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主旨：檢送印度商工部對自我國、韓國、孟加拉、印尼、巴基斯坦及泰國進口之過氧化氫(Hydrogen Peroxide)反傾銷調查案事實揭露報告1份，請查照並轉知相關會員廠商因應。

經濟部貿易局

說明：

一、依據駐印度代表處經濟組106年2月17日竺經字第10600000700號函辦理；本局105年11月10日貿雙一字第1050010814號函諒達。

二、本案利益關係人倘欲對本報告內容表示意見，應於106年3月3日前將資料提供該部，收件窗口為The Designated Authority, Directorate General of Anti-Dumping and Allied Duties, Department of Commerce, Ministry of Commerce and Industry, 4th Floor, Jeevan Tara Building, 5 Parliament Street, New

Delhi-110001。本案調查官員為Mithileshwar Thakur，Mithileshwar Thakur，電話：+91-11-23349443，電郵：m.thakur@nic.in。

正本：中華民國全國工業總會、台灣區石油化學工業同業公會、台灣肥皂清潔劑工業同業公會、臺灣製藥工業同業公會、台灣區酸鹼工業同業公會、臺灣環境衛生用藥工業同業公會、台灣醫療暨生技器材工業同業公會

副本：本局局長室、副局長室、貿易服務組、綜合企劃委員會、駐印度代表處經濟組（以上不含附件）

局長 楊珍妮

國際貿易局

依照分層負責規定
授權單位主管決行

Subject: Anti Dumping investigation concerning imports of 'Hydrogen Peroxide' originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand.

A. Background of the Case

1. No. 14/3/2015-DGAD: M/s National Peroxide Limited and M/s Hindustan Organic Chemicals Ltd (hereinafter also referred to as the "petitioners" or "applicants") have jointly filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the Rules) for initiation of anti-dumping investigation and imposition of anti dumping duty concerning imports of Hydrogen Peroxide (hereinafter also referred to as the subject goods), originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand. (hereinafter also referred to as the subject countries).

2. Whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 14/3/2015-DGAD dated 14th January, 2016, published in the Gazette of India, initiating the subject investigations in accordance with the Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the said countries, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described hereinunder has been followed by the Authority with regard to the subject investigation:

   i. The Designated Authority, under the above Rules, received a petition from the Applicant on behalf of the domestic industries, alleging dumping of Hydrogen Peroxide originating in or exported from Bangladesh, Taiwan, Korea, Indonesia, Pakistan and Thailand

   ii. The Authority notified the Embassies/Representatives of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.

   iii. The Authority issued a Notification dated 14th January, 2016, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.

iv. The Authority sent copy of the initiation notification to the embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.

vi. The Authority sent Exporter's Questionnaire to the following known producers/exporters in Bangladesh, Pakistan, Thailand, South Korea and Indonesia and Taiwan(whose details were made available by the applicant) to elicit relevant information and gave them opportunity to make their views known in writing in accordance with Rule 6(4) of the Rules:

a. Tasmin Chemical Complex, Bangladesh
b. ASM Chemical Industries, Bangladesh
c. Samuda Chemical Complex Limited, Bangladesh
d. Sitara Peroxide Ltd, Pakistan
e. Descon Chemical Ltd, Pakistan
f. Thai Peroxide Company Ltd, Thailand
g. Solvay Peroxithai Ltd, Thailand
h. Taekwang Petrochemical, South Korea
i. Hansol Chemical Co Ltd, South Korea
j. SKC Evanik peroxide Korea P Ltd
k. PT Peroxida, Indonesia
l. PT Evanik Degussa Peroxide, Indonesia
m. SamatorIntiPeroksida, Indonesia
n. Sinar Mas, Indonesia

vii. The Embassies of the subject countries in India were also requested to advise the exporters/producers from the subject countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from their respective countries .

viii. The following exporters responded to the exporter's questionnaire:

a. Tasnim Chemical Complex Ltd, Bangladesh
b. Samuda Chemical Complex Limited, Bangladesh
c. ASM Chemical Industries Ltd, Bangladesh
d. Sitara Peroxide Ltd, Pakistan
e. Descon Oxychem Ltd, Pakistan

f. Thai Peroxide Company Ltd, Thailand

ix. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

a. Kushal Chemical
b. Sinochem Impex
c. EXIM Incorporation
d. Yamuna Fertilizers
e. KPL International Limited
f. S. Ganesh Nagendra & Co
g. Ponpure Chem (P) Limited
h. Classic Dyes and Chemicals
i. Trivenkem Agencies
j. Textile Dye Chem Pvt. Ltd
k. Shakumbhari Enterprises (I) Pvt. Ltd
l. Usha Chemicals
m. R.R Inovatives Pvt. Ltd
n. Rajiv Chemical Corporation
o. Son Kamal Enterprise
p. Khanna Papers mills Ltd
q. Shreyans Papers
r. Vikas Global One Ltd
s. Ballarpur Industries Ltd
t. J K Paper ltd
u. Sareen Group
v. DhanrajOrganic Limited
w. Excel Corp care
x. Mackwell Organic Pvt Ltd
y. Emami Papers
z. Alkyl Amines

x. Out of the above importers/users , Alkyl Amines filed importer questionnaire response

xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule6 (7).

xii. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to

ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xiii. The period of investigation (POI) for the present investigation is from 1st April, 2014 to 30th June 2015 (15 months). The injury investigation period will however cover the periods April' 2011-March' 2012, April' 2012-March' 2013, April' 2013-March' 2014 and the POI.

xiv. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation. The data given by exporters was examined in detail.

xv. Non-injurious price has been determined based on the cost to make and sell the subject goods in India with reasonable profit , based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xvi. Information published by the Directorate General of Commercial Intelligence and Statistics (DGCI&S) has been adopted for determination of volume and value of imports of product concerned in India. The petitioner has procured transaction-wise information on imports of the product under consideration from DGCI&S. There is sufficient evidence of export price of the subject goods in the subject countries. During the course of investigation, the Authority itself has also analysed transaction-wise import data from Directorate General of Commercial Intelligence & Statistics (DGCI&S)

xvii. The Authority held an oral hearing on 28thSeptember, 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry, exporters from subject countries and importers. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally. The interested parties were also provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.

xviii. Due to change in the incumbency of the Designated Authority another oral hearing was conducted by the new Designated Authority on 7th November, 2016 in pursuance of the direction given in the judgment delivered by the Hon'ble Supreme Court on 07-01-2011 in the matter of Automotive Tyre Manufacturers' Association (ATMA) Vs The Designated Authority in Civil Appeal 949 of 2006. The parties, who presented their views in the 2nd oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

xix. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties

xx. ***in this finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxi. The exchange rate adopted by the Authority during the POI for the subject investigation is 1 US$ = 62.13 Rs

C. Product under consideration and Like Article

4. The product under consideration for the purpose of present investigation is "Hydrogen peroxide of concentration below 90%"

Submissions made by the producers/exporters/other interested parties are as follows:

a. There are three grades of hydrogen peroxide i.e. food grade, technical grade and electronic grade. All these grades are not interchangeable and the domestic industry does not have the capability to manufacture food and electronic grades. Information provided in technical data sheet makes it clear that the domestic industry is not manufacturing (i) food grade or (ii) electronic grades or (iii) technical grade having concentration above 90% . The fact was accepted by the domestic industry during the oral hearing as well.

