

To be published in Part - I Section - I of the Gazette of India Extraordinary

**GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES  
JEEVAN TARA BUILDING, NEW DELHI-110001**

**NOTIFICATION**

**Preliminary Findings**

Dated the 1st July , 2014

**Sub: Anti-dumping investigation concerning imports of Electrical Insulators originating in or exported from China PR -- Preliminary Findings**

**No14/11/2013 DGAD:** Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

**A. PROCEDURE**

1. The procedure described below has been followed.
  - a. The Designated Authority (hereinafter referred to as the "Authority"), under the above Rules, received a written application from Aditya Birla Nuvo Ltd. ('Aditya Birla'), Bharat Heavy Electrical Limited ('BHEL'), Insulators and Electrical Company ('IEC'), Modern Insulators Limited ('Modern') and WS Industries (India) Ltd. ('WSI') (hereinafter referred to as the "applicants") as domestic industry of the subject goods, alleging dumping of Electrical Insulators (hereinafter also referred to as subject goods) originating in or exported from China PR (hereinafter referred to as the "subject country") and resultant injury to DI.
  - b. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the applicants. The applicants filed an updated petition, which was considered by the Authority for initiation of investigations. The application was, therefore, considered as properly documented.

- c. The Authority, on the basis of sufficient evidence submitted by the applicants to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.
- d. The Authority notified the Embassy of the People's Republic of China in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
- e. The Authority issued a public notice dated September 5<sup>th</sup>, 2013 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods from the subject country.
- f. The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Applicants) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- g. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- h. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassy of the People's Republic of China in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- i. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with Rule 6(4) of the AD Rules:

Hunan Liling Huaxin Porcelain Insulator & Electric Apparatus Co.Ltd. Pukou Industrial Park, Liling, Hunan, China PR	Dalian Insulator Co.Ltd. 88, East Liaohe Road, DD Port, Dalian – 116600, China PR
NGK Insulators Tangshan Co.Ltd. Tangshan New & High Technology Development Zone 3, Huoju Road, 188, Hebei – 063020, China PR	Xian XD High Voltage Porcelain Insulator Company Limited Daqing Road, Xian, Shaanxi-710077 China PR
NGK Ceramics Suzhou Co.Ltd. & NGK Technocera Suzhou New District Jaingsu – 215129, China PR	NGK Insulators Suzhou Co.Ltd. 401, Jianlin Road, Suzhou New District, Jiangsu – 215151, China PR
China Electro-Ceramic Imp. & Exp. 3/F, Unit 05 No.333 Hongwu Rd. Nanjing, 210002 China PR	MWB (Shanghai) Co.Ltd. (Trench China) No.3658, Jiancheng Road, Economic & Technological Developing Zone, Minhang/Shanghai, China PR

Trench High Voltage Products Ltd., Shenyang (THVS) No2.Zhengiliang Er Rd, Jing Shen Xi San Str., Daoyi Economic Development Zone 110135 Shenyang, China PR	Hunan Liling Guolian Porcelain Insulator 13/F, Tianxin Houting Building, 48 Caie Road 410005, Changsha, Hunan, China PR
Nanjing Electric Group Co., LTD 63 Taixin Road Nanjing City, Jiangsu Province, China 210038	Seves Sediver Insulator (Beijing) Co., Ltd. 7th Floor No.2 Building, China Central Place, 79 Jianguo Road Chaoyang District, Beijing 100025 – China
Zigong Sediver Toughened Glass Insulator Company Ltd. 162 Hutou St., Gongjing District Zigong, 643020 China	Yibin Global Group Co.Ltd. Glass Industrial Park, Yibin Wullangye Group, Sichuan 644007, China

j. In response to the initiation notification, the following exporters/producers from China have responded:

- a. Nanjing Electric (Group) Co Ltd
- b. Zigong Sediver Toughened Glass Insulator Co. Ltd.
- c. Sediver Insulators (Shanghai) Co. Ltd.
- d. Dalian Insulator Group Co. Ltd.
- e. Liling Huaxin Insulator Technology Co., Ltd
- f. Liling Huacheng Insulators Co., Ltd.
- g. Sichuan Yibin Global Group Co., Ltd.
- h. Chengdu Global Special-Glass Manufacturing Co., Ltd.
- i. Sediver S.A. (France)

k. Further China Chamber of Commerce for Import & Export of Machinery & Electronic Products (“CCCME”) has also filed submissions on initiation notification.

l. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

M/s.Crompton Greaves Ltd. A-3, MIDC, Ambad, BNasik – 422 01 Maharashtra	Ms/. Areva T&D India Limited No.142, Vandallur-Walajhabad Road, Salamangalam (Village) Padappai (Post), Sriperumpudur (Taluk) District. Kanchipuram – 60-1 301 Tamil Nadu
Ms.ABB Limited PPHV-Ckt Brakers, Vadodara THS-LTD (Live Tank Breaker) Maneja Works,	M/s.Siemens Ltd. Breaker Division E-76, Waluj, MIDC Aurangabad – 431 136

Vadodara 390013, Gujarat	Maharashtra
Power Grid Corporation of India Limited, Saudamini, Plot No. 2, Sector-29, Gurgaon - 122001	M/s Adani Power Ltd. Shikhar, 9th Floor, Near Mithakhali Six Roads, Navrangpura, Ahmedabad- 380009 (Gujarat), India
M/s Tata Projects Ltd. "Mithona Towers-1", 1-7-80 to 87, Opp. Wesley Co-ed Jr. College, Prenderghast Road, Secunderabad- 500003 (Andhra Pradesh), India	M/s Kalpataru Power Transmission Ltd. 101, Part-III, GIDC Estate, Sector-28, Gandhinagar- 382028 (Gujarat), India
M/s KEC International Ltd. DLF Infinity Towers, 7th Floor, Tower "B", DLF City, Phase II, Gurgaon- 122002 (Haryana), India	M/s Reliance Infrastructure Ltd. Dhirubhai Ambani Knowledge City, Wing-6, Ground Floor, D-Block, Thane, Maharashtra, India

- m. None of the importers/users of the subject goods have responded in the form of questionnaire responses or provided comments to the initiation of the investigation.
- n. Copy of initiation notification was also sent to following Indian producers/Association of the product under consideration.

Indian Electrical and Electronics Manufacturers Association Rishyamook Building, First Floor 85A, Panchkuian Road New Delhi – 110 001	R R Industries C-4, Industrial Estate N.H. 91, G.T. Road Khurja 203131
Allied Ceramics Pvt. Ltd. 91, Lenin Sarani Kolkata 700013	Taruna Dechome Pvt. Ltd. F-51, Bichhwal Industrial Area Phase - II Bikaner 334006
Bhatinda Ceramics Pvt. Ltd. Vill. Jodhpur Romana Dabwali Road Bathinda, Punjab 151001	Bikaner Ceramics Pvt. Ltd. Rani Bazar Industrial Area Bikaner 334001
Bikaner Porcelain Pvt. Ltd. F-179/180, Bichwal Indl. Area Bikaner 334006	CJI Porcelain (P) Ltd. M-17 Dohil House 4th Floor, M Block Main Market Greater Kailash - II New Delhi 110048
Deccan Enterprises Pvt. Ltd. B-58, 59 & 60 APIE Balanagar Hyderabad 500037	Goldstone Teleservices Ltd. Amarchand Sharma Complex, S D Road Secunderabad 500037

Mayur Electro Ceramics Pvt. Ltd. P.O. Pratapgarh Rairangpur Dist Mayurbhanj Mayurbhanj 757050	Saravana Global Energy Ltd. Virudhachalam Road P.N. Kuppam, Kurinjipadi Post Cuddalore Dist. 607 302
Pressgel Insulations Pvt. Ltd. D-52, Sardar Ind. Estate Ajwa Road, Road No. 5 Vadodara 390019	Shreeji Power & Insulators Pvt. Ltd. Survey No. 321 Nani Chirai Dist, Bhachau, Gujarat
Ravikiran Ceramics Pvt. Ltd. Station Road Kanari 387325	A K India Ceramics (P) Ltd N H 15, 15 KM Stone, Jaipur Road, Village Raisai, Bikaner

- o. In response, the following have filed their letters supporting the petition
- a. Indian Electrical and Electronics Manufacturers Association
  - b. Shreeji Power & Insulators Pvt. Ltd.,
  - c. Bikaner Ceramics Pvt Ltd,
  - d. A.K. India Ceramics Pvt Ltd,
  - e. Bikaner Porcelain Pvt Ltd
  - f. Allied Ceramics Pvt. Ltd
  - g. Taruna Dechome Pvt. Ltd.
  - h. Prime Insulators
  - i. Saravana Global Energy Ltd
  - j. Jaipuria Brothers
  - k. General Power co Pvt Ltd
  - l. Hindustan Chemicals
  - m. Rastriya Electrical and Engineering Corpn
- p. 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. Submissions made by all interested parties have been taken into account in present findings.
- q. Information provided by 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 were directed to provide sufficient non confidential version of the information filed on confidential basis.

- r. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of domestic industry was conducted to the extent considered necessary for the purpose of preliminary findings.
- s. The Non-injurious Price (hereinafter referred to as 'NIP') based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) 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. As glass insulators are not produced in India, NIP of porcelain insulator has been considered. Further, separate NIP for different product types has been determined.
- t. Investigation was carried out for the period starting from 1<sup>st</sup> April 2012 to 31<sup>st</sup> March 2013 (12 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis covered the period from 2009-10, 2010-11, 2011-12 and the POI.
- u. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.54.65 as per customs data.
- v. \*\*\* in this provisional findings represents information furnished by the applicants on confidential basis, and so considered by the Authority under the Rules

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

- 2. The product under consideration in the present investigation is Electrical insulators of Glass, or Ceramics/Porcelain, 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 (hereinafter referred to as "Electrical Insulators" or the "product under consideration").

### **Views of Exporters, Importers, Consumers and other Interested Parties**

- 3. The interested parties have raised following issues with regard to the product under consideration.
  - a. Information about size, type, range, models of the subject goods produced by DI is not available in Section II of the petition. Information available on websites of DI is not reliable as it can be changed by DI at any time, as there is no control and monitoring mechanism over the same. Websites of DI are unreliable as it is fairly common for companies to exaggerate about their capabilities on their websites.
  - b. Product list in Paragraph 5 of Section II is provided without any supporting evidence that the DI actually produces these products. The Authority is obligated to consider the adequacy and accuracy of the

- evidence submitted by the DI as per Rule 5(3)(b) of the Anti-dumping Rules.
- c. The applicant should provide line-by-line export statistics classifying the data up to 8 digit level of the subject product to analyse imports of goods covered under the investigation so that the Authority and the interested parties have a clear and proper understanding of the subject product.
  - d. The petitioner has provided summary of exports statistics from Chinese customs for HS codes 854610 and 854620 on page 67 of the petition, the latter including HS codes 854620 1000, 854620 9001 and 854620 9090 that include electrical insulators for both transmission and distribution and every kind of glass or porcelain insulators and it is extremely difficult to analyse export statistics that are provided in a summarized form.
  - e. The data for excluded products is incomplete, as it not even up to the POI. Therefore, such incomplete data cannot be relied upon. UN Comtrade data shows that glass insulators are being re-exported from India, while it is an admitted fact that the Domestic Industry does not manufacture the same. It is prayed that the imports from China and the market size of India should be determined only after making adjustment for re-export of such imported goods.
  - f. M/s Nanjing Electric (Group) Co. Ltd. (producer and exporter in China) and CCCME claim that electrical insulators are not homogeneous, as all insulators have different end-use, physical characteristics such as size, capacity, etc., and differ widely for every type of insulator. Insulators find use in:
    - i. Power transmission and distribution lines
    - ii. Power sub-transmission lines
    - iii. Circuit breakers
    - iv. Disconnectors
    - v. Power sub-stations
    - vi. Instruments & Transformers
    - vii. Railways
  - g. An objective examination of dumping, injury and causal link, which is mandatory under domestic law as well as WTO AD Agreement requires an apple to apple comparison rather than a comparison of one basket of products with another basket of products. It is argued that bundling electrical insulators of all capacities together as a single PUC is improper and incorrect in view of the significant differences in capacity and other features of the subject product.
  - h. To buttress their arguments, the interested parties rely on practices in other countries such as EU and USA, where, in anti-dumping investigations specifically concerning electrical insulators, the PUC was based on physical, technical and chemical characteristics of the product, their main use, and application, degree of substitutability and consumer

perception. For example, in the US anti-dumping investigation No. 731-TA-1023 concerning Electrical Insulators, the product scope was restricted to 'High and Extra-high Voltage Ceramic Station Post Insulators'. Reliance is also placed on WTO Panel Report in DS 54/55/59/64 in Indonesia-Certain Measures Affecting the Automobile Industry wherein, the WTO Panel refused to bundle all passenger cars in one basket holding that though the passenger cars might share basic physical characteristics and end-use, they are highly differentiated products, which may vary greatly in terms of size, weight, engine power, technology and features.

- i. Bundling all electrical insulators in one umbrella is improper as it is impossible for interested parties to make submissions on the standing of the domestic industry, like article determination, determination of dumping margin by taking weighted average of normal value and export price, address injury claims, etc. Even the domestic industry describes different electrical insulators as distinct in its brochures and on its websites. The exporter and interested parties have also provided a detailed write-up on different electrical insulators.
- j. Electrical insulators are not homogeneous, as all insulators have different end-use, physical characteristics such as size, capacity, etc., and differ widely for every type of insulator. They are not technically or commercially substitutable to each other.
- k. Electrical insulators of capacity 765 KV and insulators for HVDC lines be excluded from the purview of the investigation as only a few constituents of the domestic industry produce the above-mentioned electrical insulators. M/s Modern Insulators and M/s IEC have not adduced any reliable evidence to substantiate their ability regarding production of above-mentioned electrical insulators.
- l. The Authority has had a consistent good practice of defining products separately in a single investigation based on factors such as kinds of products, end-uses, physical and chemical characteristics, consumer perception, etc. and the same practice be followed in the present case, too. Reliance is placed on below mentioned investigations where different goods in PUC were completely distinct and were not technically or commercially interchangeable. These instances are:
  - i. Anti-dumping investigation concerning imports of 'Certain Phosphorous based chemical compounds originating in or exported from China PR & European Union
  - ii. Anti-dumping investigation concerning imports of 'Rubber Chemicals' viz. MBT, CBS, TDQ, PVI and TMT from China and PX-13 from China and Korea RP
  - iii. Anti-dumping investigation concerning imports of catalysts from Denmark

- m. In these investigations, the scope of the PUC was segregated in different products and a separate examination of dumping, injury and causal link between import of the products and injury to domestic industry was carried out.
- n. M/s Trench High Voltage Products Ltd. ("THVS"), Shenyang, China is a producer of bushing and M/s MWB (Shanghai) Co. Ltd., Shanghai, China ("MWB") is a producer of SF6 insulated voltage transformer for gas-insulated switchgears from China PR. THVS and MWB were listed as known producers/exporters of the subject goods in the petition. Both companies received the letters dated 9th September, 2013 from the Authority regarding the subject investigation.
- o. On receipt of letters from the Authority, both companies closely reviewed their products exported to India during the POI and came to the following conclusions:
  - i. THVS did not export any electrical insulators to India but exported only bushings to India during the POI. THVS has provided its product list that was exported to India during the POI.
  - ii. MWB did not export any electrical insulators to India but exported only voltage transformers to India during the POI. MWB has provided its product list that was exported to India during the POI.
- p. THVS and MWB have collectively sought clarification regarding the scope of product under consideration and for specific exclusion of their products from scope of product under consideration by their submission dated 15th January 2014.
- q. Electrical insulators are components used for manufacturing bushings, which fact is also acknowledged in the petition filed by the domestic industry. On the other hand voltage transformers are completely different from electrical insulators. Besides, insulators used in the voltage transformers are hollow composite insulators, which have already been excluded from the product under consideration by the Designated Authority.
- r. Detailed differences between the subject product, bushings and SF6 Voltage Transformers have been provided by THVS and MWB. It is clear from the discussion that electrical insulators are used as an essential component for manufacturing bushings and voltage transformers, and it would not be possible to manufacture bushings and voltage transformers without them.
- s. In light of the significant differences in usage, end-customers, inputs, production process, etc., it is clear that bushings and voltage transformers are different from electrical insulators and not technically and commercially substitutable. THVS and MWB anticipate that customs authorities may impose anti-dumping duty to their above-mentioned products when exported to India. Therefore, they have requested the

