

# **Director General (Safeguards)**

## **NOTIFICATION**

(F.No.22011/46/08 New Delhi, 2<sup>nd</sup> February, 2009)

**Subject:- Safeguard Duty investigation against imports of Aluminum Flat Rolled Products and Aluminum Foil in to India under Rule 5 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 read with Section 8C of the Customs Tariff Act, 1975 – Preliminary findings**

G S R Having regard to the Customs Tariff Act, 1975 and the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 thereof;

1. **Procedure** : The Notice of Initiation of Safeguard investigation concerning imports of Aluminum Flat Rolled Products and Aluminum Foil into India from People's Republic of China was issued under Rule 6 of Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 on 27<sup>th</sup> January, 2009 and was published in the Gazette of India Extraordinary on the same day. A copy of the Notice was also sent to all known interested parties as under:

### **Domestic Producers (Aluminum FRP & Foils)**

1. M/s Hindalco Industries Limited,  
"Century Bhavan", 3<sup>rd</sup> Floor,  
Dr. Annie Besant Road, Worli  
Mumbai
2. M/s Nalco India Limited,  
NALCO Bhavan, P/1, Nayapalli,  
Bhubaneswar-751 013.
3. M/s Bharat Aluminum Company Limited,  
Business Square, "C" Wing, 2<sup>nd</sup> Floor,  
Andheri Kurla Road, Chakala,  
Andheri (E),  
Mumbai.
4. M./s Ess Dee Aluminum,  
Ess Dee House,  
Akurli Road,  
Kandivali (East),  
Mumbai-400 101.
5. M/s. P G Foils  
Pipalia Kalan,  
Rajasthan

6. M/s. Raviraj Foils  
702, Safron,  
7<sup>th</sup> Floor, Pacchwati,  
Ahmedabad  
Gujarat-380 006.
7. M/s. India Foils  
1, Sagore Dutta Ghat Road,  
Kamarhati,  
Kolkata, West Bengal-700 058,
8. M/s. AMCO India Ltd.  
C-53-54 Sector-57  
Phase III, Noida,  
Uttar Pradesh-201301
9. M/s Manaksia Ltd.,  
8/1, Lalbazar Street,  
Kolkata - 700 001
10. M/s. Paragon Industries Ltd.,  
Khasra No :168-171, Raipur Bhagwanpur,  
Roorkee-247667, Uttrakhand
11. M/s Marudhar Industries  
611 GIDC Phase-IV  
Ahmedabad- 382445
12. Jindal Aluminium Foils :  
Plot No 443 / 442, GIDC Waghodia,  
Dist. Vadodara – 391760, Gujarat

## **Importers**

### **(a) Aluminum Foil**

1. Ess Dee Aluminium Ltd.  
Plot No. 124-133,  
Panchal Udyog Naga Bhimpore,  
Daman
2. Jil Pack 8 Purnima ,  
2nd Flr.,Mahatma Gandhi Rd.,  
Mulund (West),  
Mumbai, M.S.
3. Positive Packaging Industries Limited Divn.  
Positive Packaging Dta,  
Vill. Ransai,  
Survey No.51&53

4. R.S.Foils Pvt Ltd.  
Shed No. 3 & 4, 181/A,  
Ranoli -Ipcl Road,  
Near Cargo Motors,  
Village – Vadoda
5. Umiya Flexifoam Pvt. Ltd.,  
40/A, Panchratna Inds. Estate, At Changodar,  
Tal. Sanand,  
Dist. Ahmedabad
6. Nipra Industries Pvt. Ltd.  
34 & 44/126, Amlī Village,  
Opp. 66 Kva Station,  
Silvassa,  
Dadra & Nagar Havelli
7. Ansa Printpack Pvt. Ltd.  
30, Keshavrao Khadye Marg,  
Byculla West,  
Mumbai,  
Maharashtra 400011
8. Bhavani Seals Pvt. Ltd.  
R-308, Ttc, Midc Area, Rabale,  
Navi Mumbai,  
Maharashtra
9. Tetra Pak India Pvt Limited  
Village Takave Budruk  
Tal: Maval,  
Dist Pune 412106
10. Oriental Containers Limited  
Plot No. A1, Midc,  
Murbad,  
Dist. Thane.
11. Parekh Aluminex Ltd.,  
601auto Commerce House,  
Kennedy Bridge,  
Nana Chowk,  
Mumbai,  
Maharashtra
12. Nagreeka Foils Ltd.,  
258/3,Near Telephone Exchange,  
Union Terrritory Of Dadra & Nagar Haveli

