

**MINISTRY OF COMEMRCE**  
**(Directorate General of Anti-dumping and Allied Duties)**

**NOTIFICATION**

New Delhi, the 6th March, 2000

**FINAL FINDINGS**

**Subject :-** Anti-dumping investigation concerning imports of Sodium Cyanide from USA, European Union, Czech Republic and Korea Republic.

**No. 8/1/99-DGAD** – Having regard to the Customs Tariff Act- 1975 as amended in 1995 and The Customs Tariff (Identification, Assessment and Collection of anti-dumping duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof

**A. PROCEDURE**

1. The procedure described below has been followed:
  - i. The Designated Authority (hereinafter also referred to as the Authority) notified the preliminary findings vide notification dated 15.10.99, on anti-dumping investigation concerning imports of Sodium Cyanide from USA, European Union, Czech Republic and Korea Republic (herein after also referred to as subject countries/territory) and requested the interested parties to make their views known in writing within forty days from the date of its publication.
  - ii. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter;
  - iii. The Authority also forwarded a copy of the preliminary findings to the embassies of USA, European Union, Czech Republic and Korea Republic in New Delhi with a request to them to advise the exporters and other interested parties to furnish their views on the preliminary findings in the time frame as stipulated in (i) and (ii) above.
  - iv. The Authority provided an opportunity of public hearing to all interested parties to present their views orally on 2.12.99. All parties presenting their views were requested to file written submissions of the views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and other rebuttals, if any;

- v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request;
- vi. Argument raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for the sake of brevity. However, the arguments raised by the interested parties subsequently, to the extent they are relevant under the Rules, have been appropriately dealt in the preliminary findings and/or these findings.
- vii. Verification of exporters' data was carried out by the Authority to the extent it was feasible. A team of officers carried out verification of the data at the premises of the exporters, namely, M/s Degussa Huls (European Union), M/s Tong-Suh Petrochemicals Corporation Ltd. (Korea RP) and Hanwha Corporation (Korea RP).
- viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties in the Disclosure statement dtd. 10.2.2000 and comments received on the same have also been duly considered in these findings.
- ix. The period of investigation (POI) considered in this case is 1.4.98 to 31.12.98.

## **B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.**

2. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the Preliminary findings and the disclosure statement and those now raised in response to the disclosure statement, are discussed in the relevant paras herein below to the extent these are relevant as per the Rules and have a bearing upon the case. The arguments raised by the interested parties have been examined and wherever appropriate, dealt in the relevant paras herein below.

## **C. PRODUCT UNDER CONSIDERATION**

3. The product involved in the present investigation is Sodium Cyanide, originating in or exported from the subject countries, classified under Customs Subheading 2837.11 of Customs Tariff Act, The Classification is only indicative and in no way binding on the scope of present investigation, Sodium Cyanide is a pure basic inorganic chemical. It is manufactured by reacting Hydro Cyanic Acid (HCN) with Caustic Soda, It is

mainly used by industries such as dye intermediates, electro-plating chemicals and for manufacture of hit treatment salts.

## **D. DOMESTIC INDUSTRY^ STANDING OF THE PETITIONER**

4. The petition has been filed by M/s Cyanides and Chemicals Company, 65, Free Press House, Nariman Point, Mumbai. There is only one more producer of Sodium Cyanide in India, namely, M/s, Gujarat Alkalies and Chemicals Limited, The authority finds that the petitioner accounts for a major proportion of the production of Sodium Cyanide by the domestic industry during the POI. Therefore, the authority reiterates the finding that the petitioner have the requisite standing to file the petition on behalf of the domestic industry under the Rules. The authority notes that the position in this regard in the preliminary finding, has not been controverted by any interested party. Therefore, the finding at para 7 of the preliminary finding stands confirmed.

## **E. LIKE ARTICLE**

5. The Authority holds that the Sodium Cyanide produced by the domestic industry is a like article to the Sodium Cyanide imported from the subject countries after considering such aspects as basic physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications and tariff classification of goods.

