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**F. No.7/44/2018-DGTR**

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Trade Remedies

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**Dated 17<sup>th</sup> July, 2019**

**FINAL FINDING NOTIFICATION**

**Subject: Final Finding in the Sunset Review Investigation Concerning Imports of “Electrical Insulators” originating in or exported from China PR**

**F. No.7/44/2018-DGTR:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the “Rules”) thereof;

**A. BACKGROUND OF THE CASE:**

1. Whereas, the original investigation concerning imports of the subject goods from the China PR was initiated by the Authority vide notification no. 14/11/2013 dated 5<sup>th</sup> September 2013 and thereafter preliminary finding notification was issued by the Authority vide Notification No. 14/11/2013-DGAD dated 1<sup>st</sup> July, 2014 recommending imposition of preliminary duty. The preliminary duties were imposed vide Customs Notification No. 40/2014 dated 16<sup>th</sup> September, 2014. Thereafter, the preliminary findings were confirmed and the Final Finding was issued vide Notification No 14/11/2013-DGAD dated 4<sup>th</sup> March, 2015. On the basis of recommendations made by the Authority in the Final Findings, definitive Anti-Dumping Duty (hereinafter also referred to as “ADD”) was imposed w.e.f. 11<sup>th</sup> April, 2015 through Customs Notification No. 11/2015.
2. M/s. Aditya Birla Insulators (A unit of Grasim Industries Ltd.), M/s. Insulators and Electricals Company and M/s. Modern Insulators Ltd. filed an application seeking extension of ADD on imports of electrical insulators from China PR, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry in case of cessation of existing ADD.

3. The Authority on the basis of prima facie evidence submitted by the applicants to justify initiation of Sunset Review (hereinafter also referred to as “SSR”) investigation issued a public notice vide F. No. 7/44/2018-DGTR dated 10<sup>th</sup> January, 2019 to examine whether the expiry of the said duties on the import of the subject goods originating in or exported from China PR (hereinafter referred to as “subject country”) are likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
4. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from the subject country.

## **B. PROCEDURE**

5. The procedure described herein below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
  - i. The Authority notified the Embassy of the subject country in India about the receipt of the Sunset Review application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5.
  - ii. The Authority issued a public notice dated 10<sup>th</sup> January, 2019, published in the Gazette of India, extraordinary, initiating the subject Sunset Review investigation.
  - iii. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
  - iv. The Authority provided a copy of the Non-Confidential Version (hereinafter also referred to as “NCV”) of the application to the known producers/exporters and to the Embassy of the subject country and known importers/users in India in accordance with Rule 6(3) of the Rules.
  - v. The Embassy of the subject country in India was also requested to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire was sent to the known producers/exporters was also sent to the Embassies along with the names and addresses of the known producers/exporters from the subject countries.

- vi. The Authority sent Exporter's Questionnaire and Market Economy Treatment Questionnaire (for China PR) to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
- a. M/s. Hunan Liling Huaxin Porcelain Insulator and Electric Apparatus Co. Ltd.
  - b. M/s. Dalian Insulator Co. Ltd.
  - c. M/s. NGK Insulators Tangshan Co. Ltd.
  - d. M/s. Xian XD High Voltage Porcelain Insulator Company Limited
  - e. M/s. NGK Ceramics Suzhou Co. Ltd.
  - f. M/s. NGK Insulators Suzhou Co. Ltd.
  - g. M/s. NWB (Shanghai) Co. Ltd. (Trench China)
  - h. M/s. China Electro-Ceramic Imp. & Exp. Co. Ltd.
  - i. M/s. Trench High Voltage Products Ltd., Shenyang (THVS)
  - j. M/s. Hunan Liling Guolian Porcelain Insulator & Electrical Apparatus Co. Ltd.
  - k. M/s. Seves Sediver Insulator (Beijing) Co. Ltd.
  - l. M/s. Nanjing Electric Group Co. Ltd.
  - m. M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd.
  - n. M/s. Sichuan Yibin Global Group Co. Ltd.
  - o. M/s. Sediver Insulators (Shanghai) Co. Ltd.
  - p. M/s. Liling Huaxin Insulator Technology Co. Ltd.
  - q. M/s. Chengdu Global Special-Glass Manufacturing Co. Ltd.
  - r. M/s. Shenyang Xinxin Alliance Electric Co. Ltd.
  - s. M/s. Tangshan High Voltage Porcelain Insulators Co. Ltd.
  - t. M/s. Liaoning Shuangling Electric Porcelain Mfg. Co. Ltd
- vii. In response to the initiation of the subject investigation, following producers/exporters from the subject country have responded by filing questionnaire response:
- a. M/s. Liling Huaxin Insulator Technology Co., Ltd.
- viii. Further, submissions were also made by the following party post hearing-
- a. M/s. Sediver Insulators (Shanghai) Co. Ltd
- ix. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- b. M/s. Crompton Greaves Ltd.
  - c. M/s. Areva T&D India Limited
  - d. M/s. ABB Limited
  - e. M/s. Siemens Ltd.
  - f. M/s. Power Grid Corporation of India Limited.

- g. M/s. Adani Power Ltd.
  - h. M/s. Tata Projects Ltd.
  - i. M/s. Kalpataru Power Transmission Ltd.
  - j. M/s. KEC International Ltd.
  - k. M/s. Reliance Infrastructure Ltd
- x. None of the importer of the subject goods has responded by filing an importer questionnaire response.
- xi. Another exporter namely, M/s. Sediver Insulators (Shanghai) Co. Ltd had filed its submission before the Authority at a delayed stage and the same was not considered as the interested parties and was also informed of the same during the oral hearing itself. However, the submissions made by M/s. Sediver Insulators (Shanghai) Co. Ltd have been considered and addressed wherever found relevant, even though the company has not responded to the Designated Authority within the prescribed time limits. While the company claimed to have sent a communication to the Designated Authority, but the legal representative, authorised by the company, was not able to show any document demonstrating filing of submissions which they were specifically directed to do. In any case, the Designated Authority considered it more appropriate to examine the (belated) concerns raised by the company. It is also noted that the company has not filed any response in the form and manner prescribed by the Designated Authority and thus is non-cooperative to that extent.
- xii. List of interested parties for the present investigation were notified by the Authority vide notice dated 29<sup>th</sup> April, 2019, wherein only the following were considered as the interested parties.
- a. M/s. Aditya Birla Insulators (A unit of Grasim Industries Ltd.)
  - b. M/s. Insulators and Electricals Company
  - c. M/s. Modern Insulators Ltd
  - d. M/s. Liling Huaxin Insulator Technology Co., Ltd.
- xiii. The Authority made available Non-Confidential Version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation (herein after also referred as "POI"), which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.

- xv. The Non-Injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules has been worked out so as to ascertain whether Anti-Dumping Duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. The Authority conducted an oral hearing on 24<sup>th</sup> April, 2019 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry and other interested parties. All parties who presented their views at the time of the oral hearing were requested to file written submissions of the views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were allowed to submit their rejoinder thereafter.
- xvii. Verification of the information provided by the domestic industry and the interested party was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- xviii. The Period of Investigation (POI) for the purpose of the present review investigation is 1st April 2017 to 30th September 2018 (18 months). The examination of trends in the context of injury analysis covered the periods 2014-15, 2015-16, and 2016-17 and the POI.
- xix. A Disclosure Statement was issued to interested parties on 27.06.2019 containing essential facts under consideration of the Designated Authority, giving time up to 8.07.2019 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xx. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final finding Notification.
- xxi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient Non-Confidential Version of the information filed on confidential basis.
- xxii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has

significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.

xxiii. ‘\*\*\*’ in this document represents information furnished by an interested parties on confidential basis and so considered by the Authority under the Rules.

xxiv. The exchange rate for the POI has been taken by the Authority as US\$ 1 = Rs.66.61

### **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

6. The Product Under Consideration (herein after also referred as “PUC”) is electrical insulators of glass or porcelain/ceramic, whether assembled or unassembled. However, (a) telephone or telegraph insulators of voltage rating up to 1 KV, (b) electrical or electronic appliances/device insulators of voltage rating up to 1 KV, and (c) composite insulators are excluded from the scope of present investigation. Further, it is clarified that bushings and voltage transformers are beyond the scope of the product under consideration and proposed measures.

