

**DIRECTOR GENERAL (SAFEGUARDS)**

**NOTIFICATION**

New Delhi, 30th January, 2009

**Subject:- Safeguard investigation concerning imports of Soda Ash – Preliminary findings**

G S R         D- 22011/02/09 dated 30th January, 2009 having regard to the Customs Tariff Act, 1975 and the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 thereof;

**1.            Procedure**

i) The Notice of Initiation of Safeguard investigation concerning imports of Soda Ash into India was issued on 16th 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**

1. Tata Chemicals Ltd.  
Leela Business Park,  
Andheri-Kurla Road, Andheri (East)  
Mumbai – 400 059.
2. Saurashtra Chemicals Limited,  
Birlasagar,  
Porbandar 360 576  
Gujarat.
3. Gujarat Heavy Chemicals Limited  
B-38, Institutional Area,  
Sector – 1, Noida – 201 301.
4. DCW Limited,  
“ Nirmal” 3rd Floor,  
Nariman Point,  
Mumbai 400 021

5. Nirma Limited  
NCC Office,  
Krishna Nagar,  
Wadhawadi Road,  
Bhavnagar 364 002 Gujarat.

**Other Indian producer : (now closed in 2008-2009)**

1. Tuticorin Alkali Chemicals & Fertilizers Limited  
East Coast Centre,  
534, Anna Salai,  
Teynampet,  
Chennai 600 018

**Importers**

1. Gujarat Guardian Ltd.  
Village - Kondh,  
Valia Road,  
Palnt Sate Highway No. - 13  
Ankleshwar,  
Bharuch - 393 001,
2. Float Glass India Ltd.  
T - 7, Midc,  
Industrial Area,  
Taloja, Maharashtra,
3. Alembic Glass Industries Ltd.  
Alembic Road,  
Baroda (Vadodara),  
Gujarat,
4. Deepak Nitrite Limited, Nandesari  
4/12, Chemical Complex,  
Gidc,  
Nanfesari,  
Baroda (Vadodara)  
Gujarat,

5. Hindusthan National Glass & Ind. Ltd.  
Rishra,  
West Bengal
6. Hindustan Uniliver Ltd.  
Dakshina Building,  
8th Floor, Plot No. - 2,  
Sector No. - 11,  
Cbd Belapur,  
Navi Mumbai,
7. Procter & Gamble Hygiene And Health Care  
Mandideep Plant L & C - Mfg Plot No. - 182,  
Mandideep,  
Madhya Pradesh,
8. Albright Morarji & Pandit Ltd.  
Ambernath,  
Dist. - Thane  
Maharashtra
9. Advatech Industries Pvt. Ltd., Dhanali  
Village - Dhanali,  
At - Kadi District,  
Mahesana,  
Gujarat,
10. Saint Gobain Glass Ltd.  
Sriparumbathur,  
Tamilnadu,

### **Exporters**

1. Shandong Haihua Group  
Shandong haihua Group Co., Ltd.  
Delvelop Zone of Haihua  
Weifang City, Shandong 262737,  
China.
2. Hebei Tangshan Sanyou Alkali Industry Company  
Nanpu Development Area,  
TangShan, Hebei,

China  
Postcode:063305

3. Qinghai Alkali Plant ( Zhejiang Glass)  
China's Qinghai Delhi Municipal Industrial Park  
Zip:817000

4. Tianjin Soda Ash Plant  
No.87 Xinhua Road  
Tanggu District Tianjin  
China

5. Jinshan Chemical co.  
China's Zhengzhou City in Henan Province,  
Zhengzhou City Fushoushan Street 87,  
China

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

(iii) Questionnaires were also sent, on the same day, to all known domestic producers and importers and they were asked to submit their response within 30 days.:

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

1. The application has been filed by Alkali Manufacturers Association of India (AMAI) on behalf of M/s Tata Chemicals Ltd. Andheri (East), Mumbai, M/s Gujarat Heavy Chemicals Limited, Noida, M/s Saurashtra Chemicals Limited, Birla Sagar, Porbandar, Gujarat, M./s DCW Ltd, Nariman Point , Mumbai and M/s Nirma Ltd., Bhavnagar, Gujarat. The applicants have made following major points:-

2. The applicants have alleged that increased imports of Disodium Carbonate popularly known as Soda Ash from China into India have threatened to cause market disruption to domestic industry. The product has chemical formula  $\text{Na}_2\text{CO}_3$ . Soda Ash is a white, crystalline, water-soluble material.

