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Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
(Directorate General of Anti-Dumping & Allied Duties)  
Udyog Bhawan, New Delhi  
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**NOTIFICATION**

**Final Findings**

**Subject:** Antidumping investigations involving imports of Hydrogen Peroxide originating in or exported from China PR, European Union, Indonesia, Korea ROK and Turkey.

**NO. 14/17/2006-DGAD:** - Having regard to the Customs Tariff Act 1975 as amended (hereinafter referred to 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, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s National Peroxide Ltd., Mumbai. M/s. Gujarat Alkalies & Chemicals Ltd., Vadodara, M/s Asian Peroxide Ltd., Chennai and M/s Hindustan Organic Chemicals Ltd., Mumbai (hereinafter referred to as the Applicant) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, alleging dumping of Hydrogen Peroxide (herein after referred to as subject goods), originating in or exported from China PR, European Union, Indonesia, Korea ROK and Turkey (hereinafter referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The Authority notified the Embassies of subject countries about the receipt of dumping allegation in accordance with sub rule 5(5) of the Rules.

3. And Whereas, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 20th July 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

A. General

4. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority: -

(i) The Designated Authority sent copies of initiation notification dated 20.7.2007 to the Embassies of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

(ii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassies of subject countries in accordance with Rule 6(3) supra.

(iii) The Embassies of the subject countries in India, were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.

(iv) The Authority sent questionnaires, to elicit relevant information to the known exporters in subject countries in accordance with Rule 6(4);

(v) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation. Imports data procured from DGCI&S has been relied upon in this findings;

(vi) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties in accordance with Rule 6(7);

(vii) In response to the above said notification none of the exporters from the subject countries filed their responses to questionnaire. M/s Pusula from Turkey sought extension through Turkish Embassy for filing the exporter's response, however, no response was filed even within the extended time. The Turkish Embassy made submissions concerning dumping and injury to the domestic industry, the same has been taken into consideration in this findings.

(viii) In response to above notification none of the importers filed response to questionnaire.

(ix) The exporters/importers who have not filed the information have been treated as non-cooperating exporters/importers.

(x) The Authority held a Public Hearing on 6.5.2008 to hear the interested parties. The parties attending the Public Hearing were requested to file written submissions of the views expressed orally. The Designated Authority considered the submissions as received from the interested parties in the findings.

(xi) The Authority verified the information, of the domestic industry to the extent necessary.

(xii) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

(xiii) Investigation was carried out for the period starting from 1st January 2006 to 31st December 2006 (POI). The examination of trends in the context of injury analysis covered the periods from April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.

(xiv) In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have also been duly considered in these findings.

(xv) \*\*\* in this Notification represents information furnished by the applicant on confidential basis and so considered by the Authority under the Rules.

#### **B. Product under Consideration**

5. The product under consideration is 'Hydrogen Peroxide'. The Hydrogen Peroxide is an inorganic chemical. 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. Hydrogen Peroxide is classified under Chapter 28 of Custom Tariff Act under the sub-heading 28470000.

6. The product is a pale blue liquid, which appears clear in a dilute solution, slightly more viscous than water. It is water like in appearance, free from suspended impurities and miscible with water in all proportions. It is used in manufacture of bulk pharmaceuticals, agro-chemicals, dyestuffs, certain explosives and downstream chemicals. Hydrogen Peroxide finds application in -

odor 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

#### B.1 Like Article

7. The 'Hydrogen Peroxide' manufactured by domestic industry is identical to the product under consideration, therefore, is being treated as like article for the purpose of this Investigation.

#### C. Standing of the Applicant and Domestic Industry

8. The application was filed by M/s National Peroxide Ltd., Mumbai, M/s. Gujarat Alkalies & Chemicals Ltd., Vadodara, M/s Asian Peroxide Ltd., Chennai and M/s Hindustan Organic Chemicals Ltd., Mumbai, which are the producers of the subject goods in India. The applicants account for 100% production of subject goods in India, therefore, constitute domestic industry within the meaning of 2(b) of the Rules.

9. The Authority notes that M/s Asian Peroxide Ltd. had made imports of approx. \*\*\* MT during the POI constituting 3.53% of the total production of the company. In this regard, the Authority has examined the appropriateness or otherwise of inclusion of Asian Peroxide Ltd. in the domestic industry. It has been observed that by excluding the Asian Peroxide Ltd. from domestic industry for small quantity of imports, which may not have significantly impacted the financial performance of the company, the injury to the domestic industry would be partially captured which would not serve the interest of the investigation. The Authority, therefore, in this case has not excluded the Asian Peroxide Ltd. from the composition of the domestic industry.

#### D. Methodology for Calculation of Dumping Margin

10. The product is sold in the market in loose and packed form. However, imports are largely made in packed form, therefore, the normal value and export prices have been determined for the subject goods in packed form.

##### Normal Value and Export Price

#### D.1 China PR

##### Normal Value for China PR

10. None of the exporters from China has responded to the initiation notification and submitted any information for determination of dumping and rebuttal of the non-market economy. In the absence of any information from the exporters of China PR, the normal value has been determined as para 7 of Annexure-1 of the Rules by adopting the method 'on any other reasonable basis'. For this purpose, the information available (Far East) in the journal 'Bleaching Chemical' published by Harriman Chemsult has been relied upon. The weighted average prices available for POI has been calculated as US\$\*\*\* PMT. Adjustment for freight and other expenses have been made @ US\$\*\*\* PMT to arrive at the ex-factory price. By this methodology, the normal value has been calculated as US\$ \*\*\* PMT

##### Export price for Non-cooperating Exporters

11. The data reported by the DGCI&S for exports from China has been relied upon to calculate the ex-factory export price. Transaction-wise details from DGCI&S data has been taken as US\$ \*\*\* PMT. Adjustment on account of ocean freight @ US\$ \*\*\* PMT, marine insurance @ 0.15%, inland freight @ 1%, port expenses @ 1%, and bank charges @ 0.25%, have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ \*\*\* PMT.

#### D.2 European Union

#### Normal Value for European Union

12. None of the exporters from European Union has responded to the initiation notification and submitted any information for determination of dumping. In the absence of any information from the exporters of EU, the normal value has been determined on the basis of facts available as per Rule 6(8) of AD Rules. For this purpose, the information available (Europe) in the journal 'Bleaching Chemical' published by Harriman Chemsult has been relied upon. The weighted average prices available for POI has been calculated as US\$\*\*\* PMT. Adjustment for freight and other expenses have been made @ US\$\*\*\* PMT to arrive at the ex-factory price. By this methodology, the normal value has been calculated as US\$ \*\*\* PMT

#### Export price for Non-cooperating Exporters

13. The data reported by the DGCI&S for exports from European Union has been relied upon to calculate the ex-factory export price. Transaction-wise details from DGCI&S data has been taken as US\$ \*\*\* PMT. Adjustments on account of ocean freight @ US\$ \*\*\* PMT, marine insurance @ 0.15%, inland freight @ 1%, port expenses @ 1% and bank charges @ 0.25% have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ \*\*\* PMT.

