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**File No. 7/22/2021-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi – 110001**

Dated: 11.03.2022

**FINAL FINDINGS
Case No. AD-(SSR) 18/2021**

Subject: Sunset Review of anti-dumping duty imposed on the imports of "Hydrogen Peroxide" originating in or exported from Bangladesh and Thailand-reg.

No. 7/22/2021-DGTR: Having regard to the Customs Tariff Act 1975, as amended from time to time and the 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;

A. BACKGROUND OF THE CASE

2. M/s National Peroxide Limited (hereinafter also referred to as the “applicant” or the “petitioner” or the “domestic industry”) filed an application (hereinafter also referred to as the “application” or the “petition”) 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 as the “ Act”) and the 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 as the Rules) for sunset review anti-dumping investigation concerning the imports of Hydrogen Peroxide (hereinafter also referred as the “subject goods” or the “product under consideration”), originating in or exported from Bangladesh and Thailand (hereinafter also referred to as the “subject countries”).
3. The applicant has alleged likelihood of continuation or recurrence of dumping of the subject goods, originating and exported from the subject countries, and consequent injury to the domestic industry in case the existing anti dumping duty imposed on the subject goods originating in or exported from the subject countries is allowed to cease and has requested for review and continuation of the anti-dumping duty imposed on the imports of the subject goods, originating in or exported from the subject countries.
4. The original investigation was initiated on 14th January, 2016 to examine the nature and the extent of the dumping and its injurious effect on the domestic industry with respect to

import of Hydrogen Peroxide originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia and Thailand. The Authority, vide its final findings notification no. 14/03/2015- DGAD dated 11th April, 2017 recommended imposition of the anti-dumping duties on the subject countries except Indonesia, which were given effect by the Central Government vide Customs Notification No. 28/2017-Customs (ADD) dated 14th June, 2017 for a period of five years.

5. The said final findings notification was challenged before the Hon'ble CESTAT. Thereafter, in pursuance to the Hon'ble CESTAT's Order No. 58470-58474/2017 dated 20th December, 2017, revised final findings were issued by the Authority vide notification no. 14/03/2015-DGAD dated 17th April, 2018. In the revised findings the Authority re-determined the Non-Injurious Price (NIP) and recommended the revised quantum anti-dumping duty on imports of Hydrogen Peroxide from the subject countries. On the basis of the recommendations made by the Authority, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 33/2018-Customs (ADD) dated 1st June, 2018 for a period of five years. The existing duties will expire on 13th June, 2022.
6. In terms of Section 9A (5) of the Act, anti-dumping duties imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury. Further, Rule 23 (1B) of the Rules provides as follows:

“any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”

7. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry as to whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury.
8. The applicant filed an application dated 27th July, 2021, requesting initiation of sunset review of the anti-dumping duties imposed earlier and seeking continuation of the anti-dumping duties against imports of Hydrogen Peroxide originating in or exported from Bangladesh and Thailand. The request was based on the grounds that the expiry of the measure was likely to result in continuation of dumping of the subject goods and consequent injury to the domestic industry.

9. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the sunset review investigation vide Notification No. 7/22/2021-DGTR dated 13th September, 2021 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of the said anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

B. PROCEDURE

10. The procedure described herein below has been followed:

- i. The Authority vide Notification No. 7/22/2021-DGTR dated 13th September, 2021, published a public notice in the Gazette of India, Extraordinary, initiating the sunset review investigation against the imports of the subject goods from the subject countries.
- ii. A copy of the public notice was forwarded by the Authority to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers and the other interested parties, to inform them of the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Governments of the subject countries, through their Embassies, and to other interested parties who made a request thereof in writing in accordance with Rule 6(3) of the Rules supra.
- iv. The Authority forwarded a copy of the public notice initiating sunset review investigation to the known producers / exporters in the subject countries, and other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 6(4) of the Rules.
- v. The Governments of the subject countries, through their Embassies in India, were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassies of the subject countries along with the names and addresses of the known producers/ exporters from the respective subject countries.
- vi. The Authority forwarded copies of the Notification to the following known producers/ exporters:
 - a. ASM Chemical Industries Limited
 - b. Samuda Chemical Complex Limited
 - c. Tasnim Chemical Complex Limited
 - d. Solvay Peroxythai Limited
 - e. Thai Peroxide Co., Limited

- vii. The following producers/exporters from the subject countries filed a response to the exporter questionnaire:
 - a. Samuda Chemical Complex Limited (Bangladesh)
 - b. Tasnim Chemical Complex Limited (Bangladesh)
 - c. Thai Peroxide Co., Limited (Thailand)
- viii. The Authority forwarded a copy of the Notification to the following known importers/users of subject goods in India, calling for necessary information, in accordance with Rule 6(4) of the Rules:
 - a. Adeshwara Chemicals
 - b. Advent Chembio Private Limited.
 - c. Alembic Pharmaceuticals Limited.
 - d. Alliance Formulations
 - e. Annapurna Milling Company
 - f. Ark Chemicals
 - g. Birla Corporation Limited
 - h. Chemie Link
 - i. Deccan Fine Chemicals (India) Private Limited
 - j. Ermen Exports Private Limited
 - k. Gujarat Polysol Chemicals Private Limited
 - l. Jay Jay Mills (India) Private Limited
 - m. Kitex Garments Limited
 - n. Krishna Traders
 - o. My Healthscape Medicals Private Limited
 - p. Nagindas Hiralal Bhayani
 - q. Oasis Alcohol India Private Limited
 - r. OC Specialities Private Limited
 - s. Orbit Scientific Products
 - t. Orion Scientific Suppliers Private Limited
 - u. P.I.P. Polymers Private Limited
 - v. Pon Pure Chemical India Private Limited
 - w. Reliance Dye Chems
 - x. Sadhana Trading Corporation
 - y. Shah C J World LLP
 - z. Shankar Lal Rampal Dye Chem Limited
 - aa. Sigma Aldrich Chemicals P Limited
 - bb. Sri Balaha Chemicals Private Limited.
 - cc. SS Alum Private Limited
 - dd. Swasti Chem Private Limited
 - ee. Vijay Shanker Vinay Kumar
 - ff. VWR Lab Products Private Limited
- ix. None of the above importers/users have filed the questionnaire response in the present investigation.
- x. Sandeep Organics Private Limited filed submissions in response to the initiation notification.

- xi. The written submissions were received from the Government of Bangladesh during the course of the investigation.
- xii. The period of investigation (POI) for the purpose of the present investigation is 1st April, 2020 to 31st March, 2021 (12 months). The injury analysis period covers April 2017 - March 2018, April 2018 - March 2019, April 2019 - March 2020 and the period of investigation.
- xiii. The transaction-wise import data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has relied upon data of DGCI&S for calculating the volume and value of the imports of the subject goods in India.
- xiv. Further information was sought from the applicant to the extent deemed necessary. The verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the present investigation.
- xv. The domestic industry has submitted financial data duly certified by their Chartered/Cost Accountant. The non-injurious price (NIP) has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 7th February, 2022 through video conferencing. The parties which presented their views in the oral hearing were requested to file written submissions of the views expressed orally, followed by the rejoinder submissions.
- xvii. Since due to Covid-19 pandemic, physical movement was curtailed, all the interested parties were asked to share the non-confidential version of the responses, submissions and evidence submitted/presented by them with the other interested parties by email.
- xviii. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the interested parties on 01.03.2022 and the interested parties were allowed time to comment on the same. The comments on the disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final findings notification.
- xix. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final finding to the extent possible and verified the data/documents submitted by the domestic industry to the extent considered relevant, practicable and necessary.

- xx. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, the parties providing the information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis
- xxi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority has considered such interested parties as non-cooperative and recorded the final findings on the basis of the facts available
- xxii. *** in the NCV of final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate adopted by the Authority for the subject investigation is US\$1= Rs. 75.22.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

11. At the stage of the initiation, the product under consideration was defined as under:

"8. The product under consideration is "Hydrogen peroxide of concentration below 90%". 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. Hydrogen Peroxide (H₂O₂) is produced through the process of hydrogenation. At the first stage, the process results in H₂O₂ with concentration level of around 45% - 46%. Rest is water.

9. The product is distilled to obtain the required concentration of H₂O₂. Commercially, the product is produced and sold in 35%, 50%, 60% and 70% concentration. H₂O₂ is an extremely hazardous/ material. Therefore, 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 a commercial point of view, concentration level should be as high as possible.

10. Hydrogen peroxide has strong oxidizing properties and is therefore a powerful bleaching agent that has found use as a disinfectant, as an oxidizer, and in rocketry (particularly in high concentrations as high - test peroxide (HTP) as a monopropellant) and in bipropellant systems and finds application in odour control, corrosion control, inorganic and organic oxidation, toxicity reduction/

biodegradability improvement, disinfection/bio-control, paper and pulp bleaching, manufacture of peroxides and epoxides, therapeutic uses as an antiseptic and antibacterial agent.

11. Hydrogen Peroxide is classified under Chapter 28 under sub heading 28470000 of Customs Tariff Act, 1975. It is also to be noted that the customs classification is indicative only and in no way, it is binding on the scope of the investigation."

C.1. Submissions by the other interested parties

12. The following submissions have been made by the other interested parties with regard to the scope of product under consideration and like article.
 - a. PCNs should not be adopted in the current investigation as no PCNs were adopted in the original investigation.
 - b. Since the scope of the product under consideration has already been defined in the original case, there is no merit in any claim for PCN at this stage.
 - c. The price basis (delivery terms) and region should not be considered for PCNs, as the same are invariably considered in determination of the ex-factory prices. Likewise, packing is invariably accounted for in making adjustments and hence no PCNs are required.
 - d. As the product has been sold in packed and loose form which have significant price differences, the Authority should carry out the comparisons accordingly for the calculation of the dumping and the injury margin.
 - e. The domestic industry has not specified the prices and sales data as per different drums packaging, viz., 30 kgs, 35 kgs, 65 kgs and 330 kgs.
 - f. The price and the demand of the product under consideration varies as per the net weight, tare weight and gross weight as the product is difficult to handle, as well as the transportation, loading and unloading due to its combustible and hazardous nature.
 - g. The domestic industry has not informed whether they produce or sell food grade, cosmetic grade, medicinal grade etc. and what are the differences in usage, price, sales, sectors, etc.
 - h. The domestic industry has not specified whether the PUC is seasonal in nature and whether season affects its demand and price. In summer season, the demand for the PUC will be comparatively lower due to its combustible and hazardous nature.

C.2. Submissions by the domestic industry

13. The following submissions have been made by the domestic industry with regard to the scope of product under consideration and like article.
 - a. Since the present investigation is a sunset review investigation, the scope product under consideration is the same as in the original investigation.

- b. The goods produced by the domestic industry and that imported into India are the like article.
- c. The adoption of PCNs considering the concentration, packing material, price basis and customer location/region of delivery (north, south, east and west) is necessary for a fair and proper comparison.
- d. The majority of the imports from the subject countries are in packed form and there is a significant difference in the price of loose and packed forms.
- e. The Authority considered the sale of the product in packed and loose form as a parameter in the original investigation as well.
- f. Even within the packed form, the cost of production varies significantly amongst different concentrations.
- g. If no PCN was adopted by the Authority in the original investigation, the other interested parties were free to file an appeal against the said decision of the Authority which they failed to do.
- h. Because no PCN had been adopted in original investigation, it does not mean that no PCN can be adopted in a sunset review as held in in the case of Cold-rolled Flat Products of Stainless Steel from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA.
- i. The pricing decisions are based on factors such as delivery terms and delivery place and are required to be considered while determining the ex-factory prices.
- j. Contrary to the claim of the other interested parties, pricing behaviour of the product under consideration for differently packed goods differs based on factors not limited to the packing cost.
- k. The domestic industry has sold the product under consideration in packings of 30 Liters, 50 Liters and 235 Liters. Such packed drums carry 30 kg, 50 kg and 250 kg quantity respectively. The cost for each type of drum is Rs. ***/MT, Rs. ***/MT and Rs. ***/MT respectively and on average basis Rs. ***/MT.
- l. The petitioner produces and sells only the technical and industrial grade in the market. It does not produce or sell cosmetic, medicinal grade or food grade.

C.3. Examination by the Authority

- 14. The domestic industry had proposed a PCN (Product Control Numbers) methodology in the present investigation. The other interested parties had disputed that the PCN methodology is inappropriate. Further, the other interested parties have also objected that PCN methodology cannot be accepted in the present investigation as no such methodology was considered in the past investigation. The Authority notes that in the case of US-Hot-Rolled Steel, the Appellate Body has taken the view that the obligation to make fair comparison for determination of the normal value and the export price rests on the Investigating Authorities. Accordingly, where an interested party has emphasized factors affecting price comparability, the Authority is required to examine the same.
- 15. The comments were invited from the interested parties for the finalization of the PCNs. The comments received from the interested parties were examined. Regarding the PCNs

on 'price basis' and 'customer location/region of delivery' basis, it is noted that as a general practice of the Authority, the comparison of the PUC is done at the ex-factory level and thus these parameters cannot be considered for making the PCNs. Further, it is the consistent practice of the Authority to compare packaged PUC with packaged like article and loose PUC with loose like article. Thus, this parameter is also not required to be consider for making the PCNs. With respect to request for PCNs on the basis of 'Concentration' of the PUC, the price factor amongst different concentrations was examined. The PUC is being imported in 35%, 50%, 60% and 70% concentration. From the available DGCI&S data, it is noted that 95% of the imports were in the form of 50% concentration and when the prices of the PUC in concentrations other than to 50% concentration were compared with 50% concentration, it was observed that the price comparison was insignificant. It was thus decided by the Authority not to adopt any PCNs in the subject investigation. Therefore, the product scope remains the same as it was in the original final findings notification no. 14/03/2015-DGAD dated 11th April, 2017.

16. With regards the different packing sizes, the other interested parties have claimed that the domestic industry has not specified the different sizes offered and prices of the same. The domestic industry has submitted that is has sold the product under consideration in 30 Liters, 50 Liters and 235 Liters drums which contain 30 kg, 50 kg and 250 kg quantity respectively. Further, the domestic industry has also specified the prices at which such different drums have been sold.
17. The other interested parties have also claimed that the domestic industry has not specified whether it produces or sells medicinal, food or cosmetic grades of the subject goods. The domestic industry has clarified that it produces and sells only Hydrogen Peroxide of industrial or technical grade. It does not produce or sell the subject goods of medicinal grade or cosmetic grade and does not even have the license to produce Hydrogen Peroxide of food grade.
18. Therefore, in the present sunset review investigation, the scope of the product under consideration is defined as follows:

"The product under consideration in the present investigation is "Hydrogen peroxide of concentration below 90%". Food grade and electronic grade Hydrogen peroxide is beyond the scope of the PUC and further, Hydrogen peroxide of technical grade of concentration 90% and above is also beyond the scope of the PUC.