Submissions by the Domestic Industry are as follows:

a. The product under consideration in the present petition is "Hydrogen Peroxide (H2O2) below 90% concentration". Hydrogen Peroxide (H2O2) is produced through the process of hydrogenation. Commercially, the product is produced and sold in 35%, 50%, 60% and 70% concentration. ISRO has a very limited (insignificant) requirement of 90% and above concentration.

b. H2O2 is an extremely hazardous material. From safety point of view, the concentration should be as low as possible. However, transportation of lower concentration means paying additional freight on transportation of water. Therefore, from commercial point of view, concentration level should be as high as possible.

c. The majority of imports are of 50% concentration and majority of production of the petitioners is of 50% concentration. All data in the petition has been presented on equivalent of 50% for the purpose of determination.

d. Subject goods are classified under Chapter 28 under sub heading 28470000 of the Customs Tariff Act, 1975. The customs classification is indicative only and in no way it is binding on the scope of the investigation.

e. There is no known difference in product produced by the petitioners and that exported from the subject countries. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc.

f. There is no material difference in the production process employed by the foreign producers and that employed by the petitioner. However, every manufacturer fine-tunes its production process as per the necessities and available facilities.

g. The scope of product under consideration does not include food grade and electronic grade of Hydrogen Peroxide. The petitioners do not produce food grade and electronic grade Hydrogen Peroxide. The import data relied upon by the petitioners does not include imports of food grade or electronic grade. Technical grade of concentration 90% and above is neither imported into the country nor manufactured by the domestic industry. Food grade and electronic grade of Hydrogen Peroxide and that having concentration of 90% and above should be considered beyond the scope of PUC.

Examination by Authority

5. The submissions made by the interested parties with regard to the scope of product under consideration and considered relevant by the Authority are examined and addressed as follows:

a. The product under consideration in the present investigation is "Hydrogen peroxide of concentration below 90%"

b. Hydrogen peroxide can be produced in different concentrations. The product under consideration is sold in both loose and packed conditions. Commercially, the product is produced and sold in 35%, 50%, 60% and 70% concentration. It is generally produced and sold on 50% basis.

c. Subject goods are classified under Chapter 28 under sub heading 28470000 of Customs Tariff Act, 1975. The customs classification is indicative only and in no way it is binding on the scope of the investigation.

d. On the basis of contentions made by interested parties and accepted by the petitioners, it is concluded that the food grade and electronic grade of Hydrogen Peroxide is beyond the scope of PUC and so is Hydrogen Peroxide having concentration of 90% and above.

D. Domestic Industry & Standing

6. Rule 2(b) of the AD rules defines domestic industry as under:

> *"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term, 'domestic industry' may be construed as referring to the rest of the producers."*

7. **Submissions made by the producers/exporters/other interested parties are as follows:**

a. One of the petitioners M/s National Peroxide Ltd, which holds almost 90% shares of domestic industry, has furnished declaration that it is neither related to producer/exporter of the goods produced outside India nor any importer in India. Such declaration is wrong and the petitioners have misled the Authority with regard to its eligibility as domestic Industry.

b. It is a matter of record that the said petitioner is related to the major exporter i.e. M/s Solvay peroxy Thai Co. Ltd. This related exporter is liable for 85% of the total import from Thailand. There are only two exporters from Thailand, so total imports of this related exporter can be verified by deducting the shares of the other exporter i.e. M/s Thai Peroxide Company Limited from the total imports from Thailand.

c. There are several evidences to substantiate the fact that Solvay peroxy Thai Co Ltd. is a related company of M/s National Peroxide Ltd. As per the Annual Report of M/s National Peroxide Ltd, Solvay SA holds 25.10% in petitioner's company during the financial year 2014-15 and 2015-16 . The fact to be noted is that Solvay peroxy Thai, which is the major exporter of the subject good is 100% owned subsidiary of Solvay SA.

d. M/s National Peroxide Ltd is a joint venture between M/s Bombay Dyeing & Mfg. Co, Ltd and Solvay SA. Annual report also suggests that Solvay SA is one of the promoters of the petitioner company. This entire series of facts make it clear that the issue of relationship is covered by Explanation (i) of Rule 2(b) as both the major exporter in Thailand and the producer Petitioner are being controlled by a third party namely Solvay SA.

e. In the present case Solvay SA is well in position to restrain or direct National peroxide Ltd, legally as well as operationally. The entire chain of relation can be completed by these two facts that Solvay SA is a promoter of the Petitioner Company holding 25.10%

share in the company as well as the technology supplier and Solvay SA is the 100% holding company of the Exporter as well as the technology supplier.

f. Section 114 of the Companies Act, 2013 states that a company can pass a special resolution for its critical business matters only if the votes cast in favour of the resolution are not less than three times of the number of the votes cast against the resolution. This precisely means that anyone holding more than 25% shares in the company can hold back or block any special resolution. This is the reason why Solvay peroxy Thai has acquired more than 25.10% shares in M/s National Peroxide Ltd that is marginally above than the critical threshold limit.

g. The domestic industry has intentionally misled the Authority by not disclosing relevant information with regard to its eligibility under Rule 2 (b) just for the sake of getting the present investigation initiated. The Authority did not get chance to exercise its discretion on the issue of whether or not the petitioner was eligible as domestic industry

h. The present application is filed by M/s National peroxide Ltd and M/s Hindustan Organic Chemical Ltd. The injury determination is based on economic parameters of both the companies. But the matter of fact is that hydrogen peroxide is manufactured in Kochi plant of HOCL and HOCL has been sick unit for the last several years.

i. The management of HOCL has informed BIFR that the company will be wound up. With the decision of HOCL being wound up the petitioner should withdraw the application as the entire purpose of imposition of anti-dumping duty is infructuous.

j. The definition of related party is not very clear in ADD Rules. The definition under Customs tariff Act is more accurate which says if any company has more than 5% share in the other company they will be treated as related parties.

k. Section 2 (6) of the Companies Act defines associate Company as the company in which anther company holds at least 20% of total capital shares. Solvay holds about 25.10% shares in the applicant company. Solvay also manufactures high quality Hydrogen Peroxide, sold under the trade name INTEROX.

8. **Submissions by the Domestic Industry are as follows:**

a. The petition has been filed by M/s National Peroxide Limited and M/s Hindustan Organic Chemicals Limited (referred to as Petitioner/Applicant) and supported by Gujarat Alkalies and Chemicals Ltd . Petitioner along with supporter hold 96.02% of the production share of India .

b. The production of the petitioner alone constitutes a major proportion of Indian production of the like article and has sufficient standing to file the present petition on behalf of the Indian domestic industry for the product concerned.

c. The petitioner has neither imported the subject good in the period of investigation nor related to (either directly or indirectly) to any exporter or importer of product under consideration in the subject countries. The Petitioners have standing to file the present petition as per Rule 2 (b) of the Anti-Dumping Rules.

d. Solvay SA has an affiliated producer in Thailand and has 25.10% shareholding in National Peroxide Ltd. Despite that M/s NPL and Thai Exporter (Solvay Peroxy Thai Limited)) cannot be treated as related companies. As per the definition of related parties under Rule 2 () (i) neither National Peroxides nor Solvay Peroxy Thai Limited are in a position to control each other, (ii) together, these two companies are not controlled by third company.

e. It is pertinent to note that despite 25.10% shareholding, Solvay does not have a single person in the Board of Directors of National Peroxide. The same can be found in the annual report of NPL which has the details of all the Directors. This fact makes it clear that Solvay SA does not have any legal or operational control over National Peroxide Ltd.

f. The argument of the other interested parties that the petitioner tried to suppress this fact with intent of misleading the Authority is completely baseless. The petitioner has never suppressed the fact from the Authority that Solvay SA holds share in M/s NPL. In fact petitioner has filed letters and submissions to the Authority and has referred to publically available information and annual reports. Also, the annual report was a part of the petition itself.

g. The fact of shareholding of Solvay SA is clearly mentioned in the annual report of M/s NPL. Hence, the allegation of the other interested parties that this fact was suppressed from the Authority at the times of initiation is completely baseless. There is no relationship between the exporter and the petitioner and so the question of depriving the Authority from exercising its discretion does not arise.