#### **Views of the Domestic Industry**

7. Following submissions were made by the domestic industry with regards to PUC:

- i. The current being a review investigation, the scope of the PUC remains the same as that considered in the original investigation.
- ii. Main function of an electrical insulator is to insulate one conducting body from another at high voltage areas, or to insulate a body which can transmit electrical energy to the surrounding, at areas where such transmission of electrical energy has to be avoided.
- iii. The PUC comprises of a number of different types of the product. Based on the application of PUC, it can be classified into Transmission line insulators and Substation insulators
- iv. For porcelain insulators, there is no known difference in the technology adopted by the petitioner companies and by the producers in the subject country. Production technology as also production process employed by the domestic industry and the exporters from the subject country are comparable. Every manufacturer fine-tunes its production process according to available facilities and necessities.
- v. For glass insulators, the production technology, plant & equipment, production process is different from that involved in porcelain insulators. Manufacturing process involved in glass and porcelain insulators are different since glass insulators are made by melting the raw materials and thereafter solidifying, whereas, porcelain insulators are made by forming the raw materials in desired shape. Clay can be put into desired form either by forming process or by melting

process. In forming process, the clay is put in a desired mix and a lump is made. The lump is formed into desired shapes. While the manufacturing process differs significantly considering the way raw materials are treated, the broad methodology for making the product is almost similar.

- vi. Issue of like article has already been examined in detail by the Authority in the original investigation. The Authority had determined in the original investigation that the subject goods imported from subject country and the one produced by the domestic industry are like article. Since this being the review investigations, the PUC is the same as the one determined by the Authority in the original investigation. Subject goods produced by the petitioners should be treated as a like article to the goods imported from the subject country within the meaning of the Anti-Dumping Rules for this investigation as well.
- vii. No request has been made for the inclusion of polymer insulators in the scope of the subject goods.
- viii. The petitioners had filled a separate application for polymer insulators. At the same time, the domestic industry has been making various efforts to win back the market ceded to porcelain insulators. These efforts have started showing positive results. It is reiterated that the domestic industry is not treating polymer insulators as subject good and trying to get duties imposed on them.

#### **Views of the other interested parties**

8. The submissions made by the opposing interested parties with regards to the PUC have been summarized as below:
  - i. The petitioners have considered Polymer/Glass/Porcelain Insulators as same products and have provided the injury information considering polymer/Glass/ Porcelain Insulators as like articles. The petitioner is trying to revise the scope of PUC which is not permissible in sunset review investigation.
  - ii. Since the imports of subject goods declined and of polymer insulators increased during the injury period, petitioners are considering both the products as same articles in the present investigation and seeking imposition of Anti-Dumping Duty on the same. Polymer Insulators are different products as compared to Glass/Porcelain Insulators.
  - iii. The domestic industry does not produce polymer insulators. Only M/s. Aditya Birla Insulators produces the negligible quantity of Polymer Insulators. It is submitted that, when the petitioners do not produce the Polymer Insulators by themselves, the request for inclusion of the same in scope of subject goods is not tenable.
  - iv. Consideration of polymer insulators in the scope of PUC will be against the Principle of Natural Justice as the producers/exporters of such goods have not been provided an opportunity to file their data and information as polymer insulator was excluded from the scope of PUC.
  - v. The petitioner has claimed that they are filing a separate application and also claiming to include Polymer Insulator in the present investigation considering it as like articles. If they are considering the two as like articles, then filing two different/ separate

applications before the same Authority against the same products against the same country is not tenable and shows dichotomous thinking on the part of applicants. Petitioners should have filed a fresh composite application for imposition of Anti-Dumping Duty for electrical insulators considering all forms.

**EXAMINATION BY THE AUTHORITY:**

9. The PUC in the present review investigation is electrical insulators of glass or porcelain/ceramic, whether assembled or unassembled, excluding (a) telephone or telegraph insulators of voltage rating up to 1 KV, (b) electrical or electronic appliances/device insulators of voltage rating up to 1 KV, and (c) composite insulators. bushings and voltage transformers are also beyond the scope of the product under consideration. The PUC comprises of a number of different types of the product identified into various PCNs as determined in the original investigation.
10. The present investigation being a sunset review investigation and Anti-Dumping Duties being in force on the imports of the subject goods from the subject countries, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigation.
11. As regards, the argument on inclusion of polymer insulator in the scope of PUC, the Authority notes that the domestic industry has submitted that polymer insulators are “like article” to the subject goods which is highlighted by the fact of increased imports of polymer insulator after imposition of duties on glass/porcelain insulators. The petitioners have stated that the Polymer insulators are being used interchangeably with glass/ porcelain insulators in certain applications thus making them “like article” to the subject goods. However, the present investigation is a Sunset Review investigation, and the Authority is not inclined to alter the scope of the PUC in the present investigation and had decided to not include the polymer insulators in the scope of product under consideration as is clear from the initiation notification. Further, the issue of alleged injury to the domestic industry due to imports of polymer insulator is an issue of causal link and has been appropriately examined at the relevant place in the present notification.
12. After considering the information on record, the Authority holds that there is no known difference in PUC exported from subject country and the subject product produced by the Indian industry. The subject goods produced by the domestic industry is comparable to the subject goods exported from subject country in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The mere difference in the production process does not make the product types as different. The end consumers/user industry is ultimately using the different product types interchangeably and the product types are like article to the subject goods being imported from the subject country. In any case, the issue of product scope and like article was examined by the Authority in the last

concluded investigation and needs no further clarification.

13. The subject goods are classified under chapter 85 of Customs Tariff Act, 1975 under the subheading 854610 and 854620 of the Tariff Classification. However, the PUC has also been imported under chapter 98 as project category imports. The custom classification is indicative only and not binding on the scope of investigation.
14. The Authority holds that the subject goods produced by the petitioners are like article to the product under consideration exported from the subject countries, in accordance with the Anti -Dumping Rules.

#### **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

15. The petition was filed by M/s. Aditya Birla Insulators (A unit of Grasim Industries Ltd.), M/s. Insulators and Electricals Company and M/s. Modern Insulators Ltd., (herein after referred as "petitioners") seeking initiation of Sunset Review for continuation/ extension of present Anti-Dumping Duties on imports of Electrical Insulators from China PR.
16. It is noted that apart from the petitioners, there are some other producers who operate in both organized and unorganized sector. Details of Indian production have been provided as per Indian Electrical & Electronics Manufacturers' Association (IEEMA). Since information provided by IEEMA is in terms of numbers, the domestic industry has converted the same into weights by adopting appropriate weights for different kinds of insulators, which have been found appropriate. Further, the production details provided by IEEMA does not include production by IEC. Therefore, IEC production has been added on actual basis. Since ABI and Modern actual data is available, IEEMA data has been substituted with ABI and Modern's actual data.
17. It is noted that the production of the petitioners constitutes "a major proportion" of the Indian production. There are no contrary submissions in this regard from any of the interested parties. Further, the petitioner companies are not related to any importer or exporter of subject goods in the subject country, nor have they imported subject goods from subject country. The petitioners, therefore, satisfy the requirement of standing to file the present petition and constitute "Domestic Industry" within the meaning of the Rules.