#### D.3 Turkey

##### Normal Value for Turkey

14. None of the exporters from Turkey has responded to the initiation notification and submitted any information for determination of dumping. In the absence of any information from the exporters of Turkey, the normal value has been determined on the basis of facts available as per Rule 6(8) of AD Rules. For this purpose, the information available (Europe) in the journal 'Bleaching Chemical' published by Harriman Chemsult has been relied upon. The weighted average prices available for POI has been calculated as US\$\*\*\* PMT. Adjustment for freight and other expenses have been made @ US\$\*\*\* PMT to arrive at the ex-factory price. By this methodology, the normal value has been calculated as US\$ \*\*\* PMT

#### Export price for Non-cooperating Exporters

15. The data reported by the DGCI&S for exports from Turkey has been relied upon to calculate the export price. Transaction-wise details from DGCI&S data have been taken as US\$ \*\*\* PMT. Adjustments on account of ocean freight @ US\$ \*\*\* PMT, marine insurance @ 0.15%, inland freight @ 1%, port expenses @ 1% and bank charges @ 0.25% have been made to arrive at the ex-factory export price. By adopting the above method, the net export price has been calculated as US\$ \*\*\* PMT.

#### D.4 Korea ROK

##### Normal Value for Korea ROK

16. None of the exporters from Korea ROK has responded to the initiation notification and submitted any information for determination of dumping. In the absence of any information from the exporters of Korea ROK, the normal value has been determined on the basis of facts available as per Rule 6(8) of AD Rules. For this purpose, the information available (Far East) in the journal 'Bleaching Chemical' published by Harriman Chemsult has been relied upon. The weighted average prices available for POI has been calculated as US\$\*\*\* PMT. Adjustment for freight and other expenses have been made @ US\$\*\*\* PMT to arrive at the ex-factory price. By this methodology, the normal value has been calculated as US\$ \*\*\* PMT

#### Export price for Non-cooperating Exporters

17. The data reported by the DGCI&S for exports from Korea has been relied upon to calculate the export price. From the transaction-wise DGCI&S data, export price has been taken as US\$ \*\*\* PMT. Adjustments on account of ocean freight @ US\$ \*\*\* PMT, marine insurance @ 0.15%, inland freight @ 1%, port expenses @ 1% and bank charges @ 0.25% have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ \*\*\* PMT.

#### D.5 Indonesia

##### Normal Value for Indonesia

18. None of the exporters from Indonesia has responded to the initiation notification and submitted any information for determination of dumping. In the absence of any information from the exporters of Indonesia, the normal value has been determined on the basis of facts available as per Rule 6(8) of AD Rules. For this purpose, the information available (Far East) in the journal 'Bleaching Chemical' published by Harriman Chemsult has been relied upon. The weighted average prices available for POI has been calculated as US\$\*\*\* PMT. Adjustment for freight and other expenses have been made @ US\$\*\*\* PMT to arrive at the ex-factory price. By this methodology, the normal value has been calculated as US\$ \*\*\* PMT

#### Export price for Non-cooperating Exporters

19. The data reported by the DGCIS for exports from Indonesia has been relied upon to calculate the export price. From the transaction-wise DGCIS data, export price has been taken as US\$ \*\*\* PMT. Adjustments on account of ocean freight @ US\$ \*\*\* PMT, marine insurance @ 0.15%, inland freight @ 1%, port expenses @ 1% and bank charges @ 0.25% have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ \*\*\* PMT.

#### F. Dumping Margin

20. On the basis of normal values and export prices as determined above, the dumping margins for exporters/ producers in the subject countries are determined as per table below: -

Exporter/Producer	Normal Value (US\$)	Export Price (US\$)	Dumping Margin (US\$)	Dumping Margin (%)
China PR	***	***	***	36.74
European Union	***	***	***	51.54
Turkey	***	***	***	49.14
Korea ROK	***	***	***	30.13
Indonesia	***	***	***	26.24

21. The dumping margins so determined are significant and above *de minimis*.

#### G. METHODOLOGY FOR injury determination AND EXAMINATION OF CAUSAL LINK

##### G.1 Submissions made by the domestic industry

The total sales (loose and packed) of the domestic industry declined significantly after showing a significant increase up to 2005-06. The volume of packed sales has, however, declined throughout the injury period. Packed sales of the domestic industry declined by about 11% even when the demand increased by about 27%. It would be seen that the import volumes in absolute term increased vis-à-vis sales of domestic industry declined. There is direct relationship between the import volumes, import price, sales volumes and market share of the domestic industry. Import volumes increased because of availability of the material at dumped prices, due to which sales of domestic industry declined.

Profits: - Profitability of the domestic industry has significantly eroded. Even when the domestic industry attempted to maintain its market, the impact of the same was very adverse in terms of profits, which declined significantly. The profitability of the domestic industry declined sharply in 2005-06 and the period of investigation.

It would be worthy to mention that significant decline in profits is in spite of significant reduction in interest costs. In other words, whereas the profits should have improved on account of reduction in interest costs, the same has rather declined. Employment level with the domestic industry has declined.

Productivity: - Productivity of the domestic industry declined. Petitioners submit that so severe is the adverse impact of dumping that even productivity of the domestic industry has suffered in spite of significant increase in demand. Any producer of the product would like to increase production. However, so severe has been the impact of dumping that the domestic industry has been forced to cut production.

Return on capital employed: - For the purpose of calculation of return on investments, petitioners have considered sum of fixed assets and working capital and profit before interest and taxes. The information shows the domestic industry has been able to make meagre return on investments. The decline in ROI is a direct consequence of decline in profits.

Output and Capacity Utilization: - Domestic industry has enhanced its capacity for production of subject goods in view of rising demand. However, severe pressure on domestic industry from dumped imports resulted in production cuts being resorted by the domestic industry, resulting in decline in capacity utilization. The production of packed material declined throughout the investigation period.

Output and capacity utilization of the domestic industry declined in spite of the fact that the domestic industry decided to offer sub-optimal prices.

Inventories: - Inventory level of the domestic industry increased. Increase in inventories is in spite of lower prices offered by domestic industry.

i) Salary & wages: - Salary and wages with the domestic industry increased.

j) Cash Profit: - Deterioration in profits of the domestic industry adversely affected cash profits of the domestic industry in 2005-06 and the period of investigation. Petitioners have determined cash profits for the product under consideration.

k) Demand and market share: - Whereas the market shares of the imports have increased, that of the domestic industry has declined.

l) Growth: - Growth of the domestic industry in a number of parameters shows negative trend.

