

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

In the Matter of

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

Investigation No. 337-TA-623  
Enforcement Proceeding

COMPLAINT TO ENFORCE CONSENT ORDER  
PURSUANT TO COMMISSION RULE 210.75

**Complainants:**

INEOS Fluor Holdings Limited  
The Heath  
Runcorn, Cheshire, WA74QX  
United Kingdom  
Tel: 011 44 1928 515525

INEOS Fluor Limited  
The Heath  
Runcorn, Cheshire, WA74QX  
United Kingdom  
Tel: 011 44 1928 515525

INEOS Fluor Americas LLC  
4990 B IC1 Road  
St. Gabriel, LA 70776  
Tel: (225) 642-0094

**Proposed Enforcement Respondent:**

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

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MAY 13 2013  
U.S. ITC

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## INTRODUCTION

1. Complainants INEOS Fluor Holdings Limited, INEOS Fluor Limited, and INEOS Fluor Americas LLC (collectively, “INEOS”) request that the United States International Trade Commission commence a formal enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 and Commission Rule 210.75, 19 C.F.R. § 210.75, to investigate and remedy violation of the Consent Order issued by the Commission on September 11, 2008 by Respondent Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (“Sinochem (Taicang”).

2. On December 21, 2007, the Commission instituted Investigation No. 337-TA-623 based on a complaint filed by INEOS alleging violations of Section 337 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. The complaint named two Respondents, Sinochem Modern Environmental Protection Chemicals (Xi’an) Co. Ltd. and Sinochem Ningbo Ltd. The investigation was subsequently expanded to encompass allegations of infringement with regard to United States Patent Nos. 5,382,722 and 5,559,276 (“the ’276 patent”) and the addition of two affiliated Respondents: Sinochem (Taicang) and Sinochem (U.S.A.) Inc. Collectively, the four Respondents will be referred to as the “Sinochem Respondents.”

3. On August 15, 2008, the Sinochem Respondents moved for partial termination of the investigation based on the entry of a Consent Order specific to their “old” process for manufacture of R-134a coolant. On August 20, 2008, the ALJ issued an initial determination granting the Sinochem Respondents’ motion and terminating the investigation with respect to the

“old” process. The Commission determined not to review the ALJ’s initial determination and issued the subject Consent Order on September 11, 2008. (*See* Ex. 1, Notice of Decision Not to Review an Initial Determination Granting a Motion for Partial Termination of the Investigation Based on the Entry of a Consent Order Specific to Respondents’ “Old” Process; Issuance of Consent Order (Sept. 11, 2008); Ex. 2, Consent Order).

4. On August 18, 2008, the evidentiary hearing in Investigation No. 337-TA-623 began. Based on the Sinochem Respondents’ commitments relating to R-134a manufactured using their “old” process, the hearing concerned only Sinochem’s “new” process.

5. On December 1, 2008, the presiding Administrative Law Judge issued his Final Initial and Recommended Determinations, finding a violation of Section 337 based on importation of R-134a coolant produced using Sinochem’s “new” process. Again, based on the entry of the Consent Order, the Final ID did not address Sinochem’s “old” process.

6. Notwithstanding the terms of the Consent Order requiring that Sinochem cease the direct or indirect importation of R-134a coolant produced using Sinochem’s “old” process, Sinochem (Taicang) has directly or indirectly imported into the United States, sold for importation and/or sold within the United States after importation into the United States R-134a coolant manufactured using the “old” process, in direct violation of that Order. Accordingly, INEOS respectfully seeks, pursuant to 19 C.F.R. § 210.75, that the Commission institute a formal enforcement proceeding, impose civil penalties and revoke the Consent Order and direct that the articles concerned be excluded from entry into the United States.

## **I. JURISDICTION**

7. The Commission has jurisdiction over this matter and the proposed Respondent pursuant to Sections 333 and 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §§ 1333 and 1337.

8. Sinochem consented to the Commission's jurisdiction by participating fully in the investigation and by its stipulation to entry of the consent order. (*See Ex. 2 at 1*)

## **II. PARTIES**

### **A. Complainants**

9. INEOS Fluor Holdings Limited is a privately held English corporation having its principal place of business at The Heath, Runcorn, Cheshire, WA74QX, United Kingdom.

10. INEOS Fluor Limited is a privately held English corporation having its principal place of business at The Heath, Runcorn, Cheshire, WA74QX, United Kingdom.