13. Amco India Ltd ,  
C-53-54, Sector 57,  
Phase Iii  
Noida 201 301
14. Eurobond Industries Pvt. Ltd.  
Epip Kartholi Bari Brahmana  
Jammu

**(b) Aluminium Flat Rolled Products**

1. Manaksia Ltd.( Formerly Hindustan Seals Ltd.)  
Bikaner Building, 8/1,  
Lalbazar Street, 3rd Floor,  
Kolkata 700 001.
2. Tata Toyo Radiator Ltd.  
Survey No. 235/245,  
Village Hinjewadi, Tal. Mulshi Dist.  
Pune ,Maharasht.
3. Alcan Composites India Pvt. Ltd.  
Unit 321, Building 3,  
2nd Floor,Solitaire Corporate Park,  
Mumbai 400 093.
4. Alstrong Enterprises  
Factory: Lane-2, Phase-Ii,Bari Brahmna,  
J&K Sidco Industrial Estate  
Jammu-181133  
Office: 95, Khirki Village,  
Malviya Nagar,  
New Delhi-110017.
5. V.L. Estates Pvt.Ltd.  
204, Neelgiri Appartments,  
Barakambha Road,  
New Delhi - 110 001, (India).
6. Bhaiya Fibres Ltd.  
Aludecor Lamination (P) Ltd.,  
209, Kapadia Chambers,  
599, Jss Road,  
Marine Lines (E),  
Mumbai –400002.
7. Lallubhai Amichand Limited  
48/50, Kansara Chawl, Kalbadevi Road,  
Bombay 400 002,  
Maharashtra, India.

8. Sterlite Technologies Ltd.  
Survey No.209, Phase 2,  
Piparia Industrial Estate,  
Silvassa - 394240,  
Haveli, India.
9. Durabuild Technologies Pvt. Ltd.  
76/79, Makwana Lane, Takpada, Marol,  
Off Andheri Kurla Road,  
Andheri East,  
Mumbai 400 059.
10. Alupan Composite Panels Pvt. Ltd.  
Flat No. 7-D, 7th Flr., Hansalaya Bldg., 15,  
Barakhamba Rd.,  
Connaught Place,  
New Delhi, 110001.
11. GEI Industrial Systems Ltd.  
26/A, Industrial Area,  
Govindpura, Bhopal, M.P.
12. Banco Products (India) Limited  
Bil, Near Bhaili Railway Station,  
Padra Road, District Baroda - 391 410,  
Gujarat.
13. Glazetech Alupanel Pvt. Ltd.  
103, Riddhi Siddhi Complex,  
Ahinsa Circle, C-Scheme.  
Jaipur-30200.

## **Exporters**

### **(a) Aluminium Foil**

1. Dingsheng Aluminium Industrial Co., Ltd.  
Jingkou science&tech industrial area,  
Jingkou Zone, Zhenjiang,  
Jiangsu, China PR
2. Xiamen Xiashun Aluminium Foil Co., Ltd.  
No. 388, Qingyang Yangguan Road,  
Haicang, Xiamen,  
Fujian, China PR.
3. Jiangsu alcha aluminium co., ltd.  
West Baimao of Guli country,  
Changshu city,  
Jiangsu province, China PR