6. An argument has been raised by M/s, Dupont, an exporter from USA, that their Sodium Cyanide is of 98% purity which was not produced in India, during the POI, However, the Authority notes that the imported Sodium Cyanide and the Sodium Cyanide produced in India have been used inter-changeably and, thus, have been found to be commercially substitutable. Further, the Authority finds that the Sodium Cyanide produced by the domestic industry in India has characteristics closely resembling the same of the Sodium Cyanide imported from the subject countries. Therefore, the Authority holds the imported Sodium Cyanide as a like article to the domestic product.

7. The Authority, therefore, confirms the findings of para 6 of the preliminary findings, dated 15.10.99 on like article.

## **F. ASSESSMENT OF PUMPING**

### **8. NORMAL VALUE AND EXPORT PRICE**

The parameters of dumping, namely, the Normal value and the export price, in relation to the exporters of the subject countries are examined and determined in terms of Section 9A(1)(c) of the Customs Tariff (Amendment) Act, 1995,

9. The Authority provided opportunity to the known exporters to furnish information on Normal value and Export price in accordance with the provision cited above. The following exporters/producers who responded and cooperated for verification have been assessed as under:-

#### **10. EUROPEAN UNION:**

Exporter: M/s Degussa Hula : Normal value:

The exporter claimed Normal value for Sodium Cyanide on the basis of its weighted average selling price in the domestic market, i.e. the EU market. Adjustments were claimed on account of freight, insurance and commission, which were allowed in the Preliminary findings. However, certain additional adjustments, namely, the special packing and distribution expenses, incurred for domestic EU market come to the notice during the verification. All these adjustments along with the domestic selling price were duly verified and the same are allowed by the Authority for working out the domestic selling price at ex-factory level. To ascertain whether the domestic sales were in the normal course of trade, the details of the cost of production provided by the exporters were examined and verified and, upon verification, all the domestic sales were found to be in ordinary course of trade by reason of price vis-a-vis the cost of production determined for the company. Since based on cost of production, the sales in domestic market are viable sales, the same have been considered for Normal value. Therefore, the Authority determines the Normal value at US \$...../M.T. in the case of M/s Degussa Huls.

Export Price:

The exporter claimed export price on the basis of the weighted average price of all exports to India during the Period of Investigation along with the adjustments claimed on Ocean freight. Ocean insurance, FOB cost, commission and interest cost. The details of the sales of the subject goods to India were verified with reference to the relevant invoices. It is found that some of the invoices claimed by the company pertained to the period outside the POI. The Authority, therefore, excludes these invoices in the assessment of export price, even though the consignments against these invoices had arrived in India during the POI. The adjustments claimed by the exporter on the aforesaid heads have been verified and the same are allowed by the Authority in the assessment of Export price at ex-factory level. Thus, the export price is determined at US\$...../M.T.

## 11. KOREA RP

Exporter: M/s Hanwha Corporation

Producer : M/s Tong-Suh Petrochemicals Corporation Ltd.

In this case, the Authority notes that during the POI M/s Hanwha Corporation exported to India the subject goods manufactured only by M/s Tong-Suh who, on the other hand, had no other channel of export to India except M/s Hanwha Corporation.

The Authority has already disclosed the manner in which the above named exporter and producer are to be assessed in a combination, so that the assessment applies only to the combination of both the specific producer and the specific exporter so named together and does not apply to them separately. To this extent, the assessment made in the Preliminary findings stands revised. For the assessment of the combination of the exporter and the producer, namely, M/s Hanwha Corporation and M/s Tong-Suh Petrochemicals Corporation, the Authority determines the Normal value and Export price as under:

### (i) Normal Value:

The Authority notes that all the exports to India by M/s Hanwha Corporation during the POI have originated in only one manufacturer, namely, M/s Tong-Suh Petrochemicals. Dumping in this case is assessed for the, producer and the exporter together and not separately. Therefore, the Normal value is assessed on the basis of the domestic selling price of M/s. Tong-Suh during the POI. In this regard, the adjustments claimed on account of local transportation, insurance, Value Added tax and Agency Commission have been verified and the Authority allows the adjustments of US\$ /MT only account of local transportation and insurance as no documentary evidence in regard to value added tax and agency commission was furnished during the verification. Upon verification, the weighted average domestic selling price of M/s. Tong-Suh is determined at US\$ / M.T. as against the figure of US\$ /MT. considered in Preliminary findings. Thus, the domestic selling price at the ex-factory level, after consideration the adjustments allowed by the Authority, is determined at US\$ /MT. In this regard, the Authority has got verified the cost of production of Sodium Cyanide manufactured by the company and various elements thereof during the POI and all the domestic sales have been found to be in the ordinary course of trade vis-à-vis the cost of production of the subject goods.