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.

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.

19. Further, on the basis of information on record with the Authority, the Authority holds that there is no known difference in the subject goods produced by the domestic industry and the ones imported from the subject countries. The two are comparable in terms of physical characteristics, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority notes that the product manufactured by the applicant constitutes like article to the subject goods being imported into India from the subject countries in terms of Rule 2(d) of the Rules.

D. DOMESTIC INDUSTRY & STANDING

D.1. Submissions by the other interested parties

20. The following submissions have been made by the other interested parties with regard to the domestic industry and its standing:
- a. The composition of the domestic industry is not appropriate and is being changed to prove a non-existent case of likelihood of injury and dumping.
 - b. HOCL was a part of the domestic industry in earlier investigation but has been deliberately kept out to distort the injury related data.
 - c. While the petitioner fulfils the technical criteria of standing, the injury information of the petitioner cannot be considered as representative of the performance of the Indian producers and cannot form the basis for any continuation of duty on the grounds of continued injury as claimed.
 - d. Considering the injury data of the petitioner alone will lead to distorted finding on injury as it is apparent that the other producers performed much better than the petitioner.
 - e. While Rule 5 is not applicable in case of sunset reviews, it is the responsibility of the Authority to look beyond legality into factual commercial realities.
 - f. The Authority is not bound by the information supplied by the applicant and is obligated to make sure in a review investigation that the applicant industry is representative of the state of the industry. Further, as per Article 3.4 of the Agreement, it is incumbent upon the Authority to examine the “state of the industry”.
 - g. In EC – Fasteners, the Appellate Body held that the Authority has to ensure that there is no risk of distortion in defining the domestic industry.
 - h. The information filed by IPL should not be considered as it is being filed at a very belated stage and is not in line with the Trade Notice No. 13/2018. It is not the practice of the Authority to consider the information of the supporter for the determination of the injury and the dumping margin.

- i. The supporters of the petition, including HOCL, have violated the Trade Notice No. 13/2018 by not providing the necessary information. As per the Manual, the supporters are required to mandatorily furnish the information required as per the Trade Notice.
- j. The majority of the Indian industry has refused to co-operate in the investigation in the prescribed form and manner and it amounts to impeding the investigation.
- k. A producer participating in an investigation either as applicant or supporter must follow the prescribed rules and in absence, the Authority may draw adverse inference.

D.2. Submissions by the domestic industry

- 21. The following submissions have been made by the domestic industry with regard to the domestic industry and its standing:
 - a. The application has been filed by National Peroxide Limited.
 - b. Indian Peroxide Limited has filed its costing information, requesting to be considered as a part of the domestic industry.
 - c. The other interested parties want domestic industry to be more representative and on the other hand, they are also objecting to the inclusion of Indian Peroxide Limited, which has provided its entire costing and injury information.
 - d. Where a producer comes before the Authority and submits relevant information, the same is required to be considered by the Authority, as observed by WTO Appellate Body in EC - Fasteners.
 - e. The Authority has included additional producers who had filed injury data post initiation in the anti-subsidy investigation of Welded Stainless-Steel Pipes and Tubes from China PR and Vietnam.
 - f. There are four other producers of Hydrogen Peroxide in India, and all of them have supported the present application
 - g. The applicant along with Indian Peroxide Limited constitutes 46.32% of the domestic production. Accordingly, the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Anti-Dumping Rules.
 - h. It has been the practice of the Authority in several investigations to consider domestic producers accounting for 30% of the total domestic production in the country as part of the domestic industry.
 - i. The applicant has not imported the subject goods from the subject countries and is not related to any producers / exporters and the importers of the subject goods from the subject countries.
 - j. Merely because a producer participated in the earlier investigation does not imply that it must participate in the present investigation and neither the applicant nor the Authority can compel any producer to participate in the investigation, as held by the Authority in the sunset review investigation of Seamless Tubes, Pipes & Hollow Profile of Iron, Alloy or Non-Alloy Steel for China PR.
 - k. Contrary to the claims of the other interested parties, the Authority is required to examine injury by analysing the information submitted by the domestic industry

- and is not obligated to examine the performance parameters of each and every domestic producer in the country, as observed by WTO Panel in EC - Bed Linen.
- l. The petitioner alone accounts for more than 30% of the total domestic production in the country and the domestic producers accounting for the remaining production have expressly supported the present petition. Hence, there can be no doubt regarding the performance being representative of the domestic industry as a whole.
 - m. The most efficient domestic producer is before the Authority as domestic industry. However, if the Authority is of the opinion that data of more producers is to be considered, the applicant has no objection to the same.
 - n. The non-injurious price for HOCL is at least 1.5 times higher than that of the petitioner and hence, the other interested parties would thereafter have objection to inclusion of HOCL as well.
 - o. Even if HOCL is required to provide information, the petitioner has no objection to the same.
 - p. If the performance of Indian Peroxide Limited and Hindustan Organic Chemicals Limited are examined, it will also show continued injury.
 - q. Irrespective of whether other producers are included, the information on record would clearly show that there is likelihood of continuation of dumping and consequent injury in the event of cessation of duty.
 - r. The provisions of Rule 5, relating to support by a domestic producer, are not applicable to sunset reviews.
 - s. Contrary to the claims of other interested parties, the Authority is conducting a legal investigation and, therefore, DGTR cannot look beyond legality. A quasi-judicial authority is required to perform within the legal requirements and obligations.
 - t. The Authority has considered support, even if the supporter did not file the information as required under Trade Notice 13/2018 and 14/2018 in a number of cases.

D.3. Submissions by the other domestic producers

22. Indian Peroxide Limited has submitted its costing and injury data during the course of the investigation. Hindustan Organic Chemicals Limited (HOCL) has also filed submissions in the present investigation as well as its injury data and cost audit reports. HOCL has further submitted that it has suffered significant decline in its performance and has faced financial losses, cash losses and negative return on its investment.

D.4. Examination by the Authority

23. Rule 2(b) of the Anti-Dumping Rules defines the 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”.

24. The present sunset review application has been filed by National Peroxide Limited. The applicant has submitted that it is not related to any exporters of the subject goods in the subject countries or importers of the goods, and has not imported the subject goods from the subject countries.
25. There are five other producers of Hydrogen Peroxide in India, namely, Hindustan Organic Chemicals Limited, Indian Peroxide Limited, Gujarat Alkalies and Chemicals Limited, Meghmani Finechem Limited and Chemplast Sanmar Limited. All the producers have supported the application by filing support letter before the Authority.
26. Pursuant to the initiation of the present sunset review investigation, Indian Peroxide Limited (IPL) filed its costing and injury information before the Authority, requesting to be considered as part of the domestic industry. However, IPL and HOCL have not been considered as part of domestic industry. Since these companies have furnished the information, the Authority has examined the same to ascertain whether there is any material degree of distortion in not including the data of these companies within the scope of the domestic industry. Further, these companies are being considered as supporting domestic producers in the present investigation.
27. With the regards to the claims of the other interested parties that Hindustan Organic Chemicals Limited should be included within the scope of the domestic industry since it was part of the previous investigation, the Authority notes that there exists no legal obligation on the Authority or the applicants to maintain the same scope of the domestic industry in a sunset review as was considered in the original investigations. The Authority or the domestic industry cannot compel a party to participate in an investigation. The Authority is only required to ascertain whether the applicant's production meets the requirement of the domestic industry under the law. The Authority notes that National Peroxide Limited constitutes “a major proportion” of the total domestic production in the country and thus, constitutes domestic industry under the Rules. Thus, the present investigation is limited to the information and data submitted by National Peroxide Limited, which constitutes the domestic industry.
28. The other interested parties have contended that the support letters filed by the supporters may be disregarded on account of violation of Trade Notices 13/2018 and 14/2018. The Authority considers that while Trade Notices 13/2018 and 14/2018 required a domestic producer to provide certain information, the same was in any case not mandated under the Rules. For this reason, the Authority vide Trade Notice 4/2021 dated 16th June, 2021 has allowed supporters to express support after giving

information concerning capacity, production and sales. The supporters in the present case have already supplied such information. Therefore, the Authority has considered the support expressed by these producers. The Authority also considers that support to the application in anyways is not relevant in defining under Rule 2(b) or deciding a review under Rule 23.

29. The Authority holds that the applicant accounts for a major proportion of the total domestic production. It is also noted that the applicant is not related to any exporter or importer of the subject goods and have not imported the product under consideration. The Authority, therefore, determines to hold that the applicant constitutes domestic industry under Rules 2(b) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by the other interested parties

30. The following submissions have been made by the other interested parties with regard to confidentiality:
- a. The domestic industry has not disclosed the information regarding the sale of the product under consideration through pre-appointed area wise distributors /agents and what is the commission/discount structure.
 - b. The applicant and the supporters have claimed excessive confidentiality with regard to back-up evidence of import into Thailand, costing formats and Annual Reports. The supporters have not provided details of capacity, sales and production even in indexed form. As held by CESTAT in Vitrified Tiles case, the non-confidential summaries should be provided in sufficient detail so as to permit reasonable understanding of the information provided.
 - c. As held by CESTAT in the case of Exotic Décor Pvt Ltd., the transaction-wise import data may be provided in excel format.
 - d. The claims made by the petitioner with regard to confidentiality are baseless, unsubstantiated, misleading and factually incorrect as the information filed by the producers / exporters is in terms of Trade Notice 10/2018 and recent practice of the Authority.
 - e. Certain information has been claimed confidential by the exporters by adducing reasons as permissible under the rule and the merit of the reasons is not disproved.
 - f. Tasnim Chemical Complex Limited exported the subject goods directly and there is no export channel covering any other parties. The information given in the flow chart under the channel of export/domestic supplies is misunderstood as channel of parties but the flow chart actually contained details of trade negotiation and process involved in the sales process instead.

E.2. Submissions by the domestic industry

31. The following submissions have been made by the other interested parties with regard to confidentiality:

- a. The exporters/producers have claimed excessive confidentiality including the information which is available in the public domain.
- b. The exporters/producers have violated Trade Notice No. 10/2018 by claiming confidentiality regarding broad stage-wise manufacturing process and raw materials used.
- c. The exporters/producers have also claimed excessive confidentiality regarding the ownership, channel of distribution, financial/contractual links, details of production facilities, adjustments for the normal value and the export price.
- d. The domestic industry has provided requisite reasoning for the confidentiality claims made regarding certain parameters in the non-confidential version of the petition.
- e. Back-up evidence of the import into Thailand is highly business sensitive which has been obtained for the limited purpose of the investigation and the summarization of the same is not possible.
- f. The disclosure of the information of the costs incurred by the domestic industry would be significantly prejudicial to the competitive interests of the domestic industry.
- g. The petitioner is a public listed company and as such its financial information and annual reports are publicly available on its website.
- h. The petitioner is only required to provide the import data in PDF format as stated in the Trade Notice 07/2018.

E.3. Examination by the Authority

32. The Authority made available the non-confidential version of the information provided by various interested parties to all the interested parties as per Rule 6(7).
33. With regard to confidentiality of the information, the Rule 7 of the Anti-dumping Rules provides as follows:

“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 authorise its disclosure in a generalized or summary form, it may disregard such information."

34. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. Business sensitive information has been kept confidential as per the practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential. The Authority has considered the claims of confidentiality made by the applicants and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality.
35. With regards to the DGCI&S data, the Authority notes that the data has been shared with the interested parties relating to volume & value of the imports from exporting countries into India. Further, the applicant has provided a complete list of transaction wise import data. It is also noted that any interested party can obtain data independently from the DGCI&S and lodge its own counter claim based on the data so received. The Authority holds that procedure for sharing and procuring the import data has been laid down in the Trade Notice 07/2018 dated 15th March, 2018 and the Authority notes that the procedure now being applied is consistent, uniform across parties and investigations and provides adequate opportunity to the interested parties to defend their interests.
36. The interested parties have contended that the domestic industry has not disclosed the back-up evidence of the import into Thailand used to determine the normal value. The domestic industry has submitted that such information is highly business sensitive and cannot be summarised. Further, with regards the contention that the domestic industry has failed to provide the non-confidential version of the costing data, the domestic industry has submitted that disclosure of such information would be prejudicial to its interests.
37. As regards the disclosure of the annual reports, the applicant has submitted that the applicant is a public listed company. Accordingly, all its financial information and annual reports are publicly available on the website of the company. With regards the contention that the details of capacity, sales and production of the supporters have not

been provided even in indexed form, the Authority notes that such information is the proprietary information of other producers which the domestic industry is not authorised to share.

F. MISCELLANEOUS ISSUES

F.1. Submissions by the other interested parties

38. The following miscellaneous submissions have been made by the other interested parties:

- a. The domestic industry has not specified whether the product under consideration is seasonal in nature and whether season affects its demand and price as in summer season the demand will be comparatively lower due to its combustible and hazardous nature.
- b. Indian Peroxide Limited has not appointed TPM Consultants as their legal representative since no authorization letter has been filed.
- c. Format F and G have not been filed by Indian Peroxide Limited.
- d. The import data and the injury and dumping analysis provided in the application is wrong as the applicant has not excluded electronic grade while segregating the imports of the product under consideration. The applicant cannot be allowed to change the data at this belated stage, and instead, the investigation should be terminated.
- e. The objective of imposing the anti-dumping duty is to provide a level playing field and not to provide unwarranted protection to the domestic producers till perpetuity.
- f. The anti-dumping is a fault-based trade remedy. However, Thai Peroxide Co., Limited has filed complete information with the Authority, which clearly shows that there is neither any injury nor any likelihood of injury on accounts of the subject goods exported by the producer.

F.2. Submissions by the domestic industry

39. The following miscellaneous submissions have been made by the domestic industry:

- a. The domestic industry has provided data for 12 months for each of the four years included in the injury period and the period of investigation. Such data covers any seasonal changes in demand that might occur over the period.
- b. The other interested parties should not be concerned with filing or non-filing of Authorisation Letter as the same does not hamper the rights or interests of any party.
- c. A perusal of the segregated import data would clearly establish that only items with description “technical grade” or “industrial grade” not for use as medicine or food have been included in the “PUC”.