h. The mere fact that the special resolutions require ¾ of the voting right does not make situation any different. The Authority may examine all the special resolutions passed by the petitioner over the injury period. Despite Solvay SA having 25.10% shareholding, the operations of the company have remained totally insulated from its ownership and shareholding.

i. There is no requirement of special resolution for the present matter. In the context of anti-dumping, since the relevant point is dumping causing injury, i.e. day to day operations of the domestic industry, the requirements and obligations of special resolution become entirely irrelevant.

j. In Circular weaving machine case, the exporter company had 34.67% shareholding in the petitioner company. The exporter was also a promoter and technology supplier. Despite that the Authority held that the exporter and the petitioner were not related because they did not have any legal or operational control over each other. However, in the present case the shareholding is much lower. The fact that the exporter is the promoter of the company, this fact needs to be seen with reference to the dumping in POI and at the most over the injury period. NPL was promoted several years back and technology was supplied few decades back. The fact is therefore of no consequence today.

k. The ADD Rules clearly defines the term related party and contains a specific legal provision in the form of definition with regard to relationship. So no other definition can be imposed for the present purposes.

l. There is no basis for the argument that HOCL has been wound up or sick company. Injury information of both the companies has been provided separately and that goes on to prove that even if HOCL is excluded, data relating to NPL alone is sufficient enough to show that the domestic industry has suffered injury.

Examination by the Authority

9. The Application has been jointly filed by M/s National Peroxide Limited and M/s Hindustan Organic Chemicals Ltd, on behalf of the domestic industry. Apart from the above domestic producers M/s Gujarat Alkalies and Chemicals Ltd have supported the present application. The applicants as well as the supporting company have furnished declaration stating that they have not imported the PUC from the subject countries and are not related either to any exporter or producer of the subject goods in the subject countries or any importer of the subject goods in India.

10. The Annual report of National Peroxide Ltd clearly mentions the list of Directors during the injury period and none of the members in the Board of the Directors of NPL was nominated by Solvay SA. It is evident that there was no legal or operational control of the Solvay SA over M/s National peroxide Ltd. The Authority therefore notes that in the absence of legal or operational control Solvay SA is not in a position to direct or restrain or exercise any influence on M/s National peroxide Ltd

11. Keeping in view the above the Authority holds that M/s National Peroxide Ltd is not related to Solvay peroxy Thai Co Ltd or any other exporter . As per the evidence available on record, the production of the applicants account for a major proportion in the domestic production of the like article. The Authority, therefore, determines that the applicants constitute eligible domestic industry within the meaning of Rule 2 (b) of the Anti Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

Confidentiality

12. With regards to confidential information Rule 7 provides as follows:

7. Confidential information- (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such information.

13. **Submissions made by the producers/exporters/other interested parties**

a. Domestic industry has failed to provide essential information and has claimed excessive confidentiality with regard to soft copy of transaction wise data in MS excel format, export price adjustment calculation and computation of normal value of Thailand.

b. Not providing the above information is a clear violation of instruction no 6 of the application Performa of domestic industry which enumerates that the document/information filed in confidential version must be accompanied by non confidential version, otherwise the entire information should be ignore and rejected. On that account the petition ought to be rejected.

14. **Submissions by the Domestic Industry :**

a. There is no requirement of providing transaction wise data in excel file. Petitioners have complied with all requirements laid down by the authority. Requirement of soft copies for the authority cannot be read as an obligation on the domestic industry to provide such soft copies to the opposing interested parties.

b. Export price calculation has been disclosed in the non-confidential version Evidence showing adjustments in export price are business sensitive information and not susceptible to summarization. There is no error in calculation and the Designated Authority may recheck.

c. Petitioners have claimed only such information as confidential, confidentiality of which is protected under the law. Sufficient non-confidential summaries of the information have been provided on confidential basis except for those which are not susceptible to summarization. In fact the responding interested parties have resorted to excessive confidential information.

Examination by the Authority

15. The Authority holds that the information provided by interested parties on confidential basis meets the sufficiency requirement of the confidentiality claim, and has accepted the confidentiality claims wherever warranted. Information being considered confidential has not been disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available such non confidential versions of the evidences submitted by various interested parties in the form of public file.

16. Regarding the submission of opposite parties that the transaction-wise DGCIS imports data should be made available, the Authority notes the domestic industry vide non-confidential version of the petition dated 22. 01.2016 has submitted the said data and the same has been placed in public file.

Miscellaneous Submissions

17. **Submissions made by the producers/exporters/other interested parties**

a. GACL being one of the biggest producers of the subject good has not participated in the present investigation due to their exceptionally good market conditions and huge profits. As per their annual report they were running their capacity utilization on 100% during the Injury period.

b. The other producer Asian Peroxide Ltd, Chennai also has not participated in the present investigation but had participated in the earlier application filed for anti-dumping in 2007.

c. The present investigation was initiated in violation of Rule 5(3) of the Anti Dumping Rules. The Domestic Industry is not suffering any material injury. In fact all the economic parameters say that their performance has been outstanding. The reason of injury is not alleged dumping but other factors.

d. The Domestic industry did not disclose the facts properly at the time of initiation and misled the Authority.

e. Imposition of duty will be detrimental to the Indian users. They will be forced to bear extra cost, restrict the competition of the market and create the shortage of high quality goods.

f. Claims of injury to the Domestic Industry is ill founded, baseless and contrary to the statements made in the Audit Report of the Company.

g. The period of investigation is faulty. The period of investigation adopted in the present case is April 2014 to June 2015. As per then guidelines issued by the DGAD the period of investigation should be 12 months. The Audited report of the company says that the plant was shut down for 61 days, during the first quarter of the period of investigation and the commercial production started from 29th September 2014.

h. National Tariff Commission of Pakistan imposed provisional ADD @ 19.32% on imports of Hydrogen Peroxide from Bangladesh. The said decision has been appealed against by Pakistan and the final decision is yet to come.

i. The plant was shut down for almost 6 months during the POI and hence it was essential for the users to import the material at that time. Accordingly import volume should also be reduced/ adjusted at cumulative level for the subject countries while evaluating the volume effect of imports since imports during this period was essential.

j. Even after such shut down the imports from Pakistan did not increase rather it decreased around 14% in the POI from about 31% in the base year. So imports from Pakistan did not have any material effect on domestic industry.

k. The Audit report of NPL says that the company suffered adverse situation. Despite all that the company has been able to earn profit during the period of investigation. Petitioner's claim of suffering injury does not match with the Audit report.

l. The data shows that NPL has performed really well post period of investigation despite facing all odds.

18. **Submissions made by the Domestic Industry**

a. The petitioners cannot be made to suffer just because GACL has not furnished information. The applicants constitute a major proportion and fulfil the legal requirement. The authority may not kindly rely on conjectures and may kindly proceed based on verifiable information.

b. Pakistan National Tariff Commission has imposed Anti-Dumping duty against Bangladesh with respect to the same goods. Mere filing of appeal does not mean anything. The exporters have not claimed before the Designated Authority that there is no dumping.

c. The petitioners have no submissions wherein exporters have claimed absence of dumping in the present case. On the contrary, even when the Designated Authority specifically asked at the time of oral hearing whether the data shows dumping, exporter evaded the query of the Designated Authority.

d. The plant was shut down only for 63 days and the loss of production was only to the extent of 13,099 MT. This may not justify imports to the extent the goods were imported into India. This does not answer the steep decline in price over the relevant period.

e. The company was not suffering due to internal factor. The production was suspended for only for 63 days. Domestic industry recommenced production within 63 days and the plant had achieved 92.75% utilization even in the first month of commercialization of production.

f. The designated Authority had initiated the present investigation after being satisfied with the adequacy and accuracy of evidence for the purpose of initiation of investigations.

g. There is no relevance of post- POI data in the present case. The authority has repeatedly held for the purpose of fresh investigations that the post POI data is irrelevant. Further, the CESTAT also held that post POI developments are not relevant to the authority.

h. The other interested parties have deliberately waited till public hearing to raise an objection on the eligibility of the domestic industry. They had enough time before the public hearing to raise such an objection.