### Arguments raised:

- a. Since Hanwha Corporation is inseparably linked to the producer, the price at which goods have been purchased by the producer from the trader is unreliable because in inseparably linked association.
- b. With regard to HCN, it is the practice of the Authority that in case the producer produces an input item, the same should be transferred to the producer under consideration at market value and not at cost of production.

#### Examination by the Authority

- a. The Authority in this regard notes that an input item is supplied to the producer by M/s Hanwha Chemical Corporation, which belongs to the Hanwha group of Companies to which the exporter also belongs, The producer has no inseparable linkage with the supplier which is a different legal entity altogether. Nevertheless, since the supplier Co. belongs to the same group as the exporter, the Authority has verified the prices of the supplier Company to other customers in the domestic market and the average prices of import of the item into Korea from other countries as per the data furnished by Korean Trade Centre and it is found that these prices and the price to Tong-Suh, the producer of the subject goods, are in the same range. Therefore, the price at which the producer M/s Tong-Suh has purchased the input from M/s Hanwha Chemical Corporation appears to be reasonable and correct.
- b. The Authority finds that the producer, M/s Tong-Suh is not selling HCN either in domestic or in International market. Further, it is found that it is not a tradable item in Korea RP. In this regard, the Authority has verified the transfer price mechanism of HCN, which is a by product of the Acrylonitrile plant of the producer and finds the same reasonable.

#### Export price:

The Export Price in this case is determined on the basis of the weighted average cif export price of M/s Hanwha Corporation to India during the POI. The same, upon verification of relevant original invoices, is determined at US\$ /M.T. Since M/s Hanwha Corporation have raised the invoices for exports to India, they are the exporter in this case The invoice value of exports to India was found to include a margin of LIS\$..... /M.T. for the exporter apart from the expenses on freight, insurance etc. On the export price, the exporter claimed adjustments on accounts of local freight, Ocean freight, commission, insurance and container tax and handling charges for an amount of US\$ /M.T. which have been verified and allowed by the Authority. Thus, the Export price at ex-factory level is determined at US\$ /M.T.

#### Arguments raised:

Since goods have been exported by the trader, the prices at which goods have been exported by the trader becomes the starting point. Further, the expenses which the trader must have incurred and a reasonable amount towards their profit has to be adjusted from the export price.

### Examination by the Authority

In the determination of export price, the Authority has considered the price, at which the trader has exported the goods to India, as the basis. Further, all expenses incurred by the trader in the export of the subject goods including a reasonable margin towards their profit have already been adjusted from the export price, as clarified in the foregoing para on the Export price.

## **12. Assessment of Non-Cooperative/Residual Exporters**

### (a) Country : USA

The Authority notes that no information is furnished till date by any exporter in regard to Normal value and Export price of the subject goods, Thus, the position remains unchanged vis-a-vis the Preliminary findings. Thus the Authority considers the information provided by the petitioner and the export price from DGCI and S source as the best available information and determines Normal value and export price at US\$ 1450/M.T. and at US\$ 760/M.T respectively after allowing the adjustments as claimed by the petitioner,

### (b) THE EUROPEAN UNION:

The Authority notes that no exporter/producer of EU member states (except M/s Degussa Huls) nor the E,C, delegation have furnished any information in regard to the Normal value and the Export price of Sodium Cyanide exported to India. The Authority, therefore, maintains the same position for non-cooperative/ residual exporters of EU as in the Preliminary findings. The Normal value and Export price for non-cooperative exporters of EU are thus determined as US\$ 1452/M.T and US\$ 942/M.T respectively on the basis of information provided by the petitioner.

