

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

**Conclusion of Review for Change of Circumstances of Anti-Dumping
Duties Imposed on Dumped Imports of Hydrogen Peroxide from
Bangladesh**

**A.D.C. 34/2015/NTC/HP/CCR/2020
August 24, 2020**

Conclusion of Review for Change of Circumstances of Antidumping Duties Imposed on Dumped Imports of Hydrogen Peroxide from Bangladesh

A. INTRODUCTION

The National Tariff Commission (the “Commission”) having regard to the Anti-Dumping Duties Act, 2015 (the “Act”) and the Anti-Dumping Duties Rules, 2001 (the “Rules”) relating to the investigation/reviews and determination of dumping of goods into the Islamic Republic of Pakistan (“Pakistan”), material injury to the domestic industry caused by such imports, and imposition of anti-dumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof. Section 59 of the Act relates to review of Change Circumstances of anti-dumping duties imposed on dumped imports.

2. Having regard to the Section 59 of the Act, the Commission shall review the need for continued imposition of anti-dumping duty, where warranted, on its own initiative or, provided that a period of twenty four months has elapsed since the imposition of definitive anti-dumping duty, upon a written request submitted by any interested party, which contains positive information substantiating the occurrence of change of circumstances justifying a need for a review including sufficient information to enable the Commission to calculate the export price and normal value of a product in question

3. The Commission has conducted this review for change of circumstances of the definitive anti-dumping duties imposed on dumped imports of Hydrogen Peroxide (“HP”), imported from People’s Republic of Bangladesh (“Bangladesh”). In terms of Section 62(2) of the Act, a review shall normally be completed within twelve months from its initiation. The Commission initiated this review for change of circumstances on February 21, 2020 following receipt of an application from the domestic industry manufacturing HP.

4. Scope of the Change Circumstances Review:

The review inquiry is limited to the extent of change of circumstances due to which there is need to revisit the dumping margins established in the original investigation. The domestic industry in the application claimed that the dumping margins have increased for exporters/producers from Bangladesh, as compared to the original investigation. The reasons include increase in cost of production of HP in Bangladesh due to increase in gas prices, which changes the normal value of HP. The export prices of HP imported from Bangladesh do not reflect the increased cost to make and sell of Bangladeshi exporters/producers, rather it shows absorption of anti-dumping duties imposed on dumped imports of HP from Bangladesh. Anti-dumping duties imposed on dumped imports from Bangladesh by India and return of China to export market of Hydrogen Peroxide resulted in oversupply in local market of Bangladesh. Thus, Bangladesh is exporting HP to Pakistan at lower export prices.

B. BACKGROUND

5. Definitive Anti-dumping Duty Imposed on Dumped Imports of HP from the Bangladesh

5.1 The Commission imposed definitive anti-dumping duties on dumped imports of HP from Bangladesh ranging from 10.67 percent to 12.14 percent *ad val* for a period of five years effective from October 16, 2015 on the following exporters/producers:

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Exporter / Producer	Anti-dumping duty rate (%)
Tasnim Chemical Complex Limited	12.14
Samuda Chemical Complex Limited	10.67
All others	12.14

5.2 In the original investigation, individual dumping margins were determined for the above-mentioned exporters/producers i.e. Tasnim Chemical Complex Limited and Samuda Chemical Complex Limited on the basis of the data/information provided by them. However, dumping margin/duty rate for all other exporters of HP from Bangladesh was determined, as the highest dumping margin of the above-mentioned exporters/producers, that of Tasnim Chemical Complex Limited.

C. PROCEDURE

6. The procedure set out below has been followed with regard to this review for change of circumstances.

7. Receipt of Application

7.1 The Commission received an application from M/s Descon Oxychem Ltd. and M/s Sitara Peroxide Limited (“the Applicants”) domestic producers of HP, on January 3, 2020 (formal acceptance date) under Section 59 of the Act, for Review for Change of Circumstances relating to imposition of anti-dumping duties imposed on dumped imports of HP into Pakistan originating in and/or exported from People’s Republic of Bangladesh.

7.2 The Applicants claimed that the circumstances relevant to export price, normal value and hence dumping margin of the original investigation have changed, which warrants the revision of anti-dumping duties for the exporters/producers from Bangladesh.

7.3 The Section 59 of the Act states that:

“Section 59. Review for change of circumstances.- (1) The Commission shall review the need for continued imposition of anti-dumping duty, where warranted, on its own initiative or, provided that a period of twenty-four months has elapsed since the imposition of definitive anti-dumping duty, upon a written request submitted by any interested party, which contains positive information substantiating the occurrence of changed circumstances justifying a need for a review including sufficient information to enable the Commission to calculate export price and normal value of a product in question.

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(2) The Commission shall, upon initiation of a review under sub-Section (1), publish a notice in the official Gazette and in at least one issue each of a daily newspaper in the English language and a daily newspaper in the Urdu language having wide circulation in Pakistan.

(3) In undertaking a review under sub-section (1), the Commission shall consider whether continued imposition of anti-dumping duty is necessary to offset dumping and whether injury would be likely to continue to recur if anti-dumping duty were removed or varied and if, as a result, the Commission determines that continued imposition of anti- dumping duty is no longer warranted it shall be terminated immediately.

(4) The Commission may require an applicant requesting a review under this section to fill in an additional questionnaire provided by it requiring such information and for such period as the Commission deems necessary before such review is initiated in which case the review shall be initiated following the receipt by the Commission of such questionnaire duly filled in."

7.4 Further, Section 62 provides for procedure followed in a review under Section 59:

62. Evidence and procedure.-(1) The provisions of Sections 27, 31, 32, 33, 35, 39, and 46 shall apply, mutatis mutandis, to any review carried out under Part XV of this Act.

(2) Any review conducted under Sections 58 and 59 shall be carried out expeditiously and shall normally be concluded within twelve months of the date of initiation of the review."

8. Evaluation and Examination of the Application

The examination of the application showed that it met the requirements of Section 59 of the Act, as it contained sufficient evidence substantiating the occurrence of change of circumstances justifying a need for a review and includes sufficient information to enable the Commission to calculate the export price and normal value of HP.

9. The Domestic Industry

9.1 Domestic industry in terms of Section 2(d) of the Act is defined as follows:

“domestic industry” means the domestic producers as a whole of the domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers.”

9.2 The domestic HP manufacturing industry comprises of two units in Pakistan i.e. M/s Descon Oxychem Limited and M/s Sitara Peroxide Limited (the Applicants). The Applicants constitutes 100 percent of the domestic production and their installed production capacity is 60,000 MT per annum.

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10. **Applicant's Views**

The Applicant, *inter alia*, pointed out in the Application the following circumstances relevant to export price, normal value and hence dumping margin have changed, which warrants the revision of anti-dumping duties imposed on the exporters/producers from Bangladesh:

- i. Increase in rates of gas prices in Bangladesh;
- ii. Oversupply in local market of Bangladesh;
- iii. Export prices of exporters /producers of HP from Bangladesh are not based on cost to make and sell;
- iv. Absorption of anti-dumping duties;
- v. Anti-dumping duties imposed by India on dumped imports of HP from Bangladesh;
- vi. Return of China to export market of Hydrogen Peroxide

11. **Initiation of the Review for Change of Circumstances**

11.1 Upon examination of the application, the Commission established that it met requirements of Section 59 of the Act. The Commission initiated a review for change of circumstances on February 21, 2020 to determine whether the circumstances which existed at the time of imposition of anti-dumping duties have changed to such an extent that there is need to revisit the dumping margins established at that time..

11.2 In terms of Section 27 of the Act, the Commission issued a notice of initiation of the Review for Change of Circumstances, which was published in the official Gazette³ of Pakistan and in two widely circulated national newspapers⁴ (one in English language and one in Urdu Language) on February 21, 2020.

11.3 The Commission notified the High Commission of Bangladesh in Pakistan on February 25, 2020 of initiation of review by sending a copy of the notice of initiation of Review for Change of Circumstances. Copies of notice of initiation were also sent to the Applicant, known exporters/producers of HP from Bangladesh, and known importers on February 25, 2020, in accordance with the requirements of Section 27 of the Act.

11.4 In accordance with Section 28 of the Act, on March 4, 2020, the Commission also sent copy of full text of the written application (non-confidential version) to the High Commission of Bangladesh in Pakistan and to the known exporters/producers of HP in Bangladesh.

³ The official Gazette of Pakistan (Extraordinary) dated February 21, 2020.

⁴ The 'Daily NATION' and the 'Daily Express' of February 21, 2020 issue.

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12. The Product under Review and the Domestic Like Product

12.1 The Product under Review

12.1 The product for which the Review for Change of Circumstances has been requested, is Hydrogen Peroxide classified under Pakistan Customs Tariff (“PCT”) No. 2847.0000. It is used as bleaching agent in textile industry, paper & pulp industry, for sterilization of packaging material of milk, fruit juices (aseptic packaging) industry etc. and for general purpose as oxidizing, detoxifying and deodorizing agent. It is also used for waste-paper treatment and soil remediation.