Soda Ash is classified as below:

Name of the Products	HSN Chapter Heading	Customs Tariff Heading	ITC Heading
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Soda ash	2836.20	28362010	28362010
		28362020	28362020
		28362090	28362090

**3.** They have alleged that surge in imports are taking place at lower prices making them lose their market share.

**4.** The increased imports at lower prices are on account of certain developments in china which are as mentioned below:

**a.** GDP growth through August 2008 pegged at 10.5%. Indicators are that through 2009 GDP will taper down to around 5-6%. This would leave large volume of excess capacity in China.

**b.** Post the Olympic Games and the Global Financial Crisis, China has witnessed sharp downturn in industrial activity leading to decline in demand for soda ash as well.

**c.** Soda ash demand estimate revised downward to 5%-6% / year from the earlier projection of 10%+ / year. This will reduce Chinese demand by 2 million MT / year.

**d.** All exports specially those of Chemicals/Plastics/Textiles/ Toys etc largely depended on US and Europe, hit drastically. Resultantly, exports of soda ash to these markets have also been hit, leaving significant surpluses with Chinese producers.

**e.** Government announced support measures for upliftment of Rural Agricultural Sectors. This prevented closure of some plants, which would have happened in the absence of these measures.

**f.** Like almost all economies, reality sector specially housing has been adversely affected. Real Estate prices sliding and very few buyers. These have impacted demand for a number of products including demand for soda ash.

**i.** Slow down in housing affecting infrastructure industries like Cement, Steel and Glass.

**k.** 35 Float Glass lines both small and medium sizes reportedly closed down in the last 2 months and others operating at reduced production rates. Float glass being one of the major consumer of soda ash, this has resulted in large surplus capacity.

**m.** Capacity ramp up in 2007-08 in soda ash industry have been in line with projections.

**n.** China capacities in mid 2008 were reportedly at 22million MT constituting of 7 large manufacturers and about 44 small manufacturers. 3.5 million MT already added in last 18 months (up from 18.5 Million MT). Further announcements of about 5 million MT on hand (may or may not come on stream depending on demand supply situation).Chinese soda ash production capacity is expected to reach at 26 and 28 million MT in 2009 and 2010 respectively

**o.** Shandong-Haitai has added 1 million MT in September 2008 and commercial production has commenced. Once fully commercial, this would release 1 million MT

soda ash in the market.

- q.** Chinese soda ash production remained at 1.701 million MT in Oct-08, this leads to year to date 16.14 million MT which is 14% growth over same period last year.
- r.** Post Olympics witnessed serious downturn in consumption along with ripple effect of added inventories due to logistics slow down during games.
- s.** No Soda Ash plant had to close during games as was earlier visualized. Because of this, the soda ash producers had built up high inventories and are now saddled with stocks. Added inventories and continuing record production have led to very high inventories.
- t.** Glass industry in China is not doing good. Followings are relevant in this regard.
  - i** Float Glass going through severe pressure.
  - ii** Inventories added up during Olympic Games could not be liquidated owing to serious financial crunch in the sector in September – October.
  - iii** .Real Estate trend down by 25 – 30 % “No Buyers” available.
  - iv** 30 Float Glass units reportedly closed on account of high inventory and no domestic demand.
  - v.** Dense Soda Ash demand which was hitherto tight has also become very weak.
  - u.** The demand for detergent is also falling subsequent to slow down. Detergent industry which was growing by +10% PA till 2007 has recorded marginally negative growth in 2008.
  - v.** Demand for soda ash in aluminium industry is also falling on account of falling consumption of Soda Ash in the Aluminium sector.

**5.** Their inventory is on sharp rise, even after lower production.

**6.** The transportation cost forms a very substantial portion in cost to make and sell the subject goods. To compound the problems further, while the Indian Producers of soda ash are located in the State of Gujarat (due to availability of raw material), the sales have to be made throughout India. Further, the subject goods is a comparatively lower price product. Thus, the incidence of transportation cost per MT of the product works out very substantial when compared with the selling price of the product.