### (c) CZECH. REPUBLIC

The Authority notes that no exporter/producer has submitted till date any information in regard to Normal value and Export price. Therefore, the Authority's position in respect of all exporters of Czech Republic remains same as in para 11(c) of the Preliminary findings except for the export price. In respect of export price, the Authority has noted the revised figures of DGCI and S in regard to the cif value of

imports from Czech Republic for the POI which is determined at US\$ 988/M.T as against the figure of US\$ 1071/ M.T. considered in the Preliminary findings. Considering and allowing the adjustments claimed by the petitioner on account of Ocean freight, insurance and commission, which the Authority treats as the best available information, the Authority determines the export price at ex-factory level at US\$ 829/M.T.

(d) KOREA RP

Here, the Authority determines the Normal value and Export price for the non-cooperative exporters on the basis of the information provided by the petitioner and the DGCI and S. Thus, the Normal value is determined at US\$ 1525/M.T. and Export price at US\$ 812/M.T after considering the adjustments claimed by the petitioner.

**G. ASSESSMENT OF DUMPING MARGIN:  
COMPARISON OF NORMAL VALUE AND EXPORT  
PRICE:**

13. The Authority has determined the dumping margin for various exporters/producers on the basis of a fair comparison between the Normal value and the Export price and on the basis of the principles laid down in Annexure 1 to the Rules. For the purpose of fair comparison between the Normal value and the Export price, the Authority has taken into consideration the informations furnished by the exporters, duly verified, and other informations available which the Authority has treated as the best available informations. The Normal value and the export price determined for the cooperative and non-cooperative/residual exporters, as detailed above, are at same level of trade, i.e. at ex-factory level, and the comparison is weighted average to weighted average for the purpose of determining the dumping margin. In the case of cooperative exporters, where reliable information is available on the individual export transactions, weighted average Normal value has been compared with export price on a transaction-to- transaction basis.

14. Thus, the dumping margin as % of export price in respect of the subject countries/territory and the exporters is determined as under:-

Country	Exporters	Dumping margin
1. USA	All Exporters	90.78%
2. EU	(i) M/s. Degussa Huls	30.92%
	(ii) All other exporters	54%
3. Czech	All Exporters	90.70%

Republic		
4. Korea RP	i. M/s. Hanwha Corporation Exporting the subject goods Manufactured only by M/s. Tong Suh Petrochemicals Corporation Ltd*	NIL
	ii. All other exporters	87.80%

\* The subject goods exported by M/s Hanwha Corporation should be identified to the satisfaction of the jurisdictional Customs Authorities as the produce of M/s Tong-Suh Petrochemicals Corporation Ltd.

15. The Authority notes that Rule 22 is applicable to the following exporters who have responded stating that they have not exported the subject goods to India during the period of investigation:

- a. PCK Refinerie GmbH, E.U.
- b. E. Merck, E.U.
- c. BASF AG, E.U.

#### 16. Landed value:

The landed value of imports is determined as a sum of the cif value of imports, 1% thereof towards landing charges, 2% thereof towards handling charges and the prevailing level of Customs duties, except the duties levied under section 3, 3 A, 8B, 9 and 9 A of the Customs Tariff Act, 1975. The exchange rate considered for the purpose of conversion of currency for determining the cif price of the imported goods is the forward exchange rate, where the same has actually been availed.

## H. INJURY AND CAUSAL LINK:

17. In the Preliminary findings, the Authority had noted the injury to the domestic industry on account of dumped imports from the subject countries. The Authority had reached the conclusion about injury after taking into account all relevant facts and in accordance with Rule 11 Supra and the Principles set out in Annexure IT to the Rules.

For determination of injury, the Authority had examined the impact of dumped imports on the domestic industry, In this regard, the Authority had considered such indices having a bearing on the state of industry as quantum of imports from the subject countries, the petitioner's market share, net sales realisation, profitability and magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the Rules Supra.