Examination by the Authority

19. The contention of the opposing interested parties that initiation of the investigation is in violation of Rule 5(3) of the Anti Dumping Rules does not have any basis. The present investigation was initiated by the Authority after satisfying itself about the petitioner meeting this criterion.

20. Non filing of information by GACL does not make the applicants ineligible to file the present application. The law suggests that non filing of information by a major producer cannot detriment the eligibility of the applicants if the applicants constitute a major proportion and satisfies the requirements laid down under the law.

21. The argument of other interested parties that the import made were essential because the plant was shut for 6 months cannot be accepted because as per the records available the plant was shut down only for 63 days and the loss of production was only to the extent of 13,099 MT. This may not justify as much increase in imports as made during the relevant period besides steep decline of prices during the relevant period.

22. As regards the argument that the period of investigation is faulty, the authority holds that suspension of production was only for 63 days and the plant had achieved significant utilization in the first month of the recommencement of production. Authority has made adjustments of this production loss while carrying out injury analysis.

23. The Authority notes that the injury information for both HOCL and NPL were provided separately and it clearly establishes that even if HOCL is excluded, data relating to NPL alone establishes that the domestic industry has suffered injury.

E. Market Economy Treatment, Normal Value , Export Price And Dumping Margin

Submission by other interested parties

24. Exporters from Bangladesh made following submissions.

    a. The petition itself says that landed prices of all the countries were below NSR except for Bangladesh.

    b. Net export price for Samuda is not calculated correctly.

    c. Dumping margin varies for different concentration. It would be seen that Tasnim Chemicals did not make dumping to India during POI. According to DGCI&S data there is no dumping on the part of Tasnim Chemicals

Submission by the domestic industry

    a. The Designated Authority may kindly recalculate Samuda's net export price in case the Designated Authority finds any errors in the calculations or in the methodology.

    b. Different dumping margin for different concentration merely implies a need for separate dumping margin for different types. However, eventual dumping margin is required to be determined for Product Under Consideration.

25. 'Normal Value' under the Rules-

According to Section 9A (1) (c) of the Customs Tariff Act, 1975 'Normal Value' in relation to an article means:-

comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Normal value has been determined for loose and packed subject goods, separately, in view of significant difference in cost and price

Normal value in Pakistan

26. The Authority notes that consequent upon issue of initiation, the following producers/exporters from Pakistan have filed exporter questionnaire response:

a. M/s Sitara Peroxide Ltd., Pakistan
b. M/s Descon Oxychem Ltd., Pakistan

Normal Value for M/s Sitara Peroxide Ltd., Pakistan

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s Sitara Peroxide Ltd, Pakistan is a producer/exporter of the subject goods. As per information available in the EQ response, during the Period of investigation, in the domestic market of Pakistan Sitara Peroxide Ltd, has sold the subject goods **** MT of subject goods for the Gross invoice value of **** Million PKR out of which negligible quantity of **** MT was sold to affiliated parties.

27. For working out normal value 80/20 test has been conducted and % of profitable sales as a % of Total Sales is determined. Profitable Sales % is determined as lower than 80% of total Sales so only profitable sales has been considered in determining Normal Value. Normal Value has been determined for both loose and packed to facilitate comparison on like to like basis. Adjustments on account of taxes, discount, commission, inland freight and credit cost has been claimed and allowed.

    Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT.Weighted average Normal Value has been determined as USD **** USD per MT.

Normal Value for M/s Descon Oxychem Ltd., Pakistan

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s Descon Oxychem Ltd, Pakistan is a producer/exporter of the subject goods. As per information available in the EQ response, during the Period of investigation, in the domestic market of Pakistan Descon Oxychem Ltd, has sold the subject goods . Descon Oxychem Ltd, has sold the subject goods **** MT of subject goods for the Gross invoice value of **** Million PKR out of which negligible quantity of **** MT was sold to affiliated parties.
For working out normal value 80/20 test has been conducted and % of profitable sales as a % of Total Sales is determined. Profitable Sales % is determined as lower than 80% of total Sales so only profitable sales has been considered in determining Normal Value.
Domestic Sales in period of investigation was in packed form so Normal Value has been determined in packed form. Normal Value in loose form is determined by deducting per MT Packing Cost given in Appendix 8. So normal Value has been determined for both and Loose and Packed to facilitate comparison on like to like basis. Adjustments on account of taxes, commission, inland freight and credit cost has been claimed and allowed.
Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT. Weighted average Normal Value has been determined as **** USD per MT.

Normal value for M/s ASM Chemicals Ltd Bangladesh,

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s ASM Chemicals Ltd , Bangladesh is a producer/exporter of the subject goods

ASM Chemicals Ltd, has sold the subject goods **** MT of subject goods for the Gross invoice value of **** Million BDT. All Domestic sales were made to unaffiliated parties.

For working out normal value 80/20 test has been conducted and % of profitable sales as a % of Total Sales is determined. Profitable Sales % is determined as lower than 80% of total Sales so only profitable sales has been considered in determining Normal Value.

Normal Value has been determined for both and Loose and Packed to facilitate comparison on like to like basis.Adjustments on account of interest, bank charges, inland freight has been claimed and allowed.Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT. Weighted average Normal Value has been calculated as USD **** per MT.

Normal value for M/s Tasnim Chemicals Ltd Bangladesh,

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s Tasnim Chemicals Ltd , Bangladesh is a producer/exporter of the subject goods.Tasnim Chemicals Ltd, has sold the subject goods **** MT of subject goods for the Gross invoice value of **** Million BDT. All Domestic sales were made to unaffiliated parties.

Normal Value has been determined for both and Loose and Packed to facilitate comparison on like to like basis. For working out normal value 80/20 test has been conducted and % of profitable sales as a % of Total Sales is determined. Profitable Sales % so determined is lower than 80% of total Sales for Packed Sales, so only profitable sales has been considered in determining Normal Value, while for loose sales profitable sales were close to 100% so entire sales has been considered in determining Normal Value. Adjustments on account of bank charges, inland freight and Taxes has been claimed and allowed.

Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT. Weighted average Normal Value has been calculated as USD **** per MT.

Normal value for M/s Samuda Chemicals Ltd Bangladesh,

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s Samuda Chemicals Ltd , Bangladesh is a producer/exporter of the subject goods. Samuda Chemicals Ltd. has sold the subject goods **** MT. Samuda provided master invoice only, not individual transaction-wise invoices despite several opportunities having been provided .Secondly and more importantly , the domestic selling price was exactly the same throughout the POI despite supplies to different customers for 50% Packed Sales in Cash. The sale data of this exporter has been found to be unreliable. Accordingly, Normal Value in their case has been determined by adding profit margin worked out by this office in Appendix 7 to the their cost of production per MT (both for Loose and Packed sales) .

Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT. Normal Value on weighted average basis comes as **** USD per MT.