22. It has been submitted that the domestic industry has suffered material injury. It can be concluded that the domestic industry is trapped in a vicious cycle of volume effect and price effect. First with the increase of the imports of the subject good from the subject countries into the Indian market as a result of excess capacity with the Foreign Producers, the domestic industry suffered from loss of sale and loss of market share. This resulted in adverse volume effect. This loss of sale forced the domestic industry to reduce their domestic selling price in order to sell the subject good in the domestic market. This resulted in adverse price effect. The exporters further reduced the selling price. As a result, the domestic industry reduced the selling price further and the process continued. Resultantly, domestic industry faced adverse volume effect and adverse price effect as a result of distortive and unfair trade practices of the exporting countries.

#### Threat of Material Injury

23. In addition to the material injury already being suffered by the domestic industry, imports from subject countries are posing threat of material injury to the domestic industry.

24. There is significant increase in the import volumes in absolute term as would be seen from the increase in import volumes. This increase in imports is in spite of best efforts of the domestic industry to sell their material even at sub-optimal prices. The increase in imports would have been more, had the domestic industry not made efforts to curtail the same by offering lower prices;

25. The price undercutting is significant. At any point of time and in spite of offering matching prices, there is a positive price difference between the domestic product and imported product. Given nature of the product involved, any price difference between the domestic product and imported product is not acceptable to the consumers and the domestic industry is under constant pressure for price reductions. It may be noted that it is not such a product that the domestic industry can afford to sell at prices significantly higher than the imported prices. The only option with the domestic industry is to sell at matching prices. The nature of the product is such that even a small price difference is in fact huge in this kind of product;

26. Capacities created by the producers in the subject countries are far more than their respective domestic demand. These producers are in fact saddled with excess capacity, which is significantly higher than consumption in their respective markets. Due to excess capacity in the subject countries, producers have been forced to reduce their prices.

27. While inventories of the article with the domestic industry are showing increase in spite of significant reduction in the selling prices by the domestic industry, it is understood that the producers in subject countries are saddled with higher inventories. However, no published information is available in this regard.

28. Petitioners conducted extensive analysis of exports from subject countries to world over. The analysis was shocking in terms of its likely impact on the domestic industry. World exports of subject countries are showing increasing trends, clearly implying surplus unutilized capacities with the Foreign Producers.

#### G.2 Submissions made by Embassy of Turkey

29. The analysis of the non-confidential version of the petition and some petitioner's financial statements obtained through their official websites shows that no causal link could be established between material injury to Indian domestic market and Turkish originating imports. Nevertheless, the non-confidential version of the petition contains significant amount of biased and self-contradictory information about material injury and it fails to analyse all known factors.

30. While the custom duties are decreased on the subject product and petitioners are not competitive enough in the international market as an exporter of the subject product, it is understood that the petitioners aim to protect oligopolistic structure of the Indian hydrogen peroxide market. Actually, it is realized from the non-confidential version of the petition that the complainants are in a fair condition in terms of return in investment, capital employed, utilization of capacity and wages in particular. Under these positive conditions, any injury that petitioners claim to suffer may occur from their own problems rather than the import of the subject product.

31. Besides, in the non-confidential version of the petition, Israel and Thailand are considered among China PR, Indonesia, South Korea, the EU and Turkey that are causing material injury whereas they are not mentioned in the initiation notification. Turkish Government seeks clarification, unlike Turkey, why these two countries are not involved in the investigation. Turkish Government is of the view that any injury caused by the imports from any other country could not be attributed to Turkish originating imports.

#### i. Economic Parameters of the Domestic Industry

32. In the non-confidential version of the petition, it is claimed that there is a decline in sales, profits, output, growth, market share of domestic industry, employment, productivity, return on investments and capacity utilization and in this framework the domestic industry has suffered material injury and is threatened with material injury. In fact, following information in some petitioner's official websites rebuts these claims:

a) Gujarat Alkalies & Chemicals Limited (GACL)

- Production & Profit

33. In the 33rd Annual Report of Gujarat Alkalies & Chemicals Limited (GACL) it is stated that *"The Company is expanding its capacities for Caustic Soda and Hydrogen Peroxide."* And *"With the improvement in the industrial demand and up-trend in the commodity cycle during 2005-06, demand for the Company's product has remained buoyant. The company has been able to improve operating margins from 20.14% in FY01 to 35.18% in FY06"*. For 2005-06 period which is one of the periods covered by the injury investigation.

34. The number of employee of GACL increased from 1395 in 2005 to 1529 in 2006. Again, in the related reports, it is stated that *"Your Company performed very well during the year 2005-06. The year under review is one of the best fortunes for your Company. The Company could achieve the highest ever profit during the year under review."* And *"Your Company has achieved highest ever production and sales turnover in its history."*

35. Likewise, the News in the Press related to GACL such as *"In August 2007, GACL commissioned a Rs.108-cror hydrogen peroxide project at Dahej that has a capacity of 12,540 tonnes per annum (tpa)."* And *"Gujarat Alkalies & Chemicals Limited reported earnings results for the none-months ended December 31, 2007. The company reported net profit rose 39% at INR 2,057.3 million compared with INR 1,480 million for the same period last year."* Disclose clearly that the company has increased its capacity and profit on the contrary has suffered material injury.

36. In the light of above mentioned statements, it is obvious that the GACL has considerably positive financial performance during the period of 2005-2007 on the contrary claims in the non-confidential version of the petition.

- Input Costs

37. In the 33rd Annual Report of Gujarat Alkalies & Chemicals Limited it is implied that cost of raw materials in production and transportation are increasing. And in the 34th Annual Report of GACL it is stated that *"The raw material expenses increased by 24.55%...during the previous financial year 2005-2006, mainly due to increase in the procurement cost of various raw materials like... and additional transportation cost. Electricity charges have increased by 32.87%... during the previous financial year 2005-2006. Other operating expenses which include manufacturing and operating costs, employee, remuneration and benefits, administrative, miscellaneous and marketing expenses increased in the F.Y. 2006-07 by 19.86%..."*

38. Turkish Government is of the view that, no injury to the Indian domestic industry caused by increasing costs in the domestic market could be attributed to Turkish originating imports.

b) Hindustan Organic Chemicals Limited

- Financial Instability of the Company

39. In the 45th Annual Report of Hindustan Organic Chemicals Limited it is noticed that the company had been incurring losses from the financial year 1997-98 to 2005-06. However, to find out lasting revival strategy the company had appointed SBI Capital Markets Ltd. for techno-economic feasibility study. According to the Annual Report, Government of India is requested to provide equity to be utilized for repayment of loans and to provide funds to be utilized for repayment of high cost overdue bonds and also requested to the continuation of Government of India Guarantee of Rs.100 cror for full term of ten years to be utilized to liquidate high cost debt. This situation clearly shows the instability of the company.