- Authority to specifically exclude bushings and voltage transformers from the scope of the product under consideration.
- t. Further, parties have argued that the Authority may issue corrigendum to clarify or amend the PUC. Earlier instances where corrigendum were issued to clarify PUC scope include
- i. Anti-dumping investigation concerning imports of Phosphoric Acid from China PR
  - ii. Anti-dumping investigation concerning imports of Certain Grade Alloy and Non-Alloy Steel Billets, Bars and Rounds from Russia, China PR and Ukraine
  - iii. Anti-dumping review investigation concerning imports of Oxo Alcohols from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union
  - iv. Mid-term review anti-dumping investigation concerning imports of certain types/grades of alloy and non-alloy steel billets, bars and rounds from Russia and China PR.
- u. Goldstone Infratech Limited claimed that Polymer/Composite Insulators have similar functions and uses to Glass and Porcelain Insulators and hence, are being utilized interchangeably by customers in the market. The Domestic manufacturers of Composite / Polymer Insulators are also suffering due to imports of such from China. Therefore, ADD should be imposed on all Electrical Insulators from China, be it porcelain or glass or Composite/ Polymer.
- v. Ceramic and glass insulators are not like articles due to differences in raw material, production process, time taken to produce the insulator, cost of raw materials (for Glass insulators is around 600 RMB / Ton, whereas Porcelain Insulators cost around 910-1160 RMB/Ton), weight, performance, tonnage, life, Customs classification, etc.
- w. Ceramic and Glass insulators are not “Like Article” within the meaning of definition in Article 2.6 of WTO Anti Dumping Agreement for the following reasons:
- (i) The raw materials used are different
  - (ii) The production process is different for Porcelain insulators and Glass insulators.

Porcelain insulators:- Porcelain insulators are produced through shaping-drying-glazing-sintering process. Raw material heated for 14 days at 850 degree C. It takes around 45 days in the manufacturing process.

Glass insulators: Raw material are molted at 1450 degree C. undergoes fusion mould pressing toughening and high pressure air cooling. No curing process. Can be produced in 1 day.

Difference becomes crystal clear on physically watching the two distinct production processes.
  - (iii) Cost comparison and technical characteristics comparison shows differences

- (iv) Customs classification Glass: HS Code 854610; Ceramic: HS Code 854620
  - (v) Glass insulators are not manufactured in India
  - (vi) Therefore products are not technically and commercially substitutable.
- x. The relevance for exclusion of certain products is found in the case of AD investigation of Cold Rolled Flat Steel Products of Stainless Steel from China, Japan, Korea, EU, South Africa, Taiwan, Thailand and USA where following broad principles were adopted
- i. Where the production process pleaded by interested parties results in a different product where the distinctiveness can be established with clarity and precision
  - ii. Whether the DI is manufacturing/supplying such distinctive items at all during the POI
  - iii. Whether grades manufactured by DI for POI are equivalent to grades considered for exclusion.
  - iv. By adopting these principles to present case, it is evident that glass and ceramic insulators are not like articles
- y. Judicial Pronouncements on exclusion of grades not produced by DI
- (i) Birla Periclase v DA (2000 116 ELT 336 Tribunal):  
*“Fused Magnesia not interchangeable with sintered Magnesia therefore not like product”*
  - (ii) Indian Refractory Makers Association v DA (2000 119 ELT 319 (Tribunal)):  
*“If dumped import does not or is not capable of causing injury to DI, imposition of ADD is not warranted”*
  - (iii) Oxo-Alcohol Industries Association v DA (2001 130 ELT 58 Tribunal Delhi):  
*“Normal Hexanol not produced or manufactured by DI. So its import cannot cause injury to DI”*
  - (iv) Magnet Users Association v DA (2003 157 ELT 150 Tribunal Delhi):  
*“There is no justification for including grades of ring magnets which are not produced in India for the purpose of imposition of ADD”*
  - (v) Videocon Narmada Glass v DA (2003 151 ELT 80 Tribunal Delhi):  
*“We cannot hold that imported Strontium Carbonate in granular form is in commercial competition with domestically produced strontium carbonate in powder form...therefore clear that imported article is not capable of causing injury to DI”*
- z. The Authority by its letter dated 11<sup>th</sup> February 2014 requested all interested parties to submit supplementary information by 21<sup>st</sup> February 2014. Such supplementary information requirement was arrived at after discussions with the Domestic Industry. M/s Nanjing Electric (Group) Co. Ltd. expressed their objection to the Authority’s request and submitted their data by the due date under protest reserving their right to challenge

the same. M/s Nanjing Electric (Group) Co. Ltd. protested on the following grounds:

- i. Provision of data as per new format in such a short span of 10 days is an exercise in haste and puts an onerous burden on the interested parties;
  - ii. The Domestic Industry has now conceded that due to the different product types involved, it is not appropriate to determine dumping margin and injury margin on the basis of weighted averages. The Domestic Industry should have ideally followed this procedure at the time of filing their petition;
  - iii. Initiation of the investigation based on the Domestic Industry's data itself is questionable as the Authority has now found that data as inappropriate and has requested all interested parties to submit data afresh. Initiation based on such inappropriate evidence falls short of the adequacy and accuracy requirements under the WTO Anti-dumping Agreement;
  - iv. The Authority has not provided Domestic Industry's amended petition, which would have already been filed with the Authority based on the Authority's aforementioned request for data. M/s Nanjing Electric (Group) Co. Ltd. is not able to provide its data without perusal of the amended petition, as it requires the amended petition to analyse for like product and directly substitutable product.
  - v. The Authority should have formulated a PCN system to identify products as per various characteristics, since this investigation includes a number of different types of products. Till this stage, the Authority has not done that.
  - vi. The Authority's request to provide data afresh is akin to preparing fresh questionnaire responses for which 40 days' time should have been granted, as it requires refilling and revising all appendices of the questionnaire.
  - vii. Introducing new and onerous procedural requirements at this stage of the investigation is a violation of principles of natural justice and denies procedural due process to M/s Nanjing Electric (Group) Co. Ltd.
  - viii. In the alternative, the Authority may terminate this investigation and initiate a fresh investigation after identifying the correct product scope in an appropriate and adequate manner.
- aa. In reply to the letter dated 11 February 2014, M/s Zigong Sediver Toughened Co Ltd, M/s Sewdiver (Shanghai) Co Ltd and Sediver S A (France) stated as follows
- i. Exporters have filed complete data regarding product type as part of sales and cost data. Further detailed breakdown of the basic product code has also been provided as the initiation notification or

the communication of the Designated Authority has not mentioned any specific PCN.

- ii. Unless the information like transaction wise entries of the import data, Normal value, cost, dumping margin, injury margin and causal link based on requested parameters is not provided by the domestic industry, it is inequitable that the opposing parties are being made to undertake such a cumbersome exercise
- bb. The Petitioners are not producing Insulator  $\geq 420\text{kN}$  even though the demand for such goods exists in the Indian market. The Petitioners are also not known to have the capability to produce Insulator  $\geq 420\text{kN}$ . They generally supplied insulators in the range of 70 kN to 300 kN. Due to non-availability of Insulator  $\geq 420\text{kN}$ , users have to import the same.
- cc. As the Domestic Industry has not the ability to supply Insulator  $\geq 420\text{kN}$  in domestic market, where is the injury suffered regarding Insulator  $\geq 420\text{kN}$  claimed by Domestic Industry?
- dd. Prices differ greatly depending on the exact specification of insulators. Each insulator is ordered for a very specific function and one insulator cannot be replaced by another that is not exactly alike in all respects such as rated E&M failing load.
- ee. As the kind of designed product, that whether a machine is imported or domestically purchased the most important consideration for purchase is “technical ability”. Thus buyers like Power Grid Corporation will provide their required technical specifications to the company that can manufacture insulators as per the technical specification is given the order. The quality, the ability of a manufacturer to honor delivery schedules and its ability to even manufacture the specific insulators required are critical deciding factors that play a major role in the purchasing decisions.
- ff. Insulator  $\geq 420\text{kN}$  is not ‘like product’ when we compare it with the product under consideration as it has many differences. One cannot really say that an Insulator  $\geq 420\text{kN}$  is similar to an insulator with rated E&M failing load of 210KN. Insulator  $\geq 420\text{kN}$  should therefore be excluded from the scope of investigation.

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

4. The domestic industry has made the following submissions with regard to the issue of the product under consideration.
  - a. An insulator can be either of porcelain/ceramic or of glass. Porcelain Insulators are produced using clay, silica, alumina, feldspar and metal parts, while glass insulators are produced using silica and metal parts. Both constitute one article, considering the characteristics of these two types,

manufacturing process, functions, uses and prices. In fact, the product is a technology neutral product. Power Grid Corporation has floated tenders for procurement of insulators which can be of Glass or Porcelain. The Corporation has placed no distinction between glass and porcelain insulators and has placed orders solely on the basis of price difference. The Corporation has not made any technical distinction between the two products. Further, the product is sometimes invoiced by the suppliers without reference to glass or porcelain. The commercial invoice available in respect of manufacturers of glass insulators does not refer to glass. Import data of the product under consideration also at several instances does not refer to glass.

- b. Both porcelain/ceramic and glass insulators have the following characteristics:
  - i. The national / international standards for dimensions / testing are the same.
  - ii. The dimensions are the same.
  - iii. The cap and ball pin material are the same.
  - iv. Major steps in manufacturing like shaping of the products, vitrification (raw insulators are to be passes through heat fusion to make into a glassy substance) and assembly are the same.
  - v. The cement used for assembly is the same.
  - vi. The assembly process is the same.
  - vii. The curing process is the same.
  - viii. All type / acceptance / routine tests are the same except those that characterize the raw materials used.
  - ix. Packing type is the same.
  - x. Electrical / Mechanical / Thermal stress requirements are the same.
  - xi. Performance requirements are the same
- c. The major steps involved in the manufacturing process of glass/porcelain are raw material mixing, slurry preparation (in ceramic/porcelain) and melting (in case of glass), molding, shaping, drying, metal assembly and testing. The production process in respect of glass insulator is similar to the production process in respect of porcelain insulator. However, the technology involved is to some extent different in view of difference in raw material.
- d. There is no known difference in subject goods exported from China and that produced by the petitioner companies. Porcelain/ceramic insulators produced by the domestic industry and imported from China are like articles and comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable.
- e. As regards claims of exclusions of 765 KV and HVDC insulators, the fact that a particular product type is not produced by one of the constituents of the domestic industry is entirely immaterial under the rules. The industry is entitled to protection so long as the product has been produced and supplied

by a constituent of domestic industry. Constituents of domestic industry have sufficient swappable capacity and can cater country's demand right upto 1200 KV As regards exclusion of 420KN, such insulators have been supplied by all major players of the domestic industry

- f. The petitioners have considered line by line import data for 854620 and excluded all those entries which are not product under consideration. The petitioners have not adopted summary statistics without eliminating non-product under consideration
- g. The petitioner has specified 6 digit classification for the product for the reason that petitioner has requested anti dumping duty on product under consideration which falls under 6 digit. A number of countries have not distinguished products differently based on voltage rating in their HS Codes systems. Thus, difference in voltage rating in Indian customs classification does not mean that product types with different 8 digit HS Code are different products.
- h. With respect to TVHS and MWB being listed as exporters despite exporting condenser bushings and voltage transformers respectively and BHEL being the only domestic producer that manufactures them, condenser bushings and transformers are beyond the scope of the present petition and investigations.
- i. With respect to insulators used in voltage transformers being hollow composite insulators, it is accepted that composite insulators are beyond the scope of the product under consideration.
- j. With respect to the Authority issuing a corrigendum, the scope of the product under consideration can be clarified in the findings.
- k. Composite insulators constitute a distinctly different article for the reasons mentioned below:
  - (i) Composite insulators fall under a different category from Glass/ Porcelain insulators as per IEC (International Electrotechnical Commission) and are subject to separate IEC standards.
  - (ii) The raw materials, composition, manufacturing process, cost of production per kg, selling price for composite insulators is significantly different.
  - (iii) Polymer/Composite insulator technology is relatively young and these insulators have certain limitations, as regards uses. Polymer/composite insulators have not been developed so far for substation post insulator applications requiring higher bending strength. In some countries, Polymer/composite insulators are not usually preferred at voltages of 230KV and above or for high mechanical strength applications.
  - (iv) Consumers such as Power Grid Corporation have floated tenders wherein they have sought procurement of glass and porcelain insulators interchangeably, but separate tenders for composite insulator.
  - (v) Consumers such as Rajasthan State Electricity Board have floated a tender which include glass, porcelain and composite insulators. The

bidders for composite insulators quoted for the entire quantities and their bid price was the lowest. However, the electricity board ordered composite insulators only for 10% of its total tender quantities. 90% of the order was placed on ceramic insulator suppliers.

(vi) Generally, composite insulator price per insulator is much lower (as much as 30-40%) than porcelain insulator prices. By contrast, glass insulator suppliers must offer a comparable price per insulator as compared to porcelain insulators if the supplier wishes to get the order.

(vii) Despite being significantly cheaper as compared to porcelain insulators, there are significant unutilized capacities of composite insulators with the Indian producers due to user preference for ceramic and glass insulators. Hence, composite insulators are commercially not substitutable with glass/porcelain insulators.

l. Though different types of glass and porcelain insulators constitute a single product, the petitioners have already proposed segregation of the product under consideration into different types for the purpose of fair comparison. The exporters are required to provide separate information for different product types in their questionnaire responses.

m. In Cold Rolled Flat Steel Products of Stainless Steel from China, Japan, Korea, EU, South Africa, Taiwan, Thailand and USA, relied on by the responding party, there was absence of identical article offered by the domestic industry. In the present case, specifications of the product supplied by the domestic industry are identical and the consumers have refused to pay any differential price for either of the product.

n. The cases referred by the opposing interested party in fact support the contention of the domestic industry that if the product is used interchangeably and is in commercial competition with each other, then it constitutes one article and the Designated Authority is justified in including the two as one article.

#### **EXAMINATION BY THE AUTHORITY**

5. The product under consideration in the present investigation 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.

6. The petitioners have claimed that porcelain/ceramic insulators (classified under Customs Tariff sub-heading 8546.20) and glass insulators (classified under sub-heading 8546.10) are to be considered one article for the purpose of the present investigation. They have made this claim on the basis of the

essential characteristics, functions and uses, pricing, distribution and marketing, and technical and commercial interchangeability of glass insulators and porcelain/ceramic insulators.