4. Hebei North China Aluminium Co. Ltd.  
City ZhuoZhou, Hebei,  
China PR .Post Code: 072750

**(b) Aluminium Flat Rolled Products**

1. Alcan Composites Ltd.  
Shanghai 298 East Kangqiao Road  
201319 Pudon G Shanghai,  
China.
2. Sapa Heat Transfer (Shanghai) Ltd  
No.1111, Jiatang Road, Shangha I,  
China PR.
3. Shanghai Wangxun New Material Co., Ltd.  
No.1299, Ping An Rd,  
(So Uth Of Yuanjiang Industrial Zone, 2  
China PR.
4. Hangzhou Huangshun Industrial Corp.  
9/F, Qiushi Building,  
6 Jiaogong Road  
Hangzhou China.
5. Wuxi Quantong Cable Material Co.Ltd  
Nanhu Zhonglu Binhu Town  
Binhu District  
Wuxi Jiangsu China.
6. Zhenjiang Dingsheng Aluminium Industries Corpn.  
Jingkou Science And Tech.Industrl. Area,  
Zhenziang C China.
7. Xiamen C And D Inc  
17th Floor Seaside Bldg Xiamen ,  
China.
8. Shanghai Grace Trading Co.Ltd.  
No.148, Hangtou Road, Hangtou Town,  
Nanhui District, Shanghai,  
China.
9. Donge Blue Sky And Seven Color.  
Daqiao Tawn, Donge Country  
Liaocheng ,Shandong  
China,252218
10. Changzhou Lidao Metallic Material.  
South New Jichang Road, Xinzha Town,

Zhonglou, Changzhou, Jiangsu,  
China 213000

11. Wuxi Yingbang Nternational Trading Co.,Ltd.  
No.100 Erquan East Road,  
Ding Ting China.
12. Shandong Fuhai Industrial Co., Ltd.  
No.18 Renhe Street,  
Yantai, P.R.Of China.
13. Hefei Foreign Investment And Trade Service Co Ltd  
9f Hefei Building No.83  
Huayuan China.
14. Foshan Yinglu Trading Co.,Ltd..  
Lanshi Guangdong,  
China 528000
15. North China Aluminium Co Ltd  
Zhuozhou Hebei, China.
16. M/S.Dodo Aluminium (Suzhou) Co., Lt D.  
Dayi Industrial Zone, Chang Shu City,  
langsu Province, 215557, China.
17. CNBM International Corporation.  
5/F Longbo Building, 3 South Lishi  
Beijing,  
Beijing China (Mainland) 100037

A Copy of the Notice was also sent to the government of People's Republic of China through their embassy in New Delhi.

Questionnaires were also sent, to all known domestic producers, Exporters and importers and they were asked to submit their response within 30 days.

The non confidential part of the application and replies are kept in the Public Folder.

## **2. View of the Domestic Industry**

**(A)** The application has been filed by M/s. Aluminium Association of India , 118, 1<sup>st</sup> Floor, Ramanashree Arcade, 18, M.G. Road, Bangalore-560 001. They have made following major points:-

- (a) Imports of the products under consideration have increased from People's Republic of China over the years;
- (b) Imports from People's Republic of China have increased in relation to Indian production in absolute terms as well as in relative terms;

- (c) Imports from People's Republic of China have increased in relation to consumption in India;
- (d) While market share of China has increased, that of the domestic industry has declined;
- (e) Whereas the market share of the Indian Producers as a whole has declined, that of imports from China has increased.
- (f) Given significant price difference between the imports and the domestic products, there is strong likelihood of further importation;
- (g) Sales of the domestic industry have declined in absolute terms;
- (h) Growth in domestic demand is being captured by Chinese imports.
- (i) Domestic Industry is facing significant idling of production capacities in both the products under consideration as a result of increased imports. There is decline in production and consequently decline in capacity utilization in current year due to significant increase in the import from China in both the products. Further, whereas the market share of China increased, that of domestic industry declined in a situation where the domestic industry was having unutilized capacities. The domestic industry is now resorting to production cuts and the increased imports are leading to market disruption in both the products under consideration.
- (j) Increased imports are leading to under utilization of the installed capacity resulting into loss of employment.
- (k) There is significant rise in inventory.