11. INEOS Fluor Americas LLC is a Louisiana limited-liability corporation having its principal place of business at 4990 B IC1 Road, St. Gabriel, Louisiana 70776.

12. INEOS Fluor Americas LLC produces R-134a Coolant in St. Gabriel, Louisiana, under license from INEOS Fluor Holdings Limited for the patents asserted in this investigation. INEOS Fluor Americas LLC's St. Gabriel facility is the world's largest plant dedicated to the production of R-134a Coolant.

13. R-134a Coolant is used in, *inter alia*, automobile air conditioning systems, commercial air conditioning systems and as a medical propellant.

14. INEOS has been commercially successful due, in large part, to its research and development and innovation with respect to the manufacture of R-134a coolant. INEOS relies upon the U.S. patent laws and system as an important part of its intellectual property program to protect the valuable technology and inventions resulting from this research and development.

15. INEOS continues to own the patents asserted in this investigation and which are the subject of the Commission's Consent Order.

**B. Proposed Enforcement Respondent**

16. Sinochem (Taicang) is a Chinese corporation, with its principal place of business at South Binjiang Road, Petrochemical Industrial Section, Taicang Port Development Zone, Taicang, Jiangsu 215433, China.

17. Sinochem (Taicang)'s ultimate parent is Sinochem Corporation, a Chinese state-owned company currently ranked 257th in the "Fortune Global 500."

**II. PRODUCT AT ISSUE**

18. The product at issue in this enforcement proceeding is R-134a coolant manufactured by Sinochem (Taicang) using Respondents' "old" process, as defined in the Confidential Consent Order Stipulation. (*See* Conf. Ex. 3).

**III. THE CONSENT ORDER**

19. The Commission's September 11, 2008 Consent Order directed to the four Sinochem Respondents prohibits the direct or indirect importation into the United States, sale for importation into the United States, sale within the United States after importation, or knowingly aiding, abetting, encouraging, participating in, or inducing the sale for importation, importation into the United States or sale in the United States after importation of R-134a coolant manufactured by the "old" process without the consent or agreement of INEOS. *See* Ex. 2 at 1-2.

20. The Consent Order also requires the Sinochem Respondents to "cooperate with and [ ] not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210." Ex. 2 at 2.

**IV. SINOCEM (TAICANG)'S VIOLATION OF THE COMMISSION'S CONSENT ORDER**

21. Despite the entry of the Consent Order, upon information and belief, Sinochem (Taicang) has directly or indirectly imported into the United States, sold for importation and/or sold within the United States after importation R-134a coolant manufactured using the "old" process.

22. On or about August 4, 2008, a shipment of 15,876 kilograms of R-134a manufactured by Sinochem (Taicang), with an estimated value of \$47,518 left Shanghai bound for the United States. (Conf. Ex. 4, Geosits Decl. at ¶¶ 6, 10)

23. The ultimate consignee for the shipment was Stoner, Inc., an aerosol packager, with a principal place of business at 1070 Robert Fulton Highway, Quarryville, PA, 17588. (Conf. Ex. 4 at ¶ 7).

24. On or about September 11, 2008, the vessel carrying Sinochem (Taicang)'s shipment of R-134a reached the port of New York. (*Id.* at ¶ 10)

25. The shipment of R-134a coolant cleared customs and left the port of New York bound for Stoner, Inc. on or about September 15, 2008. *Id.*

26. On November 17, 2008, counsel for INEOS wrote to counsel for the Sinochem Respondents and requested documentation sufficient to show that the shipment in question did not violate the Consent Order. Specifically, counsel for INEOS stated:

Before requesting a formal enforcement proceeding at the ITC, Complainant will afford Sinochem until November 24 to provide evidence to us establishing that this shipment complied with the consent order. Such evidence should include, at a minimum invoices, packing lists, and U.S. customs entry documentation, which may be provided to us as confidential business information under the protective order.

(Ex. 5)

27. On November 24, 2008, counsel for the Sinochem Respondents responded, stating:

We understand that the last shipment of R-134a to Stoner, Inc. of Quarryville, PA left the Sinochem Taicang facility, and was shipped from China, before Judge Luckern's initial determination on August 20, 2008. We also understand that title had passed to Stoner, Inc. before entry of the consent order and that the product was not owned or controlled by any of the Respondents.