12.2 The details of tariff structure applicable to the product under review is as follows:

Tariff Structure Applicable on Import of HP

S. No	Years	Customs Duty	Sales Tax	ACD	RD
1.	FY 2016 -17	10%	17%	1%	--
2.	FY 2017 - 18	11%	17%	1%	--
3.	FY 2018 - 19	11%	17%	1%	--
4.	FY 2019 - 20	11%	17%	2%	5%

Note: Concessionary rate of customs duty @ 5% on imports from SAARC Countries including Bangladesh

13. Domestic like product

13.1 The domestic like product, produced by the domestic industry is Hydrogen Peroxide. It is classified under Pakistan Customs Tariff (“PCT”) No. 2847.0000. It is used as bleaching agent in textile industry, paper & pulp industry, for sterilization of packaging material of milk, fruit juices (aseptic packaging) industry etc. and for general purpose as oxidizing, detoxifying and deodorizing agent. It is also used for waste paper treatment and soil remediation.

13.2 The Commission in its original investigation had determined that the HP and the domestic like product were like products.

14. Period of Review (“POR”)

The Commission selected the Period of Review (POR) from January 1, to December 31, 2019. Therefore, occurrence of change of circumstances that warrants the re-calculation of the export price, normal value and dumping margins of product under review has been determined on the basis of the data/ information for the following period:

Period of Review: From January 1, to December 31, 2019.

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15. Interested Parties

The Commission gave opportunity (through notice of initiation) to all interested parties to participate in this review and register themselves as an interested party with the Commission. In response to the notice, following parties requested for registration as interested parties in the Review:

- i. Samuda Chemical Complex Limited, (Exporter /Producer)
- ii. ASM Chemical Industries Limited, (Exporter /Producer) and
- iii. H.P. Chemicals Limited, (Exporter /Producer)

16. Information/Data Gathering

16.1 The Commission sent Exporter's Questionnaires on March 4, 2020 to known exporters/producers of HP from Bangladesh, asking them to respond within 37 days of the dispatch of the Questionnaires. The Commission also sent Questionnaire to known importers of HP requesting them to provide information within 37 days. The Commission also sent a copy of the Exporter's Questionnaire to the High Commission of Bangladesh in Pakistan with a request to forward it to all known exporters/producers of HP in Bangladesh. The deadline for the submission of the data/information on the prescribed Exporter's Questionnaire was April 10, 2020.

16.2 In response to the Exporter's Questionnaire, the exporters/producers from Bangladesh namely Samuda Chemical Complex Limited, Tasnim Chemical Complex Limited, ASM Chemical Industries Limited, and H.P. Chemicals Limited approached the Commission for extension in time for submission of data/information on Exporter's Questionnaire, due to Covid-19 lockdown in Bangladesh. The Commission acceded to the exporters/producers request for extension in time up to May 1, 2020.

16.3 The above-mentioned exporters/producers from Bangladesh again approached the Commission for further extension in time for submission of information in response to the Questionnaire due to continuing Covid-19 lockdown in Bangladesh. The Commission after taking into account the reason mentioned in the their requests, granted further extension in time up to May 15, 2020 with an advice that in case of failure to provide the data/information by May 15, 2020, the Commission may conclude the Review for Change of Circumstances on the basis of Best Information Available in terms of Section 32 of the Act.

16.4 The Commission received filled-in Exporter's Questionnaires from the following two (02) exporters/producers from Bangladesh before the expiry of the extended time period:

- i. Samuda Chemical Complex Limited; and
- ii. Tasnim Chemical Complex Limited.

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16.5 Upon examination of the information received from these two exporters/ producers, certain deficiencies were found in the information supplied. These deficiencies were communicated to the exporters/ producers and were requested to supply the deficient information. Further details are given at paragraph 17.

16.6 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this review within 30 days of initiation of review. In response, Samuda Chemical Complex Limited submitted their comments through its attorney RIAA Barker Gillette regarding application filed by the domestic industry.

16.7 The Commission has access to the import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this review the Commission has also used import data obtained from PRAL's database in addition to the information provided by the Applicant in the application. In addition to this, the Commission has also consulted the responses provided by the exporters/producers in the original investigation.

16.8 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of conclusion of this review.

17. Questionnaire(s) Response by Exporters/ Producers from Bangladesh:

17.1 Questionnaire Response by Samuda Chemical Complex Limited

17.1.1 The Commission sent the Exporter's Questionnaire to Samuda Chemical Complex Limited (hereinafter referred to as "Samuda") on March 4, 2020. Samuda applied to the Commission in its email dated March 23, 2020 for extension in time period for submission of response to Exporter Questionnaire for 60 days due to Covid-19 lockdown in Bangladesh. The Commission vide its email dated March 24, 2020, after considering the reasons given in the request for extension, granted extension up to May 1, 2020 for submission of response. Samuda again approached to the Commission for further extension in time vide its email dated April 24, 2020 for 45 days due to continuing Covid-19 lockdown in Bangladesh. The Commission after considering the reasons given in the request for extension granted extension up to May 15, 2020 for submission of response. Its response on Exporter Questionnaire was received in the Commission on May 15, 2020.

17.1.2 According to the information provided in response to the Questionnaire, Samuda is a private limited company incorporated on January 25, 2006. It has been engaged in the manufacture, sale and export of HP to Pakistan as well as to other countries and in its domestic market during the POR.

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17.1.3 The information submitted by Samuda in response to the Questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission's email dated May 23, 2020.

17.1.4 Samuda was asked to provide the deficient information/data no later than five days of the e-mail communicating the data deficiencies, so as to enable the Commission to consider and analyze the same for the purposes of this review. Samuda responded to the data deficiencies vide its email dated May 28, 2020.

17.1.5 The information submitted by Samuda in response to the deficiencies was analyzed at the Commission and again it was found deficient in certain respect as well as certain clarifications were required. Second detailed deficiency letter was communicated to Samuda vide email dated June 8, 2020 asking it to provide the deficient data/information latest by June 12, 2020.

17.1.6 Samuda provided the requisite data/ information and provided clarifications /explanation to queries in response to the second deficiency letter vide email dated June 12, 2020. Some Annexures / Appendixes were provided by June 14, 2020.

17.2 Questionnaire Response by Tasnim Chemical Complex Limited

17.1.1 The Commission sent the Exporter's Questionnaire to Tasnim Chemical Complex Limited (hereinafter referred to as "Tasnim") on March 4, 2020. Tasnim applied to the Commission in its email dated March 22, 2020 for extension in time period for submission of response to Exporter Questionnaire for 60 days due to Covid-19 lockdown in Bangladesh. The Commission vide its email dated March 24, 2020, after considering the reasons given in the request for extension, granted extension up to May 1, 2020 for submission of response. Tasnim again approached to the Commission for further extension in time vide its email dated April 21, 2020 due to continuing Covid-19 lockdown in Bangladesh. The Commission after considering the reasons given in the request for extension granted extension up to May 15, 2020 for submission of response. Its response on Exporter questionnaire was received in the Commission on May 14, 2020.

17.1.2 According to the information provided in response to the Questionnaire, Tasnim is a private limited company incorporated on August 9, 2009. It has been engaged in the manufacture, sale and export of HP to Pakistan as well as to other countries and in its domestic market during the POR.

17.1.3 The information submitted by Tasnim in response to the Questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission's email dated May 23, 2020.

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17.1.4 Tasnim was asked to provide the deficient data /information no later than 5 days of the email through which the data deficiencies were communicated, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Tasnim responded to the data deficiencies vide its email dated May 29, 2020.

17.1.5 The information submitted by Tasnim in response to the deficiency letter was analyzed at the Commission and again it was found deficient in certain respect as well as certain clarifications / explanations were required. Second detailed deficiency letter was communicated to Tasnim vide email dated June 8, 2020 asking it to provide the deficient data/information latest by June 12, 2020.

17.1.6 Tasnim provided the requisite data/ information and provided clarifications /explanation to queries in response to the second deficiency letter vide email dated June 12, 2020. Some Annexures / Appendixes were provided by June 15, 2020.

18. Public File

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file in this review at its office. This file remains available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout this review for change of circumstances. This file contains non-confidential versions of the application, responses to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

19. Confidentiality

19.1 In terms of Section 31 of the Act, the Commission shall keep confidential any information submitted to it, which is by nature confidential, or determined by the Commission to be of confidential nature for any other reason, or provided as confidential by the interested parties upon good cause shown to be kept confidential.

19.2 The Applicant has requested to keep confidential certain information in terms of Section 31 of the Act. This information includes data relating to evidences provided in support of determination of normal value, the information relating to export prices, capacities of domestic industry etc.

19.3 On the basis of requests made by the Applicant and keeping in view the provisions of Section 31 of the Act, the Commission has determined the confidentiality and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the interested parties made a request to keep it confidential and the Commission has determined it as confidential. However, in terms of Sub-Section (5) of the

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Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, were placed in public file for review and copying of the interested parties.

20. **Hearing**

In this review, interested parties were required to make a request for hearing not later than forty-five days after publication of notice of initiation. However, the Commission did not receive any request for hearing from any interested party during the course of this Review.