F.3. Examination by the Authority

40. With regards to the contention of the other interested parties that the domestic industry cannot be offered protection in perpetuity, it is noted that the purpose of anti-dumping duties is to provide relief to domestic industry against injurious dumping and to ensure fair competition in the market. The imposition or extension of antidumping duty cannot be seen as protection. It is only a trade correction measure. The objective of the duties is not to provide any undue protection to the domestic industry, rather to create a fair market situation by removing any trade distortion effects, allowing a healthy competition in the market. The Authority has examined the evidence provided by the domestic industry and other interested parties regarding the likelihood of continuation or recurrence of dumping and injury in the absence of duty. If the Authority concludes that dumping and injure are likely to continue or recur, in the absence of duties, the Authority may recommend continuation of anti-dumping duties.
41. The importer has contended that the demand of the subject goods is seasonal and reduces in the rainy season. The Authority notes that the injury period consists of four financial years. Therefore, if the demand is affected in any season, it would be the case in each of the years.
42. With regards the claim that the import segregation methodology adopted by the domestic industry is incorrect, it is noted that the Authority has separately called for the imports data from DGCI&S and has considered the imports having the description as 'industrial grade' or 'technical grade'. The imports of all other products have been excluded in determination of the import volume of the product under consideration. Further, the Authority has also considered the export data reported by the responding exporters.
43. The other interested parties have claimed that Indian Peroxide Limited has neither filed the authorization letter authorizing its legal representatives to file their data nor have filed Formats F and G. As previously noted, Indian Peroxide Limited is not being considered as part of the domestic industry in the present investigation. Nevertheless, an authorization in favour of TPM Consultants on behalf of Indian Peroxide Limited has been filed before the Authority.

G. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions by the other interested parties

44. The following submissions have been made by the other interested parties with regards to the determination of the normal value, the export price and the dumping margin:
- a. The Authority should determine fresh dumping and injury margins for the exporters as these companies have undergone substantial changes and there is no justification for such high level of duties.
 - b. The normal value determined by the petitioner violates the WTO Anti-dumping Agreement as sales in the economic zones are not considered to be in normal course of trade and these zones are specially for export only. Sales from Special Economic Zones to domestic market are not significant enough to be considered as the normal value in the exporting country's market.
 - c. The contentions raised by the domestic industry regarding the import price reported at Petrapole port is only an attempt to make false propaganda against the exporters to create doubt in the mind of the Authority.
 - d. The price at Petrapole Port should be considered for the determination of the export price as the customs valuation is a documentary proof for valuation. Ignoring the customs data undermines the quality of the procedure determining the export price.
 - e. The customs authorities at Petrapole port have been reassessing the value of the import in some cases arbitrarily by presuming some minimum price for the product and the importers could successfully get refund through appeal process. The contention that the exporters are manipulating the prices is not correct as the prices reported by the exporters and their records are correct.
 - f. The exporters have not misrepresented the import price at any stage and the entire chain of transactions can be traced from the EQR correctly.
 - g. While the domestic industry has claimed that exporters from Bangladesh received cash towards export, no evidence has been shared with the interested parties which may allow them to provide any clarification. The details of payment received has already been shared with the Authority.
 - h. The WTO Agreement does not allow for consideration of the import prices as the normal value. Further, the imports of Hydrogen Peroxide into Bangladesh are very insignificant and, therefore, not representative of the domestic sales.
 - i. Since most imports from Bangladesh happen at Petrapole port, marine insurance is not applicable. Freight, inland transportation, handling charges, commission are hypothetical and not substantiated by any documentary evidence
 - j. The calculation of the export price is erroneous as the price obtained from the DGCI&S is FOB price. Therefore, the deduction of freight and insurance again is not required to get the FOB price.

G.2. Submissions by the domestic industry

45. The following submissions have been made by the domestic industry with regards to the normal value, the export price and the dumping margin:
- a. The imports from Bangladesh entering at Petrapole Port have been reported by the DGCI&S at assessable value which is considerably higher than the actual invoice value. Therefore, it should not be considered for determination of the dumping margin, the price undercutting or the injury margin.
 - b. It needs to be examined whether the price reported by the exporters is the correct price or the overstated price declared to the customs. If the correct price has not been reported, the response should be rejected due to suppression and misrepresentation of the information.
 - c. The current import prices reported in customs data are required to be disregarded, considering (a) majority of the imports are from Petrapole and (b) Petrapole is resorting to minimum valuation.
 - d. The fact that prices at Petrapole port have been re-assessed in effect is an acknowledgement by the interested parties that the prices reported in the DGCI&S data are not the price at which the goods have been invoiced.
 - e. The payments have been received by the producers in Bangladesh in cash form and not through the banking channel and, therefore, the same cannot be considered for the determination of the export price. Only payments through the banking channels need to be considered for the present purposes.
 - f. The Authority is requested to make adjustments for inland freight for determining the export price for the exporters from Bangladesh.
 - g. The other interested parties must show that they have transported without incurring insurance costs. It is not relevant whether the insurance is "marine" or "surface".
 - h. Inclusion of freight cost is necessary in the calculation of the dumping margin.
 - i. Tankers used in the transportation of loose form of the product under consideration are dedicated. Thus, the transportation cost is incurred for both sides. In packed form, the transportation cost is incurred for one side but packing cost is incurred additionally.
 - j. In Eastern part of India, the importers find it more cost attractive to import from Bangladesh due to land port at Petrapole where Bangladesh exporters incur lower freight cost. The domestic industry has to incur freight cost to match price for the imports made at eastern border.
 - k. The Authority has also previously considered sales by an entity located in SEZ to DTA for determination of the normal value in the Glass Fibre and article thereof from Bahrain and Egypt.
 - l. There have been a number of investigations in the past such as Newsprint from Australia, Canada, EU, Hong Kong, Russia, Singapore and UAE where the price of the imports into the subject country has been considered for determination of the normal value.
 - m. The evidence submitted at the time of the initiation with regard to the adjustments made to the export prices is not required to be of the same as that required at the

time of final determination, as held by CESTAT in Automotive Tyre Manufacturer's Association v. Designated Authority.

- n. Due to a typographical error, the prices obtained from the DGCI&S data have been reported as FOB prices, whereas they are actually CIF prices.

G.3. Examination by the Authority

46. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:

- (i) *the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *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 to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) 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 transhipped 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.

47. The Authority had sent questionnaire to the known exporters / producers from the subject countries, advising them to provide information in the form and manner prescribed. The following producers / exports from the subject countries have filed the exporter's questionnaire response:

- a. Samuda Chemical Complex Limited, Bangladesh
- b. Tasnim Chemical Complex Limited, Bangladesh
- c. Thai Peroxide Co., Limited, Thailand

48. With regard to the contention concerning the price of goods reported at Petrapole port, the Authority notes that the exporters have also acknowledged that the Customs authorities have reassessed the prices considering a minimum import price. Therefore, the price reported in the customs data has not been considered for the present

determination. The Authority has considered the price as reported by the exporters in examining dumping and injury.

49. With regard to the contention concerning the inclusion of freight cost in the calculation of the dumping margin, the Authority notes that since the dumping margin is determined at ex-factory level, the inclusion of the freight cost would not be appropriate.
50. With regard to the claim that the normal value and the export price for the producers / exporters in Bangladesh has been determined inaccurately, the Authority notes that at the stage of initiation, the information provided by the applicant was found prima facie sufficient to constitute evidence of dumping. Since the producers from Bangladesh have responded and provided their information in the questionnaire response, the dumping margin has been determined considering the information on the normal value and the export price provided by the responding exporters in their responses.

G.3.1. Determination of Normal Value for Bangladesh

Normal value for Samuda Chemical Complex Limited, Bangladesh

51. Samuda Chemical Complex Limited has exported the product under consideration during the period of investigation and filed the questionnaire response. Samuda Chemical Complex has sold the subject goods only with 50% concentration in packed and unpacked form to unaffiliated parties in the domestic market. The domestic sales made by the producer are in sufficient volume when compared to the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit making domestic sales transactions with reference to the cost of production of the subject goods. Since the profit-making transactions were more than 80%, the Authority has considered all the transactions in the domestic market for the determination of the normal value. The Authority has accepted the adjustments, as applicable, after desk verification of the same. The normal value at ex-factory level has been determined accordingly and the same is shown in the Dumping Margin Table below.

Normal value for Tasnim Chemical Complex Limited, Bangladesh

52. Tasnim Chemical Complex Limited has exported the product under consideration during the period of investigation and filed the questionnaire response. Tasnim Chemical Complex Limited has sold the subject goods only with 50% concentration in packed form to unaffiliated parties in the domestic market. The domestic sales made by the producer are in sufficient volume when compared to the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. Since only ***% of the sales were profitable, only the profitable sales have been considered for the determination of the normal value. The Authority has accepted the adjustments, as applicable, after desk verification of the

same. The normal value at ex-factory level has been determined accordingly and the same is shown in the Dumping Margin Table below.

Normal value for all non-cooperative producers/exporters from Bangladesh

53. Normal value for non-cooperative producer/exporter of Bangladesh has been taken based on the facts available in accordance with Rule 6(8) of the Rules. The normal value so determined is mentioned in the Dumping Margin Table below.

G.3.2. Determination of Export Price for Bangladesh

Export price for Samuda Chemical Complex Limited, Bangladesh

54. The Authority notes that Samuda Chemical Complex Limited has exported ***MT of the product under consideration with 50% concentration, both in packed and unpacked forms, directly to the Indian customers. The Authority, while calculating the export price, has considered the adjustments on account of ocean freight, insurance, inland freight, credit cost, port charges and bank chargers, wherever applicable, for all transactions. The export price at ex-factory level has been determined accordingly and the same is shown in the Dumping Margin Table below.

Export price for Tasnim Chemical Complex Limited, Bangladesh

55. The Authority notes that Tasnim Chemical Complex Limited has exported a total quantity of *** MT, with 50% concentration, only in packed form, directly to the Indian customers. The Authority, while calculating the export price, has considered the adjustments on account of ocean freight, insurance, inland freight, credit cost, port charges and bank chargers, wherever applicable, for all transactions. The export price at ex-factory level has been determined accordingly and the same is shown in the Dumping Margin Table below.

Export price for all non-cooperative producers/exporters from Bangladesh

56. Export price for the non-cooperative producers/exporters of Bangladesh has been determined based on the facts available in accordance with Rule 6(8) of the Rules. The export price so determined is mentioned in the Dumping Margin Table below.

G.3.3. Determination of Normal Value and Export price for Thailand

Normal value and export price for Thai Peroxide Co., Limited, Thailand

57. M/s Thai Peroxide Co., Ltd, Thailand has exported the product under consideration during the period of investigation and filed the questionnaire response. The domestic sales made by the producer are in sufficient volume when compared to the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. It has been noted that ***% sales were at profits, so all sales have been considered in determining Normal Value. The Authority

has accepted the adjustments, as applicable, after desk verification of the same. The normal value at ex-factory level has been determined accordingly and the same is shown in the Dumping Margin Table below.

Normal value for all other producers/exporters from Thailand

58. Normal value for non-cooperative producer/exporter of Thailand has been taken based on the facts available in accordance with Rule 6(8) of the Rules. The normal value so determined is mentioned in the Dumping Margin Table below.

Export price for M/s Thai Peroxide Co., Ltd., Thailand

59. Thai Peroxide Co., Ltd. has exported ***MT of Hydrogen Peroxide to India in packed form during POI at a weighted average Net Export Price of USD *** per MT. Claimed adjustments considered by the Authority are on account of Ocean Freight, Ocean Insurance, Inland Freight, Port Charges and Credit Cost to determine net export price at ex-factory level. The export price so determined is provided in the Dumping margin Table below:

Export price for all other producers/exporters from Thailand

60. Export price for all producers/exporters of Thailand has been determined based on the facts available in accordance with Rule 6(8) of the Rules. The export price so determined is mentioned in the Dumping Margin Table below.

G.3.3. Dumping Margin

61. Based on the normal value and the export price determined as above, the dumping margin for the producers / exporters from the subject countries has been determined by the Authority and the same is provided in the Table below. The dumping margin so determined is above de-minimis and significant.

Dumping Margin Table

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
Bangladesh						
1	Samuda Chemical Complex Limited	***	***	***	***	0-10
2	Tasnim Chemical Complex Limited	***	***	***	***	0-10
4	Others	***	***	***	***	10-20
Thailand						

5	M/s Thai Peroxide Co., Ltd.	***	***	***	***	0-10
6	Other	***	***	***	***	60-70

H. ASSESSMENT OF INJURY, CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

H.1. Submissions by the other interested parties

62. The following submissions have been made by the other interested parties with regard to the injury and the causal link:

- a. There is no injury to the domestic industry caused by the imports from Bangladesh.
- b. Since the imposition of duties in 2017, the volume of imports from Bangladesh is not significant and has decreased significantly during the period of investigation.
- c. The applicant has not suffered any injury on account of imports from Thai Peroxide Co., Limited as its imports have declined significantly in the period of investigation compared to the base year.
- d. Allegations made by petitioner regarding post-POI developments is factually incorrect, baseless and misleading since the imports of Thai Peroxide Co., Limited have not increased in the post-POI period.
- e. Import price of subject goods has increased significantly in the period of investigation.
- f. The domestic industry is not in any fragile position as it has almost doubled its capacity during the period of investigation and have been operating with robust numbers.
- g. The production and production capacity of the domestic industry has increased significantly indicating good health, while inventories have declined.
- h. While the demand has declined, the sales and market share of other domestic producers has increased significantly.
- i. The performance of HOCL has improved significantly in the period of investigation which is evident from their annual report. Its losses of Rs. 9474.95 lakhs have turned into bumper profits of Rs. 1547.18 lakhs.
- j. The costing data of IPL was filed at belated stage as the applicant increased its capacity in the period of investigation which will adversely impact its non-injurious price due to optimization.
- k. While market share of the other producers has increased, the market share of the domestic industry has declined.
- l. Inclusion of freight in the determination of dumping and injury margin is not consistent with the settled practice of the Authority read with Annexure III to the Rules. Any claims made in this regard must be rejected.