**7.** Their profitability has gone down drastically and the danger of their wipe out is imminent.

**8.** They have requested for imposition of Safeguard duty as well as quantitative restrictions on imports of Soda Ash into India from China to protect the domestic producers of Soda Ash against threat of market disruption caused by the increased imports from People’s Republic of China.

**9.** They have also requested for imposition of provisional Safeguard duty in light of critical circumstances, leading to damage which would be difficult to repair.

### **3. Findings of the DG:**

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 market disruption or threat of market disruption. 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 product under investigation is Disodium Carbonate, popularly known as Soda Ash, having chemical formula  $\text{Na}_2\text{CO}_3$ . Soda Ash is a white, crystalline, water-soluble material. It has been referred as “Soda Ash” in this order. Soda Ash is produced in two forms - Light Soda Ash and Dense Soda Ash. The difference in the two types is bulk density. Soda Ash is an essential ingredient in the manufacture of detergents, soaps, cleaning compounds, sodium based chemicals, float glass, container and specialty glasses, silicates and other industrial chemicals. It is also widely used in textiles, paper, metallurgical industries and desalination plants. The Directorates 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.

**c) Domestic Industry:** There are following main domestic producers in India who manufacture Soda Ash namely - Tata Chemicals Ltd, Gujarat Heavy Chemicals Limited, Saurashtra Chemicals Limited, DCW Limited, Nirma Limited and Tuticorin Alkali Chemicals & Fertilizers Limited. The shares of these producers are as

mentioned in the table 1. The applicant M/s Alkali Manufacturers Association of India (AMAI) supported by M/s Tata Chemicals Ltd. Andheri (East ), Mumbai, M/s Gujarat Heavy Chemicals Limited, Noida, M/s Saurashtra Chemicals Limited, Birla Sagar, Porbandar, Gujarat, M./s DCW Ltd, Nariman Point , Mumbai and M/s Nirma Ltd., Bhavnagar, Gujarat , whose production of Soda Ash account for more than 90% of the domestic production, constitute domestic industry.

**Table-1**

Sl. No	Name of the manufacturer	Production in 2007-08	% share in total domestic production
1	Tata Chemicals Ltd.	7,77,259	36.56
2	GHCL Ltd.	6,18,208	29.08
3	Saurashtra Chemicals	2,76,439	13.00
4	Nirma Ltd	3,72,530	17.52
5	DCW Ltd.	81,248	3.82
6	Tuticorin Alkali Chemicals & Fertilizers Limited	54	.003

**d) Unforeseen Developments:** As a result of current economic meltdown, demand for soda Ash has declined. Consequently, the Chinese producers are faced with significant idling of production capacities and are therefore resorting to sell the product in Indian market. Further, demand for their product has declined in their major export markets. To compound the problems further for them, fresh capacities have commenced commercial production in China. It is thus observed that aforesaid are unforeseen circumstances leading to significant increases in imports from China at low prices.

**e) Increased Imports:** From the table 2, it is apparent that there is significant increase in imports in absolute term from Peoples Republic of China during the period October-December 2008. There has also been significant increase in share of imports in domestic market during October-December 2008 after gradual increase in the share of imports during earlier period.

**Table-2**

Period	Volume (MT)	Monthly Average
2004-05	2,120	177

2005-06	9,016	751
2006-07	44,892	3,741
2007-08	45,771	3,814
Apr-Jun08	10,249	3,416
Jul-Sep08	16,562	5,521
Oct-Dec08	49,018	16,339

Source: DGCI&S upto June08 and China customs thereafter

Moreover, as can be seen from Table-3, the share of imports from China in relation to domestic production has increased from 0.44% in 2005-2006 to 2.59% April-Sep., 2008. Thereafter the share of imports from China (PR) has increased sharply to 10.13%.

**Table 3**

Imports from China and other Countries vis-à-vis domestic production

	2005-06	2006-07	2007-08	Apr-Sep08	Oct-Dec08
Imports from China	0.44	2.16	2.16	2.59	10.13
Imports from otherthan China	6.92	10.35	14.57	11.16	6.67
Sales by Domestic Industry (total)	92.64	87.49	83.27	86.25	83.20

**f) Threat of Market Disruption:**

**i. Share of domestic market:** As apparent from the Table 3, the domestic industry is losing their market shares to imports from China. In the year 2005-06 domestic manufacturers commanded 92.64% of the market against mere 0.44% of market share by Chinese imports. The share of Chinese imports went upto 10.13% during the period October-December 2008 and the share of domestic producers fell to 83.20% during the same period

**ii. Sales:** From Table 4 it can be seen that the average weekly sales volume fell to 36745 MT during the period 2005-2006, to 33207 MT in April-Dec., 2008. The sales have further fallen to 20881 in 1st week of Jan., 2009.

**Table-4**

	Total domestic sales	Average weekly domestic sales
2005-06	1,910,722	36,745
2006-07	1,821,823	35,035
2007-08	1,765,426	33,951
Apr.-Dec., 2008	1,295,063	33,207
1/11 to 7/11/08	-	31,883
8/11 to 14/11/08	-	30,970
15/11 to 21/11/08	-	29,819
22/11 to 30/11/08	-	36,539
1/12 to 7/12/08	-	27,645
8/12 to 14/12/08	-	26,603
15/12 to 21/11/08	-	28,931
22/12 to 31/12/08	-	39,101
1/1 to 7/1/09	-	20,881
8/1 to 14/1/09	-	29,963

**iii. Production:** A perusal of table-5 shows that average weekly production was increasing till Nov., 2008 and declined thereafter sharply until last week of Dec. Moreover the decline was even more pronounced in Jan., 2009

**Table-5**

	Total production	Average weekly production
2005-06	2,224,601	42,781
2006-07	2,037,255	39,178
2007-08	2,125,684	40,879
Apr.-Dec., 2008	1,556,654	39,914
1/11 to 7/11/08	-	42,329
8/11 to 14/11/08	-	41,516
15/11 to 21/11/08	-	41,432
22/11 to 30/11/08	-	52,285

1/12 to 7/12/08	-	40,105
8/12 to 14/12/08	-	42,607
15/12 to 21/11/08	-	43,936
22/12 to 31/12/08	-	55,971
1/1 to 7/1/09	-	38,219
8/1 to 14/1/09	-	37,967

**iv. Inventory:** It is observed from Table-6 that the level of inventories increased significantly from 47721 MT in 1st week of Nov., 2008 to 110082 MT at the end of 2nd week of Jan., 2009. Showing sharp increase of 132% in a matter of just about 8 weeks.

**Table-6**

	Average stock
1/11 to 7/11/08	47721
8/11 to 14/11/08	51598
15/11 to 21/11/08	54008
22/11 to 30/11/08	60521
1/12 to 7/12/08	62611
8/12 to 14/12/08	70611
15/12 to 21/11/08	80049
22/12 to 31/12/08	88752
1/1 to 7/1/09	97047
8/1 to 14/1/09	109799
Closing inventory	110082

**v. Capacity Utilization:** It is observed from Table-7 that capacity utilization was increasing till Nov., 2008 but declined thereafter sharply from 93.41% in Nov., 2008 to 71% in 1st week of Dec. The capacity utilization declined to 68% in 1st week of Jan., 2009. It is also observed that this significant decline in utilization of capacity in spite of the fact that some of the domestic manufacturer do not have flexibility to regulate production without significant adverse impact on cost.

**Table-7**

	Average weekly Capacity	Capacity utilization
2005-06	49,731	86.02%
2006-07	50,953	76.89%
2007-08	55,360	73.84%
Apr.-Dec., 2008	55,360	72.10%
1/11 to 7/11/08	55,975	75.62%
8/11 to 14/11/08	55,975	74.17%
15/11 to 21/11/08	55,975	74.02%
22/11 to 30/11/08	55,975	93.41%
1/12 to 7/12/08	55,975	71.65%
8/12 to 14/12/08	55,975	76.12%
15/12 to 21/11/08	55,975	78.49%
22/12 to 31/12/08	55,975	99.99%
1/1 to 7/1/09	55,975	68.28%
8/1 to 14/1/09	55,975	67.83%

**vi. Productivity:** There is no injury on account of productivity.

**vii. Profitability:** It is seen from Table-8 below that profitability declined from Rs.2680 per MT in 2006-2007 to Rs.2181 per MT in 2007-2008 and further to Rs.1976 per MT in April 2008 to Sep., 2008.

**Table-8**

Years	Profit/(Loss) Rs. per Mt	Indexed
2005-06	2114	100
2006-07	2680	127
2007-08	2181	103
Apr-Sep08	1976	93

**viii. Employment:** There is decline in the employment with the domestic industry as seen from Table-9 below.

**Table-9**

	2005-06	2006-07	2007-08	April-December 08
Total of GHCL and TCL	6762	6430	6364	6291
Decline (Compared to base year 2005-06)	-	332	398	471

**ix. Import Price:** The movement of FOB prices of export of Soda Ash from China (Table- 10 ) clearly indicates sudden drop in price in the month of November and December, 2008 which continued in Jan., 2009.. This sudden drop in price has caused increased imports. The increased imports at lower landed value than the cost of sale at reasonable ROCE has led to loss of domestic producers share in the domestic market moreover increased imports caused on prices to the extent that their profitability has declined substantially as given above in the Table-8.

**Table-10**

Year/Month	Volume in Mt	FOB price in US\$/Mt
	India	India
2005-06	10,063	157.15
2006-07	47,252	145.43
2007-08	45,771	218.55
Apr-Dec08	71,410	235.02
Per month	-	-
Apr-08	1,859	280.14
May-08	2,620	283.57
Jun-08	1,351	296.54
Jul-08	3,011	296.31
Aug-08	5,742	310.55
Sep-08	7,809	305.87
Oct-08	5,891	287.28
Nov-08	1,920	190.03
Dec-08	41,207	194.07

Source: China Customs data

**g) Critical Circumstances:** In this context it is noteworthy that export of Soda Ash has shot up significantly to 41207 MT (Table-10) which is close to annual export of this product from China to India in recent past. This sharp increase in import of Soda Ash to India will significantly increase the market share of import displacing domestic producers. This would also critically impair the domestic industry which is already having huge inventories (the increase has been 130% during Nov. 2008 to January 2009). This huge increase would further lead to decreased capacity utilization, decrease in employment and further decrease in profitability. In light of such huge export of Soda Ash from China to India and existence of significant surplus capacities in china would further disrupt the domestic industry and thus the threat of market disruption is clearly imminent. Therefore, I consider that there exists a critical situation warranting imposition of provisional Safeguard duties as any delay in the imposition of provisional safeguard duties would cause damage, which it would be difficult to repair.

**h) Other issues :**The provisional examination of the interests of the domestic producers, users, importers and other economic operators indicate that the domestic producers have technologically competitive plants, trained manpower and enjoyed high level of productivity and are able to meet quality and service concern of their customers. Any delay in imposition of provisional safeguard duty would seriously jeopardise their viability. It is prudent to have a healthy and competitive industry in the interest of all. It is apparent that if no safeguard measures are taken, both the prices and the market share of the domestic producers will further deteriorate resulting in increased inventories reduced production, reduced profitability and loss of employment.

**i) Conclusion and Recommendation:**

On the basis of the above preliminary findings it is seen that increased imports of Soda Ash have caused and threatened to cause further market disruption to domestic producers of Soda Ash. Critical circumstances, where any delay in application for safeguard measures would cause damage which it would be difficult to repair, exists necessitating immediate application of provisional safeguard duty for a period of 200 days, pending a final determination of market disruption and threat of market disruption. Considering the average cost of production of Soda Ash by the domestic producers (confidential), a reasonable return on capital employed, the present level of import duties and the current import prices of Soda Ash, a safeguard duty at the rate of 31% ad valorem, which is considered to be the minimum required to protect the interest of domestic industry, is recommended to be imposed on imports from People's Republic of China of Soda Ash falling under 28362010, 28362020 and 28362090 of the First Schedule of the Customs Tariff Act, 1975

**j) Further Process:**

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)