7. Rule 2(d) relating to the definition of "like article" specifies that "like article" means an article which is identical or alike in all respects to the article under investigation, or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation.
8. From the above definition of the term "like article", it is clear that the like article has to be identical or alike in all respects to the article under investigation. The scope of the term like article shall include those articles having closely resembling characteristics to those under investigation in the absence of articles identical or alike in all respects. Therefore, the usage of the words "in the absence of" is of critical significance for the interpretation of the term like article under the statute. There is no dispute that the words "in the absence of" have to be understood in the context of domestic industry alone whether there exists a "domestic industry" producing the "like article" or not. In other words, if there is no domestic industry producing identical article, the law permits the authorities to cover, in the scope of the term, even those articles which have closely resembling characteristics.
9. As regards inclusion of glass insulators within the scope of the product under consideration and treatment of glass and porcelain insulators as one article, the Authority has considered a number of parameters. It is noted that electrical insulators made of glass are not produced in India. The domestic industry contended that electrical insulators made of both glass and porcelain falls in the category of ceramic insulators. The Authority notes that the mere fact that electrical insulators of glass are not produced in India does not imply that the same cannot be included within the scope of the product under consideration. The Authority is required to consider whether the domestic industry is offering like article to the imported product. The Authority therefore considered whether electrical insulators of porcelain produced by the domestic industry constitute like article to the imported electrical insulators of glass. The Authority therefore examined whether electrical insulators of both glass and porcelain constitute like article.
10. (a) It is noted that the national and international standards relating to glass and porcelain insulators do not show any difference in the product specifications specified in respect of Glass and Porcelain Insulators. Tender documents of purchasers of the product have been provided by the domestic industry, which shows that the consumers do not differentiate in glass and porcelain insulators. The technical parameters for glass and porcelain insulators specified by the consumers are the same. The Authority examined the production process involved for production of porcelain and glass insulators and found that while some production processes are different, some processes are similar. Common processes between the two products

include shape forming process, verification process, assembly process, curing process, testing process and packing methodology. It is however noted that there is difference in a number of raw materials and some part of the production technology. Production of glass insulator primarily involves molding molten silica into shape and thereafter fixing metal parts. In case of porcelain insulators, the clay is molded into the desired shape either pressing a clay mixture into the required shape or by shaping it using tools into the required shape. Metal parts are fixed thereafter. However, despite these differences, the eventual product is identical in terms of product properties. The Authority finds that the consumers consider the product as a technology neutral product. Domestic industry provided evidence showing that Power Grid Corporation floated tenders for procurement of insulators which could be of glass or porcelain with no distinction between the two and price being the sole criteria for placement of orders. The information on record shows that Glass and Porcelain Insulators perform the same function. The consumers have not disputed the fact that the Glass and porcelain Insulators are interchangeably used. It is also noted that there is no difference in the prices of the two insulators. In fact, Power Grid Corporation has placed orders with the sole criteria of prices and has not made any distinction between glass and porcelain insulators. The Authority thus notes that the two products perform the same function and are used interchangeably. Power Grid is one of the largest consumers of glass and porcelain insulators and has not disputed the claim of the domestic industry that porcelain and glass insulators are technically and commercially substitutable and the two have been interchangeably consumed by the company.

(b) From the table below, it is noted that the imports of Glass insulator has increased significantly during POI as compared to the base year, however, the import of Porcelain insulator has decreased during the POI as compared to the base year. This indicates substitutability between glass and porcelain insulators. The Authority provisionally determines that glass and porcelain insulators constitute like article and duty will be recommended on insulator as a whole.

Particular	Unit	2009-10	2010-11	2010-11	POI
<b>Glass insulator</b>					
Volume	MT	6,738	12,782	20,063	55,028
<b>Porcelain insulator</b>					
Volume	MT	9,544	13,594	15,718	7,416

11. As regards lumping electrical insulators of different types as one product, the Authority notes as follows

- a. Different types of Electrical Insulators are comparable in term of essential product characteristics including physical, production technology, manufacturing process, plant & equipment, functions & usage, etc.
  - b. Different product types serve the same general function of insulating one conducting body from other conducting body.
  - c. While different insulators have different specific end applications, it is noted that all Electrical Insulators essentially perform the same function. Different categories/types are intended to meet different end-user requirements. The design and shape of the insulators differs as per the end -use requirements. For example disk insulator is used in transmission and distribution line whereas hollow and solid core are used in substation. However the operations and machinery necessary for manufacturing are essentially the same for all kinds of insulators.
  - d. Producers often make no distinction between Electrical Insulators, classified in different categories, with regard to production, distribution or accounting. Both domestic industry and Chinese producers have, for all their different categories/types of Electrical Insulators, a similar manufacturing process. Further, same distribution channels are used for all categories/types of Electrical Insulators.
  - e. The questionnaire prescribed by the Authority requires the exporters to provide information separately for each type of the product. It is however noted that while disputing the claim of the domestic industry in the petition to proceed with weighted average of various types of insulators, none of the exporters provided separate information for different types of insulators in their initial questionnaire responses, even though the prescribed questionnaire requires the exporters to provide a number of information separately for each type of the product. However, this information has been subsequently provided by the responding exporters, on being requested by the Authority.
12. As regards the argument that the information on product type, size, range, models, etc. is not available in the petition, the Authority notes that the petitioner provided details of various types of the product under consideration produced by them. Further, the petitioners have referred to their websites. It would not be appropriate to conclude that the information placed on websites of these companies in this regard is not sufficient for the purpose for which the Authority has sought this information in the application proforma. The interested parties have also contended that the information on various product types produced by the domestic industry were not made available in the petition. The Authority notes that quality and quantity of evidence improves as an investigation progresses.
13. As regards the contention that the petitioners should provide transaction by transaction details of exports as per China customs in order to facilitate proper understanding of the product, the Authority notes that the detailed transaction by transaction details of exports as per China customs in any case contains description as given in customs tariff. Moreover, the questionnaire responses

filed by the responding exporters show that only a few types of the product have been exported during the POI.

14. As regards the contention that the customs data adopted by the petitioners include every kind of glass or porcelain insulators, it is noted that the petitioners have segregated imports of the product not forming part of the investigations on the basis of imports information obtained from Indian customs data. As regards the contention that the data for excluded product is not complete, the Authority has adopted the data for the POI in the present determination. It is also noted that the volume of imports of excluded category of the product is insignificant considering the total volume of imports during the POI.
15. The Authority considers that the similarities of all categories/types of Electrical Insulators, as far as their technical and physical characteristics as well as their application and end use are concerned, outweigh, for the purposes of these proceedings, any differences and therefore constitutes like article. However, for the purpose of dumping margin, price undercutting and injury margin analysis and in view of the submissions made by the interested parties, the Authority directed the domestic industry to provide separate information for different types of insulators. Domestic industry submitted that if the data is segregated considering the type of insulators, the mechanical strength and the polarity, it would be sufficient to differentiate and distinguish different types of insulators for the purpose of fair comparison. The domestic industry suggested categorization of the product under consideration into different types by considering following parameters
- a. Type of insulator – The insulator can be disc, hollow, long rod, solid core, pin, and LT insulator.
  - b. Mechanical strength – The mechanical strength in the insulator can be of anywhere between 4 kN to 420 kN. Insulators above 420 kN have not been consumed in India so far. Further, for mechanical strength, insulators can be grouped as follows –

Disc insulators	<ol style="list-style-type: none"> <li>a. Upto 90 kN</li> <li>b. 120 kN – 160 kN</li> <li>c. 210 kN</li> <li>d. 320 kN – 420 kN</li> </ol>
Hollow insulators	<ol style="list-style-type: none"> <li>a. Upto 5 kNm</li> <li>b. 5.1 – 10 kNm</li> <li>c. 10.1 – 20 kNm</li> <li>d. 20.1 kNm – 30 kNm</li> <li>e. 30.1 kNm – 50 kNm</li> <li>f. 50.1 kNm and above</li> </ol>
Long rods	<ol style="list-style-type: none"> <li>a. Upto 90 kN</li> <li>b. 120 kN – 160 kN</li> <li>c. 210 kN</li> <li>d. 320 kN – 420 kN</li> </ol>

Solid core	a. Upto 4 kN b. 6 kN c. 8 kN d. 10 kN e. 12.5 kN f. 15 kN and above
Pin and low tension insulators	All mechanical strength

c. Polarity –The insulators can be used in AC or DC current.

Thus the Authority for the purpose of Preliminary Findings has used the PCNs bearing the type of insulators, the mechanical strength and the polarity.

16. The Authority requested the responding exporters to provide supplementary information and made available a copy of the submissions made by the domestic industry to other interested parties. While providing the said information, even though some of the interested parties pointed out to short time period given to them to provide supplementary information, the Authority notes that none of the interested parties raised any objection with regard to product segregation proposed by the domestic industry. The Authority thus notes that the interested parties in a way accepted the categorization proposed by the domestic industry and provided relevant information.
17. As regards the argument of interested parties that the Authority has called such information after filing of questionnaire response, such information should have been called at the stage of initiation itself, the time allowed to provide such information was too short, the amended petition filed by the domestic industry should be made available to all interested parties and the investigation should be terminated as the exercise was not undertaken at the stage of initiation, the Authority notes that the prescribed questionnaire requires the exporters to provide the said information separately for each product type and thus, the exporters were obliged to provide such information while filing questionnaire response. Further, the interested parties could seek additional time to provide the requested time, which could have been considered by the Authority appropriately. None of the responding exporters however sought additional time for providing the desired information and in fact all the responding exporters provided the desired information within the time given by the Authority. It is clarified that the domestic industry has not filed any amended petition. The domestic industry suggested product categorizations vide their letter dated 8<sup>th</sup> Feb., 2014, a copy of which has been promptly made available to the interested parties. The Authority further notes that quality and quantity of evidence improves as an investigation progresses. The Authority has duly taken note of the argument of the interested parties that weighted average analysis of different types of insulators is not appropriate and has accordingly sought relevant information from the interested parties.
18. As regards the product scope considered by EU and USA, the Authority notes that the scope of the product under consideration adopted by the Authority

- need not be the same as the scope of the product under consideration considered by other authorities globally.
19. As regards the argument raised by opposing interested parties that different types of product are dislikes articles and investigations have to be conducted separately by considering different product. It is noted that in the instant case, the Authority has considered various types of electrical insulators as like article and therefore entire investigation must be conducted for electrical insulators as whole.
  20. As regards M/s Goldstone Infratech Limited request for inclusion of product Glass Fiber Silicone Rubber Insulators, being manufactured by them in the current investigation on the ground that their product is like or similar to Ceramic/Porcelains Insulators, the Authority holds that it would not be proper to extend the scope of the product under consideration to include this product type. While M/s Goldstone Infratech Limited has contended that composite insulators and Glass/Porcelain Insulators are like articles, the Domestic Industry itself has submitted that these insulators are not like articles to the product under consideration. The Domestic Industry has further submitted that composite Insulators are quite different from Porcelain or Glass Insulators and constitute distinctly different article on the basis of various parameters such as raw material composition, manufacturing process, cost of production, selling price. The two are not technically and commercially substitutable. Composite Insulators have not been substituted with Glass/Porcelain Insulators and vice versa. The two have significant difference in price. The Authority also notes that the product under consideration in the present investigation is “Glass/Porcelain Insulators” from China PR and there is no justification to expand the scope of the product under consideration. It would therefore be inappropriate to extend the scope of present investigations to include composite Insulators.
  21. Glass and Porcelain insulators are classified under customs heading 8546 under Chapter 85 of the Customs Tariff Act.
  22. **Request for exclusion:** interested parties have argued on exclusion of certain type of Electrical Insulators which are examined in detail below
    - a. As regards the argument on exclusion of 765KV insulator and HVDC on the grounds that all constituents of the domestic industry does not produce the same, the Authority notes exclusion of this insulator is not justified. It is not necessary under the law that each and every constituent of the domestic industry should produce all the types of product under consideration. Further, the domestic industry has provided copies of commercial invoices showing sale of this insulator by constituent of the domestic industry.
    - b. As regards request for exclusion of ‘Disc Insulator for DC Transmission Line with Rated E&M Failing Load $\geq$ 420kN’, the Authority holds that evidence on record show that the constituents of domestic industry has produced and sold 420kN disc insulators and therefore it would not be appropriate to exclude this product type from the product scope.

- c. As regards request for exclusion of condenser bushings and transformers, the Authority notes that condenser bushings and transformers are not within the scope of product under consideration. The domestic industry has also stated that the scope of product under consideration did not include bushings and transformers. However, the Authority hereby clarifies that the scope of the product under consideration and proposed measures excludes condenser bushings and transformers. Since the Authority has not included bushings within the scope of the product under consideration, the argument of the interested parties in this regard have not been examined in detail.
23. As regards request for restricting the product scope to 6 digit level, it is noted that the product under consideration in the present investigation is Electrical insulators of Glass, or Ceramics/Porcelain, 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. The product under consideration does not have one dedicated six or eight digit customs classification. The purpose of customs classification is to identify the article liable for anti dumping duty. The Designated Authority is required to give description of the product which is sufficient for customs purposes. It is therefore necessary to specify the customs classification at six digit level. The purpose of specifying the customs classification is correct identification of the product under consideration at the time of imports and therefore if the product under consideration falls under a number of different customs classifications, the same are required to be specified. It is however clarified that any import reported under the HS code shall not be subjected to anti dumping duty merely because the HS code has been specified in the scope of the product under consideration and under anti dumping duty table. It is clarified that anti dumping duty being proposed is on the product description and not on HS classification. Any imports of a product not within the scope of the product under consideration should not be subjected to anti dumping duty merely because the HS code has been specified under duty table.
24. As regards the contention that the Authority should issue a corrigendum on the scope of the product under consideration, the Authority notes that there is no necessity for the same. The Authority has neither expanded nor restricted the scope of the product under consideration. The mere fact that the Authority has now categorized the product into different types, the same does not imply a need for corrigendum.
25. As regards reference to the decision of the Authority in the matter of cold rolled flat steel products of stainless steel, the Authority notes that the broad principles listed in that case have been applied in the present case as well. It has not been pointed out by any interested party that there is some product type, like article of which is not offered by the domestic industry. The Authority notes that the properties of insulators whether made of glass or porcelain are similar, as is clearly established by the bids issued by Power Grid Corporation.

26. As regards decision of the CESTAT in the matters of Birla Periclase, Indian Refractory Manufacturers Association, Oxo Alcohols Industries Association, Magnet Users Association and Videocon Narmada Glass, the Authority notes that in the present case, the domestic industry has offered a product having characteristics closely resembling those of the product under consideration. In fact, Power Grid Corpn has considered that insulators made of glass and porcelain will have identical specifications.
27. On the basis of information on record and considering the submissions made by the interested parties, the Authority holds that there is no known difference in the subject goods produced by the Indian industry and those imported from the subject country. The two are comparable in terms of physical and technical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing, and tariff classifications of the goods. The two are technically and commercially substitutable. Consumers use the two interchangeably. Evidence provided by the domestic industry shows that the consumers are placing orders after specifying technical parameters of the product under consideration, where the supplies could be made either by the domestic industry or by the Chinese suppliers, so long as the product supplied meets the technical specifications. Thus, the suppliers sell the product conforming to the specifications laid down by the buyers. The questionnaire responses filed by the responding exporters show that they have supplied to same set of customers to whom the domestic industry has sold the product.
28. The Authority provisionally concludes that the product manufactured by the Applicants constitute like article to the subject goods being imported into India from the subject country.

### **Conclusion on product scope**

29. In view of the foregoing, the scope of product under consideration for the purpose of present investigation and proposed measures 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.

