUTION OF A FORMAL ENFORCEMENT PROCEEDING TO
ENFORCE A CONSENT ORDER

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the September 11, 2008, consent order issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3090. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 31, 2007, based on a complaint filed by INEOS Fluor Holdings Ltd., INEOS Fluor Ltd., and INEOS Fluor Americas L.L.C. ("INEOS"). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain R-134a coolant (otherwise known as 1,1,1,2-tetrafluoroethane) by reason of infringement of various claims of United States Patent No. 5,744,658. Complainants subsequently added allegations of infringement with regard to United States Patent Nos. 5,382,722 and 5,559,276. The complaint named two respondents, Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. and Sinochem Ningbo Ltd. Two additional respondents were subsequently added: Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. and Sinochem (U.S.A.) Inc.

On August 18, 2008, respondents moved for partial termination of the investigation based on the entry of a consent order specific to respondents' "old" process. On August 20, 2008, the administrative law judge issued an ID granting the motion and terminating the investigation with respect to the "old" process. On September 11, 2008, the Commission issued notice of its decision not to review the ID and issued the subject consent order.

On December 12, 2008, INEOS filed a complaint, requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75 to investigate an alleged violation of the consent order relating to the "old" process. The complaint named a single respondent, Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. ("Sinochem (Taicang)").

The Commission has determined to institute a formal enforcement proceeding to determine whether Sinochem (Taicang) is in violation of the Commission's consent order in the above-captioned investigation, and what, if any, enforcement measures are appropriate.

The following entities were named as parties to the formal enforcement proceeding: (1) complainants INEOS Fluor Holdings Ltd., INEOS Fluor Ltd., and INEOS Fluor Americas L.L.C., (2) respondent Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd., and (3) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75).

By order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

Issued: February 18, 2009

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN R-134a COOLANT
(OTHERWISE KNOWN AS 1,1,1,2-
TETRAFLUOROETHANE)**

**Investigation No. 337-TA-623
Enforcement Proceeding**

ORDER

The Commission instituted this investigation on December 31, 2007, based on a complaint filed by INEOS Fluor Holdings Ltd., INEOS Fluor Ltd., and INEOS Fluor Americas L.L.C. (“INEOS”). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain R-134a coolant (otherwise known as 1,1,1,2-tetrafluoroethane) by reason of infringement of various claims of United States Patent No. 5,744,658. Complainants subsequently added allegations of infringement with regard to United States Patent Nos. 5,382,722 and 5,559,276. The complaint named two respondents, Sinochem Modern Environmental Protection Chemicals (Xi’an) Co., Ltd. and Sinochem Ningbo Ltd. Two additional respondents were subsequently added: Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. and Sinochem (U.S.A.) Inc.

On August 18, 2008, respondents moved for partial termination of the investigation based on the entry of a consent order specific to respondents’ “old” process. On August 20, 2008, the administrative law judge (“ALJ”) issued an initial determination (“ID”) granting the motion and terminating the investigation with respect to the “old” process. On September 11, 2008, the Commission issued notice of its decision not to review the ID and issued the subject consent order.

On December 12, 2008, INEOS filed a complaint, requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75 to investigate an alleged violation of the consent order relating to the “old” process. The complaint named a single respondent, Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. (“Sinochem (Taicang)”).

Having examined INEOS’s complaint seeking a formal enforcement proceeding and having found that the complaint complies with the requirements for institution of formal enforcement proceedings in accordance with Commission Rule 210.75, the Commission has determined to institute a formal enforcement proceeding to determine whether Sinochem (Taicang) is in violation of the Commission’s consent order in the above-captioned investigation, and what, if any, enforcement measures are appropriate.

Accordingly, the Commission hereby **ORDERS** that:

1. Pursuant to Commission Rule 210.75(b), 19 C.F.R. § 210.75(b), a formal enforcement proceeding is instituted to determine whether Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. is in violation of the Commission’s consent order issued in the above-captioned investigation, and what if any enforcement measures are appropriate.
2. For purposes of the enforcement proceeding so instituted, the following are parties to the proceeding:

Complainants:

INEOS Fluor Holdings Ltd.
The Heath
Runcorn, Cheshire, WA74QX
United Kingdom

INEOS Fluor Ltd.
The Heath
Runcorn, Cheshire, WA74QX
United Kingdom

INEOS Fluor Americas L.L.C.
4990 B IC1 Road
St. Gabriel, LA 70776

Respondent:

Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd.

South Binjiang Road
Petrochemical Industrial Section
Taicang Port Development Zone
Taicang, Jiangsu 215433, China

A Commission investigative attorney to be designated by the Director,
Office of Unfair Import Investigations.