40. Meanwhile, in the Ministry of Chemicals and Fertilizers, Department of Chemicals and Petrochemicals 2005 Report it is stated that the loss the company had faced is because of old technology, high cost of manpower in comparison to industry norm, uneconomic operations and marketing problems.

41. Turkish Government is of the view that, no injury to the Indian domestic industry caused by financial problems of the petitioners could be attributed to Turkish originating imports.

- Input costs

42. In the 45th Annual Report of Hindustan Organic Chemicals Limited it is implied that the capacity of Indian industry is small as compared to the competitors abroad; in effect the Indian industry is in a disadvantageous position with regard to overhead costs, the manpower cost per ton of finished product is high and old depreciated plants requires high maintenance cost.

43. Furthermore, according to the same report injury suffered by the company is a result of increasing costs related to surging crude oil prices, high labour cost, closed plants due to flood and major repairs of furnace.

44. Turkish Government is of the view that, no injury to the Indian domestic industry caused by increasing costs in the domestic industry could be attributed to Turkish originating imports.

ii. Tariff Reductions

45. Republic of India has reduced the customs duties on the subject product by 30% in 2002-03 to 12.5% in 2006-07, in this framework domestic producers' products have to face competition from imports.

46. In the 33rd Annual Report of the Gujarat Alkalies & Chemicals Limited it is stated that *"Alkali products have to face competition from imports with reduction in custom duties. To protect from unfair competition for products like..., company had approached designated authority for levy of anti-dumping duties against such imports and*

*anti-dumping duties have been imposed on imports of these products from various countries.*” This approach stated in this report is not appropriate under the provisions of Article 3.5 of the Anti-dumping Agreement regulates that investigating authorities shall examine all “known factors”, other than dumped imports”, which “at the same time” causing injury to the domestic industry and factors which may be relevant in this respect include... “competition between the foreign and domestic producers”. In addition to this, the WTO Appellate Body concluded in US-Hot-Rolled Steel case that investigating authorities must ensure that injury caused by known factors, other than dumped imports, are not “attributed” to the dumped imports.

47. Under these circumstances, a possible material injury that was caused by domestic industry’s inability to compete under lower tariff rates could not be attributed to Turkish originating imports.

#### Conclusion

48. Contrary to the Article 3.5 of the Anti-dumping Agreement, the non-confidential version of the petition tries to attribute injury caused by other factors (such as increasing costs, financial problems of the petitioners, competition after tariff reductions) to the Turkish originating imports.

49. Under these circumstances, the Government of Turkey is not convinced that the complaint contains sufficient evidence to initiate an anti-dumping investigation against Turkish originating imports within the framework of the provisions of Article 5.3 of the GATT 1994 Anti-dumping Agreement.

50. And Turkey is in the view that on the contrary the steps taken towards a liberalized market economy within the terms of reducing the custom duties by Indian Government, the petitioners aim to retain the oligopolistic structure of the Indian hydrogen peroxide market with eliminating competition.

51. Within the framework of Article 12.2 of the Anti-dumping Agreement, the Government of Turkey requests the Ministry to inform the Turkish Government about the final findings, whether affirmative or negative, of the anti-dumping investigation regarding the imports of hydrogen peroxide originating *inter alia*, in Turkey.

52. Bearing in mind the great value attributed by both Turkey and India to the friendly and constructive relations between our countries, the Government of Turkey kindly requests the Republic of India to terminate this proceeding immediately without imposition of any measure on Turkish originating imports.

#### G.3 Examination by the Authority

53. Concerning issue of Israel and Thailand causing injury to the domestic industry, the Authority notes that the applicant had filed the application for initiation of investigation against Israel and Thailand in addition to the other countries, however, the Authority did not find adequate evidence against Israel and Thailand, therefore, the investigation was initiated only against subject countries. The Authority has examined the arguments concerning injury and noted that the injury analysis of the producers have been done on the basis of actual verified data. The Turkish Embassy has quoted the Annual Report of GACL and HOCL, in this regard, the Authority notes that the statements in the Annual Reports are with reference to companies as a whole, these companies are multi-product and multi-location companies, the performance of these companies as a whole is not relevant for injury analysis of the like article and the same has been examined on the basis of actual records pertaining to like article.

54. It has also been stated that GACL has increased the capacity by installed a project at Dajej with a capacity of 12540 tonnes per annum (tpa) with an investment of 108 crores. The enhancement of capacity has been considered in the relevant section of the following injury analysis.

55. It has further been stated that as per 45th Annual Report of HOCL the company has been incurring losses for the financial years 1997-98 to 2005-06 and to find out lasting revival strategy, the company had appointed SBI Capital Market Ltd. for Techno-economic feasibility study. It has been further stated that the company is financially unstable. It has also been stated that 2005 report of M/o Chemicals & Fertilizers has stated that the loss the company had faced is because of old technology, high cost of manpower in comparison to industry norms, uneconomic operation and marketing problems. The Authority in this regard notes that the HOCL has been declared as a sick company and the Authority has taken due note of the fact and also analysed the injury to the domestic industry by excluding the HOCL in section G.6 of this findings. It has also been noted that the production of the like product by HOCL account for approx. 12% in the base year to less than 9% in the POI of the total production of the domestic industry. Therefore, the trend of the injury of the domestic industry has not been impacted significantly in view of the very small weight of the company in the domestic industry. It has further been noted the trend in the case of the sales volume, cost of sales, and profitability remained same even if the data of HOCL is excluded from the domestic industry. Though the analysis of injury to the domestic industry has also been done by excluding HOCL from the domestic industry, the Authority, however, notes that there is no legal basis to exclude HOCL. The limited purpose of exclusion is to segregate the effect of factors other than dumping causing injury to the domestic industry.

#### G.4 Cumulative assessment of injury

56. As per para iii of annexure-II, in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

57. With a view to assess the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority notes that -

i) The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

ii) The subject goods have been imported from the subject countries under the same tariff classification;

iii) The Authority has found that the imported subject goods are commercial substitutes of the domestically produced Hydrogen Peroxide.

iv) The authority has further noted that the volume of the imports from all subject countries has been rising from base year to POI except in case of Indonesia. It has also been noted that from Turkey the volume of imports rose sharply in 2005-06 and POI when its prices declined as compared to preceding year i.e. 2004-05. From China PR, the volume of imports rose

sharply in POI as prices were lower than all other subject countries. From EU, the volume in POI increased as its prices declined as compared to immediate preceding year. In case of Korea, the volume rose in 2004-05 as its prices declined as compared to immediate preceding year. However, in POI the volume declined. From Indonesia, with the rise in prices in 2005-06, the volume of imports declined though it increased in POI. The rise and decline in quantity of imports from subject countries fluctuated with the change in their prices and prices of the other subject countries indicating the competition between the subject countries.

58. In view of the above, the Authority holds that it is appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the like domestic product.

59. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

60. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on production, capacity utilization, sales, prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

61. Since positive dumping margins have been established for the exports from the subject countries, therefore, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal links examination.

(A) VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

62. For the purpose of injury analysis, the data procured from DGCI&S has been relied upon. It has been noticed that import transactions were in small volumes indicating that imports were mainly made in the packed form. It has also been noticed that imports were mainly made with a strength of 50% concentration. Other imports made at the different concentration have been converted to 50% concentration for calculation purpose. The data indicates that the imports from subject countries increased in absolute terms from 6006 MT in 2003-04 to 29606 MT during POI. The share of subject countries in imports remained at the same level during the same period. The share was 96.90% in 2003-04 and in POI it was 96.29%. The share of individual subject country, however, changed considerably.

63. The imports in relation to production increased from 6.11% 2003-04 to 32.61% in POI. During the same period, imports in relation to consumption increased from 6.33% to 23.97%.

i) Import Volumes and share of subject country

	Units	2003-04	2004-05	2005-06	Jan 06-Dec 06
<b>Imports Volume</b>					
China	MT	546	5,357	4,696	11,422
Indonesia	MT	3,019	2,617	1,819	2,093
Korea	MT	1,492	1,182	4,884	2,499
Turkey	MT	0	1,010	6,039	11,682
EU	MT	950	702	186	1,910
Sub Countries	MT	6,006	10,867	17,625	29,606
Other Countries	MT	192	1,643	1,621	1,141
Total Imports	MT	6,198	12,510	19,246	30,747
Trend	Indexed	100	202	310	496
<b>Market Share in Imports</b>					
China	%	8.81	42.82	24.40	37.15
Indonesia	%	48.71	20.92	9.45	6.81
Korea	%	24.07	9.45	25.38	8.13
Turkey	%	0.00	8.07	31.38	37.99
EU	%	15.32	5.61	0.97	6.21
Sub Countries	%	96.90	86.87	91.58	96.29
Other Countries	%	3.10	13.13	8.42	3.71
Total Imports		<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>CIF Import Prices</b>					
China	Rs./MT	12,003	16,727	14,579	15,037

Indonesia	Rs./MT	9,490	12,989	15,387	16,181
Korea	Rs./MT	13,473	17,153	16,152	16,462
Turkey	Rs./MT	0	18,172	16,212	16,370
EU	Rs./MT	13,341	19,690	19,418	16,601
Sub Countries	Rs./MT	11,316	16,199	15,709	15,865
Other Countries	Rs./MT	12,920	17,901	16,227	17,079
Total Imports	Rs./MT	11,367	16,424	15,754	15,911
	<b>Units</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Jan-Dec 06</b>
Imports in relation to production	%	6.11	10.94	17.99	32.61
Imports in relation to consumption	%	6.33	10.12	15.27	23.97

ii) Demand, Output and Market shares

a) Growth in Demand

<b>Demand</b>	<b>Units</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Jan-Dec 06</b>
Domestic Industry	MT	88,762	94,925	96,138	92,775
Imports-Subject countries	MT	6,006	10,867	17,625	29,606
Imports-other countries	MT	192	1,643	1,621	1,141
Total Imports	MT	6,198	12,510	19,246	30,747
<b>Total Demand</b>	MT	94,960	1,07,435	1,15,384	1,23,522
<b>Trend</b>	Indexed	100	113	122	130

64. Demand of subject goods has been determined by addition of domestic sales of domestic industry and all imports from all countries. From the data, trend indicates that demand for the subject goods had been growing from base year to POI. It grew by 30% during POI as compared to base year i.e. 2003-04.

b) Capacity, Capacity Utilization and Production of the Domestic Industry

	<b>Unit</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Jan-Dec 06</b>
Capacity	MT	91,450	91,450	91,530	86,030
Trend	Indexed	100	100	100	94
Capacity Utilisation	%	107	108	107	105
Trend	Indexed	100	101	100	98
Production	MT	98,276	99,319	97,953	90,781
Trend	Indexed	100	101	100	92

65. The capacity of the domestic industry has been calculated for the strength of 50% concentration of the like article. The data indicate that capacity of the domestic industry has not undergone any change from base year till 2005-06. It remained at stated capacity of 91,450. M/s National Peroxide Ltd. (NPL) enhanced the capacity by 14000 MT. The enhanced capacity was, however, commissioned in November 2006. During the POI, the available capacity was 86,030 MT as NPL had shut down the plant during the POI for expansion purpose. M/s Gujarat Alkalies & Chemicals Ltd. (GACL) has added capacity of 25,080 MT by setting up a plant at Dahej, however, the plant had been commissioned after the POI.

66. The production of the domestic industry was 98,276 MT in 2003-04, it increased to 99,319 MT in 2004-05 before declining to 97,953 MT in 2005-06 and 90781 MT during the POI. The decline of production during the POI is attributable to non-availability of the capacity of one of the producers because of shut down of plant for expansion purpose.

67. The stated capacity of the domestic industry remained fully utilized from base year to POI. The capacity utilization was 107% in 2003-04, increased to 109% in 2004-05 before declining to 107% in 2005-06 and 106% during POI.