21. **Written Submissions by Interested Parties**

21.1 All interested parties were invited to make their views/comments and to submit information and documents (if any) not later than 45 days of the date of publication of notice of initiation of the Review. In response, the Commission has received written submissions/comments from the following interested parties:

- Bangladesh Trade & Tariff Commission, Government of Bangladesh;
- Samuda Chemical Complex Limited; and

Views/Comments of the interested parties germane to this review and response of the Commission are provided at Annexure-I of this report.

22. **Disclosure of Essential Facts**

22.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context, dispatched a Statement of Essential Facts (hereinafter referred to as the "SEF") on July 23, 2020 to all interested parties including the known exporters/producers, the Applicants and the known Pakistani importers.

22.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. The Commission received comments from the following interested parties within the stipulated time:

- i. Samuda Chemical Complex Limited;
- ii. Tasnim Chemical Complex Limited; and
- iii. S.U Khan Associates

22.3 Views/Comments of the interested parties germane to this review and response of the Commission in annotated form are at Annexure-II of this report.

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D. Determination of Change of Circumstances:

23.1 To determine occurrence of change of circumstances that warrants the re-calculation of the export price, normal value and dumping margins of HP, the Commission has considered following factors:

- i. Increase in rates of gas prices in Bangladesh;
- ii. Oversupply in local market of Bangladesh;
- iii. Export prices of exporters /producers of HP from Bangladesh are not based on cost to make and sell.
- iv. Absorption of anti-dumping duties;
- v. Anti-dumping duties imposed by India on dumped imports of HP from Bangladesh;
- vi. Return of China to export market of Hydrogen Peroxide

23.2 The information on these factors has been gathered /obtained from different sources including the Applicant, PRAL, responses provided by the exporters in this Review and the original investigation and different websites etc. in terms of Section 32 of the Act.

24. Increase in rates of gas prices in Bangladesh:

24.1 The state-run Bangladesh Energy Regulatory Commission (BERC) through a public notice raised natural gas prices for industry by 38 percent to Tk10.70 per cubic meter from previous Tk 7.76 per cubic meter and for captive power producers by 44 per cent to Tk 13.85 per cubic meter from previous Tk 9.62 per cubic meter from July 1, 2019. As natural gas is a primary raw material for production of HP (approximately 25% of total cost of production), therefore, the obvious effect of the revised rates is increase in the overall cost of production of HP in Bangladesh.

24.2 It is evident from above that there is an increase of 38% in gas tariffs for industrial segment. Since natural gas accounts for 25% of the total cost of production of HP, there is an increase in the total cost to make and sell of Bangladeshi producers of HP, which has resulted in increase in normal value as well as export price of HP that warrants the recalculation of normal value, export price as well as dumping margin for the product under review.

25. Oversupply of HP in Domestic Market of Bangladesh:

25.1 Bangladesh's total exports of HP 50% were 38,060 MT in 2019, out of which 56% were to India. Since India is the biggest export market for the Bangladeshi exporters/ producers of HP. Therefore, any restraints to the exports to India cause an oversupply in the domestic market of Bangladesh. Consequently, to dispose off piled up inventories and to utilize idle capacities, Bangladesh has to look forward either to new export destinations or expand market share in existing export markets other than India. In this connection, HIS Markit in its January 2019 publication says:

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“In India, the start-up of new production capacity has reduced import quantity. Bangladeshi exports to India in November dropped to around 5,300 MT versus 10,017 MT in October. In Bangladesh, hydrogen peroxide with 50% concentration in polycan packaging is currently priced at \$470 per MT delivered in the domestic market, while export prices to Asia are \$480 – 490 per MT CFR Southeast Asia. With the domestic market having increasing supply from new capacities coming on-stream gradually, imports are expected to decrease gradually in the coming months. Domestic Indian prices were heard around INR35-40 per kg delivered for 50kg polycan packaging.”

25.2 These added capacities in India started effecting Bangladesh exports and Bangladeshi exporters looked for other export destinations. In such scenario, Bangladesh tried to increase its share in the Pakistan market by offering extremely low (dumped) prices. These facts are also explained by IHS Markit publications of May 2019:

“Given some displacement caused by new domestic capacity in India, some Indian subcontinent producers tried to expand their exports to other markets in the subcontinent by offering prices around \$360 – 380 per MT CFR to Pakistan to match domestic prices. Domestic prices for 50% concentration hydrogen peroxide for Bangladesh are stable and have ranged around BDT 40,000 per MT delivered. Meanwhile the domestic prices in Pakistan were PKR 60 per Kg for 50% concentration hydrogen peroxide and likely to remain weak in the near term due to increasing imports.”

25.3 In addition to capacity expansions and new plants in India, Bangladeshi producers also underwent significant capacity enhancements. Besides, Hydrogen Peroxide is also imported in Bangladesh from China, Korea, and Thailand. These additions in capacity along with an oversupply and price war in the Indian market triggered the excess supply issues for Bangladesh exporters / producers of HP. This fact is also evident from the following extract of IHS publication:

“The overall annual production capacity of Bangladesh will rise by 3% to 82,000 MT per year (100% basis and 164,000 on 50% basis) in 2020. Samuda Chemical Complex Limited’s new 20,000 MT per year (100% basis) hydrogen peroxide facility in Dhaka is scheduled to start up toward the end of the year, a source familiar with the matter said. The plant was supposed to have started up in the third quarter of 2019. The delayed start-up of this capacity could be a boon to the hydrogen peroxide market in the near term as the supply has lengthened following several new capacities and expansion projects at hydrogen peroxide facilities, exerting a downward pressure on prices in Asia. The company is currently operating its hydrogen peroxide plant at Chandgaon. The hydrogen peroxide plant has a nameplate capacity of 28,000 MT per year (100% basis).”

25.4 The above facts shows that due to changed circumstances of over-supply in Bangladesh market (due to new capacity installations and expansion of some of the existing capacities) Bangladeshi exporters/producers have increased their sales to Pakistan’s market at reduced prices in spite of levy of anti-dumping duties.

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26. Export prices of exporters /producers of HP from Bangladesh are not based on cost to make and sell.

26.1 Information available with the Commission reveals that as a result of oversupply in the region, Bangladesh exporters/producers of HP were not focused on profit margins, but their only goal was to maintain or gain more market share. In order to utilize full capacities and to sell piled-up inventories, the Bangladesh exporters/producers increased sales to Pakistan at dumped prices and consequently succeeded in increasing their share in Pakistan's domestic market. Throughout the Period of Review, the export price offered by exporters/ producers from Bangladesh to all the destinations remained on the lower side as compared to other exporters /producers of HP in the region and the reason was clearly to utilize excess capacities and to sell off piled up inventories. The extracts of IHS publications below demonstrate that the exporters tried to remain competitive by offering reduced prices and Bangladeshi exporters/producers were offering even lower prices after displacement caused by new capacities in India. As per below extracts of HIS Markit, the target markets for Bangladeshi exporters /producers were Pakistan, Africa and Southeast Asia. Few of the extracts are as follows:

June 19

"Given some displacement caused by new domestic capacity in India, traditional exporters to India are trying to enter new export markets such as Pakistan, the African continent, and the Southeast Asia. Exporters' offer prices to Pakistan ranged from \$360 to \$370 per MT CFR Pakistan port in order to match Pakistan's domestic prices. Pakistan's domestic prices were approximately PKR 60 per kg for 50% concentration hydrogen peroxide and are likely to remain weak in the near term owing to increasing competition from imports".

September 19

"In India, hydrogen peroxide import spot prices for 50% solution in jerrycan packaging were heard at \$300-320 per MT CFR India. Sufficient material was available in India, with Bangladeshi offers heard in the low \$300 per MT CFR India. Offers from Southeast Asia and Northeast Asia were heard at \$320-370 per MT CFR India. Materials of Bangladeshi origin have also featured quite heavily in price discussions in india in recent months, with prices often being offered anywhere from \$20 - \$50 per MT lower than Southeast Asia and Northeast Asia".

26.2 It appears that to handle additional capacities in the regional market Bangladesh is more concerned with the market share rather than profit-making.

27. Absorption of Anti-dumping Duties

27.1 As per Section 51(e) of the Anti-Dumping Duties Act, 2015, the anti-dumping duties were not applicable on the export-oriented units till June 30, 2019 and the major imports of HP from Bangladesh were by export-oriented units in textile sector without paying anti-dumping

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duties. In the Finance Act, 2019 this provision was omitted. Consequently, the Bangladeshi exporters /producers reduced their export prices to absorb the impact of anti-dumping duties.

27.2 The table below shows the increasing volume of dumped imports at decreasing export prices and that increase in the last quarter is significant. The volume of dumped imports was even more than the volume of imports during the POI of original investigation, which was 1,642 MT.

	Period	Volume of dumped imports from Bangladesh (MT)	C&F export price (\$/MT)
Pre-period of review	Oct-Dec 2018	714.00	164.72
Period of review	Jan-Mar 2019	816.00	119.38
	Apr-Jun 2019	550.80	91.55
	Jul-Sep 2019	1,775.45	78.38
	Oct-Dec 2019	2,998	109.08
Total POR	Jan-Dec	6,140	100.00

* Weighted Average C&F price

Note: To maintain confidentiality actual figures have been indexed with respect C&F Export price of Jan-Dec by taking it equal to 100.

28. Anti-Dumping Measures by other Countries

The Ministry of Finance, Government of India imposed definitive anti-dumping duties on dumped imports of HP from Bangladesh through Gazette Notification No.28/2017 on June 14, 2017. The antidumping duty imposed on Samuda Chemicals was US\$46.90/MT, and ASM Chemicals attracted anti-dumping duty at the rates of US\$ 46.29/MT, while Tasnim Chemical faced anti-dumping duty at the rate of US\$ 27.81/MT. The rate of antidumping duty for all other exporters /producers from Bangladesh was US\$ 91.47/MT. In a review concluded in June 2018, the Ministry of Finance, Govt. of India through Gazette Notification No.33/2018 dated June 01, 2018 notified the revised anti-dumping duties on dumped imports of HP from among other countries from Bangladesh. The antidumping duty on Samuda Chemicals remained at the rate of US\$46.90/MT, on ASM Chemicals it remained at the rates of US\$ 46.29/MT, and on Tasnim Chemical it remained at the rate of US\$ 27.81/MT, however, the rate of antidumping duty for all other exporters /producers from Bangladesh was increased from US\$ 91.47/MT to US\$ 105.82/MT. This imposition of anti-dumping duties also caused a shift of export to other destinations as highlighted in IHS Feb 2019 publications:

“the government of India began imposing antidumping duties (ADDs) on shipments of hydrogen peroxide to India from Bangladesh. As a result, Bangladeshi producers shifted exports to Sri Lanka and are looking to other destinations in Africa and Southeast Asia.”

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29. Return of China to export market of HP

29.1 It has also been observed during this review that for the last many years, Southeast Asian Market was not a focus of Chinese exporters/producers of HP due to internal demand. But since 2019, due to a slow-down in Chinese domestic demand, Chinese exporters/producers started offering HP at very low prices. In this way, China captured the export destinations of Bangladesh exports. In Pakistan due to imposition of high rate of anti-dumping duty (71.93%) on China, Pakistani market was not an option for China. However, as it has hurt Bangladesh exports, in other markets, therefore Pakistani market became attractive for Bangladesh as China cannot compete it in this market.

29.2 The return of Chinese exporters in Southeast Asian market has also led to increase of Bangladesh exports to Pakistan at even lower dumped prices.

30. Summing up Factors of Change of Circumstances

On the basis of information and analysis at paragraphs from 23 to 29 supra the Commission is of the view that the Circumstances which existed at the time of original investigation have changed that warrants the re-calculation of the export price, normal value and dumping margins of product under review. The exports from Bangladesh to Pakistan have significantly increased despite the imposition of anti-dumping duties. Further, the increase in the Gas prices in Bangladesh also leads to an assumption of increase in the normal value of the product under review

E. DETERMINATION OF DUMPING

31. Dumping

In terms of Section 4 of the Act dumping is defined as follows:

“an investigated product shall be considered to be dumped if it is introduced into the commerce of Pakistan at a price which is less than its normal value”.

32. Normal Value

32.1 In terms of Section 5 of the Act “normal value” is defined as follows:

“a comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in an exporting country”.

32.2 Further, Section 6 of the Act states:

“(1) when there are no sales of like product in the ordinary course of trade in domestic market of an exporting country, or when such sales do not permit a proper comparison because of any

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particular market situation or low volume of the sales in the domestic market of the exporting country, the Commission shall establish normal value of an investigated product on the basis of either:

- “a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative; or*
- “b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.*

“(2) Sales of a like product destined for consumption in domestic market of an exporting country or sales to an appropriate third country may be considered to be a sufficient quantity for the determination of normal value if such sales constitute five per cent or more of the sales of an investigated product to Pakistan:”.

32.3 Ordinary course of trade is defined in Section 7 of the Act as follows:

“(1) The Commission may treat sales of a like product in domestic market of an exporting country or sales to a third country at prices below per unit, fixed and variable, cost of production plus administrative, selling and other costs as not being in the ordinary course of trade by reason of price and may disregard such sales in determining normal value only if the Commission determines that such sales were made –

- “(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;*
- “(b) in substantial quantities; and*
- “(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.*

“(2) For the purposes of sub-clause (b) of sub-section (1), sales below per unit cost shall be deemed to be in substantial quantities if the Commission establishes that –

- “(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or*
- “(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.*

“(3) If prices which are below per unit cost at the time of sale are above the weighted average cost for the period of investigation, the Commission shall consider such prices as providing for recovery of costs within a reasonable period of time.”

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33. Export Price

The “export price” is defined in Section 10 of the Act as “a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.

34. Dumping Determination

34.1 As stated earlier, in response to the Exporter Questionnaire the following exporters/producers of HP from Bangladesh provided the requisite data /information:

- i. Samuda Chemical Complex Limited; and
- ii. Tasnim Chemical Complex Limited

34.2 Normal value, export price and individual dumping margins for the above-mentioned exporters/producers from the Bangladesh have been determined in accordance with Part III, IV and V of the Act, on the basis of the data/ information provided by them. However, residual dumping margins/duty rate for all other exporters has been determined, as the highest dumping margin of the above-mentioned exporter.

35. Determination of Normal Value

35.1 The Commission received information on domestic sales and cost of production etc. of the like product from two (02) exporters/producers from Bangladesh i.e. (i.) Samuda Chemical Complex Limited and (ii) Tasnim Chemical Complex Limited in response to the Exporter’s Questionnaire within the given timelines.

35.2 The data/ information submitted by these exporters/producers in response to Questionnaire and two deficiency letters has been used for determination of normal value as discussed below:

35.3 Determination of Normal Value for Tasnim

35.3.1 Normal value for Tasnim has been determined on the basis of the information provided by it on its domestic sales and cost to make and sell during the POR.

35.3.2 According to the information, Tasnim started production of Hydrogen Peroxide in November 2013. The production capacity of Tasnim’s Plant is around ***MT of HP 50% per annum (** MT per day). Tasnim sold like product (50% HP in Jar) in its domestic market during the POR. Section 7 of the Act requires the Commission to apply ordinary course of trade test on the domestic sales of the exporter /producers in its home market, to determine normal value. Analysis of the data relating to domestic sales during the POR provided by Tasnim has revealed that total domestic sales were above the cost to make & sell (profitable sales). Further, the sales which were in ordinary course of trade are in sufficient quantities to determine normal

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value in terms of Section 6(2) of the Act, as these sales were more than 5 percent of its export sales of the HP to Pakistan during the POR.

35.3.3 During the POR, Tasnim sold like product in its domestic market at ex-works basis. Tasnim claimed an adjustment on account of Value Added Tax (VAT @ 15%), which is exempted on exports under Section 23 of the Value Added Tax and Supplementary Duty Act, 2012 (*the relevant Law of Government of Bangladesh*). To make a fair comparison between normal value and export price, Tasnim claimed this adjustment. The Commission has accepted this adjustment and the normal value at ex-factory level has been worked out by deducting values reported for this adjustment from the gross value of domestic sales transactions. Summary calculation of normal value for Tasnim is placed at Annexure-III.

35.4 Determination of Normal Value for Samuda

35.4.1 The data /information provided by Samuda in response to the Questionnaire and two deficiency letters was examined /analyzed in the Commission and it was noted that certain data/ information was changed in response to the two deficiency letters. According to the information, Samuda sold like product i.e. 50% HP in Jar as well as HP in Bulk in its domestic market during the POR. Sales invoices provided as documentary evidence of domestic sales are computer generated documents that may be issued at any time with any data and cannot be relied upon.

35.4.2 Further, there is large difference between the domestic sales prices of Samuda and Tasnim of sales made in the domestic market in same months, for which no cogent reason were found in the response of both the exporters /producers. During the first six months, when majority of sales by Tasnim was made at BDT ***/MT. Samuda was selling at a price not more than BDT ***/MT, which are *** percent lower than that of Tasnim.

35.4.3 Further, even both companies were charging different prices from same customer in the domestic market, which does not appear realistic and logical. Hence, its domestic prices cannot be relied upon. Samuda is the market leader in Bangladesh, its price cannot be so low. They drive the market as a major producer of HP. Prices of market leader are always high as the remaining producers are not in a position to charge a higher price than dominant company in fear of losing market share.

35.4.4 According to the information, Samuda sold in its domestic market like product i.e. 50% HP in Jar as well as HP in Bulk during the POR. Out of total sales of HP 50% made in the domestic market during the POR, the sales in bulk (in Lorry /Tanker) were 38%, worth BDT ***/-. Samuda in Appendix C-3 provided only the data of 62% of its domestic sales of HP 50% in Jars.

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35.4.5 Moreover, the VAT rebate claimed by Samuda on consumption of natural gas for captive purposes is also not substantiated with any evidence. Copies of gas bills also do not show any rebate of VAT. In fact, scanned copies of gas bills are showing "0.00" value against VAT rebate /exemption, which means no such exemption is available to Samuda.

35.4.6 As per the information provided in response to Questionnaire, the state-run Bangladesh Energy Regulatory Commission (BERC) raised natural gas prices by 38% on average for all users effective from July 1, 2019. The Samuda was asked in deficiency letters to explain the impact of 38% increase in the rates (prices) of natural gas from July 2019 on the cost of production of HP. In response the Samuda claimed that they managed to decrease the per unit consumption of gas from ***NM3 in Jan-June 2019 to ***NM3 in July-Dec 2019. The explanation of Samuda does not seem appropriate and Samuda also did not provide any evidence/justification to prove its claim.

35.4.7 Keeping in view above the domestic sales of Samuda provided in Appendix D-3 of the Questionnaire were disregarded and the Commission has calculated cost to make and sell for Samuda from the information provided by it in Appendix-2 of the Questionnaire and Audited Financial Accounts for July 2018 – June 2019.

35.4.8 It is pertinent to mention that the financial year of Samuda is from July to June whereas, the POR is from January to December. In Appendix-2 of the questionnaire, Samuda provided the cost to make and sell for the period July 2018 to June 2019 based on Audited Accounts and for the period July 2019 to December 2019 based on un-audited accounts of six months. To calculate the cost to make and sell for the POR, the Commission has calculated the cost of gas by taking average gas consumption rate for the first six months of the POR, and multiplied the natural gas consumption rates with increased gas price by 38% for use in the production of HP and 44% for use in the production of captive power for plant operation. Summary calculation of normal value for Samuda is placed at Annexure-IV.

36. Determination of Export Price

36.1 The Commission received information on export sales of the HP from two (02) exporters/producers from Bangladesh i.e. Samuda Chemical Complex Limited and Tasnim Chemical Complex Limited in response to the questionnaire.

36.2 The information submitted by these exporters/producers has been used for determination of normal value as discussed below.

36.3 Determination of Export Price for Tasnim

36.3.1 Export price for Tasnim has been determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POR.

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36.3.2 According to the information, Tasnim exported the investigated product to Pakistan during the POR. All export sales to Pakistan, during the POR, were made to un-related customers.

36.3.3 During the POR, Tasnim exported investigated product on LC at sight at CFR level. To arrive at the ex-factory level, it has reported adjustments on account of inland freight, ocean freight and bank charges.

36.3.4 During the POI, payment terms were LC at sight, the Tasnim was asked to provide the actual payment collection days. Tasnim provided the requisite information for each export transaction to Pakistan. Accordingly, an adjustment on account of credit cost has been made by the Commission in export price.

36.3.5 Apart from the above adjustments, Tasnim claimed an adjustment on account of cash subsidy/incentive provided by the Government of Bangladesh on exports of HP. However, the Commission has not accepted this adjustment, because the export price has been determined on the basis of price actually paid or payable by the importer in terms of Section 10(1) of the Act, which states that:

“Section 10. Export price.-(1) Save as provided for in sub-sections (2) and (3), an export price shall be a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan.”

36.3.6 The export price at ex-factory level has been worked out by deducting values reported for adjustments from the gross value of sales transactions on account of credit cost, inland freight, ocean freight and bank charges. Summary calculation of export price for Tasnim is placed at Annexure-V.

36.4 Determination of Export Price for Samuda

36.4.1 Export price for Samuda has been determined on the basis of the data/ information provided by it on its export sales of the product under review to Pakistan made during the POR.

36.4.2 According to the information, Samuda exported HP (50%in Jar) to Pakistan during the POR. All export sales to Pakistan, during the POR, were made to un-related customers.

36.4.3 During the POR, Samuda exported investigated product on LC at sight at CFR level. To arrive at the ex-factory level, it has reported adjustments on account of inland freight, ocean freight, handling cost and bank charges.

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36.4.4 During the POR, where payment terms were LC at sight, Samuda received payment on average after 15 days. Accordingly, an adjustment on account of credit cost has been made by the Commission in export price.

36.4.5 Apart from the above adjustments, Samuda claimed an adjustment on account of cash subsidy/incentive provided by the Government of Bangladesh on exports of HP. However, the Commission has not accepted this adjustment, because the export price has been determined on the basis of price actually paid or payable by the importer in terms of Section 10(1) of the Act, which states that:

“Section 10. Export price.-(1) Save as provided for in sub-sections (2) and (3), an export price shall be a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan.”

36.4.6 The export price at ex-factory level has been worked out by deducting values reported for adjustments from the gross value of sales transactions on account of credit cost, inland freight, ocean freight, handling charges and bank charges. Summary calculation of export price for Samuda is placed at Annexure-VI.

37. Dumping Margin

37.1 The Act defines “dumping margin” in relation to a product to mean “*the amount by which its normal value exceeds its export price*”.

37.2 Section 12 of the Act provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has calculated dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level..

37.3 The Commission has also complied with the requirements of Section 11 of the Act which states that “*the Commission shall, where possible, compare export price and normal value with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place*”.

37.4 Taking into account all requirements set out above, the dumping margins have been re-determined as follows:

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Revised Dumping Margins

Exporters / Producers	Dumping Margin as	
	% of Export Price	% of C & F Price
Tasnim Chemical Complex Limited	17.98%	16.10%
Samuda Chemical Complex Limited	17.62%	15.38%
All Others	17.98%	16.10%

37.5 Dumping margin and antidumping duty rate for all other exporters from Bangladesh, who did not cooperate, has been determined, as the highest dumping margin of the above mentioned exporters. Calculation of dumping margins are placed at Annexure-VII.

F. CONCLUSIONS

38. After taking above facts and analysis into account the Commission has reached the following conclusions:

- i. The domestic industry filed an application for review of change of circumstances pertaining to the antidumping duty imposed on dumped imports of the product under review from Bangladesh in accordance with Section 59 of the Act;
- ii. There is change in circumstances, from those that existed at the time of original investigation, which warrants the re-calculation of the export price, normal value and dumping margins of product under review;
- iii. The data /information provided by the two exporters / producers of HP in Bangladesh shows that Bangladesh Energy Regulatory Commission (BERC) through a public notice raised natural gas prices for industry by 38 percent to Tk10.70 per cubic meter from previous Tk 7.76 per cubic meter.
- iv. As natural gas is a primary raw material for production of HP (*approximately 25% of total cost of production*), therefore, the obvious effect of the revised gas rates is increase in the overall cost to make & Sell of HP in Bangladesh.
- v. Since natural gas accounts for 25% of the total cost of production of HP, the increase in the rates of gas has increased the total cost to make and sell of Bangladeshi producers of HP, which has resulted in increase in normal value as well as export price of HP. Therefore, the Commission re-calculated normal value, export price as well as dumping margin for the product under review;
- vi. The revised dumping margin has been calculated on the basis of data / information provided by the two exporters / producers of HP in Bangladesh.

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G. IMPOSITION OF REVISED ANTI-DUMPING DUTY

39. In terms of Section 59 of the Act the Commission has conducted this change of circumstances review of the definitive anti-dumping duties imposed on dumped imports of HP, imported from Bangladesh and found that due to change of circumstances dumping margins have changed, therefore revised anti-dumping duty at the rate in the table below is hereby imposed on all exports of HP from Bangladesh with effect from August 26, 2020:

Exporters / Producer	Revised Rates of Antidumping Duties
Tasnim Chemical Complex Limited	16.10%
Samuda Chemical Complex Limited	15.38%
All Others	16.10%

(Abdul Khaliq)
Member

(Tipu Sultan)
Member

(Anjum Assad Amin)
Member

(Muhammad Saleem)
Member

(Robina Ahmed)
Chairperson

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Annexure-I

Comments of Interested Parties

Comments of Exporters / Producers:

Samuda Chemical Complex Limited made following comments during the course of this review. The Comments which are germane to this review under the Act are reproduced in Column A below and the Commission’s response thereto are set out in Column B in the following table:

Column-A (Comments of interested parties)	Column-B (Commission’s replies /comments)
<p>“Erroneous Review Application:</p> <p>It is most respectfully submitted that the circumstances prevalent during the initial period of investigation have not been subjected to any significant change and thus, in no manner, do they necessitate an enhancement of the anti-dumping duty rates currently in force. The existing measures, if anything, are now unnecessary given how the domestic selling price and the price it is exported at to countries other than Pakistan is lower than its export price to Pakistan. As such, there is no dumping and continued imposition of the antidumping duty in the absence of dumping is unwarranted and liable to be terminated immediately.”</p>	<p>The National Tariff Commission (“the Commission” while making final determination in this review under provisions of Section 59 of the Anti-Dumping Duties Act, 2015 (the Act) has satisfied itself that circumstances relevant to export price, normal value and hence dumping margin in the investigation have changed, which warrants the revision of anti-dumping duties for the exporters/producers of Hydrogen Peroxide (“HP”) from Bangladesh.</p>
<p>“Grounds to be considered during Review;</p> <p>“Section 59 (3) of the Act lays down the factors that the Commission must consider in order to make any determination in relation to its Review. As per the Act, the Commission must consider whether (a) the anti-dumping duty is necessary to counteract any dumping, and (b) the likelihood of injury to the Domestic Industry if the anti-dumping duty is removed or varied. Further, it has also been provided that if after consideration of these factors it appears that the anti-dumping duty is no longer necessary it must be</p>	<p>The review inquiry is limited to extent of change of circumstances due to which there is need to revisit the dumping margins determined in the original investigation.</p>

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Column-A (Comments of interested parties)	Column-B (Commission's replies /comments)
terminated."	
<p>"Grounds relied upon by the Domestic Industry:</p> <p>i) Increase in gas rates:</p> <p>The first ground cited in the Application is the increase in the price of gas in Bangladesh. The Applicants claim that this would have inevitably increased their costs however despite the increase the Bangladeshi exporters/producers have maintained lower prices in order to cement market position in Pakistan. Further, they also claim that the lower prices are also an indication of the increased dumping margin of these exporters/producers which amounts to a significant change of circumstances."</p> <p>"Despite the increase in gas prices, the overall cost of production has increased approximately by a negligible 1.9% as the Respondent has managed to reduce cost in terms of the remaining 80.60% of the total cost. As such, the effect of 37.89% increase in gas prices, which as per previous total cost of production could have resulted in the total cost being increased by (19.40% x 37.89%) 7.35%, has instead been minimized through curtailment of other production and sale expenditures"</p>	<p>The Commission while concluding this review has determined that state-run Bangladesh Energy Regulatory Commission (BERC) raised natural gas prices by 38% on average for all users effective from July 1, 2019. The Samuda was asked in deficiency letter to explain the impact of increase in the rates (prices) of natural gas from July 2019 on the cost of production of HP produced by Samuda. In response the Samuda claimed that they managed to decrease the per unit consumption of gas from ***NM3 in Jan-June 2019 to *** NM3 in July-Dec 2019. The explanation of Samuda does not seem appropriate as the natural gas is the major raw material of HP. Further, Samuda also did not provide any evidence/justification to prove its claim.</p>
<p>ii) Excess supply due to capacity expansions:</p> <p>"Three further grounds raised by the Applicants concerning oversupply due to capacity expansions in Bangladesh and India, alleged 'strategy' based on acquiring increased market share as opposed to making profits, and increased competition due to rise in Chinese HP exports – all culminate into the claim that HP is being exported to Pakistan at significantly low prices and in large volumes."</p> <p>This is to rectify the incorrect figures provided by the Applicants in section 4.3 of the Application regarding Samuda's current production capacity and the ongoing expansion. The Applicants have</p>	<p>The Commission is of the view that due to changed circumstances of over-supply in Bangladesh market (due to new capacity installations and expansion of some of the existing capacities) Bangladeshi exporters have increased their sales to Pakistan market at reduced prices in spite of levy of anti-dumping duties.</p>

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Column-A (Comments of interested parties)	Column-B (Commission's replies /comments)
<p>incorrectly claimed that Samuda's existing capacity stands at 56,000 Metric Tonne ('MT'). Further, that this capacity is due to increase by 40,000 MT, and up on completion of the expansion work it would amount to a total capacity of 96,000 MT resulting in excess supply in the absence of corresponding demand. However, as stated above, these figures are incorrect and greatly exaggerated. The actual production of Samuda currently stands at 50,000 MT while upon completion of expansion work it would be increased by another 27,000 MT amounting to a total capacity of 77,000 MT. As far as excess supply is concerned, the global sale price of HP has altered significantly. In 2018, Samuda made sales at USD 507 per tonne whereas in 2019 sales had to be made at USD 329.99 per tonne. This sharp reduction in price accurately reflects the influx of HP in the global market, creating the demand and supply gap. For Samuda, this demand and supply gap has meant that out of the 49,630 MT of HP it produced in 2019, it managed to execute sales of 48,305 MT, leaving 1,325 MT as excess. Nevertheless, despite the excess supply and decrease in price, the export price HP was sold at in Pakistan is far from being lower than its domestic selling price or the export price offered to other export destinations."</p>	
<p>iii) Absorption of anti-dumping duties:</p> <p>The Applicants have wrongfully asserted in section 4.3.2.3 of the Application that the price per MT of HP was reduced in order to absorb the imposition of the anti-dumping duties which became applicable on export-oriented units as well through an amendment in the Finance Act, 2019. Instead, as has been explained above, the global price of HP was the subject of reduction due to the prevailing demand and supply gap. While it is admitted that the volume of HP exports from Samuda to Pakistan has increased, this is however no more than a slight increase. Samuda exported 2,244 MT of HP from January to</p>	<p>It has been acknowledged by the Samuda that its sales to Pakistan have been increased during the Period of Review. The facts and the analysis showed the increase in volume of dumped imports at decreasing export prices and that increase in the last quarter is significant. The volume of dumped imports was even more than the volume of imports during POR of original investigation which was *** MT.</p>

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Column-A (Comments of interested parties)	Column-B (Commission's replies /comments)
<p>June 2019, whereas from July to December 2019 2,672.4 MT was exported. This increase in exports were due to demand in Pakistan market and the overall decrease in sale price of HP in the global market..”</p>	
<p>EVIDENCE OF INJURY:</p> <p>The Applicants have requested for the imposition of enhanced anti-dumping duties without having substantiated that material injury has been caused to the Domestic Industry. For the reasons laid out below, it is evident that the Domestic Industry has indeed been thriving, registering substantial sales and profits and that the imports of HP from Samuda have not been the cause of any injury to the Domestic Industry.”</p>	<p>The review inquiry is limited to extent of change of circumstances due to which there is need to revisit the dumping margins established in the original investigation. The Commission while making final determination in this review under provisions of Section 59 of the Act has satisfied itself that circumstances relevant to export price, normal value and hence dumping margin in the investigation have changed, which warrants the revision of anti-dumping duties for the exporters/producers of Hydrogen Peroxide from Bangladesh.</p>
<p>“Effects of Other Known Factors on Domestic Industry:</p> <p>The Commission is obliged to examine known factors, other than imports of the Investigated Product, which are injuring the Domestic Industry to ensure that any injury caused by such other factors is not misattributed in accordance with Section 18 of the Act and Article 3.5 of the Anti-Dumping Agreement.”</p> <p>As can be observed from the relevant extracts from the Financial Reports of the Applicants above, the factors that have contributed to the alleged injury of the Domestic Industry are not volumes of allegedly “dumped imports”, but rather contraction in demand globally, poor management decisions, underutilization of capacity, technical complications and failing business strategies etc. Moreover, the decline of the domestic textile industry and the consequent reduction in its demand of HP is one of the major</p>	<p>The review inquiry is limited to extent of change of circumstances due to which there is need to revisit the dumping margins established in the original investigation.</p>

Conclusion of Review for Change of Circumstances of Antidumping Duties Imposed on Dumped Imports of Hydrogen Peroxide from Bangladesh

Column-A (Comments of interested parties)	Column-B (Commission's replies /comments)
causes of any injury to the Domestic Industry due to the extensive use of HP in textile manufacturing'.	
<p>EXISTING TARIFF STRUCTURE:</p> <p>There is ample protection provided to the Domestic Industry in the form of existing duty structure. The custom duty in place goes up to 11%, the sales tax up to 17%, withholding income tax 5.5%, Sindh excise duty up to 1.75%, regulatory duty 5% and additional customs duty goes up to 2%. The total aggregate becomes 42.25%. The applicants for nearly the last five years have been unjustifiably protected through anti-dumping duties ranging from 10.67%-12.14%. This clearly reflects that in terms of pricing, the exporters of the Investigated Product are already handicapped and further imposition of definitive anti-dumping duties, will create an unequal playing field for the exporters.</p>	<p>The purpose of the Anti-Dumping Duties are not to protect the domestic industry rather these duties are levied to provide a level playing field against the unfair trade practices i.e. Dumping or Subsidy.</p>
Bangladesh Tariff Commission made following comments on this review	
Column-A (Comments of interested parties)	Column - B (Commission's replies/comments)
<p>"The Petitioner has claimed confidentiality on a number of details in the Petition which has significantly impaired our ability to defend Bangladeshi exporter's interests. In essence, the Petitioner has failed to provide a good cause for the purpose of claiming confidentiality on certain essential facts in the investigation and have further failed to provide non-confidential summaries that permit a reasonable understanding of the substance in the Petition, as required under Rule 7 of the AD Rules and Article 6.5 of the WTO ADA...."</p>	<p>On the basis of requests made by the Applicant and keeping in view the provisions of Section 31 of the Act, the Commission has determined the confidentiality and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the interested parties made a request to keep it confidential and the Commission has determined it as confidential. However,</p>

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Column-A (Comments of interested parties)	Column-B (Commission’s replies /comments)
	in terms of Sub-Section (5) of the Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, were placed in public file for review and copying of the interested parties.
<p>“Thus, we submit that export price determined in the Petition is unsubstantiated by relevant evidence. The Petitioner has arbitrarily used figures for the adjustments to the export price which we submit has unfairly lowered the export price determined. In light of the above we submit that the dumping margin determined by the Petitioner based on a flawed normal value and a lowered export price has artificially skewed the dumping margin upwards.”</p>	<p>The Commission has calculated export price on the basis of information submitted by Bangladeshi exporters i.e. Samuda and Tasnim.</p>

Annexure-II

Comments of Interested Parties on SEF

Samuda Chemical Complex Limited the exporter/ producer of HP in Bangladesh made following comments on Statement of Essential Facts

Column-A (Comments of interested parties)	Column – B (Commission’s replies /comments)
<p>Determination of Normal Value:</p> <p>“...Further, the Commission states in the SEF that “the difference between the sales prices of Samuda and Tasnim in same months is not understandable”. However, if the same was not ‘understandable’, clarification from Samuda should have been sought by the Commission so that it could make an informed determination. The simple assertion that the price difference is not ‘understandable’ cannot in itself mean that the data provided is unreliable.</p> <p>The Commission has additionally stated that the domestic prices of Samuda are unrealistic since they cannot be ‘so low’. It appears that the Commission has, for the purposes of domestic sales, chosen to ignore the fact that in order for a business to gain and subsequently sustain an edge over its domestic competitors, it needs to offer competitive prices to consumers in comparison to the prices offered by its competitors. The assessment of the Commission, without requisite substantiation of the same, amounts to little more</p>	<p>There is substantial difference between the domestic sales prices of Samuda and Tasnim of sales made in the domestic market in same months, for which no cogent reason /clarification was found in the response of both the exporters /producers. During the first six months, when majority of sales by Tasnim were made at BDT *** /MT. Samuda was selling at a price not more than BDT ***/MT, which are more than 19 percent lower than that of Tasnim. Even both companies were charging different prices from same customer in the domestic market, which does not seem realistic and logical refer to paragraph 31 of the report.</p> <p>It may further be noted that in response to the Exporter’s Questionnaire Samuda stated that Government of Bangladesh approves the domestic prices of Hydrogen Peroxide. However, when the</p>

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<p>than rhetoric.”</p> <p>“The burden was on the Commission to verify the information regarding the domestic sales prices of Samuda which are of course of substantive relevance to the subject review. The Commission has, however, instead rejected the information provided by Samuda outright and made its determination regarding how the normal value is to be calculated without any attempt to verify the same.”</p> <p>“The Commission has stated that “the VAT rebate claimed by Samuda on consumption of gas for captive purposes is also not substantiated with any evidence.” In relation thereto, if the Commission was not satisfied with the information already provided to it, it should have sought clarification and/or additional documentation on the same. Nevertheless, in order to assuage the Commission’s apprehension on the issue, Samuda shall shortly provide evidence of the VAT exemption claimed by the company.”</p> <p>“Arguendo if the Commission’s claim vis-à-vis non-authentication of the sales invoice/sales transaction is accepted, the constructed normal value should be based on the cost to make and sell for the POR (i.e. January 2019 – December 2019) rather than preceding year (i.e. July 2018 – June 2019). The calculation of normal value based on the preceding year is in violation of the Anti-Dumping Duties Act, 2015 (the “Act”) and the Agreement. It may also be noted that in all previous anti-dumping investigations/reviews, the Commission has always constructed normal value (if based on cost of production) based on the year of review rather than the years preceding</p>	<p>Commission in its second deficiency letter dated June 08, 2020 asked to provide official notification regarding such price determination by Government of Bangladesh, Samuda did not provide any such notification instead provided the Value Added Tax and Supplementary Duty Act, 2012 which does not show any price determination of HP by Government of Bangladesh. This is rather non-competitive behavior and is contrary to the assertions of Samuda for a competition between producers of HP in Bangladesh market. The clarification that the Commission need is if Samuda has reduced its sales price during the POR, how Tasnim was able to sell in the same market at much higher price. The doubt of the Commission on Samuda’s prices further increase when both producers sold to the same customer with a huge price difference.</p> <p>The Commission sought clarification/explanation through second deficiency letter dated June 08, 2020 wherein, Samuda was asked to explain the factors contributed towards sharp decline in the domestic prices of HP during POR, when there was increase in cost of production of HP due to around 40 percent increase in the prices of natural gas. Further the Commission asked to clarify the reason for big difference in domestic sales prices of HP of Samuda and Tasnim, while competing in the same market. However, no satisfactory response was provided by Samuda, therefore the substantiation of the same is addressed in absence of any cogent reason by Samuda for its lower prices.</p> <p>It may be noted that the copies of gas bills provided by Samuda does not show any amount of VAT exemption, in fact, gas bills stating VAT exemption showing “0.00”, which means no such exemption is available to Samuda. Further, VAT rebate claimed by Samuda is also not substantiated with any evidence.</p> <p>It may be noted that Samuda in its deficiency response stated that “.....total gas cost increased around 8.92% during July-Dec 2019 as compared to the natural gas cost of Jan-June 2019. It may be noted that gas consumption per ton in July -Dec 2019 was *** cubic meter as against *** cubic meter in Jan-June 2019. Overall cost of production was not increased in July-Dec 2019 due to decrease in per ton gas consumption and effort to save in other components of cost.” Further Samuda explained that with increase in the production, per unit natural gas</p>

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<p>it. Even otherwise, it defies the principle of natural justice where a period with no nexus to the review has been used to unjustifiably inflate the normal value”.</p>	<p>consumption reduces and vice versa. However, the facts show a different picture e.g.by taking first six months, production of HP was highest in March-2019 i.e. *** MT and accordingly natural gas consumption was lowest i.e. *** cubic meters per MT of HP produced. On the other hand, production of HP was lowest in June-2019 i.e. *** MT and natural gas consumption was highest i.e. *** cubic meters per MT of HP produced. But this rule did not stand true for the later six months where production of HP was lowest during the month of July-2019 i.e. *** MT and was highest during the month of Dec-2019 i.e. *** MT but surprisingly the gas consumption rate was equal in both the months i.e. *** cubic meters per MT. The explanation of Samuda is not appropriate and tenable as the natural gas is the major raw material of HP. Further, Samuda also did not provide any evidence/justification to prove its claim.</p>
<p>Confidential Treatment</p> <p>“ The ‘good cause’ must demonstrate the risk of a potential consequence, the avoidance of which is important enough to warrant the non-disclosure of the information. That is to say, that disclosure of said information would be of a significant competitive advantage to a competitor or that disclosure could have a significantly adverse effect upon a person supplying the information or upon a person from whom such information was acquired.</p> <p>.....The Commission must not treat the Publication as ‘confidential’ when it does not sufficiently satisfy the ‘good cause’ requirement. The Commission is duty bound to make full disclosure of the allegations as well as any evidence in support of those allegations, particularly when such allegations could adversely affect Samuda.</p>	<p>On the basis of requests made by the Applicant and keeping in view the provisions of Section 31 of the Act, the Commission has determined the confidentiality and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the interested parties made a request to keep it confidential and the Commission has determined it as confidential on the basis that IHS Markit Publication/Journal is provided to the Commission by domestic industry on confidential basis and is a paid subscription and is not publicly available. The Commission informed Samuda through email dated July 30, 2020 to subscribe to the Journal to obtain the relevant information/contents.</p>
<p>Reliance on a Third -Party Source instead of Information provided by Samuda:</p> <p>“The Commission has made certain assertions and has provided extracts from the Publication which purportedly ‘support’ its viewpoint whilst failing to address the contentions forwarded by Samuda. Through this failure, the Commission has without justification, rejected the arguments of Samuda and relied upon the information provided by a third-party source instead of the direct/authentic information provided to the Commission by Samuda itself.</p>	<p>The Commission has relied on the information submitted by Samuda where possible and information submitted by the Applicant including IHS Markit Publication/Journal which is a reputable journal.</p> <p>As far as verification by the Commission is concerned, Rule 12 of the Anti-Dumping Duties Rules, 2001 provides that it is not mandatory for the</p>