- m. Freight is not considered as part of non-injurious price as per Annexure III and the petitioner's claim essentially is that freight should be added to non-injurious price.
- n. The domestic industry has not furnished any information about the shutdown and exports in the period of investigation.
- o. The applicant has suffered injury on account of the other factors. As per the financial statements of the applicant, its performance was adversely impacted due to Covid-19 pandemic, issues with stabilization of capacity, and the closure of plant for four months.
- p. The performance of applicant was impacted by increase in the production of other users.
- q. The increase in capacity of the applicant increased the cost of production. Further, interest cost and depreciation have increased over the period.
- r. The loss due to decline in captive consumption, leading to an increase in cost, should not be attributed to the subject imports.
- s. The domestic industry has suffered due to increase in number of employees and decline in demand.
- t. The applicant has suffered due to low value imports from Egypt, Indonesia and not Thailand.
- u. If the domestic industry claims continued injury on account of the subject imports from Bangladesh, then a test of causal link is also necessary.
- v. None of the parameters as per clause (vii) of Annexure II of AD rules show any likelihood of dumping and injury if the duties are expired.
- w. While the domestic industry has placed heavy reliance on the final findings issued by Pakistan against Bangladesh concerning the subject goods, such findings have no connection to the present review and the merits of the present case need to be examined based on the information relevant for this investigation.
- x. The questionnaire response, including Part II, contains actual information relevant for all likelihood examination and the Authority may peruse the same and deny baseless and self-serving claims of the domestic industry.
- y. Contrary to the claims of the applicant, Solvay did not cooperate in the original investigation.
- z. By claiming that no conclusions regarding likelihood can be drawn in the absence of participation by Solvay, the petitioner is trying to create an impression that Solvay had participated in original investigation and has not co-operated now, which is not the case.
- aa. There is no legal bar that all producers must co-operate before the Authority to enable the Authority to consider the response of a particular producer. The Authority, in the past, has even reduced the duties of a co-operative exporter in a review investigation.
- bb. The petitioner has misquoted the decision of the Hon'ble Supreme Court in Designated Authority v/s Haldor Topsoe 2000 (120) E.L.T. 11 (S.C.) which has no bearing on the present case.

- cc. Reliance placed by the petitioner on the practice of the EC and Australia without providing any citation or relevant excerpts of the Findings is misleading, baseless and hollow claims and must be rejected.
- dd. The responding producer has expressed its inability to provide complete information regarding country as a whole in Part II of the questionnaire since such information is not available in the public domain and the producer is not privy to such information.
- ee. The imports from Bangladesh have declined, while the price has increased from the base year in the period of investigation as per the petition.
- ff. Thai Peroxide Co., Limited has achieved high-capacity utilization throughout the injury period and, therefore, there is no commercial surplus capacity available.
- gg. The market research report adopted by the petitioner shows higher demand in Bangladesh than the capacity.
- hh. The facts regarding excess capacities replied upon by the petitioner does not show that the claimed excess capacity shall be diverted to India in the event of expiry of duties by showing that there are no other markets to absorb such capacities.
- ii. The exports to Pakistan from Bangladesh have never decreased, even after the imposition of duties and, therefore, there would be no diversion of exports to India.
- jj. There are hardly any inventories with the producers in the subject countries, which also rules out any likely increase in exports.
- kk. The petition does not show that there have been any continued adverse price effects from the imports and a fresh determination of dumping/injury margin would show that any distortions. The petitioner and the other producers enjoy dominating position in the market now and the imports are only very minimal and the petitioner is not vulnerable to the price of such minimal imports.
- ll. The present sunset review investigation concerns only the anti-dumping measures and any allegation of subsidy has to be a matter of a countervailing investigation.
- mm. The cost of production incurred by the producer must be considered as per its books.
- nn. There is no practice of adjusting the alleged subsidies while determining the dumping margin.
- oo. Anti-dumping is a fault-based trade remedy. However, Thai Peroxide Co., Limited has filed complete information with the Authority, which clearly shows that there is neither any injury nor any likelihood of injury on accounts of the subject goods exported by the producer.

H.2. Submissions by the domestic industry

63. The following submissions have been made by the domestic industry with regard to the injury and the causal link:
- a. The producers in the subject countries have continued to dump the subject goods, despite anti-dumping duties in force and a duty concession.

- b. The subject imports have increased despite the anti-dumping duties in force, when compared to the volume of imports in the original investigation.
- c. The exports to India increased till 2019-20 in spite of the duties and declined only during the period of investigation due to Covid-19.
- d. The requirement under the law regarding significant volume of imports is that such imports should be more than 3% of the total imports into the country and imports from Bangladesh accounted for 61% of the total imports into the country in the period of investigation.
- e. The imports have increased at a much higher rate than the demand for the subject goods when compared to the injury period of the original investigation.
- f. The landed price of imports is below the selling price of the domestic industry.
- g. The performance of HOCL in Hydrogen Peroxide segment cannot be judged from the overall performance of the company as it accounts for a mere 2% of the total turnover of the company.
- h. The revenue of operations from Hydrogen Peroxide segment has declined significantly from Rs. ***lacs in 2018-19 to Rs. *** lacs in the period of investigation.
- i. The increase in the market share of the other domestic producers represents increase in the capacities in India. The country is now self-sufficient and there is no need for imports.
- j. There were two shutdowns during the period of investigation, the details of which are shared with the Authority.
- k. The data concerning export sales of the domestic industry, for the applicable period, has already been submitted before the Authority.
- l. The domestic industry is in a fragile state since the quantum of duty imposed against Bangladesh did not take the freight cost into consideration. As a result, the imports from Bangladesh have increased in absolute and relative terms. If the freight and packing cost would be considered, it would show that the imports are undercutting and underselling the prices of the domestic industry. The prices of the domestic industry have been suppressed and depressed. The profitability of the domestic industry declined, as its profits, cash profits and return on capital employed reduced.
- m. The present investigation being a sunset review, there is no requirement to establish a causal link between the likely dumping and likely injury as observed by the Appellate Body in United States - Antidumping measures on OCTG from Mexico.
- n. The mere fact that there are other factors causing injury to the domestic industry at the same time does not imply that the Authority shall hold absence of causal link in a particular case.
- o. In a situation where the domestic industry has suffered injury for more than one reason, the requirement is to segregate injury suffered by each such factor and come to a conclusion whether injury suffered is as a result of dumped imports.

- p. The difficulties faced by the domestic industry due to lockdown are already over. The imports have remained significant in the period of investigation and increased in the post-POI.
- q. The price of natural gas, one of the main raw materials of the subject goods, has increased significantly in the post investigation period due to which the cost of production has increased.
- r. The decline in demand in the period of investigation is due to the impact of Covid-19 pandemic which is only temporary and cannot be the sole reason for injury to the domestic industry.
- s. The profit before interest & depreciation has declined, which itself shows that the decline in profit before tax is not solely because of increase in interest and depreciation costs.
- t. The captive consumption of the petitioner is grossly insignificant, therefore it cannot be attributed to the losses of domestic industry.
- u. The number of employees has increased with the increase in the installed capacities. There is no abnormal increase.
- v. While imports from Egypt appeared only in the period of investigate, imports from Indonesia declined over the period. Despite no duty, these imports have not increased so significantly. Imports from Egypt were low at 0.8%, whereas imports from Indonesia were mere 0.4%.
- w. Imports from Thailand individually, despite duty, were 3795 MT, higher than these two countries and the share of imports from Thailand in demand is ***%.
- x. The present investigation is a sunset review investigation. No country can be added to the present investigation. Further, the volume was not as significant as to have caused adverse volume effect.
- y. The producers have a tendency to dump the product under consideration as the dumping margin was positive in the previous investigation and continues to remain positive.
- z. The producers in the subject countries are holding huge production capacities, far in excess of the demand.
- aa. Considering the production, the producers hold significant idle capacities which are likely to be used for dumping of the subject goods in India.
- bb. The domestic industry provided evidence regarding the existing capacities and the potential capacities with the producers in Bangladesh at the time filing of the petition as per the best available information with it.
- cc. The producers in Bangladesh have significant production capacities as per their own websites, LinkedIn profiles or publicly available information and the producers have also announced capacity expansions or setting up of the new capacities in the coming years.
- dd. AL Razi Chemical Complex has announced doubling of its production capacities and thereafter its capacities would reach 1,09,500 MT/ year.
- ee. India is the most important market to the producers of Bangladesh as since 2017, the exports to India constitute more than 80% of the total exports from Bangladesh, even when the anti-dumping duties were in force.

- ff. In case of Thailand, after imposition of the duties in 2017, the exports to India abated. However, India still accounted for one-fourth of the exports from Thailand.
- gg. The producers/exporters in Bangladesh are selling the product under consideration in India at significantly lower prices as compared to the rest of the world, demonstrating clear price discrimination.
- hh. The prices of the responding producers exporting to India have declined at a much faster rate than the price of the domestic sales, showing that the producers in the subject countries are deliberately targeting the Indian market.
- ii. Pakistan authorities have also found that the producers in the subject countries were engaged in unfair pricing practices.
- jj. In case of Bangladesh, 95% of the exports are at dumped prices, while 32% of the exports are at injurious prices.
- kk. In case of Thailand, 90% exports are at dumped prices, while 38% exports are at the injurious prices.
- ll. The response filed by the producers show that the capacities in Bangladesh have increased, while the capacity utilization has declined. The increase in the capacities was not accompanied by an increase in the domestic demand, and the domestic sales of the responding producers declined.
- mm. On the basis of comparison of delivered prices in each region, and considering packaging and concentration, the price of imports from the subject countries is below the non-injurious price of the domestic industry. While freight cost cannot be considered for the quantification of injury margin, the same cannot be overlooked in examining whether the domestic industry is likely to suffer injury in the absence of duty. Further, the imports are priced below the selling price of the domestic industry, implying that the imports are likely to suppress or depress the prices of the domestic industry in the absence of duties.
- nn. India is a price sensitive market and the availability of low-priced imports from the subject countries is likely to cause consumers to shift to the imported product.
- oo. The producers in Bangladesh receive subsidies on natural gas and from 2019-20, the Government of Bangladesh doubled the amount of subsidy for natural gas and increased the subsidy for power which has further reduced their cost of production.
- pp. The major producer of Thailand, Solvay Peroxythai Limited, has not responded, which has deprived the Authority of the information relating to likelihood from Part II of the questionnaire. No conclusions with regard to likelihood of dumping and injury can be drawn based on response of Thai Peroxide Co., Ltd., as it accounts for a very small volume of exports. If a party does not cooperate with the Authority, the Authority is entitled to draw an adverse inference as held in Designated Authority v/s Haldor Topsoe. 2000 (120) E.L.T. 11 (S.C.). In view of non-cooperation of Solvay Peroxythai Limited, the Authority should apply adverse facts for likelihood from Thailand.

- qq. For a proper evaluation of likelihood of continuation of dumping, participation of Solvay Peroxy Thai Co. Limited was necessary, as it accounts for more than 90% of total imports from Thailand into the country.
- rr. Thai Peroxide Co., Limited does not even account for 5% of the exports from Thailand. Therefore, no conclusions regarding likelihood can be based on limited information of such producer.
- ss. The other interested parties have not provided any relevant information and the evidence to establish absence of likelihood of injury to the domestic industry. Therefore, the Authority is requested to disregard the bare claims made by such other interested parties.
- tt. Contrary to the argument raised by the other interested parties, the parameters provided under clause (vii) of Annexure II of the Anti-dumping Rules 1995 for determination of threat or likelihood of injury are not exhaustive. Such a view was also taken by the WTO Panel in United States – Investigation of the International Trade Commission in Softwood Lumber from Canada [WT/DS277/R].
- uu. In case of a sunset review, Article 11.3 of the Anti-Dumping Agreement only requires investigating authorities to determine whether the expiry of the duties would be likely to lead to continuation or recurrence of dumping and injury
- vv. If the other interested parties believe that the circumstances have changed, they are free to request and pursue a mid-term review investigation.

H.3. Examination by the Authority

- 64. The Authority has taken note of the arguments and counter-arguments of the interested parties with regard to injury to the domestic industry. The injury analysis by the Authority hereunder addresses the various submissions made by the interested parties.
- 65. Rule 11 of the Rules read with its Annexure-II thereto provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles."
- 66. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
- 67. With regards the claims that the performance of other domestic producers in the country have improved while that of the domestic industry has declined, the Authority notes that as per Rule 11(2) of the Rules, the Authority is required to "determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry". Therefore, the evaluation of injury is required

to be restricted to the defined domestic industry, and the performance of other producers is irrelevant. This is also consistent with the findings of the WTO Panel in the case of EC – Bed Linen. In any case, the information provided by HOCL and IPL does not demonstrate that trends in their performance are materially different from the domestic industry. In fact, the data filed by IPL and HOCL would have led to determination of higher non injurious price and would have rather led to higher justification in favour of likelihood of injury.

68. The other interested parties have also claimed that the domestic industry has not shared details of their shutdowns or export sales. The domestic industry has clarified that it faced two shutdowns during the period of investigation, one on account of Covid-19 pandemic and other on account of machinery break down. With regards the exports sales, the domestic industry has duly furnished the relevant information.

69. The Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country. It has been examined as to whether there is an increase in imports, in absolute terms or in relation to production or consumption. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article 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 examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of various submissions of the domestic industry and the other interested parties and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the parties.

I. Assessment of demand / apparent consumption

70. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and the imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	92	69	85
Other Indian producers	MT	***	***	***	***
Trend	Indexed	100	123	169	179

Subject imports	MT	49,633	34,781	44,693	15,403
Other imports	MT	20,417	47,480	7,706	3,518
Demand	MT	***	***	***	***
Trend	Indexed	100	110	106	103

71. It is seen that the demand for the subject goods increased till 2018-19 but declined thereafter in 2019-20 and the period of investigation. The applicant has submitted that decline in demand during the period of investigation is due to the impact of Covid-19 pandemic and is temporary.

II. Volume effect of the dumped imports

72. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject country and share of the dumped imports during the injury investigation period are as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject imports	MT	49,633	34,781	44,693	15,403
Bangladesh	MT	17,911	23,944	33,957	11,608
Thailand	MT	31,722	10,837	10,737	3,795
Other imports	MT	20,417	47,480	7,706	3,518
Total	MT	70,050	82,261	52,400	18,922
Imports in relation to					
Domestic production	%	***	***	***	***
Consumption	%	***	***	***	***
Total Imports	%	71	42	85	81

73. It is seen that:

- The volume of subject imports declined in 2018-19; increased in 2019-20 and declined in the period of investigation
- The subject imports in relation to domestic production and consumption have also followed a similar trend. The imports in relation to production and consumption declined in 2018-19, increased in 2019-20 and thereafter declined in the period of investigation.
- The share of subject imports in total imports declined in 2018-19 but increased thereafter in 2019-20 and remained significant in the period of investigation.

III. Price effect of the dumped imports

74. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the 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. In this regard, a comparison has been made between the landed price of imports from the subject country with the net sales realization of domestic industry for the subject goods.

a. Price undercutting

75. To determine price undercutting, a comparison has been made between the landed value of the product and average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. Since both the domestic industry and the exporters have contended that Petrapol authorities have resorted to minimum valuation, and both the producers from Bangladesh constitutes de-facto total exports from Bangladesh, the Authority has determined the price undercutting on the basis of the data furnished by the responding exporters.