(Ex. 6) Counsel for the Sinochem Respondents failed to provide any evidence to support the representations made in his letter.

28. On information and belief and based upon confidential information obtained during discovery explained in the attached declaration, the shipment of Sinochem (Taicang)'s R-134a coolant to Stoner, Inc. violated the terms of the Consent Order. (*See* Conf. Ex. 7, Brinkman Decl. ¶¶ 5-10)

## V. CONCLUSION

29. Sinochem (Taicang) violated the terms of the Consent Order just days after it was entered.

### PRAYER FOR RELIEF

WHEREFORE, by reason of the foregoing, INEOS requests that the United States International Trade Commission:

- a. Institute a formal enforcement proceeding pursuant to 19 C.F.R. § 210.75, to confirm the violation of the Consent Order described herein;
- b. Promptly return this matter to the ALJ for issuance of an Initial and Recommended Determination on the issues of the enforcement violation and remedy requested;
- c. In the event the Commission determines there has been a violation of the Commission's Consent Order, issue the following remedies:



PUBLIC VERSION

- i. revoke the Commission's Consent Order pursuant to 19 C.F.R. § 210.75(4) and issue a permanent limited exclusion order directing that the articles concerned be excluded from entry into the United States; and
- ii. impose civil penalties for violation of the Consent Order, and if necessary, bring a civil action in an appropriate United States District Court pursuant to 19 C.F.R. § 210.75(4) requesting the imposition of such civil penalties or the issuance of such injunctions as the Commission deems necessary to enforce its orders and protect the public interest; and
- iii. impose such other remedies and sanctions as are appropriate and within the Commission's authority.

Dated: December 12, 2008

Respectfully submitted,



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Ineos-fluor.itc@alston.com

Counsel for Complainants  
INEOS Fluor Holdings Limited,  
INEOS Fluor Limited, and  
INEOS Fluor Americas, LLC

**PUBLIC VERSION**

# EXHIBIT 1

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-623

RECEIVED  
SECRETARY  
OFC OF INTL TRADE COMM  
2008 SEP 11 PM 2:35

**NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION  
GRANTING A MOTION FOR PARTIAL TERMINATION OF THE INVESTIGATION  
BASED ON THE ENTRY OF A CONSENT ORDER SPECIFIC TO RESPONDENTS'  
"OLD" PROCESS; ISSUANCE OF CONSENT ORDER**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 25) granting respondents' motion for a partial termination of the above-referenced investigation based on the entry of a consent order specific to respondents' "OLD" process. The Commission has issued the subject consent order.

**FOR FURTHER INFORMATION CONTACT:** Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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. The complaint alleges 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, all four respondents moved for a partial termination of the investigation based on the entry of a consent order specific to respondents' "OLD" process. Complainants and the Commission investigative attorney did not oppose this motion.

On August 20, 2008, the ALJ issued the subject ID granting the motion to terminate the investigation with regard to the "OLD" process. The ALJ found that the motion complied with the requirements of Commission Rule 210.21 (19 C.F.R. § 210.21). The ALJ also concluded that, pursuant to Commission Rule 210.50(b)(2) (19 C.F.R. § 210.50(b)(2)), there is no evidence that termination of this investigation will prejudice the public interest. Accordingly, the ALJ terminated the investigation with respect to the "OLD" process. No petitions for review of this ID were filed.

The Commission has determined not to review the ID and to issue the subject consent order.

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 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.



Marilyn R. Abbott  
Secretary to the Commission

Issued: September 11, 2008

**PUBLIC VERSION**

# EXHIBIT 2

IN THE 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

CONSENT ORDER

The United States International Trade Commission ("Commission") has instituted this Investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by Ineos Fluor Holdings Limited, Ineos Fluor Limited, Ineos Fluor Americas, LLC (collectively "Complainants"), which alleges unfair acts 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 by Respondents Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. ("Sinochem Xi'an"), Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. ("Sinochem Taicang"), Sinochem Ningbo Ltd. ("Sinochem Ningbo"), and Sinochem (U.S.A.), Inc. ("Sinochem USA") (collectively "Respondents").