#### 18. Arguments raised:

Injury to the domestic industry in this case is totally absent as their production, capacity utilization, sales value and market share have all increased, If the only other indicator of injury, namely, decline in the average sales realisation and profitability, is considered by the Designated Authority, it is important to analyze whether the loss during POI is attributable to imports from the subject countries as during the year 1997-98 when there was no allegation of dumping the petitioner company had incurred a loss. It is stated that the fair selling price determined by the Designated Authority for the POI is less than the price which the company has actually realized. If the company incurs losses even by selling at a price higher than the fair selling price then the logical conclusion is that the alleged loss is only due to inefficiency of the company and cannot be attributable to the alleged dumping.

#### **19. Examination by the Authority:**

The Authority is of the view that it is not necessary that injury is assessed on all parameters. Material injury in particular is basically a function of net sales realization and profitability which are sufficient parameters to establish material injury to the domestic industry. The argument that the sales realization of the petitioner is higher than the fair selling price is not factually correct as per the Authority's findings. In fact, the price realization for the domestic sales has been found below the non-injurious selling price determined by the Authority. This is due to the price undercutting resulting from dumped imports from some of the subject countries/exporters.

20. Therefore, the Authority confirms the findings on injury to the domestic industry as reflected at para 13 of the Preliminary findings dated 15.10.99. In this regard, the Authority holds that though the domestic industry's production, capacity utilization and volume of sales in absolute terms have increased during the POI, their relative market share and average sales realization has declined and the consequential loss has increased during the period of investigation

#### **21. CAUSAL LINK**

The Authority finds that on account of dumping of the subject goods into India, the domestic industry was forced to match their selling price with the low landed value of the dumped imports, whereby, the average sales realisation of the domestic industry during the POI has been below the Non-injurious selling price determined by the Authority. Since the domestic industry could not realise its non-injurious selling price, i.e. fair selling price, it incurred financial losses. Therefore, the Authority holds that the material injury to the domestic industry during the POI was caused by the dumped imports from the subject countries/territory.

## I. FINAL FINDINGS:

22. The Authority, after considering the foregoing, concludes that :

- a. Sodium Cyanide originating in or exported from the subject countries/territory as indicated in foregoing para 14 has been exported to India at a price below the Normal value.
- b. The domestic industry has suffered material injury.
- c. The injury has been caused to the domestic industry by the dumping of the subject goods originating in or exported from the subject countries/territory,

23. In view of the above, the Authority recommends imposition of definitive anti-dumping duty on all imports of Sodium Cyanide falling under Customs Subheading 2837.11 originating in or exported from USA, European Union, Czech RP and Korea RP.

24. It was considered to recommend the amount of anti-dumping duty equal to the margin of dumping or less which, if levied, would remove injury to domestic industry. Landed values of imports for individual exporters, for the purpose, were compared with the non-injurious selling price of the domestic industry, determined for the period of investigation. Wherever the difference was less than the dumping margin a duty lower than the dumping margin is recommended.

25. Accordingly, it is proposed that definitive anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Sodium Cyanide originating in or exported from the subject countries/territory falling under Customs Subheading No. 2837.11 of Customs Tariff Act. The definitive anti-dumping duty in respect of the exporters/producers of the subject countries/territory shall be the difference between the amount mentioned in column 4 of the following table and the Landed value of the imports per M.T. to be calculated on the basis as mentioned in foregoing para 16.

Country	Exporter/Producer	Amount (Rs. Per M.T)
USA	All Exporters	68,025
EU	(i) M/s. Degussa Huls	(i) 68,025
	(ii) All Other Exporters	(ii) 68,025
Czech Republic	All Exporters	68,025
Korea RP	i. M/s Hanwha Corporation exporting the subject goods manufactured only by M/s. Tong-Suh Petrochemicals Corporation Ltd.*	(i) No duty as there is no dumping
	(ii) All other exporters	(ii) 68,025

\* The subject goods exported by M/s Hanwha Corporation should be identified to the satisfaction of the jurisdictional Customs Authorities as the produce of M/s Tong-Suh Petrochemicals Corporation Ltd,

26. The appeal against this order shall lie to the Customs, Excise and Gold(Control) Tribunal in accordance with the Act Supra.

**RATHI VINAY JHA..**  
Designated Authority