68. The data indicate that there was a gap in available capacity of the domestic industry and demand of the product under consideration (PUC). The domestic industry continued to fully utilize the available capacity from base year to POI. The imports were bound to come to fill the gap in the demand and supply of the PUC in the country.

c) Sales of Domestic Industry

	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
Domestic Sales(bulk)	MT	51,867	61,000	59,273	58,513
Trend	Indexed	100	118	114	113
Domestic Sales (packed)	MT	35,683	32,681	35,608	33,095
Trend	Indexed	100	92	100	93
Domestic Sales (Total)	MT	88,762	94,925	96,138	92,775
Trend	Indexed	100	107	108	105

69. The data on sales indicates that the domestic sales of the domestic industry increased by 7% in 2004-05, 8% in 2005-06 and 5% in POI as compared to base year. The sale declined in the POI as compared to immediate preceding year. The data also indicate the sale in loose form of the subject goods increased by 13% in POI as compared to base year, however, in case of packed material, the sale declined to 93% in POI as compared to base year.

d) Demand and Market Share

Demand	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
Sales of Domestic Industry	MT	88,762	94,925	96,138	92,775
Total Imports	MT	6,198	12,510	19,246	30,747
Total Demand	MT	94,960	1,07,435	1,15,384	1,23,522
Trend	Indexed	100	113	122	130
<b>Market Share in Demand</b>					
Domestic Industry	%	93.47	88.36	83.32	75.11
China	%	0.57	4.99	4.07	9.25
Indonesia	%	3.18	2.44	1.58	1.69
Korea	%	1.55	1.10	4.23	2.02
Turkey	%	-	0.94	5.23	9.46
EU	%	1.00	0.65	0.16	1.55
Subject Countries	%	6.33	10.12	15.27	23.97
Imports from Other countries	%	0.20	1.53	1.40	0.92

70. The data indicate that demand of the subject goods has been growing consistently from base year to POI. It grew by 30% in POI as compared to base year. The market share of the subject countries increased from 6.33% in 2003-04 to 23.97% in POI. During the same period, the share of the domestic industry, however, declined from 93.47% to 75.11%. The share of other countries did not change significantly. It was 0.2% in 2003-04 and increased to 0.9% in POI. The Authority notes that the market share of imports was bound to increase in view of the rising demand and constraints of supply of the like article in the country.

(B) Price Effect of the Dumped imports on the Domestic Industry

71. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry for the packed product have been compared with the landed cost of imports from the subject countries as the imports are largely made in packed form.

(i) Evaluation of prices over period under consideration

<b>Export Price</b>	<b>Unit</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Jan-Dec 06</b>
China	Rs/MT	12,003	16,727	14,579	15,037
Indonesia	Rs/MT	9,490	12,989	15,387	16,181
Korea	Rs/MT	13,473	17,153	16,152	16,462
Turkey	Rs/MT	0	18,172	16,212	16,370
EU	Rs/MT	13,341	19,690	19,418	16,601
<b>Subject Countries</b>	<b>Rs/MT</b>	<b>11,316</b>	<b>16,199</b>	<b>15,709</b>	<b>15,865</b>

72. The data on prices reveals that weighted average export prices from the subject countries increased in 2004-05 and declined in 2005-06, however, it rose again in POI.

(ii) Price undercutting and underselling effects

<b>Country</b>	<b>China</b>	<b>Indonesia</b>	<b>Korea</b>	<b>Turkey</b>	<b>EU</b>
NSR – DI	***	***	***	***	***
CIF import price	15,037	16,181	16,462	16,370	16,601
Landed price of imports	16,999	18,292	18,610	18,506	18,767
<b>Price undercutting</b>					
Amount	***	***	***	***	***
%	***	***	***	***	***
NIP – DI	***	***	***	***	***
<b>Price underselling</b>					
Amount	***	***	***	***	***
%	***	***	***	***	***

73. In determining the weighted net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

74. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from each of the subject countries for the period of investigation with the weighted average net sales realization of the packed material of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject countries. The price undercutting from subject countries was in the range of 8-17% during POI.

75. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 18-26%.

(iii) Price suppression and depression effects of the dumped imports:

76. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

	<b>Unit</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Jan-Dec06</b>
Sales(NSR)-Loose	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	114	120	118
Sales(NSR)-Packed	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	123	109	115
Sales(NSR)-Average	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	115	115	115
Cost of Sales-Loose	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	100	112	118
Cost of Sales-Packed	Rs/MT	***	***	***	***

Trend	Indexed	100	106	115	121
Cost of Sales-Average	Rs./MT	***	***	***	***
Trend	Indexed	100	102	112	119
Profit/loss - Loose	Rs./MT	***	***	***	***
Trend	Indexed	100	285	224	119
Profit/loss – Packed	Rs./MT	***	***	***	***
Trend	Indexed	100	346	35	29
Profit/loss – Average	Rs./MT	***	***	***	***
Trend	Indexed	100	306	153	86

77. The data indicates that the average selling price (loose and packed) increased by 16% in POI as compared to base year. In rupee terms, the price increased by Rs. 2709 in POI as compared to base year. The price increased by Rs.133 in POI as compared to immediate preceding year. The data on cost of sales indicate that average cost of sales (loose & packed) increased by 19% in POI as compared to base year. In rupee terms, it increased by Rs.2,881/- in POI as compared to base year. The cost increased by Rs.957/- in POI as compared to immediate preceding year. The average profitability (loose & packed) declined to 86% in POI as compared to 100 of base year. In rupee terms, it declined by Rs.172/- in POI as compared to base year. It declined sharply in POI by Rs.825/- as compared to immediate preceding year.

78. The selling price of the material in loose form increased by 18% in POI as compared to base year. In rupee terms, it increased by Rs.2,880/- in POI as compared to base year. The price declined by Rs.325/- in POI as compared to immediate preceding year. The cost of sales in loose form increased by 18% in POI as compared to base year. In rupee terms, it increased by Rs.2,653/- in POI as compared to base year. It increased by Rs.963/- in POI as compared to immediate preceding year. The profitability of the product in loose form increased by 19% in POI as compared to base year. In rupee terms, it increased by Rs.227/- in POI as compared to base year. However, it declined by Rs.1,288/- in POI as compared to immediate preceding year.

79. The selling price of the material in packed form increased by 15% in POI as compared to base year. In rupee terms, it increased by Rs.2,648/- in POI as compared to base year. The price increased by Rs.973/- in POI as compared to immediate preceding year. The cost of sales in packed form increased by 21% in POI as compared to base year. In rupee terms, it increased by Rs.3,536/- in POI as compared to base year. It increased by Rs.1,050/- in POI as compared to immediate preceding year. The profitability of the product in packed form shows declining trend. It declined to 29% in POI as compared to 100 of base year. In rupee terms, it declined by Rs.8,88/- in POI as compared to base year. As compared to immediate preceding year, it declined by Rs.78/-.

80. The above data indicate that the selling price could not keep pace with the increase in cost of sales resulting in decline in profitability. In the case of the product in packed form, the trend was pronounced and profitability declined sharply. This indicates that the prices of the like article did not increase with the increase in cost of sales indicating suppression in prices.