#### **E. MISCELLANEOUS SUBMISSIONS**

##### **Views of the domestic industry**

18. The following miscellaneous submissions have been made by the Domestic industry:
  - i. Claims of interested parties with regard to excessive confidentiality claims by the domestic industry are without basis. Domestic industry has supplied all the relevant

data consistent with trade notice No 1/2013 and have not claimed excessive confidentiality. Further, there is no specific statement with regard to any data/information/document that the domestic industry was obliged to provide and which has been claimed confidential.

- ii. Reference to Rule 5 for initiation is highly misplaced, as the present application has been filed under Rule 23. The obligations under Rule 5 and Rule 23 are very different. Petitioners are willing to provide any information that the Authority desires. Present investigation is a Sunset Review investigation, and what requires to be seen at the stage of initiation is whether or not there is sufficient evidence justifying likelihood of dumping and injury in the event of cessation of duty.
- iii. Fact of polymer insulators increase in imports is in fact one of the parameters indicating likelihood of dumping and injury. Anti-Dumping Duties in force is the sole reason for such significant increase in polymer insulators, thus cessation of Anti-Dumping Duties will, in all likelihood, lead to increase in dumped imports resultantly causing injury to the domestic industry.
- iv. M/s. Sediver Insulators (Shanghai) Co. Ltd attended the hearing without even registering itself as an interested party. While at the time of the hearing the Authority had specifically stated that for registration as an interested party, the time limits have to be adhered to. Even the written submission is silent on this issue. Submissions have been made by the exporter without establishing that it has registered itself as an interested party with the Authority. It has not timely availed opportunity under the Rules and has not filed questionnaire response till date. The Hon'ble Tribunal in the matter of *Merino Panel v. Designated Authority* held that a party cannot be treated as an interested party unless it files questionnaire response. Therefore, their submissions should be rejected.

#### **Views of the other interested parties**

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

- i. The NCV of the petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No 1/2013 dated December 09, 2013 issued by the Authority. The petitioners abusively withheld and manipulated information related to the allegations of injury. Petitioners have not provided sufficient reasons as to why confidentiality was claimed and why summarization was not possible for certain information.
- ii. Information provided is manifestly insufficient to justify the initiation of an investigation under Rule-5(3) of the Rules. The evidence presented must be of an adequate quality to constitute "sufficient evidence". Reliance has been placed on WTO Panel in the United States – Softwood Lumber from Canada; Guatemala- Cement II and Mexico – Steel Pipes and Tubes. Other factors causing injury must have been examined.
- iii. The petitioners have claimed excess confidentiality and therefore, they are in violation of Rule 7 of AD Rules as well as Trade Notice No. 10/2018 dated September 7, 2018. Petitioners filed injury statement separately for transmission and sub-station segments.

Injury statements have been claimed completely confidential without demonstrating any reasonable basis/good cause for the same, precluding other interested parties from making reasonable comments. Reliance placed on M/s. *Meghmani Organics v. UOI*.

#### **Examination by the authority**

20. The various miscellaneous submissions considered relevant have been examined as under:

- i. As regards the contention with regard to confidentiality of information, it is noted that the information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the NCV of the evidences submitted by various interested parties in the form of public file.
- ii. As regards the argument of M/s. Sediver Insulators that it is an interested party, the Authority notes that no exporter questionnaire responses have been filed within prescribed or extended time period nor the said exporter has been able to show that they had registered themselves as interested party within the prescribed time limits in order to lodge its claim to participation in the present proceedings. The Authority notified the necessary notification to this effect on the website of DGTR for information of all concerned. In view of the above, the Authority has decided to not consider M/s. Sediver Insulators as an interested party for the purposes of the present investigations.

#### **F. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN**

##### **Views of the domestic industry**

21. The domestic industry *inter alia* submitted as follows:

- i. Normal value in China should be determined on the basis of Para-7 of Annexure-I. Authority is requested to kindly determine normal value in China in accordance with Para 7 & 8 of Annexure-I of the Rules.
- ii. The exporters have failed to show that consistent with the provisions of Article 15(a)(i), market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product under consideration. The Authority is not required to use Chinese prices or costs for the purpose of determination of normal value.

### Views of the opposing interested parties

22. The opposing interested parties have submitted that in accordance with relevant provisions of the Protocol on China's accession to the WTO, adopting non-market economy status in Anti-Dumping actions is lacking legal basis since 11th Dec, 2016. Such practice is bound to expire from then on. Reliance placed on WTO Appellate body report in Fastener case initiated by China PR against the EU

### Examination by the Authority

23. At the stage of initiation, the petitioner proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of whether their data/information could be adopted for the purpose of normal value determination. The Authority sent copy of relevant questionnaire to all the known producers/ exporters for providing relevant information in this regard. However, none of the Chinese producers/exporters have filed any response to this questionnaire.

24. The Article 15 of China's Accession Protocol in WTO provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

*"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

*(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

*(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

*(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the*

*SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

*(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

*(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."*

25. The Authority notes that on 11.12.2016, the provisions of 15 (a) (ii) have though expired, the provision of Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure 1 of India's AD Rules to be satisfied through the information/data provided in the supplementary questionnaire on MET status. The Authority notes that since none of the responding exporters from China have submitted market economy treatment questionnaire response, the normal value computation is required to be dealt as per provisions of para 7 of Annexure-1 of AD Rules.

#### **Methodology for Determination of Constructed Normal Value**

26. The cost of the most efficient domestic industry has been considered for the purpose of calculating constructed normal value. An appropriate profit margin of 5% has been added to the 'total cost of sales excluding interest' to arrive at the Constructed Normal Value of the subject goods. The normal value so constructed is as mentioned in the dumping margin table below.

#### **Determination of Export Price**

27. Only one producer exporter namely M/s. Liling Huaxin Insulator Technology Co., Ltd has filed exporter's questionnaire (EQ) response in the present investigation. The examination of the response revealed that producer has exported subject goods to India

directly as detailed in Appendix -3A of the EQR. The export data submitted by the respondent was duly correlated with the import data obtained from DG systems. As per the details submitted, the company has exported only certain types of porcelain insulators in India during the POI. The necessary adjustments on account of ocean freight, insurance, inland freight, port handling charges, credit cost, packing cost and bank charges have been claimed and the same were considered after due verification (in a table study) to compute the Net (ex-factory) export price. The NEP has been calculated PCN wise. The NEP is as mentioned in the dumping margin table below.

**CNV & EP FOR NON RESPONDING PRODUCERS EXPORTERS**

28. The export price for the non-responding producers/exporters from China has been determined on the basis of export transactions of the responding producer. The cooperative exporter has exported to India the subject goods which fall under multiple PCNs. The CNV has been determined on the basis of PCN having the highest CNV.

**DUMPING MARGIN**

29. The dumping margin for subject goods has been determined by comparing (constructed) normal value and net export price at ex-factory level for the subject goods. The dumping margin has been computed PCN wise and the weighted average of the same is given in the table below.

Producer	NEP	CNV	Dumping Margin		
	US\$/MT	US\$/MT	US\$/MT	%	Range
M/s. Liling Huaxin Insulator Technology Co., Ltd	***	***	***	***	40-50
Other non-responding exporters	***	***	***	***	165-175

30. It is seen that the dumping margin is more than the de-minimis limits prescribed under the Rules.

**G. DETERMINATION OF INJURY AND CAUSAL LINK**

**Views of the Domestic industry**

31. The domestic industry has made the following submissions in this regard:

- i. The porcelain insulator Indian industry had been suffering in past which was established in the original investigation and resulted in imposition of present ADD.