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<p>....The Commission ought to have made attempts to verify the accuracy of the information particularly in a case such as this where conflicting information has been provided by either parties. The extent of the Commission’s reliance on the Publication is further discussed under paragraph 3 below with the heading “Factors Amounting to Changed Circumstances”.</p>	<p>Commission to carry on the spot verification. However, the Commission may investigate in order to satisfy itself about the accuracy of the information provided by the exporters through supplementary questions. In this case the justification provided by Samuda about the information which did not correlate with each other and the information by other competitors in the same market, was rather unreliable and unsubstantiated. Hence the requirement of the accuracy of the information by the Commission have been met during the course of the review.</p>
<p>Increase in gas rates:</p> <p>“The Commission has taken the fact that the price of gas in Bangladesh has increased to mean that it has also resulted in the increase of the overall cost of production of HP in Bangladesh. The Commission has ignored Samuda’s response in this regard, whereby it had been contended that despite the increase in gas prices Samuda had successfully managed to curtail the effect of the increased gas prices by efficient cost management elsewhere. The Commission, while relying completely and solely on extracts from the Publication, has ignored the fact (fully established through the information of the costs provided by Samuda) that the cost of overall production only grew by a negligible 1.9% as opposed to the expected 7.35%”.</p>	<p>The Commission while concluding this review has determined that state-run Bangladesh Energy Regulatory Commission (BERC) raised natural gas prices by 38% on average for all users effective from July 1, 2019. The Samuda was asked in deficiency letter to explain the impact of increase in the rates (prices) of natural gas during July – Dec. 2019 on the cost of production of HP produced by Samuda. In response the Samuda claimed that they managed to decrease the per unit consumption of natural gas from ***NM3 in Jan-June 2019 to *** NM3 in July-Dec 2019. The explanation of Samuda does not seem appropriate as the natural gas is the major raw material of HP. Further, Samuda also did not provide any evidence/justification to prove its claim.</p>
<p>Oversupply in local market of Bangladesh:</p> <p>“Once again, the Commission has placed full reliance on Publications which, as per the information regarding the true capacity expansion of Samuda Chemical Complex, is inaccurate to say the least. It may be noted that the increase in capacity on 100% capacity utilisation for HP (50% basis) is 27,000 MT per year, whereas for HP (100% basis) it would stand at half of that which is 13,500 MT per year.....”.</p>	<p>The Commission has taken the fact of the capacity expansions in India and Bangladesh regardless of the utilization of expanded capacity. Bangladeshi producers of HP are involved in dumping and has also expanded their capacities.</p>
<p>Absorption of anti-dumping duties:</p> <p>“ In stating the facts regarding this factor, the Commission has relied on the figures provided by the Applicants. While the volume of Samuda’s exports to Pakistan did increase during the period of review itself (negligible, but an increase nevertheless), this was due to the increased demand for HP in Pakistan, and the reduced global price. Moreover, the figures relied upon by the Commission indicate the total volume of imports of HP from Bangladesh, and not just from Samuda. As stated above, while Samuda’s exports did increase compared to the first half of 2019, this was only by a meagre 428 MT which was in fact due to the reasons provided above”.</p>	<p>It has been acknowledged by the Samuda that its sales to Pakistan have been increased during the Period of Review. The facts and the analysis showed the increase in volume of dumped imports at decreasing export prices and that increase in the last quarter is significant. The volume of dumped imports was even more than the volume of imports during POR of original investigation.</p>

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<p>Anti-Dumping Measures by other Countries:</p> <p>“The Commission relied on the imposition of the additional duty by India as evidence of dumping of HP in Pakistan by Samuda. The Commission, in doing so, placed reliance on the February 2019 Publication, which interestingly does not mention that exports are being shifted to Pakistan and instead states “...Bangladeshi producers shifted exports to Sri Lanka and are looking to other destinations in Africa and Southeast Asia”....”</p>	<p>Any imposition or increase in antidumping duty by one jurisdiction creates a likelihood of dumping for another jurisdiction by the exporting country specially in cases where exporters increased their capacities. Such correlation is a fact and is accepted by the other authorities as well to determine likelihood of dumping. Hence, when one market is closed for exporters for any reason (lesser demand in the importing country, increased domestic production or imposition of antidumping duty), the exporters switch to other markets to dispose of their exportable surplus. It is the fact that after the imposition of additional duty by India, exports from Bangladesh has increased to Pakistan.</p>
<p>Return of China to export market of HP:</p> <p>“...The Commission disregarded and failed to address the rebuttal provided by Samuda in its first written submission, wherein it was contended that exports to Pakistan only account for a fraction of Samuda’s sales (10%), and thus it would not be reasonable to claim that any price war with China could be won or Chinese competition effectively quelled with such an insignificant market share...”</p>	<p>It may be noted that 10 percent of total sales of Samuda is not an insignificant figure, this 10 percent accounts for almost 45 percent of the total imports of HP in Pakistan. Secondly, Samuda has already acknowledged that exports to Pakistan from Bangladesh have increased and that too on reduced export prices.</p>
<p>Tasnim Chemical Complex Limited, exporter /producer of HP in Bangladesh, made following comments on Statement of Essential Facts</p>	
Column-A (Comments of interested parties)	Column – B (Commission’s replies/comments)
<p>Unjustified imposition of existing dumping duty:</p> <p>“...National Tariff Commission, Pakistan has imposed anti-dumping duty without using right sense of judgment as we have only three transactions to Pakistan during the period of investigation (POI). In combined of those three transactions, we have only exported 114.780 MT Hydrogen Peroxide to Pakistan during POI. It is not understandable to us how Pakistan has imposed anti-dumping duty to Tasnim Chemical (TCCL) @12.14% whereas we have submitted all the information and documents in support of our negative dumping margin that is (10%) during the period of investigation.....”.</p>	<p>It may be noted that original antidumping investigation was challenged by the exporters before Anti-Dumping Appellate Tribunal vide Appeal Number 85. However, the appeal has not been decided by the Tribunal as the exporters have been seeking adjournments on one pretext or the other.</p> <p>It is pertinent to mention that abovementioned appeal will be decided on its own merits whereas the decision of review is appealable. Hence the two separate proceedings under separate provisions of law can not be clubbed.</p>
<p>No dumping margin on our part of Tasnim Chemical Complex Ltd. (TCCL), Bangladesh during the period under review as well:</p> <p>“During the first half of period under review that is during January, 2019 to June, 2019 we do not have any export to Pakistan. Hence, normal value is not comparable with ex-factory export price. Therefore, there is no question of existence of dumping margin during January, 2019 to June,</p>	<p>The Commission has calculated dumping margin for Tasnim for the period of review. Please refer to paragraphs 34, 35 and 36 of the report of conclusion of changed circumstances.</p>

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<p>2019. Besides this during the second half of the period under review that is July, 2019 to December, 2019 we have exported total 958.80MT Hydrogen Peroxide 50%(packed in 30Kg Jar) to Pakistan whereas our local sales during July, 2019 to December,2019 was 3,134.73MT”</p>	
<p>Unrealistic claim in respect of natural gas cost impact on total cost of production of Hydrogen Peroxide by the Petitioner:</p> <p>“While reviewing petitioner’s submission, Sl.No.4.3.1 of page no. 9 regarding increase of rates of gas prices in Bangladesh for all users including industrial sector, it was claimed by the petitioners that gas cost impact on producing Hydrogen Peroxide represents approximately 25% of total cost of production is not true and correct.</p> <p>Despite the fact that individually Gas price per cubic meter in Bangladesh increased by 37.89% during second half of 2019 but the impact of gas price on overall COGM (cost of goods manufactured level) represents 4.39% only in FIRST half and 5.96% only in SECOND half respectively for the financial year 2019. It seems that the impact of increase of gas price on overall COGM during second half is only 1.57%.”</p>	<p>The Commission has determined normal value for Tasnim on the basis of information submitted by it. Section 7 of the Act requires the Commission to apply ordinary course of trade test on the domestic sales of the exporter /producers in its home market, to determine normal value. Analysis of the data relating to domestic sales during the POR provided by Tasnim has revealed that total domestic sales were above the cost to make & sell (profitable sales).</p>
<p>No material injury as far as Production capacity & actual production is concerned:</p> <p>It has been acknowledged by the Sitara Peroxide Limited (SPL) one of the main petitioner, in its Annual Report (Page No.10 – Directors’ Report) for the financial year 2019 that:</p> <p>“The Company achieved production capacity of 84% which is 14% higher than the capacity achieved during previous financial year.</p> <p>Apart from this Descon Oxychem Limited (DOL) as well as Sitara Peroxide Limited in their official web site announces to expand the existing production capacity of Hydrogen Peroxide from 94MT/day to 120MT/day and 80MT/day to 120MT/day respectively. (8&9)</p> <p>Since production capacity and production significantly increased during the period under review there is no way of material injury to domestic industry in Pakistan”.</p>	<p>The review is limited to the extent of change of circumstances due to which there is need to revisit the dumping margins established in the original investigation.</p>
<p>Unrealistic claim of export prices of Bangladesh exporters/ producers are not based on cost to make and sell:</p> <p>“We always consider market price for local and foreign market in order to remain competitive in the market. During the first half of period under review that is during January, 2019 to June, 2019 we do not have any export to Pakistan. Our average CFR export price/MT in Pakistan during July to</p>	<p>The Commission has considered and determined export price to Pakistan on the basis of the information provided by Tasnim.</p>

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<p>September, 2019 and October to December, 2019 were USD312/MT and USD346/MT respectively Whereas our average CFR export price/MT in India during July to September, 2019 and October to December, 2019 were USD315/MT and USD361/MT respectively. The average CFR export price/MT slightly ahead due to enjoying competitive advantage on anti-dumping duty/MT over the local competitors in Indian market.</p>	
<p>Reasons for imports from Bangladesh:</p> <p>It has been stated that price of natural gas in Bangladesh is significantly lower as compared to Domestic producers of Pakistan and due to lower cost of production Bangladesh enjoys low cost leadership in producing Hydrogen Peroxide compare to Domestic Producers of Pakistan.</p>	<p>The Commission has calculated dumping margin for Tasnim on the basis of its export price and normal value, please refer to paragraphs 34, 35 and 36 of the report.</p>