#### G.4 Examination of other Injury Parameters

81. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

##### i) Profits and actual and potential effects on cash flow

	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
PBIT – Domestic Sales	Rs./lacs	***	***	***	***
Trend	Indexed	100	213	120	84
PBT – Domestic Sales	Rs./lacs	***	***	***	***
Trend	Indexed	100	327	165	90
Depreciation on domestic sales	Rs./lacs	***	***	***	***
Trend	Indexed	100	104	109	111
Changes in working capital	Rs./lacs	***	***	***	***
Trend	Indexed	-100	66	32	34
Cash flow	Rs./lacs	***	***	***	***
Trend	Indexed	100	118	88	69

82. The data indicates that profits before interest and taxes (PBIT) in indexed form declined to 84 in POI as compared to base of 100 in base year. Two of the producers are multi-product, multi-location companies, therefore, the cash flow position is not available from the books of account for the like product, therefore, the cash flow has been determined by addition of Profit before tax (PBT), depreciation and change in the working capital. The data indicates that the cash flow increased in 2004-05 and thereafter declined in 2005-06 and POI.

##### ii) Return on investment and ability to raise capital

	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
Net Capital Employed (NFA basis)	Rs./lacs	***	***	***	***
Trend	Indexed	100	108	111	120
PBIT on domestic sales	Rs/Lacs	***	***	***	***
Trend	Indexed	100	213	120	84
Return on Investment	%	***	***	***	***
Trend	Indexed	100	191	111	67

	Unit	2004-05	2005-06	Jan 06-Dec 06
Increase in investments	Rs. Lacs	***	***	***
Trend	Indexed	100	33.4	172.3

83. The data shows that the return on capital employed (on net fixed asset basis) with base as 100 (indexed) in 2003-04 increased to 191% in 2004-05 and then declined to 111% in 2005-06 and 67% during POI.

84. Two producers of the domestic industry have increased the capacity. One of the producers (NPL) increased the capacity by 14,000 MT with the investment of Rs.\*\*\* crores. The enhanced capacity was commissioned in November 2006. Second producer (GACL) has set up a new plant at Dahej by adding capacity of 25,080 MT with an investment of Rs.\*\*\* crores which has been commissioned after the POI. The domestic industry has explained that "it is true that dumping has not affected abilities of these companies to make capital investments, it is also evident that any capital investment is based on expectations of fair market prices for the product. Further, consistent dumping of the product is bound to impact the capital investment in the long run."

#### iii) Productivity

85. The data on production per employee shows that the productivity increased in 2004-05, however, it declined in 2005-06 and POI.

	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
Production	MT	***	***	***	***
Production per day	MT	***	***	***	***
No. of employees	Nos.	***	***	***	***
Productivity per employee	MT	***	***	***	***

#### iv) Employment and Wages

	Unit	2003-04	2004-05	2005-06	Jan-Dec 06
Employees	Nos.	***	***	***	***
Trend	Indexed	100	100	99	99
Salary and wages per employee	Rs/Lacs	***	***	***	***
Trend	Indexed	100	105	118	117

86. There was no significant change in the number of employees from base year to POI, however, the wages increased by 17% in POI as compared to base year.

#### v) Inventories

	Unit	2003-04	2004-05	2005-06	Jan 06-Dec 06
Average Inventory	MT	***	***	***	***
Trend	Indexed	100	167	250	179

87. The data indicates the average inventory increased by 79% in POI as compared to base year, however, as compared to preceding year, the average inventory declined. The average inventory in terms of number of days' sales continued to increase till 2005-06 before declining in POI. It was equivalent to 4 days in 2003-04 and increased to 11 days in 2005-06 before declining to 8 days in POI.

vi) Growth

88. The growth in demand shows positive trend from base year to POI on year to year basis. The growth in production was positive in 2004-05, however, it was negative in 2005-06 and the POI. The sale volume was positive in 2004-05 and 2005-06, however, it was negative in POI. The market share of the domestic industry shows negative trend in 2004-05, 2005-06 and POI. The profitability, profit(PBIT), cash flow and return on capital employed were positive in 2004-05 and were negative in 2005-06 and POI.

viii) Magnitude of Dumping

89. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries named, for the POI, are significant.

ix) Factors Affecting Prices

90. It has been observed that prices of Naptha, raw material required for production of the like article had increased from Rs.17,000/MT in base year to Rs.28,000/MT in the POI impacting the cost of production of the like article. It has also been observed that the weighted average landed value of the imported article increased substantially in 2004-05, however, started declining in 2005-06 and POI. It has also been observed that the weighted average landed value was undercutting the net selling price of the domestic industry over the injury period.

91. Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors that might be affecting the prices in the domestic market. Since the imports have largely been made in the packed form, weighted average cost of production and selling price of the domestic industry for packed product has been considered for comparing with the landed price of imports. The weighted average cost of production for packed material has increased by 18% during POI. The weighted average net selling prices increased only by 14% during the same period. The domestic industry submit that landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was in the range of 8-17% and underselling was in the range of 18-26% during POI.

G.5 Conclusion on injury parameters

92. The examination of above injury parameters indicates that the product under consideration (PUC) shows consistent growth from base year (2003-04) to POI(Jan-Dec'06). The capacity of the domestic industry though has been enhanced but during the POI and preceding years, the capacity was not adequate to meet the supply of the PUC to meet the demand in the country. The capacity, therefore, remain fully utilized from base year to POI. The sales volume increased by 13% during the same period and in terms of sale days, the average inventory declined. The sale of like article in packed form shows declining trend in POI as compared to base year indicating adverse market conditions.

93. The selling price of the like article increased by Rs.2709/MT as compared to cost of sales of Rs.2881/MT from base year to POI. As compared to immediate preceding year, the selling price increased by Rs.133/PM as compared to increase in cost of sales of Rs.957/MT. The profitability of like article declined by Rs.172/MT in POI as compared to base year. As compared to immediate preceding year, the profitability declined by Rs.825/MT in POI. The decline in profitability reflected in decline in profits which declined to 84 (indexed) in POI as compared to 100 of base year. Similarly, the return on capital employed declined to 67 (indexed) in POI as compared to 100 of base year.

94. In volume term the domestic industry has not suffered any volume injury as the capacity of the domestic industry remained fully utilized during the entire injury period. However, in financial terms, the decline in profitability, profits and return on capital employed indicate injury to the domestic industry.