Particulars	Units	Bangladesh	Thailand
Weighted average net Landed price of imports	Rs/MT	19,396	23,624
Weighted average net Selling Price considering associated import volume	Rs/MT	***	***
Price Undercutting	Rs/MT	***	(***)
Price Undercutting	%	***%	(***)%
Price Undercutting	Range	1-10	(10-20)

76. It is noted that price undercutting is positive for Bangladesh while it is negative for Thailand in the period of investigation.

b. Price suppression/depression

77. In order to determine whether the effect of imports depress prices to a significant degree or prevent price increases which otherwise would have occurred in the normal course, the information given by the domestic industry for the changes in the costs and prices over the injury period has been compared with the landed value to see the desired effect.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs/MT	***	***	***	***

Trend	Indexed	100	118	151	132
Selling price considering domestic industry sale volume	Rs/MT	***	***	***	***
Trend	Indexed	100	143	88	76

78. It is noted that the cost of sales of the domestic industry increased till 2019-20 and declined in the period of investigation. However, the selling price of the domestic industry increased in 2018-19 commensurate to the increase in the cost of sales but has continued to decline thereafter. When compared to the beginning of the injury period, the cost of sales of the domestic industry has increased while the selling price has declined significantly in 2019-20 and the POI. Based on the exporter response, the Authority found there is a major difference between the invoice value reported by the responding exporters, and assessable value considered at Petrapole port. The interested parties have also contended that the prices reported in DGCI&S in respect of imports at Petrapole do not represent invoice prices. Since assessable value is not the price at which the goods have been sold and DGCI&S data shows assessable value, the landed value for Bangladesh has not been considered based on DGCI&S data as whole, for the purpose of comparison with selling price and cost of sales.

IV. Economic parameters of the domestic industry

79. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of the dumped imports on the domestic producers of such products. With regard to the consequent impact of the dumped imports on the domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on capital employed or utilization of capacity, factors affecting domestic prices, the magnitude of the margin of dumping, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed hereinbelow.

a. Production, capacity, capacity utilization and sales volumes

80. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***

Trend	Indexed	100	100	76	158
Total Production	MT	***	***	***	***
Trend	Indexed	100	98	60	84
Capacity Utilization	%	***%	***%	***%	***%
Trend	Indexed	100	98	79	53
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	92	69	85

81. The Authority notes that:

- i. The capacity of the domestic industry has increased in 2017-18 and 2018-19 and declined in 2019-20 due to plant stoppage. It again was increased in the POI.
- ii. The capacity utilization of the domestic industry has declined significantly over the injury period.
- iii. The production and sales of the domestic industry declined till 2019-20 but increased during the period of investigation compared to the previous year.

b. Market share

82. Market share of the dumped imports and the domestic industry have been examined as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic industry	%	***%	***%	***%	***%
Trend	Indexed	100	84	65	82
Other producers	%	***%	***%	***%	***%
Trend	Indexed	100	112	159	174
Subject imports	%	***%	***%	***%	***%
Trend	Indexed	100	63	84	32
Other imports	%	***%	***%	***%	***%
Trend	Indexed	100	200	38	13

83. It is seen that the market share of the domestic industry declined significantly till 2019-20 but increased again in the period of investigation, while the market share of the other producers has increased. By comparison, the market share of the subject imports declined initially but increased in 2019-20 as the volume of subject imports increased during this period. However, the market share of the imports has declined again during the period of investigation.

c. Inventories

84. The inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Opening stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***
Average stock	MT	***	***	***	***
Trend	Indexed	100	459	485	206

85. The inventories of the domestic industry increased significantly till 2019-20 but declined in the period of investigation.

d. Profitability, cash profits and return on capital employed

86. Profits, return on capital employed and cash profits of the domestic industry over the injury period are given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	118	151	132
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	143	88	76
Profit / (loss)	Rs/MT	***	***	***	***
Trend	Indexed	100	173	11	7
Profit / (loss)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	159	7	6
Cash profits	Rs. Lacs	***	***	***	***
Trend	Indexed	100	156	14	16
Return on capital employed	%	***%	***%	***%	***%
Trend	Indexed	100	119	7	10

87. The Authority notes that the profitability of the domestic industry increased initially in 2018-19 but declined significantly thereafter and in the period of investigation. The domestic industry has also suffered deterioration in cash profits and return on capital employed over the injury period. The domestic industry has suffered significant decline in cash profits when compared to the beginning of the injury period and has been able to earn only a negligible return on capital employed.

e. Employment, wages and productivity

88. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
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Employee	Nos.	***	***	***	***
Trend	Indexed	100	109	109	112
Productivity per Day	MT/Day	***	***	***	***
Trend	Indexed	100	98	60	84
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	90	55	76
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	105	117	113

89. It is seen that the number of employees and wages of the domestic industry have increased over the injury period due to the increase in the capacity. However, the productivity of the domestic industry declined till 2019-20 and marginally increasing in the period of investigation.

f. Growth

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	%	-	0%	-24%	107%
Production	%	-	-2%	-39%	40%
Domestic sales	%	-	-8%	-25%	23%
Profit/(loss) per unit	%	-	73%	-94%	-33%
Cash profits	%	-	56%	-91%	18%
Return on capital employed	%	-	7%	-45%	2%

90. The profitability of the domestic industry has been impacted significantly. The profits of the domestic industry have declined significantly over the period and it is earning a negligible return on its investment. While the cash profits of the domestic industry have improved marginally in the period of investigation, they are still significantly low compared to the starting of the injury period.

g. Ability to raise capital investment

91. The Authority notes that the profits and return on investment of the domestic industry were earlier higher and the domestic industry made further capacity addition and investments. However, the profits and return on investment are now quite low, which indicate that the ability of the domestic industry to raise capital investments may be impacted.

h. Magnitude of dumping

92. It is seen that there is continued dumping of the subject goods in India, despite the anti-dumping duties in force.

V. Overall assessment of injury

93. From the above, it is evident that despite the anti-dumping duties in force, the subject imports have remained significant. The production, sales and market share of the domestic industry declined during 2019-20, while market share of the subject imports increased. The profitability of the domestic industry deteriorated during this period. However, during the period of investigation, the volume of the subject imports declined, while the volume parameters of capacities, production, domestic sales and market share have increased. However, the profitability of the domestic industry has declined and it has suffered decline in profits, cash profits and return on investment when compared to the beginning of the injury period. In view of the foregoing, the Authority concludes that while the situation of the domestic industry is fragile, any further deterioration would lead to severe financial losses.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

94. The Authority observes that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti-dumping duties is to be allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In this regard, the WTO Panel in EC – Footwear observed that –

“In original anti-dumping investigations, investigating authorities must determine whether the domestic industry of a Member is materially injured by dumped imports. At this stage, the focus is on the existence of "material injury" at the time of the determination. That determination is made under Article 3, based on information concerning the necessary and relevant factors for some previous period. In contrast, in an expiry review, an anti-dumping measure has been in place for some time, and investigating authorities must, based on a fresh analysis, determine whether the expiry of that measure would be likely to lead to continuation or recurrence of injury”.

95. Thus, in a sunset review investigation, the Authority is required to analyze whether revocation of a measure is likely to result in continuation or recurrence of injury to the domestic industry, contrary to the determination of injury in an original investigation. A similar view was taken by the Hon’ble CESTAT in the decision of P.T. Asahimas Chemicals vs. Designated Authority, Ministry of Finance [2015 (328) E.L.T. 417 (Tri. - Del.)], wherein it was held –

“10. With respect to the injury determination, if the anti-dumping duty had the desired effect, the condition of the domestic industry would be expected to have

improved during the period the anti-dumping duty was in effect. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic producers. Thus the D.A. has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted.

11. In the light the aforesaid legal position, we are of the view that the question to be addressed is not whether there is current dumping, but whether revocation of duty would result in recurrence of dumping and injury."

96. Therefore, in case of a sunset review investigation, the existence of current injury to the domestic industry is not relevant to examine whether duties are required to be continued or not. The Authority in a review investigation is required to analyze whether there exist likelihood of continuation or recurrence of dumping or injury in the event of cessation of existing measures.
97. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.
98. The domestic industry has claimed that due to lack of participation by the major producer, namely, Solvey Peroxythai Ltd. from Thailand and in the absence of information for the said country as a whole required to be provided by the responding producer, the Authority must draw adverse inference in line with the decision of the Hon'ble Supreme Court in the case of Designated Authority vs. Haldor Topsoe. The other interested parties have contested this claim and stated that reliance on the decision of the Hon'ble Supreme Court is misplaced as Thai Peroxide Co., Limited has provided entire information as available to them. It is noted that Rule 6(8) of the Anti-dumping Rules provides as follows with regard to absence of concrete information –

"6(8) In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances."

99. Such view was also taken by the Hon'ble Supreme Court in its decision in the case of Designated Authority vs. Haldor Topsoe wherein it was held that it is the duty of the Authority to appreciate the evidence placed before it and to draw adverse inference in absence of such evidence placed before it. It is noted that Solvay Peroxythai Limited,

which accounts for almost 90% of all imports from Thailand, has not participated in the present investigation. While Thai Peroxide Co., Ltd., has submitted a questionnaire response, it has claimed inability to provide information concerning likelihood of continuation of dumping for Thailand as a whole. On the other hand, the domestic industry has provided the best available information supporting their claim. In view of the above, the Authority will examine the likelihood of dumping and injury based on the facts available before it as supplied by the domestic industry.

100. The other interested parties have claimed that the findings issued by the Pakistan anti-dumping authority in the sunset review investigation concerning the subject goods from the subject countries must not be taken into consideration and the present investigation must be concluded only based on the merits of the present case. The Authority notes that being a quasi-judicial body, the Authority is required to conduct an investigation on the basis of the facts and the information provided to it. The Authority has examined all the information provided by the domestic industry and the other interested parties. It is noted that the other interested parties have not given any justification as to how the final findings issued by the Pakistan Authority cannot be relied upon. On the other hand, the domestic industry has submitted that such findings provide information regarding various parameters that establish that in the event of cessation of present duties, there is a likelihood of continuation of dumping and injury. The Authority has, therefore, taken cognizance of the finding issued by the Pakistan Authority inasmuch it is relevant to the present examination.
101. There are no specific methodologies available to conduct such a likelihood analysis. However, Para (vii) of Annexure II of the Rules provides, inter alia for factors which are required to be taken into consideration, viz.:
- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
 - ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
 - iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - iv. Inventories of the article being investigated.
102. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows.
- a. **Continued dumping despite existence of anti-dumping duty**

103. The Authority notes that there is continued and significant dumping of the subject goods from the subject countries in spite of the duties in force. Continued dumping during the existence of duties indicates likelihood of continuation of dumping in the event of cessation of anti-dumping duty.

b. Increase in imports in intervening period despite anti-dumping duty

104. It is noted that the volume of imports increased in 2019-20 despite the anti-dumping duties in force, adversely impacting the performance of the domestic industry. Even though the imports have declined during the period of investigation, the same can be attributed the effects of Covid-19 pandemic. The domestic industry has also highlighted that (a) the volume of imports in 2019-20 was higher than that in the injury period of previous investigation, (b) the volume of imports in the post-POI is much higher than the POI, thus showing that the decline in imports in POI was due to Covid. Further, such imports have increased at a much higher rate in the injury period than increase in the consumption during the same period. Such increase in imports despite duties suggests that the subject imports are likely to increase further in the event of cessation of duty.

Year	Volume of imports (MT)
2011-12	7,240
2012-13	19,264
2013-14	37,839
Apr 14-Jun 15 (Annl.)	38,646
2017-18	49,633
2018-19	34,781
2019-20	44,693
2020-21	15,403

c. Third country dumping

105. It is noted that the producers / exporters in the subject countries are dumping the subject goods in the third countries as well, in addition to India. The responses filed by the exporters show that significant exports to third countries from Bangladesh and Thailand are at dumped prices, to the tune of 73% and 94% respectively, out of the total exports to third countries from the subject countries. Further, 77% and 70% of the total exports to third countries from Bangladesh and Thailand respectively are at injurious prices. The information evident from the responses filed by the exporter is summarized below.

Particulars	Total Volume	Dumped Volume	Dumped Volume %	Injurious Volume	Injurious Volume %
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Bangladesh	***	***	73%	***	77%
Thailand	***	***	94%	***	70%

106. In fact, owing to dumping by the producers in the subject countries, anti-dumping duty has been imposed against the imports of the product under consideration from the subject countries in Pakistan as well. Further, the investigating authorities in Pakistan found it necessary to increase the quantum of duty in the sunset review investigation concerning imports from Bangladesh.

Subject Country	Year	Quantum of duty
Bangladesh	2016	10.67%-12.14%
	2021	15.38%-16.10%
Thailand	2021	3.52%- 25.04%

d. Significant exportable capacities held by producers in subject countries

107. The domestic industry has provided a Market Research Report titled “****” which contains information regarding the capacity, production and demand in the subject countries. The Authority notes that the producers in the subject countries hold significant production capacities, in excess of domestic demand. Further, the producers have significant idle capacities which are likely to be utilized for exports to India in the absence of duties.

Figures in thousand tons

Particulars	Thailand	Bangladesh	Subject countries
Capacity	432	164	596
Consumption	197	110	307
Exportable capacity	235	54	289
Production	325	131	456
Idle capacity	107	33	140
Idle capacity as % of capacity	25%	20%	23%
Demand in India			273
Idle capacity as % of demand			51%

e. Prominence of India as a market

108. It is noted that India is important market for the producers of PUC in Bangladesh and Thailand, as can be seen from the table below. This is visible from the fact that exports to India constituted more than 80% of the exports of PUC from Bangladesh, despite imposition of the duties.

Year	Export Quantity from	% of exports
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	Bangladesh (MT)	to India
2017	18,426	89%
2018	17,681	94%
2019	34,619	83%

109. In its final findings, the investigating authorities in Pakistan have also noted that India is the biggest market for the producers / exporters of hydrogen peroxide in Bangladesh.

“23.2 The above tables shows that the installed capacity of the Samuda Chemicals has been doubled during the POR, however the installed capacity of Tasnim Chemicals remained the same during the POR. The table further shows that export sales of both exporters i.e. Samuda Chemicals and Tasnim Chemicals are higher than the domestic sales. As per the information provided by Samuda Chemicals and Tasnim Chemicals, India was the biggest export market for the Bangladesh’s producers/exporters of HP. Bifurcation of export sales of both the Companies is given in table below.”