### **C. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

30. Rule 2 (b) of the AD rules defines domestic industry as under:
  - “(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are

related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers”

31. The application was filed by Aditya Birla Nuvo Ltd. ('Aditya Birla'), Bharat Heavy Electrical Limited ('BHEL'), Insulators and Electrical Company ('IEC'), Modern Insulators Limited ('Modern') and WS Industries (India) Ltd. ('WSI') (hereinafter referred to as the “applicants”) as domestic industry of the subject goods. Post initiation, the applicant has been supported by Indian Electrical and Electronics Manufacturers Association, Shreeji Power & Insulators Pvt. Ltd., Bikaner Ceramics Pvt Ltd, A.K. India Ceramics Pvt Ltd, Bikaner Porcelain Pvt Ltd., Allied Ceramics Pvt. Ltd., Taruna Dechome Pvt. Ltd., Prime Insulators, Saravana Global Energy Ltd., Jaipuria Brothers, General Power co Pvt Ltd., Hindustan Chemicals, Rastriya Electrical and Engineering Corpn (hereinafter referred to as the 'supporters'). Further, there are a number of other producers, apart from the applicants and supporters.

#### **Views of Exporters, Importers, Consumers and other Interested Parties**

32. Interested parties inter alia stated as follows:
- a. The domestic industry have not provided complete picture of the domestic industry as a whole. It is argued that market intelligence, based on which domestic industry has submitted information in the petition, is a highly arbitrary and a subjective criterion that falls short of the threshold of “positive evidence”, as required under the WTO AD Agreement.
  - b. The applicants do not constitute domestic industry under Rule 2(b) of the AD Rules and the WTO Agreement, as there are several other producers of the subject products in India having substantial production that do not find any mention in the petition. The interested parties place reliance on the Appellate Body Report of the WTO in DS 397 – European Communities – Definitive Anti-dumping measures on certain iron or steel fasteners from China PR, wherein the meaning of the phrase 'domestic industry as a whole' was clarified. The Appellate Body held that:

*“413. a major proportion of the total domestic production should be determined so as to ensure that the domestic industry defined on this basis is capable of providing ample data that ensure an accurate injury analysis.*

*419. ... a proper interpretation of the term “a major proportion” under Article 4.1 requires that the domestic industry defined on this basis encompass producers whose collective output represents a relatively high proportion that substantially reflects the total domestic production. This ensures that the injury determination is based on wide-ranging*

*information regarding domestic producers and is not distorted or skewed...”*

- c. Almost all producers of the subject products are members of the association IEEMA, which provides a list of all manufacturers on its website. A mere perusal of the list available on the website of IEEMA shows that there are many more producers of the subject product than the list provided in the petition indicates. Certain names of domestic producers that are missing include
  - i. Power & Control Transformers India Pvt. Ltd.
  - ii. Raychem RPG Pvt. Ltd.
- d. The following are other prominent manufacturers of the subject products:
  - i. Rashtriya Electrical & Engineering Corporation
  - ii. Pranya Associates
  - iii. Hindustan Chemicals
  - iv. General Power Company Pvt. Ltd.
  - v. Satraj Ceramics
  - vi. Prime Insulators Pvt. Ltd.
  - vii. Jaipuria Brothers Electricals Pvt. Ltd.
- e. The above-mentioned producers have substantial production capacity, comparable to each of the applicants. For example, M/s Bikaner Ceramics Pvt. Ltd. has a production capacity of 9000 MT of electrical insulators, but this fact has not been disclosed by the petitioners.
- f. The domestic industry’s standing should be examined in light of the above information and only then the Authority may determine whether to continue with the investigation.
- g. M/s WSI be excluded from the purview of “domestic industry” as they have imported the subject product during the POI. WSI was also excluded in previous investigation concerning the subject product. In the alternative, it is argued that if WSI is not excluded, their data related to one of their units under an SEZ in Vishakhapatnam must be excluded from the purview of the investigation. Reliance is placed on the final findings issued by the DG Safeguards dated 27th September 2012 where WSI’s SEZ unit was excluded.
- h. Furthermore, it is argued that M/s Saravana Global Energy Ltd. and Sheerji Power & Insulators Pvt. Ltd. do not support the petition as averred by the petitioners, as their authorization letters indicating their support are not provided in the petition.
- i. The phrase major proportion means to include all producers in an organized sector and almost all in an unorganized sector.
- j. Review of price bids of PGCIL would show that domestic producers are undercutting the prices of each other and that cannot be attributed to imports. In such case how Authority can conduct meaningful investigation without the

- data of other producers. This cannot be brushed out by stating that other producers are selling at prices less than petitioners. Then they should have been the first to provide injury information.
- k. Any interpretation that the word “a major proportion” means there can be more than one major proportion is illogical and requested the Designated Authority to direct all the producers to provide financial information.
  - l. Non confidential summary of the imports made by WSI has not been provided in the petition.
  - m. WSI should provide data regarding unfinished imports and value additions done in India and sales of these products in India and abroad.
  - n. The domestic producers that does not provide information has no standing in anti-dumping investigation.
  - o. M/s WSI Industries (India) Limited, which is forming part of DI is an importer of the subject product as established from previous investigation on the same product initiated on 9<sup>th</sup> April 2012. A similar finding is made in the initiation notice of the present investigation as well, but the Authority has erred in considering WSI as eligible Domestic Industry in the present investigation in violation of Rule 2(b) of the Anti-dumping Rules.

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

33. The domestic industry has made the following submissions with regard to the issue of standing.
- a. The production of the applicants constitutes a major proportion of total Indian production and so the petition should be considered as having been made on behalf of domestic industry.
  - b. The collective production of the other Indian producers not part of the application is quite low. As there is no published information with regard to their production, the applicants have relied on the letter of IEEMA.
  - c. There are no imports of the product under consideration from China during the investigation period by any applicant, except WSI. WSI imported unfinished product from China PR and processed it further to sell in the Indian market.
  - d. Discretion rests with the Authority to include WSI within the scope of domestic industry. While there was some amount of uncertainty with respect to this issue at the time of initiation of previous investigations for the same product, both the Calcutta and Madras High Courts have since passed final orders clearly holding that the Designated Authority has sufficient discretion under Rule 2(b).

Further, WSI should be considered eligible domestic industry for the following reasons:

- i. WSI was importing low-end, unfinished articles of the product under consideration in view of very low price for Chinese product and restricted its production to high-end product types.

- ii. WSI has not acted as a mere trader but has undertaken significant process on the imported product, including 100% testing of all articles, repacking as per customer-approved drawings and, in some cases, assembly of metal fittings onto the articles.
  - iii. The behavior of WSI is not different as compared to other major Indian producers. The trends of various economic factors of all domestic producers, including WSI, are similar. Therefore, it cannot be said that WSI is benefitting out of dumping from the subject country.
  - iv. WSI's thrust continues to be on own production and not on imports. WSI production continues to be quite significant. Majority of the sale by WSI continues to be from production.
  - v. The proposed anti dumping duty shall apply on exports made by the supplier concerned. WSI has not sought exclusion for this supplier. Once anti dumping duty is imposed, any imports made by WSI will also will subject to such anti-dumping duties.
  - vi. WSI has already stopped importing the product from China .
  - vii. The imported product has been sold at a materially higher price in the market, after being further processed by WSI. The resale price of WSI products would not have caused injury to Indian producers.
- e. None of the other companies should be considered ineligible within the meaning of Rule 2(b).
  - f. Whether or not WSI is considered an eligible domestic industry constituent, the production of the applicants constitutes majority of Indian production.
  - g. Information relating to the imports made by WSI is not publically available. It constitutes business sensitive data, disclosure of which could be detrimental to the company.

#### **EXAMINATION BY THE AUTHORITY**

- 34. The application has been filed by Aditya Birla, BHEL, IEC, Modern and WSI as the domestic industry of the product under consideration. Further, post initiation, the applicant has been supported by Indian Electrical and Electronics Manufacturers Association, Shreeji Power & Insulators Pvt. Ltd., Bikaner Ceramics Pvt Ltd, A.K. India Ceramics Pvt Ltd, Bikaner Porcelain Pvt Ltd., Allied Ceramics Pvt. Ltd., Taruna Dechome Pvt. Ltd., Prime Insulators, Saravana Global Energy Ltd., Jaipuria Brothers, General Power co Pvt Ltd., Hindustan Chemicals, Rastriya Electrical and Engineering Corpn (hereinafter referred to as the 'supporters'). Further, there are a number of other producers, apart from the applicants and supporters.

35. The Authority considers that none of the applicants needs to be excluded from the scope of domestic industry since none of them, barring WS Industries, have imported the subject goods from the subject country during the period of investigation, nor are they related to any exporter or importer of the subject goods. It is noted that WS Industries has imported the product under consideration from China PR.
36. As regards WSI, the Authority considers that WSI should be considered as eligible domestic industry for the following reasons –
- a. the focus of the company continues to be production. WSI is not primarily a trader of the subject goods.
  - b. WSI has also suffered from the effects of dumping.
  - c. The company has gradually reduced the imports of the product under consideration in the recent period. Further, barring very low volume of imports in Feb., 2013, there are no imports of the product under consideration after August, 2012.

	Import volumes (MT)
2009-10	***
2010-11	***
2011-12	***
Apr-12	***
May-12	***
Jun-12	***
Jul-12	***
Aug-12	***
Sep-12	***
Oct-12	***
Nov-12	***
Dec-12	***
Jan-13	***
Feb-13	***
Mar-13	***
Total	***

- d. The company has stated that there are no future plans to import the material. The company has given a certificate in this regard that it shall not import the product in future.
  - e. Imports made by WSI constituted \*\*\*% of consumption in India of the product during the POI.
37. Rule 2(b) of the Anti-dumping Rules provides discretion to the Authority to either include or exclude a domestic producer on reasonable and equitable grounds in certain situations. In view of the above and facts of the case, the Authority considers it appropriate to treat all petitioning companies as eligible domestic industry.
- iii. Chamber of Commerce for Import & Export of Machinery & Electronic Products (“CCCME”) has argued that there are nine other Indian producers of product under consideration which are not identified by the petitioners. The interested parties have relied on the website of IEEMA for the names of other Indian producers. The Authority sought information on Indian producers and their production figures from the Department of Heavy Industries, Ministry of Heavy Industries and Public Enterprises. The department in return provided IEEMA information for names and production of other Indian producers. Therefore, it is found appropriate to rely on the information by IEEMA. IEEMA further provided details of companies mentioned by the opposing interested parties, except Satraj Chemicals, alongwith their production, sales, etc. to examine the standing of the domestic industry. IEEMA has submitted its reply to the contention of interested parties with regard to production by these other producers and has contended that production of these producers are very low. Regarding Power & Control Transformers India Pvt. Ltd. and Raychem RPG Pvt. Ltd, IEEMA has clarified that they are not producer of Electrical Insulators
38. The Authority notes as per the information provided by IEEMA that there are a number of small producers of the product under consideration in India. However, the collective production of these producers is quite low. The production of the applicants accounts for more than 50% of Indian production and production of the applicants constitutes a major proportion of the total domestic production of the like article in India.
39. As regards disclosure of volumes of imports made by WSI, it is noted that such information is provided 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.

40. It has been argued that SEZ unit of WSI should not be treated as eligible domestic industry. It is noted that such proposition is without any factual and legal basis. The Authority notes that Foreign Trade Policy provides that although the SEZ units are specially delineated areas beyond the Customs Tariff Zone, they belong to the national geographic territory of India. The SEZ Act and SEZ Rules allow the SEZ units to sell their products in the DTA. Rule 2(b) nowhere provides that an SEZ unit shall not be considered as a part of the domestic producer/domestic industry. Production of SEZ unit sold in the domestic market competes with their DTA counterparts as well as the imported goods. The SEZ plant at Vizag of WS Industry has been considered as eligible domestic industry and for the purpose of domestic industry and standing only domestic sales and related injury parameters has been considered.
41. In view of the above and after due examination, the Authority holds that the applicants satisfy the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Applicants satisfy the requirement of standing under the Rules. Further, applicants constitute domestic industry within the meaning of Rule 2(b).

## **OTHER ISSUES**

### **Views of Exporters, Importers, Consumers and other Interested Parties**

42. The interested parties argued as follows:
  - a. Normal value constructed on Canada as surrogate country is wrong as Canada being a developed country is not at the same level of development as China. Moreover, the constructed normal value is wrong, as the UN Comtrade website shows export price of USD 2670 per MT for the subject product, while the constructed normal value in the petition puts the export price from Canada at 3643 per MT at page 158 of the petition. There is gross exaggeration in constructed normal value, which cannot be accepted by the Authority. Further, constructed normal value is based on some purchase orders, invoices, which cannot be relied upon by the Authority as it fails the adequacy and accuracy test [Reliance is placed on WTO Panel Report in DS 60 Guatemala – Anti-dumping Investigation Regarding Portland Cement from Mexico].
  - b. The data for excluded products is incomplete, as it not even up to the POI. Therefore, such incomplete data cannot be relied upon. UN Comtrade data shows that glass insulators are being re-exported from India, while it is an admitted fact that the Domestic Industry does not manufacture the same. It is prayed that the imports from China and the market size of India should be determined only after making adjustment for re-export of such imported goods.

- c. The petition provides no support as to how it arrived on export price and net landed price after adjusting certain values such as 3% towards Commission; 0.5% towards Port expenses; 1% towards Inland Freight; 0.5% Bank Charges; USD 50 per ton towards freight and 5%/MT towards Insurance. These values are arbitrarily applied with no evidence. Such values cannot be relied upon and the Authority may direct the Petitioners to provide the basis as per which such values were used.
- d. The conversion factor of 1.27 is unscientific and arbitrarily applied by the Petitioners to distort the export price of glass insulators, leading to deflation in FOB price (on pages 161 and 162 of the petition). After applying such a conversion factor, the export price of glass insulators has been drastically lowered from USD 1319 to USD 1039. Price undercutting shot up to 20-40% in 2011-12 and 30-50% in the POI from 0-20% in 2011-12 and 20-40% in POI as a result of application of the conversion factor (on pages 174 and 176 of the petition).
- e. The petitioners have equated importers with users on Section I of the petition in Question 9 on page 15. The names mentioned therein are not actual users. The users of the subject product are state government corporations/companies that are engaged in the installing power transmission lines and establish power stations.
- f. Inconsistency in data as the petitioner has relied on China customs for import statistics and for excluded products they have relied upon DGCI&S. The fact that this data was relied on in safeguard findings is no justification and more so the data used there was not of POI.

**Views of the Domestic Industry**

43. The applicants have made the following submissions on other issues.
- a. Import data has been procured for the purpose of analysis from the following sources:
    - i. Information on imports from China has been procured from China Customs.
    - ii. For imports from other countries, DGCI&S published data has been adopted.
    - iii. For excluded products, DGCI&S transaction wise data has been adopted.
  - b. DGCI&S data for imports from China has not been adopted for the following reasons:
    - i. The available options for determining volume and value of imports are (i) Indian customs statistics, (ii) Chinese customs statistics, (iii) consumer-wise imports statistics. Imports of the product under consideration are in two categories – (i) project imports under chapter 98 and (ii) other than projects category under chapter 85, heading 8546.
    - ii. All imports of the product under consideration are made against orders. Some of these insulators are made as per specific design & drawing of the consumers. Therefore, these products do not have any standard weight. Further, the Chinese producers have produced and supplied goods against specific requirements of the customers in India, the goods have been exported from China for eventual consumption in India. The goods would

not have been exported from China to India for eventual consumption in third countries. Further, the transaction wise statistics relating to exports from India clearly establishes that exports from India are not of glass insulators. The mere fact that the UNComtrade data shows exports under the customs classification does not mean that glass insulators have been exported from India.