G.6 Other Known factors

95. The other factors which might have contributed to injury to the domestic industry have been analysed. In this regard the following indicative factors as laid down in the Rules have been analysed.

i) Volume and prices of imports from other sources

96. The volume of imports from other countries is only 4%, therefore, it cannot be cause of injury to the domestic industry.

ii) Contraction in demand and / or change in pattern of consumption

97. The subject goods have shown significant growth during the injury period. The total demand of subject goods has increased by 30% during Period of Investigation as compared to the base year. There is also no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

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

98. There is no restricted practice prevalent in the industry, which could have attributed to the injury to the domestic industry.

iv) Development of technology

99. The technology for production of the product has not undergone any change. Development of any other technology, therefore, cannot be attributed to the injury to the domestic industry.

v) Export performance

100. The export volume of the domestic industry is insignificant during the entire injury period. Therefore, this factor is not attributable to the injury to the domestic industry.

vi) Productivity of the Domestic Industry

101. Productivity of the domestic industry in terms of production per employee has shown some decline during POI as compared to base year because of the decline in production during the same period.

vii) Hindustan Organic Chemicals Ltd. (HOCL)

102. The Authority has noted that HOCL has been declined as a sick company. In this regard, the Authority has examined the major parameters of injury to the domestic industry by excluding the data of HOCL to ascertain whether sickness of the company has contributed to injury to the domestic industry. The Authority notes that production of the like article rose in 2004-05, 2005-06 and declined in POI. The capacity utilization of the domestic industry remained above the stated capacity of the producer implying that capacity remained fully utilized during the injury period. Domestic sale (loose) of the like article rose by 26% in 2004-05, 27% in 2005-06 and 23% in POI as compared to the base year. Domestic sale (packed) of the like article was 93% in 2004-05, 102% in 2005-06 and 96% in POI as compared to the base year. The total domestic sale of the like article increased by 11% in kPOI as compared to the base year. For like article in loose form, the selling price increased by Rs.2849 PMT, cost of sale increased by Rs.2607 PMT and profitability increased by Rs.242 PMT in POI as compared to base year. As compared to immediate preceding year, the selling price declined by Rs.404 PMT, cost of sale increased by Rs.1197 PMT and profitability declined by Rs.1602 PMT. For like article in packed form, the selling price increased by Rs.2650 PMT, cost of sales by Rs.3682 PMT and profitability declined by Rs.1032 PMT in POI as compared to base year. As compared to immediate preceding year, selling price increased by Rs.968 PMT, cost of sale increased by Rs.1192 PMT and decline in profitability by Rs.221 PMT. For like article (loose & packed), selling price increased by Rs.2660/-, cost of sale by Rs.2873 PMT and profitability declined by Rs. 213 PMT in POI as compared to base year. As compared to immediate preceding year, the selling price increased by Rs.119 PMT, cost of sale by Rs.1164 PMT and profitability declined by Rs.1045 PMT.

103. These major parameters indicate that even if the data of HOCL is excluded from the domestic industry, even then the trend of injury parameters remain same.

No other factor has come to the notice of the Authority which might have caused injury to the domestic industry.

H. Causal Link

104. The foregoing analysis indicates that the volume of dumped imports from the subject countries have increased substantially both in absolute terms as well as in relation to the share in demand.

105. The demand of the PUC shows consistent growth. The domestic industry as per available information was not in position to meet the rising demand as their capacity remained fully utilized. The change in pattern of sale, however, indicate the difficulty in selling the packed material in the market. The sale of packed material declined to 33095 MT in POI as compared to 35683 MT in base year. To fill the gap in demand and supply, imports were being made in the country, however, the landed value shows the undercutting of selling price of the domestic industry by the imports. The imports were being made mainly in packed form, the impact of these imports was visible in trends in sale volume, selling price and profitability of the packed form of the like article. The selling price of the packed material increased by Rs.2648 PMT as compared to increase in cost of sale of Rs.3,536 PMT from base year to POI. The selling price increased by Rs.973 PMT as compared to increase in cost of sale of Rs.1050 PMT in POI as compared to immediate preceding year. The profitability declined to 29 (indexed) in POI as compared to 100 of the base year. In rupee terms, the profitability declined by Rs.888 PMT during the same period. As compared to immediate preceding year, the profitability declined by Rs.78 PMT. The average selling price (packed and loose material) also indicate that the selling price did not increase in consonance with the increase in cost of sale indicating suppression of the price. The profitability, therefore, declined by Rs.172 PMT in POI as compared to base year. The profitability, however, declined sharply by Rs.825 PMT as compared to immediate preceding year.

106. Despite strong growth in demand and utilization of capacity of the domestic industry, no reason has come to the notice of the Authority by which the domestic industry should not be in position to raise the prices in consonance with the rise in cost of sales of the like article. The imports, however, have been undercutting the selling price of the domestic industry which suppress the prices of the like article resulting in decline in profitability, profits and return on capital employed. This establishes causal link between dumping of the subject goods and injury to the domestic industry.

I. Conclusions

107. It has been concluded from the foregoing that:

A. The subject goods have been exported to India from the subject countries below its normal value;

B. The domestic industry has suffered material injury;

C. The injury has been caused by the dumped imports from subject countries.

J. Indian industry's interest & other issues

108. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

Injury margin

109. The non-injurious price for the packed product has been compared with the landed value of the exports for determination of injury margin. The injury margins from the subject countries have been worked out as follows:

**Injury Margin**

Name of the Country	(Rs./MT)
China PR	***
Indonesia	***
Korea ROK	***
Turkey	***
EU	***

**K. Recommendations**

110. In view of the above, the Authority considers it necessary and recommends definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

111. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry, accordingly, definitive antidumping duty equal to difference in the amount indicated in Col 8 of the table below and landed value is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

**Duty Table**

Sl. No	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28470000	Hydrogen Peroxide	China PR	China PR	Any	Any	22,100	MT	USD
2.	Do	Do	China PR	Any country other than China PR	Any	Any	22,100	MT	USD
3.	Do	Do	Any country other than subject countries	China PR	Any	Any	22,100	MT	USD
4.	Do	Do	Indonesia	Indonesia	Any	Any	22,337	MT	USD
5.	Do	Do	Indonesia	Any country other than Indonesia	Any	Any	22,337	MT	USD
6.	Do	Do	Any country	Indonesia	Any	Any	22,337	MT	USD

			other than subject countries						
7.	Do	Do	Korea ROK	Korea ROK	Any	Any	23,082 MT	USD	
8.	Do	Do	Korea ROK	Any country other than Korea ROK	Any	Any	23,082 MT	USD	
9.	Do	Do	Any country other than subject countries	Korea ROK	Any	Any	23,082 MT	USD	
10.	Do	Do	Turkey	Turkey Any country	Any	Any	23,173 MT	USD	
11.	Do	Do	Turkey	other than Turkey	Any	Any	23,173 MT	USD	
12.	Do	Do	Any country other than subject countries	Turkey	Any	Any	23,173 MT	USD	
13.	Do	Do	European Union	European Union	Any	Any	23,173 MT	USD	
14.	Do	Do	European Union	Any country other than EU	Any	Any	23,173 MT	USD	
15.	Do	Do	Any country other than subject countries	European Union	Any	Any	23,173 MT	USD	

112. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

113. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

R. Gopalan

The Designated Authority