3. The formal enforcement proceeding is hereby certified to the chief ALJ, Chief Judge Paul J. Luckern, who shall designate a presiding ALJ for this proceeding for issuance of an enforcement initial determination (“EID”). The presiding ALJ is directed to set a target date for completion of these proceedings within forty-five (45) days of institution in accordance with 19 C.F.R. § 210.51(a).
4. The presiding ALJ, in his discretion, may conduct any proceedings he deems necessary, including issuing a protective order, holding hearings, taking evidence, and ordering discovery consistent with Commission rules to issue his EID. The EID will rule on the question of whether Sinochem (Taicang) has violated the September 11, 2008 consent order issued in the above-captioned investigation. All defenses not barred by claim preclusion may be raised in this proceeding. The presiding ALJ shall also recommend to the Commission what enforcement measures are appropriate if Sinochem (Taicang) is found to violate the Commission’s consent order. The presiding ALJ, in his discretion, may also conduct any proceedings he deems necessary, including taking evidence and ordering discovery, to issue his recommendations on appropriate enforcement measures.
5. Petitions for review of the EID may be filed within fourteen (14) days of service of the EID. Responses to any petitions for review may be filed within seven (7) days of service of any petitions for review.
6. Notwithstanding Commission Rule 210.75(b)(3), the EID shall become the Commission’s final determination sixty (60) days after service of the EID, unless the Commission orders review or changes the deadline for determining whether to review it.

7. The Secretary shall:

- (a) docket INEOS's complaint for a formal enforcement proceeding;
- (b) serve a copy of INEOS's "Complaint to Enforce Consent Order Pursuant to Commission Rule 210.75" on the proposed respondent and advise Sinochem (Taicang) of the provisions of Commission Rule 210.75 concerning responses to a request for a formal enforcement proceeding;
- (c) serve a copy of this order upon each party to the formal enforcement proceeding;
- (d) publish notice of this order in the *Federal Register*.

By Order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

Issued: February 18, 2009



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

February 18, 2009

Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd.
South Binjiang Road
Petrochemical Industrial Section
Taicang Port Development Zone
Taicang, Jiangsu 215433, China

Re CERTAIN R-134a COOLANT (OTHERWISE KNOWN AS 1,1,1,2-
TETRAFLUOROETHANE), Inv. 337-TA-623 Enforcement Proceeding

Dear Sir/Madam:

The Commission has instituted a formal enforcement proceeding based on an enforcement complaint filed by INEOS Fluor Holdings Ltd., INEOS Fluor Ltd., and INEOS Fluor Americas L.L.C. ("INEOS"). Sinochem Environmental Protection Chemicals (Taicang) Co. Ltd. ("Sinochem (Taicang)") was named as the sole respondent to the formal enforcement proceeding. A Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations, is also a party to the proceeding. Enclosed is a copy of the Commission's order and the complaint. The formal enforcement proceeding concerns the Commission's consent order issued on September 11, 2008, in the above-referenced investigation. The proceeding is instituted to determine whether Sinochem (Taicang) violated the Commission's consent order in the above-captioned investigation, and what, if any, enforcement measures are appropriate.

Sinochem (Taicang) is advised that pursuant to Commission Rule 210.75, 19 C.F.R. § 210.75, it has fifteen (15) days after the date of service of the enforcement complaint to file a response. Any such response should fully advise the Commission as to the nature of any defense and shall admit or deny each allegation of the complaint specifically and in detail unless you are without knowledge, in which case your answer should so state and the statement shall operate as denial. Allegations of fact not denied or controverted may be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered.

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Failure to file and serve on all parties to the formal enforcement proceeding a response to the complaint within the time specified and in the manner prescribed herein shall authorize the Commission, in its discretion, to find the facts alleged in the complaint to be true and to take such action as may be appropriate without notice or hearing, or, in its discretion, to proceed without notice to take evidence on the allegations or charges set forth in the complaint. The presiding administrative law judge may permit late filing of a response for good cause shown.

Sincerely,

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Marilyn R. Abbott
Secretary to the Commission

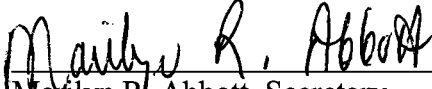
cc: Counsel for Respondent

CERTAIN R-134a COOLANT (otherwise known as 1,1,1,2-tetrafluoroethane)

337-TA-623
Formal
Enforcement
Proceeding

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF INSTITUTION OF A FORMAL ENFORCEMENT PROCEEDING TO ENFORCE A CONSENT ORDER** has been served by hand upon the Commission Investigative Attorney, Thomas S. Fusco, Esq., and the following parties as indicated, on
February 18, 2009


Marilyn R. Abbott, Secretary JNC
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

COMPLAINANTS:

INEOS Fluor Holdings Ltd.
The Heath
Runcorn, Cheshire, WA74QX
United Kingdom

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

INEOS Fluor Ltd.
The Heath
Runcorn, Cheshire, WA74QX
United Kingdom

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

INEOS Fluor Americas L.L.C.
4990 B ICI Road
St. Gabriel, LA 70776

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

RESPONDENT:

Sinochem Environmental Protection Chemicals (Taicang)
Co., Ltd.
South Binjiang Road
Petrochemical Industrial Section
Taicang Port Development Zone
Taicang, Jiangsu 215433, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____