- iii. Information provided by secondary sources is insufficient for the reason that the same does not contain imports reported at various Customs Ports such as Mundra port. Significant volume of the product under consideration has been reported at Mundra port.
- iv. As the investigation is in respect of imports from China, there is no reason why Government of China statistics should be considered unreliable.
- v. The Authority has accepted exporting country trade data in a large number of investigations in the past.
- vi. In the safeguard investigation on the same product, the Director General (Safeguards) accepted China customs data. Further, the final findings notified by the Director General (Safeguards) were accepted by the Board on Safeguards and Ministry of Finance.
- vii. As regards contentions of insufficient information, the petitioners have provided the product range and specifications of the product under consideration being produced by each of the constituents of the domestic industry at Annexure 2.3 of the petition.

#### **EXAMINATION BY THE AUTHORITY**

44. As regards the argument of insufficient information provided by the domestic industry in the application filed by them, it is noted that the application contained all information relevant for the purpose of initiation of investigation. The Authority, only after satisfaction that application contained sufficient evidence to justify initiation of the investigation decided to initiate the present investigation. Further, subsequent to initiation, information has been sought from the applicant to the extent deemed necessary and the same has been provided by the applicant for the purpose of the present findings. The Authority notes that quality and quantity of evidence improves as an investigation progresses.
45. It is clarified that the dumping margin and injury margin have been determined for the responding exporters on the basis of their data and therefore as far as the question of dumping margin, injury margin and quantum of anti dumping duty proposed to be recommended is considered, the same is on the basis of the information and evidence provided by the responding exporters. The Authority has adopted China customs data only for the purpose of injury analysis.
46. For the purpose of injury analysis, the Authority is required to consider the trends in volume and price of imports. The Authority notes that the responding exporters have not provided information for the present injury period to determine volume and price of imports and therefore injury analysis in any case cannot be carried out using the information provided by the responding exporters from China.

47. The Authority considers that adoption of China customs data is appropriate in the present case. The prescribed unit of measurement under Customs Tariff Act is weight. The imports as per DGCI&S data have however been reported in a large number of other unit of measurement viz., Kgs, LOT, MT, NOs, Pcs, SET etc. Given the nature of product, it would be difficult to precisely determine volume of imports from Indian customs data when the unit of measurements in these import transactions is not weight. Even though the product is eventually consumed in numbers, assessment of volume and price of imports on the basis of numbers would be highly misleading in view of significant difference in the costs and prices of different types of the product, when measured in terms of numbers. The Authority has therefore considered weight of the product as the unit of measurement for the purpose of injury analysis, which is also the prescribed unit under the Customs Tariff Act. It is also noted that in those cases where insulators are made to order as per the customer's requirements, there is no standard weight and, if the imports have not been reported on weight basis, the weight of those consignment cannot be accurately determined. In case of China customs, it is noted that the prescribed unit of measurement in China customs is also weight and the exports from China have been reported in China customs on weight basis only. In view of the foregoing, the Authority holds that it would be appropriate to adopt China customs for analyzing volume and value of imports.
48. Further, since the investigations concerns China as the subject country, it would not be inappropriate to adopt China customs data. It is also noted that the product is largely produced against specific orders and therefore the goods invoiced for exports to India were therefore meant for consumption in India.
49. The interested parties contended that the Indian customs data shows exports under the category of glass insulators. However, since glass insulators are not produced in India, this implied re-export of goods imported in India. The petitioners provided transaction wise export data as per Indian customs (based on IBIS), analysis of which shows that the product description in these exports does not show that these exports were of glass insulators.
50. As regards excluded items, the Authority notes the following –
- a. None of the responding exporters have exported any of the excluded items.
  - b. The domestic industry contended that imports of excluded items are quite low in volume.
    - a. Since China customs does not specify the full product description and contains only the description mentioned in the relevant HS code, detailed China customs data could not be used for identification of excluded item.
    - b. The DGCI&S data contains detailed description of the imported product and it is possible to identify imports of excluded items in DGCI&S data.
    - c. The responding parties have not provided any adequate or sufficient information on exports of excluded products from China to India.
51. In view of the above, the Authority considers that it would be appropriate to adopt DGCI&S data to determine volume and value of excluded items.

52. After examining the material placed by different interested parties, it is provisionally concluded that it would be appropriate to consider data from China Customs provisionally accepted for the PF to determine volume and value of imports from China and DGCI&S data to determine volume and value of imports of excluded products. It is also noted that the Director General (Safeguards) had also adopted the same methodology in determination of volume and value of the imports of the product under consideration.
53. As regards consideration of Canada as appropriate market economy third country, the Authority has for the purpose of the present findings has not adopted Canada as an appropriate market economy third country for determining normal value in China.
54. As regards determination of net ex-factory export price in the petition, Authority notes that the petition is based on best available information. In any case, the Authority has now adopted questionnaire responses filed by the responding exporters for determination of export price.
55. As regards adoption of conversion factor in the petition for determination of normal value of glass insulators, the Authority for the purpose of present determination has not applied any conversion factor, pending further investigation in this regard.
56. As regards the argument that the petitioners have equated importers with users, the Authority notes that the petitioners contended that majority of the imports from China are by Power Grid Corpn., which is both an importer and consumer. In any case, the Authority has issued a notification, published in the Gazette of India, extraordinary. The consumers of the product in India are deemed to be aware of the present proceedings.
57. As regards adoption of different source of information for determination of volume and price of imports, the Authority notes that the petitioners have provided best available information in this regard. None of the interested parties have been able to provide or point out to any other source of information which could be adopted for the purpose.

## **D. DUMPING MARGIN**

### **1 NORMAL VALUE**

58. Under Section 9A(1)(c), normal value in relation to an article means:

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

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in*

*the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

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

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

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

**Views of Exporters, Importers, Consumers and other Interested Parties**

59. The following submissions are made by interested parties in respect of normal value, export price and dumping margin.

**Views of the Domestic Industry**

60. The following are the submissions made by the applicants in respect of normal value.
- a. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
  - b. Market economy status cannot be granted unless following conditions are fulfilled.
    - i. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity
    - ii. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values
    - iii. Market economy status cannot be given unless the responding exporter establish that their books are audited in line with international accounting standards
    - iv. Market economy status cannot be granted even if one of the parameters is not satisfied
    - v. The onus/obligations to establish market economy status is onto responding Chinese exporters and not onto the Designated Authority.
    - vi. Market economy status cannot be granted unless the responding company and its group as a whole make the claim.
    - vii. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process

of transformation has been completely established through documentary evidence.

- c. The major inputs required for the production of the product are metal parts and fuel in the form of natural gas, LPG or liquid fuels such as kerosene oil, furnace oil, etc. Steel prices in China do not substantially reflect market values. Chinese steel companies benefit heavily from government subsidies. As regards fuel, its prices do not reflect market values in China.
- d. Besides subsidies for specific industry-related raw materials, all industrial state-owned enterprises (SOEs) received energy subsidies. Distortions caused by the intervention of the government have led to overcapacity.
- e. The applicants have determined normal value of Porcelain/Ceramic Insulator based on constructed cost of production of the subject goods.
- f. The applicants determined separate normal value for Porcelain/Ceramic and Glass insulators .
- g. The applicants determined normal value for Glass insulators in three different ways:
  - i. Prices prevailing in the market economy third country (Canada).
  - ii. Best cost estimates derived by the applicants for cost of glass insulators.
  - iii. Based on normal value of porcelain insulators, duly adjusted for the weight difference.
- h. Applicants determined weighted average import price on the basis of import data. The export prices have been adjusted for Commission, Port Expenses, Inland Freight and Bank Charges.
- i. The web research done by the domestic industry shows that all related companies of Zigong Sediver Toughened Glass Insulator Co. Ltd. and Sediver Insulators (Shanghai) Co. Ltd involved in production of product under consideration have not responded to the present investigation.
- j. The exporter has provided no evidence to establish that prices of inputs procured substantially reflected market value.
- k. The gaps in the questionnaire response filed by Zigong Sediver Toughened Glass Insulator Co. Ltd. and Sediver Insulators (Shanghai) Co. Ltd are in the nature of vital defects in the questionnaire responses and the exporter has cautiously decided not to provide relevant information. Thus, the Designated Authority is not under obligation to point out these defects in the questionnaire responses. The opportunities for clarification or rectifying deficiencies cannot be used to file complete questionnaire response.
- l. Shanghai Seves Glass Co.Ltd. makes glass cells and Zigong Safam Cast Iron Co Ltd makes caps for insulators for Zigong Sediver and Sediver Shanghai. The basic production process involved in glass insulator is in making glass cells. In fact, once glass cells has been made, the only production process left out is fixing of metal parts, which is a screw driver technology. The basic production technology, plant & equipment, manufacturing process, investment

is in making glass cells. The costs upto the stage of glass cells constitutes majority of the cost of production of a glass insulator. Such manufacturing activities are undertaken by Shanghai Seves Glass Co.Ltd. Thus, the basic manufacturing activities are undertaken by a company who is not before the Authority. In the absence of questionnaire response from these companies who are making glass cells and caps for glass insulators, it would not be possible for the Authority to undertake verification of production and cost of production involved in producing and selling glass insulators. The questionnaire response is thus grossly incomplete and inadequate for normal value determination. The petitioner submits that this fact alone sufficient to reject the entire response as far as determination of normal value is concerned.

#### **EXAMINATION BY THE AUTHORITY**

61. The Authority sent questionnaires to the known exporters/producers from the subject country, advising them to provide information in the form and manner prescribed. The following parties have filed exporter questionnaire responses:
- i. Nanjing Electric (Group) Co Ltd
  - ii. Zigong Sediver Toughened Glass Insulator Co. Ltd.
  - iii. Sediver Insulators (Shanghai) Co. Ltd.
  - iv. Dalian Insulator Group Co. Ltd.
  - v. Liling Huaxin Insulator Technology Co., Ltd
  - vi. Liling Huacheng Insulators Co., Ltd.
  - vii. Sichuan Yibin Global Group Co., Ltd.
  - viii. Chengdu Global Special-Glass Manufacturing Co., Ltd.
  - ix. Sediver S.A. (France)
62. In addition to exporter questionnaire responses, the following companies from the subject country have filed market economy questionnaire responses:
- i. Zigong Sediver Toughened Glass Insulator Co. Ltd.
  - ii. Sediver Insulators (Shanghai) Co. Ltd.

#### **Examination of Market economy claims**

63. The Authority notes that in the past three years, China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.
64. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from

People's Republic of China PR are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d. The exchange rate conversions are carried out at the market rate

65. The Authority notes that Zigong Sediver Toughened Glass Insulator Co. Ltd. and Sediver Insulators (Shanghai) Co. Ltd from China PR have responded to the questionnaire pertaining to market economy status and to the exporters' questionnaire, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters were examined for determination of normal value of the responding producers/ exporter of the subject goods.
66. The Authority has examined the submissions of the cooperating exporter, Zigong Sediver Toughened Glass Insulator Co. Ltd. based on its responses to the market economy questionnaire and also with regard to various appendices of the exporter's questionnaire. After examining the responses, the Authority finds that Zigong Sediver Toughened Glass Insulator Co. Ltd. was established in 1993 under Chinese laws. It is a Joint-Venture limited liability company. 98% of the Company shares is owned by Seves S.p.A and 2% of the Company share is owned by Zigong Chuan Sheng Electrica Porcellain Insulator co The Company's majority shareholder Seves S.p.A. controls/owns number of companies in China that produce / export the subject merchandise. However these producers of the product concerned from China PR have not responded to the present investigation. , although it is claimed that these companies did not exported insulators to India during Period of Investigation.
67. Since MET criteria must be requested and fulfilled for all companies within the same group, it has not been established that the MET claim is complete. Further PPC Wuxi Insulator Co Ltd, a company of Seves Group manufactures

- porcelain insulators and has not responded to the present investigation. Normal value determination of the Zigong Sediver Toughened Glass Insulator Co. Ltd on the basis of its domestic sales of glass insulators would not be adequate as the related party PPC Wuxi Insulator Co Ltd who is a producer of porcelain insulators in China would also have porcelain domestic sales and that cannot be ignored. In any case, market economy treatment claim cannot be considered as complete unless all companies involved in production and sale of the product under consideration are before the Authority through questionnaire response. The company has also admitted that it is procuring inputs from related companies but these are not before the Authority as they have not filed response. However, it is noted that this company has not substantiated their inputs provided by related parties are at market price.
68. Further with reference to major inputs required for the production of the product i.e., metal and fuel, the exporter has not provided any evidence to establish that the prices of these inputs substantially reflect market values.
  69. It is also noted that there are other producers of glass and porcelain insulators in China, who have filed questionnaire response and have not claimed market economy treatment.
  70. Therefore in view of the facts placed on record by the domestic industry and pending further examination of market economy treatment claim and verification of the information and claims made by the exporter and producer from China PR in respect of their market economy claims and individual treatment claims, for the purpose of the preliminary finding, the Authority has not granted market economy treatment to the company at this stage and has provisionally adopted the constructed normal value for determination of normal value in terms of Para-7 to Annexure-1 to the Rules.
  71. It is also noted that Sediver Insulators (Shanghai) Co. Ltd has also responded to market economy questionnaire response. Sediver Insulator (Shanghai) Co. Ltd. ("Company") was established in 2007 under Chinese laws. It is a 100% foreign-owned limited liability company. It has been claimed that the Company has no structure changes in the past three years. It is registered at 162 338 Minle Road, Spark Zone, Shanghai, China 201319. The Company is 100% owned by Seves S.p.A. Seves S.p.A. has related companies in China which are related to the sales of the subject merchandise. The company has also admitted that it is procuring inputs from related companies and has not substantiated their inputs provided by related parties are at market price. In view of the position explained market economy status for present findings cannot be given to Sediver Insulators (Shanghai) Co as Zigong Sediver Toughened Glass Insulator Co. Ltd. and Sediver Insulators (Shanghai) Co. Ltd are owned by Seves S.p.A and thus are related companies
  72. Sediver SA France has exported to India the product under consideration produced by Sediver Insulators (Shanghai) Co and has filed Exporter's questionnaire response

**Liling Huaxin Insulator Technology Co., Ltd and Liling Huacheng Insulators Co., Ltd.**

73. This questionnaire is replied by Liling Huaxin Insulator Technology Co., Ltd. (“Liling Huaxin”, or “the company”) and its subsidiary company Liling Huacheng Insulators Co., Ltd. (“Liling Huacheng”). Liling Huaxin is an exporting producer of the subject merchandise which involves into the activities of production, domestic sales and export sales to both India and other third countries. Its subsidiary company Liling Huacheng is a producer of the subject merchandise and only makes domestic sales. The company and its affiliated Liling Huacheng have not applied for the Market Economy Treatment (“MET”) in this investigation. The two companies have filed one consolidated questionnaire response. The company has claimed that, there aren’t any other related companies engaged in production and sale of the subject goods both in China and other countries. Further they have claimed that the company has not given any such incentives by the government in any form to the product concerned. Huacheng doesn’t have the product brochure and share the same product code with Huaxin. The Company has claimed that the negotiation and sales process in the home market and export to India are generally the same. The company doesn’t issue such price lists for sales in both markets. The sales are negotiated on a transaction basis.

**Sichuan Yibin Global Group Company and Chengdu Global Special-Glass Manufacturing Co., Ltd**

74. This questionnaire is replied by Sichuan Yibin Global Group Co., Ltd. (“Yibin Global”, or “the company”) and its subsidiary company Chengdu Global Special – Glass Manufacturing Co., Ltd. (“Chengdu Global”). Yibin Global is an exporter of the subject goods which involves into the activities of domestic and export sales to both India and other third countries. Its subsidiary company Chengdu Global is a producer of the subject goods. All the products manufactured by Chengdu Global are first sold to Yibin Global, and further resold to all markets by Yibin Global. The company and its affiliated Chengdu Global have not applied for the Market Economy Treatment (“MET”) in this investigation. The two companies have filed one consolidated questionnaire response. Tianwo Trading Co., Ltd., as a paper company, involved into the sale of subject goods between Chengdu Global and Yibin Global. No actual sales and production activities are conducted and it is only for accounting purpose. The company has claimed that as far as the it knows, there aren’t any other related companies engaged in production and sale of the subject goods both in China and other countries. Further it claimed that they are not given incentives by the government in any form to the product concerned and no other subsidiaries or other related companies in all countries are involved with production, sales, or supply of raw materials of the product concerned. The company has claimed that the negotiation and sales process in the home market and export to India are generally the same. The company doesn’t issue such price lists for sales in both markets. The sales are negotiated on a transaction basis.

### **Dalian Insulator Group Co. Ltd.**

75. The Company was established with the name Dalian Insulator Co., Ltd. on July 16th, 2003 as a limited liability company with registered capital RMB \*\*\* and obtained the business license on November 15th of the same year. On February 19th, 2009, the name of the Company was changed into Dalian Insulator Group Co., Ltd. On August 13th, 2009, the audited net assets of the Company were converted into \*\*\* shares and the Company was changed into a company limited by shares. On August 5th, 2011, the Company was listed for trading at the SME board of Shenzhen Stock Exchange. In addition to the above, the Business Scope and other registration particulars of the Company do not change. The exported product of the Company is under the policy of value added tax return on exports stipulated by Chinese government. The VAT return rate for the subject goods is 17%. The company has claimed that there are no financial or contractual links and joint ventures with any other company concerning Research and Development, production, sales, licensing, technical and patent agreements for the product concerned. The company has claimed that they sell directly to the Indian and domestic customers. Dalian Insulator and their clients contact with each other for general information at the beginning of selling the goods, and keep negotiating on prices, quantity, delivery date and payment condition until agreement is reached. After execution of the contract, both parties perform their responsibilities according to the contract. Further they have claimed that they have no price lists for sales in the home market and exports to India. Sale price is determined by negotiation of both parties taking into consideration of our production cost, SA&G and reasonable profit, which shall follow the market supply and demand. The producer/exporter has not claimed market economy treatment.

### **Nanjing Electric (Group) Co. Ltd.**

76. Nanjing Electric (Group) Co. Ltd. (“producer/exporter”) was established in December 1997 as a limited liability company under Chinese Company Law, and registered at No. 63, TAIXIN Road, Nanjing, 210038, Jiangsu, China. Since 2004, Nanjing Electric (Group) Co. Ltd. is 100% controlled by Baiyun Electric Group. The two current shareholders of Nanjing Electric (Group) Co. Ltd. are Baiyun Electric Group Co. Ltd. and its subsidiary Guangzhou Baiyun Electric Investment Co. Ltd. Nanjing Electric (Group) Co. Ltd. is the only producer of electrical insulators within Baiyun Group. The producer/exporter only produces Toughened Glass Insulators and a limited quantity of Composite Insulators and High Voltage Porcelain Insulators. During the period of investigation, the producer/exporter only exported “Toughened Glass Insulators of Cap and Pin Type” to India. The producer/exporter makes direct sales to end-users in Indian market through bidding process. The producer/exporter has only one subsidiary that is still in its initial process, and does not have any business activity. The subsidiary is not involved in

manufacture of the product under investigation. The producer/exporter has not claimed market economy treatment.

#### **Methodology for determination of normal value**

77. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of preliminary findings. The normal value for the subject products imported from China PR into India has been constructed considering optimum consumption norms of the domestic industry for major raw materials, international prices for quartz, cost of other raw materials as per domestic industry prices, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed towards reasonable profit.
78. For the purpose of the present preliminary findings and pending further investigations, the Authority has not determined separate normal value for glass insulators, even though the petitioners have contended that the normal value of glass insulators shall be significantly higher than the normal value for porcelain insulators, when determined in terms of weight. The petitioners have contended that normal value for glass insulators should be considered at higher level at least to the extent of the weight difference between the glass and porcelain insulators. To determine normal value of Glass Insulators, the Authority requires input consumption and conversion cost data of Glass Insulator. Since Domestic Industry is not producing Glass Insulator, these data could not be provided by Domestic Industry. M/s Sediver has provided cost data of glass insulator but could not be adopted as MET is not granted to them for preliminary finding, pending verification and due to reasons explained regarding procurement of inputs from related parties.. It is also noted that customer are procuring glass and porcelain Insulator on the basis of prices. In view of the non availability of any reliable and verifiable data of glass insulators, the Authority has considered the Normal Value of Porcelain and Glass Insulator of the same level although Domestic Industry has contended that Normal Value of glass insulators shall be significantly higher than the normal value for porcelain insulators, when determined in terms of weight. The constructed normal value determined for China PR is shown in the dumping margin table below under the heading Dumping Margin.

## **2 EXPORT PRICE**

### **Zigong Sediver Toughened Glass Insulator Co. Ltd.**

79. Zigong Sediver Toughened Glass Insulator Co. Ltd. has reported export of subject goods to India during the POI. The goods have been sold directly to customers in India. The company has exported only toughened glass insulators in India during the investigation period. Further, the company has

exported AC and DC insulators of mechanical strength 70 KN, 120 KN, 160 KN, 210 KN and 420 KN, during the investigation period. The sales to Indian customers are on CIF basis. The exporter has claimed adjustments towards overseas expenses, overseas insurance and credit cost to arrive at ex factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Sediver Insulators (Shanghai) Co. Ltd.**

80. Sediver Insulators (Shanghai) Co. Ltd. has reported export of subject goods to India during the POI. The goods have been sold to direct customers in India. The company has exported only glass disc insulators in India during the investigation period. Further, the company has exported AC insulators of mechanical strength 120 KN, 160 KN and 210 KN during the investigation period. The sales to Indian customers are in CIF term. The exporter has claimed adjustments towards inland freight, overseas freight, overseas insurance and credit cost to arrive at exfactory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Sediver Insulators (Shanghai) Co. Ltd. (producer) through Sediver S.A. (France) (Exporter)**

81. Sediver Insulators (Shanghai) Co. Ltd. through Sediver S.A. (France) (Exporter) has reported export of subject goods to India during the POI. The goods have been sold through Sediver S A to direct customers in India. The company has exported only glass disc insulators in India during the investigation period. Further, the company has exported AC insulators of mechanical strength 120 KN, 160 KN and 210 KN during the investigation period. The sales to Indian customers are in CIF term. The exporter has claimed adjustments towards inland freight including insurance, clearance and handling charges; international freight, international insurance, commission and bank charges to arrive at ex-factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Liling Huaxin Insulator Technology Co., Ltd and Liling Huacheng Insulators Co., Ltd.**

82. Liling Huaxin Insulator Technology Co., Ltd. has reported export of subject goods to India during the POI. The goods have been sold directly to customers in India. The company has exported only hollow porcelain insulators in India during the investigation period. Further, the company has exported AC

insulators of mechanical strength 5.1-10 KN, 10.1-20 KN, 20.1-30 KN, 30.1-50 KN and 50.1 KN during the investigation period. The sales to Indian customers are on CIF basis. The exporter has claimed adjustments towards internal transportation, port auxiliary fees, overseas transportation and insurance and credit cost to arrive at ex-factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Chengdu Global Special-Glass Manufacturing Co., Ltd and Sichuan Yibin Global Group Co., Ltd.**

83. Sichuan Yibin Global Group Co., Ltd. has reported export of subject goods to India during the POI. The goods have been sold to direct customers in India. The company has exported only glass disc insulators in India during the investigation period. Further, the company has exported AC insulators with mechanical strength 120 KN, 160 KN and 210 KN during the investigation period.. The sales to Indian customers are in CIF term. The exporter has claimed adjustments towards inland freight and port charges, ocean freight and ocean insurance to arrive at ex-factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Dalian Insulator Group Co. Ltd.**

84. Dalian Insulator Group Co. Ltd. has reported export of subject goods to India during the POI. The company has exported only disc and solid core insulators in India during the investigation period. Further, the company has exported AC and DC insulators of mechanical strength 120-160 KN, 210 KN and 320-420 KN during the investigation period. The sales to Indian customers are in CIF and CFR term. The exporter has claimed adjustments towards ocean freight, insurance, handling, fumigation inspection, CHA, custom clearance and bank charges to arrive at ex-factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

**Nanjing Electric (Group) Co Ltd**

85. Nanjing Electric (Group) Co Ltd. has reported export of subject goods to India during the POI. The goods have been sold to direct customers in India. The company has exported only glass disc insulators in India during the investigation period. Further, the company has exported AC insulators of mechanical strength 120 KN, 160 KN and 210 KN during the investigation period. The sales to Indian customers are in CIF term. The exporter has claimed adjustments towards inland transportation, handling and loading

charges, ocean freight, insurance, credit cost, bank charges and export packing to arrive at ex-factory export price. The Authority has determined the weighted average export price of the above exporter as US\$\*\*\* per MT.

### 3 DUMPING MARGIN

86. The export price to India (net of all the adjustments claimed by the exporter and provisionally accepted by the Authority) have been compared with the normal value to determine dumping margin. Separate normal value and export price has been determined for each type of insulator exported to India. The dumping margin during the POI for all exporters/producers from subject country has been determined as provided in the table below.

S.No	Producer	Exporter	Normal Value	Net Export Price	Dumping Margin	Dumping Margin	Dumping Margin
			US\$/MT	US\$/MT	US\$/MT	%	% Range
1	Nanjing Electric (Group) Co Ltd	Nanjing Electric (Group) Co Ltd	***	***	***	***	105-115
2	Zigong Sediver Toughened Glass Insulator Co. Ltd.	Zigong Sediver Toughened Glass Insulator Co. Ltd.	***	***	***	***	40-50
3	Sediver Insulators (Shanghai) Co. Ltd.	Sediver Insulators (Shanghai) Co. Ltd.	***	***	***	***	40-50
4	Sediver Insulators (Shanghai) Co. Ltd.	Sediver SA.	***	***	***	***	25-35
	Weighted Average (2+3+4)		***	***	***	***	40-50
5	Dalian Insulator Group Co. Ltd.	Dalian Insulator Group Co. Ltd.	***	***	***	***	80-90
6	Liling Huaxin Insulator Technology Co., Ltd	Liling Huaxin Insulator Technology Co., Ltd	***	***	***	***	10-20
7	Chengdu Global Special-Glass	Sichuan Yibin Global Group Co., Ltd.	***	***	***	***	110-120

	Manufacturing Co., Ltd.						
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**Export Price and Dumping Margin for other producers and exporters from subject country**

87. The Authority notes that response to questionnaire has been filed only by some of the exporters of the product under consideration from China. Other exporters from China have not cooperated with the Authority in providing relevant information in the form and manner prescribed. The Normal Value and export price to India in respect of other producers and exporters in China has been determined on the basis of best information available. Information provided by the responding exporters has been adopted for the purpose. The dumping margin so worked out is mentioned in the table below.

Particulars	US\$/MT
Normal Value	***
Net Export Price	***
Dumping Margin	***
Dumping Margin %	***
Dumping Margin % Range	200-210

88. It is seen that the dumping margins are quite significant and more than the limits prescribed under the Rules in respect of exports made by all the Chinese producers-exporters of the product under consideration.

**E. INJURY**

**Submissions made by importers, exporters, users and user associations**

89. Submission made by the interested parties are summarized below :

- a. Review of price bids of PGCIL would show that domestic producers are undercutting the prices of each other and that cannot be attributed to imports.
- b. Article 3.4 of the WTO AD Agreement mandates that domestic industry is required to show actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization incapacity. The domestic industry has not only failed to show actual decline is certain factors but has also not shown potential decline in any of the factors.
- c. Production of domestic industry has only marginally declined in POI. This decline is due to inability of the domestic industry to upgrade its facilities to produce high voltage rating Electrical Insulators. This demand is met by imports.

- d. Excluding WSI, domestic industry profitability has declined in period of investigation which is a temporary fall. Including WSI shows decline in profits which means only WSI has suffered losses.
- e. The domestic industry has claimed significant deterioration in profits when the range of price undercutting is consistent (20-40%).
- f. Domestic industry's injury claim is based on a temporary decline in production and profitability in the POI, while in their annual reports they have quoted the contrary. M/s Modern Industries has reported profit in its Annual Report dated 2012-13, and M/s Aditya Birla Nuvo Limited has further reported in their Annual Report 2012-13 that capacity utilization and productivity of domestic manufacturers will improve due to imposition of safeguard duty.
- g. Capacity utilization has shown a constant favorable trend in injury period, and dipped only marginally in the POI by 9%. The actual reason is that the domestic industry has not been able to upgrade its facilities to manufacture higher voltage rating electrical insulators, which are in high demand by Indian users.
- h. Domestic industry has reported ROI in same range (0-20%). Since capacity utilization has declined and ROI is positive, it shows profit margins have increased. Further sales price increased, whereas cost declined, which lead to increase in profit margin.
- i. The domestic industry is performing well in terms of productivity. Number of employees was at 102 indexed points in POI. Productivity per employee has remained very high. Sales have been high throughout injury period, only showing a marginal decline of 10% which cannot be attributed to imports.
- j. The domestic industry is able to sell its goods at a very high price in POI. Decrease in sales volume is due to trend in power sector as reported in annual report of ABI. Annual report of Hindustan Vidyut states that demand of product is likely to improve. Therefore decline in sales is temporary. Fluctuation within 10% is common in business operations.
- k. Domestic industry would be able to meet only 89% of the demand. But due to its inefficiency domestic industry is only able to meet 52% of the demand and that cannot be attributed to imports.
- l. There is no causal link between injury and dumping. Following are relevant
  - i. Despite increase in selling price, profitability has declined.
  - ii. ABI conceded level playing field and Modern stated encouraging circumstances due to imposition of safeguard duty.
  - iii. Hindustan Vidyut also reported increase in sales due to increase in investments by NTPC and PGCIL.
  - iv. Decline in profits is due to change in consumer preference to polymer insulator as stated by Hindustan Vidyut.
  - v. As this industry is an order-based industry, all domestic producers indulge in lowering their prices to win tenders and orders and not

due to imports. Inter se competition in the market is the cause of injury, as it is an order based industry and number of bulk buyers are only few.

- vi. Under-utilization and inability of the domestic industry to upgrade their production facilities to produce high voltage insulators are factors that are intrinsic to domestic industry alone.
- m. Public interest: domestic industry does not stand to gain anything with imposition of anti dumping duty when price undercutting is a result of inter se competition and not imports. ADD will drive prices upwards to the detriment of consumers.

#### **Submissions made by Domestic Industry**

90. The domestic industry has submitted that:
- a. Demand for the product under consideration has remained positive throughout the injury period.
  - b. Subject country imports have shown significant increase over the period in absolute terms. Chinese imports constitute almost the entire volume of imports into India. Chinese dumped imports have increased in relation to consumption and production of the product under consideration in India.
  - c. Weighted average import prices (after including basic customs duties) have been significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting. There is a significant injury margin.
  - d. The landed price of imports is significantly below the cost of production of the domestic industry throughout the injury period. Imports have had significant suppressing effect on the prices of the domestic industry in the market. The gap between the cost of sales and the selling price of the domestic industry is shrinking throughout the injury period due to presence of dumped imports and the domestic industry is unable to increase its prices in proportion to increase in cost, thereby suffering huge losses.
  - e. The domestic industry enhanced capacities in the year 2010-11. The production of the domestic industry has declined since 2010-11. It has declined significantly in the POI when compared with the previous year. Domestic sales have seen a similar trend. Capacity utilization increased in 2010-11, but has declined significantly thereafter.
  - f. Export sales have not changed much over the injury period.
  - g. Inventories have shown massive increase throughout the injury period with a significant increase during period of investigation.
  - h. The profits of the domestic industry have declined throughout the injury period since 2010-11. The domestic industry has been suffering losses since 2011-12, which have intensified considerably in the POI. Profitability

and cash profits have shown the same trend. PBIT and ROI have shown a similar trend, becoming negative in the POI.

- i. Market share of the domestic industry has declined throughout the injury period whereas the market share of the dumped imports has significantly increased throughout the injury period.
- j. Domestic industry has lost substantial orders during the injury period.
- k. The employment level increased in 2010-11 and declined thereafter. Wages paid have increased over the injury period but this is in line with the expected increase of wages in the country.
- l. Productivity has moved in the same direction as production.
- m. Even if the performance of the domestic industry is considered excluding WSI, it would be seen that performance has significantly deteriorated.
- n. There is a threat of further material injury due to significant increase in volume of imports, surplus capacities with Chinese producers and their export orientation, significant price undercutting and price suppression, increasing inventories with the domestic industry, market share of dumped imports, orders placed by PGCIL on Chinese producers, decreased demand in China and price advantages enjoyed by Chinese producers.
- o. Regarding the argument that domestic producers are undercutting the prices of each other, price undercutting amongst domestic producers would not have led to decline in sales volumes. It would have only led to re-alignment of sales between different domestic producers. Further, the increase in procurement from China and the decline in procurement from India clearly establish that the Chinese producers have caused injury to the domestic industry.

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

91. The Authority has taken note of submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.
92. Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the

price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

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

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

94. All parameters of injury need not show deterioration. While some parameter may show deterioration, some may show improvement. The Designated Authority must consider all injury parameters and thereafter conclude whether the domestic industry has suffered injury.
95. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.
96. As regards the arguments based on injury statement excluding WS Industries, it is noted that since the Authority has considered WS as eligible domestic industry, the injury analysis has been conducted including WS Industries. The SEZ plant at Vizag of WS industry has considered as eligible domestic industry and for the purpose of injury analysis only domestic parameters has been considered.
97. As regards the arguments concerning statements in annual report of some of the petitioner companies, the Authority notes that these public statements in the Annual Report does not alter the conclusion that dumping of the product has contributed to injury to the domestic industry. The Authority is required to determine injury to the domestic industry by considering performance of the domestic industry as a whole. Individual company performance is not relevant for the purpose.
98. As regards the argument of demand supply gap, it is noted that if the exporters wanted to supply the goods to meet the requirement in Indian market that could be done by exporting the requirements at a price equivalent to normal value but not at a dumped value and to capture the market. Further it has not been demonstrated by the interested parties that there exist demand supply gap.
99. As regards the argument that reduction in production and capacity utilization is due to inefficiency of domestic industry as they are unable to upgrade their facilities to produce high voltage, it is noted that domestic industry has supplied high voltage insulators. It is not established that reduction in production and capacity utilization is due to possible inefficiency of the domestic industry.

100. It is noted that price undercutting increased during period of investigation. In any case even if undercutting percentage is the same, it implies that the domestic industry prices have also declined in line with import prices and does not imply that the trend of cost of sales and selling price would not undergo any change.
101. It has been argued by the interested parties that the decline in sales is temporary as demand is likely to improve. It is noted that domestic industry is unable to improve its sales since 2011-12 despite increase in demand. In fact, sales of the domestic industry declined.
102. As regards the argument on causal link, following are relevant:
- i. Increase in selling price is due to increase in cost. However. Despite increase in selling price, dumped imports are undercutting the prices of the domestic industry.
  - ii. Any anti-dumping duty imposed will take into account the existing safeguard duty so as not to award double protection.
  - iii. As regards the argument that decline in profits is due to change in consumer preference to polymer insulator, it is noted that positive trend of demand does not corroborate with the argument of change in consumer preference.
  - iv. As stated above, that the domestic industry has supplied high voltage insulators.
103. As regards the argument of inter se competition, it is noted that the insulator industry is largely order based and the orders are placed on the basis of lowest price offered by the suppliers. Therefore, the effect of dumping is more significant. Chinese producers are being increasingly quoting lower prices and are significant undercutting the domestic industry prices, which substantiate the argument of domestic industry that injury to the domestic industry is due to dumping. The question of inter se competition would have arisen, when the tenders were majorly awarded to Indian producers.

#### **Assessment of Demand**

104. The demand of subject goods has been determined by adding domestic sales of domestic like product with imports of subject goods from all countries. For the purpose of present injury analysis, the Authority has relied on the import data procured from China customs. The Authority notes that demand of subject goods increased significantly over the injury period as can be shown in the table below.

Particulars	Units	2009-10	2010-11	2011-12	POI
<b>Assessed Demand</b>	MT	1,18,840	1,56,964	1,37,321	1,44,636
Subject Country imports- China PR	MT	16,282	26,376	35,782	62,444

Other Countries-Imports	MT	517	405	573	687
Sales of Domestic Industry	MT	75,081	84,856	75,315	64,211
Sale of Other Indian Producers	MT	26,960	45,327	25,650	17,294

105. It is seen from the above table that the demand for the product has shown a significant increase during POI as compared to the base year. It has been contended by the responding exporter that the increase in imports is due to inefficiency of the domestic industry to upgrade to the required technology and the requirement of high voltage insulators. The Authority therefore analyzed the imports by considering the questionnaire responses of the responding exporters. It is seen that the domestic industry has produced and sold those types of insulators which have been imported in India. Since the domestic industry has produced and sold the types of insulators imported from China, it is not established that the imports have been made due to inefficiency of the domestic industry to upgrade to the required technology and the requirement of high voltage insulators.

#### **Volume Effect of Dumped Imports and Impact on Domestic Industry**

#### **Import Volumes and Share of Subject Country**

106. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The volume of imports of the subject good from the subject country have been analyzed as under:

<b>Volume of Imports</b>	<b>Unit</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>POI(April 2012-March 2013)</b>
Subject Country China PR	MT	16,282	26,376	35,782	62,444
Subject Country – Trend		100	162	220	384
Other Countries	MT	517	405	573	687
<i>Trend</i>		100	78	111	133
Total Imports	MT	16,799	26,781	36,356	63,131
<i>Trend</i>		100	159	216	376
Indian Production	MT	1,16,340	1,44,213	1,14,052	95,625
Imports from subject country relative to domestic production	%	14.00%	18.29%	31.37%	65.30%
Demand	MT	1,18,840	1,56,964	1,37,321	1,44,636

Imports from subject country relative to consumption	%	13.70%	16.80%	26.06%	43.17%
Share of imports from subject country in total imports	%	97%	98%	98%	99%

Source of import data :For China: China Customs and for other countries DGCI&S.

107. It is noted from the above table that:

- a. Imports from China have increased significantly in absolute terms. The increase in imports during POI is quite significant.
- b. Imports from China constitute 99% of total imports during POI.
- c. Imports from China PR in relation to production have increased from 14.00% during 2009-10 to 65.30% in the POI.
- d. Imports from China PR in relation to total demand have increased from 13.70% in 2009-10 to 43.17% in POI.
- e. Imports from China in have increased in relation to production & consumption in India consistently throughout the injury period.

108. It is thus provisionally concluded that imports from China PR have increased both in absolute and in relation to production and consumption in India.

#### **Price Effect of the Dumped Imports on the Domestic Industry**

109. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

*"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as 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."*

110. It has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, Price Underselling, price suppression and price depression, if any.

#### **Price Undercutting**

111. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject goods originating in the subject country were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is shown as per the table below:

<b>Volume of Imports</b>	<b>Unit</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>POI</b>
CIF import price	Rs/MT	81,507	97,006	95,710	81,415
Landed value of imports	Rs/MT	88,682	105,544	104,135	88,581
Selling price of the domestic industry	Rs/MT	***	***	***	***
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting range	% Range	20-30	10-20	15-25	30-40

112. It has been argued by some of the interested parties that it is difficult to reconcile huge losses to domestic industry when the range of price undercutting is inconsistent. The Authority notes that price undercutting increased during period of investigation as compared to the base year.

### **Price Underselling**

113. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from China PR. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	UOM	POI
Weighted average-non injurious price	Rs/MT	***
Landed Price	Rs/MT	88,581
Price Underselling	Rs/MT	***
Price Underselling	%	***
Price Underselling	% Range	55-65%

114. It is seen that the landed price of the subject goods from China were significantly lower than the NIP determined for the domestic industry.

#### **Price Suppression/Depression**

115. 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 Authority considered the changes in the costs and prices over the injury period. The position is shown as per the Table below:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of sales (Domestic)	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	104	123	134
Sales Value (Domestic)	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	106	111	114

116. It is seen that though both costs as well as selling price of the domestic industry increased over the injury period. However, the increase in the selling price is far lower than the increase in cost. The imports were thus suppressing the prices of the domestic industry in the market and preventing the price increases that would have otherwise occurred.

#### **Economic parameters of the domestic industry**

117. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these

imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on 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. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

**Production, Capacity, Capacity Utilization and Sales**

118. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Capacity	MT	114,489	114,489	115,239	117,789
Production	MT	89,380	98,886	88,402	78,331
Capacity Utilization	%	78%	86%	77%	67%
Domestic Sales	MT	75,081	84,856	75,315	64,211

119. It is seen from the above table that the domestic industry enhanced capacities in the year 2011-12 and POI. The demand for the product under consideration in the Country has increased significantly over the injury period.
120. Production of the domestic industry increased in 2010-11. However, the production declined significantly thereafter in 2011-12 and further in the POI when compared with the previous years. Production of the domestic industry in investigation period was lower than production in 2009-10 by about 11%, whereas demand for the product under consideration increased by 22% over the period.
121. Capacity utilization of the domestic industry has followed the same trend as that of production. Capacity utilization increased in 2010-11 and thereafter declined significantly in 2011-12 and investigation period. Capacity utilisation during the POI was lower than capacity utilisation in 2009-10 by 11%.
122. It has been argued by some of the interested party that reduction in capacity utilization is due to inefficiency of domestic industry as they are unable to upgrade their facilities to produce high voltage insulators. It is noted that domestic industry has produced and sold those kinds of insulators which have been imported in India during the POI.
123. Sales of domestic industry in the domestic market increased in 2010-11 and

declined thereafter. The domestic sales in POI declined by 14% as compared to 2009-10 and by 24% as compared to 2010-11.

124. It has been argued that the petitioners have not demonstrated potential decline in sales. It is noted that the data shows actual decline in sales, which itself establishes injury to the domestic industry. The Authority has conducted injury analysis as per the AD Rules and established practice of the Authority.
125. It has been argued that the decline in sales is temporary as demand is likely to improve. It is noted that domestic industry is unable to improve its sales since 2010-11 despite increase in demand. In fact, sales of the domestic industry declined.
126. It is thus concluded that production, domestic sales and capacity utilization of the domestic industry deteriorated significantly despite increase in demand for the product in the Country.

**Profits, profitability, return on investment and cash profits**

127. The cost of sales, selling price, profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Profit/loss	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	160	-271	-542
Profit before interest	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	133	2	-72
Cash profit	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	126	-54	-161
Gross profit/loss	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	181	-272	-464
Gross profit before interest	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	150	2	-62
Gross cash profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	143	-54	-138
ROCE	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	136	1	-48

128. The Authority notes that the domestic industry has earned profit in the base year. The situation improved in 2010-11 and the domestic industry earned profits in that year. However, the profitability of the domestic industry deteriorated significantly thereafter and the domestic industry suffered financial losses in 2011-12 and thereafter in the POI. Further, the profitability deteriorated significantly in the investigation period.
129. Return on investment over the injury period has shown the same trend as that

of profits. Profit before interest and taxes (PBIT) increased in 2010-11 and declined thereafter, becoming negative in the POI. The return on investment (ROI) for the domestic industry improved in 2010-11 and was positive till 2011-12. Return on investment however became negative in the investigation period.

130. Cash profits have also shown the same trend as that of profits. Cash profits improved in 2010-11 and declined thereafter. Further, cash profits were negative from 2011-12 with a significant deterioration in the investigation period.

**Market Share**

131. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Market Share	Unit	2009-10	2010-11	2011-12	POI
Demand	MT	1,18,840	1,56,964	1,37,321	1,44,636
Share of Domestic Industry	%	63.18%	54.06%	54.85%	44.39%
Share of other producers	%	22.69%	28.88%	18.68%	11.96%
Share of Subject Country	%	13.70%	16.80%	26.06%	43.17%
Share of Other Imports	%	0.43	0.26	0.42	0.48

132. It is seen from the above table that the market share of the domestic industry has declined throughout the injury period and that of China has increased consistently. The market share of the domestic industry declined by 19% during POI as compared to the base year. Considering the positive price undercutting and increase in market share of China, it is concluded that the market share of the domestic industry has declined as a direct result of dumped imports from China PR.

**Employment, Productivity and Wages**

133. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Employment	No	8,686	9,230	9,027	8,825

Productivity per day	Per Day	257	285	254	226
Productivity per employee	MT	10	11	10	9
Wages	Rs lacs	***	***	***	***

134. It is noted that employment with the domestic industry increased in 2010-11 with enhancement in capacity and improvement in various economic parameters in this year. Employment with the domestic industry declined thereafter. Wages paid have increased over the period of injury. Productivity increased in 2010-11 and declined thereafter, in line with the trend of production.

### **Inventories**

135. The data relating to inventory of the subject goods are shown in the following table:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Average Stock	MT	8,212	8,568	9,055	10,038

136. It is seen that inventories with the domestic industry have increased throughout the injury period. The inventory has increased by around 22% during OI as compared to the base year.

### **Growth**

Particulars	UOM	2009-10	2010-11	2011-12	2012-13
Production	Y/Y	-	11%	-11%	-11%
Domestic Sales	Y/Y	-	13%	-11%	-15%
Cost of Sales	Y/Y	-	***	***	***
Selling Price	Y/Y	-	***	***	***
Profit/(Loss)	Y/Y	-	***	***	***
ROI	Y/Y	-	***	***	***

137. The Authority notes that growth of the domestic industry with regard to production, domestic sales, capacity utilization, profits, return on investment, cash profits was positive in 2010-11. The growth in these parameters however became negative thereafter, despite positive growth in demand for the product in the Country. On the whole, the growth of the domestic industry has been negative over the injury period.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Demand	MT	1,18,840	1,56,964	1,37,321	1,44,636
Production	MT	89,380	98,886	88,402	78,331
Capacity utilisation	%	78%	86%	77%	67%
Domestic sales	MT	75,081	84,856	75,315	64,211

Market share of domestic industry	%	63.18%	54.06%	54.85%	44.39%
Gross Profits	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	181	-272	-464
Cash profits	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	143	-54	-138
Return on investment	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	136	1	-48

### **Ability to raise capital investments**

138. The Authority notes that given rising demand of the product in the country, the domestic industry has made investments in enhancing capacity. However, despite these investments, the performance of the domestic industry has deteriorated considerably and further investment may get adversely affected.

### **Level of dumping & dumping margin**

139. It is noted that subject country imports are entering the country at dumped prices and that the margin of dumping is significant.

### **Factors Affecting Domestic Prices**

140. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc shows that the landed value of imported material from the subject countries is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price under selling in the Indian market. Thus, the factor affecting the domestic prices is landed value of subject goods from subject country.

### **Conclusion on injury**

141. It is thus seen that there has been a significant increase in the volume of dumped imports from subject country in absolute terms. The imports have increased significantly in relation to consumption and production of the product in India. Imports have thus increased both in absolute terms and in relation to production and consumption in India. The dumped imports are undercutting the prices of the domestic industry in the market. Dumped imports have had significant adverse price effect in terms of price suppression. Effect of dumped imports has been to prevent price increase which otherwise would have occurred, to a significant degree. Imports have prevented the domestic

industry from raising its prices in proportion to cost increases. The domestic industry is suffering significant price underselling. The dumping margin determined by the Authority is quite significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from China have adversely impacted the performance of the domestic industry in respect of production, domestic sales, capacity utilization, inventories, market share, profits, cash profits and return on investment. Whereas the demand for the product under consideration has increased over the injury period and the domestic industry has enhanced capacities, its production, sales volumes, capacity utilisation and market share declined significantly. Inventories with the domestic industry increased. Further, as a result of significant price undercutting and suppression, profitability of the domestic industry deteriorated so significantly that the domestic industry was suffering significant financial losses. Further, the domestic industry suffered cash losses and negative return on investment during the POI. The Authority concludes provisionally that the domestic industry has suffered material injury.

### **Threat of Material Injury**

142. The applicants have claimed that, in addition to material injury, there is the threat of further material injury in the present case.

Annexure II to the Rules provides as under in this regard.

*“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the Designated Authority shall consider, inter-alia, such factors as*

- (a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;*
- (b) sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;*
- (c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and,*
- (d) Inventories of the article being investigated.”*

143. Submissions made before the Authority with regard to threat of material injury have been examined.

### **Significant Increase in Volume of Imports**

144. The volume of imports has increased significantly in a relatively short period. The high rate of increase in the volume of imports indicates that significant

increase in imports is imminent.

**Export Orientation**

145. The domestic industry contended that in addition to significant production capacities, the producers/exporters from China PR have high export orientation. The export orientation of the producers in China PR indicates a threat of further material injury to the domestic industry.

**Significant Price Undercutting and Price Suppression**

146. The price undercutting by the subject imports is significant. The imports are entering at such prices that there is strong likelihood of further importation. Dumped imports are causing price suppression of domestic industry prices. Despite an increase in the cost of sales over the injury period, the domestic industry has been unable to increase its domestic selling price to the same extent, resulting in losses. Thus, significant price difference between the domestic and imported product shows that the imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports.

**Increasing Inventories with Domestic Industry**

147. Inventories with the domestic industry have increased significantly over the injury period and indicate the existence of a threat of further material injury.

**Market Share of Dumped Imports**

148. A significant share in the domestic market is already held by subject country imports and the same is increasing. Increase in Chinese market share by about 200% between 2009-10 and POI clearly also shows threat of further injury.

**Orders placed by PGCIL on Chinese Companies**

149. The domestic industry has provided information to show that PGCIL has placed huge orders on Chinese companies and Chinese companies are aggressively participating in tenders being floated by PGCIL. As per the information provided by the domestic industry and information available in the website of PGCIL, the orders that have already been placed by PGCIL on the Chinese companies are as follows:-

Name of supplier	Order month	Volume (Nos)	Weight (MT)
<b>Orders already placed</b>			
Shandong Ruitai Glass Insulator Co. Ltd.,	May'14 & June'14	15,36,848	17,069
SiChuan YiBin Global Group Co. Ltd., China	May'14 & June'14	2,97,900	3,575
Nanjing Electric (Group) Co. Ltd, China	May'14 & June'14	8,07,147	9,686
<b>Total</b>		<b>26,41,895</b>	<b>30,330</b>

### **Decline in demand in China**

150. The domestic industry claimed that the structural power imbalances that China experienced in 2000 led to an unprecedented demand for power generation and transmission equipment. China was a net importer of insulators, and, in fact, Indian producers were supplying insulators in China. However, significant capacities were added in China to meet their extraordinarily high demand for power generation and transmission equipment, including electrical insulators. This led to substantial additions to the capacities for insulator production. China's power capacity increased from 236.5 GW in 1965 to 874.1 GW in 2009 at a CAGR of 11%. By the end of June 2010, total generation capacity reached 907.9 GW. The applicants have further claimed that after the Beijing Olympics, the demand for fresh power capacity addition within China declined considerably, resulting in substantial decline in demand for power generation and transmission equipments, including insulators. This has forced the Chinese producers to look for other markets for their large capacities, which are increasingly becoming idle. Thus, Chinese demand for the product has considerably declined, while producers in China continue to hold large capacities. Simultaneously, India has a growing demand for electricity and the Government of India planned to build power plants capable of generating 78000 MW in the Eleventh Five Year plan period 2007-2012. Further, the country envisages increasing the total power generation capacity by 100,000 MW by March 2017 as part of the Twelfth Five Year plan.

### **Price Advantages Enjoyed by Chinese Producers**

151. The domestic industry has claimed that the Chinese suppliers enjoying various advantages:
- Chinese suppliers enjoy easy financing from Chinese lenders.
  - They benefit from export subsidies. The cash rebate for insulators is 17%, which is much higher than the VAT impact on these products.
  - The steel policy of China mandates direct subsidization of the steel industry.
  - Fuel price in China in the form of coal and coke are much lower than international prices.
  - The Chinese government has been granting vast subsidies to Chinese manufacturers, in the form of cheap capital and underpriced raw materials and power, and this has led to overcapacity.

### **Conclusion on Threat of Material Injury**

152. Examination of information on record shows the dumping would cause injury to the domestic industry. The factors identified above clearly show existence of a threat of further injury.

### **Causal Link**

153. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows:

#### **Imports from third countries**

154. The Authority has examined the imports data of the subject goods from DGCI&S. It is noted that imports from third countries are negligible and could not have caused claimed injury to the domestic industry.

#### **Contraction in demand**

155. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. It has increased in the POI from the base year and the previous year. Possible contraction in demand could not have caused injury to the domestic industry.

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

156. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.
157. It has been argued that inter se competition has caused claimed injury to the domestic industry. It is noted that the insulator industry is largely order based industry and the orders are placed on the basis of lowest price offered by the suppliers. If imports have increased by about 284% over the injury period, the same is clearly because the landed prices of imports in these cases were below the selling price of the domestic industry. This clearly shows that the import prices were below the domestic industry prices and deterioration in production, sales, capacity utilisation were not due to inter-se competition between the domestic producers.

#### **Developments in technology**

158. The Authority notes that the technology adopted by the domestic industry is comparable with that adopted by producers all over the world. There is no significant difference in the manufacturing process of Indian producers and foreign producers. In fact, domestic producers have been manufacturing the product for quite some time, and the technology for production is fairly established. Further, the user industry is technology neutral, so any difference in the technology is not the reason for injury to the domestic industry.

#### **Changes in pattern of consumption**

159. The domestic industry is producing the type of goods that have been imported into India. Possible changes in pattern of consumption is not a factor that could have caused claimed injury to the domestic industry.
160. It has been argued that the decline in performance is due to change in consumer preference to polymer insulator. It is noted that demand for the product under consideration has increased over the injury period, which shows

that the consumer preference has not changed from subject insulators to polymer insulators.

**Export performance**

161. Claimed injury to the domestic industry is not on account of possible significant deterioration in export performance of the domestic industry. In fact, exports by the domestic industry have not materially declined. In any case, the domestic industry has considered domestic performance wherever possible.

**Performance of the domestic industry with respect to other products**

162. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

**Productivity of the domestic industry**

163. The Authority notes that the productivity of the domestic industry has followed the same trend as production. Deterioration in productivity has not caused injury to the domestic industry.

**Factors establishing causal link**

164. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from subject country. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds.
- a) Imports are undercutting the prices of the domestic industry. The volume of imports has increased significantly.
  - b) The consumers have increasingly switched their requirements to Chinese suppliers as a result of significant price difference. Thus, the price undercutting has led to significant increase in market share of imports and decline in market share of the domestic industry.
  - c) The presence of dumped imports in the country is preventing the domestic industry from increasing its prices in proportion to the rise in costs.
  - d) The subject imports are underselling the product sold by the domestic industry.
  - e) Deterioration in profits, return on capital employed and cash profits is a direct consequence of dumped imports.
  - f) The market share of dumped imports increased over the injury period, with a consequent decline in the market share of the domestic industry.
  - g) As a result of significant price undercutting, production, sales and capacity utilisation of the domestic industry has deteriorated.
  - h) The growth of the domestic industry became negative in terms of a

number of price and volume related economic parameters.

**Conclusion on Injury and Causation**

165. From the above examination of injury and causal link, the Authority provisionally concludes that the domestic industry has suffered injury as a result of dumping of the subject goods from China. There has been a significant increase in the volume of dumped imports from China in absolute terms throughout the injury period and in relation to production and consumption in India. The dumped imports are significantly undercutting the domestic prices. The dumped imports have had significant adverse effect on the prices of the domestic industry in the market. The dumping margin for the subject country has been determined and is considered significant. Dumped imports from subject country have adversely impacted production, sales and capacity utilization. Market share of the domestic industry has significantly declined whereas that of subject imports has significantly increased. Performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on investments. Inventories have increased. The Authority concludes that the domestic industry has suffered injury as a result of dumped imports from the subject country.
166. The Authority has determined non-injurious price for the domestic industry separately for each type of the product under consideration. This non-injurious price of the domestic industry for each type has been compared with the landed values of the subject imports of corresponding type for each of the responding exporters to determine injury margin. The injury margin so determine for each type has been considered for determination of weighted average injury margin. The injury margins have been determined as follows:

**Injury Margin**

S.No	Producer	Exporter	NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
			US\$/MT	US\$/MT	US\$/MT	%	% Range
1	Nanjing Electric (Group) Co Ltd	Nanjing Electric (Group) Co Ltd	***	***	***	***	85-95
2	Zigong Sediver Toughened Glass Insulator Co. Ltd.	Zigong Sediver Toughened Glass Insulator Co. Ltd.	***	***	***	***	30-40
3	Sediver Insulators (Shanghai)	Sediver Insulators (Shanghai)	***	***	***	***	35-45

	Co. Ltd.	Co. Ltd.					
4	Sediver Insulators (Shanghai) Co. Ltd.	Sediver SA.	***	***	***	***	20-30
	Weighted Average (2+3+4)		***	***	***	***	30-40
5	Dalian Insulator Group Co. Ltd.	Dalian Insulator Group Co. Ltd.	***	***	***	***	70-80
6	Liling Huaxin Insulator Technology Co., Ltd	Liling Huaxin Insulator Technology Co., Ltd	***	***	***	***	15-25
7	Chengdu Global Special-Glass Manufacturing Co., Ltd.	Sichuan Yibin Global Group Co., Ltd.	***	***	***	***	115-125

167. The level of dumping margins and injury margins as determined are considered significant.

**Landed Value and Injury Margin for other producers and exporters from subject country**

168. The Authority notes that response to questionnaire has been filed only by some of the exporters of the product under consideration from China. Other exporters from China have not cooperated with the Authority in providing relevant information in the form and manner prescribed. The landed value to India in respect of other producers and exporters in China has been determined on the basis of best information available. Information provided by the responding exporters has been adopted for the purpose. The injury margin so worked out is mentioned in the table below.

Particulars	US\$/MT
NIP	***
Landed Value	***
Injury Margin	***
Injury Margin %	***
Injury Margin % Range	210-220

**F. Indian industry's interest & other issues**

169. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices

of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

170. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. The domestic industry submitted that product under consideration constitutes hardly 5% of the transmission & distribution cost and imposition of proposed duty shall have insignificant cost implications for the consumers in terms of the overall transmission and distribution costs involved. Therefore, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **G. Recommendations**

171. After examining the submissions made and issues raised, and considering the facts available on record, the Authority concludes that:
- (a) The product under consideration has been exported to India from the subject country below normal value.
  - (b) The domestic industry has suffered injury on account of subject imports from subject country.
  - (c) The injury has been caused by the dumped imports of subject goods from the subject country.
172. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Anti-dumping Rules and having established a positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is necessary to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation.
173. Accordingly, anti-dumping duty equal amount indicated in the column 8 of the

table below, to be imposed from the date of notification to be issued in this regard by the Central government on all imports of subject goods originating in or exported from subject country.

SN	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount of duty	Unit	Curre ncy
1	2	3	4	5	6	7	8	9	10
1	854610 854620	Electrical Insulators*	China PR	China PR	Nanjing Electric (Group) Co Ltd	Nanjing Electric (Group) Co Ltd	1,188	Per MT	US\$
2	- do -	- do -	China PR	China PR	Zigong Sediver Toughened Glass Insulator Co. Ltd.	Zigong Sediver Toughene d Glass Insulator Co. Ltd.	728	Per MT	US\$
3	- do -	- do -	China PR	China PR	Sediver Insulators (Shanghai) Co. Ltd.	Sediver Insulators (Shanghai ) Co. Ltd.	728	Per MT	US\$
4	- do -	- do -	China PR	France	Sediver Insulators (Shanghai) Co. Ltd.	Sediver S.A. (France)	728	Per MT	US\$
5	- do -	- do -	China PR	China PR	Dalian Insulator Group Co. Ltd.	Dalian Insulator Group Co. Ltd.	1,407	Per MT	US\$
6	- do -	- do -	China PR	China PR	Liling Huaxin Insulator Technology Co., Ltd	Liling Huaxin Insulator Technolo gy Co., Ltd	287	Per MT	US\$
7	- do -	- do -	China PR	China PR	Chengdu Global Special- Glass Manufacturi ng Co., Ltd	Sichuan Yibin Global Group Co., Ltd.	1,174	Per MT	US\$
8	- do -	- do -	China PR	China PR	Any combination other than Sl. No. 1 to 7 above		2,042	Per MT	US\$
9	- do -	- do -	China PR	Any other than China PR	Any	Any	2,042	Per MT	US\$
10	- do -	- do -	Any other than China PR	China PR	Any	Any	2,042	Per MT	US\$

\* product under consideration is “Electrical insulators of Glass, or Ceramics/Porcelain, whether assembled or unassembled, excluding the following:

1. telephone or telegraph insulators of voltage rating up to 1 KV,
2. electrical or electronic appliances/device insulators of voltage rating up to 1 KV,
3. composite insulators
4. condenser bushings and transformer

## **H. Further Procedure**

174. The following procedure will be followed subsequent to notifying the preliminary findings: -

- a) The Authority invites comments on these findings from all interested parties and the same will be considered in the final findings;
- b) Exporters, importers, the applicant and other interested parties known to be concerned may make known their views, within forty days from the date of the publication of the these Preliminary findings in the official gazette. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c) The Authority will hold a hearing to hear the views of various interested parties orally;
- d) The Authority will conduct further verification to the extent deemed necessary;
- e) The Authority will disclose essential facts as per the Anti-dumping Rules before announcing final findings.

(J. K. Dadoo)  
Designated Authority