110. Further, the investigating authorities in Pakistan have also noted that India was an important market for the producers in Thailand, accounting for 60% of the exports from Thailand in 2018-19. The exports from Thailand declined only due to imposition of anti-dumping duties, and increase in capacities in India. However, such decline has resulted in the exporting countries having exportable surplus capacities.

“23.5 The above table clearly reveals that new addition in HP production capacities in India and imposition of antidumping duties by the Indian Government on imports of HP from the Exporting Countries has resulted in significant decline in imports, specifically from the Exporting Countries. The Exporting Countries exports of HP to India which were 60 percent of total imports of HP in 2018-19 have declined to 37 percent in 2021. Thus, the Exporting Countries have exportable surplus quantities available with them to ship to other countries. Therefore, there is likelihood of increase in volume of dumped imports of HP from the Exporting Countries into the Pakistan being in the same region.”

111. In view of the above, it is noted that due to the imposition of the anti-dumping duties on exports to Pakistan, the producers / exporters in the subject countries are likely to divert such goods to India, since India is a major market for such producers / exporters.

f. Decline in domestic sales of Bangladesh

112. The Authority further notes that the responding producers from Bangladesh have witnessed a decline in the domestic sales during the period of investigation. Such decline, which was witnessed not only during the period of investigation but also in the preceding year, suggests that the demand in Bangladesh has also declined.

Domestic sales of	2017-18	2018-19	2019-20	POI
Samuda Chemical Complex Limited	100	91	94	72
Tasnim Chemical Complex Limited	100	136	99	59

g. Price discrimination by the producers in the subject countries

113. It is noted that the producers / exporters in the subject countries are exporting the subject goods to India at prices that are below the prices being offered by the producers / exporters to consumers in rest of the world. The domestic industry has provided data from Trade Map to support its claim in this regard. The table demonstrates that the producers in the subject countries are deliberately selling the subject goods in India at prices below the prices offered globally.

Particulars	Unit	2016	2017	2018	2019	2020
Bangladesh						
India	\$/Ton	367	389	609	383	448
Other countries	\$/Ton	461	400	607	403	449
Thailand						
India	\$/Ton	344	352	543	377	405
Other countries	\$/Ton	412	415	515	451	423

114. The Authority has further examined the responses of the producers in this regard. The questionnaire responses filed by the responding producers from Bangladesh and Thailand also establish that such producers are deliberately targeting the Indian market. While the price of both the domestic and export sales have declined over the period, the decline in price of exports to India is higher.

Particulars	2017-18	2018-19	2019-20	POI
Samuda Chemical Complex Limited				
Domestic sales	100	75	62	81
Exports to India	100	127	94	88
Tasnim Chemical Complex Limited				
Domestic sales	100	117	80	80
Exports to India	100	110	79	74
Thai Peroxide Co., Limited				
Domestic sales	100	105	97	92
Exports to India	100	74	72	73

h. Subsidy for natural gas for producers in Bangladesh

115. Natural gas is one of the major raw materials in the production of the subject goods. The domestic industry has stated that the producers in Bangladesh are receiving subsidies for natural gas from the Government of Bangladesh. Availability of subsidies naturally reduces the cost of production for the producers. Further, in 2019-20, the Bangladesh Government announced doubling of such subsidy amount, which is likely to further reduce the cost of production for the producers in Bangladesh, which are already exporting the goods at cheap prices. The Authority considers that the scope of present investigation does not extend to the aspect of subsidies or their countervailability. However, the fact that the producers in Bangladesh are having lower cost of production due to these lower prices of gas is relevant only to the extent of the ability of the producers in Bangladesh reducing their prices.

i. Conclusion on likelihood of dumping and injury

116. The evidence on record shows that there is likelihood of dumping of the subject goods from the subject countries and injury to the domestic industry. The producers in the subject countries hold significant production capacities, in excess of their domestic demand and further, the producers in the subject countries have significant idle capacities which are likely to be utilized for exports to India in the absence of duties. The producers / exporters in the subject countries are dumping the subject goods in the third countries as well, in addition to India. The responses filed by the exporters show that significant exports to third countries from Bangladesh and Thailand are at dumped prices, to the tune of 73% and 94% respectively, out of the total exports to third countries from the subject countries. Further, 77% and 70% of the total exports to third countries from Bangladesh and Thailand respectively are at injurious prices. It is also noted that since India has a huge market and also a very price sensitive market, it is vulnerable to the dumped imports from the subject countries in case the existing duties are not extended. It is also noted that the exports to India are likely to increase significantly in the event of cessation of the existing anti dumping duties. Thus, in the event of cessation of the existing anti-dumping duties, the dumping of the subject goods is likely to intensify, causing injury to the domestic industry.

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

117. As per the Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than the dumped imports could have contributed to the injury to the domestic industry:

a. Volume and prices of imports from third countries

118. It is noted that other than the subject imports, there are significant imports at low prices from Egypt and Indonesia. The other interested parties have argued that the injury to the domestic industry is on account of such imports and not the subject imports. It is noted that the Authority has already concluded that situation of the domestic industry is already fragile. The Authority acknowledges that during the period of investigation, the domestic industry may have faced decline in its performance due to Covid-19 as well as imports from Egypt and Indonesia. However, the domestic industry had also suffered a decline in performance during 2019-20, when there was no effect of the pandemic. Further, during this period, the volume of imports from Egypt was insignificant. As regards Indonesia, while the volume of imports was significant, the price of such imports was higher than the price of subject imports, and the cost of production and the selling price of the domestic industry. Therefore, the Authority holds that these facts at least establish that the situation of the domestic industry is fragile.

b. Contraction in demand

119. The Authority notes that the demand for the subject goods increased consistently through the injury period but has declined in the period of investigation due to the impact of Covid-19 which is temporary.

c. Pattern of consumption

120. It is noted that there is no change in the pattern of consumption of the subject goods, which is likely to cause injury to the domestic industry.

d. Conditions of competition and trade restrictive practices

121. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

e. Developments in technology

122. It is noted that the technology for producing subject goods has not undergone any change and therefore, is not likely to cause injury to the domestic industry.

f. Productivity

123. The Authority notes that the productivity of the domestic industry has increased in the period of investigation and thus, is not the likely cause of injury to the domestic industry.

g. Export performance of the domestic industry

124. The Authority notes that the injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

h. Performance of other products

125. The Authority has only considered the data relating to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

J. MAGNITUDE OF INJURY MARGIN

126. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The Non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

127. Based on the landed price and the non-injurious price determined as above, the injury margin for the producers/exporters from the subject countries has been determined by the Authority and the same is provided in the table below.

Injury Margin Table

SN	Name of Producer	Non-injurious Price	Landed Price	Injury Margin	Injury Margin	Injury Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)

Bangladesh						
1	Samuda Chemical Complex Limited	***	***	(***)	(***)	(15-5)
2	Tasnim Chemical Complex Limited	***	***	(***)	(***)	(15-5)
4	Others	***	***	(***)	(***)	(10-0)
Thailand						
5	M/s Thai Peroxide Co., Ltd.	***	***	(***)	(***)	(30-20)
6	Other	***	***	(***)	(***)	(25-15)

K. INDIAN INDUSTRY'S INTEREST

K.1. Submissions by the other interested parties

128. The following submissions have been made by the other interested parties with regard to the Indian industry's interest:

- a. The domestic industry has made self-serving arguments under the garb of public interest to camouflage the truths.
- b. The domestic industry has coined a baseless theory that the public interest also includes the producer's interest despite such interest being already analysed as a part of the dumping, injury, causal link and the likelihood analysis in terms of the Anti-dumping Rules. Public interest is to be analysed purely considering the interest of the user industry.
- c. The facts clearly show that the Indian producers dominate the Indian market for the subject goods and some imports will only abort monopolistic pricing practices by the Indian producers.
- d. The anti-dumping duty in force has met all its purposes and any further continuation shall be unreasonable and hence against the larger public interest also.
- e. The user industry will be adversely impacted, in case duties are continued.

K.2. Submissions by the domestic industry

129. The following submissions have been made by the domestic industry with regard to the Indian industry's interest:

- a. The effect of the anti-dumping measures on the public interest must be studied from the perspective of interests of the different set of parties – (a) the domestic producer of the product under consideration, (b) the domestic consumers of the product under consideration, (c) the upstream and downstream industries in both the producing and consuming industry, (d) the general public and (e) the purpose/objective of imposition of the anti-dumping duties.

- b. The domestic producers have the capacity to meet the demand in India and the total supply far exceeds the demand in the country.
- c. The anti-dumping duties are not a ban on the imports from the subject countries. Rather, the duty only ensures that the imports shall enter the market at fair prices.
- d. The product can also be imported from Belgium, China PR, Egypt, Germany, Indonesia, Korea RP, Pakistan, Sweden, Taiwan and Turkey, which ensure the availability of multiple sources of supply to the users.
- e. Due to the number of producers in India, there is inter-se stiff competition between the domestic producers. Therefore, the consumers are ensured availability of the product at competitive prices.
- f. The domestic industry has undertaken significant investments to cater to the Indian demand and has revamped its production facilities. If the cheap unfair priced imports are not prevented, the planned investment by the domestic producers would be under threat.
- g. The users/importers of the product under investigation have not participated in the present investigation, which shows that they are not impacted by the current anti-dumping duties in force and would not be impacted in the event of continuance of duties.
- h. The profitability of the major users in India increased significantly till 2019-2020. Therefore, the user industry did not suffer from the current anti-dumping duties in force and is not likely to suffer due to continuation of the current duties.
- i. The continuation of the anti-dumping duties would not have a significant impact on the end users of the product under consideration.
- j. If the Indian industry is not able to compete with imports due to continuous dumping, it may have to shut down its plants to cut their costs. This would increase further unemployment in the country, which is already reeling under the impact of Covid-19.
- k. There is no significant difference in the product under consideration of the domestic industry and the exporters. Thus, there is no need for such a high dependence on the imports.
- l. Procuring from the domestic industry will result in stability of fair price in the market, uninterrupted supply, growth of the downstream industry and a reliable business partner for the users, while allowing them to hold lower inventories.

K.3. Examination by the Authority

130. The Authority issued initiation notification inviting views from all the interested parties, including the importers, the consumers and the others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to the present investigation, including any possible effects of the anti-dumping duty on their operations. However, it is noted that no users have participated in the present investigation and no information has been submitted in this regard.

131. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate the injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The imposition of anti-dumping measures does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the imposition of the 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 the anti-dumping measures. On the contrary, the imposition of the anti-dumping measures would ensure that no unfair advantages are gained by the dumping practices, preventing decline of the domestic industry and, will help maintaining the availability of wider choice to the consumers of the subject goods.
132. The other interested parties have argued that the public interest must be purely looked into from the perspective of the user industry. The Authority notes that the examination is with regard to impact of duties on public at large, and the same is not limited to consumer. Therefore, the interests of all the stakeholders must be considered in examination of the public interest. Further, the investigating authorities in different jurisdictions, such as the European Union, the United Kingdom, Brazil, New Zealand, etc., also examine the interests of the domestic industry along with the interests of the other stakeholders in their public interest examination. Thus, in order to examine the overall public interest, the Authority is required to take a wholistic and inclusive approach by considering the interests of all the stakeholders.
133. The Authority considered whether the imposition of an anti-dumping duty shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
134. While none of the users has provided any substantial information establishing any adverse impact of the duties, the domestic industry has made detailed submissions quantifying the possible impact of the duties on the downstream users. The product under consideration is majorly used in sectors such as pulp and paper, textiles, chemicals and as a bleaching agent in cleaning and disinfection. Based on the price of the product under consideration for the consuming sector and the share of the product under consideration in the total cost of the consuming sector, even if the continuation of duties leads to increase in price of the end product, the ultimate impact of the duty on the end users in different segments would be in the range of 0.4% to 1.5%, as can be seen from the table below. Thus, the domestic industry has claimed, as shown in the table below, that the impact of such duties on the users would be negligible.

Particulars	% impact on end product	% impact on end product
	Bangladesh	Thailand
Reactive Supra Violet (Dye) as a bleaching agent in Textile industry	0.13	0.14
VAT Orange (Dye) as a bleaching agent in Textile industry	0.12	0.13
Sodium Chlorite 80% (Sterilizing & bleaching agent)	1.00	1.13
Potassium Bitartrate (Cleaning Solution)	0.73	0.83
Glyphosate 95% (Herbicide)	1.23	1.39
Deluxe Maplitho (Special) in Paper industry	0.03	0.03

135. Further, the domestic industry has also provided an analysis of the profitability of the major users of the product under consideration, based on publicly available information. It is noted that profitability of users was not impacted by the imposition of the present anti-dumping duties and continued to increase till 2019-20. The domestic industry has claimed, as shown in the table below, that while the performance of the users has decline in the period of investigation, such decline is likely on account of the Covid-19 pandemic and not due to the duties in force.

Particular	Profit before extraordinary items			
Name of the Company	2017-18	2018-19	2019-20	2020-21
ITC Ltd	104,216	123,923	130,533	109,868
Camlin Fine Sciences Ltd	(1,807)	1,419	4,443	1,552
Welspun India Ltd	39,390	38,390	56,940	73,410
Alkyl Amines Chemical Ltd	11,959	16,830	22,687	40,069
Amines and Plasticers Ltd	2,298	2,578	3,353	4,406
Clean Science and Technology Ltd	6,988	13,514	18,234	26,729
Century Textiles and Industries Ltd	44,006	77,130	37,433	4,860
Andhra Paper Limited	13,482	31,676	23,580	(179)
JK Paper Ltd	49,244	74,724	73,126	39,929
KLJ Plasticizers Ltd	8,623	5,717	5,433	Not available
N R Agarwal Industries Ltd	9,707	13,069	16,095	7,762
Tamil Nadu Newsprint and Paper Ltd	(2,799)	22,839	19,175	Not available
Trident Ltd	39,180	54,692	42,121	41,854
West Coast Paper Mills Ltd	22,256	32,542	29,038	(1,762)

Khanna Paper Mills Ltd	4,875	6,629	6,338	235
Total	351,619	515,672	488,528	348,733

136. With regard to the availability of the product under consideration, it is noted that the anti-dumping duty does not restrict imports but ensures that imports are available at fair prices. The imposition of the duty would not affect the availability of the product. Even otherwise, the Indian industry at present comprises six producers, which have sufficient capacities to cater to the entire demand in the country. Further, the goods can also be imported from other countries, such as Belgium, China PR, Egypt, Germany, Indonesia, Korea RP, Pakistan, Sweden, Taiwan and Pakistan. Therefore, the imposition of duties would not have any impact on the availability of the goods in the market.
137. The Authority further notes that there exists sufficient healthy inter-se competition between the domestic producers. The domestic industry has also stated that the capacity in the country exceed the demand in the country indicating stiff price competition. The domestic industry has already made significant investments in 2019-20. Further, the Indian industry is also planning significant capacity expansions to the tune of *** MT in the future. The Authority notes that the significant capacity in the country would ensure that the product under consideration is available to the consumers at competitive prices.
138. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/user association to provide relevant information with regard to the present investigation including any possible effects of the anti-dumping duty on their operations. None of the importers/users to whom the request was made by the Authority to submit their data have filed the importers/users questionnaire response in the present investigation and only one importer/user Sandeep Organics Private Limited filed submissions in response to the initiation notification but not the importers/users questionnaire response. On the other hand, the domestic industry has proved beyond doubt that there will be no adverse impact of continuation of the duties on the users of the subject goods. Further, while the domestic industry has demonstrated that the present duties have not impacted the profitability of the users, no information has been brought on record before the Authority which would show that the profitability of the users has been impacted. In the absence of any information to the contrary, the Authority has relied on the facts available before it.
139. The Authority has also analyzed the effect of continuation of anti-dumping duties from the consumers point of view and observed that it would be in the interest of the domestic consumers of the subject goods to have reliable Indian domestic producers capable of competing with foreign producers. If the domestic industry is allowed to suffer, it will eventually be wiped out and the consumers will be again left at the mercy of the imported goods and will have to face many problems which, inter alia,

include high inventory cost, delivery time, exchange fluctuations, no technical support, etc.