The Respondents have executed a Consent Order Stipulation in which they agree to the entry of this Consent Order and to all waivers and other provisions as required by the Commission's Rules of Practice and Procedure, and have filed a Motion for Partial Termination of this Investigation with respect to the Old Process (as defined in the Consent Order Stipulation which is incorporated herein,) based on the Consent Order Stipulation. In particular, the Respondents have stipulated as follows:

- (1) The Respondents stipulate to the entry of the Consent Order.
- (2) The Commission has *in rem* jurisdiction over, *inter alia*, R-134a coolant made by the Respondents' Old Process, which is a subject of the Complaint in this Investigation, and the Commission has *in personam* jurisdiction over the Respondents for purposes of this Consent Order.
- (3) Effective immediately upon entry of the Consent Order, the Respondents, including their officers, directors, employees, agents, and subsidiary entities that they control, agree that, upon entry of the Consent Order, that they will not directly or indirectly import into the United States, sell for importation into the United States, sell within the United States after importation or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of R-134a coolant manufactured by the Old Process without the consent or

agreement of Complainants.

(4) The Respondents expressly waive all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.

(5) The Respondents will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

(6) Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210. In determining whether Respondents are in violation of the Consent Order, the Commission may infer facts adverse to Respondents if Respondents fail to provide adequate or timely information or cooperate in the inspection program as agreed between Complainants and Respondents. The Commission may impose upon any person who violates the Consent Order the penalties available in 19 U.S.C. § 1337(f)(2).

(7) The Consent Order shall not apply with respect to any claim of any intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

(8) The Respondents will not seek to challenge the validity or enforceability of U.S. Letters Patent 5,382,722 ("the '722 patent"), U.S. Letters Patent 5,744,658 ("the '658 patent"), and U.S. Letters Patent 5,559,276 ("the '276 patent") in any administrative or judicial proceeding to enforce the Consent Order, but reserve their rights to do so in any other proceeding.

(9) The Respondents maintain and reserve their rights to contest infringement and to challenge the validity or enforceability of the '722, '658 and '276 patents insofar as claims of any of these patents have been or may be asserted against the Respondents Old Process, whether in this Investigation or elsewhere.

(10) The signing of the Consent Order Stipulation does not constitute an admission by the Respondents that an unfair act or act of infringement has been committed.

(11) Respondents expressly reserve the right to sell for importation to the United States, import, or sell after importation within the United States R-134a coolant manufactured by the Respondents' New Process (as defined in the Consent Order Stipulation). Respondents maintain and reserve their rights to contest infringement and to challenge the validity or enforceability of the '722, '658 and '276 patents insofar as claims of any of these patents have been or may be asserted against the Respondents New Process (or any future new process), whether in this Investigation or elsewhere.

(12) Respondents' commercial invoices relating to shipments to the United States of R-134a coolant manufactured and sold by Respondents shall indicate the facility that manufactured the R-134a coolant.

(13) Respondents agree to provide compliance reports to the Secretary of the U.S. International Trade Commission and outside counsel for Complainants, in English and under oath, for the period commencing on the date of issuance of the Consent Order, and extending through the remaining term of the '276, '722 and '658 patents. These reports shall be maintained in strict confidence as Respondents' Confidential Business Information, maintained according to the obligations set forth in the Protective Order entered in this Investigation for Confidential Business Information. Each report shall be provided within thirty (30) days of the last day of each of the second and fourth calendar quarters, and shall contain, for the prior six month period:

(A) A statement that each Respondent has complied with the requirements of this Consent Order;

(B) A statement specifying the manufacturing location(s) of R-134a imported into, sold for importation, and/or sold after importation into the United States by each Respondent during the period reported, and for each location identified, the approximate percentage of that location's production volume that was exported to the United States;

(C) A statement that none of the R-134a imported into, sold for importation, and/or sold after importation into the United States was manufactured using the "Old Process"; and

(D) A statement indicating the disposition of any R-134a manufactured using the "Old Process" that existed in any Respondent's inventory in the United States at the time of entry of the consent order during the period reported on.

(E) Neither Complainants nor their counsel may introduce information obtained from the reports in any present or future legal actions, other than actions before the Commission related to determining or securing compliance with the Consent Order. Respondents shall retain copies of all such reports and underlying data for a period of three (3) years after the date of filing of the report. For the purpose of determining or securing compliance with the Consent Order and for no other purpose, and subject to any privilege recognized by either the Commission or the Federal courts of the United States, during the period from filing the first report required herein up to and including three years following the date of filing of the last report required herein, duly authorized representatives of the Commission shall, upon reasonable notice, be permitted access to all the records relied on in preparing the reports, as well as the individuals involved with the preparation of the reports.