- ii. With imposition of anti-dumping duty and safeguard duty, the sales of the Indian industry improved for a brief period, however major utilities companies started treating polymer insulator at par with glass/porcelain insulators which led to replacement the market share of the porcelain insulators. The import data clearly shows increase in polymer insulators, post imposition of antidumping duty, with a decline in imports of glass/porcelain insulators.
- iii. Fact of change in pattern of imports from one type of insulator to another type in response to antidumping duties indicates the capability and resilience of the Chinese Producers to shift from one product to another as per the demand. This also indicates that in case the duties are removed they may revert to porcelain/glass insulators. The domestic industry has persuaded the concerned Authority to distinguish between the polymer and porcelain/glass insulators in view of their different specifications to deal with different environmental conditions which has been found acceptable by the Authorities. Thus, it is expected that demand for glass/porcelain insulators will continue to exist and increase in future.
- iv. Even when the volume of imports have declined the same are at dumped and injurious prices.
- v. The imports in relation to both production and consumption have shown a declining trend throughout the injury period. Market share of subject imports in total imports declined till 2016-17 and again increased in POI. Imports from the subject country still hold a significant share of 87% in total imports. Other countries do not even sell their product in the Indian market owing to the kind of pricing that is followed by Chinese producers.
- vi. Profit before interest has declined over the injury period, even after imposition of anti-dumping duties in view of the fact that the market has been distorted with imports of Polymer insulator in the market.
- vii. Cash profits increased slightly from the base year, but then have decreased significantly. Return on investment has followed the same trends as cash profits where there was a slight increase from base year, then there was a sudden decline.
- viii. Average inventory has increased. In spite of order-based industry, domestic industry has to undertaken production in anticipation of orders, as kiln cannot be stopped and started as when required. In absence of orders, there is pileup of the inventories over the injury period.
- ix. Going by the current demand and the market situation, domestic industry is not in a position to make further investment. Dumping of glass insulators first and thereafter polymer insulators now is holding back the industry from making fresh investments. Continued dumping of the product has very heavily impacted the Indian industry, which was once upon a time a major exporter of the product.
- x. BHEL has two plants for production of insulators with a total capacity of producing 12,000 MT insulators. One of the plants has suspended the production because of dumping of glass and porcelain insulators in the country causing significant financial losses and the company could not sustain the injury being inflicted and instead decided to suspend production in its Bangalore plant.

### Views of other interested parties

32. Submissions made by the other interested parties are as under:

- i. Sales of petitioner companies have increased from 55,993 MT during the base year 2014-15 to 85,353 MT during the POI of 18 months. On the contrary, imports from subject country have declined substantially by 93% from 36,357 MT during the year 2014-15 to 2,214 MT only during the POI with the decrease in demand. Total demand of the subject goods in India have declined from 114,467 MT during the base year 2014-15 to 110,026 MT during the POI. Thus, injury to the domestic industry cannot be attributed to the imports of subject goods but to the imports of polymer insulators.
- ii. The share of subject imports in the market demand has significantly declined whereas imports of polymer insulator have increased substantially. Such insignificant share from subject country cannot cause injury to the domestic industry
- iii. The cost of sales has increased marginally, whereas the selling price remains constant. Change in cost has not affected the selling price which means that there is no co-relation between the cost of sales and the selling price of the domestic industry. The petitioner has not provided the information related to landed price in the revised petition. Therefore, the comparison of the same is based on the information provided in the original petition. Landed price of the imports of the subject goods from China PR is increasing with the increase in Cost of Sales.
- iv. The increase in the landed price resulted into decline in price undercutting during the POI as compared to the base year. (Comparison of base year with 18-month POI)
- v. The sales volume of the petitioners has increased during the POI as compared to the base year. Export sales have also increased. Thus, there is no injury to the domestic industry (Comparison of base year with 18-month POI)
- vi. The reason for decline in the profitability of the domestic industry is not the imports of subject goods from China PR; it is the imports of Polymer Insulators which is causing injury to the domestic industry.
- vii. The increased use of polymer insulators indeed does indicate a change in pattern of consumption in the market. PGCIL has completely switched from the product under consideration to polymer insulators – as the largest producer in India this must be interpreted as a substantial shift in the pattern of consumption. Thus, there is no causal link between injury and subject imports.
- viii. Petitioners have tried to obfuscate the data by conducting joint market share analysis of PUC as well as polymer insulators. Still the data shows the market share of the subject country has declined substantially and that of petitioners has remained unchanged.
- ix. On the price parameters of injury, exporter is prevented from making relevant submissions since the separate data for substation and transmission insulators has not been made available in non-confidential form. However, statements made by the petitioners in indicate that any injury suffered by the petitioners in this period is completely unrelated to the subject imports.

- x. Any injury allegedly suffered by the domestic industry is due to factors other than imports from the country concerned non-attribution analysis should be performed to ensure the causal link between the dumped imports and the alleged injury or exclude the injuries caused by factors other than the dumped imports.
- xi. Given that the Petitioners are largely injured by the shifting trend in the market, Authority must discontinue duties on the product under consideration and allow the petitioners to either file a fresh application on polymer insulators or a joint application for the product under consideration and polymer insulators.

### **Examination by the Authority**

33. The injury analysis made by the Authority here under addresses the various submissions made by the interested parties.

(i) Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

(ii) Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

(iii) According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further

period of five years and such further period shall commence from the date of order of such extension.

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

(v) In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

## **I Volume Effect**

### **i. Assessment of Demand**

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

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Sales of Domestic Industry	MT	55,993	59,357	56,186	56,902
2	Sales of Other Indian Producers	MT	22,097	30,411	19,955	14,747
3	Imports from Subject Countries	MT	36,357	9,412	3,006	1,476
4	Import from Other Countries	MT	20	39	1,242	225
5	Total Demand	MT	1,14,466	99,219	80,388	73,351

35. It is noted that the demand for the subject goods declined over the injury period. It has been contended both by the domestic industry and the responding exporter that the demand for the product under consideration has been taken away by polymer insulators in transmission segment. It has been stated that some of the consumers (primarily PGCIL) had started using polymer and product under consideration interchangeably. It is seen that there is significant increase in value of import of polymer insulators and sale of polymer insulator of Indian producers as shown below-

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI (A)
<b>Porcelain Insulators</b>						
1	Sales of Domestic industry	Rs. Lacs	***	***	***	***
2	Sales of Other Producers	Rs. Lacs	***	***	***	***
3	Imports from Subject Country	Rs. Lacs	28,205	8,089	2,398	1,732
4	Imports from Other Countries	Rs. Lacs	25	67	1,448	239
<b>Polymer Insulators</b>						

5	Imports from China	Rs. Lacs	11,004	10,763	14,910	14,771
6	Sales of Indian producers	Rs. Lacs	***	***	***	***

## ii. Import volume and Market Share

36. With regard to volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The table below summarizes the data with regard to import volumes and market share:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Subject country- China	MT	36,357	9,412	3,006	1,476
2	Other Countries	MT	20	39	1,242	225
3	Total	MT	36,376	9,451	4,248	1,702
4	Subject Country-China	%	100%	100%	71%	87%
5	Other Countries	%	0%	0%	29%	13%
6	Total	%	100%	100%	100%	100%
7	Subject country imports in relation to					
a	Indian Production	%	41.21%	9.14%	3.38%	1.76%
b	Indian Demand	%	31.76%	9.49%	3.74%	2.01%

37. It is noted that imports from subject country have declined throughout the injury investigation period. Subject imports in relation to production and consumption also declined throughout the injury investigation period in view of imposition of anti-dumping duty. The reason for the said decline, as stated by the domestic industry, is the shifting of porcelain/glass insulators demand to polymer insulators.