### **3. Findings of the Director General:**

- a) The issue to impose immediate safeguard measures was examined. The Rule 9 of Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 issued vide Notification No. 34/2002-NT-Customs dated 11.06.2002 prescribes that the Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary finding regarding serious injury or threat of serious injury. The principles governing investigations have been provided in the Rule 6 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, which is independent to Rule 9. The Rule 15 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 provide for refund of differential Safeguard duty in case safeguard duty imposed after conclusions of the investigations is lower than the provisional duty already imposed and collected. The harmonious reading of Rules 6, 9 and 15 of the said Rules leads to a conclusion that the Rules provide for expeditious recommendation of provisional Safeguard duty based on preliminary findings and refund of the differential duty in case it is ascertained that the duty imposed after conclusion of investigation following natural justice as enshrined in the Rule 6 is lower than the provisional



Safeguard Duty. However, in critical circumstances any delay in imposition of Provisional Safeguard duty may cause damage which would be difficult to repair. Accordingly, it was considered prudent to analyze circumstances to assess whether the same falls in the category of critical circumstances.

- b) **The product under investigation:** The preliminary determination is that the products produced by the domestic producers are like or directly competing with the products concerned. That is to say that possible slight differences in the production process, and some differences in terms of quality, they have the same basic physical characteristics and the same uses and are sold via similar or identical sales channels. Price information is readily available and the products concerned and the products of the domestic producers compete mainly on price. Accordingly, Aluminium Flat Rolled products and Aluminium Foil are the products under investigation. The classification of these products under schedule 1 of the Customs Tariff Act, 1975 are as follows:

Name of the Products	Customs Tariff Heading
Aluminium Flat Rolled Products and Aluminium Foil	76061110, 76061190, 76061200, 76069110, 76069120, 76069190, 76069210, 76069290
Aluminium foil	76071110, 76071190, 76071910, 76071991, 76071992, 76071993, 76071994, 76071995, 76071999, 76072010, 76072090

- c) **Domestic Industry:** The application has been filed by M/s. Aluminium Association of India, 118,

1<sup>st</sup> Floor, Ramanashree Arcade, 18, M.G. Road, Bangalore-560 001. M/s Hindalco Industries Limited, "Century Bhavan", 3<sup>rd</sup> Floor, Dr. Annie Besant Road, Worli Mumbai, M/s Nalco India Ltd, Nalco Bhavan, P/1, Nayapalli, Bhubaneshwar 751013 and Bharat Aluminium Company. Ltd. Business Square, "C" Wing, 2<sup>nd</sup> Floor Andheri Kurla Road, Chakala, Andheri (E). Mumbai- 400039 are inter-alia the members of the association . The members of association account for production of 97% of Aluminium Flat Rolled Products (FRP) and 98% of Aluminium Foil production. The association is representative of a major proportion of total Community production of the like and/or directly competing products. One of its member companies M/s. Hindalco Industries Limited has provided relevant financial information to file this application. . M/s. Hindalco Industries Limited account for production of 71% of Aluminium Flat Rolled Products (FRP) and 56% of total domestic production of Aluminium Foil.

d) **Unforeseen Developments:** : As a result of current economic meltdown, unexpected, unprecedented and uneven economic recession in various economies especially developed economies, the demand for the product has declined in the major export markets. This has resulted in china shifting their exports of these products to India, which continues to enjoy a reasonable rate of growth. It is thus observed that aforesaid are unforeseen circumstances leadings to significant increases in imports from China.

e) **Increased Imports:**  
**Aluminium FRP**

There has been increasing trend in import of Aluminium FRP from People's Republic of China in absolute term from the year 2005. Taking base year as 2005-06, the import has increased by 64% in 2006-07, by 170% in 2007-08, by 202% in April 08 to Dec- 08 as mentioned in the table (Table 1) below.

**Table 1**

	Units	2005-06	2006-07	2007-08	April-Dec-08
<b>Aluminium FRP</b>					
➤ All countries	MT	26,046	36,968	48,274	33,925
Trend	Indexed	100	142	185	174
➤ China	MT	9,853	16,155	26,617	22,287
Trend	Indexed	100	164	270	302

Similarly the share of imports of Aluminium FRP from China in total imports from all countries to India has gone up from 37.83% in the year 2005-06 to 65.69 % during the period April 08- Dec 08 (Table 2)

**Table 2**

<b>Aluminium FRP</b>	Units	2005-06	2006-07	2007-08	April-Dec-08
<b>Share of</b>					
➤ <b>China</b>	%	37.83	43.70	55.14	65.69
➤ <b>Other Countries</b>	%	62.17	56.30	44.86	34.31

Further, the import has also increased in relative term i.e compared to the total domestic market. The share of imports from P.R China has increased from 5.68% in 2005-06 to 14.88% during April 08 to Dec. 08.(Table-3)

**Table 3**

<b>Share in consumption of Aluminium FRP (%)</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>April-08 to Dec-08</b>
Imports from China	5.68	8.43	11.94	14.88

## **Aluminium Foil**

In the case of Aluminium Foil There has been increasing trend in import Aluminium Foil from China in absolute term from the year 2005-06. Taking base year as 2005-06, the import has increased by 98% in 2006-07, by 340% in 2007-08, by 575% in April 08- To Dec- 08 as mentioned in the table 4 below.

**Table 4**

<b>Aluminium Foil</b>	Units	2005-06	2006-07	2007-08	April-Dec-08
➤ All countries	MT	20,263	24,082	39,390	34,422
Trend	Indexed	100	119	194	227
➤ China	MT	5,437	10,777	23,925	27,534
Trend	Indexed	100	198	440	675

Similarly the share of imports of Aluminium Foil from China in total import from all countries to India has gone up from 26.83 % in the year 2005-06 to 79.99 % during the period April 08-Dec 08 (Table 5).

**Table 5**

Aluminium Foil	Units	2005-06	2006-07	2007-08	April-Dec-08
Share of					
➤ China	%	26.83	44.75	60.74	79.99
➤ Other Countries	%	73.17	55.25	39.26	20.01

Further, the import has also increased in relative term i.e compared to the total domestic market . The share of imports from P.R China has increased from 8.78% in 2005-06 to 42.42% during April 08 to Dec. 08.(Table-6)

**Table 6**

Share in consumption of Aluminium Foil (%)	2005-06	2006-07	2007-08	April-08 to Dec-08
Imports from China	8.78	16.11	28.70	42.42

Thus the import of Aluminium Products (Flat Rolled Product and Aluminium Foil) from China have increased in absolute terms as well as relative terms. Further, the comparison of cost of sale taking reasonable ROCE and the import prices, it is observed that the imports are at lower prices. Accordingly, I find that there is increase in imports in absolute as well as relative term and the increase in imports during recent period is significant.

**f) Market Disruption and Threat of market Disruption**

**a. Sales:**

**Aluminium Flat Rolled Products (FRP)**

The monthly sales volume by the domestic producer has declined significantly by 16% during April-December 2008 compared to 2007-08 against the rising trend during the period from 2005-06 to 2007-08.

**Table 7**

		2005-06	2006-07	2007-08	April 08
Month wise sales of domestic industry for Aluminium FRP	Index	100	110	115	

**Aluminium Foil**

The average monthly sales volume by the domestic producer has shown steady decline, as apparent from the table below:

**Table 8**

		2005-06	2006-07	2007-08
Month wise sales of domestic industry for Aluminium Foil	Index	100	99	95

**Market Share of Domestic Industries:**

Aluminium Flat Rolled Products

The market share of domestic producers of Aluminium Flat Rolled Products as well as to the Indian industries of the same product has been on decline. The market share of total Indian industries during April to December 2008 has declined to 77.35% from 84.99% in the base year 2005-06 and 78.34% in immediately preceding year 2007-08 as apparent from the table below (Table 9 ). Similar trend is there for Hindalco, who has provided all financial data.

**Table 9**

Sl.No.	Market Share of Domestic Industries in sale of Aluminium FRP (%)	2005-06	2006-07	2007-08	April-08 Dec-08
1	Domestic industry (Hindalco)	49.31	49.17	44.20	41.67
2	Other Indian Producers	35.68	31.54	34.14	35.68
3	Indian Industry (1+2)	84.99	80.71	78.34	77.35

Aluminium Foil

The market share of domestic producers of Aluminium Foil as well as to the Indian industries of the same product has been on decline. The market share of total Indian industries during April to December 2008 has declined to 46.97% from 67.26% in the base year 2005-06 and 52.75% in immediately preceding year 2007-08 as apparent from the table below (Table 10). Similar trend is there for Hindalco, who has provided all financial data.

**Table 10**

Sl.No.	Market Share of Domestic Industries in sale of Aluminium Foil (%)	2005-06	2006-07	2007-08	April-08 Dec-08
1	Domestic industry (Hindalco)	41.67	38.10	29.25	25.80
2	Other Indian Producers	25.59	25.89	23.51	21.17
3	Indian Industry (1+2)	67.26	64.00	52.75	46.97

**b. Production:**

**Aluminium Flat Rolled Products (FRP)**

The average monthly production of Aluminium Flat Rolled Products (FRP) by the domestic producer has declined significantly during April 08-December 08 by 13% compared to 2007-08. The indexed figure of month wise average production of domestic industry is shown in the table 11:

**Table 11**

		2005-06	2006-07	2007-08
<b>Monthwise Average production of domestic industry</b>	Index	100	111	113

**Aluminium Foil**

The average monthly production of Aluminium Foil by the domestic producers has declined steadily from 2005-06 to April 08-December 08. However, the decline during April 08-December 08 has also been significant.

**Table 12**

		2005-06	2006-07	2007-08	April 08- Dec 08
<b>Monthwise Average production of domestic industry</b>	Index	100	99	96	8

**c. Capacity Utilization:**

Aluminium Flat Rolled Products

The capacity utilization of domestic industry in respect of Aluminium Flat Rolled Products has been more than 100% from 2005-06 to 2007-08, but the same declined to 90.35% during the period April-Dec-08, as can be seen from the table below (Table 13)

**Table 13**

Aluminium FRP	Unit	2005-06	2006-07	2007-08	April-Dec-08
Capacity Utilization	%	107.24	101.42	103.62	90.35

Aluminium Foil

The capacity utilization of domestic industry in respect of Aluminium Foil has been on decline since 2005-06. It declined to 63.48% during April-December-08 from 71.42% in 2005-06 and 68.90% in the immediately preceding year 2007-08, as evident from the table below (Table 14)

**Table 14**

Aluminium Foil	Unit	2005-06	2006-07	2007-08	April-Dec-08
Capacity Utilization	%	71.42	70.90	68.90	63.48

- d. **Productivity:** There is no indication to suggest that the injury is on account of loss of productivity
- e. **Employment:** The impact of the market disruption has started being felt on employment. The indexed data of movement of employees are tabulated below:

**Table 15**

Year/ Month	Total number of people employed in Aluminium FRP (Index)	Total number of people employed in Aluminium Foil (Index)
2005-06	100	100
2006-07	102	100
Apr'07	111	101
May'07	111	99
Jun'07	108	100

Jul'07	106	100
Aug'07	104	97
Sep'07	103	97
Oct'07	104	96
Nov'07	100	95
Dec'07	100	98
Jan'08	100	97
Feb'08	100	97
Mar'08	99	94
Apr'08	100	94
May'08	101	95
Jun'08	101	97
Jul'08	101	93
Aug'08	100	93
Sep'08	98	93
Oct'08	97	93
Nov'08	95	94
Dec'08	95	93

f. **Profitability:**

**Aluminium Flat Rolled Products**

The domestic industry has been on profit since April-Oct 08. However, the industry has suffered loss in the month of October and December. The profit in the month of November has been marginal. As a whole, the increased import has affected the profitability on account of Aluminium Flat Rolled Products adversely.