(14) Sinochem Xi'an and Sinochem Taicang shall make their plants in Xi'an and Taicang for the manufacture of R-134a coolant available for lawful inspections to approved third-party representative(s) of Complainants who have signed the confidentiality agreement



attached as Appendix III to the Consent Order Stipulation upon seven days prior notice to confirm the processes for the manufacture of R-134a coolant used at those plants. Approval of the third party representative(s) of Complainants will not be unreasonably withheld.

(15) There are no other agreements, written or oral, express or implied, between the Respondents and the Complainants concerning the subject matter of this Investigation.

**NOW, THEREFORE, the Commission issues the following Consent Order:**

(1) Effective immediately upon entry of this Consent Order, the Respondents shall not sell for importation, import into the United States, or sell in the United States after importation or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation R-134a coolant manufactured by the Old Process without the consent or agreement of the Complainants.

(2) The Respondents shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.

(3) The Respondents shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

(4) In determining whether Respondents are in violation of the Consent Order, the Commission may infer facts adverse to Respondents if Respondents fail to provide adequate or timely information or cooperate in the inspection program as agreed between Complainants and Respondents.

(5) The Respondents shall not seek to challenge and are precluded from any challenges to the validity or enforceability of the claims of the '722, '658, or '276 patent in any administrative or judicial proceeding to enforce the Consent Order, but shall be entitled to do so in another proceeding.

(6) When the latest of the '722, '658, and '276 patents expires, this Consent Order shall become null and void.

(7) If claim 1 of the '722 patent, claims 1 and 2 of the '658 patent, and claim 1 of the '276 patent are all held invalid or unenforceable by a court or agency of competent jurisdiction in a final decision, no longer subject to appeal, this Consent Order shall become null and void..

(8) The entry of this Consent Order does not constitute a determination as to violation of section 337 by the Respondents.

(9) The entry of this Consent Order does not affect the ability of the Respondents to

contest infringement, or challenge the validity and enforceability of the '722, '658, or '276 patent insofar as claims of these patents have been or may be asserted against the Respondents Old Process whether in this Investigation or elsewhere.

(10) The entry of this Consent Order does not preclude sale for importation to the United States, importation, or sale after importation within the United States of R-134a coolant manufactured by the Respondents' New Process (as defined in the Consent Order Stipulation). The entry of this Consent Order does not affect the ability of the Respondents to contest infringement, or challenge the validity and enforceability of the '722, '658, or '276 patent insofar as claims of these patents have been or may be asserted against the Respondents' New Process (or any future new process) whether in this Investigation or elsewhere.

(11) Respondents' commercial invoices relating to shipments to the United States of R-134a coolant manufactured and sold by Respondents shall indicate the facility that manufactured the R-134a coolant.

(12) Respondents agree to provide compliance reports to the Secretary of the U.S. International Trade Commission and outside counsel for Complainants, in English and under oath, for the period commencing on the date of issuance of the Consent Order, and extending through the remaining term of the '276, '722 and '658 patents. These reports shall be maintained in strict confidence as Respondents' Confidential Business Information, maintained according to the obligations set forth in the Protective Order entered in this Investigation for Confidential Business Information. Each report shall be provided within thirty (30) days of the last day of each of the second and fourth calendar quarters, and shall contain, for the prior six month period:

(A) A statement that each Respondent has complied with the requirements of this Consent Order;

(B) A statement specifying the manufacturing location(s) of R-134a imported into, sold for importation, and/or sold after importation into the United States by each Respondent during the period reported, and for each location identified, the approximate percentage of that location's production volume that was exported to the United States;

(C) A statement that none of the R-134a imported into, sold for importation, and/or sold after importation into the United States was manufactured using the "Old Process"; and

(D) A statement indicating the disposition of any R-134a manufactured using the "Old Process" that existed in any Respondent's inventory in the United States at the time of entry of the consent order during the period reported on.

(E) Neither Complainants nor their counsel may introduce information obtained from the reports in any present or future legal actions, other than actions before the Commission related to determining or securing compliance with the Consent Order.