38. The PUC can be segregated on the end use basis majorly into two categories namely, "transmission line insulators" and "substation insulators" which can then be further segregated into various PCNs on the basis of technical specifications. The analysis of imports of the PUC shows that the volume of imports in transmission segment declined sharply, whereas the same has increased in sub-station segment. As per the claims made by the domestic industry, evidenced by the import data, the market demand in transmission segment had temporarily shifted to polymer insulators which is gradually shifting back to porcelain/glass insulators, thereby, the need to continue with the present ADD is essential.

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Imports in transmission segment	MT	35,332	8,595	2,313	-
2	Imports in substation segment	MT	80	212	413	720

## iii. Price Effect

### a. Price Undercutting

39. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade.
40. The petitioners have compared landed price of imports with the selling price of the domestic industry for the subject goods. The price undercutting calculated on the basis of DGCIS data is as under-

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Landed Price	Rs/Kg	83.06	91.55	85.20	127.67
2	Net Selling Price	Rs/Kg	***	***	***	***
3	Price Undercutting	Rs/Kg	***	***	***	***
4	Price Undercutting	Range %	60%-70%	55%-65%	60%-70%	5%-15%

41. It is seen that the landed price of imports of subject goods from subject country has increased in the POI as compared to base year, which is on account of the fact that during the earlier years, the imports were mostly comprised of disc insulators for transmission line which are low priced as compared to hollow insulators for substation being imported during the POI. However, the imported subject goods are still at prices which are below the net selling price of the domestic industry (as a whole including insulators for transmission and substation line). Thus, imports from subject country are undercutting the prices of domestic industry in the POI to a significant extent.

#### **b. Price Suppression/ Depression**

42. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the petitioner has considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Landed Price	Rs/Kg	83.06	91.55	85.20	127.67
2	<i>Trend</i>	<i>Indexed</i>	100	110	103	154
3	Cost of sales	Rs./Kg	***	***	***	***
4	<i>Trend</i>	<i>Indexed</i>	100	98	104	106
5	Selling price	Rs./Kg	***	***	***	***
6	<i>Trend</i>	<i>Indexed</i>	100	100	100	100

43. It is seen that the selling price is below the level of cost of sales of domestic industry during the POI. The landed price of subject imports is lower than the cost of sales during the entire the injury period thereby forcing the domestic industry to keep the prices below the remunerative level. As a consequence, the domestic industry is facing price suppression during the POI.

**c. Price Underselling**

44. The petitioners had claimed that the subject imports are underselling the prices of domestic industry. They had claimed price underselling by comparing the non-injurious price with the landed price of subject imports from DGCIS data. It was decided to examine the impact of subject imports on the prices of the domestic industry. Therefore, the non-injurious price for the domestic industry has been calculated unit-wise and a weighted average has been arrived at to compare it with the landed value of imports. It is seen that the price underselling is positive and significant.

NIP	Landed Price	Price underselling	Price underselling
US\$/MT	US\$/MT	US\$/MT	%
***	***	***	10-20

**II. Economic Parameters relating to the Domestic Industry**

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

46. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below:

**a. Production, Capacity, Capacity Utilization and Sales Volume**

47. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Capacity	MT	85,059	85,059	88,726	84,639

2	<i>Trend</i>	<i>Indexed</i>	100	100	104	100
3	Production	MT	66,130	72,609	68,940	69,217
4	<i>Trend</i>	<i>Indexed</i>	100	110	104	105
5	Capacity Utilization	%	78%	85%	78%	82%
6	<i>Trend</i>	<i>Indexed</i>	100	110	100	105
7	Domestic Sales volume	MT	55,993	59,357	56,186	56,902
8	<i>Trend</i>	<i>Indexed</i>	100	106	100	102

48. It is seen that:

- i. Capacity of the domestic industry remained consistent during the entire injury period with marginal increase in 2016-17 due to debottlenecking of a Kiln and marginal decline during POI due to disposal of one of the kilns.
- ii. Production of the subject goods was highest in 2015-16 and declined thereafter.
- iii. Capacity utilization and sales have followed the same trend as of production.

**a) Market Share in Demand**

49. The market share of the domestic industry is as shown below:

SN	Market Share in Demand	Unit	2014-15	2015-16	2016-17	POI
1	Domestic Industry	%	48.92%	59.82%	69.89%	77.58%
2	Other Indian producers	%	19.30%	30.65%	24.82%	20.11%
3	Subject countries	%	31.76%	9.49%	3.74%	2.01%
4	Other Countries	%	0.02%	0.04%	1.55%	0.31%
5	Total		100.00%	100.00%	100.00%	100.00%

50. It is noted that the market share of the domestic industry has consistently increased along with the market share of the other Indian producers. The market share of the subject country imports declined on account of antidumping duty in force on subject goods.

**b) Profitability, Return on Investment and Cash Profits**

51. Performance of the domestic industry with regard to profits, return on investment and cash flow is as follows:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Cost of sales	Rs./Kg	***	***	***	***
2	<i>Trend</i>	<i>Indexed</i>	100	98	104	106
3	Selling price	Rs./Kg	***	***	***	***
4	<i>Trend</i>	<i>Indexed</i>	100	100	100	100
5	Profit/(Loss)	Rs./Kg	***	***	***	***
6	<i>Trend</i>	<i>Indexed</i>	100	128	15	(25)

7	Profit/(Loss)	Rs.Lacs	***	***	***	***
8	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>136</i>	<i>15</i>	<i>(26)</i>
9	PBIT	Rs.Lacs	***	***	***	***
10	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>108</i>	<i>58</i>	<i>32</i>
11	Cash Profits	Rs.Lacs	***	***	***	***
12	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>54</i>	<i>29</i>
13	ROCE	%	***	***	***	***
14	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>64</i>	<i>34</i>

52. The Authority notes that the profits of the domestic industry declined significantly over the injury period. Cash profits and ROCE of the domestic industry have also declined significantly over the entire injury period.

**c) Inventories**

53. Inventories with the domestic industry is as follows:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Average Stock	MT	6,377	6,676	7,653	9,605
2	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>120</i>	<i>151</i>

54. It is seen that average stock with the domestic industry has increased significantly.

**d) Employment, Wages and Productivity**

55. Performance of the domestic industry with regard to employment, productivity and wages is as follows:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI A
1	Productivity per day	MT/Day	189	207	197	198
2	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>104</i>	<i>105</i>
3	Employment	Nos	***	***	***	***
4	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>106</i>	<i>106</i>
5	Wages	Rs Lacs	***	***	***	***
6	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>120</i>	<i>122</i>

56. Employees and productivity per day has increased over the injury period. Employment and wages are not reflective of the adverse effects of the dumping on the domestic industry, as these factors are governed by overall operations of the company and the economy

**e) Magnitude of Dumping**

57. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India consequently causing injury to the domestic industry. The data shows that the

dumping margin determined against the subject country is positive and significant in the present investigation.

**f) Ability to raise Capital Investment**

58. Petitioners have claimed that continued dumping of the product has very heavily impacted the domestic industry, affecting their plans for expansion and investments.