**Table 16**

<b>Aluminium Flat Rolled Products</b>								
		2005-06	2006-07	2007-08	April 08-Sep 08	Oct,08	Nov,08	Dec,08
Profit/loss	Index (Rs/kg)	100	107	48	99	(63)	5	(51)
Profit/loss	Index (Rs/Lacs)	100	117	55	99	(49)	5	(50)

**Aluminium Foils**



The domestic loss Rs/Kg and loss Rs/Lacs has increased significantly during the month of October to December 08, as apparent from the table below:

**Table 17**

Aluminium Foils								
		2005-06	2006-07	2007-08	April 08-Sep 08	Oct,08	Nov,08	Dec,08
Profit/loss	Index Rs/kg	(100)	(124)	(132)	(103)	(152)	(169)	(147)
Profit/loss	Index Rs/Lacs	(100)	(123)	(125)	(94)	(116)	(142)	(108)

- g. **Causal Link between Increased Imports and Threat of Market Disruption:** A comprehensive evaluation of parameters as above for the period from 2005-06 up to the December 2008 demonstrates threat of market disruption, which is clearly imminent. The market share of the domestic industry has substantially declined during April to December, as discussed above. During the same period there has been substantial increase in imports both in absolute as well as relative term. From the information available with the Directorate General, it is seen that the significant increase in imports and consequent threat of market disruption, which is clearly imminent, coincide with the unforeseen developments. The declining capacity utilization during the period 2008-09 (upto December 2008) compared to the period 2007-08 coincide with the same period when import increased. Further, the reduction in employment shows similar trend as of increasing import. This clearly depicts a direct correlation between the increase in imports and threat of market disruption faced by the domestic industry.
- h. **Other Issues:** A provisional examination of the competing interests of different economic operators and public at large has been carried out. In this respect, it is important to keep the prime objective of safeguard laws in mind which is to provide sufficient time to the domestic industry to make positive adjustments to meet the situation of increased imports. The strategic and national importance of Aluminium industries has long been recognized. It is in the interest of all to keep a healthy and competitive Aluminium Industry. It is apparent that if the

provisional safeguard measures are not taken, both the prices and market share of domestic industries will further reduce resulting in financial loss of domestic Industries to the extent of getting the domestic industry unviable and consequent loss of employment as well as loss of strategic and economic interest to keep the domestic market competitive. The imposition of safeguard duty would allow the domestic industry to remain competitive and, at the same time, users/buyers will have a wider choice to source their material requirements, that too at competitive prices.

- j. **Critical Circumstances:** The increasing share of domestic market taken by imports at injurious prices, unutilized production capacity and idling of capacities in the year 2008 are the critical circumstances for issue of preliminary findings as the damage caused by delay will be difficult to repair. The preliminary determination shows that critical circumstances exist in which delay would cause damage which it would be difficult to repair. As indicated above threat of market disruption is clearly imminent. The domestic producers are already suffering a decline, notably in loss of market share, reduced capacity utilization and loss of employment.

4. **Conclusion and Recommendation:** On the basis of the above preliminary findings it is seen that increased imports of Aluminium Flat Rolled Products and Aluminium Foils {Aluminum Products (FRP & Foils)} from People's Republic of China have caused and threatened to cause market disruption to the domestic industry/ producers of Aluminum Products (FRP & Foils). There exist critical circumstances, where any delay in application for Specific Safeguard measures would cause damage which it would be difficult to repair, necessitating immediate application of provisional Specific Safeguard duty for period of 200 days, pending final determination of market disruption and threat of market disruption. Considering the average cost of production of Aluminum Products by the domestic producers (confidential), a reasonable return on capital employed, the present level of import duties and average import prices of Aluminum Product Specific Safeguard Duty at the rate of 21% (Twenty One Percent) ad valorem on all goods falling under Chapter heading 7606 (Aluminium Flat Rolled Products) and at the rate of 35% (Thirty Five Percent) ad valorem on all goods falling under Chapter heading 7607 (Aluminium Foil) which is considered to be the minimum required to protect the interest of

domestic industry is recommended to be imposed on imports of such goods from Peoples Republic of China.

**5. Further Process:**

- I. A public hearing will be held in due course before making a final determination, for which the date will be informed separately.

**Sd/**

**(S. S. RANA)**  
**Director General (Safeguards)**