

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of

Hanwha International LLC

Respondent.

Proceeding under Section 16(a) of
the Toxic Substances Control Act.
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REGISTRATION DIVISION
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U.S. Environmental
Protection Agency-Reg 2

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. TSCA-02-2016-9128

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (July 1, 2000) (hereinafter "Consolidated Rules"), provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (hereinafter "EPA" or "Complainant"), alleges that Hanwha International LLC ("Hanwha" or "Respondent") violated Section 5 of TSCA, 15 U.S.C. § 2604 and that Respondent has thereby violated Section 15 of TSCA, 15 U.S.C. § 2614.

EPA and Hanwha International LLC agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated

findings of fact or conclusions of law have been made. The following constitute Complainant's findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent is Hanwha International LLC.
2. During at least years 2012 and 2013, Respondent operated and/or controlled the facility in and around 2559 Route 130, Cranbury, NJ 08512 (hereinafter, "Respondent's facility").
3. On or about June 19, 2012, Respondent submitted TSCA Section 5 Premanufacture Notifications, P-12-0416, P-12-0417, P-12-0418 and P-12-0419 (hereinafter "4 New Chemical Substances"), to EPA as required by 40 C.F.R. Part 720.
4. On November 26, 2012, Respondent signed a Consent Order issued by EPA under Section 5(e) of TSCA regulating these 4 New Chemical Substances pending development of information (hereinafter "Consent Order").
5. EPA issued the Consent Order, which became effective December 3, 2012, predicated upon an EPA finding that the 4 New Chemical Substances might pose an unreasonable risk of injury to human health and the environment. To protect against the potential harm presented by these risks, the Consent Order prescribed a set of protective measures.
6. Among the provisions of the Consent Order were (1) paragraph "a" of the "Distribution" section which obligated Respondent to provide written notification to any person to whom it distributed the 4 New Chemical Substances that such substances are subject to the export notification requirements of Section 12(b) of TSCA, 15 U.S.C. § 2611(b), and 40 C.F.R. Part 707, Subpart D, and (2) paragraph "b" of the Distribution section which regulated to whom Respondent might distribute the 4 New Chemical Substances.
7. On or about May 20, 2013, Respondent submitted a Notice of Commencement of Import to EPA for the 4 New Chemical Substances, as required by 40 C.F.R. § 720.102.
8. Respondent distributed in commerce the chemical substances described in P-12-0418 and P-12-0419 on or about November 13, 2013.
9. The Consent Order remained in effect until April 14, 2014, the effective date of the 'Significant New Use Rules on Certain Chemical Substances,' 79 Fed. Reg. 8273 (February 12, 2014) ('SNUR'). EPA promulgated the SNUR for 35 chemical substances, including the 4 New Chemical Substances. The SNUR requires persons who intend to manufacture (including import) or process any of these 35 chemical substances for an activity that is designated as a

significant new use by this rule to notify EPA at least 90 days before commencing that activity.” 79 Fed. Reg. at 8273. With regard to the 4 New Chemical Substances, the SNUR deemed as a ‘significant new use’ the absence of the protective measures set forth in the Consent Order.

10. On or about March 18, 2015 EPA conducted an inspection of and at Respondent’s current facility located at 300 Frank W. Burr Boulevard, Suite 52, Teaneck, NJ 07666, pursuant to Section 11 of TSCA, 15 U.S.C. § 2610.

11. Respondent failed to comply with the paragraphs (a) and (b) of the Distribution Section of the Consent Order when the chemical substances described in P-12-0418 and P-12-0419 were distributed in commerce on or about November 13, 2013.

CONCLUSIONS OF LAW

1. Respondent is a "person" within the meaning of 40 C.F.R. § 720.3(x).
2. Respondent “manufactures” “chemical substances” as those terms are defined in Section 3 of TSCA, 15 U.S.C. § 2602, and at 40 C.F.R. § 720.3(q) and (e).
3. Respondent is a "manufacturer" as that term is defined at 40 C.F.R. § 720.3(t).
4. Respondent “distributes in commerce” as this term is defined in Section 3 of TSCA, 15 U.S.C. § 2602, and at 40 C.F.R. § 720.3(i).
5. Respondent is subject to the requirements of Section 5 of TSCA, 15 U.S.C. § 2604, and the regulations promulgated pursuant thereto.
6. Respondent is required to comply with all rules, regulations and orders issued under Section 5 of TSCA, 15 U.S.C. § 2604.
7. Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), makes it unlawful for any person to, *inter alia*, fail or refuse to comply with an order issued under Section 5 of TSCA, 15 U.S.C. § 2604.
8. The Consent Order constitutes an order issued under Section 5 of TSCA, 15 U.S.C. § 2604, for purposes of Section 15 of TSCA, 15 U.S.C. § 2614.
9. Respondent’s failure or refusal to comply with the Consent Order issued under the authority of Section 5(e) of TSCA, 15 U.S.C. § 2604(e), as set forth in paragraph 11 of the “Findings of Fact” section, above, constitutes a violation of Section 5 of TSCA, 15 U.S.C. § 2604, and thus constitutes an unlawful act pursuant to Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

10. For Respondent's violation of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), Respondent is liable to the United States pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1).

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.
2. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence an administrative proceeding for the violations alleged in the "Conclusions of Law" section, above; (b) neither admits nor denies the specific factual allegations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "Conclusions of Law" section, above.
3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000)**, to the "Treasurer of the United States of America." The checks shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

- 6) Name of Respondent
- 7) Docket Number

Payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date"). Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007

and

Vivian Chin, Environmental Engineer
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder, that attach or might have attached as a result of the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent

consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above, or on any allegations arising thereunder. Respondent further waives its right otherwise to contest all such assertions and/or allegations.

7. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

9. Each party shall bear its own costs and fees in this matter.

10. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: *Jin Shin Jung*
Hanwha International LLC

NAME: JINSHIN JUNG
(PLEASE PRINT)

TITLE: General Manager

DATE: Feb., 8 2016

COMPLAINANT:

[Signature]
Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency - Region 2
290 Broadway
New York, NY 10007

DATE: FEBRUARY 19 2016

In the Matter of Hanwha International LLC
Docket No. TSCA-02-2016-9128

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Hanwha International LLC, bearing Docket Number TSCA-02-2016-9128. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 5 of the Toxic Substances Control Act, 15 U.S.C. § 2604 for purposes of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

DATE: February 23, 2016

Helen S Ferrara

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007

CERTIFICATE OF SERVICE

This is to certify that on the 29th day of February 2016, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2016-9128, by certified mail, return receipt requested, to:

Jay Kim, Manager
Hanwha International LLC
Chemical Team
10111 Richmond Avenue
Suite 410
Houston, TX 77042

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.



A handwritten signature in cursive script, appearing to read "Diana C.", is written over a horizontal line.