Normal value for M/s Thai Peroxide Co Ltd Thailand,

From the Exporter Questionnaire (EQ) response, the Authority notes that M/s Thai Peroxide Co Ltd , Thailand is a producer/exporter of the subject goods. Thai Peroxide Ltd, has sold **** MT of the subject goods for the Gross invoice value of **** Million THB. Only **** MT of Domestic sales were made to affiliated parties. Normal Value has been

determined for product both in Loose and Packed condition to facilitate comparison on like to like basis.
For working out normal value 80/20 test has been conducted and % of profitable sales as a % of Total Sales is determined. Profitable Sales % so determined is lower than 80% of total Sales for Packed Sales, so only profitable sales has been considered in determining Normal Value, while for loose sales profitable sales were more than 80% so entire sales has been considered in determining Normal Value.
Adjustments on account of inland freight and credit cost has been claimed and allowed.
Normal Value for packed quantity has been determined as USD **** per MT and normal value for loose quantity has been determined as USD **** per MT. Normal Value on weighted average has been calculated as USD **** per MT.

Normal value for Indonesia, Korea and Taiwan

In the absence of availability of information/evidence of price of subject goods in the domestic market of Indonesia, Korea and Tawian. Thus Authority have determined normal value in the above subject countries on the basis of best estimates of cost of production in India, and reasonable profits.

F. Estimates of Export Price

(a) According to Section 9A(1)(b) of the Customs Tariff Act, 1975, 'Export Price' in relation to an article means:-

(b) "export price", in relation to an article, means the price of the article exported from the exporting country or territory and in `cases where there is not export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

Calculation of Net Export Price for Sitara Peroxide Ltd, Pakistan

The producer/exporter exported **** MT of Hydrogen Peroxide to India during POI at a weighted average Net Export Price of USD ****/MT, Loose at **** USD/MT, Packed at **** USD/MT. Claimed adjustments considered by authority is on account of Inland Freight, and Bank Charges.

Calculation of Net Export Price for Descon Oxychem Ltd, Pakistan

The producer/exporter exported (****)MT of Hydrogen Peroxide to India during POI at a weighted average Net Export Price of USD (****)/MT, Loose at **** USD/MT and Packed at **** USD/MT .Claimed adjustments considered by authority is on account of Inland Freight, Commission, Customs Handling Charges and Bank Charges.

Export Price of Non Cooperative exporters from Pakistan

The Authority notes that no other producer/exporter from Pakistan has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Pakistan, the Authority has determined the net export price as USD ****/MT on the basis of best available information.

Calculation of Net Export Price from M/s ASM Chemicals Ltd Bangladesh

ASM Chemicals Ltd exported **** MT of Hydrogen Peroxide to India during POI at a weighted average Net Export Price of USD ****/MT, Loose at **** USD/MT and Packed at **** USD/MT. Claimed adjustments considered by authority is on account of Inland Freight and Bank Charges.

Calculation of Net Export Price from M/s Tasnim Chemicals Ltd Bangladesh

Tasnim Chemicals has exported **** MT of Hydrogen Peroxide to India during POI at a weighted average Net Export Price of USD ****/MT, Loose at **** USD/MT and Packed at **** USD/MT. Claimed adjustments considered by authority is on account of Inland Freight, Bank Charges, Taxation and Handling Charges.

Calculation of Net Export Price from M/s Samuda Chemicals , Bangladesh

Thai Samuda Chemicals has exported **** MT of Hydrogen Peroxide to India during POI at a weighted average and Packed Net Export Price of USD ***/MT.Claimed adjustments considered by authority is on account of Ocean Freight, Inland Freight, Credit Cost and Bank Charges

Calculation of Net Export Price from Non Cooperative Exporters -Bangladesh

The Authority notes that no other producer/exporter from Bangladesh has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Bangladesh, the Authority has determined the net export price as USD ****/MT on the basis of best available information.

Calculation of Net Export Price from M/s Thai Peroxide Ltd Thailand

Thai Peroxide Ltd has exported **** MT of Hydrogen Peroxide to India during POI at a weighted average Net Export Price of USD ****/MT, Loose at **** USD/MT and Packed at **** USD/MT. Claimed adjustments considered by authority is on account of Ocean Freight, Ocean Insurance,Inland Freight and Bank Charges

Calculation of Net Export Price from Non Cooperative Exporters -Thailand

The Authority notes that no other producer/exporter from Thailand has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Bangladesh, the Authority has determined the net export price as USD ****/MT on the basis of best available information.

Export Price of Taiwan, Korea and Indonesia

The Authority notes that no producer/exporter from Taiwan, Korea and Indonesia has filed exporters questionnaire response in the present investigation. Therefore for all producers/exporters in Taiwan, Korea and Indonesia, the Authority determines the weighted average net Export Price as USD **** per MT for Taiwan, **** per MT for Korea and **** per MT for Indonesia respectively on the basis of DGCI&S import prices after making necessary adjustments for freight, insurance etc.

DUMPING MARGIN

Comparing the aforesaid normal values and export prices as determined, the dumping margin proposed to be determined for the subject countries during POI are as follows:

Country	Exporter/ Producer	Normal Value US$/MT	Net Export Price US$/MT	Dumping Margin US$/MT	Dumping Margin %	Dumping Margin % Range
Indonesia	All	****	****	****	****	20-30
Taiwan	All	****	****	****	****	40-50
Korea RP	All	****	****	****	****	30-40
Thailand	Thai Peroxy Limited, Thailand	****	****	****	****	25-35
	Non-Co-operative producers/ exporters	****	****	****	****	40-50
Pakistan	Sitara Peroxide Limited, Pakistan	****	****	****	****	70-80

	Descon Oxychem Limited, Pakistan	****	****	****	****	60-70
	Non-Co-operative producers/ exporters	****	****	****	****	120-130
Bangladesh	Samuda Chemicals, Bangladesh	****	****	****	****	20-30
	Tasnim Chemicals, Bangladesh	****	****	****	****	0-10
	ASM Chemicals, Bangladesh	****	****	****	****	10-20
	Non-Co-operative producers/ exporters	****	****	****	****	40-50

Determination of Injury and Causal Link

28. **Submissions made by the producers/exporters/other interested parties**

There is no causal link between the injury and the alleged import. The domestic industry is suffering injury due to other factors such as adversities in pulp and paper industry.

d. All the volume parameters showed improvement in the petition. Merely decline in profitability cannot be attributed to imports. Price undercutting has been negative in POI and in the previous years as well.

e. The plant was effectively shut for almost 5 months and no commercial production was taking place during this time. Proper adjustment for cost of shutdown and the new plant should be made.

f. No commercial production took place due to plant shut down and so the company was suffering due to its own internal problems. The domestic industry was adversely affected by expansion.

g. The adjustment made by the petitioner by inflating production has no basis. The Authority is requested, while determining NIP, to carry out proper adjustments to

account for the plant shut down, which falls entirely in the POI, as well as for the start up cost.

h. The annual report of the company underlines two broad factors affecting the performance of the company i.e. Long term contract with GAIL. The cost of the company did not go in line with the fall in crude oil prices because the company has a long term contract with GAIL and secondly the plant was shut down.

i. The company accepted during the public hearing that the contract is not between GAIL and NPL per se but GAIL in general. This amounts to disowning the disclosure in the annual report itself.

j. The Authority may call the contract and examine the facts on its own. They are contradicting their own audited annual report and putting the facts to suit their case before the Authority.

k. The domestic industry has not suffered any injury and the same is evident from the fact that the production, domestic sales and capacity utilization of the domestic industry have increased as compared to the base year.

l. Imports from Thailand declined by 5%. Imports from all subject countries also declined by 14.9% in period of investigation in comparison to the immediately preceding year.

m. Based on the information provided in the application it can be figured that the number of employees and wages has increased. Capacity of the domestic industry was enhanced. Production and sales of the other producers has also increased.

n. If the domestic industry is still suffering any injury it may be due to increase in depreciation cost, fixed cost and interest cost. The company has increased its capacity during the POI. The production decreased due to plant shut down.

o. Import from Bangladesh was being made because of the lower price of natural gas as compared to NPL.