**g) Magnitude of Injury and injury margin**

59. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules. The NIP has been worked out based on the verified information of the domestic industry. The NIP has been calculated for each of the PCN produced by each of the constituent of domestic industry. Subsequently the weighted average has been computed for each of the PCN and the same has been compared with the landed value of the relevant imports by the responding producer exporter from China. As for the residual category, the landed value has been determined on the basis of transactions of cooperative exporter. The NIP has been taken for the PCN having highest price. The weighted average of injury margin calculations for the responding producer exporter (M/s Liling Huaxin Insulator Technology Co., Ltd) and for other non-cooperating exporters from the subject country is as under:

Producer	NIP	Landed Price	Injury margin		
	US\$/MT	US\$/MT	US\$/MT	%	Range
M/s. Liling Huaxin Insulator Technology Co., Ltd	***	***	***	***	30-40
Other non- responding exporters	***	***	***	***	135-145

60. It is seen that injury margin is positive and significant for the subject country.

**Factors Affecting Domestic Price**

61. The import prices are directly affecting the prices of the domestic industry in the domestic market. It is noted that the landed value of subject goods from subject countries are below non-injurious price of the domestic industry. Further, landed value from subject countries had suppressed and depressed the prices of the Domestic Industry leading to financial losses to them. The imports of the subject goods from countries other than subject countries are negligible in quantities and not injuring the domestic industry. Demand for the product is showing a significantly increasing trend and, therefore, could not have been a factor responsible for price depression and

suppression faced by the domestic industry. In view thereof, the alleged dumped imports are interfering with the price structure of the domestic industry.

### **Conclusion on Injury**

62. It is thus seen that while overall imports of the subject goods from the subject country have declined. The detailed examination of import data reveals that the imports in sub-station segment have increased over the period, while imports in transmission line segment have declined sharply, which is on account of the fact that porcelain transmission insulators have been replaced by imports of polymer insulators. The imports continue to enter the domestic market at dumped and injurious prices. The performance of the domestic industry in respect of production, capacity utilization and domestic sales has remained consistent indicating that there is no volume injury to the domestic industry. However, the domestic industry is showing negative growth in ROCE and decline in profits, cash profit and PBIT during the POI as compared to base year and immediate previous year. The imports are undercutting and under selling the prices of the domestic industry in the market and are also suppressing the prices. The Authority thus concludes that the domestic industry has suffered continued injury.

### **H. CAUSAL LINK & NON-ATTRIBUTION ANALYSIS**

63. The Authority has examined the issues raised by the interested parties through the analysis of the following causation and non-attribution factors:

#### **Volume and prices of imports from other sources**

64. The Authority notes that imports from other countries, barring Russia, are negligible and thus are not the factors causing injury to the domestic industry. As regards Russia, the domestic industry submitted that the same is part of an order placed much before the POI.

#### **Import of Polymer Insulators**

The Authority had decided to not include polymer insulators in the scope of PUC in present review investigation and continued with the same PUC as was notified in the original investigation. The examination of dumping margin and injury margin in the present review investigation was specifically undertaken for the PUC, as detailed in the above relevant paragraphs. The margins so calculated do not include import of polymer insulators and therefore, the outcome thereof is irrespective of whether polymer insulators are being imported or not.

#### **Contraction in demand and change in pattern of consumption.**

65. Demand of subject goods has declined over the injury period mainly on account of reduced imports of porcelain/glass insulators which is attributable to antidumping duty in force. There is a visible shift towards polymer insulators post imposition of anti-dumping duty.

In case duties are ceased to exist, there is a possibility of increase in imports of porcelain/glass insulators which is also supported by the facts put forward by the DI that the consumers have started distinguishing between porcelain and polymer insulators unlike the previous time where they were being used interchangeably.

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

66. The goods are freely importable and the goods are being imported from several countries including the subject countries. No evidence of trade restrictive or anti-competitive practices has been produced by any interested party during the course of the investigation

#### **Development in Technology**

67. The Authority notes that the investigation has not shown that there was any significant change in technology which could have caused injury to the domestic industry

#### **Export performance of the domestic industry**

68. Petitioners have exported the product under consideration. It is seen that performance of the domestic industry has not deteriorated in exports. However, export performance is not relevant here since the Authority has considered only the domestic performance of the Domestic Industry for injury analysis and injury if any due to the export performance of the domestic industry has not been attributed to the dumped imports.

#### **Conclusion on Causal link & Non attribution analysis**

69. The Authority has examined whether injury to the domestic industry is due to continued dumped imports. The imports have continued to enter at dumped prices in spite of antidumping duty in force. The landed price of imports is significantly below the non-injurious price/fair price of the domestic industry and there is significant price underselling due to low priced dumped imports coming in India. There has been deterioration in ROCE and profits which resulted in financial losses in the POI and decline in cash profits. Therefore, the examination reveals that dumping of the subject goods from subject country and consequent injury to the domestic industry continued as seen in this investigation. The non-attribution analysis shows the injury suffered by the domestic industry were not on account of any other factors. There is positive dumping margin and injury margin during the POI established for the subject country.

#### **I. LIKELIHOOD ANALYSIS**

70. The Authority notes that this is a sunset review investigation and in terms of Rule 23, the Authority is required to examine the likelihood scenario of continued dumping and consequent injury if the anti-dumping duties were to be allowed to expire.

#### **Views of the domestic industry**

71. The following submissions were made by the domestic industry in this regard:

- i. There has been a diversion in Chinese exports from porcelain and glass insulators to polymer insulators. Domestic industry is suffering continued injury from dumped imports even though the volume of imports have decreased, because of diversion of exports from porcelain/ glass insulators to polymer insulator, which is being used interchangeably by PGCIL. Imposition of duty has led to the increased usage of polymer insulators.
- ii. In a recent judgment by Canadian International Trade Tribunal dated March 2019 in respect to review investigation on imports of Carbon welded steel pipe, Canadian authorities continued the measures despite finding “other factors causing injury to the domestic industry”. Other factors causing injury was also considered as one of the parameters and justification to continue measures.
- iii. Decline in imports post imposition of duty and positive dumping margin in such imports implies likelihood of dumping in the event of withdrawal of duty and in itself justifies extension of anti-dumping duty. Reference laid on US policy on conducting sunset review investigations and on findings and decisions of the investigating authorities in other jurisdictions.
- iv. There has been a history of dumping in India and other countries. Indian Industry faced severe consequences of dumping at the time of previous investigations. At the time of original investigation, as found by the Designated Authority, imports increased significantly at low import prices. In the event of cessation of duties, there is a likelihood of increase in imports which have declined significantly in volumes though still at dumped prices.
- v. There has been a significant overall increase in exports from China to the World. From being a net importer of the subject goods, China has become a net exporter of the subject goods. China is now the world’s largest hub of manufacturing electrical insulators with the largest number of Insulator suppliers. China exports to world in last 13 years have increased to almost 650 times in 2017-18.
- vi. China is world’s largest exporter of product under consideration. Its current exports are in the region of 360 million US\$ as against Indian demand of 150 million US\$. Chinese producers have significant focus on exports. Should the present ADD not be extended, it would provide significant market opportunity to Chinese producers, who are already selling significant volumes of polymer insulators in India. Volume of subject goods exports to rest of the world has been consistently increasing from 2008-09 till date, showing the consistent increase in the export orientation of the domestic industry.
- vii. Analysis of China’s exports to various countries globally over the injury period shows that Chinese producers have exported glass and polymer insulators to a large number of countries at a price materially below normal value, selling price and NIP of the domestic industry. On cessation of duties, there is a strong likelihood of diverting low priced volumes to India at cheaper prices.
- viii. If export price to India is compared with different countries globally, it would be seen that significant volumes have been exported globally at a price much below the

### Views of the other interested parties

72. The opposing interested parties have made the following submissions in this regard:

- i. Authority is required to assess whether the impending expiry of duties is likely to lead to a continuation or recurrence of dumping and injury. The petitioners have alleged a continuation of dumping but an absence of injury. As a result, there is a break in causal link in the present case. Therefore, the Authority has to now assess whether the expiry of duties will lead to a recurrence of injury to the domestic industry.
- ii. The imports have declined by over 90% in the injury period. Therefore, there is no present basis to indicate that there will be a significant increase of dumped imports in case duties are removed.
- iii. Petitioners have made hollow and unsubstantiated claims with regard to excess capacities in China. Merely because imports to India have come down, it cannot be assumed that the capacities in China are not being utilized for exports to other countries.
- iv. Without perusing a separate assessment of price suppression / depression for transmission and substation insulators, we are unable to make detailed comments on this issue. Without prejudice, it may be noted that the absence of injury due to subject imports has already been admitted by the Petitioners
- v. It is not merely sufficient to prove whether India is already a price attractive market, but rather whether India will become a price attractive market if duties are allowed to expire. The exports from China to various countries other than India have been analysed. As per the data provided, over 90% of the exports from China to various destinations are at a price considerably lower than the price to India. India is already a substantially price attractive market for several major producers in China. If the Petitioners' logic is to be believed, import volumes to India should already have been increasing over the injury period, at least from those producers that have a margin lower than USD 1400/MT. Yet, subject imports have declined. There is therefore no reason to presume that an expiry of duties will make a large difference to this scenario.
- vi. New Bidding Requirements protect the Domestic Industry from Any Future Injury, created an additional condition for bids made by foreign entities in tenders – to setup a factory in India and supply 25% content from that factory. These additional requirements of local investment and use of local content have driven away foreign bidders from relevant tenders, since many exporters are unwilling to invest in India. This creates an additional mechanism of protection for Indian manufacturers once duties expire.

### Examination by Authority

73. The Authority notes that the present investigation is a sunset review of antidumping duty imposed on the imports of subject goods and the Authority has to examine likelihood of dumping and injury in the event of cessation of anti-dumping duty. The Authority examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause

(vii) of Annexure II to the rules provides for the following factors:

**a) Continued and Existing dumping**

74. While overall imports of the product from subject country have declined throughout the injury investigation period, imports of transmission insulators have almost dried up, whereas the imports of sub-station insulators have increased. Further, there is a decline in the price of sub-station insulators imports. The decline in imports of transmission insulators was because one of the leading consumers switched onto polymer insulators, treating the two interchangeable. Evidence provided by the domestic industry shows consideration in the Govt. with regard to usage of polymer insulators and views of the concerned Govt. authorities with regard to differential use of the two products.
75. The imports in the current period are at dumped and injurious prices. Thus, the shift of imports from porcelain/glass to polymer insulator on one hand and positive dumping margin & injury margin in sub-station insulators imports on the other hand, with rising volumes, shows likelihood of substantially increased importation of subject goods in the event of cessation of anti-dumping duty. It is also noted that the dumping margin and injury margin for the responding producer-exporter are far higher than the dumping margin & injury margin determined in the original investigations. Other Chinese producers have however preferred non-cooperation.
76. At the current landed price in India, there is positive price undercutting during POI without considering existing ADD. The level of selling price is below the level of cost of sales. Further landed price of imports have remained below the level of cost and selling price of the domestic industry throughout the injury period. Thus, it is likely that imports will suppress and depress the domestic industry's prices leading to increase in imports at dumped prices.

**b) Production Capacities and Export Orientation**

77. The domestic industry has provided Customs data of subject country in respect of exports to India and rest of the world (Trade Map data) which indicates large capacities for the subject goods in China. It can be seen that the exports from China to world are significant indicating an intense capacity of Chinese producers to export the subject goods from China.
78. The domestic industry has furnished data evidencing that China was a net importer of electrical insulators until few years back. Gradually, China has built significant capacities for the product under consideration and has gradually turned out from net importer to net exporter in a very short time period. China exports to world in last 13 years is as given in table below.

SN	Period	Glass (Values USD)	Porcelain (Values USD)
1	2005-06	97,42,000	5,79,87,000
2	2006-07	1,03,94,000	8,00,46,000
3	2007-08	1,84,26,000	10,45,01,000

4	2008-09	4,22,33,000	14,44,83,000
5	2009-10	4,08,63,000	13,68,30,000
6	2010-11	5,70,85,000	20,66,59,000
7	2011-12	9,50,42,000	26,17,87,000
8	2012-13	14,32,76,000	26,10,48,000
9	2013-14	12,46,13,000	25,20,79,000
10	2014-15	10,90,07,000	23,85,97,000
11	2015-16	8,40,07,000	25,25,05,000
12	2016-17	12,91,40,000	24,51,38,000
13	2017-18	8,06,18,827	27,97,06,265

79. It is also seen that the current exports are in the region of 360 million US\$ as against Indian demand of 150 million US\$. Thus, the Chinese producers are highly export oriented.

### Inventories of the Exporter

80. As per the details given in the exporter questionnaire by the exporters, the inventories have increased in POI as compared to base year as well as the previous year creating scenario of likelihood of increased imports to India in case of cessation of duties.

### Price Attractiveness of Indian Market

81. The petitioners have compiled data (Trade Map data) of China third country exports with respect to volume and values and compared it with normal value to infer the tendency of dumping of Chinese producers. Also the export price of subject goods have been compared with the domestic selling prices and non-injurious price of the domestic industry to infer that these exports are at below non-injurious price and selling price, thereby indicating the necessity of continuation of prevailing ADD.

### Injury Margin

SN	Particulars	UOM	Positive	Negative	Total
1	Volume	MT	1,89,998	82,519	2,72,517
2	Landed Price	USD/Kg	1.49	2.78	1.88
3	NIP	USD/Kg	***	***	***
4	Injury margin	USD/Kg	***	***	***
5	Injury margin	%	40-50%	15-35%	10-20%
6	Share of positive/negative IM	%	70%	30%	100%

### Dumping margin

SN	Particulars	UOM	Positive	Negative	Total
1	Volume	MT	2,29,979	42,538	2,72,517
2	Ex-factory Price	USD/Kg	1.40	2.78	1.61
3	CNV	USD/Kg	***	***	***
4	Dumping Margin	USD/Kg	***	***	***
5	Dumping Margin	%	50-60%	15-25%	30-40%
6	Dumping Margin	%	84%	16%	100%

## Priceundercutting

SN	Particulars	UOM	Positive	Negative	Total
1	Volume	MT	1,75,474	97,043	2,72,517
2	Landed Price	USD/Kg	1.44	2.68	1.88
3	NSR	USD/Kg	***	***	***
4	Price undercutting	USD/Kg	***	***	***
5	Price undercutting	%	40-50%	20-30%	5-15%
6	Price Undercutting	%	64%	36%	100%

82. It is seen that 70% of exports from China to the world are at injurious price and 84% at dumped price. Further, 64% of exports are at a price that will undercut the prices of the domestic industry.

### Conclusion on Likelihood

83. The likelihood analysis also points to the situation that dumping and consequent injury to the domestic industry will intensify in case anti-dumping duties in force cease to exist. The data on record shows that there are significant third country exports which shows significant capacities and export orientation with the Chinese producers. Third country dumping margin has been calculated and significant volumes to third countries are at dumped prices. The price attractiveness analysis shows that there are significant exports to third countries which are at the prices lower than NIP and NSR of the domestic industry and these volumes can be diverted to India in the event of revocation of antidumping duties.

### J. Post Disclosure Comments

84. The submissions/comments against post disclosure statement have been examined and it is noted that most of the issues raised now have already been raised during the course of investigation, however, for the sake of clarity the submissions have been summarized and addressed appropriately.

85. The Domestic Industry made the following submissions:

- i. There is a need for modification of ADD as the dumping margin and injury margin established for the responding producer has significantly increased as compared to previous POI. The volume of import of the type of PUC exported by the responding producer is significantly higher and are also undercutting the prices of the domestic industry even after addition of ADD.
- ii. Product under consideration has a history of dumping in India and other country. The Indian Industry faced severe consequences of dumping at the time of previous investigations
- iii. Domestic industry is suffering continuous injury from dumped imports even though the volume of imports has decreased, because of the diversion of exports from porcelain/glass insulators to polymer insulator, which is being used interchangeably by PGCIL.

- iv. The producers in China are having significant capacities of porcelain/glass insulators are holding these capacities idle and in the event of revocation of duties there is a strong likelihood that these idle capacities will be used to export the product in India
- v. Argentina has carried out investigation for the porcelain insulators against China, Brazil and Colombia.. The antidumping duty of 227.74% was imposed in the year 2015 and the same duty is still in force. The quantum of duty imposed is fully reflective of the extent of Chinese dumping
- vi. Anti-dumping duty may be imposed only as fixed quantum of anti-dumping duty (fixed form of duty), expressed as duty in US\$/MT.

86. The submissions made by M/s Liling Huaxin Insulator Technology Co., Ltd have been summarised as under:

- i. Authority has not considered the packing cost appropriately. The packing cost proposed to be adjusted is much larger than the actual packing cost of M/s. Liling Huaxin Insulator Technology Co., Ltd. A detailed calculation and allocation regarding packing cost working has been provided.
- ii. There is no causal link between the imports of subject goods i.e. porcelain/glass insulators from China PR and injury to the domestic industry. The only reason for injury is increase in the imports of Polymer/Composite Insulators which is not the subject goods.
- iii. Imports of subject goods have declined significantly and constitutes merely 0.71% share of total demand in India. Whereas on the contrary, imports of polymer insulators have increased significantly causing injury to the domestic industry. Thus, the imports of polymer insulators are to be considered while analysing the causal link between the imports and injury to the domestic industry. The Authority should not attribute to alleged dumped imports to a domestic industry that is a result of change in pattern of consumption due to change/development in technology.

87. The main issue raised by M/s Sediver Insulators (Shanghai) Co Ltd., is summarised as under-

- i. The rights guaranteed to an “interested party” under the Anti-dumping Rules are not subject to any kind of registration requirement. The rights of interested party under Rules are (a) Right to an oral hearing and filing written submissions thereafter (Rule 6(6)). (b) Right to peruse and comment upon the evidence filed by other interested parties (Rule 6(7)). (c) Right to peruse and comment upon the Disclosure Statement (Rule 16).
- ii. Thus, the rights guaranteed under Rules and the principles of natural justice supersede any internal operating procedure that has been enacted under the legislative umbrella of the Rules in the first place. Trade Notice itself mandates that the Hon'ble Designated Authority must first examine M/s Sediver's submissions prior to rejecting the same.

#### **Examination by the Authority**

88. The Authority has examined the issues raised by the interested parties at appropriate places in above paragraphs, however, some of the issues are being clarified again as under:

- i. The Authority noted the comments of DI regarding the form and modification of the existing antidumping duties and recommendations of the Authority are contained in the duty table below.
- ii. The claim of M/s Liling Huaxin Insulator Technology Co., Ltd regarding the packing cost adjustment has been accepted and the NEP has been reworked in the relevant paragraph above.
- iii. The details regarding the trends in import of porcelain/glass and polymer insulators and causal link have been examined and analysed in detail and are mentioned in the relevant paragraphs above.
- iv. The claim made by M/s Sediver Insulators (Shanghai) Co Ltd., that it should be considered as an interested party is not tenable as M/s Sediver neither registered itself as an interested party within the time limit prescribed nor filed questionnaire response. The Authority had categorically stated in disclosure statement in para 5 (viii) and 19 (ii) that it is not being considered as an interested party and the reasons thereof. The Disclosure statement was specifically sent to M/s Sediver to make them aware about the Authority's stand. The categorical stand of the Authority has been reiterated in para 5(xi) and 20(ii) of the present final finding notification that it is not being considered as an interested party and the reasons thereof.
- v. As regards to the contention that the trade notice is unreasonable in putting restriction is without any basis and has no merit. The Rule 6(4) of the Rules and the initiation notification has clearly prescribed the time limit for filing the questionnaire response and the trade notice has only reiterated the same. As for the discretionary powers of the Authority referred to in para 4 of the said trade notice, the Authority had examined the same and found that no larger interest of the investigation is being served. However, the Authority has still examined the issues raised by M/s Sediver and addressed them appropriately wherever required, inspite of non-filing of prescribed questionnaire response by them.
- vi. Further, it is noted that M/s Sediver has inspected the public file on three occasions i.e. 18<sup>th</sup> April, 22<sup>nd</sup> April and 3<sup>rd</sup> May, 2019 wherein they have availed the opportunity to examine the non-confidential information and also took copies of the same as evidenced by signatures of their legal representative authorized by the exporter for this purpose. Therefore, the submissions that they were denied access to information pertaining to investigation is false and baseless.

## **K. CONCLUSION**

89. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis, the Authority concludes that:

- a. The product under consideration continues to be imported at the dumped prices from the subject country;

- b. The domestic industry has suffered continued injury on account of dumped imports;
- c. The continued injury to the domestic industry in on account of dumped imports and is likely to continue if the anti-dumping duties from subject country cease to exist;
- d. The information on record clearly shows likelihood of continuation of dumping and injury in case the ADD in force is allowed to cease at this stage;

#### **L. Indian Industry's Interest and other issues**

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

#### **M. RECOMMENDATIONS**

91. Having concluded that there is positive evidence on the aspect of dumping, injury and causal links, likelihood of dumping and injury, if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required against the subject country.
92. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry in case of the co-operative producer exporter from China PR and a residual margin for all the other non-responding entities . Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the import of the subject goods, originating in or exported from China PR as indicated in Col 7 of the duty table below, for a period of 5 years from the date of notification to be issued in this regard by the Central Government:

duty table below, for a period of 5 years from the date of notification to be issued in this regard by the Central Government:

**DUTY TABLE**

Sr. No	Tariff Item*	Description of Goods**	Country of Origin and/or Export	Producer	Duty Amount In USD	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	854610 854620	Electrical Insulators	China PR	M/s Liling Huaxin Insulator Technology Co., Ltd	638	MT
2.			China PR	Any other	1,383	MT

\* Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC. The PUC mentioned above should be subject to above ADD even when it is imported under any other HS code.

\*\*PUC is Electrical Insulators of glass/porcelain/ceramic, whether assembled or unassembled. However, following are excluded from the scope of present investigation

- (a) telephone or telegraph insulators of voltage rating up to 1 KV;
- (b) electrical or electronic appliances/device insulators of voltage rating up to 1 KV;
- (c) composite insulators; and
- (d) Condenser bushings and voltage transformers.

93. The duty rates as recommended above are applicable for exports of subject goods manufactured by specified producer mentioned in column (5). The Customs should verify the name of the producer at the time of clearance of subject goods.
94. The applicant domestic industry and the responding producer are required to inform the Authority regarding any change in constitution/ ownership of the manufacturing facility, along with relevant documents substantiating the said change, for the subject goods against which Anti-Dumping Measures are being recommended. The information should reach the Authority within 60 days of the said change, if any.
95. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

  
 17.7.19  
 (Sunil Kumar)

**Additional Secretary & Director General**