140. The Authority, while analyzing the impact of the continuation of the anti-dumping duties on public at large, observed that the continuation of the anti-dumping duties is in the interest of the public at large. Moreover, this analysis is strengthened by the fact that none of the importers/users to whom the request was made by the Authority to submit their data have filed the importers/users questionnaire response in the present investigation and only one importer/user Sandeep Organics Private Limited filed submissions in response to the initiation notification but not the importers/users questionnaire response. This is only possible when the users are not feeling the impact of the anti-dumping duties on their ultimate product. The impact of the duties on the public at large is negligible.

141. From the above, it is clear that the impact of continuation of the anti-dumping duties on consumer constitutes a negligible percentage on the final product. Consequently, it is established beyond an iota of doubt that the end consumer of the subject goods will not face any significant increase in the prices due to extension of the duties. Thus, it is a clear case of protecting the long-term public interest which will eventually be in the interest of the user industry as well.

L. POST-DISCLOSURE STATEMENT SUBMISSIONS

142. The post disclosure submissions have been received from the interested parties and the domestic industry, and it is noted that most of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions have been analysed as under:

L.1. Submissions by the other interested parties

- a) There is significant level of negative injury margin in the case of imports, especially from Bangladesh. The petitioner must clarify why it was shown as positive at the time of petition. This fact may have aborted the SSR initiation itself.
- b) The petitioner has relied upon a research report in the case of Bangladesh which says that there is inadequate supply of subject goods in Bangladesh and the country relies on some imports as well to meet its demand. Therefore, there cannot be any excess capacity and likelihood of increased exports in case of expiry of present duties.
- c) The negative injury margin should be considered as a factum showing absence of likelihood of injury in the event of expiry of present duties as has been held in PVC Flex Film from the China PR matter which was later upheld by the Hon'ble CESTAT in All India Laminated Fabrics Manufacturers Association Vs Designated Authority (Anti Dumping Appeal No. 52173 OF 2021 and order dated 28.2.2022).

- d) The imports of the subject goods in the present case also have declined significantly and the landed price of the imports did not cause any injurious effects on the domestic industry ruling out any continued injury. The volume parameters of the domestic industry also have been in very robust situation as the capacity was increased by about 58% by the POI which had a cascading effect on other volume parameters also. Slight dip in profitability during the POI was on account of Covid and other reasons and cannot be linked to import price as the injury margin is significantly negative.
- e) The duty in place has met all its purposes as the distortion found earlier is fully eliminated and any further continuation of the duties shall be unreasonable. Any continuation of present duties with the given facts of the case shall contravene the view of the Central Government as appeared in the Budget Speech-2022-23 wherein it has been stated that our experience suggests that reasonable tariffs are conducive to the growth of domestic industry and 'Make in India' without significantly impacting the cost of essential imports.
- f) There is positive dumping margin for exporters from Bangladesh. However, there are some inaccuracies in the calculation of net export price carried out by the Authority based on the facts disclosed and what has been claimed by the exporters. The difference is very material and not justified. The Authority is requested to relook at the calculations and revise it.
- g) The fragile situation of the domestic industry as observed has no relation to the landed price of the subject imports when the landed price of imports is not causing any injury.
- h) The disclosure statement was issued on 1st March, 2022. On the same day a factual submission concerning significant aspect of likelihood was circulated to the other interested parties by the petitioner. It will amount to placing reliance on uncorroborated claims without allowing the other parties to rebut the same which violates the principles of natural justice.
- i) When the volume parameters of the domestic industry have grown very strongly in the POI, the decline in profitability during the immediate previous year and some improvement in the POI thereafter must be seen in light of the tremendous capacity expansions carried out by the petitioner in this period and also the plant stoppage as admitted coupled with pandemic effects in the POI.
- j) On the one hand the Authority has observed that even though the imports have declined during the period of investigation, the same can be attributed the effects of Covid-19 pandemic, no such attribution is made to the fall in profits of the DI during the POI as if the DI was immune to the effects of pandemic.

- k) Five out of six key growth parameters show excellent growth during the POI over the immediate previous year. The negative growth in profits must be attributed to factors other than imports and the drop is clearly temporary on account of pandemic primarily.
- l) The market of the subject imports has been declining and is lowest in the POI. But the market share of other Indian producers has increased substantially. Obviously, the other producers holding majority of the market share might have increased their profitability also and such numbers are withheld from the Authority at the behest of the petitioner.
- m) There is no merit in the argument that India is the largest export market for Bangladesh exporters and the domestic sales of the exporters declined. The share of imports of the subject goods from Bangladesh in the Indian demand in the POI was minimal/lowest.
- n) The observation that the producers in Bangladesh are having lower cost of production due to lower prices of gas is relevant only to the extent of the ability of the producers in Bangladesh reducing their prices. The alleged subsidised exports did not cause any consequential injury to the DI as the injury margin during the POI was negative.
- o) The causal link examination fails to address the effects of pandemic on the domestic industry.
- p) The petitioner has tried to present that the effect of ADD is very negligible on users which is an unrealistic claim. The exporters were exporting at a price higher than the NIP which means the users were paying a price which has been higher than the fair price and have been paying ADD too.
- q) As far as the petitioner's claim that the profits of the users were not impacted due to ADD, the information relied upon contains such consolidated data of certain selected users which cannot be the basis to say that ADD had no impact on users.
- r) The final finding must specifically mention the PUC as technical or industrial grade only. All others grades should be out of the scope of the PUC.
- s) The final finding must specifically mention the PUC as concentration between 35% & 70%. Other concentrations should be out of the scope of the PUC.
- t) The findings by other countries such as Pakistan are not legally binding in India.
- u) Sodium Hypochlorite, Rubbing Alcohol & Bleach are substitutes of the PUC.

- v) The domestic industry has not informed whether they sell the PUC through pre-appointed area wise distributors or agents and what is the commission or discount structure.
- w) All the information which is essential facts for determining whether there is any injury or likelihood of injury has not been disclosed. The information such as total domestic demand, technical parameters of the PUC, source of the import data, trade notice number and the import figures have been kept confidential. The data that has been disclosed in the original finding has not been disclosed in the current disclosure statement.
- x) The claim of the petitioner regarding 30% threshold of the total domestic production must be clarified by the Authority.
- y) It is evident from the annual report 2020-21 and the website of the applicant that the petitioner produces compressed hydrogen gas and per-acetic acid in addition to hydrogen peroxide. However, the petition reported entire production of the company as the PUC, keeping N-PUC production column blank.
- z) The Government of Bangladesh does not see any observation whether the Authority upholds the submission of the applicant with regard to the reason for decline during the POI. The applicant has mentioned that it accounts for 34% of the total domestic production and according to ChemAnalyst, a market analysis company, the total demand of hydrogen peroxide in India during POI was 290,000 MT. As may be seen from the data that the share of the subject country import was in declining trend over the injury period except in FY2019-20. During FY2019-20, the petitioner undertook the expansion of its plant capacity which required the plant to be shut down for a period of 4 months. This shutdown resulted in negative growth in this year and the demand gap was filled mainly by other domestic producers and to some extent by imports. Moreover, throughout the period of injury, the other producers have been able to increase their sales significantly.
- aa) The responding producers from Bangladesh have witnessed a decline in the domestic sales during the period of investigation. Such decline, which was witnessed not only during the period of investigation but also in the preceding year, suggests that the demand in Bangladesh has also declined. However, such evidence should be compared with export to other countries.
- bb) The Government of Bangladesh is surprised to observe that the Authority is referring to data provided in Trade Map. International Trade Centre (ITC), which is the custodian of Trade itself.

L.2. Submissions by the domestic industry

- a) The volume of dumped imports has increased significantly by 56% in the nine months post the period of investigation, indicating that the decline during the period of investigation was only temporary.
- b) There is high degree of variation in the export prices of different transactions.
- c) The determination of negative price undercutting and injury margin is only due to non-inclusion of freight and inclusion of freight would establish a positive injury margin.
- d) The exclusion of freight on account of unavailability of sufficient information with the Authority cannot be a reason for committing injustice against the domestic industry.
- e) In case of the sale in loose form, the transportation cost is incurred for both sides, whereas in case of sale of packed goods, the transportation cost is incurred for one side but packing cost is incurred additionally. Such cost impacts the purchasing decisions of the customers.
- f) The price of the exports from Bangladesh across India and the selling price of the domestic industry shows a huge difference between the loose and packed form of goods, which remains unexplained unless the freight cost is recognised by the Authority.
- g) In the Eastern part of India, the importers find it more cost attractive to import from Bangladesh since exporters incur lower freight cost while the domestic industry has to incur higher freight cost to match price for the imports made at Eastern border.
- h) The comparison of the product under consideration and the like product at ex-factory level is inappropriate as the business for the product is done based on delivered prices.
- i) The comparison of the subject goods at one concentration is inappropriate because determination of the prices after conversion into equivalent concentration would be misleading due to packing cost involved.
- j) The adoption of PCN considering concentration, packing material, price basis and customer location/region of delivery is necessary for a fair comparison due to significant differences in the cost and the prices.
- k) The Authority is under obligation to make due allowances where one party establishes that there exist differences which might affect price comparability, as held by WTO Panel in various cases.

- l) The domestic industry has no objection to specific exclusion of any grades of the product under consideration other than industrial or technical grade.
- m) The scope of the product under consideration cannot be restricted to product with concentrations of 35-70%, as per consistent practice of the Authority.
- n) The Authority may confirm its findings regarding non-consideration of the prices reported in the Customs data at Petrapole port.
- o) The domestic industry has sold the product under consideration through distributors.
- p) There is a need for continuation of the same anti-dumping duties in accordance with Section 9A(5), which is also the scope of the present investigation as per the initiation notification of the Authority.

L.3. Examination by the Authority

- a) The Authority does not find any merit in the contention that the very fact that the injury margin is negative shows that anti-dumping duty is not required to be continued. The interested parties have not shown any legal basis for such statement.
- b) The precise purpose of the determination of likelihood of recurrence is to decide whether the domestic industry is likely to suffer injury in case the duty ceases. Further, this determination is not limited to current exports to India, but also extends to consideration of the exports to third countries, surplus unutilised capacities with the foreign producers and the prices at which different exports took place to India and globally. The Authority determines, for the purpose, behaviour of the exporters based on the individual export transactions, by analysing whether the same were below the normal value (dumped) and the non-injurious price (i.e., injurious). In a situation where the Authority found that the injury margin was negative, but significant exports to third countries were at dumped and injurious price, the Authority has concluded that the fact of negative injury margin is immaterial to decide whether there is a likelihood. The Authority notes in this regard that in a situation where the foreign producers are holding capacities significantly beyond demand in their domestic market, every business enterprise would strive to optimise its revenues and profits by utilising its surplus capacities. On the basis of these business principles, the Authority has, in multiple investigations, recommended continuation of the anti-dumping duty even when the injury margin was negative.
- c) The Authority notes that the investigation has established that while the injury margin is negative, 77% of the exports from Bangladesh and 70% of the exports from Thailand to rest of the world were priced below the non-injurious price of the domestic industry. Further, the producers in the subject countries are holding

significant unutilised capacities. It is also seen from the information on record that there are significant differences in the prices of different export transactions.

- d) The Authority notes that the degree by which the injury margin is negative is immaterial to decide likelihood. The Authority further notes that in the matter of *Nirma Limited vs. Union of India*, the Hon'ble High Court of Gujarat has also noted that injury margin is not required to be taken into consideration while considering the likelihood of continuation or recurrence of dumping and injury in the absence of duty. It is a very clearly understood legal position that the purpose of injury margin determination is not to establish injury to the domestic industry. In fact, the question of quantifying injury margin shall arise only when the Authority is satisfied that dumping has caused injury.
- e) The domestic industry has contended that the aspect of freight cost is relevant for understanding the likely impact of imports on the prices of the domestic industry in the absence of duties and has pointed out that if the freight cost is considered, the injury margin is significantly positive for imports from Bangladesh. The domestic industry has also contended that the weighted average injury margin for the subject imports is positive once freight cost is added to the non-injurious price, which implies that if the anti-dumping duty is allowed to expire, the domestic industry is likely to be compelled to sell below its non-injurious price. This is because the customer would base its procurement decisions on the final delivered cost of the product. The domestic industry has stated that since the import price is lower than the non-injurious price of the domestic industry on delivered basis, it means that, in order to compete with imports, the domestic industry would have to charge a price that does not allow for full recovery of the ex-factory non-injurious price plus freight and therefore, in the absence of duties, the imports are likely to suppress or depress the prices of the domestic industry to an injurious level. The domestic industry has contended that if the aspect of freight is considered, significant exports from Bangladesh and Thailand to the rest of the world would be at injurious price. However, while the Authority acknowledges that the injury margin is negative since the freight cost has not been considered in determination the same, as per its practice, the Authority does not consider freight as a component of injury margin for quantification of the duty.
- f) It is further considered that even during the injury period, the domestic industry has suffered a decline in its performance. As noted in the injury examination, the volume and profitability parameters of the domestic industry declined during 2019-20 when the volume of imports increased. The Authority notes that the landed price of imports had also declined during this period, leading to a decline in the selling price of the domestic industry. The adverse effect of imports on the domestic industry during the existence of the duty indicates that in the absence of duty, the imports are likely to cause injury to the domestic industry.

- g) The Authority notes that during 2019-20, both the volume parameters and the profitability of the domestic industry deteriorated when the imports increased. However, during the period of investigation, while the production and the sales increased, the profitability of the domestic industry declined. The Authority has already noted that the decline in the period of investigation may be partly attributable to the other imports and Covid-19. However, the decline in performance suffered prior to period of investigation cannot be attributed to these factors.
- h) As regards the reliance on the findings and CESTAT decision in the case of PVC flex film, the Authority finds that the facts of the two cases are different. In the case of PVC flex film, the Authority found a lack of material injury as well as lack of evidence of likelihood of dumping and injury in the absence of duty. However, in the present case, the situation of the domestic industry is already fragile and there is significant evidence of likelihood of continuation or recurrence of dumping and injury in the absence of duties.
- i) The interested parties have relied on the market share of other domestic producers to claim that the performance of the domestic industry is not representative of the other domestic producers. The Authority notes that apart from the domestic industry, Indian Peroxide Limited and HOCL have also provided information to the Authority. The information provided by HOCL and IPL does not demonstrate that trends in their performance are materially different from the domestic industry. The data provided by these producers also shows that they suffered a decline in their volume and profitability parameters during 2019-20 and the period of investigation. The Authority, accordingly, finds that the interested parties have not been able to substantiate their claim that the parameters of the domestic industry are not representative of other producers.
- j) With regards the claim that India is not the largest market for exporters in Bangladesh, the Authority notes that the trade map data shows that India constitutes more than 80% of the total exports from Bangladesh. The share of the imports into India is the relevant criterion for determining whether India is an important market for the exporters. Nevertheless, the Authority notes that the percentage of imports with respect to the total demand in India is still above de-minimis levels.
- k) Regarding the claim that the imports increased during 2019-20 due to the shutdown of the plant of the domestic industry, it is noted that there are a number of producers of the subject goods in the country which had the capacity to cater to the demand. In fact, some of the producers such as HOCL and Chemplast Sanmar Limited had a very low-capacity utilization during this period. Therefore, even if the plant of the domestic industry was shut down, the demand for the subject goods could have been easily met by other Indian producers. Therefore, the increase in imports cannot be attributed to the shutdown of the plant of the domestic industry.

- l) With regards the claim of the interested parties that there is short supply of the subject goods in Bangladesh as per the market research report submitted along with the petition, the Authority notes that the information contained in that report titled “American Journal of Applied Sciences- Market Demand and Production Capacity Expansion of Hydrogen Peroxide in Bangladesh” was stale as it pertained to prior to 2017. Accordingly, the Authority has not relied on such report for its likelihood analysis. The domestic industry has also provided more recent evidence, in its report titled [name confidential], which has been considered for the purpose of likelihood analysis.
- m) The interested parties have also contended that the domestic industry should explain change in the injury margin to such an extent that the injury margin became negative. The Authority notes that the non-injurious price claimed by the domestic industry underwent some change during the verification process. However, the significant difference in the injury margin was due to the PCN proposed by the domestic industry, which has not been considered by the Authority.
- n) The interested parties have claimed that no reliance can be placed on the market research report since it was circulated after the issuance of the disclosure statement, thereby denying an opportunity to the interested parties to defend their interests. The Authority notes that the letter referred to by the interested parties was filed on 24th February, 2022 and only the non-confidential version was circulated on 1st March, 2022. The Authority observes that the market research report was already enclosed in the written submissions, non-confidential version of which was shared with the interested parties. Further, the non-confidential summary of the information contained in the report was also contained in the petition filed by the domestic industry. Therefore, the interested parties had ample time to defend their interests. Since no new or additional information was filed at this stage, it cannot be considered that the principles of natural justice were violated.
- o) The arguments with regard to the price discrimination have already been addressed in the relevant portion of the present findings. The evidence on record clearly shows that the price of exports to India is much lower than the price of exports to third countries.
- p) As regards the difference in the net export price for the responding producers in Bangladesh, the Authority notes that there is no difference in the net export price determined for Samuda Chemical Complex Limited. In the case of Tasnim Chemical Complex Limited, the exporter had included certain transactions relating to FY 2019-20 in the data for the period of investigation. The same were excluded by the Authority which led to the decline in the export price.

- q) The interested parties have claimed that the duties have served their purpose and continuation of such duties would not be appropriate, having regard to the Budget Speech 2022-23. The Authority notes that the portion of the speech relied upon by the interested parties was actually in the context that the import duty concessions on goods have in fact deprived the local producers of a level playing in major sectors. Therefore, the Authority does not find that the continuation of duties would be inconsistent with the view taken in the Budget.
- r) With respect to the claim of the other interested parties regarding deliberate selection of the users to show no impact of duty, it is noted that none of the interested parties has submitted any information on record to show that the performance of users actually declined during the life of the duty. While the domestic industry has demonstrated that the present duties have not impacted the profitability of the users, no information has been brought on record before the Authority which would show that the profitability of the users has been impacted. In the absence of any information to the contrary, the Authority has relied on the facts available before it.
- s) As regards the contention that the Authority has not disclosed all parameters of likelihood even when these did not contain any proprietary information of the domestic industry or other parties, the Authority notes that only such information which was claimed confidential by the interested parties has not been disclosed in the disclosure statement. The Authority has allowed the confidentiality claims of the interested parties after due examination thereof. As regards the disclosure of demand being publicly available, no evidence of the same has been provided.
- t) Regarding the claim that it has not been defined how the petitioner constitutes major proportion of production, the Authority notes that the phrase "major proportion" has not been defined in the Anti-Dumping Agreement or the Indian law. The WTO Panel, in Argentina – Poultry, has observed that the word major has been defined as important, significant or serious. The Panel, thus, found that an interpretation that defines the domestic industry in terms of domestic producers of an important, serious or significant proportion of total domestic production is permissible. In the present case, the petitioner accounts for more than 30% of the domestic production in the country. Such a share is clearly significant and important. Therefore, the Authority has found that the domestic industry constitutes a major proportion of the domestic production.
- u) As regards the decline in demand in 2019-20, the Authority notes that the imports increased significantly during this period even though the demand declined. The increased imports, coupled with the decline in prices, adversely impacted the performance of the domestic industry.

- v) Regarding the production of Non-PUC, it is observed that no product has been produced in the same plant as the product under consideration and therefore, the production of other products at the same plant is shown as nil.
- w) As regards the contention that there is shortage of supply of the subject goods in Bangladesh and that the decline in demand does not show that there is likelihood of increase in exports to India, the Authority notes that the data filed by the responding producers supports the findings of the Authority. The Authority has noted that the producers in Bangladesh have significant idle capacity. The data of the responding producers also shows that capacities are underutilized to a significant extent. Thus, even the increased exports to other countries have not enabled the producers in Bangladesh to fully utilize their capacities.
- x) Regarding the reliability of the information provided by Trade Map, the Authority notes that while the Government of Bangladesh has claimed that such information should not be relied upon, it has not given information from its own customs data to disprove the Trade Map data referred. Further, the source of information in Trade Map is United Nations Commodity Trade Statistics Database (UN Comtrade), which is a repository of official international trade statistics. Therefore, in the absence of information from the customs authorities of Bangladesh, the Authority finds it appropriate to refer to the information as per Trade Map. Insofar as the reference to responses is concerned, the Authority notes that both the Trade Map data and the responses filed show that in 2020 or 2020-21, the price of exports to other countries was comparable to the price of the exports to India. However, the data for preceding periods reveals that the exporters tend to supply the subject goods to India at lower prices than the sales to third countries.
- y) As regards the argument that the decline in export sales was less than the decline in domestic sales, the Authority notes that the information provided by the producers in Bangladesh clearly shows continued dumping. Further, the data of both Tasnim and Samuda shows that the price of exports to India declined as compared to the preceding year, whereas the domestic prices of the subject goods have increased or remained the same.
- z) With regards to the scope of the product under consideration, the Authority notes that the domestic industry produces all concentrations of the product under consideration including 70%. The product under consideration is majorly sold in concentrations of 35%, 50%, 60% and 70%. Further, the product under consideration has only been imported in the concentrations of 50% and 60% during the period of investigation. The Authority holds that only those product types which have been imported in the period of investigation and the like article which have not been offered by the domestic industry can be excluded from the scope of product under consideration. Therefore, the question of restricting the product scope further does not arise.

- aa) The importer Sandip Organics has claimed that sodium hypochlorite, rubbing alcohol and bleach are substitutes of Hydrogen Peroxide. The Authority notes that while the importer has claimed existence of substitutes, it has not shown the impact of such substitutes on the demand for the product. The information on record does not indicate that the users have switched to the aforesaid substitutes post imposition of the duty. Rather, the demand for the subject goods has increased over the period, barring the decline during the period of investigation due to Covid-19. The exporters, in Part-II of the questionnaire, have also claimed that there are no substitutes for the product under consideration. The Authority further observes that the present investigation is a sunset review investigation and the scope of product under consideration remains the same as that in the previous investigation. However, no substitutes were identified in the previous investigation as well. In any case, the Authority notes that the importer has raised this argument at the very fag end of the investigation, denying all parties an opportunity to rebut such claim, which is not appropriate.
- bb) With regards to the findings of the Pakistan Authority, the Authority acknowledges that the said findings are not legally binding in India. However, it does not imply that the Authority is precluded from referring to such findings. None of the interested parties has provided any evidence to disprove the observations made by the Pakistan authorities, whereas the other information on record corroborates such findings. Therefore, the Authority does not find that there is any impropriety in referring to findings of other authorities to establish certain facts.
- cc) As regards the contention that the domestic industry has not disclosed the information regarding the sale of the product under consideration through pre-appointed area wise distributors / agents and the commission paid, the Authority notes that the domestic industry has provided information regarding the commission paid by it in the costing data filed. The domestic industry has also submitted that it sells the product under consideration through distributors. However, since the cost of production, non-injurious price and selling price are determined on ex-factory basis, the distributors / agents appointed and commission paid is not relevant to the determination of injury, likelihood of continuation or recurrence of injury, injury margin or causal link. Further, the importer has also not explained how the sales made through distributors and commission paid affect the analysis of the aforesaid parameters. Accordingly, the Authority has not found it appropriate to consider commission paid in examining injury, injury margin, likelihood of continuation or recurrence of injury or causal link.

M. CONCLUSION

143. Having regard to the contentions raised, the information provided and the submissions made by the interested parties and facts available before the Authority, as recorded in

the above findings, and on the basis of the above analysis of the likelihood of continuation or recurrence of the dumping and the injury to the domestic industry, the Authority concludes that-

- a) Despite the anti-dumping duties in force, the subject imports from the subject countries have remained significant. There is continued and significant dumping of the subject goods from the subject countries in spite of the duties in force.
- b) The production, sales and market share of the domestic industry declined during 2019-20, while market share of the subject imports increased.
- c) The volume of dumped imports is higher than that in the previous investigation period, and has declined in the period of investigation only due to Covid-19.
- d) Though during the period of investigation, the volume of the subject imports declined, the profitability of the domestic industry deteriorated and it has suffered decline in profits, cash profits and return on investment when compared to the beginning of the injury period.
- e) Thus, the Authority concludes that though the injury margin is negative, the situation of the domestic industry is fragile and any further deterioration would lead to severe financial losses.
- f) There is no demand-supply gap in the country as the Indian producers have sufficient capacity to meet the entire demand country. Further, the subject goods can also be imported from other sources.
- g) India is a major export market for producers in subject countries and they are deliberately targeting Indian markets by exporting to India at lower prices as compared to other countries and its own domestic market.
- h) None of the users / consumers have participated in the investigation by filing the user/importer related data. Based on publicly available information, it is seen that the profitability of the users was not adversely impacted during the duration of duties.
- i) Further, the producers / exporters in the subject countries are dumping the subject goods in the third countries as well, in addition to India. The responses filed by the exporters show that very significant exports to third countries from Bangladesh and Thailand are at dumped prices, to the tune of 73% and 94% respectively, out of the total exports to third countries from the subject countries. Further, 77% and 70% of the total exports to third countries from Bangladesh and Thailand respectively are at injurious prices. The producers in the subject countries hold significant production capacities, in excess of their domestic demand and further, the producers in the subject countries have significant idle capacities which are likely to be utilized for exports to India in the absence of duties.

- j) From the foregoing, the Authority concludes that there is every likelihood of continuation of dumping and injury to the domestic industry in the event of cessation of the existing anti-dumping duty.

N. RECOMMENDATIONS

144. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers, the users and the other interested parties to provide information on the aspects of dumping, injury and the causal link.

145. Having concluded that there is positive evidence of likelihood of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that the anti-dumping duty in force on the imports of the product under consideration from the subject countries is required to be continued further. Considering the facts and circumstances of the case, as established hereinabove, the Authority considers it appropriate to recommend extension of the existing quantum of anti-dumping duties on the imports of the subject goods from the subject countries. The Authority, thus, considers it necessary to recommend continuation of definitive anti-dumping duty on all imports of the subject goods from the subject countries as per column 7 in the duty table below, for a further period of five years.

Duty Table

SN	Tariff Heading	Description of goods	Country of origin	Country of export	Producer	Amount	Currency	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	2847	Hydrogen Peroxide (of concentration below 90%)*	Bangladesh	Bangladesh	Samuda Chemical Complex Limited	46.90	USD	MT
2	-do-	-do-	Bangladesh	Bangladesh	Tasnim Chemical Complex Limited	27.81	USD	MT
3	-do-	-do-	Bangladesh	Any country including Bangladesh	Any other than SN 1 and 2 above	105.82	USD	MT
4	-do-	-do-	Any country other than Bangladesh and Thailand	Bangladesh	Any	105.82	USD	MT

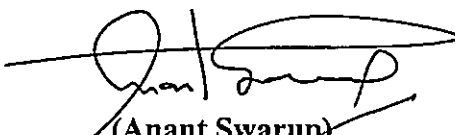
5	-do-	-do-	Thailand	Thailand	Thai Peroxide Co., Limited	31.59	USD	MT
6	-do-	-do-	Thailand	Any country including Thailand	Any other than SN No. 5 above	78	USD	MT
7	-do-	-do-	Any country other than Bangladesh and Thailand	Thailand	Any	78	USD	MT

**"Excluding food grade and electronic grade hydrogen peroxide and hydrogen peroxide of technical grade of concentration 90% and above."*

146. Landed value of imports for the purpose of this notification shall be the assessable value as determined by the customs under the customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 88, 9 and 94 of the said Act.

O. FURTHER PROCEDURE

147. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.


 (Anant Swarup)
 Designated Authority