p. NPL's long term contract with GAIL adversely affected the petitioners. The supply of natural gas from Reliance industries' KG Basin has been seriously affected. The imports of LNG have also been low due to weak demand. This is on account of its reduced competitiveness compared with liquid fuels such as naphtha due to sharp price decline.

q. The Kochi terminal is operating close to 5% capacity. This is because of laying the gas pipeline to connect Bengaluru to Tamilnadu having been affected due to the problems of land acquisition.

r. There is a significant change in the natural gas market due to significant drop in crude oil prices leading to sharp decline in liquid fuels such as naphtha. Since long term gas prices are based on 60 months' average of crude oil prices with a cap and floor price the current spot prices of natural gas are much lower than the long term contract prices.

s. Price injury cannot be determined on the basis of loose and packed product. The claim of Domestic Industry that price undercutting will not be negative if analyzed separately for loose and packed cannot be accepted because determination of price undercutting only on loose and packed basis and rest of the parameters on combined basis is nothing but a pick and choose approach and the Authority is requested to observe uniformity in the approaches and comparisons.

t. There should be apple to apple comparison. Sales, both in domestic market and export, is presented in PCN basis consisting three factors i.e. type/nature/category of the product, concentration level and packaging. So, the dumping and injury should be calculated on PCN basis.

u. The landed value of the imports from Bangladesh is higher than then the net sales realization of the Domestic Industry. This trend has continued throughout the injury period and that is the reason that the price undercutting of imports from Bangladesh has been negative.

v. Landed price of Bangladesh is higher by 10% as compared to other countries and 20% as compared to Domestic industry.

w. The price undercutting has been negative for Bangladesh Imports throughout the injury period. That is an important parameter for determining injury. The imports from Bangladesh are 25% of the total imports. Prices of Thailand are almost similar to the prices of Bangladesh and the total imports from Thailand are 46%. Since 71% of the total imports are not undercutting the prices of the domestic industry and above almost 20% above the prices of the domestic industry how can that cause injury to the Domestic Industry.

x. The petition suggests that there is huge demand- supply gap . The capacity utilization of the DI is 93%. Marginal shortfall in capacity utilization is not due to imports. Such industries cannot achieve 100% capacity utilization. Imports have increased due to demand supply gap.

29. **Submissions made by the Domestic industry**

a. The domestic industry is suffering injury due to dumping. Other factors can be examined by the Authority examining the industry's performance on quarter by quarter basis.

b. Profitability of domestic industry deteriorated steeply within the POI and after full commercial production started. The Domestic Industry had better profitability when the production was suspended. It became adverse when full commercial production commenced

c. The domestic industry was able to achieve optimum capacity utilization in next quarter itself. Despite that the domestic industry suffered losses. So there clearly is a link between the decline in profitability and dumping of the product in the country.

d. It would be relevant and useful to refer the decision of the CESTAT in the matter of Forum of Acrylic Fibre Manufacturers vs. Designated Authority (Final Order Nos. 34-35/2006-AD, dated 2-8-2006, in Appeal Nos. C/848) which underlines that Profits, ROI and cash profits are the most important injury parameters.

e. Relevant adjustments of costs accounting for shutdown period have been made. The issue was raised by the Directorate prior to initiation of investigation and the same was addressed by the petitioners before initiation itself.

f. Demand of PUC in the country was always rising and positive.

g. Dumping should not be the sole reason of injury. Where dumping is one of the factors causing injury along with other factors the Authority will determine injury due to dumping after neutralizing injury caused by other factors.

h. The impact on production due to suspension can be examined by the Authority by appropriately enhancing production of the domestic industry. Petitioners have already done the same. It is seen that the petitioners would have still faced injury even if then production was not suspended due to shut down.

i. The natural gas price in Bangladesh is not lower. It is subsidised. Low price of natural gas in Bangladesh does not imply that the Domestic industry should suffer injury from dumping.

j. Lower cost of production in exporting counties does not address the question of dumping. The finding notified by the Pakistan authorities clearly establishes existence of significant dumping in the product.

k. Statement of imports and landed price of imports is on record. It is not true that Landed price of Bangladesh is higher by 10% as compared to other countries and 20% as compared to Domestic industry.

l. A statement of price undercutting from subject countries will show that the price undercutting is positive.

m. The figures of demand show that that there is demand for the product and capacities in India. The Indian producers can meet about 95% of demand for the product in the country. Imports however are occupying 24% of the market, which clearly shows that imports are holding a share far higher than what is justified by demand supply gap.

n. Downtrend in sale price of PUC claimed by the exporters implies that the dumping of the product is causing injury to the domestic industry. If the downward trends in prices are experienced only in PUC in export markets and not in the domestic markets of the exporters, it must be concluded that dumping of the PUC is causing injury to the domestic industry.

o. The statement that landed prices of all the countries were below NSR except Bangladesh is on the basis of comparison of weighted average basis and without including freight costs. Since a significant proportion of imports are on the basis of packed condition and further significant Bangladesh imports are occurring only in West Bengal region, whereas a significant proportion of the domestic industry sales are in loose condition and in Northern region, any such price comparison must be done after considering the difference in cost and price of loose and packed product. Further, associated freight must be added. The relevant information is on records. It would be seen that the imports are undercutting the prices of the domestic industry over the entire period.

p. On analyzing month wise production of the petitioner it would be seen that the petitioners have achieved reasonable capital utilisation immediately after recommencing production. So it is definitely not a case where the fixed costs were high due to start-up operations.

q. Employment and wages have shown improvement in the injury period. But this is not the sole criteria for determining injury. Increase in wages and employment is due to setting up of new capacities and enhancement of production. Employment and wages don't reflect the performance of the industry.

Examination by the Authority

30. The contention that decline in profitability parameter does not make difference and cannot become the reason of injury for the domestic industry, is not a valid argument.

Authority notes that profitability is one of the most important parameters which should be considered while determining injury. Decline in profitability is a major factor which goes on to show that the domestic industry is suffering injury.

31. The Authority notes price undercutting is positive as a whole. Since the product is being imported in both loose as well as packed form,it is justified to determine price undercutting for both loose and packed separately.

32. With regards to the injury due to other factors the Authority determines that it does not require that the injury should be solely due to dumping. Injury may be caused due to other factors as well. While determining injury, dumping can be one of the factors and the Authority will determine the injury after neutralizing the other factors.

33. Authority examines that there is no decline in demand. The demand has increased in the injury period. The domestic industry has suffered injury due to increased imports.

34. Authority notes that demand supply gap cannot justify the act of dumping by the other countries. Indian Producers as a whole have the capacity to fulfil 95% of the demand of the market but a significant amount of market share is captured by the subject countries and the same cannot be attributed to demand supply gap.

Cumulative Assessment

35. The Annexure II (iii) of the Anti-Dumping Rules requires that where imports of a product from more than one country are being simultaneously subjected to antidumping investigations, the designated authority will cumulatively assess the effect of such imports, only when it determines that ;

    i. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts for more than seven percent of the import of like article; and

    ii. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

36. The Authority notes that the dumped imports are entering the Indian market simultaneously from the subject countries. Therefore, the issue of cumulative assessment of the injury caused to the domestic industry due to dumped imports from these sources has been examined with respect to the above parameters and it was observed that:

i. The margins of dumping of individual products from each of the subject countries are more than the de-minimis limit;

ii. The volume of imports of individual products from each of the subject countries is more than the de minimis;

iii. Imports from the subject countries are undercutting the prices of the domestic industry in the market;

37. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries on the domestic industry in the light of conditions of competition between imported product and like domestic product. The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limits prescribed above.