Respondents shall retain copies of all such reports and underlying data for a period of three (3) years after the date of filing of the report. For the purpose of determining or securing compliance with the Consent Order and for no other purpose, and subject to any privilege recognized by either the Commission or the Federal courts of the United States, during the period from filing the first report required herein up to and including three years following the date of filing of the last report required herein, duly authorized representatives of the Commission shall, upon reasonable notice, be permitted access to all the records relied on in preparing the reports, as well as the individuals involved with the preparation of the reports.

(13) This Investigation is hereby terminated with respect to the Old Process; provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.



**Marilyn R. Abbott**  
**Secretary to the Commission**

**Issued: September 11, 2008**

**PUBLIC VERSION**

# **CONFIDENTIAL EXHIBIT 3**

**PUBLIC VERSION**

**CONFIDENTIAL**  
**EXHIBIT 4**

**PUBLIC VERSION**

# **EXHIBIT 5**

# ALSTON & BIRD LLP

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November 17, 2008

By E-mail and UPS Overnight

George McAndrews  
McAndrews Held & Malloy Ltd.  
500 West Madison Street  
34th Floor  
Chicago, IL 60661

Re: 337-TA-623: *Certain R-134a Coolant*

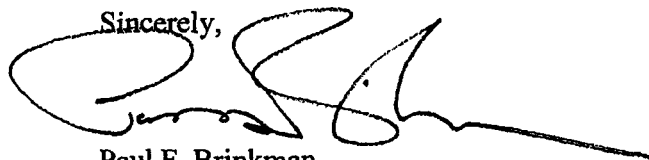
Dear George:

It has come to Complainant's attention that at least one shipment of R-134a made using Sinochem's "old process" may have been imported by Sinochem in violation of the consent order. The particular shipment of Taicang-produced R-134a was exported in early August – shortly after our expert inspected the facility and confirmed that the old process was still in place – and was imported at the Port of New York after entry of the consent order.

Before requesting a formal enforcement proceeding at the ITC, Complainant will afford Sinochem until November 24 to provide evidence to us establishing that this shipment complied with the consent order. Such evidence should include at minimum invoices, packing lists, and U.S. customs entry documentation, which may be provided to us as confidential business information under the protective order.

I look forward to hearing from you by next Monday.

Sincerely,



Paul F. Brinkman

cc: Heidi Strain, OUII

**PUBLIC VERSION**

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# EXHIBIT 6



November 24, 2008

**VIA ELECTRONIC MAIL**

Paul F. Brinkman, Esq.  
Alston & Bird LLP  
950 F Street, N.W.  
Washington, DC 20004-1404

**Re: In the Matter of: Certain R-134a Coolant  
(Otherwise known as 1,1,1,2-Tetrafluoroethane).  
Our File No.: 02793-51136US01**

Dear Paul:

This responds to your letter of November 17, 2008.

Our client has investigated the shipment referred to in your letter. We understand that the last shipment of R-134a to Stoner, Inc. of Quarryville, PA left the Sinochem Taicang facility, and was shipped from China, before Judge Luckern's initial determination on August 20, 2008. We also understand that title had passed to Stoner, Inc. before the entry of the consent order and that the product was not owned or controlled by any of the Respondents.

We therefore believe that this shipment was not subject to the terms of the consent order. If your evidence suggests otherwise, however, please kindly bring it to our attention.

Very truly yours,

  
Yufeng (Ethan) Ma

cc: Heidi Strain, OUII

**PUBLIC VERSION**

# **CONFIDENTIAL EXHIBIT 7**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this day, a true and correct copy of the foregoing document was served by the indicated means to the persons at the addresses below:

The Honorable Marilyn R. Abbott  
Secretary  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 112  
Washington, DC 20436

Via Hand Delivery  
(Original + 12)

The Honorable Paul J. Luckern  
Administrative Law Judge  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 317  
Washington, DC 20436

Via Hand Delivery  
(2 Copies)

*Commission Investigative Attorney*  
Heidi Strain, Esq.  
Commission Investigative Attorney  
Office of Unfair Import Investigations  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 401-E  
Washington, DC 20436

Via Hand Delivery and E-mail to  
Heidi.Strain@usitc.gov

*Counsel for Respondents Sinochem Modern  
Environmental Protection Chemicals (Xi'an) Co.,  
Ltd.; Sinochem Ningbo Ltd.; Sinochem  
Environmental Protection Chemicals (Taicang)  
Co., Ltd.; Sinochem (U.S.A) Inc.*


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Dated: December 12, 2008



Paul Brinkman