38. Annexure-II of the Anti-dumping Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

39. As regards the impact of the dumped imports on the domestic industry. Para (iv)of Annexure-II of the Anti-dumping Rules states as follows:

> *"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments."*

40. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

41. For the purpose of the injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The volume and price effect of dumped imports have been examined as follows:-

Volume Effect of the dumped imports on the Domestic industry

I. Demand and Market Share

42. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below. The Authority notes that the demand of the product under consideration has increased over the period.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15
Imports Volume						Annualized
Subject Countries	MT	17,464	33,759	63,286	67,300	53,840
Other Countries	MT	7,404	53	19	-	-
Total	MT	24,868	33,812	63,305	67,300	53,840
Share in Imports						
Subject Countries	%	70.23	99.84	99.97	100.00	100
Other Countries	%	29.77	0.16	0.03	-	-
Demand		100.00	100.00	100.00	100.00	100
Subject Countries	MT	17,464	33,759	63,286	67,300	53,840
Other Countries	MT	7,404	53	19	-	-
DI domestic Sales	MT	70,810	89,139	87,161	109,336	87,469
Other Indian Producers	MT	66,789	63,815	62,781	102,493	81,994
Total	MT	162,468	186,766	213,247	279,128	223,303
Market Share						
Subject Countries	%	10.75	18.08	29.68	24.11	24.11
Other Countries	%	4.56	0.03	0.01	-	-
DI domestic Sales	%	43.58	47.73	40.87	39.17	39.17
Other Indian Producers	%	41.11	34.17	29.44	36.72	36.72
Total	%	100.00	100.00	100.00	100.00	100.00

43. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. Whereas share of dumped

imports from subject countries increased substantially as compared to the base year. However, it has decreased slightly as compared to the previous year. The share of the Domestic Industry has decreased to a significant level during the Period of investigation. It is very less as compared to the increase in the share of dumped imports and increase in demand during the same period.

II. Import Volume and Market Share:

44. The volume of imports of the subject goods from the subject countries is as under. It is observed from the table that imports from subject countries increased significantly during the POI although it decreased as compared to the previous year.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15
Subject Countries(after adjusting loss of sales)	MT	17,464	33,759	63,286	54,200	43,360
Other Countries	MT	7,404	53	19	0	0
DI domestic Sales	MT	70,810	89,139	87,161	122,435	97,948
Other Indian Producers	MT	66,789	63,815	62,781	102,493	81,994
Total	MT	162,468	186,766	213,247	279,128	223,303
Market Share						
Subject Countries	%	10.75	18.08	29.68	19.42	19.42
Other Countries	%	4.56	0.03	0.01	-	-
DI domestic Sales	%	43.58	47.73	40.87	43.86	43.86
Other Indian Producers	%	41.11	34.17	29.44	36.72	36.72
Total	%	100.00	100.00	100.00	100.00	100.00

III. Share of imports in relation to Production & Consumption

45. Authority notes that imports from the subject countries have increased in relation to the production and consumption in India and the same is evident from the table below:

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15
In relation to production	%	14	22	42	33
In relation to consumption	%	11	18	30	24

IV. Capacity, Production, Capacity utilization and Sales Volume

46. Capacity, production, capacity utilization and sales volume of the Domestic Industry over the injury period is given in the following table. It is observed that capacity of the domestic industry has increased whereas capacity utilization has decreased (even after adjusting loss of production) during the period of investigation as compared to 2012-13 and 2013-14.

Parameters	Unit	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15
						Annualized
Capacity	MT	94,450	94,450	94,450	129,063	103,250
Production	MT	67,373	88,089	93,288	104,828	83,863
Production Adjusted	MT	67,373	88,089	93,288	117,928	94,342
Capacity Utilization	%	71.33	93.27	98.77	81.22	81.22
Adjusted Capacity Utilization	%	71.33	93.27	98.77	91.37	91.37
Domestic Sales	MT	70,810	89,139	87,161	109,336	87,469

47. Sales volume of the domestic industry is given in the above table. It is observed that sales of the domestic industry have increased during the POI as compared to the base year. It has been observed by the Authority in the above tables that share of dumped imports from subject countries increased and increase in sales volume is less as compared to the increase in the share of dumped imports and increase in demand during the same period.

PRICE EFFECT

Price effect of dumped imports and impact on domestic industry

48. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of sales (COP), weighted average Net Sales Realization (NSR) and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries.

Price Undercutting

49. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty including applicable cess to the Assessable value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the price undercutting from the subject countries is positive during the POI. The Authority has determined the landed value of the subject goods at ex-port level and the net sales realization of the domestic industry at ex-factory level as per its established practice.

Country	Pack/loose	Quantity	Landed Price	Net Sales Realization	Price Undercutting			
		MT	Rs/MT	Rs/MT	Rs/MT	Rs Lacs	%	Range
Bangladesh	Packed	17,475	****	****	****	****	****	0-(-5)
China Taipei	Packed	2,495	****	****	****	****	****	0-(5)
Indonesia	Loose	4,437	****	****	****	****	****	0-(-5)
Indonesia	Packed	20	****	****	****	****	****	(-25)-(-30)
Indonesia	Total	4,457	****	****	****	****	****	0-(-5)
Korea RP	Loose	26	****	****	****	****	****	(-10)-(-15)
Korea RP	Packed	2,981	****	****	****	****	****	0-(5)
Korea RP	Total	3,007	****	****	****	****	****	0-(5)
Pakistan	Packed	9,034	****	****	****	****	****	15-(20)
Thailand	Packed	30,832	****	****	****	****	****	0-(-5)
Total		67,300	****	****	****	****	****	0-(5)

Price Underselling

50. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. For this purpose, fair selling price i.e. Non-injurious Price determined for the domestic industry has been compared with the landed price of imports. The landed price of imports considered for the purpose of price undercutting has also been adopted for the purpose of determining price underselling. Comparison of weighted average NIP (Non-Injurious Price) of the domestic industry with weighted average landed price of imports is shown as under :

Country		Quantity	Landed Price	NIP	Price Underselling			
		MT	Rs/MT	Rs/MT	Rs/MT	Rs Lacs	%	Range
Bangladesh	Packed	17,475	****	****	****	****	****	10-20
China Taipei	Packed	2,495	****	****	****	****	****	10-20
Indonesia	Loose	4,437	****	****	****	****	****	0-(-10)
Indonesia	Packed	20	****	****	****	****	****	10-(-20)
Indonesia	Total	4,457	****	****	****	****	****	0-(-10)
Korea RP	Loose	26	****	****	****	****	****	10-(-20)
Korea RP	Packed	2,981	****	****	****	****	****	10-20
Korea RP	Total	3,007	****	****	****	****	****	10-20
Pakistan	Packed	9,034	****	****	****	****	****	30-40
Thailand	Packed	30,832	****	****	****	****	****	0-10
Total		67,300	****	****	****	****	****	10-20

Price Suppression and Depression

51. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15
Cost of Sales	Rs/MT	****	****	****	****	****
Indexed		100.00	101.19	113.69	120.05	120.05
Selling Price	Rs/MT	****	****	****	****	****
Indexed		100.00	105.48	113.81	99.96	99.96
Import Price	Rs/MT	****	****	****	****	****
Indexed		100.00	102.16	112.92	106.43	106.43

52. The Authority notes that cost of sales has increased during the injury period whereas the selling price has decreased in the injury period as compared to the previous year. The import price has decreased in the injury period as compared to the previous year.

G. Economic Parameters of the Domestic Industry

I. Profit/Loss, Cash Flow, Return on Capital Employed

53. The profitability of the domestic industry is given in the following table. It is seen that domestic industry is suffering losses throughout the injury period. Profitability of the domestic industry has declined drastically in Period of investigation. Cash losses as well as return on investment have also declined in the POI as compared to base year. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. It is seen that the cash profits of the domestic industry declined significantly in the Period of investigation as compared to the previous years as well as base year.

Parameters	Unit	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15(A)
Profitability	Rs./MT	****	****	****	****	****
Indexed		100	125	114	9	9
ROI	%	****	****	****	****	****
Indexed		100	175	147	28	28
Cash Profits	Rs.Lacs	****	****	****	****	****
Indexed		100	138	125	34	34

II. Inventories

54. It is noted that inventories with the domestic industry increased in the POI as compared to the base year as well as the previous year.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15
Inventory – Average Stock	MT	****	****	****	****	****
Indexed		100	39	96	111	111

III. Employment, Wages& Productivity

55. The Authority notes that productivity as well as employment of the domestic industry has increased during the POI as compared to the base year.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15	Apr14-Jun15

Wages	Rs Lacs	****	****	****	****	****
Indexed		100	119	138	176	141
Wages	Rs/MT	****	****	****	****	****
Indexed		100	91	100	113	113
No of Employees	Nos	****	****	****	****	****
Indexed		100	100	100	106	106
Productivity per Employee	Nos	413	540	572	488	488
Indexed		100	131	138	118	118
Productivity per Day	Nos	****	****	****	****	****
Indexed		100	131	138	124	124

IV. Magnitude of dumping

56. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined in respect of the subject countries are above de-minimus.

V. Growth

57. The Authority notes from the table below that growth of the domestic industry in respect of production, domestic sales, profit/loss, ROI, etc. have declined during the POI as compared to the growth achieved in 2012-13.

Particulars	UOM	2011-12	2012-13	2013-14	Apr14-Jun15
Growth in following parameters					
Production	%		30.75	5.90	(10.10)
Sales	%		25.88	(2.22)	0.35
Capacity Utilization	%		21.93	5.50	(17.55)
Profit/Loss per Unit	%		24.83	(8.39)	(91.86)
Cash Profit	%		38.14	(9.47)	(73.19)
Return on Capital Employed	%		12.74	(4.66)	(20.39)

VI. Ability to raise capital investment

58. National Peroxide Ltd expanded capacity during period of investigation. Since capital investment decision is a long term proposition, it does not have any bearing on current ability to raise capital investment. However, if dumping persists it would be difficult for domestic industry to generate sufficient returns for servicing interest and loan instalments of finance institutions.

VII. Factors affecting Domestic Prices

59. The examination of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the non-injurious price of the domestic industry, causing significant price underselling in the Indian market. It is also noted that the demand for the subject goods was showing significant increase during the injury period including the POI and therefore it could not have been a factor affecting domestic prices. Thus, the principal factor affecting the domestic prices is the landed value of the imports of dumped subject goods from subject countries.

60. The injury margin determined for subject countries, during POI as follows:

Country	Exporter/ Producer	Non Injurious Price US$/MT	Landed Price US$/MT	Injury Margin US$/MT	Injury Margin %	Injury Margin % Range
Indonesia	All	****	****	****	****	0-(-10)
Taiwan	All	****	****	****	****	10-20
Korea RP	All	****	****	****	****	10-20
Thailand	Thai Peroxy Limited, Thailand	****	****	****	****	0-10
	Non-Co-operative producers/ exporters in Thailand	****	****	****	****	10-20
Pakistan	Sitara Peroxide Limited, Pakistan	****	****	****	****	10-20
	Descon Oxychem	****	****	****	****	10-20

	Limited, Pakistan					
	Non-Co-operative producers/ exporters in Pakistan	****	****	****	****	30-40
Bangladesh	Samuda Chemicals, Bangladesh	****	****	****	****	10-20
	Tasnim Chemicals, Bangladesh	****	****	****	****	10-20
	ASM Chemicals, Bangladesh	****	****	****	****	20-30
	Non-Co-operative producers/ exporters in Pakistan	****	****	****	****	20-30

VIII. Conclusion on Injury

61. In view of the above, the Authority concludes that the dumped imports of the subject goods from the subject countries have increased in absolute terms as also in relation to production and consumption of the subject goods in India. It is noted that imports of the subject goods from the subject countries are undercutting and underselling the prices of the domestic industry in the market. The imports were suppressing the prices of the domestic industry. With regard to consequent impact of the dumped imports on the domestic industry, it is found that though demand for the subject goods increased significantly, the production and sales of the domestic industry has not increased in proportion to the increase in demand. Resultantly, the domestic industry did not increase its market share to the extent of increase in demand. Profits, Cash Profits and return on capital employed declined significantly during POI. Growth in respect of price parameters shows an adverse impact on the domestic industry. It is thus concluded that the domestic industry has suffered material injury.

H. Causal link

62. Having examined the existence of material injury, effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression

effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined: -

a) **Volume and prices of imports from third countries**

63. During POI, imports of the subject goods from countries other than the subject countries are nil in volume . Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry.

b) **Trade restrictive practices of and competition between the foreign and domestic producers**

64. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

c) **Contraction of demand or Changes in the pattern of consumption**

65. The Authority notes that demand for the product showed increase during the injury period and also during POI. The Authority thus concludes that injury to the domestic industry was not due to contraction in demand.

d) **Development in Technology**

66. None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

e) **Export performance of Domestic Industry**

67. There are no exports by petitioner companies during period of investigation. Therefore, any possible decline in export performance is not a cause of injury to the domestic industry.

f) **Productivity of the Domestic Industry**

68. Productivity of the domestic industry has increased during the POI. However, profitability of the domestic industry showed declining trend.

69. From the foregoing, the Authority concludes that there is no evidence of injury being caused to the domestic industry due to other factors.

I. **Factors establishing causal link**

70. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated over the injury period. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

i. The dumped imports of the subject goods from the subject countries have increased in absolute terms as also in relation to production and consumption of the subject goods in India.
ii. The imports are suppressing the prices of the domestic industry.
iii. Profits, Cash Profit and Return on capital employed has steeply declined in period of investigation. Both return on capital employed and cash profits registered negative growths in POI on account of dumped imports.
iv. The financial performance of the domestic industry has deteriorated in respect profit, return on capital employed and cash flow, due to dumped imports.

71. Thus the Authority concludes that the domestic industry suffered material injury due to dumped imports of the subject goods, originating in or exported from the subject countries.

J. Magnitude of Injury Margin

Injury Margin

72. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries. The weighted average injury margins are as below:

Country	Exporter/ Producer	Non Injurious Price US$/MT	Landed Price US$/MT	Injury Margin US$/MT	Injury Margin %	Injury Margin % Range
Indonesia	All	****	****	****	****	0-(-10)
Taiwan	All	****	****	****	****	10-20
Korea RP	All	****	****	****	****	10-20
Thailand	Thai Peroxy Limited, Thailand	****	****	****	****	0-10
	Non-Co-operative producers/ exporters in	****	****	****	****	10-20

	Thailand					
Pakistan	Sitara Peroxide Limited, Pakistan	****	****	****	****	10-20
	Descon Oxychem Limited, Pakistan	****	****	****	****	10-20
	Non-Co-operative producers/ exporters in Pakistan	****	****	****	****	30-40
Bangladesh	Samuda Chemicals, Bangladesh	****	****	****	****	10-20
	Tasnim Chemicals, Bangladesh	****	****	****	****	10-20
	ASM Chemicals, Bangladesh	****	****	****	****	20-30
	Non-Co-operative producers/ exporters in Pakistan	****	****	****	****	20-30

K. Indian industry's interest & other issues:

73. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority

notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

L. Recommendation

74. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

    a) The product under consideration has been exported to India from the subject countries below normal values.

    b) The domestic industry has suffered material injury on account of subject imports from subject countries.

    c) The material injury has been caused by the dumped imports of subject goods from the subject countries.

75. The Authority notes that the investigation was initiated and it was notified to all the interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Anti-dumping Rules and having established a positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of anti-dumping duty is necessary to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation.