

Ministry Of Finance (Department of Revenue)
Directorate General of Safeguards (Customs & Central Excise)
2nd Floor, Bhai Vir Singh Sahitya Sadan, Gole Market
New Delhi-110001

NOTIFICATION

New Delhi, the 27th September 2012

Subject: -Safeguard Investigation Concerning Imports of Electrical Insulators into India from Peoples Republic of China-Final Findings.

G S R Having regard to the Customs Tariff Act, 1975 and Custom Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 thereof;

I) PROCEDURE

An application was filed before me under Rule 5 of the Custom Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, by **i)** M/s. Aditya Birla Nuvo Ltd., Indian Rayon Compound, Veraval, Gujarat; **ii)** M/s Insulators and Electrical Company, 1-8, New Industrial Area, PB Box.1, Mandideep-462046, Madhya Pradesh; **iii)** M/s. Modern Insulators Ltd., Post Box No. 23 Abu Road-307026, Rajasthan and **iv)** M/s. WS Industries (India) Ltd., 108, Poonamelle Road, Porur, Chennai-600116, for imposition of Safeguard Duty on imports of Electrical Insulators into India, to protect the domestic producers of Electrical Insulators against market disruption and threat of market disruption caused by the increased imports of Electrical Insulators from People's Republic of China(hereinafter referred to as China).

Having satisfied that the requirements of Rule 5 were met, the Notice of Initiation of Safeguard investigation concerning imports of Electrical Insulators into India from People's Republic of China was issued under Rule 6 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 on 30th May 2012 and was published in the Gazette of India Extraordinary on the same day.

A Copy of the Notice of Initiation dated 30th May 2012 along with copy of non-confidential version of the application filed by the Domestic Industry were forwarded to the Central Government, in the Ministry of Commerce and other Ministries concerned, Govt. of China, through their embassy in New Delhi and Interested parties listed below, in accordance with Rule 6(2) & 6(3) of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002:

(i) Domestic Producers

- a. M/s WS Industries (India) Ltd., 108, Mount Poonamelle Road, Porur, Chennai-600116 Tamil Nadu;
- b. M/s Modern Insulators Limited Post Box No. 23, Abu Road-307026, Rajasthan;
- c. M/s Insulators and Electrical Company, 1-8 New Industrial Area, PB Box.1, Mandideep- 462046 Madhya Pradesh;
- d. M/s Aditya Birla Nuvo Ltd. Indian Rayon Compound, Veraval-362266, Gujarat;
- e. M/s Bharat Heavy Electrical Limited BHEL House, Siri Fort, New Delhi- 110049;

- f. M/s Saravana Global Energy Ltd. Virudhachalam Road P.N. Kuppam, Kurinjipadi Post Cuddalore Dist. 607 302;
- g. M/s Shreeji Power & Insulators Pvt. Ltd. Survey No. 321 Nani Chirai Dist, Bhachau,Gujarat.

(ii) Importers

- a. M/s.Crompton Greaves Ltd. A-3, MIDC, Ambad, BNasik – 422 010 Maharashtra.
- b. M/s. Areva T&D India Limited No.142, Vandallur-Walajhabad Road, Salamangalam (Village) Padappai (Post) Sriperumpudur (Taluk) District. Kanchipuram – 60-1 301 Tamil Nadu.
- c. M/s. ABB Limited PPHV-Ckt Brakers, Vadodara THS-LTD (Live Tank Breaker) Maneja Works, Vadodara 390013 Gujarat.
- d. M/s.Siemens Ltd. Breaker Division E-76, Waluj, MIDC Aurangabad – 431 136 Maharashtra.
- e. Power Grid Corporation of India Limited, Saudamini, Plot No. 2, Sector-29, Gurgaon – 122001.
- f. M/s Adani Power Ltd. Shikhar, 9th Floor, Near Mithakhali Six Roads, Navrangpura, Ahmedabad- 380009 (Gujarat), India.
- g. M/s Tata Projects Ltd. “Mithona Towers-1”, 1-7-80 to 87, Opp. Wesley Co-ed Jr. College, Prenderghast Road, Secundrabad- 500003 (Andhra Pradesh), India.
- h. M/s Kalpataru Power Transmission Ltd. 101, Part-III, GIDC Estate, Sector-28, Gandhinagar-382028 (Gujarat), India.
- i. M/s KEC International Ltd. DLF Infinity Towers, 7th Floor, Tower “B”, DLF City, Phase II, Gurgaon- 122002 (Haryana), India.
- j. M/s Reliance Infrastructure Ltd. Dhirubhai Ambani Knowledge City, Wing-6, Ground Floor, D-Block, Thane, Maharashtra, India.

(iii) Exporters

- a. M/s Hunan Liling Huaxin Porcelain Insulator & Electric Apparatus Co.Ltd. Pukou Industrial Park, Liling, Hunan, China P. R.
- b. M/s China Chamber of Commerce for Import & Export of Machinery & Electronic Products, China P. R.
- c. M/s Dalian Insulator Co.Ltd. 88, East Liaohe Road, DD Port, Dalian – 116600, China P. R.
- d. M/s NGK Insulators Tangshan Co.Ltd. Tangshan New & High Technology Development Zone 3, Huoju Road, 188, Hebei – 063020, China P. R.
- e. M/s Xian XD High Voltage Porcelain Insulator Company Limited Daqing Road, Xian, Shaanxi-710077 China P. R.
- f. M/s NGK Ceramics Suzhou Co.Ltd. & NGK Technocera Suzhou New District Jaingsu – 215129, China P. R.
- g. M/s NGK Insulators Suzhou Co.Ltd. 401, Jianlin Road, Suzhou New District, Jianguo – 215151, China P. R.
- h. M/s China Electro-Ceramic Imp. & Exp. 3/F, Unit 05 No.333 Hongwu Rd. Nanjing, 210002 China P. R.
- i. M/s MWB (Shanghai) Co.Ltd. (Trench China) No.3658, Jiancheng Road, Economic & Technological Developing Zone, Minhang/Shanghai, China P. R.

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

(iv) Questionnaires were sent to the known exporters from China P. R., known importers/users in India, and other interested parties as per the information available in the petition, with request to make their views known in writing within 30 days of the receipt of initiation notice.

Request to consider them as interested parties was received from the following parties. Their request was accepted and they were intimated accordingly.

- a. M/S Dalian Insulator Group Co. Ltd., China P. R.
- b. M/s China Chamber of Commerce for Import & Export of Machinery & Electronic Products, China P. R.
- c. M/s Sediver Insulators (Shanghai) Co. Ltd., China P. R.
- d. M/s Zigong Sediver Toughened Glass Insulator Co. Ltd., China P. R.
- e. M/s Goldstone Infratech Ltd., Secundrabad.
- f. M/s Deccan Enterprises Pvt. Ltd., Hyderabad.

(v) Requests for an extension of time to submit their replies were made by the following parties:

a) The Counsellor, Economic & Commercial Counsellor's Office, Embassy of China P. R. – Their request received on 4/6/2012 for extension of time till 1/8/2012 could not be considered since there was sufficient time to file the response.

b) Request dated 2/7/2012 for extension of time for filling questionnaire response till 15/7/2012 was received from M/s Alstom T&D India Ltd. After taking into account the time limits for completing the investigation within the period provided under law, request for extension of time was allowed but no questionnaire response is filed by them.

(vi) Following interested parties made their submissions during the course of the investigations

- a) Economic & Commercial Counsellor's office, Embassy of China P. R.
- b) M/s Dalian Insulator Group Co. Ltd, Dalian, China P. R.
- c) M/s Alstom T&D India Ltd.,
- d) M/s China Chamber of Commerce for Import & Export of Machinery & Electronic Products, China P. R. (**hereinafter referred to as CCCIEME**)
- e) M/s Powergrid Corporation of India ltd. (**hereinafter referred to as PGCIL**).
- f) M/s Goldstone Infratech Ltd.

g) M/s Deccan Enterprises Pvt. Ltd., Hyderabad

(vii) Following parties provided information in the form of questionnaire responses

- a) M/S Zigong Sediver Toughened Glass Insulator Co. Ltd.
- b) M/S Sediver Insulators (Shanghai) Co. Ltd.
- c) M/s. Aditya Birla Nuvo Ltd., (Domestic Industry)
(**hereinafter referred to as ABI**).
- d) M/s Insulators and Electrical Company, (Domestic Industry).
(**hereinafter referred to as IEC**).
- e) M/s. Modern Insulators Ltd., (Domestic Industry)
(**hereinafter referred to as Modern**).
- f) M/s. WS Industries (India) Ltd., (Domestic Industry)
(**hereinafter referred to as WSI**).
- g) M/s BHEL(Supporter)

(viii) The information presented in the petition by the petitioners was verified to the extent possible, by onsite visits to the plants of the domestic producers. A copy of verification report is placed in the Public File.

(ix) A public hearing was held on 24th July 2012, notice for which was sent on 9th July 2012. The following interested parties made oral submissions at the time of Public hearing:

- a. Petitioners/Domestic Industry.
- b. Govt. of China P. R.
- c. China Chamber of Commerce for Import and Export of Machinery and Electronic Products
(**CCCIEME**)
- d. M/s Bharat Heavy Electrical Limited(**BHEL**)
- e. M/s Zigong Sediver Toughened Glass Insulator Co. Ltd
- f. M/s Sediver Insulators (Shanghai) Co. Ltd
- g. M/s Alstom T&D India Ltd
- h. M/s Dalian Ceramic Technical Co. Ltd.
- i. M/s Pukou Huagao Electrical Ceramic & Appliances Manufacturing Co. Ltd.
- j. M/s Liling Pukou Insulator Manufacture Co., Ltd.
- k. M/s Nanjing Electric (Group) Co. Ltd.
- l. M/s Dalian Insulator Group Co. Ltd.
- m. M/ Powergrid Corporation of India Ltd.

(x) In terms of sub rule (6) of rule 6 of the Custom Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, all the interested parties who participated in the public hearing were requested to file written submission of the views presented orally.

Copy of written submissions filed by one interested party was made available to all the other interested parties . Interested parties were also given an opportunity to file rejoinders, if any, to the written submissions of other interested parties .

The views expressed by the interested parties have been taken into account in making appropriate determination. The non confidential version of the information received or acquired has been kept in the public file.

II) Views of the Interested Parties

A. Views of Domestic Industry

The views expressed are summarized as follows –

- 1) Porcelain/Ceramic and Glass electrical Insulators, whether assembled or unassembled, are to be considered one product for the purpose of the investigation. Differences in specific applications, strengths and raw materials do not render them different products, as per *Mandarins, Farmed Salmon* and other cases.
- 2) All major domestic players have sufficient swappable capacity and can cater country's demand right upto 1200 kV. Indian producers have already supplied significant volumes of 765 kV (more than 4 million) Insulators in Indian market. All major players are fully equipped to service entire demand in the country. Indian Producer caters to developed and developing countries, currently in service in more than 75 countries, reflecting the technological prowess and capability to supply high quality products
- 3) The Domestic Industry is capable of producing like or directly competitive products to the product being imported from China P. R.
- 4) Ceramic/Porcelain and Glass Electrical Insulators are like articles for the following reasons.
 - a. The national / international standards for dimensions / testing are the same.
 - b. The dimensions are the same.
 - c. The cap and ball pin material are the same.
 - d. Major steps in manufacturing like shaping of the products, vitrification and assembly are the same.
 - e. The cement used for assembly is the same.
 - f. The assembly process is the same.
 - g. The curing process is the same.
 - h. All type / acceptance / routine tests are the same except those that characterize the raw materials used.
 - i. Packing type is the same.
 - j. Electrical / Mechanical / Thermal stress requirements are the same.
 - k. Performance requirements are the same.
 - l. All these factors are controlled and governed by various national / international standards to ensure complete interchangeability between Porcelain and Glass Insulators.
 - m. Functions & uses are the same.
 - n. The two are used interchangeably.
 - o. The pricing of the two is the same. In fact, the consumers have purchased the two on the basis of price comparison.
- 5) M/s WSI, Modern, ABN and IEC constitute Domestic Industry as their production constitutes a major proportion of the domestic production. Petitioning companies and M/s BHEL (supporter) together account for more than 80% of total production while remaining domestic production is with a large number of producers in small and medium segment.

- 6) The petitioners have considered China Customs data for determining volume and value of imports. Third country exports to India are below *de minimis*. Indian statistics with regard to imports of Insulator cannot be adopted since importers have reported the imports in units of measurement other than kilograms, the prescribed unit. Also, imports are also reported under different HS code for power projects. Information from secondary sources does not cover certain ports from which large volumes of imports have arrived.
- 7) There is a recent, sudden, sharp and significant increase in imports throughout the injury period. Imports have increased throughout the period. The increase is steep even in relation to production and consumption in India.
- 8) As the insulator industry is an order-based industry, significant supplies of the product against orders already placed have not been received as yet. This is clearly established by significant “pending supply position” of PGCIL orders placed on Chinese suppliers.
- 9) Reason for Increase in Imports:
 - a. Structural power imbalances that China P. R. experienced in the early part of CY 2000 led to an unprecedented demand for power generation and transmission equipments. 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 transmissions equipments, including Insulators. This led to substantial additions to the capacities for Insulators production in China.
 - b. After the Beijing Olympics, and once these fresh power generation and transmission capacities were set up, 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 utilizing their capacities, which are increasingly becoming idle.
 - c. Government of India plans to increase power generation capacities in India are attracting imports from China
 - d. Chinese suppliers enjoy certain price advantages, including easy financing from Chinese lenders, export subsidies, subsidized cost of metal and low fuel prices.
 - e. Almost negligible imports of insulator from other countries globally establishes that none of the global manufacturers are keen to exports the product in Indian market, given highly competitive prices that are prevailing in Indian market (China has started exporting recently and the Domestic Industry was earning profits in this business till Chinese invasion in Indian market).
- 10) Market disruption and threat of market disruption to Domestic Industry
 - a. Demand for the product in India has increased due to the policy of the Indian government to increase power generation capacity in the country.
 - b. There has been a sharp loss in market share of Domestic Industry.
 - c. Production and sales of the Domestic Industry increased till 2010-11 but thereafter declined significantly.

- d. The capacity utilization of the Domestic Industry increased despite increase in capacity in the past. However, in the recent period, even when the addition to the capacity was much lower, capacity utilisation declined. Moreover the production was even lower than the production achieved in the past.
- e. The production process is such that the furnace should normally run continually and optimally in order to keep the incidence of fuel cost most optimum. The producers must incur substantial costs for fuel whether or not the furnace is used for production. Therefore, any reduction in production or idling of production facilities has a huge toll on the Domestic Industry in terms of increased costs without output.
- f. The employment level and wages paid have increased. The industry is highly labour-intensive and such market disruption to the Domestic Industry would lead to loss of employment in the country. There has been a significant decline in contract labour.
- g. The profits before tax and profit before interest & tax have declined significantly throughout the injury period. The profits of the Domestic Industry declined to such an extent that Domestic Industry suffered huge losses in the recent period. Cash profits also declined to negative levels. ROCE also declined.
- h. The fact that orders of PGCIL were lost by Domestic Industry to Chinese exporters further establishes injury.
- i. Even after excluding the data of WSI (since it imports), the performance of the Domestic Industry shows a decline.
- j. Imports are significantly undercutting domestic prices and leading to price suppression.
- k. There is significant price undercutting and price suppression, and the volume of imports has increased significantly in a relatively short period.
- l. Chinese capacities exceed their domestic demand and huge orders have been placed on them from India.

11) Other Factors of Injury/Causal Link

- a. The Domestic Industry competes with global players and its products are competitive and of adequate quality.
- b. The fact that WSI was excluded in the Anti-dumping investigation should have no consequence in the Safeguard investigation since the requirements of constituting 'Domestic Industry' differ in the two. In any case, the petitioners have provided import and injury information including and excluding WSI.
- c. Due to the difference in the methodology adopted by the authorities in Anti-dumping and Safeguard investigations, figures relating to production, sales volumes, inventories, sales values, etc. differ slightly.

12) Public Interest

- a. There is a need for Domestic Industry in the country. A domestic producer will undertake breakdown servicing, while a foreign manufacturer cannot be held accountable after the short warranty period of 1-3 years.

- b. There is sufficient capacity, ability and technology to meet the present and potential demand in the country.
- c. The cost of Insulators constitutes only 5% of the total cost of the power project. The consumer of electricity will not face any significant increase in prices due to imposition of Safeguard duty
- d. Being a labour-intensive industry, its deterioration will lead to large-scale loss of employment.
- e. As the production process is continuous, if the Domestic Industry is allowed to reach a point where it no longer operates, production cannot be reinitiated when the need arises.

13) Safeguard Duty and Anti-dumping Duty

- a. It is settled law that Safeguard and anti-dumping investigations can be carried on simultaneously and the existence of the latter does not preclude the former.

B. Views of M/s Bharat Heavy Electricals Ltd. (BHEL)

M/s BHEL, in their written submissions have stated the Chinese producers are quoting predatory prices purely to increase their share of the Indian market. As a consequence, the share of Domestic producers in the PGCIL orders, who accounts for 50-70% of insulator consumption in India, has come down from 90 % in 2007-08 to presently just 10% as the remaining share of orders has been captured by Chinese suppliers. According to them, despite successful technical bids, Indian bidders have lost orders just because prices quoted by Chinese producer were much lower than prices offered by Indian producers. The company is reported to be suffering significant financial losses and despite having enough capacity to manufacture and supply, it has been unable to receive orders for HVDC Insulators due to steep reduction in prices by the Chinese manufacturers.

C. Views of th Govt. Of China P. R.

The Govt. of China attended the Public Hearing but has not filed any written submissions pursuant to the oral submissions made at Public Hearing. However, earlier they had filed response through The Economic & Commercial Counsellor's office, Embassy of China P. R. in reply to the Notice of Initiation wherein following submissions have been made:

The Domestic Industry is seeking over trade protection & the petition is discriminative to China

The Domestic Industry as a whole is not capable of meeting the demand in terms of its production capacity and technological level through a bidding procedure open to worldwide suppliers. The majority of Indian Domestic Producers are not capable of meeting the qualification criteria for bidding process. The application for investigation based on the cause of loss of orders does not hold water.

The accuracy and reliability of the data provided by the Domestic Industry is questionable and the statistics quoted in the notice of initiation are inconsistent.

It is obligatory on the part of domestic authorities to address all the requirements and conditions set out in Safeguard Agreement as well as Article XIX of GATT 1994. The law requires Authority to include a finding or reasoned conclusion on "unforeseen developments".

It is mandatory for domestic producers to provide information about the adjustment plan they are proposing to overcome situation of competition created by surge in imports. However no such detailed plan is offered by DI.

There is no rapid increase of the Chinese exports. Due to insufficient supply by domestic producers, the Power Grid Corporation and local consumers invited open tenders from producers worldwide and imports were increased as a result.

The Chinese exports did not under cut or suppress the prices of Indian producers on the ground that prices of the Chinese products grew while the volume decreases. There was no evidence of price under cutting and depression. The Chinese exports are significantly different from the Indian domestic products. More than 90% of the Chinese exports are high voltage Insulators, while most of the Indian producers manufacture Insulators for middle/ low voltage Insulators for transmission lines. These two types of Insulators do not compete with each other in the market. Due to technology complexity and demanding quality control, only few domestic producers are able to manufacture high voltage Insulators. The increased Chinese exports resulted from the supply gap of high voltage of Insulators and they did not grab market share of the Domestic Industry. Imports from China are thus necessary complement to the Indian market and it cannot be regarded as “injury” or “market disruption” claimed by the Domestic Industry.

The decrease in volume of exports from India had negative impacts on the performance of Domestic Industry since the Indian producers are unable to manufacture high voltage Insulators which resulted in loss of competitiveness in the international market. The decrease of the Indian exports gave rise to the increase of inventory which led to curtailed production, capacity utilization and decrease in profits.

The imposition of Safeguard measure is not in public interest for two reasons. First, most domestic enterprises in India are unable to manufacture high voltage Insulators and therefore these will have to be imported at higher cost. Secondly, the petitioners lost order mainly because they are unable to meet the tender qualification norms of the local consumers.

D. Views of M/s Alstom T&D India Limited, M/s Dalian Insulator Group Co Ltd and Ms/ Nanjing Electric (Group) Co Ltd

The views expressed in their written submissions are summarized as follows –

- i. Authority does not have the jurisdiction to conduct the investigation since injury margin claimed in AD petition were 20%-40%, 30-50% for Porcelain and Glass Insulators respectively, and dumping margin was 64.30%, 81.73%.
- ii. None of the Domestic Producers filed Questionnaire Responses on and before 18.07.2012 (that is, after lapse of 48 days from the date of initiation of the investigation). Under Rule 6(4), DG only has the power to condone delay of exporters, foreign producers, and Government of China
- iii. Other manufacturers from IEEMA are not disclosed so that hearing notice may not be issued by Director General of Safeguards (DGSG) to them.
- iv. Domestic producers competing with petitioners in SEB bids are not disclosed.
- v. One of the domestic producers has production capacity of 9000 MT (10% of total capacity of petitioners), information of which is not disclosed.

- vi. WSI has a separate legal entity engaged in trading of the subject goods but the name of the related company has not been specified in the petition as an importer. The trading company has not filed its importer Questionnaire Response.
- vii. WSI has imported more than 10,000 MT in POI, raising doubts on the total production figure given by the petitioners.
- viii. Deficiencies in the petition
- ix. Section II of the Petition
 - a. No description of the product has been provided at all.
 - b. The application does 'not disclose Customs Tariff Heading in the manner law has defined'.
 - c. The applicants are aware of the users, and the information is available with CEA. There are four major categories (i) Central power sector, (ii) State power sector, (iii) private power transmission companies (iv) railways.
 - d. State sector procures more Electrical Insulator than PGCIL and constitutes more than 50% of the demand. Taken with the private sector, this makes up 65% of the demand. Railways are also a big consumer.
 - e. In application, for Question 8, CIF value for PUC is different from that given in AD application, Annexure 4.3, though PUC in both are the same.
- x. Section III – Increase in Imports
 - a. Information provided relates to orders placed by one user.
 - b. In transaction-by-transaction data of IBIS given to interested parties, under 85462090, 4621 out of 6547 line items are non-PUC, since they are not used in transmission/distribution lines or substations.
 - c. MOC website and UN Comtrade website shows export of Glass Insulators from India though it is an admitted fact that Glass Electrical Insulators are not manufactured in India. This proves that the consolidated data cannot be used to know the import volume and value of a particular product.
 - d. The petitioners are required to file the best information available with them but mentioned in the public hearing that more information on import volumes were available which he would file. These should have been filed with the application.
 - e. The applicants relied on different sources of data for different countries.
 - f. WSI (in additional submissions) claimed that its imports should be treated as the production of WSI.
 - g. There is no sudden increase in imports since increase is commensurate with increase in demand.
 - h. BHEL 'and other producers' are operating at more than 100% capacity and so their share was bound to decrease with increase in demand. This may be seen from balance sheet of BHEL which may be provided to the Authority on confidential basis.
 - i. Increase to some extent is due to the execution of orders finalized one or two years earlier for 765 kV or 800 kV HVDC lines for which petitioners (except WSI) could not offer.

- j. The statements with regard to the advantages of Chinese suppliers should be disregarded since they would have been in existence earlier also and cannot be the cause of the increase in imports.
- k. The largest manufacturer in India, due to scarcity on the supply side, was charging abnormally high prices in cartel with other petitioners. They earned more than 50% ROCE before 2009-10. Due to entry of other domestic producers in domestic biddings, the cartel became less effective and ROCE reduced to some extent. Then, in international biddings cartelization became ineffective and profit became normal.
- xi. Section IV – Domestic Production
- a. No differences that exist between Glass and Ceramic Insulators have been disclosed in the petition. For instance, the petitioners in the public hearing admitted that the weight of the imported Glass insulator is much less than that of Ceramic insulator with same technical specification, implying that quantity of raw material differs.
- b. Various Insulators not used in transmission lines/substation are being imported but Domestic Industry produces only those used in transmission lines/substation.
- c. Tariff Classification on p. 25 of petition is inaccurate since classification under Chapter Heading 98 in *Central Excise* has been given.
- d. Petitioners have stated that no information regarding production details of other Indian producers are available with them.
- xii. Section V – Injury or Threat of Injury
- a. Information of total consumption of Electrical Insulators obtained from PGCIL, State Utilities and Private sector under RTI application should have been disclosed instead of restricting it to an assumed figure.
- b. On p. 30 of the petition, the table shows that no. 10 supplies were ordered in 2009-in respect of 765kV and 400kV from China, which contradicts the information provided on p. 17 of the application which shows 18 orders were placed on China and one on domestic producers.
- c. The petition shows import prices from China It states that they have significantly declined, whereas they have increased by 24% for Glass Insulators, and by 10% for weighted average.
- d. Inventories – either the information is incorrect or WSI has no inventory at all.
- e. Comparison between information on p. 41 of the application showing total exports of Electrical Insulators from India and information from the Ministry of Commerce shows that either information is incorrect or the weight of one insulator is 1000kg.
- f. Data provided to DGAD (as Annexure 3.5) shows injury margin for Ceramic Insulators between 20-40%. NIP calculated from this would be around Rs. 125,000 per MT. The landed price of Glass Insulators is Rs. 129,247 per MT as shown in the same Annexure.
- xiii. Section VI - Causes of Injury
- a. Glass Insulators are not undercutting the prices of petitioners, though they prevent the petitioners from increasing their profits abnormally as they did in the past due to cartelisation.
- b. Imports during POI were based on prices finalized two years earlier. These cannot have any impact on the prevailing prices of the petitioners.

- c. Domestic producers may be incurring losses due to inefficient operation, like stabilization of new production facilities.
- xiv. Section VII - Submission
- a. Petitioners have not disclosed a plan to improve capacity utilization and profitability. BHEL is utilizing more than 100% capacity.
- xv. The QRs of individual domestic producers provide incorrect / incomplete replies
- a. In QRs, for Section 2 Question i (b) “description of the product, including various grades, sizes, models or types, etc. basis of classification”, the answer is to refer to the petition, whereas no such information is available in the petition.
- b. In QRs, for Section 2 Question i (d) “uses of the product: whether different grades/off-specs can be used interchangeably”, the answer is to refer to the petition, whereas no such information is available in the petition.
- c. In QRs, for Section 2 Question i (e) “substitutability of the product”, answer was there was no viable substitute of the product under consideration. This is not true since polymer Insulators are considered as viable substitute in many transmission lines and used so by each of the users listed above.
- d. As per consumer perception, the product of the 3 petitioners is not technically substitutable for disc Insulators having voltage rating 765 kV and strength 210 kN, Electrical Insulators for HVDC lines of 800kV or more.
- e. For Section 2 Question ii (e) “narrate how your product can be considered as like or directly competitive to (a) above”,
- f. Modern Insulators’ answer is not different from the others even though it is not manufacturing solid core line post Insulators, pin insulator, multi-core Insulators, disc Insulators, etc.
- g. Only one or two of the petitioners are qualified for 765kV AC; none for HVDC of 800 kV or above.
- h. For Section 2 Question ii (c) “details of industrial users/consumers of your product: Please furnish segment wise list of major consumers”, the answers are to refer to the petition, where application doesn’t name a single consumer.
- i. For Section 3 paragraph iv “installed capacity and capacity utilization for the last three years, variety-wise for each product”, no answer is provided.
- xvi. Though neither the application nor the notice of initiation discloses that the scope of the product is limited to electrical insulator used in transmission lines and/or substations, this may be inferred from the application as a whole and statements made by the petitioners at the public hearing.
- xvii. Under international practice (including India), goods are cleared as per HS Code, not only in China as submitted by the petitioners.
- xviii. Copy of import data procured from IBIS under HS Code 85462040/50/90 showing imports of Insulators including those not used in transmission lines/ substation.
- xix. Aggregate data cannot be used in this investigation as export data from India in respect of HS Code 85461000 shows huge exports of Glass insulator from India where the same are not manufactured in India.

- xx. Only transaction-by-transaction data can be relied upon. Petitioners are relying on China customs export data which is not maintained transaction-by-transaction, unlike import data made available by Indian data sourcing agencies.
- xxi. Statement made in public hearing that the exporters from China classify export of PUC alone in 854610/20 as they have separate HS codes for exports of other EIs is only a story made out to hide the truth. All Insulators made of Porcelain are being cleared under HS Code 854620. There is no separate HS Codes in China for exporting PUC on one hand and other EI on the other hand.
- xxii. In Mexico – Definitive Anti-dumping measures on Beef and Rice (DS295), Mexican authorities had not investigated transaction-by-transaction data but relied on aggregate data of imports of all kinds of rice, and then made an assumption to arrive at the import volume and price of long grain rice. Panel and Appellate Body held that the authority had not used positive evidence. [82]
- xxiii. The law provides for the examination of import (and not export) volume and prices of the PUC into India.
- xxiv. In the Application, for Section IV Question 1(iv), the name and address of a known association has not been provided. However, IEEMA is mentioned as an association of users though it is filing and representing the petitioners ‘behind the back of all other interested parties’.
- xxv. From the public file, it cannot be ascertained that the DGSG has made an attempt to understand the product, varieties thereof and its various non-competitive, non-substitutable uses.
- xxvi. It is the need of the time to have extra-high and HDC transmission lines which is why PGCIL is not procuring lower grade low voltage Electrical Insulators from a few domestic producers but floating international bids. This cannot be stated to be causing injury.
- xxvii. Without knowing the production process of Glass Insulators, the Authority has believed information in the petition regarding similarity in the production process, and stated in the Notice of Initiation that they are considered as like or similar article considering their ‘manufacturing process’.
- xxviii. In Glass and Porcelain Insulators, Production technology differs and the Authority should first visit the factory of any of the exporters before coming to the conclusion of like article.
- xxix. In petition itself it is shown that Glass Insulators are 37% costlier than Porcelain Insulators.
- xxx. Channel of sale differs since Glass Insulators are supplied to PGCIL through international competitive biddings only, whereas there are no such restrictions on Ceramic Insulators.
- xxxi. Customs classifications for the two products are different.
- xxxii. Electrical Insulators manufactured are of various uses, sizes, applications, functions, models, etc.
- a. Electrical Insulators used in transmission lines cannot be used in substation or equipment.
 - b. Within transmission/distribution lines, different types are used like pin, line post, long rod, discs, etc.
 - c. Glass Insulators are generally restricted to discs Insulators only.
- xxxiii. If PUC includes non-transmission line/substation Insulators, domestic producers of the same exist which are not before the Authority.

- xxxiv. If PUC does not include non-transmission line/substation Insulators, initiation notice and import statistics are under doubt.
- xxxv. If comparison to determine likeness or directly competitiveness is going to be done by selecting one product from the basket of products under investigation and comparing it to one similar product from the basket of products produced by the domestic producers, it proves that the DGSB has determined 'articles' and not 'an article' for the investigation.
- xxxvi. If the product mix or the ratio of different Electrical Insulators manufactured by the domestic producers differs from that imported, comparison of increased imports, injury parameters will be non-objective.
- xxxvii. Statutory Authorities (Central Electricity Authority, SEBs), private sector users, and financial statements of WSI and ABN recognize segregate segments for transmission lines and substation, and further segments based on voltage.
- xxxviii. Transmission/distribution line segment is further divided based on technical need as (i) Disc Insulators (ii) Long rod Insulators (iii) line posts Insulators, (iv) Pin Insulators, etc. In some transmission lines, only long rod Insulators of polymer are used.
- xxxix. Substation segment is divided based on voltage, and thereafter into post substation solid core electrical insulator and hollow core electrical Insulators.
- xl. If a petitioner has the capacity to manufacture a type of insulator, it cannot be considered to be manufacturing the same unless the buyers accept it as a manufacturer based on technical requirements.
- xli. If any petitioner supplied any Disc Electrical Insulators of higher strength to SEBs, then no Chinese exporter is competing with them in that market and causing injury to them.
- xlii. During the public hearing, the representative of BHEL stated that BHEL is the only domestic producer who can manufacture HVDC 800 kV electrical Insulators.
- xliii. For considering all transmission/substation Insulators made of Porcelain/Glass in the product scope, the injury parameters of all the petitioners cannot be considered. As per Aluminium FRP case, DGSB selects only those products for which injury parameters of domestic producers are available to it.
- xliv. Information has been made available to the DGSB regarding various other domestic producers. However, nothing has been brought on record to show effort made in this direction.
- xlv. No information about the total demand of the product has been sought from PGCIL, SEBs, private companies, etc. which could be used to calculate total production.
- xlvi. DGSB may examine the kind and value of products imported by WSI.
- xlvii. Imports have been made by WSI so as to show injury from increased imports:
- a. Electrical Insulators imported by WSI were further processed to such an extent that the processing amounted to manufacture.
 - b. This means that parts of/cheaper/unassembled Insulators were imported which have less value. This decreased substantially the weighted average price of imports.

- c. When these were sold by WSI, the invoice price increased substantially due to value addition and increased the weighted average sales price of the Domestic Industry and resulted in unjustified increase in price undercutting if any.
- d. If any injury is caused due to keeping production capacity idle in order to process imports by WSI, this cannot be attributed to injury caused by imports.
- xlvi. In *EC – Definitive Anti-dumping Measures on Certain Iron or Steel Fasteners from China*, the Panel and AB held that the investigation authority needs to collect data of almost all the domestic producers and cannot rely on the applicants only. Therefore, the definition of Domestic Industry to the extent of major proportion is the same in Safeguard as well as Anti-dumping.
- xlix. DGSG has not disclosed in a fair manner whether the imports made by WSI (about half of total imports) has been included in the total imports or not.
- i. If imports of WSI are excluded, there is no increase in import volume.
 - ii. In Initiation Notification, imports of Ceramic Insulators from China did not see a sudden increase, but a fall of 8% from the previous year.
 - iii. Product includes various types of Electrical Insulators which may or may not be imported into India, therefore aggregate analysis cannot be done.
 - iv. Production which could have been achieved while WSI was importing and processing has not been included.
 - v. Production of manufacturers supplying to the SEBs has not been included.
 - vi. Production of only those Insulators should be included made by all petitioners.
 - vii. Market segment which is not catered to at all by all petitioners needs to be excluded.
 - viii. Examination has to be based on tender date and the ability to participate on those dates.
 - ix. Petitioners manufacture different kinds of Insulators which are not comparable.
 - x. WSI's idle capacity needs to be excluded.
 - xi. One of the petitioners could not achieve its capacity because of problems in stabilization of new production facilities.
 - xii. The largest manufacturer is earning normal profits; losses, if incurred by other manufacturers, are not due to increased imports.
 - xiii. Two of the petitioners were incurring losses continuously before the alleged increased imports.
 - xiv. One of the domestic producers who is not an applicant with capacity utilization more than 100%, has not been earning profits for many years, even when no Chinese exporters were participating in tenders of PGCIL.
 - xv. The submission of other supporter manufacturers cannot be taken into account as no information has been provided (Small-scale manufacturers).
 - xvi. No Safeguard duty can be imposed on Glass Insulators as the computation mechanism would fail (NIP cannot be calculated for Glass Insulators).
 - xvii. If the Authority proposes to impose duty on Glass Insulators, NIP for Porcelain Insulators must be taken for Glass.
 - xviii. Central Electricity Authority decided to increase the number of extra-high voltage and HVDC transmission lines in the Power Grid, and entrusted Damodar Valley, PGCIL and various SEBs to

erect these. Loans have been obtained for this from World Bank, IMF, etc., which require material to be obtained by International Competitive Bidding only.

- lxviii. WSI has very limited capacity in relation to the total requirements of PGCIL and in general fails to supply in time.
- lxix. Agreements entered into by PGCIL with foreign producers are on CIF basis. If duty is imposed, it will be borne by PGCIL, will increase the cost of projects and may lead to the abandonment of some projects.
- lxx. Increase in competition from other domestic producers whose names were not disclosed in the application forced the petitioners to reduce the prices for supply to the SEBs.
- lxxi. The Authority should take no decision 'behind the back of the interested parties' like Change of PUC by specifying the particular kind of Insulators made of Glass or Ceramic/Porcelain, Any reliance on IBIS or DGCI&S data (since it has not been relied on till date), Amendment of Domestic Industry constituents or any consequent change in injury parameters.
- lxxii. In absence of essential information and duly completed petition at the time of public hearing (24th July), another opportunity of hearing be provided.

E. Views of M/s. Sediver Insulators (Shanghai) Co. Ltd and M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd

The views expressed are summarized as follows –

- i. WS Industries should be excluded from the purview of Domestic Industry. They import substantial quantities of the product under consideration whereby it is contributor to the very imports it seeks to curb – as a result the injury claimed is self inflicted.
- ii. One of the units of WS Industries itself is located in an SEZ and should ideally not be considered while determining injury.
- iii. Summary import data from Chinese customs has been relied on when a large difference exists between the customs records of the two countries. With regard to import data, UN Comtrade Data is the same as Chinese Custom data and cannot be corroborated by it. DGCI&S data was rejected for China but used for third country imports in market share analysis. IBIS data was rejected for China but used for other countries.
- iv. Import volumes and constituents of Domestic Industry are different in the Safeguard and Anti-dumping petitions.
- v. The Petitioners have self certified their claim of being major proportion without taking into consideration the total domestic production in India.
- vi. Other known producers (members of IEEMA) have not been included in the petition.
- vii. The representation made in the public hearing by the small scale industries segment representative is in ignorance and violation of the procedures.
- viii. Since BHEL has not provided any costing data, no injury assessment ought to be taken on record on the products sold by BHEL.
- ix. Insulators by Exporters are different from that of petitioners:

- a. Designed and meant for Overhead Transmission Line equipment.
- b. Products manufactured by the Petitioners are for lower thresholds.
- c. Do not compete with that of petitioners and injury analysis should be restricted only to those competing.
- d. A large proportion of tenders are reserved exclusively for the domestic producers only.
- e. The category of 765 KV has admittedly not been produced or sold by petitioners in the last 3 years
- f. HVDC Insulators can be produced only by BHEL and cannot be regarded as ‘like articles.’
- x. Since Domestic Industry produces only the “up to 400 KV” the injury analysis should be done on a like article basis of what is produced and sold by the Domestic Industry and after segregation of imports to accurately reflect exactly what quantities have been imported in terms of KV.
- xi. Time lag exists between the order and shipment of the subject goods.
- xii. Raw material costs for the domestic producers must be looked into since there are huge differences for the different companies.
- xiii. Domestic sales have moved in tandem with total demand.
- xiv. Employment, wages have gone up; inventories have remained stable over the injury period.
- xv. Demand pattern has changed since 2007-08 (increasing trend in the use of Polymer / Composite Long Rod Insulators in place of Ceramic Insulators).
- xvi. Demand Trend has changed, attributing injury to fall in demand 2010-11 onwards.
- xvii. Large share of the Petitioning industry has been profitable over the injury period.
- xviii. Increase in raw material cost of IEC is inconsistent with the raw material cost of the remaining members of the proposed Domestic Industry.
- xix. Exports have declined and this is the cause for injury, if any.
- xx. Rise in the currency exchange rate has discouraged greater imports into the country as a natural economic consequence and improved the Domestic Industry’s performance.

F. Views of Dalian Ceramic Technical Co. Ltd., Pukou Huagao Electrical Ceramic & Appliances Manufacturing Co. Ltd. and Liling Pukou Insulator Manufacture Co., Ltd.

The views expressed are summarized as follows –

- i. The scope of the product under consideration should not include both Porcelain/Ceramic as well as Glass Insulators as they are neither technically and commercially substitutable nor are they “like articles” in terms of characteristics such as raw materials, manufacturing process and product specifications. Moreover, both are not directly competitive articles.
- ii. Since the Domestic Industry does not produce the Glass Insulators, there is no question of the Glass Insulators being treated as Product under Consideration or directly competing article.
- iii. Entire claim of the Domestic Industry is predominantly on the issue of lower prices from China. The Domestic Industry ought to have approached the Designated Authority for Anti-dumping which

they have done. There is no room for seeking any additional protection under the Special Safeguard law under Section 8C of the Customs Tariff Act.

iv. Domestic Industry has submitted that there is no change in technology between Domestic Industry and exporter for producing subject goods. This is patently incorrect and misleading. Many exporters use bauxite instead of microfinned calcined alumina used by DI which leads to saving of raw material costs. Use of other raw materials such as polymers, Glass, polycrystalline, epoxy, etc. indicates that technology is rapidly changing.

PGCIL has already placed orders to replace Porcelain Insulators with polymer Insulators. ABN and BHEL are producing polymer Insulators.

- v. A single producer cannot manufacture both Porcelain and Glass Insulators. They are different industries and have different production processes. The two show substantial difference in cost of production, selling prices and uses in geographical conditions of the area and according to load factor.
- vi. Equipment Insulators are a completely different type of insulator, not used by PGCIL.
- vii. Post Insulators used in substations cannot be used on poles in transmission lines.
- viii. Export data of China cannot be equated to import data of India.
- ix. Imports from China have increased only by 2.5% over the last year.
- x. Meaning of 'rapid' has to be sudden, and cannot relate to normal injury or a business cycle.
- xi. DGCI&S data was in numbers and pieces and was converted into kgs using 40kgs as the standard, when this is not the actual weight of many Insulators.
- xii. DGCI&S data and Chinese Customs data for 2008-09 both miraculously near 12,000 MT, implying that the figures have been manipulated.
- xiii. Initiation is flawed since requirements under Rule 5(3) regarding adequacy and accuracy of evidence provided have not been met in view of the following:
- a. Enlargement of PUC on the basis of stray Tenders by PGCIL for Glass/Porcelain Insulators is totally misleading. PGCIL floats Tenders for Glass Insulators in the event it needs Glass Insulators.
 - b. Imports of Porcelain Insulators decreased by 8% when compared to the previous year.
 - c. Imports of Glass and Porcelain together increased only by 7% from previous year.
 - d. No enquiry has been made into the different sources of data used for injury analysis.
 - e. China Customs Data is unreliable.
 - f. Methodology and actual import data ought to be disclosed.
- xiv. Increase of 16287MT over 45 months cannot result in market disruption since it is not a sudden increase in imports.
- xv. Confidentiality - Import figures of WSI must be disclosed.
- xvi. Injury analysis is wholly flawed in view of the following:

- a. Import data from two different sources clubbed.
 - b. Glass and Porcelain Insulators cannot be clubbed for determining increased import.
 - c. Imports in Glass Insulators cannot be stopped since PGCIL has placed orders specifically for that and DI is incapable of supplying the same.
 - d. Demand has decreased by 6% in POI compared to the previous year.
 - e. Market Shares of the Domestic Industry and exporters cannot be determined without import data of WSI.
 - f. DI has increased its production capacity by 32% in POI compared to the base year in anticipation of power expansion. This is the reason for decreased capacity utilization.
 - g. Production increased by 9% in the POI as compared with the base year; 11% decline since previous year reflects government's decision to curtail power expansion.
 - h. The Domestic Industry's domestic sales volume and values increased during the injury period.
 - i. Interest costs have increased by 85 indexed points in POI as compared with the base year, and depreciation by 37 and wages by 39 indexed points.
 - j. NFA and GFA increase has led to increase in cost for DI.
 - k. Clarification is sought regarding calculation of NIP for Glass Insulators.
 - l. WSI should be excluded, as per Annexure to Safeguard Rules.
- xvii. PGCIL's response to RTI provided only answers and not questions.

G. Views of China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCIEME)

The views expressed are summarized as follows

- i. The product is not clearly defined; the initiation notice includes all Insulators under HS Codes 8546.10 and 8546.20. Insulators used in telecom, etc. also included which are not manufactured by the Domestic Industry.
- ii. The product has not been classified into categories based on voltage.
- iii. Import statistics have been provided from various sources. For imports from other countries, DGCI&S till 2010-11 and IBIS for POI have been given. For imports under HS Code 8546.20, IBIS has been given but not for 8546.10. WTA data includes LT Porcelain for telegraph and telephone, Insulators for Ceramic J Linear Lamps.
- iv. Page 15 of the Petition states that in 2009-10, PGCIL sourced 15% of the material from other countries, whereas IBIS data stated that 0.65% only was imports from other countries.
- v. The common converter of 40kgs could not be used while converting data from numbers and pieces into kgs since the weights of the subject goods vary.
- vi. There are more than 20 producers in India and so the requirement of standing has not been met.

- vii. WSI should have been excluded in the Safeguard investigation also.
- viii. Ceramic and Glass Insulators are not like articles since they are technically and commercially different, cleared and reported under different customs classifications, raw materials and manufacturing process, cost comparison, etc.
- ix. In the Anti-dumping Petition, Safeguard Petition and Safeguard Initiation Notification, different figures for demand, inventory, market share of Domestic Industry have been provided.
- x. The requirement of unforeseen development was not proved in petition.
- xi. An adjustment plan, mandatory under Questionnaire, Section IV, was not provided.
- xii. Imports increased in 2010-11 due to expansion in power sector.
- xiii. The Domestic Industry as a whole is not capable of meeting demand (only BHEL can).
- xiv. The National Power Grid explicitly and strictly requires qualifications for bidders supplying High Voltage Insulators. These include manufacturing experience for at least five years and sales experience for at least two years.
- xv. Increase in 2010-11 due to expansion by power sector; no rapid increase in 2011-12.
- xvi. The Domestic Industry doesn't have capacity to make HV Insulators, which constitute 80% of Chinese imports.
- xvii. Chinese exports have no Adverse impact on the prices and profitability of the Indian Domestic Products
 - i. Undercutting and ROI from 2008-2011 do not show inverse relation.
 - ii. Petitioners' selling prices and CIF price from China show divergent trends. With increase in prices from China, price undercutting level has also come down.
 - iii. Claim of petitioners that increase in import prices forced DI to reduce its prices is self-contradictory.
 - iv. Main increase in import volumes occurred in 2010-11, when DI earned handsome profits.
 - v. Market share of the Domestic Industry in respect of product range produced by them has not changed.
- xviii. Chinese exports have no Adverse impact on the Indian Domestic Industry.
 - i. The transmission line voltages in India so far was up to 400KV only, recently in the last few years with the latest development in technology, Power Grid and Electricity Boards have gone for higher voltage of 765KV AC and the DC transmission.
 - ii. Disc Insulators manufacturers of 210KN in India - only 4; 120KN & 160 KN - about 20; 420KN – only BHEL. Electrical Insulators must be segregated as a) upto and b) above 210kN.
 - iii. PGCIL has been giving trial orders without tender to DI for 210/420kN to encourage them, based on which WSI, ABN and BHEL were able to make.
 - iv. Insulators for transmission and substation have to be treated separately.

- v. 29 utilities apart from PGCIL who use Insulators.
- vi. PGCIL domestic bid for upto 400kV transmission lines; ICB for above 765kV transmission and 800kV DC transmission.
- vii. Middle/low voltage and High voltage Insulators are significantly different – application, manufacturing, production cost, technology level, end users.
- xix. Price of Insulators exported from China to India (2008-11) has increased.
- xx. Exports reduced, causing injury, if any.
- xxi. No threat of market disruption since Chinese manufacturers' priority is Chinese market in 2012, constituting 60% of their total sales.
- xxii. Public Interest: There is a need for power projects.
 - a. Thermal power projects of 78545 MW and hydro power projects of 15707 MW are under construction in the country for likely commissioning during 11th and 12th Plan.
 - b. The power ministry plans to add 76,000 MW of electricity capacity in the 12th Plan and 93,000 MW in the 13th Five-Year Plan.
 - c. Since importers are PGCIL and local power grids, quality and cost of power transmission directly affect the routine life of local residents and operation of enterprises.

H. Views of M/s Powergrid Corporation of India Ltd.

M/s Powergrid Corporation of India Ltd. (referred to as **PGCIL**) participated in the public hearing as an interested party in the case. They have not filed written submissions pursuant to the oral submissions made during the public hearing. However they did file written submissions prior to public hearing vide letter dated 20.7.2012. The views expressed in their letter are summarized as follows:

They are engaged in power transmission business with responsibility of planning, co-ordination, supervision and control over inter-state transmission system and construction and operation of national and regional powergrids.

Insulators are one of the major items used for construction of transmission line and the same are being procured from Indian as well as foreign suppliers. The project procurement is carried out by them through competitive bidding under Domestic/international competitive bidding. Most of the Insulators being procured by them are either Porcelain or Glass Insulators.

The main Indian suppliers for their projects are ABI, BHEL, WSI AND MODERN.

The procurement of Insulators from foreign suppliers has been mainly for 765 KV lines as some of the Indian bidders had shortfall in operational experience to bid in the open tenders. Only two of the domestic manufacturers have met the standard qualifying requirements on technical experience for supply of 765 KV Insulators.

They have given details of total contracts awarded to Indian firms and Chinese firms during last three years. In the year 2011-12, the Chinese firms were awarded 31 contracts, valued at Rs.432 crores contracts as against 10 contracts worth Rs. 102 crores to Indian firms.

From the submission of PGCIL, it is observed that they had placed Development orders for Insulators of 320kN, 420kN, 765 kV AC, 800kV D/C on WSI, ABI, BHEL, MODERN.

The award of the contracts on Chinese suppliers was finalized against open competitive bidding at the lowest evaluated prices. They have submitted that imposition of Safeguard duty would increase their procurement cost which eventually is to be borne by consumer in the form of higher tariff. They have requested that in case Safeguard duty is decided to be imposed than it should be only in respect of contracts awarded post imposition of duty.

I. Views of M/s Deccan Enterprises Pvt. Ltd., Hyderabad

M/s Deccan Enterprises Pvt. Ltd., Hyderabad, have filed an impleading petition for inclusion of Silicone (Polymer) Composite Insulators being manufactured by them. It is submitted that Porcelain/Ceramic, or Glass or Silicone (Polymer) Composite Insulators are like articles as they have Common Technical, Mechanical and Physical Characteristics and these are freely interchangeable. It is submitted that more than 50% share of the Domestic Production of Silicon Companies is being imported from China. A substantial idle capacity (55%) and steep reduction in prices is threatening the very survival of Silicone (Polymer) Composite Insulator Industry which is still in the stages of injury.

J. Views of M/s Goldstone Infratech Ltd., Secundrebad

During the course of investigation, M/s Goldstone Infratech Limited, vide letter dated 20.6.2012 submitted that they are manufacturing Glass Fiber Silicone Rubber Insulators, falling under CTH 85.46 which is like or similar to Ceramic/Porcelains Insulators; that they are affected by rampant and cheap import of Chinese Silicone Rubber Insulators. These imports had caused their manufacturing capacity to be grossly underutilized and had adverse affect on employment. They also submitted evidence vide another letter dated 20/7/2012 that their product is interchangeably used by the consumers of Ceramic/Porcelains Insulators.

K. Rejoinder Submissions of M/s Alstom T&D India Limited, M/s Dalian Insulator Group Co Ltd and Ms/ Nanjing Electric (Group) Co Ltd.

The views expressed in their rejoinder submissions are summarized as follows:

- i. Figures for orders placed on Chinese exporters given in Written Submissions contradict with PGCIL submissions and petitioners' application.
- ii. Chinese Glass Insulators are not competing with Insulators upto 400kV, this segment is restricted to domestic producers.
- iii. Also, no injury caused to above 400kV segment as WSI is the only capable producer which also has operational issues while rest cannot even qualify in tender process.

- iv. No injury in 420KN segment as well, since only BHEL, as claimed by it, has the capability which is not suffering injury in that segment as no order since 2008-09 has been placed.
- v. Nondisclosure by Domestic Industry, of information on Composite/polymer insulator, is with a mala fide intention. In fact composite/polymer Insulators are competing with/replacing products produced by domestic players, thus causing injury.
- vi. Different level of participation required from applicants in the investigation, as compared to other opposing interested parties, as such all information has to be filed before initiation and no extension of time is possible for filing. Also, different information are required to be supplied in Application and questionnaire responses.
- vii. NGK's presence in China, per se, cannot be held to cause disruption, such unwarranted reliance on US investigation which has long been withdrawn is improper.
- viii. Cases cited by applicants are incorrect misleading and distinguishable on facts. These on the contrary, prove that product scope needs to be further refined to give an objective basis of investigation which at present is not there due to biased nature of the Authority.
- ix. Method of comparison is incorrect in light of the WTO Appellate Body report in EC – Steel Fasteners from China case (WT/DS/379/AB/R).
- x. In light of the well established practice to exclude products from product scope which are not produced by domestic producers, the product scope in the present matter is ambiguously defined. It is already accepted by Domestic Industry that no production of telephone and telegraph Insulators is done. This raises further questions as to definition of product scope, import statistics relied on and impartiality and fairness of DG.
- xi. Further, the so called Domestic Industry has not clearly provided in their submission any comparison to show that various types of Insulators inter se are like or directly competitive and that imports of various kinds of Insulators from China are like or directly competitive to once produced by domestic producers.
- xii. Despite inconsistencies as stated above, the applicants misled the Authority with misleading data on imports as well as on procurements by PGCIL. Applicants have created imaginary data which is highlighted when compared with UN Comtrade data.
- xiii. DG required to act objective while conducting the investigation which process has been hampered in the instant matter due to inactivity on its part to seek correct and objective information.
- xiv. Domestic Producers have not been able to prove their standing as Domestic Industry due to the lack of accurate and objective evidence to that extent.
- xv. As regards profitability the decline not attributable to imports as Domestic Industry operates in totally different segment.
- xvi. None of the domestic producers are capable to produce products comparable to imports given their technical specification and high level of sophistication involved. Further, while bidding domestic producers act in concert creating a cartel where, in facts, imports increase competition and development.

- xvii. Such investigation places doubts on high level official managing SEBs and PGCIL which is scandalous and mischievous in nature; when on the contrary PGCIL is making efforts to develop indigenous manufacturer.
- xviii. Development must not stop due to neglect or failure of Domestic Industry.

L. Rejoinder Submissions of China Chamber of Commerce for Import and Export of Machinery and Electronic Products. (CCCIEME)

- i. Glass Insulators should not be included in the scope of the product. The interested party has cited various judicial pronouncements wherein it was held that no Anti-dumping Duty and also Safeguards duty can be imposed on the grades/ types and models of products under consideration which are not manufactured by the Domestic Industry.
- ii. Ceramic and Glass Insulators are technically and commercially different and cannot be treated at par as like article. Raw Materials used and Manufacturing Process for Ceramic/Porcelain and Glass Insulators are different.
- iii. The requirement of Insulators are not specified separately, but quantity of Insulators required is directly linked with the length of the transmission line (expressed in circuit kilometers i.e. CKM) and the voltage of Transmission.
- iv. Product under investigation should be properly defined. Grades/Types and models not manufactured by the Petitioners should be excluded from the scope of investigation.
- v. HS Code 85462090 covers complete set including equipment and accessories as well very small products which cost only Rupee three per pc. Imports under this head are totally misleading and the trends of imports. Since Glass Insulators are not manufactured by the Petitioners in India the same cannot be included in calculating total imports into India. (imports, pg 14)
- vi. As per Initiation Notification product is covered under two broad Customs classifications - Porcelain/Ceramic Electrical Insulators Heading 8546.20 and Glass Electrical Insulators Heading 8546.10. Customs Headings 8546.20 includes Ceramic Electrical Insulators in general and includes various products which are not manufactured by the Domestic Industry.
- vii. Domestic Industry has compiled imports statistics from number of sources.
- viii. IBIS imports information which shows imports in Pcs/Nos has been adopted for Porcelain /Ceramic Electrical Insulators Heading 8546.20. Imports under Heading 8546.10 in respect of Glass Insulators have not been considered.
- ix. All the Electrical Insulators cannot be clubbed under one category, as there are several applications of Electric Porcelain Insulators.
- x. The average weight of 40 Kgs. assumed by petitioners is wrong. Similarly, Insulators (Porcelain & Glass) have wide applications and there are different requirement and technology for different applications.
- xi. Imports of Electrical Insulators from China have been based on World Trade Atlas data for both Customs Headings 8546.20 and 8546.10. World Trade Atlas imports data shows consolidated information of imports of all Ceramic Insulators in general which are not manufactured by the applicants and hence cannot be part of the investigation.
- xii. The Indian Domestic Industry as a whole is not capable of meeting the demand of high voltage transmission line.
- xiii. Reasons for such increase in imports from China have not been really put forth before the Investigating Authority by the Applicants.
- xiv. Constituents of Indian Domestic Industry are not capable of meeting qualifications laid down by Power Grid for bidders supplying High Voltage Insulators. The Chinese suppliers, by contrast, win the bids by virtue of mature manufacture of Insulators with high quality.

- xv. Imports from China do fulfill the gap created by the incapacity of supply of High Voltage D.C. Insulators by the Domestic Industry
- xvi. Petitioners' allegation that the Chinese industry has to transfer significant excessive capacity to the Indian market lacks factual basis. Within the next 5 years, China has strong demand in its domestic market, so there is no need to transfer capacity to markets abroad.

M. Rejoinder Submissions of Dalian Ceramic Technical Co. Ltd, Pukou Huagao Electrical Ceramic & Appliances Manufacturing Co. Ltd., Liling Pukou Insulator Manufacture Co., Ltd.

- i. As per rule 2(d), the term interested party is not defined as exporter or importer. The term includes even an association of importers, association of exporters, and government of subject country. These interested parties are not required to file questionnaires. Sending questionnaires and participating in oral hearing are different aspects. The only requirement under rule 6(6) is that said oral information should be given in writing.
- ii. Referred to the decision of DGAD on vitrified/ Porcelain tiles wherein it was held that filling of a questionnaire and participating in oral hearing are different obligations.
- iii. Domestic Industry was obligated to file two sets of application, one the consolidated application and second by each constituent in a separate format. In the absence of such basic application the initiation is bad.
- iv. The Domestic Industry cannot compare the obligations of Domestic Industry and interested parties. The claim of the Domestic Industry that an interested party intention is completely mala fide and without any basis.
- v. DG should reject the claim that Porcelain and Glass Insulators should be included in the scope of product under consideration.
- vi. Practices of other countries do not have precedential value for the quasi judicial authority as it is bound by its own municipal law.
- vii. Full copies of the judgments referred in the submissions have not been given, therefore it's difficult to provide comments on the same.
- viii. The Glass Insulators cannot be commercially substitutable with the Porcelain insulator industry.
- ix. The definition of "like article" under Safeguard duty law and anti dumping law is different, in view of that no reliance can be made on cases rendered in the context of anti dumping.

N. Rejoinder Submissions of China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCIEME) on submissions by M/s BHEL

- i. BHEL has deliberately not participated in both Anti-dumping investigation as well as Safeguards proceeding as no injury has been caused to BHEL due to increased imports from China
- ii. No information pertaining to BHEL has been filed in the Petition.
- iii. The claim of BHEL that they have enhanced the capacity to meet the demand in the country is in contradiction with Questionnaire Response filled by them as they have submitted that they have no further plan for capital investments and there is no change in installed capacity for the last four years.
- iv. Different claims with regard to production have been made by BHEL and the petitioners in their written submissions.

- v. BHEL had stated that its market share has been taken away by Chinese Exports is contrary to the factual reality. BHEL has been operating at more than 112 % capacity utilization.
- vi. BHEL has been consistently incurring losses whereas it has been claimed by the petitioners that increase in imports from China has taken place only during April 2011 to December 2011. However, BHEL is incurring losses irrespective of the imports. No causal link can be established between so called increased imports and market disruption caused to BHEL.
- vii. None of the petitioners could develop 420KN Disc Insulators. Therefore, 420KN or even 320 KN Insulators for + 800KV DC application and + 600KV DC application should be excluded from the list of products. There was only one tender (5 packages) for 420 KN Insulators from Power Grid in Year 2009 and thereafter there has been no tender. Therefore it's an invalid statement of BHEL that they did not get any order after that as there was no requirement.
- viii. BHEL have admitted that because of this HVDC Insulators order they made profit otherwise they may have made loss. Therefore, there is no injury caused to the Indian manufacturers by this product. Since BHEL are the only producers of (HVDC) in India and BHEL is not part of the Domestic Industry as per Rule, this product should be excluded from the scope of investigation.

O. Rejoinder Submissions of M/s. Sediver Insulators (Shanghai) Co. Ltd and M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd

- i. The Petitioners have erroneously alleged that Sediver has not filed Authorization letters within the time limit. Petitioners have not provided complete information with regard to the factual position vis-à-vis the power segmentation in India. The Petitioners' claim that the 30 day deadline was only for new producers and not applicable to Petitioners is denied as the time lines is applicable uniformly across the board.
- ii. The exporters have sold only Electrical Insulators designed and meant for Overhead Transmission Line equipment to India in the period of investigation which is different from the Insulators used in sub-stations.
- iii. There is a clear distinction between the markets or end-use, i.e. Over-head Transmission and Sub-station, to which the subject goods are required for and the type, grade, physical, technical specifications of the insulator varies accordingly.
- iv. There being a large number of sub divisions in the product under consideration on the basis of voltage capacity, the product under consideration should be segmented on the basis of these parameters and an injury analysis should be done accordingly.
- v. There is segmentation required in the present product under consideration so as to ensure the Domestic Industry is protected only for those products which are like article and the injury analysis can be done for each grade separately.
- vi. The import data submitted by the Petitioners in the present investigation and the parallel ongoing anti-dumping investigation are not consistent with each other
- vii. The petitioner has stated that significant orders are placed by PGCIL to Chinese exporters. The data provided has gross procurement figures, not gross order figures. The implication of reflecting gross procurement figures is extremely relevant in light of the time lag that Chinese imports suffer especially with regard to tender orders.
- viii. No corroborating evidence regarding significant capacities installed by the Chinese Manufacturers. The Petitioners have not provided any data in this behalf to defend this issue as regards plant idling.
- ix. The difference between the goods produced by the proposed Domestic Industry and the imported products is due to the specialized requirements of higher voltage capacity Insulators such as 765 KV and HVDC Insulators.
- x. BHEL is a supporter in the present investigation and has provided its questionnaire response with a severe delay whereby the Hon'ble Director General (Safeguards) may not accept its data for

injury at such a belated stage. Therefore BHEL cannot be held to be part of the Domestic Industry.

- xi. WS Industries has imported substantial quantities during the period under investigation. Further one of WS Industries' units functions in an SEZ. For these reasons WS Industries should be disqualified from being part of the Domestic Industry.
- xii. Petitioners have deliberately not provided critical information on the composition of "other producers" in the Indian market due to which it is impossible to determine whether they constitute a "major share" of the total production in India. Further, lack of reliable information in this regard also renders the demand and all related analysis futile.
- xiii. Petitioners have provided unreliable and inconsistent import data and their reliance on Chinese Customs export data is denied. There is no source of data provided for the data regarding exporter-wise exports from China
- xiv. A large share of the Petitioning industry has been profitable over the injury period (Aditya Birla Nuvo and Modern Insulators). Until and unless "other producers' " production and sales figures are not included in the investigation, any market share analysis is bound to be skewed and unreliable.
- xv. Since there is to be exclusion in the product under consideration, the capacity utilisation analysis of the Domestic Industry is obsolete.
- xvi. The increase in raw material cost of IEC is inconsistent with the raw material cost of the remaining members of the proposed Domestic Industry. The Domestic Industry has not lost any substantial share in the market. Further, it is clearly evident that the sales of the Domestic Industry have grown at the same rate as the total demand.
- xvii. The export sales of the Domestic Industry have come down to nearly half of what they were in the base year. As a result, there has been substantial volume injury caused to the Domestic Industry from this segment, and not the imports made from the subject countries
- xviii. Polymer based Insulators should be excluded from the scope of the product under investigation since these are not directly competitive or like products on the basis of the raw materials, production processes, pricing, technology to the electric Insulators which are currently being produced and sold by the Petitioners.
- xix. Petitioners have held back information concerning the increase in usage of Composite information which is a critical causal link issue.
- xx. The exchange rate has increased by 20% thereby discouraging greater imports into the country as a natural economic consequence.

P. Rejoinder Submissions Domestic Industry

The following are the arguments made by the Domestic Industry specifically in response to the issues raised by the opposing interested parties.

- i. Though an anti-dumping petition has been filed against imports of Electrical Insulators from China, there is no finding on dumping or injury issued by the DGAD and so a Safeguard investigation is not precluded.
- ii. The DGSG has issued a public notice of the initiation required under Rule 6(1) as an extraordinary gazette notification and so no party can claim ignorance of the proceedings.
- iii. With regard to the delayed filing of Questionnaire Responses, it is submitted that nowhere under Rule 6 is the DGSG required to collect information from the petitioner companies. The information under the Questionnaire Responses was already on record with the DGSG. Further, the Questionnaire Response is primarily for non-petitioning domestic producers.

- iv. Strong objections are taken to baseless allegations of cartelization. The fact that third country imports are negligible establishes that domestic prices were not abnormally high.
- v. Alleged differences between manufacturing processes of Ceramic/Porcelain and Glass Insulators are actually differences in technology and the basic process is the same. The alleged difference does not affect the essential characteristics of the end product or its price. End users, such as PGCIL, are not ready to pay more for Glass.
- vi. The Domestic Industry produces everything that has been imported into the country barring telephone, telegraph & electronic application Insulators. Imports of these are insignificant and these have also been made by other domestic producers.
- vii. In considering import data, line entries not relating to PUC have been removed.
- viii. *US — Hot-Rolled Steel*¹ held that if the investigating authority chooses to segment the market into two or more market segments, it is nevertheless required to examine the Domestic Industry cumulatively for all the markets.
- ix. The law requires production analysis to be done on aggregate basis.
- x. As per *EC-Bed Linen*, injury analysis is only required to be done for Domestic Industry. Also, the mere fact that some producer's performance is better than others does not imply that Domestic Industry has not suffered injury so long as performance of the all producers have been included.
- xi. Other domestic producers have not participated in the investigations as their individual shares are extremely small (many command less than 1% share). Bikaner Association has expressed its support for the petition.
- xii. Barring PGCIL, none of the users of the product under consideration have responded to the DGSG or raised objections to the investigation.
- xiii. It is factually incorrect that State Power Sector consumption is more than 50% of the demand.
- xiv. The CIF value for PUC in the Anti-dumping and Safeguard petitions differ due to a typographical mistake which was clarified to both Authorities.
- xv. Orders of PGCIL were given to show the substantial increase in imports due to just one consumer.
- xvi. The fact that exports of Glass Insulators from India have been reported further shows that data published by DGCI&S cannot be relied on for the purpose of this investigation, as exports of other products have been incorrectly reported under this heading.
- xvii. Since 765 or 800 KV HVDC Insulators are being offered by Indian industry, there is no legal and factual basis for excluding these. Even if supplies of 765 KV or 800 KV HVDC Insulators are excluded, the data shows increased imports.
- xviii. Even the current orders placed indicate an increase in imports.

¹ *United States – Anti-Dumping Measures On Certain Hot-Rolled Steel Products From Japan, Report of the Appellate Body, WT/DS184/AB/R (24 July 2001).*

- xix. The data shows that when there was excessive capacity in India, ABI was doing better.
- xx. The difference in weight of Glass and Ceramic/Porcelain Insulators is only relevant when calculating injury margin and the same has been taken into account by the petitioners.
- xxi. The demand of Insulators for telephone, telegraphs and other electrical devices has declined significantly as the technology has become obsolete.
- xxii. WSI has no inventories as per Excise records. Once there is a need to invoice the goods, WSI completes the semi finished goods, transfers the goods to excise records and raises invoices and dispatches the goods.
- xxiii. The weight of Glass Insulators is required to be converted/and expressed into Ceramic equivalent weight before adding to the imports of Porcelain Insulators. Since the procurement and consumption of the Insulators by the consumers is in numbers, after determining the non injurious price on weight basis, the same is required to be converted into numbers before comparing with imports for arriving at injury margin.
- xxiv. The fact that BHEL is utilizing more than 100% capacity does not mean that BHEL is not suffering injury. In fact, once HVDC profits are excluded, it would be seen that BHEL is suffering significant financial losses.
- xxv. There is no off spec in the present product, and different grades are produced in the same plant.
- xxvi. Polymer Insulators are not a directly competitive product to the product under consideration.
- xxvii. The DGSG need not consider whether *each* petitioner company offers like or directly competing articles. Such isolated analysis is against the legal provisions.
- xxviii. The product range of the petitioning companies is not restricted to Insulators used in transmission/distribution lines and substations.
- xxix. The fact that the petition was filed on 16.11.2011 (updated on 11.01.2012 and 04.05.2012) and the investigation initiated only on 30.05.2012 shows that DGSG has carried out extensive pre-initiation investigation.
- xxx. In the first PGCIL tender for HVDC in 2008-09, BHEL's bid was lowest and it was awarded the tender. No injury at that time due to no dumping. However, in subsequent tenders, Chinese exporters purposely reduced their prices to such an extent that BHEL could not match them.
- xxxi. The DGSG has already undertaken visits to the factories involved and in any case, it is not the case of the petitioners that the production technology for Glass and Ceramic/Porcelain Insulators is the same.
- xxxii. Glass Insulators are 37% costlier than Porcelain insulator when compared on weight basis. However, the price evaluation criteria adopted by the consumers is not price per kg.
- xxxiii. Both Glass and Ceramic/Porcelain Insulators have been purchased by PGCIL through the same channels of sale.
- xxxiv. Difference in customs classifications at the 6 digit level does not render Glass and Ceramic/Porcelain Insulators different articles.

- xxxv. Within transmission/distribution line, substation and equipment Insulators, Insulators may further be divided on the basis of shape, size, voltage, and other technical specifications. If the opposing interested parties' submissions are to be accepted, this would result in *thousands* of different articles and not one.
- xxxvi. The fact that a product is sold in different market segments does not render the product different articles.
- xxxvii. The Aluminium FRP case has been misconstrued. There were two different products – FRP and Foil and in fact, there were numerous types under each but they were taken only as two different products.
- xxxviii. The petitioners have provided figures for WSI production had it not imported and used the capacities for production.
- xxxix. No petitioner company suffered problems in stabilization of new production facilities.
- xl. The fact that supplies are procured through ICB cannot mean that the Domestic Industry is allowed to remain unprotected.
- xli. Proposed Safeguard duty would impact consumers only 0.025% per year in terms of cost.
- xlii. Sufficient opportunities have been provided to all the parties and any delay in recommendations of Safeguard duty shall cause significant injury to the Domestic Industry.
- xliii. If the representation at the public hearing of SMEs is to be disregarded, that made by a large number of exporters and Govt. of China representative were also in ignorance and violation of the procedures.
- xliv. BHEL has provided their costing data and therefore injury assessment can be undertaken for BHEL.
- xlv. "Directly competitive article" scope is not limited to "actual production".
- xlvi. Differences in raw material costs of domestic producers, if any, are relevant to Anti-dumping investigations and not Safeguard investigations.
- xlvii. While demand increased in 2011-12, the Domestic Industry sales declined.
- xlviii. There is no discrepancy between the increase in raw material cost of IEC and that of others.
- xliv. Exports of domestic producers have not so materially declined and in any case, domestic operations information has been given.
- l. Performance of Domestic Industry for the last quarter of 2011-12 shows further deterioration despite the exchange change.
- li. WSI is entitled to claiming its import figures confidential within the provisions of the Safeguards law.
- lii. Import data from two sources has not distorted the analysis.
- liii. The alleged curtailment of power expansion by the GOI should have affected both Chinese and Indian producers, but Chinese orders increased.

- liv. There is no abnormal increase in interest costs. Increases in NFA and GFA reflect addition of capacities.
- lv. There is no legal requirement of Adjustment Plan in a transitional Safeguard case. The Questionnaire is common for both general Safeguard and transitional Safeguard measures. However only those questions which are applicable to the transitional Safeguard case have to be answered.
- lvi. With regards to profits in 2010-11 when there were increased imports, it is to some extent due to past orders. Imports further increased in 2011-12.
- lvii. ABI is producing and selling composite Insulators. The petitioners have however not included composite Insulators within the scope of product under consideration since they constitute a different article as they are not technically or commercially substitutable.
- lviii. International Electro-technical Commission considers polymer Insulators different and has different standards for them.
- lix. Polymer insulator technology is young and not developed for substation post insulator and voltages of 230kV and above.
- lx. PGCIL floats separate tenders for polymer Insulators. Even when Rajasthan State Electricity Board floated tender for all three types, it ordered only 10% of its requirement from composite insulator bidders even though their bid was the lowest.
- lxi. Despite the fact that polymer Insulators are cheaper, figures of domestic producer show that these capacities are underutilized due to low demand.

III. Findings:

I have carefully gone through the case records, the replies filed by the domestic producers, exporters and exporting nation. Submissions made by the various parties and the issues arising there-from are dealt with at appropriate places in the findings below.

The Section 8C of the Customs Tariff Act, 1975 deals with imposition of Transitional Product Specific Safeguard Duty on imports from the People's Republic of China. The Section 8C(1) provides imposition of Safeguard duty on the article if the article is being imported into India from the Peoples Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to the Domestic Industry.

The Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 provides the manner and principles governing investigation.

Accordingly, the investigation has been conducted in accordance with the said rules and the final findings are recorded through this notification.

- A. Need for Investigation-** i) M/s. Aditya Birla Nuvo Ltd., ii) M/s Insulators and Electrical Company, iii) M/s. Modern Insulators Ltd., and iv) M/s. WS Industries (India) Ltd., have filed an application under Rule 5 of the Custom Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, for imposition of Safeguard Duty on imports of Electrical Insulators into India, classified under heading 85.46 of the Customs Tariff Act, 1975, to protect the domestic producers of Electrical Insulators against market disruption/threat of market disruption caused by the rapid increase in imports of Electrical Insulators from China.

The Petitioners attributed sharp loss in market share of Domestic Industry to increasing imports and alleged significant price undercutting and price suppression. The evidences produced by them had shown prima-facie case of market disruption/ threat of market disruption. Hence, the investigation was initiated on 30th May 2012 to determine the existence of market disruption/ threat of market disruption to the Domestic Industry caused by the increased imports of Electrical Insulators from China. During the course of investigation the applicants produced detailed evidences relating to material injury and requested for imposition of Safeguard duty.

B. Nature of the Industry

The Petitioners are manufacturing a range of Ceramic /Porcelain Insulators falling under SH 8546 20 of Customs Tariff Act, 1975. The Petitioners have claimed that Ceramic /Porcelain Insulators and Glass Insulators (classified under sub-heading 8546.10), are considered as ‘one article’ considering their essential characteristics, functions, uses, technical and commercial interchangeability. The Glass Insulators are not produced in India and these are being imported from other countries, largely from China. The major users of Electrical Insulators in India are Central power sector (Power Grid Corporation of India), State Electricity Boards, Private Sector power transmission companies, Railways and Telecom sector.

The relevant tariff entry of the product under Heading 85.46 of Customs Tariff Act, 1975 reads as follows:

<i>HS Code</i>	<i>HS Code</i>	<i>Description</i>	<i>Unit</i>	<i>Rate of Duty</i>
8546		<i>Electrical Insulators of any material</i>		
8546 10 00		- <i>Of Glass</i>	<i>kg</i>	7.5%
8546 20		- <i>Of Ceramics :</i>		
		-- <i>Porcelain discs and strings :</i>		
	8546 20 11	-- <i>Porcelain below 6.6 kV</i>	<i>kg</i>	7.5%
	8546 20 19	-- <i>Other</i>	<i>kg</i>	7.5%
		-- <i>Porcelain post Insulators :</i>		
	8546 20 21	-- <i>below 6.6 kV</i>	<i>kg</i>	7.5%
	8546 20 22	-- <i>6.6 kV or above but upto 11 kV</i>	<i>kg</i>	7.5%
	8546 20 23	-- <i>Above 11 kV but upto 66 kV</i>	<i>kg</i>	7.5%
	8546 20 24	-- <i>Above 66 kV but upto 132 kV</i>	<i>kg</i>	7.5%

	8546 20 29	-- Above 132 kV	kg	7.5%
		-- Porcelain pin Insulators :		
	8546 20 31	-- Below 6.6 kV	kg	7.5%
	8546 20 32	-- 6.6 kV or above but upto 11 kV	kg	7.5%
	8546 20 33	-- Above 11 kV but upto 66 kV	kg	7.5%
	8546 20 39	-- Above 66 kV	kg	7.5%
	8546 20 40	-- Other high tension Porcelain solid core Insulators	kg	7.5%
	8546 20 50	-- Other low tension Porcelain Insulators including telegraph and telephone Insulators	kg	7.5%
	8546 20 90	--other	kg	7.5%

Further, Harmonized System of Nomenclature (HSN) describes ‘**Electrical Insulators of any material**’, falling under **Heading 85.46** as follows:

“Insulators of this Heading are used for fixing, supporting or guiding of electric current conductors while at the same time insulating them electrically from each other, from earth, etc. The Heading excludes insulating fittings(other than Insulators) for electrical machinery, appliances or equipment ; these fittings fall in heading 85.47 if they consist wholly of insulating material (apart from any minor components of metal incorporated during moulding solely for purposes of assembly)

Usually there is a relation between the size of the insulator and the voltage (large for high voltages, smaller for low voltages.) Similarly, the shape of the various types of insulator is influenced by electric, thermic and mechanical considerations. The external surface is very smooth in order to prevent the formation of deposits of non-insulating materials, such as water, salts, dusts, oxides and smoke. Insulators are often given bell, accordion, petticoat, grooved, cylinder or other shapes. Certain types are constructed in such a way that when in position they may contain oil to prevent contamination of the surface by conducting materials.

Insulators may be made of any insulating material, usually very hard and non-porous, e.g., Ceramic material (Porcelain, steatite), Glass, fused basalt, hardened, rubber, plastics or compounded insulating materials. They may contain fixing devices (e.g. metal brackets, screws, bolts, clips, laces, slings, pins, cross pieces, caps, rods, suspension or carrying clamps). Insulators equipped with metal horns or guard shields or other devices to form lightning arresters are excluded (heading 85.35).

Insulators are used on outdoor cables, e. g. in telecommunications, power network, electrical traction system (railway, trolleybus, tramway etc.) and also for indoor installations or on certain machines and appliances”.

The HSN describes the product ‘Insulators’ based on its functions, characteristics, shape and its applications. Further, as per HSN, Insulators may be made of any insulating material. The Tariff

description further categorizes these Insulators under different Sub-headings, as mentioned in the table above.

C. The Product under Investigation:

1. The scope of the product under consideration covered in the present investigations is “Electrical Insulators, made of Glass or Porcelain/Ceramics, whether assembled or unassembled”, originating in or exported from People’s Republic of China, classified under heading 85.46 of the Customs Tariff Act, 1975.
2. It is claim of the petitioners that the Porcelain/Ceramic Insulators (classified under sub-heading 8546.20) and the Glass Insulators (classified under sub-heading 8546.10) are considered as one article considering their essential characteristics, functions, uses and technical & commercial interchangeability.
3. The Porcelain Insulators are produced using clay, silica, alumina, feldspar and metal parts, while Glass Insulators are produced using silica and metal parts. Though Porcelain/ Ceramic Insulators are manufactured domestically, the Glass Insulators are not being manufactured in India. The Insulators made of Porcelain / Ceramic or Glass, can be Disc or String Insulators, Porcelain post Insulators, Porcelain pin Insulators, High tension Porcelain solid core Insulators, Low tension Porcelain Insulators including Insulators for Telegraph & Telephone, Electrical & electronic appliances/devices etc. Further, depending upon application requirements, these can be low, medium, high or ultra high voltages.
4. The Electrical Insulators, of Glass or Porcelain, in various forms, can be used in power network, electrical traction system (railway, trolleybus, tramway etc.), telecommunications or on certain machines and appliances. These are produced in different shapes, sizes and strength and are known as disc, pin, post, guy shackle, reel, spool, shaft , bracket, stay arm, roofile, pentograph, pedestal, station post, railway post, long rod, hollow, solid core Insulators to meet different specific end application, but to perform the same function i. e. insulation. Different shapes, sizes and strength of the product are manufactured by the same producer at the same set of manufacturing facilities, using the same or similar set of raw materials, technical expertise, plant & equipment, to perform the same function and to meet different specific end applications.
5. International Electro-technical Commission (IEC) designates Insulators as low, medium, high & extra high Insulators as follows –

Description	Voltage levels
Low Voltage	Nominal voltages between 100V and 1000V
Medium Voltage	Nominal voltage above 1kV and not exceeding 35kV (Highest System Voltage between 1kV and 40.5kV)
High Voltage	Nominal voltage above 35KV and not exceeding 230kV (Highest System Voltage between 52kV and 245kV)
Extra High Voltage	Highest system voltage exceeding 245kV (Highest system voltage between 300kV and 1200kV)

6. Main function of Electrical Insulator is to insulate one conducting body from another conducting body or to insulate a body which can transmit electrical energy to the surrounding, at areas where such transmission of electrical energy has to be avoided. Typical applications of Electrical Insulators are in Power network, Electrical traction system (railway, trolleybus, tramway etc.), Telegraph & Telephone lines or in certain machines and appliances etc.
7. The first and the foremost issue to be decided is whether domestically produced Electrical Insulators of Porcelain/Ceramics are like or directly competitive article to Electrical Insulators, made of Porcelain / Ceramic or Glass (whether assembled or unassembled), originating in or exported from China.
8. The submissions made by various interested parties and their contentions with regard to product under consideration have been examined in the following paragraphs. There is no express or implied legal provision under the law, nor any decision of any higher authorities in the country, nor any WTO decision under China Accession Treaty for Transitional Safeguard measure dealing with the issue of product under consideration, its scope and how the same should be defined/determined. In the absence of any decision of the higher authorities in safeguard investigations, available jurisprudence and the past Safeguard investigations conducted in India where Safeguard duties were imposed by the Govt. of India have been considered.
9. It is, however, noted that in the context of Anti Dumping, the WTO Dispute Settlement Body has considered the issue of product under consideration and like article in the matter of Softwood Lumber from Canada. Further, in the context of Safeguard Investigations, WTO has considered the issue with regard to the scope of like or directly competitive article in the matters of Korea- Taxes on Alcoholic Beverages² and United States- Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan³.
10. In the context of Anti Dumping, in United States – final dumping determination on Softwood Lumber from Canada WT/DS264/R, the WTO Panel considered that the “like product” to the product under consideration has to be determined on the basis of Article 2.6, but that this provision does not provide any guidance on the way in which the “product under investigation” is to be determined:

“7.153 Article 2.6 therefore defines the basis on which the product to be compared to the ‘product under consideration’ is to be determined, that is, a product which is either identical to the product under consideration, or in the absence of such a product, another product which has characteristics closely resembling those of the product under consideration. As the definition of ‘like product’ implies a comparison with another product, it seems clear to us that the starting point can only be the ‘other product’, being the allegedly dumped product. Therefore, once the product under consideration is defined, the ‘like product’ to the product under consideration has to be determined on the basis of Article 2.6. However, in our analysis of the AD Agreement, we could not find any guidance on the way in which the ‘product under consideration’ should be determined.”⁴

² WT/DS75/AB/R, WT/DS84/AB/R 18 Jan 1999

³ WT/DS192/AB/R

⁴ *Ibid.*, at Para 7.153.

7.156. *we could find no explicit guidance in the AD Agreement as to how the investigating authority should define the product under consideration. In this case, DOC defined the product under consideration, certain softwood lumber, on the basis of a technical definition involving narrative description and tariff classification. For the purpose of establishing normal value, DOC based itself upon goods destined for consumption in the exporting country which fell within exactly the same definition. Similarly, when considering whether the application was made by, or on behalf of, the Domestic Industry, DOC identified the Domestic Industry on the basis of the same definition. Canada has not identified any instance in which DOC has defined the like product differently than it has defined the product under consideration. Specifically, Canada has not suggested that there was any difference between the product under consideration and the like product in respect of bed frame components, finger-jointed flangestock, Eastern White Pine and Western Red Cedar. In other words, having defined the "product under consideration", it seems to us that DOC has used an identical definition for the "like product".⁵ In particular, both the product under consideration and the like product included the products Canada argues should have been excluded from the investigation. On its face, therefore, it would appear that DOC has defined the "like product" in this investigation in a manner consistent with the definition found in Article 2.6.*

7.157 *Canada has a different interpretation of Article 2.6. In effect, Canada considers that, rather than comparing the overall scope of the product under consideration with the overall scope of the like product, Article 2.6 requires that each individual item within the "like product" must be "like" each individual item within the "product under consideration". This in effect means that there must be "likeness" within both the product under consideration and within the like product. As Canada itself has stated, "[t]he terms 'product under consideration' and 'like product' must be limited to a single group of products sharing characteristics".⁶ Once again, however, we see no basis to imply such a condition into the AD Agreement. While there might be room for discussion as to whether such an approach might be an appropriate one from a policy perspective, whether to require such an approach is a matter for the Members to address through negotiations. It is not our role as a panel to create obligations which cannot clearly be found in the AD Agreement itself.*

11. The issue of like or directly competitive article was raised in United States-Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan [WT/DS192/AB/R] wherein the Appellate Body stated, inter-alia, as follows:

*"84. The United States appeals this finding of the Panel. The United States submits that **Article 6.2 permits a definition of the Domestic Industry on the basis of products that are not only like but also directly competitive with the imported product.** According to the United States, yarn sold on the merchant market and yarn produced by vertically integrated fabric producers for their own internal consumption are like, but they are not directly competitive with each other. The United States argues that, by rejecting its definition of the Domestic Industry, the Panel failed to give full meaning and effect to the term "and/or" in Article 6.2 and reduced the word "and" to in utility. The United States also argues that the Panel should have interpreted the definition of the Domestic Industry within the four corners of the ATC without having recourse to the wider context of other agreements of the WTO containing a definition of the Domestic Industry.*

⁵ As opposed, for example, to defining the product under consideration as lighters and the like product as including both lighters and matches.

⁶ Canada first oral (opening) statement, para. 33.

85. We begin our analysis of this issue with the definition of the Domestic Industry as stated in the relevant part of Article 6.2 of the ATC, which provides:

Safeguard action may be taken under this Article when, on the basis of a determination by a Member, it is demonstrated that a particular product is being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to the Domestic Industry producing like and/or directly competitive products. (footnote omitted, emphasis added)

86. A plain reading of the phrase "Domestic Industry producing like and/or directly competitive products" shows clearly that the terms "**like**" and "**directly competitive**" are characteristics attached to the domestic products that are to be compared with the imported product. We are, therefore, of the view that the definition of the Domestic Industry **must be product-oriented and not producer-oriented, and that the definition must be based on the products produced by the Domestic Industry which are to be compared with the imported product in terms of their being like or directly competitive.**

87. We also consider that the term "producing" in Article 6.2 means producing for commercial purposes and that it cannot be interpreted, in itself, to be limited to or qualified as producing for sale on the merchant or any other segment of the market. The definition of the Domestic Industry, in terms of Article 6.2, is determined by what the industry produces, that is, like and/or directly competitive products. In our view, the term "producing", in itself, cannot be given a different or a qualified meaning on the basis of what a domestic producer chooses to do with its product.

88. We now turn to the next two components of the definition of the Domestic Industry under Article 6.2 of the ATC, namely, like products and directly competitive products.

89. We note that there is no disagreement between the participants that yarn imported from Pakistan and yarn produced by the producers of the United States, regardless of whether they are vertically integrated fabric producers or independent yarn producers, are like products. The United States has made it clear in its arguments that its exclusion of yarn produced by vertically integrated fabric producers from the definition of the Domestic Industry was not because they are not producing a like product, but because they are not producing a directly competitive product. It is, therefore, not necessary for us to address the meaning of the term "like products" for the purposes of this appeal.

90. Before we examine the term "directly competitive" in the specific context of Article 6.2 and the facts of this particular case, we consider it useful to recall our interpretation of this term on previous occasions.

91. We have interpreted the term "directly competitive" in *Korea – Alcoholic Beverages* and *Japan – Taxes on Alcoholic Beverages*. We are cognizant of the fact that these two reports interpreted this term in the context of the Interpretative Note Ad Article III:2 of the GATT 1994. We will refer to this aspect later. The key elements of the interpretation of the term "directly competitive" in our Report in *Korea – Alcoholic Beverages* are:

(a) The word "competitive" means "characterised by competition". The context of the competitive relationship is necessarily the marketplace, since that is the forum where consumers choose different products that offer alternative ways of satisfying a particular need or taste. As competition in the marketplace is a dynamic and evolving process, the competitive relationship between products is not to be analyzed exclusively by current consumer preferences; the competitive relationship extends as well to potential competition.

(b) According to the ordinary meaning of the term "directly competitive", products are competitive or substitutable when they are interchangeable or if they offer alternative ways of satisfying a particular need or taste.

(c) In the context of Article III:2, second sentence, the qualifying word "directly" in the Ad Article suggests a degree of proximity in the competitive relationship between the domestic and imported products. The word "directly" does not, however, prevent a consideration of both latent and extant demand.

(d) "Like" products are a subset of directly competitive or substitutable products: all like products are, by definition, directly competitive or substitutable products, whereas not all "directly competitive or substitutable" products are "like".

92. *The United States argues that the Panel's over-reliance on our Report in Korea – Alcoholic Beverages is mistaken for two reasons. First, that dispute involved interpretation of a different phrase ("directly competitive or substitutable"), of a different provision and agreement (Article III:2 of the GATT 1994), and in a different factual setting. In particular, the word "substitutable" is not used in juxtaposition with "directly competitive" in Article 6.2 of the ATC. Second, the Appellate Body emphasized, in that case, the importance of the marketplace in judging the competitive relationship between products because that is the forum where consumers choose between different products. According to the United States, a proper reading of the Appellate Body's reasoning reveals that if a domestic product does not enter the marketplace at all, it cannot be regarded as being "directly competitive" with the imported product, even though the two products may admittedly be "like products".*

93. *We are not persuaded by these arguments of the United States with respect to the relevance and interpretation of our Report in Korea – Alcoholic Beverages.*

94. *With respect to the first argument of the United States, a careful reading of our Report in that case would show that we used the terms "directly competitive" and "directly substitutable" without implying any distinction between them in assessing the competitive relationship between products. We do not consider that the mere absence of the word "substitutable" in Article 6.2 of the ATC renders our interpretation of the term "directly competitive" under Article III:2 of the GATT 1994 irrelevant in terms of its contextual significance for the interpretation of that term under Article 6.2 of the ATC.*

95. *We now turn to an examination of the term "directly competitive" in the specific context of Article 6.2 of the ATC and the dispute before us. We must bear in mind that Article 6.2 permits a Safeguard action to be taken in order to protect a Domestic Industry from serious damage (or actual threat thereof) caused by a surge in imports, provided the Domestic Industry is identified as the industry producing "like and/or directly competitive products" in comparison with the imported product. The criteria of "like" and "directly competitive" are characteristics attached to the domestic product in order to ensure that the Domestic Industry is the appropriate industry in relation to the imported product. The degree of proximity between the imported and domestic products in their competitive relationship is thus critical to underpin the reasonableness of a Safeguard action against an imported product.*

96. *According to the ordinary meaning of the term "competitive", two products are in a competitive relationship if they are commercially interchangeable, or if they offer alternative ways of satisfying the same consumer demand in the marketplace. "Competitive" is a characteristic attached to a product and denotes the capacity of a product to compete both in a current or a future situation. The word "competitive" must be distinguished from the words "competing" or "being in actual competition". It has a wider connotation than "actually competing" and includes also the notion of a potential to compete. It is not necessary that two*

products be competing, or that they be in actual competition with each other, in the marketplace at a given moment in order for those products to be regarded as competitive. Indeed, products which are competitive may not be actually competing with each other in the marketplace at a given moment for a variety of reasons, such as regulatory restrictions or producers' decisions. Thus, a static view is incorrect, for it leads to the same products being regarded as competitive at one moment in time, and not so the next, depending upon whether or not they are in the marketplace.

97. *It is significant that the word "competitive" is qualified by the word "directly", which emphasizes the degree of proximity that must obtain in the competitive relationship between the products under comparison. As noted earlier, a Safeguard action under the ATC is permitted in order to protect the Domestic Industry against competition from an imported product. To ensure that such protection is reasonable, it is expressly provided that the Domestic Industry must be producing "like" and/or "directly competitive products". Like products are, necessarily, in the highest degree of competitive relationship in the marketplace. In permitting a Safeguard action, the first consideration is, therefore, whether the Domestic Industry is producing a like product as compared with the imported product in question. If this is so, there can be no doubt as to the reasonableness of the Safeguard action against the imported product.*

98. *When, however, the product produced by the Domestic Industry is not a "like product" as compared with the imported product, the question arises how close should be the competitive relationship between the imported product and the "unlike" domestic product. It is common knowledge that unlike or dissimilar products compete or can compete in the marketplace to varying degrees, ranging from direct or close competition to remote or indirect competition. The more unlike or dissimilar two products are, the more remote or indirect their competitive relationship will be in the marketplace. The term "competitive" has, therefore, purposely been qualified and limited by the word "directly" to signify the degree of proximity that must obtain in the competitive relationship when the products in question are unlike. Under this definition of "directly", a Safeguard action will not extend to protecting a Domestic Industry that produces unlike products which have only a remote or tenuous competitive relationship with the imported product." (Emphasis supplied.)*

12. In Korea- Taxes on Alcoholic Beverages [WT/DS75/AB/R, WT/DS84/AB/R 18 Jan 1999], the WTO Appellate Body stated, inter-alia, as follows

“114. *The term “directly competitive or substitutable” describes a particular type of relationship between two products, one imported and the other domestic. It is evident from the wording of the term that the essence of that relationship is that the products are in competition. This much is clear both from the word “competitive” which means “characterized by competition”, and from the word “substitutable” which means “able to be substituted”. The context of the competitive relationship is necessarily the marketplace since this is the forum where consumers choose between different products. Competition in the market place is a dynamic, evolving process. Accordingly, the wording of the term “directly competitive or substitutable” implies that the competitive relationship between products is not to be analyzed exclusively by reference to current consumer preferences. In our view, the word “substitutable” indicates that the requisite relationship may exist between products that are not, at a given moment, considered by consumers to be substitutes but which are, nonetheless, capable of being substituted for one another.*

115. *Thus, according to the ordinary meaning of the term, products are competitive or substitutable when they are interchangeable or if they offer, as the panel noted, “alternative ways of satisfying a particular need or taste.” Particularly in a market where there are regulatory barriers to trade or to competition, there may well be latent demand.*

116. The words “competitive or substitutable” are qualified in the Ad Article by the term “directly”. In the context of Article III:2, second sentence, the word “directly” suggests a degree of proximity in the competitive relationship between domestic and the imported products. The word “directly” does not, however, prevent a panel from considering both latent and extant demand.

117. Our reading of the ordinary meaning of the term “directly competitive or substitutable” is supported by its context as well as its object and purpose. As part of the context, we note that the Ad Article provides that the second sentence of Article III:2 is applicable “only in cases where competition was involved” (emphasis added) According to Korea, the use of the past indicative “was” prevents a panel taking account of “potential” competition. However, in our view, the use of the word “was” does not have any necessary significance in defining the temporal scope of the analysis to be carried out. The Ad Article describes the circumstances in which a hypothetical tax “would be considered to be inconsistent with the provisions of the second sentence”. (Emphasis added) The first part of the clause is cast in the conditional mood (“would”) and the use of the past indicative simply follows from the use of the word “would”. It does not place any limitations on the temporal dimension of the word “competition”.

118. The first sentence of Article III:2 also forms part of the context of the term. “Like” products are a subset of directly competitive or substitutable products: all like products are, by definition, directly competitive or substitutable products, whereas not all “directly competitive or substitutable” products are “like”. The notion of like products must be construed narrowly but the category of directly competitive or substitutable products is broader. While perfectly substitutable products fall within Article III:2, first sentence, imperfectly substitutable products can be assessed under Article III:2, second sentence.

119. The context of Article III:2, second sentence, also includes Article III:1 of the GATT 1994. As we stated in our Report in Japan – Alcoholic Beverages, Article III:1 informs Article III:1 sets forth the principle “that internal taxes... should not be applied to imported or domestic products so as to afford protection to domestic production.” It is in the light of this principle, which embodies the object and purpose of the whole of Article III, that the term “directly competitive and substitutable” must be read. As we said in Japan – Alcoholic Beverages:

The broad and fundamental purpose of Article III is to avoid protectionism in the application of internal tax and regulatory measures. ... Towards this end, Article III obliges Members of the WTO to provide equality of competitive conditions for imported products in relation to domestic products. Moreover, it is irrelevant that the “trade effects” of the tax differential between imported and domestic products, as reflected in the volumes of imports, are insignificant or even non-existent; Article III protects expectations not of any particular trade volume but rather of the equal competitive relationship between imported and domestic products.

120. In view of the objectives of avoiding protectionism, requiring equality of competitive conditions and protecting expectations of equal competitive relationships, we decline to take a static view of the term “directly competitive or substitutable”. The object and purpose of Article III confirms that the scope of the term “directly competitive or substitutable” cannot be limited to situations where consumers already regard products as alternatives. If reliance could be placed only on current instances of substitution, the object and purpose of Article III:2 could be defeated by the protective taxation that the provision aims to prohibit. Past panels have, in fact, acknowledged that consumer behaviour might be influenced, in particular, by protectionist internal taxation. Citing the panel in Japan – Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages (“1987 Japan – Alcohol), the panel in Japan – Alcoholic Beverages observed that “a tax system that discriminates against imports has the consequence of creating and even freezing preferences for domestic goods”. The panel

in Japan – Alcoholic Beverages also stated that “consumer surveys in a country with .. a [protective] tax system would likely understate the degree of potential competitiveness between substitutable products”. (emphasis added) Accordingly, in some cases, it may be highly relevant to examine latent demand.” (Emphasis supplied.)

13. From the above, it is clear that that in permitting a Safeguard action, the first consideration is identification of product under consideration and thereafter whether the Domestic Industry is producing a like or directly competitive product as compared with the imported product in question. In case the product produced by the Domestic Industry is not a "like product" as compared with the imported product, the question arises as to how close the competitive relationship between the imported product and the "unlike" domestic product should be. Like products are, necessarily, in the highest degree of competitive relationship in the marketplace.
14. Whether the Domestic Industry is producing a like or directly competitive product as compared with the imported product is examined in detail herein below. The petitioners claim that Glass and Porcelain Insulators, both are offered to meet the same specific end application requirement and that the consumers have procured and used Glass and Porcelain as technically and commercially the same product.
15. Similarly, whether Insulators produced in different shapes, strength, or sizes are not different articles is also examined in detail herein below. The petitioners claim that the Insulators in different shapes, strength, or sizes are characteristically produced only to meet the specific end application requirement and these perform the same general function, i.e., to insulate one conducting body from the other conducting body.
16. Petitioners have submitted that mere existence of a product in different forms *per se* does not render these forms as different articles. These are merely different forms of an article. *If various types/ forms/ categories/ shapes/ models of the product under consideration are distinctly different article, then separate investigation would be required for each such distinctly different article, through separate or one investigation.* However, mere existence of different forms of a product to meet different specific end application requirements does not render each of such product form as distinctly different article so as to prevent its consideration as one article. Further, mere fact that consumers require a specific form of a product to meet specific end application and the same requirement cannot be met through some other form of the product does not render such different forms as distinctly different article. In fact, a product is manufactured in different forms only because one form may not meet all requirements for the function which the article is intended to perform.
17. **Arguments on wide scope of product under consideration, inclusion of Glass Insulators and exclusion of some specific product types** –The arguments of the opposing interested parties are summarized below –
 - a. Product scope includes Glass and Porcelain Insulators, which constitute different products. Glass Insulators are not produced by the Domestic Industry and Ceramic/Porcelain Insulators are not like or directly competitive article to Glass Insulators. Glass Insulators involve different production technology, manufacturing process and raw materials.

- b. The scope of the product under consideration is wide, as it includes Electrical Insulators used in different applications, such as transmission & distribution, substation, railways & traction equipment, telephone & telegraph line and certain electrical & electronic devices.

Further, it includes Insulators of different types such as disc, long rod, traction, solid core line post, solid core station post, hollow. These can be AC or DC, of various voltages, such as 'low', 'medium', 'high' and 'extra high', ranging from below 1kV to 1200 kV and all these constitute different articles. Under Customs tariff, the product has been separately categorized in different voltage ratings. The product is manufactured for various uses/applications in different shapes & sizes and these constitutes different article. The Domestic Industry does not produce all kinds of Electrical Insulators imported in India.

- c. Only one or two applicant domestic producers qualify technically to manufacture Electrical Insulators having strength equal to 360-KN and therefore, either the injury parameters of such applicant domestic producers should be segregated and made available to the interested parties or such kinds of Electrical Insulators excluded from the scope of the investigation.
- d. High voltage Insulators such as disc Insulators of (420 KN) used in 765 KV or above transmission line should be excluded in general on the grounds that these are not being manufactured by any of the applicant domestic producers.
- e. Low and ultra high voltage Insulators should be excluded as these are not being produced by the Domestic Industry.
- f. 765 kV Insulators should be excluded. There is limited capacity in the Country. The product is not being produced by all the Domestic Industry petitioners.
- g. Insulators for electrical & electronic appliances/devices should be excluded, as these are not being produced by the Domestic Industry.
- h. HVDC Insulators used in 600 KV and 800 KV DC line should be excluded, as these are not being produced by the Domestic Industry

18. The petitioners have disputed the claims of the interested parties and have contended that none of the product types falling under the present scope of the investigation should be excluded. The arguments of the petitioners Domestic Industry are summarized below –

- a. different types of product under consideration have essentially the same basic product characteristics, are produced through the same manufacturing process, using the same raw materials and plant & equipment, perform the same functions, are sold via similar or identical sales channels and should be considered as merely different types of a single product. The product is produced in different shapes, sizes, voltage rating, electrical or electromechanical strength only to meet specific end application requirement. Different product types serve the same general function of insulating one conducting body from other conducting body.
- b. inclusion of Glass Insulators in the product scope is fully justified. The product offered by the Domestic Industry is in the highest degree of competitive relationship in the marketplace. Glass Insulators are directly competing with the Porcelain Insulators not only in India but also in other countries as well. The consumers have interchangeably procured Glass and Porcelain Insulators.
- c. Electrical Insulators below 1kV can be excluded from the scope of the product under consideration in view of no current production by the Domestic Industry. Further, Insulators for electrical and electronic appliances/devices can be excluded from the scope of the product under consideration.

- d. the mere fact that a product type is produced only by one or more of the domestic producers is entirely immaterial. The only relevant consideration is whether the “Domestic Industry” has offered like or directly competitive article.
- e. high or ultra high voltage Insulators should not be excluded, as the Domestic Industry is producing & selling these. ABI, WSI and Modern has produced and supplied 765 kV in significant volumes and therefore these are required to be included within the scope of the product under consideration.

19. Inclusion of Glass Insulators – The claims made by interested parties with regard to exclusion of Glass Insulators and information placed on record by the interested parties has been examined.

The evidence and information provided by various interested parties is examined in detail. The following conclusions can be drawn from the information and evidence placed on record.

- a) **Product properties** –Evidence placed on record shows that the consumers buy Glass and Porcelain Insulators on the basis of laid down specifications, which are the same for both Glass & Porcelain Insulators. PCGIL, the major consumer and importer of Glass insulator has specified the same product specifications for Glass & Porcelain Insulators in the tender documents for procurement. It is noted in this regard that specifications of Insulators are specified on the basis of following product parameters. Both Glass and Porcelain Insulators meet these specification and consumers have interchangeably procured the two because the specification are identical.

- E & M rating (in KN)
- Diameter (in mm)
- Spacing (in mm)
- Creepage (in mm)
- Dry P. F. Withstand Voltage (in kV)
- Wet P. F. Withstand Voltage (in kV)
- Dry L. I. Withstand Voltage Positive (in kV)
- Dry L. I. Withstand Voltage Negative (in kV)
- Minimum Puncture Voltage in Oil (in kV)

The consumers/users buy Glass and Porcelain Insulators on the basis of the above mentioned product parameters. The national and international standards relating to two products placed on records of the investigations clearly establish that there is no difference whatsoever in the product specifications specified in respect of Glass and Porcelain Insulators. The tender document of Power Grid Corporation placed on record clearly establishes that the largest consumer in India has not differentiated in terms of technical parameters between Glass and Porcelain Insulators. It is therefore evident the physical, electrical & electromechanical proprieties of Glass and Porcelain Insulators are the same.

- b) **Technology, manufacturing process and raw materials** – As regards production process, while petitioners contended that the steps involved in manufacturing process are broadly the same and that the difference is only in the way these processes are carried out because of the way quartz and silica can be treated, the opposing parties heavily argued that the manufacturing processes were totally different. While petitioners contended that many of the raw materials involved in production are the same, the opposing parties argued that the raw materials involved are different. It is undisputed that the technology involved and the principal raw material used for production of Glass and Porcelain Insulators are not the same.

However, it is also undisputed that the resultant product properties as reflected in technical parameters are the same; that consumers are unwilling to pay different prices for Glass insulator produced through different technology, manufacturing process and raw materials. Unless the difference in technology, manufacturing process or raw materials is resulting in the different product properties and prices, such differences are entirely irrelevant. The difference has not resulted difference in either product properties or prices. The evidence on record clearly shows that the two different technologies, raw materials and manufacturing processes are resulting in production of Insulators having identical product specifications and the same end use.

- c) **Function and usage** – The record shows that Glass and Porcelain Insulators are produced to perform the same function and have been procured interchangeably by the consumers for eventually same application. It is important to note that Glass and Ceramic Insulators are interchangeably usable is not presently disputed by the exporters namely M/s. Sediver Insulators (Shanghai) Co. Ltd and M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd.
- d) **Prices** – The evidence shows that the consumers pay same price for Glass Insulators as well as Porcelain Insulators. The Domestic Industry contended, and no contrary evidence has been given either by PGCIL or by the opposing interested parties, that buyers such as PGCIL have placed the order on the basis of lowest price, regardless of whether the product is Glass or Porcelain insulator. This clearly establishes that the consumers are unwilling to pay different prices for Glass and Porcelain Insulators.
- e) **Technical and commercial substitutability** – The underlining test is whether two products are technically and commercially interchangeable. As held by the WTO in the matter of Korea-Taxes on Alcoholic Beverages⁷, products are competitive or substitutable when they are interchangeable or if they offer, “alternative ways of satisfying a particular need or taste. In the present case, it is undisputed that the consumers have procured Glass Insulators and Porcelain Insulators for meeting the same need.

20. Exclusion of high voltage Insulators, such as 765 kV Insulator – Interested parties have sought exclusion of 765 kV Insulators from the scope of present investigations. The Domestic Industry has established with evidence that 765 kV Insulators are being produced and sold by constituents of the petitioning companies, who are also part of Domestic Industry for the purpose of present investigations. The evidence placed on record shows following volume of sales of 765 kV transmission & distribution line Insulators by Domestic Industry

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	ABI	-	3,480	93,750	542,650
2	WSI	64306	9,000	642,406	472,619

(Source: Domestic Industry)

⁷ WT/DS75/AB/R, WT/DS84/AB/R 18 Jan 1999

The evidence placed on record also shows following volume of sales of 765 kV - Substation Insulators by Domestic Industry

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	ABI	27	491	2,327	1,387
2	WSI	-	42	408	178

(Source: Domestic Industry)

Since the product has been produced and sold in significant volumes by the constituents of Domestic Industry, its exclusion is unjustified.

- 21. Exclusion of 765 kV Insulators of 210 kN** – Interested parties have sought exclusion of 210 kN Insulators. The Domestic Industry, however, has provided evidence that 210 kN Insulators are being produced and sold by the petitioning companies who constitute Domestic Industry for the purpose of present investigations. The evidence placed on record shows following volume of sales of 210 KN Insulators by Domestic Industry/Supporter:

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	ABI	-		43750	301750
2	WSI	45,510	-	264,372	414,497
3	BHEL	27330	239088	172916	3612

(Source: Domestic Industry)

Since the product has been produced and sold in significant volumes by the constituents of Domestic Industry, the argument for its exclusion is unjustified.

- 22. Supplies of 765 kV Insulator of 120 kN-** The evidence placed on record shows following volume of sales of 120 kN Insulators by Domestic Industry/Supporter:

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	ABI	-	-	50000	240900
2	WSI	8170	9000	378034	104409
3	BHEL	11747	100392	50654	-

(Source: Domestic Industry)

- 23. Exclusion of 1200 kV Insulator of 320 kN** - the Domestic Industry/ supporter have supplied 1200 kV insulator to PGCIL against their indigenous development order. The further orders are awaited by Domestic Industry. The details of supplies made are as follows:-

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	ABI	-	-	-	2610
2	BHEL	-	-	3000	-

(Source: Domestic Industry)

- 24. Exclusion of 1200 Kv Insulators of 420 kN** - M/s BHEL have supplied 420 kN insulator to PGCIL against their indigenous development order. The further orders are awaited by Domestic Industry. The details of supplies made are as follows:-

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	BHEL	-	-	1500	-

(Source: Domestic Industry)

- 25. 800kV Insulators of 420 kN for DC transmission line-** M/s BHEL have supplied 420 kN insulator to PGCIL. The details of supplies made are as follows:-

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	BHEL	-	-	138047	154562

(Source: Domestic Industry)

- 26. Supplies of 500 kV DC Insulator of 210kN-** The evidence placed on record shows following volume of sales of 210 KN Insulators by BHEL:

(Figures in numbers)

SN	Name of the company	2008-09	2009-10	2010-11	2011-12
1	BHEL	84642	-	-	-

In view of the above supplies of high voltage rating Insulators of various ratings by the domestic industry, the demand of opposing interested parties for exclusion of these products from the scope of investigation is not justified.

- 27. Exclusion of HVDC Insulators** – Interested parties have sought exclusion of HVDC Insulators from the scope of the product under consideration on the grounds that the same is not being offered by the Domestic Industry. The Domestic Industry has argued that they have produced and supplied these types of Insulators and also given details of supplies made by them. The Domestic Industry has further argued that BHEL, a supporter of the petition in this case, has also produced and supplied HVDC Insulators. BHEL has argued that it was the first company who has supplied these Insulators to PGCIL and that after the initial order taken by the company, the Chinese producers have aggressively participated in subsequent HVDC tenders and all these subsequent tenders have been awarded to the Chinese producers because of lower prices quoted by the Chinese companies.

BHEL has produced and supplied HVDC Insulators in the Indian market and the year wise details of the quantity supplied by them are as follows:

(Figures in numbers)

Sl.No	EM Rating (kN)	kV rating	2008-09	2009-10	2010-11	2011-12
1	120	765	11747	100392	50654	-
2	210	765	27330	239088	172916	3612
3	210	500	84642	-	-	-
4	320	1200	-	-	3000	-
5	420	1200	-	-	1500	-

(Source: Domestic Industry)

There is specific evidence of Chinese imports causing market disruption in this particular market segment. The claim of BHEL that all orders subsequent to the initial order placed by Power Grid have been awarded to the Chinese suppliers in view of lower prices quoted by them has also not been contested. BHEL has submitted that PGCIL was sourcing 90% of its requirements from Indian industry till 2007-08 and it is only due to commercial consideration that they have lost the market to Chinese suppliers.

From the submissions of PGCIL, it is observed that lack of technical experience, shortfall in operational experience and capacity constraint of the Domestic Industry are cited as the reasons for awarding the contracts on Chinese suppliers. However, it is also a fact that these contracts were awarded on lowest evaluated prices where the Chinese suppliers are known to have out bid others. In any case, lack of technical experience or operational experience does not mean that technical ability to manufacture was lacking in the Domestic Industry. It is observed from the written and rejoinder submissions of opposing interested parties that they have repeatedly admitted that BHEL and other members of domestic industry can produce HVDC Electrical Insulators of various ratings.

In view of the above, and the fact that product has been produced and sold in significant volumes by the constituents of Domestic Industry, its exclusion is unjustified.

28. Exclusion of low voltage Insulators – Some of the interested parties have argued for exclusion of low voltage Insulators stating that Domestic Industry forming part of the petition does not produce these kinds of Insulators. The Domestic Industry has argued that all those types of the product under consideration which are being produced in India are required to be kept within the scope of the product under consideration. The Domestic Industry has argued that it is unnecessary that the Domestic Industry itself should have offered all the product types in the past. The Domestic Industry has however not given any evidence of having supplied Insulators below 1.1 kV. The scope of the product under consideration should be restricted to only like or similar articles which have been produced and supplied by the Domestic Industry in the past. Since there is no evidence of Domestic Industry having produced and sold Insulators upto 1 kV, it is appropriate to restrict the scope of the product under consideration to Electrical Insulators of above 1kV only.

29. Exclusion of telephone, telegraph and other electrical or electronics appliances/device Insulators- The imports of telephone/telegraph Insulators, classified under HS Code 8546 20 50 and other electrical or electronics appliances/device Insulators classified under HS Code 8546 20 90, are also sought to be excluded from the scope of present investigations. It is observed that the Domestic Industry does not produce these types of Insulators. They have placed evidence on record to suggest that demand for telephone, telegraph Insulators has significantly declined. An annual report of Department of Telecommunications, Ministry of Communications & Information Technology has been provided by them to support their argument that demand of Insulators for telephone and telegraphs has declined significantly, as the technology has become obsolete. However in view of the admission that they don't manufacture telephone/telegraph Insulators, classified under HS Code 8546 20 50 and other electrical or electronics appliances/device Insulators classified under HS Code 85462090, it is considered appropriate to exclude imports of these Insulators from the scope of the product under consideration. Also these are not like or similar to the articles being produced by the domestic industry. The information available on record shows following volume of imports of telephone, telegraph, electrical or electronic appliance/device Insulators:

Sno.	Category	Volume (in MT)				Value (in Rs. Lac)			
		2008- 09	2009- 10	2010- 11	2011- 12	2008- 09	2009- 10	2010- 11	2011- 12
1	Electrical Insulators Below 1kV	1	0	0	0	0	0	0	1
2	Insulators used in Electrical Appliances	136	139	174	40	12	125	100	67
3	Insulators used in Electronic Devices	6	2	0	0	15	4	5	13
4	Telephone & Telegraph Insulators	0	0	0	0	0	0	0	-
	Grand Total	143	140	174	40	27	129	105	81

(Source: DGCI&S)

30. Inclusion of composite Insulators –

- i. M/s. Deccan Enterprise Private Limited, manufacturers of Silicon (polymer) composite Insulators, have filed impleading petition requesting inclusion of Silicon (polymer) composite insulator in the current investigations on the grounds that these composite Insulators, falling under heading 8546.90, are like or directly competitive article to the Glass and Porcelain Insulators. They have also claimed that most of the causes of injury suffered by Domestic Industry are identical to Silicon (polymer) composite Insulators. Further they have submitted that Silicon or Porcelain or Glass Insulators have interchangeable use and in number of existing transmission, distribution & railway lines, old Porcelain and Glass Insulators have been replaced by silicon composite Insulators without any other changes in the line.
- ii. M/s Goldstone Infratech Limited, another manufacturer, during the course of investigation, also requested 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; that their product is interchangeably used by the consumers of Ceramic/Porcelains Insulators and that they are also affected by rampant and cheap import of Chinese Silicone Rubber Insulators.
- iii. The justification for inclusion of aforesaid Insulators is based on the argument that these are also like or directly competitive article to the Glass/Porcelain Insulators. The Domestic Industry has disputed the request for inclusion of composite Insulators on several grounds. The Domestic Industry has submitted that composite Insulators are quite different from Porcelain or Glass Insulators and constitute distinctly different article in view of differences in raw material composition, manufacturing process, cost of production, selling price to render them technically and commercially not substitutable with Glass/Ceramics Insulators. Petitioners provided evidence to show that composite Insulators have in fact not been substituted with Glass/Porcelain Insulators. The Domestic Industry further submitted that until and unless a product is technically and commercially substitutable, the two cannot constitute like or directly competitive article.

However, I refrain from going into the merits of submissions made by Domestic Industry and the interested parties in this issue considering that:

- a) Safeguard investigations were initiated in respect of alleged increased imports of “Glass/Porcelain Insulators”. The scope of the product under consideration cannot be enhanced after initiation as it would tantamount to investigation without complying with the provisions of Rule 5 and Rule 6 of Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002.
- b) To examine the merits of the claim, the data on the parameters of market disruption or threat of market disruption needs to be verified with reference to the records of the manufacturers of this product.

It would therefore be inappropriate to extend the scope of present investigations to include composite Insulators after initiation of investigations.

31. Conclusion on product under consideration

It is observed that different producers may offer an article in different form to meet the very same specific end application requirement of the customers. For example, in the instant case, while some producers have offered Insulators made of Glass, others have offered Insulators made of Porcelain. The consumers may however view them as one article – both technically and commercially. In fact the consumers have procured and used Glass and Porcelain as technically and commercially the same product.

Further, Insulators in different shapes, strength, or sizes do not render them distinctly different article. Different shapes, strength, or sizes are produced only to meet the specific end application requirement. However, different shapes, strength, or sizes of the product perform the same general function, i.e., to insulate one conducting body from the other conducting body.

In view of the foregoing, the scope of product under consideration for the purpose of present investigation and proposed measures is “Electrical Insulators, made of Glass or Porcelain/Ceramics, whether assembled or unassembled, falling under customs classification 854610 and 854620”. The inclusion of Glass Insulators within the scope of the product under consideration is well justified. The view is further confirmed by the leading exporters from China who have stated in their rejoinder submissions that Glass and Ceramic Insulators are interchangeably usable is not presently disputed by them.

However telephone/telegraph Insulators, classified under HS Code 8546 20 50, Insulators of voltage rating upto 1 kV and other electrical or electronics appliances/device Insulators, classified under HS Code 85462090 are excluded from the scope of present investigation in view of the fact petitioners are not manufacturing these products. Besides, these are nominal voltage insulators and therefore not like or similar to the articles being produced by the domestic industry.

Further, in view of the observations recorded above, it is not appropriate to extend the scope of the present investigations to include Composite Insulators.

(D) Domestic Industry:

32. Section 8C(7)(a) of the Customs Tariff Act 1975 defines Domestic Industry as follows: (a) “Domestic Industry” mean producers -

- i. as a whole of the like article or a directly competitive article in India; or
- ii. whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India

The present petition for imposition of Safeguard duty is filed by M/s WS Industries (India) Ltd., M/s Modern Insulators Limited, M/s Insulators and Electrical Company and M/s Aditya Birla Nuvo Ltd. Petitioners identified three more other producers of Electrical Insulators in India, namely M/s Bharat Heavy Electrical Limited, M/s Saravana Global Energy Ltd. and M/s Shreeji Power & Insulators Pvt. Ltd. M/s Bharat Heavy Electrical Limited has supported the application filed by the petitioners. The petitioners claim to be major producers on the ground that they account for more than 65% of the Indian production. The information on record shows following volume of production of like or directly competitive article in the Country.

33.

Indian Production	Unit	2008-09	2009-10	2010-11	2011-12
Petitioners	MT	73,723	77,769	88,776	79,801
Other Indian manufacturers	MT	31330	32525	30179	36582
Total	MT	105053	110294	118,955	116353
Share					
Petitioner	%	71%	71%	75%	69%
Other Indian manufacturers	%	29%	29%	25%	31%
Total	%	100%	100%	100%	100%

(Source: Domestic Industry)

34. It has been argued by the interested parties that some of the applicant domestic producers (namely WSI) are supplying/selling the imported goods after further manufacturing and because of this, applicant domestic producers are utilizing their capacity of production in excess of what is shown and this fact has not been disclosed by petitioners or questioned by the Director General. They have argued that trading operations by a domestic manufacturer are required to be segregated and not included in the analysis.
35. The petitioners submitted that information presented in petition and written submissions clearly establishes that even if WSI data is excluded, the remaining data clearly establishes that the Domestic Industry has suffered market disruption due to the increased imports.
36. It is observed that the decision to import is purely a business decision of WSI. Seeking of trade protection against imports by them is nothing but a pointer to the existence of unviable manufacturing operations in the face of increasing imports at predatory prices. The further processing of imported goods by WSI attracts Central Excise duty which they are paying in the capacity of registered assessee under Central Excise law. As such their activities cannot be treated as trading operations.

Further, the Rules do not require exclusion of data pertaining to imports made by petitioner Domestic Industry from the purview of injury analysis in Safeguards investigation. It is considered necessary to examine the import in its entirety since imports by WSI have impacted other members of domestic industry as well as remaining Indian manufacturers. The findings are therefore based on import volumes including WSI imports.

37. It has been argued by the interested parties that no information has been supplied in the application about the names and addresses of other Domestic Producers. Even when information on other domestic producers has been made available, nothing has been brought on record to show that any effort has been made by the Director General in this direction. Nor anything is available in the public file to offer comments in this regard.
38. M/s. Alstom T&D India Ltd has stated that following companies are also engaged in production of Insulators. M/s. Alstom T&D however provided no information with regard to either individual or collective output of these other companies.
- i. Bhatinda Ceramics Pvt Ltd.
 - ii. A K India Ceramics Pvt Ltd.
 - iii. Bikaner Ceramics Pvt Ltd.
 - iv. Bikaner Porcelain Pvt Ltd.
 - v. CJI Porcelain Pvt Ltd.
 - vi. Mohan Energy Corporation Pvt Ltd
 - vii. Rejeev Industries
 - viii. Taruna Dechome Pvt Ltd.
 - ix. Ganpati Corporation
 - x. Rashtriya Electrical & Engineering Corporation
 - xi. Pranya Associates
 - xii. Hindustan Chemicals
 - xiii. General Power Company Pvt Ltd.
 - xiv. Satraj Ceramics
 - xv. Prime Insulators Pvt Ltd.
 - xvi. Jaipuria Brthers Electricals Pvt Ltd
39. M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd and M/s. Sediver Insulators (Shanghai) Co. Ltd has stated that following companies are also manufacturing Insulators. They have also not

provided any information with regard to either individual or collective output of these other companies.

- i. KSH International Pvt. Ltd.
- ii. Hindusthan Vidyut Products Limited.
- iii. CJI Porcelain (P) Limited
- iv. Electro Fibres
- v. Elektrolites (Power) Pvt. Ltd.
- vi. Permali Wallace Private Limited
- vii. KMG Atoz Systems (P) Ltd.
- viii. C & C Construction Ltd.
- ix. Modern Insulators Limited
- x. Lamco Industries Pvt. Ltd
- xi. Mohan Energy Corporation Pvt. Ltd.
- xii. Ravikiran Ceramics Pvt. Ltd.
- xiii. ABB Limited
- xiv. Areva T&D India Limited
- xv. Mayur Electro Ceramics Pvt. Ltd.
- xvi. Pressgel Insulations Pvt. Ltd.
- xvii. Kappa Electricals
- xviii. Bikaner Porcelain Pvt. Ltd.
- xix. Raychem RPG Pvt. Ltd.
- xx. Taruna Dechome Pvt. Ltd., Bikaner
- xxi. Bharat Heavy Electricals Ltd.
- xxii. Axis Electrical Components (I) Pvt. Ltd.
- xxiii. Ganpati Corporation
- xxiv. A.K. India Ceramics Pvt. Ltd.
- xxv. Crompton Greaves Ltd.
- xxvi. Narayan Powertech Pvt. Ltd.
- xxvii. R.R. Industries
- xxviii. Matrix Control & Engineer's (P) Ltd.
- xxix. Bikaner Ceramics Pvt. Ltd.
- xxx. Plastofab
- xxxi. Bhatinda Ceramics (P) Ltd.
- xxxii. Akhil Wires Pvt. Ltd.
- xxxiii. Power & Control Transformers Ind Pvt Ltd
- xxxiv. Allied Ceramics Pvt. Ltd.
- xxxv. Hindustan Chemicals
- xxxvi. Suzlon Power Infrastructure Pvt. Ltd.
- xxxvii. A-Bond Strands Pvt. Ltd.
- xxxviii. Gala Impex
- xxxix. Saravana Global Energy Limited
- xl. Bharat Electrical Contractors & Mfrs. Pvt. Ltd.
- xli. W.S. Industries (India) Ltd.
- xlii. Aditya Birla Insulators Limited
- xliii. Gloabtel Convergence Ltd.
- xliv. Citizen Metalloys Limited
- xlv. Yamuna Power & Infrastructure Ltd
- xlvi. Ramanuj Industries
- xlvii. Goldstone Infratech Ltd.
- xlviii. Deccan Enterprises (P) Ltd.

- xlix. Transformers & Electricals Kerala Ltd.
 - 1. BMC Electroplast Pvt. Ltd.
 - li. G.K. Electricals
 - lii. Electrical Controls & Systems
 - liii. Surelock Plastics Pvt. Ltd.
 - liv. Bharat Electro Instruments Mftg. Co.
 - lv. Bhavik Enterprise
 - lvi. Shreeji Power & Insulators Pvt. Ltd.
- 40.** It is noted that while giving names of some companies, these interested parties have not provided any information with regard to individual or collective production of Insulators by these companies.
- 41.** M/s. Ceramics Research & Development Society, an association of the small and medium scale manufacturers of Insulators, in their letter to the Directorate, has commented on the submissions of other interested parties with regard to number of companies claimed to be engaged in manufacturing Insulators. It is stated by them that a large number of these companies are in fact not engaged in manufacturing Insulators at all. The association has identified 39 parties out of the list of parties made available by opposing parties and submitted that these companies are not engaged in manufacture of the product under consideration. The association has also pointed out that the opposing interested parties in this list have named consumers, traders and even the companies not related to production of Insulators.
- 42.** From the information received from other sources, it is confirmed that most of the companies listed above are not manufacturing Porcelain/Ceramic Insulators. As per the letter received from Indian Electrical & Electronics Manufacturers Association, New Delhi-1(IEEMA), it is evident that out of the list of 58 members, only 23 members, including the domestic industry and manufacturers of Composite Insulators, are manufacturers of Insulators. They have also provided the production figures of their members. The list provided by the Association includes almost all the names referred to by the opposing parties. The companies who are not manufacturing Insulators as per IEEMA are as follows:
- 1. KSH International Pvt. Ltd.
 - 2. Electro Fibers
 - 3. Elektrolites (Power)Pvt. Ltd.
 - 4. Permali Wallance Private Ltd.
 - 5. KMG Ato Z Systems (P) Ltd.
 - 6. C& C Construction Ltd.
 - 7. Mohan Energy Corporation Pvt. Ltd
 - 8. ABB Ltd.
 - 9. Areva T&D India Ltd.
 - 10. Kappa Electricals.
 - 11. Raychem RPG Pvt. Ltd.
 - 12. Axix Electrical Components India Pvt. Ltd.
 - 13. Crompton Greaves Ltd.
 - 14. Narayan Powertech Pvt. Ltd.
 - 15. Matrix Control & Engineers P. Ltd
 - 16. Plastofab
 - 17. Akhil Wires Pvt. Ltd
 - 18. Power & Control Transformers Ind. Pvt. Ltd.
 - 19. Suxlon Power Infrastructure Pvt. Ltd
 - 20. A-Bond Strands Pvt. Ltd
 - 21. Gala Impex.

22. Bharat Electrical Contractors & Mfrs. Pvt. Ltd.
23. Gloabtel Convergence Ltd.
24. Citizen Metalloys Ltd.
25. Ramanuj Industries.
26. Transformers & Electricals Kerala Ltd.
27. BMS Electroplast Pvt. Ltd.
28. G.K. Electricals
29. Electrical Controls & Systems.
30. Surelock Plastics Pvt. Ltd.
31. Bharat Electro Instruments Mftg. Co.
32. Bhavik Enterprises.
33. Rajeev Industries.
34. Basar Exports.
35. Super Impex .

43. The petitioners advanced a number of arguments in support of their contention that the petitioner companies constitute Domestic Industry within the meaning of the Rules, which are summarized below –

- a. Collective output of domestic producers in small and medium sector is quite small as compared to collective output of petitioner companies. In fact, individual production of each of these companies is extremely low.
- b. By the own admission of interested parties, majority of the imports are in high voltage insulator category, wherein none of the small and medium sector producers are present. In fact, this admission of the interested parties itself establishes that other Indian producers, in any case, are not relevant for the purpose of present investigations as the core issue involves imports of high voltage insulator where petitioning companies and BHEL are relevant parties.
- c. The list of other manufacturers identified by other interested parties is grossly incorrect and includes consumers, traders and other parties who are not even connected with production of Insulators.
- d. “Production” of individual companies is required to be considered for determining Domestic Industry status and information relating to capacity is immaterial.
- e. The Domestic Industry placed a copy of report titled “Report of the committee of experts to review the insulation requirement of EHV transmission lines of various voltages”, published by Central Electricity Authority wherein M/s BHEL, ABI, Modern and WSI have been considered as representatives from insulator industry. The Domestic Industry has argued on this basis that one of the most concerned authorities on the product in the Govt. of India considered BHEL, ABI, Modern and WSI as the major producers of the product. The petitioners argued that had the petitioning companies not been major producers of the product under consideration in the country, or had there been other domestic producers of the product under consideration in the country commanding major share in production of Insulators, Central Electricity Authority would have identified such other companies.
- f. In any event, production of the petitioning companies shall constitute a major share in Indian production.

44. M/s Bikaner Ceramic Pvt. Ltd have filed a letter stating that the capacity of 9000 MT mentioned by them on the website is an indicative capacity of gross weight of insulator for which the company has setup the capacities. However, the actual capacity of Ceramic Insulators, considering ceramic weight is much lower. Further, they have submitted that the company has never been able to achieve production to the level of capacities and in fact, the actual production by the company is significantly below these declared capacities. The company has supported the imposition of Safeguard duty and has further submitted that it has suffered serious injury because of surge in imports from China. The company has acknowledged significant decline in its production and sale. The company has submitted information of their total sales value and has regretted its inability to express the production and sales on weight basis due to lack of sufficient information in this regard. In case weighted average price of the Domestic Industry is considered, the production and sale volume of the company, considering sale value of the company, can be estimated in the region of 2900-3000 MT.
45. The rules define Domestic Industry as ‘domestic producers as a whole, or, those domestic producers whose collective output of the like or directly competitive article constitutes a major share of the total production in India’. Upon initiation of investigations, a public notice was issued about the present investigations. The interested parties were advised to respond to the initiation notice and provide relevant information. The public notice was issued in the extraordinary Gazette of India, and also publicized on the website of the Directorate on the day of issue itself. It is therefore deemed to be within knowledge of all interested parties. The interested parties, including other domestic producers, had opportunity to respond to the notice of initiation and provide relevant information. However, none of other Indian producers, barring participating companies and BHEL, have responded with information in the form and manner prescribed.
46. BHEL has supported the imposition of Safeguard duty and has provided information on market disruption. The information was however received on after the prescribed time limit. Thus, while the information filed by BHEL was considered as having been filed after the time limits, the same has nevertheless been examined.
47. It is noted that barring petitioner companies and BHEL, no other domestic producer of the product has responded in the form and matter prescribed under domestic producer questionnaire. While M/s. Deccan Enterprise Private Limited and M/s Goldstone Infratech Ltd. made submissions after initiation of investigations, they have not provided responses in the form and manner prescribed.
48. As regards the argument of the opposing interested parties that the Domestic Industry has withheld identity of these other domestic producers, the petition clearly stated that there are a number of other producers of the product in India. The petitioners also claimed that their collective output constituted a major share in Indian production. It is noted that the contention of the petitioners in this regard has not been proven to be wrong.
49. The Directorate had specifically addressed M/s Shreeji Power & Insulators Pvt. Ltd. and M/s Sarvana Global Energy Ltd. to respond to Notice of Initiation dated 30.5.2012 and also sent Questionnaire response form but they have failed to respond.
50. As regards the argument that M/s. Bikaner Ceramics Private Ltd. has a capacity of over 9000 MT, it is noted that while capacity is irrelevant for the present purpose, there is no evidence that the production of the company could be in the region of its capacity. The company specifically denied its production being in the region of capacities. Considering value of sales made by the company, the production of the company is estimated in the region of 2900-3000 MT.
51. The notice dated 30.5.2012 for initiating the investigation was issued in the Gazette of India and also publicized on the Directorate’s website on the day of issue. Those parties who are concerned about the investigations are required to respond and provide relevant information to the Director General. The opposing interested parties have provided no quantified verifiable evidence to establish that

collective output of the petitioner companies does not constitute a major share in Indian production, nor have these interested parties provided any information with regard to production of these other domestic producers in the Country. The petitioners have in fact stated in their application that there are a large number of other producers of the product in the country whose individual output is insignificant. Collective output of all these companies is also not so significant that the production of petitioner companies shall not constitute a major share in Indian production.

52. The efforts were made by the Directorate to ascertain the nature of business activities of companies identified by interested parties from the information available in public domain.

Company Name	Products	Nature of business activity
KSH International Pvt. Ltd.	Fibre Glass covered Copper/Aluminium Magnet winding wire http://www.kshinternational.com/html/FibreGlassCovered.htm	Product not under consideration
CJI Porcelain (P) Limited	Porcelain Insulators (Hollow Insulator, Over Head Line Insulator, Solid Core Insulator, Transformer Bushings, Hollow Bushings) http://www.hvInsulators.com/	Manufacturer
Electro Fibres	http://www.electrofibres.com/about1.html Epoxy Insulators http://www.electrofibres.com/Inner%20page80.html	Product not under consideration
Elektrolites (Power) Pvt. Ltd.	Isolators, Lightening Arresters, Switches, Polymer Insulators 11kV to 66kV http://elektrolites.com/products.html http://elektrolites.com/product-polymer-insulator-elektrolites.html	Consumer
Permali Wallace Private Limited	Railway, automobile, Defence equipment, transformers, general motors Insulators - Epoxy Resin Casting http://www.permaliwallace.com/	Product not under consideration/ Consumer
KMG Atoz Systems (P) Ltd.	Cable accessories, Transformers, switchgears, earthing materials http://www.atoz.co.in/products.html	Consumer
C & C Construction Ltd.	Infrastructure Projects, Laying Optical Fibre Cables http://candcinfrastructure.com/?page=majorproj3	Infrastructure development services
Modern Insulators	Hollow Insulators, solid core post Insulators, longrod Insulators, railway Insulators	Petitioner

Limited	http://www.modernInsulators.com/hollowcore.htm	
Lamco Industries Pvt. Ltd	Composite (Polymer) Insulators http://lamcoindia.com/index.php?option=com_content&view=article&id=76&Itemid=92	Product not under consideration
Mohan Energy Corporation Pvt. Ltd.	Turnkey projects Porcelain/Polymeric Insulators for MV, HV and EHV Transmission and Distribution Line http://www.mohanenergy.com/prod-trans-eng.html	Consumer
Ravikiran Ceramics Pvt. Ltd.	HT Insulators http://www.ravikiranceramics.com/H.T.Insulators.htm	Manufacturer
ABB Limited	Control systems, HV, MV and LV products and systems, circuit breakers http://www.abb.co.in/ProductGuide/ Composite Insulators http://www.abb.co.in/product/us/9AAC30200141.aspx?country=IN	Product not under consideration/ Consumer
Areva T&D India Limited	Power solutions, transformers, switchboards, sockets (website not opening)	Consumer
Mayur Electro Ceramics Pvt. Ltd.	HT and LT Insulators http://www.mayurelectro.co.in/products.html	Manufacturer
Pressgel Insulations Pvt. Ltd.	Switchgear and transformer products Insulators for transformers http://www.pressgel.com/index.php/transformer-products http://www.pressgel.com/images/pressgel/documents/PGIPL-NEW%20BROCHURE%20(CATALOGUE).pdf	Consumer
Kappa Electricals	Transformers, Switches, Fuses HT and LT busbar supports (post Insulators) http://www.kappaelectricals.com/prodpage4.html	Consumer
Bikaner Porcelain Pvt.	Disc, Pin, Guy, Post, LT Insulators	Manufacturer

Ltd.	http://www.bikanerPorcelain.com/products.htm	
Raychem RPG Pvt. Ltd.	Composite Insulators http://www.raychemrpg.com/index.php?option=com_content&view=article&id=305&Itemid=481	Product not under consideration
Taruna Dechome Pvt. Ltd., Bikaner	Disc Insulators, HT Insulators, LT Insulators, Pin Insulators, Post Insulators http://www.indiamart.com/tarunadechome/	Manufacturer
Bharat Heavy Electricals Ltd.	Transmission Insulators http://www.bhel.com/product_services/product.php?categoryid=126&link=Transmission	Supporter
Axis Electrical Components (I) Pvt. Ltd.	Connectors, earthing material, FRP components, oem equipment http://www.axis-india.com/	Product not under consideration
Ganpati Corporation	Bus bar Insulators made of bulk molding compound and unsaturated polymer with fiber Glass http://www.getit.in/featured/ganpati-corporation/bus-bar-Insulators/4517273/2338215/	Product not under consideration
A.K. India Ceramics Pvt. Ltd.	Disc Insulators, High Tension Disc Insulator, LT Guy Insulators, LT Pin Insulators, LT Shackle Insulators, Pin Insulators, Porcelain Disc Insulator, Porcelain Insulators, Post Insulators, Suspension Insulator http://www.indiamart.com/akindiaceramics/	Manufacturer
Crompton Greaves Ltd.	Transformers and Switchgears, Industrial Systems and Consumer Products http://www.pauwels.com/frontend/Crompton.aspx?cnl1=KV1SpKMjSGM=	Consumer
Narayan Powertech Pvt. Ltd.	Transformers (epoxy based) http://www.narayanpowertech.com/products.html	Consumer/ Product not under consideration
R.R. Industries	Chemicals http://www.rrindustries.co.in/Products.aspx	Product not under consideration
Matrix Control & Engineer's (P) Ltd.	Resin Cast products http://www.indiamart.com/matrix-control-engg/products.html	Product not under consideration
Bikaner Ceramics Pvt. Ltd.	Suspension disc Insulators, pin Insulators, post Insulators, guy strain Insulators, shackle and spool Insulators http://bceramics.in/Insulators.html	Manufacturer
Plastofab	Transformers and Switch Gears (resin cast) http://www.plastofab.com/products.html	Product not under consideration

	Epoxy Resin Cast Insulators http://www.plastofab.com/drive-insulator.html	
Bhatinda Ceramics (P) Ltd.	Pin Insulator, Disc Insulator, Post Insulator, Shackle Insulator, Spool Insulator, Guy Strain Insulator, LT Pin Insulator http://www.bticeramics.com/products.html	Manufacturer
Akhil Wires Pvt. Ltd.	Crepe Paper, Insulated Copper Conductors, Mica, Nomex, Paper, Polyester http://www.indiamart.com/company/2662295/#products	Product not under consideration
Power & Control Transformers Ind Pvt Ltd	Transformers, Isolators, Fuse http://www.tradeindia.com/Seller-311858-POWER-CONTROL-TRANSFORMER-INDUSTRIES-P-LTD-/product-services.html	Consumer
Allied Ceramics Pvt. Ltd.	High tension & low tension electrical porceltrical Porcelain Insulators, ceramics, insulator box http://www.esuppliersindia.com/allied-ceramics-pvt-ltd-/aboutus-p991734-u1060061-swa.html	Exporter/ Manufacturer
Hindustan Chemicals	Sodium cyanide, potassium cyanide, diphenyl guanidine, sodium ferrocyanide http://www.hcc-cyanides.com/site/products.html	Product not under consideration
Suzlon Power Infrastructure Pvt. Ltd.	Battery and Battery charging equipments http://www.getit.in/listing/suzlon-power-infrastructure-pvt-ltd/3370667/2184836/	Product not under consideration/ Consumer
A-Bond Strands Pvt. Ltd.	Switchgear, cable accessories, insulation material http://www.abondstrands.com/insulation.html	Product not under consideration/ Consumer
Gala Impex	Industrial Heaters, Thermostats, Cable wires http://www.askme.com/mumbai/malad-west-cables-wires-allied-products-gala-impex/listing-products/8951139027	Product not under consideration
Saravana Global Energy Limited	HV Porcelain Insulators http://www.saravanaenergy.com/High-Voltage-Insulators.htm	Manufacturer
Bharat Electrical Contractors & Mfrs. Pvt. Ltd.	Insulators & L.A. http://www.becmpl.com/category/category/other-products	Consumer
W.S. Industries (India) Ltd.	Suspension, solid core, hollow, etc., Insulators http://www.wsInsulators.com/New%20Web/default.htm	Petitioner
Aditya Birla Insulators	Substation, traction, line post, transmission Insulators http://www.adityabirlainsulators.com/products/products_portf	Petitioner

Limited	olio.htm	
Gloabtel Convergence Ltd.	Energy management systems, remote monitoring systems http://www.indiamart.com/company/2140698/products.html	Product not under consideration
Citizen Metalloys Limited	Copper products http://www.citizenmetalloys.com/	Product not under consideration
Yamuna Power & Infrastructure Ltd	Polymeric Insulators 11-400 kV, VCB, Elbow Connectors, Joints, Terminations, Accessories http://www.yamunapower.com/products.asp	Product not under consideration
Ramanuj Industries	Insulators, Stand off Insulators, Single Pole Support, Finger Type Support, Horizontal Support, TPN Support, Grip Type Support http://www.ramanujindustries.com/	Product not under consideration/ Consumer
Goldstone Infratech Ltd.	Electrical Insulators , High-Voltage Electrical Insulator , Bracket Tube Insulators , Stay Arm Insulators , Line Post Insulators , Pin Insulators , Tension Insulators , High Creepage Insulators , Epoxy Resin Cast Insulators , High Voltage Insulators http://www.goldstoneInsulators.com/	Product not under consideration
Deccan Enterprises (P) Ltd.	Composite Silicon Insulators http://www.deccan.in/Insulators.htm	Product not under consideration
Transformers & Electricals Kerala Ltd.	Power, Current and Voltage transformers http://www.telk.com/#	Consumer
BMC Electroplast Pvt. Ltd.	Vaccum mechanisms, switchgear components http://www.indiamart.com/bmcelectroplast/new-items.html	Product not under consideration
G.K. Electricals	Switches, cut outs, isolators http://www.gkelectricals.com/product.html	Product not under consideration
Electrical Controls & Systems	Project Services http://electricalcontrolsystem.com/our_products.html	Product not under consideration
Surelock Plastics Pvt. Ltd.	Wiring cable and panel accessories, stainless steel products http://www.surelockcableties.com/dynamic/groups.php	Product not under consideration
Bharat Electro Instruments	FRP Products http://www.beimco.com/product.html	Product not under

Mftg. Co.		consideration
Bhavik Enterprise	Steel Body and Metal Machinery http://www.bhavikenterprise.com/products.html	Product not under consideration
Shreeji Power & Insulators Pvt. Ltd.	Porcelain Disc Insulators http://www.thekirangroup.com/spipl/#	Manufacturer

Company Name	Products	Remark
Bikaner Ceramics Private Limited	Suspension disc Insulators, pin Insulators, post Insulators, guy strain Insulators, shackle and spool Insulators http://bceramics.in/Insulators.html	Manufacturer
A K India Ceramics Pvt. Ltd	Disc Insulators, High Tension Disc Insulator, LT Guy Insulators, LT Pin Insulators, LT Shackle Insulators, Pin Insulators, Porcelain Disc Insulator, Porcelain Insulators, Post Insulators, Suspension Insulator http://www.indiamart.com/akindiaceramics/	Manufacturer
Bhatinda Ceramics Pvt. Ltd.	Pin Insulator, Disc Insulator, Post Insulator, Shackle Insulator, Spool Insulator, Guy Strain Insulator, LT Pin Insulator http://www.btceramics.com/products.html	Manufacturer
Bikaner Porcelain Private Limited	Disc, Pin, Guy, Post, LT Insulators http://www.bikanerPorcelain.com/products.htm	Manufacturer
CJI Porcelain Pvt. Ltd	Porcelain Insulators (Hollow Insulator, Over Head Line Insulator, Solid Core Insulator, Transformer Bushings, Hollow Bushings) http://www.hvInsulators.com/	Manufacturer
Mohan Energy Corporation Pvt. Ltd.	Turnkey projects Porcelain/Polymeric Insulators for MV, HV and EHV Transmission and Distribution Line http://www.mohanenergy.com/prod-trans-eng.html	Consumer
Ganapati Corporation	Stabilizers Bus bar Insulators made of bulk molding compound and unsaturated polymer with fiber Glass http://www.getit.in/featured/ganpati-corporation/bus-	Product not under consideration

	bar-Insulators/4517273/2338215/	
TarunaDechome Pvt. Ltd.	Disc Insulators, HT Insulators, LT Insulators, Pin Insulators, Post Insulators http://www.indiamart.com/tarunadechome/	Manufacturer
Rajeev Industries	HT and LT Insulators http://www.ceramicinsulator.com/	Manufacturer
Hindustan Chemicals	Sodium cyanide, potassium cyanide, diphenyl guanidine, sodium ferrocyanide http://www.hcc-cyanides.com/site/products.html	Product not under consideration

Company Name	Products	Remark
Basar Exports	Metal Components Disc Insulator, H Insulator http://www.basarexports.com/technicalceramic.asp	Product not under consideration
Super Impex	Brass products http://www.superimpex.in/	Product not under consideration

53. From the information available in public domain, it is seen that the list of other Indian producers provided by interested parties includes a large number of companies who are either manufacturers of products not under consideration such as composite insulators or they are consumers of the product under consideration or who are not connected with production activity relating to electrical Insulators. It is however, acknowledged that a number of the companies identified by these interested parties are engaged in production of electrical Insulators and of these 9 companies are already interested parties (including DI) in this case. However, this fact of existence of other domestic producers of the product under consideration is not in dispute and the petitioners Domestic Industry also admitted that there are a number of producers of the product under consideration in small & medium sector.

54. It is observed that one of the units of WSI is operating under SEZ. The interested parties have pointed out that it is a crucial issue in the investigation, which has not been disclosed by the concerned Petitioner in the application.

A unit operating in SEZ cannot claim market disruption due to imports. These SEZ units are deemed to be outside Indian Customs Territories and not competing with other domestic units. Accordingly, it is decided that the data in respect of the SEZ unit of WSI, situated in Vishakhapatnam, is not to be considered for the purposes of present investigation.

55. After taking into account the information on record, it is determined that production of the domestic producers filing the petition and who have provided relevant information constitutes a major share in the total production of the product under consideration in India. Accordingly, petitioner companies constitutes Domestic Industry as per Section 8C (7)(a) of the Customs Tariff Act 1975. However, the SEZ unit of WSI is excluded from the scope of Domestic Industry.

(E). Period of Investigation (POI):

56. The Customs Tariff Act, 1975, the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, do not specifically define Period of Investigation and what should be the minimum period to be considered for a Safeguard investigation. The Accession Treaty Protocol of the People's of Republic of China or the Agreement on Safeguards also does not contain any general or specific provision on guidelines for fixation of investigation period. However, the relevant investigation period should be sufficiently long to allow conclusion to be drawn on increased import and market disruption.
57. Considering that the period selected should be sufficiently long to allow conclusions to be drawn regarding existence of increased imports and to neutralize the effect of seasonal variation, data has been considered from F.Y. 2008-09 to 2011-12. In the notice of initiation, import data upto Dec 2011 had been considered. The import data has since been updated till March, 2012. The period has been taken from 2008-09 till 2011-12 for the purpose of the present investigations.

(F). Unit of Measurement

- The petitioners have provided information on imports as procured by them from IBIS, DGCI&S summary data, orders placed by PGCIL, UN Comtrade & China Customs data. They have adopted weight of the product as a unit of measurement. The product is however traded mostly in numbers. The petitioners have submitted that it would not be appropriate to adopt numbers as the unit of measurement for assessment of volumes for the present purpose for the reason that the product is produced and sold in a large number of different size, shapes and specifications. The claim of the petitioners to consider weight of the product as unit of measurement has not been disputed by other interested parties, nor it appear that any other unit of measurement would be appropriate to quantify imports.
58. In their rejoinder submissions, petitioners revised their claim for determination of weight and submitted that all parties to the investigations agreed that there is significant difference in weight of a Glass and comparable Porcelain Insulator, even when the product specifications are otherwise identical. Since the buyers consume the product on the basis of numbers, the weight of the Insulators that a consumer must procure will be different depending on whether Glass or Porcelain insulator has been procured. Thus, the petitioners have contended that the weight of Glass insulator should be expressed in terms of equivalent Porcelain weight of comparable insulator to determine gross imports of the product in the country.
59. The petitioners have extensively argued and submitted that Glass and Porcelain Insulators are like articles. The evidence submitted by them shows that while placing orders, the buyers such as PGCIL usually place the order mentioning requirement in nos., regardless of whether the product is Glass or Porcelain insulator. The information on record also suggests that the weight of comparable Glass insulator is less than Porcelain insulator. For the purposes of present investigation, weight is the only common factor for determining the volume of total imports of the article in to India. Now since total weight of imported Glass as well as Porcelain Insulators is already known, these can be used to determine the total volume of imports on actual weight basis for the purposes of market disruption analysis.
60. Accordingly, for assessment of volumes, it is decided:
- i. to adopt weight of the product as an appropriate unit of measurement.

- ii. since the actual weight of respective articles is already known, it can be used to determine the total volume of imports on actual weight basis for the purposes of market disruption analysis.

(G) Source of Information:

61. The Safeguard investigation was initiated on the basis of import data of World Trade Atlas (WTA), which reflects the China Customs data showing exports from China from 2008-09 onwards. The Directorate had requested information from the Ministry of Commerce with regard to China Customs statistics, and their reply confirming the data was received prior to initiation of investigations. The analysis for increase in imports was carried out for the relevant period by considering exports of Electrical Insulators falling under 8546.10 and 8546.20 as per China customs data. Imports from other countries were considered on the basis of DGCI&S information.
62. The data on various economic parameters such as production, sales volumes, inventories, employment submitted by the Domestic Industry in their petition till November 2011 was verified by this Directorate to the extent possible and the non confidential version of verification report was placed in public file. This verified data was been taken into consideration for analysis of market disruption for initiation of investigation.
63. The domestic industry has thereafter made available data for the period from December 2011 to March 2012, prior to the hearing of the case on 24th July 2012.
64. For the purpose of present findings, the data/information for the period up to March, 2012 has been considered. Data on various economic parameters such as production, sales volumes and inventories relating to the Domestic Industry for the period April 2008 to March 2012 has been adopted on the basis of information furnished by the petitioners. The Domestic Industry has also provided information with regard to cost of production, profits and return on investment duly certified by practicing Chartered Accountant.
65. The opposing interested parties have argued that the petitioners relied on different source of data for different countries, which is inappropriate. Petitioners have relied upon the China Customs export data for determining imports into India, whereas imports from other countries have been determined on the basis of Indian statistics. Further, the interested parties have disputed reliance on Chinese customs data for the present purpose for a number of reasons, which, inter-alia, are summarized below
 - a. the law requires consideration of import volume, value and price into India and not export volume, value and price of goods from the exporting country. Volume and value of exports from China is not the same as volume and value of imports into India.
 - b. Since China customs data on transaction-by-transaction basis under HS Code 854610 and 854620 is not available, China customs data should not be adopted.
 - c. Only transmission lines and/or substation Insulators should be considered for the present purpose. Electrical Insulators not used in transmission lines and/or substation are also cleared under HS Code 854610/20. Therefore, the aggregate data from the China Customs cannot be relied for the purpose of present purpose.
 - d. Since scope of the product under consideration is narrower than the scope of the products falling under HS codes 854610 & 20, China customs data cannot be relied upon.
 - e. The description of products under HS codes 854610 & 20 under Indian Customs Tariff Act and Chinese customs is different. Eight digit classification of HS codes 854610 & 854620 under Indian Customs Tariff Act and Chinese customs is different.
 - f. The infirmities alleged to be associated with the Indian customs data may also be well associated with the Chinese customs data.

- g. In transaction-by-transaction data of IBIS relied upon by the petitioners and given to interested parties, under 85462090, 4621 out of 6547 line items do not pertain to product under consideration, since they are not used in transmission/distribution lines or substations.
 - h. Ministry of Commerce website and UNComtrade website shows export of Glass Insulators from India, though it is an admitted fact that Glass Insulators are not manufactured in India. This implies export of goods imported in India.
 - i. summary import data from Chinese customs has been relied on and DGCI&S, IBIS and PGCIL data have been disregarded when a large difference exists between the customs records of the two countries
 - j. DGCI&S data was rejected for China but used for third country imports in market share analysis. IBIS data was rejected for China but used for other countries.
 - k. WTA data includes LT Porcelain Insulators for telegraph & telephone, Insulators for Ceramic J Linear Lamps.
- 66.** The petitioners have contended on, inter-alia, following grounds that it would be appropriate to rely upon China Customs data
- a. Petition contains sufficient reasons to justify how the export data and the import data cannot be materially different.
 - b. The summary information published by DGCI&S under Heading 8546, in any case, can be useful only to determine value of imports. It cannot be used for determining weight of imports in view of the fact that majority imports have not been reported on weight basis.
 - c. The information provided by the petitioners clearly show significant imports in a large number of different units of measurement. It is necessary to express the product on weight basis and the same is quite difficult if the Indian data is used.
 - d. The published DGCI&S data cannot be adopted for the reason that the imports of the product under consideration reported under projects category cannot be identified and included in the volume and value of imports.
 - e. Information provided by secondary sources is insufficient for the reason that the same does not contain imports reported at various Customs Ports. Significant imports of Insulators have been reported at Mundra port, information on which is not captured by secondary data compiling agencies.
 - f. The present petition is against China and the petitioners have adopted information published by China Customs. Such being the case, there can be no reason why Govt. of China statistics should be considered as unreliable. Govt. of China statistics should be considered as credible as Govt. of India statistics. In fact, since Govt. of China regulates VAT rebate/refund on the basis of customs declarations, the statistics released by the Govt. of China is credible.
 - g. the submissions made by People's Republic of China through Economic & Commercial Counsellor's Office, New Delhi or CCCIEME does not establish that adoption of Chinese customs data would be inappropriate. In fact, CCCIEME has tacitly admitted appropriateness of adoption of China customs data and there is no specific objection with justified reasons for not adopting China customs data.
 - h. Product description under HS codes under 854610 and 854620 includes entirety of the product under consideration defined in the notice of initiation. Since the product scope includes entirety of this HS codes, it is appropriate to adopt China Customs Data.
- 67.** It is seen that for the purpose of the present investigations, the volume and value of imports is relevant to determine whether the product under consideration is imported into India, from the People's Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to Domestic Industry. The volume and value of imports information is also required to determine the quantum of Safeguard duty that should be imposed in

order to prevent market disruption to the Domestic Industry. Further, information on imports of only the product under consideration on which Safeguard duty is proposed to be imposed is to be considered. Prior to initiation, the Directorate cross checked relevant information of China Customs from the Ministry of Commerce and Industry and claim of the petitioners with regard to volume and value of imports was cross checked with the information provided by the Ministry of Commerce & Industry.

68. The Directorate, upon initiation of investigation, had also called for relevant information from the interested parties. The public notice was published in the extraordinary Gazette of India and a copy was forwarded to known exporters, the government of China and other interested parties. The notice called for relevant information in the form and manner prescribed from the known exporters/producers and government of the China, who were obliged to furnish such information within prescribed time limits. However, only M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd, China; M/s. Sediver Insulators (Shanghai) Co. Ltd, China and M/s Alstom T&D India Ltd., India (importer) have responded to the public notice. Further, only M/s. Zigong Sediver Toughened Glass Insulator Co. Ltd and M/s. Sediver Insulators (Shanghai) Co. Ltd have filed responses in the form and manner prescribed and have provided information with regard to exports made by them. Information provided by these interested parties was examined. It is observed that this information is insufficient to determine gross volume of imports in India during the relevant period in view of the fact that these companies have not provided the weight of the quantity exported by them.
69. CCCIEME has also participated in the present investigations. While commenting on claims of increased imports made by the petitioners, CCCIEME has pointed out certain differences in data presented by the petitioners before DG. The CCCIEME has however not denied with cogent reasons appropriateness of the import volumes reported by petitioners based on China Customs. Nor CCCIEME has claimed with cogent reasons that exports reported as per China Customs information would not be appropriate for the present purpose. In fact, the submissions made by CCCIEME can be considered as their admission of the appropriateness of Chinese customs data for the present purposes.
70. It is noted that the Govt. of China has also actively participated in the present investigations and has made submissions through its representative office in India. There is no submission on behalf of Govt. of China on possible inappropriateness of Chinese customs data for the present purposes. In fact, submissions made on behalf of Govt. of China contain comments on the differences in the figures adopted by the petitioners in their anti dumping and Safeguard petitions. Similarly, CCCIEME submissions contain comments on the differences in the figures adopted by the petitioners in their anti dumping and Safeguard petition. CCCIEME also stated the exports under 854610 and 854620 include certain products that are now required to be excluded. This otherwise implies a tacit admission on the part of Govt. of China and CCCIEME about the admissibility of China customs data for the present purposes.
71. Rule 6(8) authorizes the Director General to record findings on the basis of the facts available and make appropriate recommendations to the Central Government under such circumstances where an interested party refuses access to or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation. The information made available during the course of the investigations is examined. Considering the argument raised by the interested parties and appropriateness of various information, it is observed as follows:
 - a. The Directorate has considered the information on imports reported by various agencies in India, such as DGCI&S, Directorate General of Systems, Directorate of Valuation to examine whether it could be adopted for the present purpose.
 - b. The petitioners provided following information to corroborate their primary claim that the China customs data should be adopted for the present purpose

- i. summary DGCI&S information,
 - ii. bill of entry wise imports information as provided to them by DGCI&S,
 - iii. information provided by International Business Information Services, Mumbai
 - iv. China customs (month wise summary) data under SH 854610, SH 85462010 and SH 85462090.
 - v. Information published at UNCOMTRADE website – to corroborate their claim on China customs.
 - vi. Exporter wise, transaction wise details of exports from China customs to India and other countries for the entire relevant period.
 - vii. Avalon Consulting report extracts showing imports into India.
 - viii. Information on orders placed by PGCIL, quantities received by them and pending order position at various offices of PGCIL. This information was provided in order to corroborate their claim that significant orders for supply of subject goods were placed by PGCIL and PGCIL itself has confirmed receipt of significant part of the supplies, information on which does not appear to have been captured in the Indian import data made available by the petitioners.
 - ix. Tender by tender details of tenders floated by PGCIL and prices quoted by various participating tenderers.
- c. Request was also sent by the Directorate to the Ministry of Commerce and Industry for information on imports data under Customs HS Code 854610, 854620 and 854690 and claim of the petitioners with regard to volume and value of imports was cross checked with the information provided by Ministry of Commerce and Industry.
- d. The information filed by the interested parties during the course of the proceedings was also examined. The information filed by M/s. Zigong Sediver Toughened Glass Insulator Co, Ltd. and M/s. Sediver Insulators (Shanghai) Co, Ltd. in the form of Questionnaire response regarding exports by them to India but it was found to be inadequate.
- e. None of the other responding Chinese Companies such as Dalian Ceramic Technical Co. Ltd., Pukou Huagao Electrical Ceramic & Appliances Manufacturing Co. Ltd, Liaoning Shuangling Electric Porcelain Manufacturing Co Ltd., Nanjing Electric (Group) Co. Ltd., Dalian Insulator Group Co. Ltd. provided any information in this regard.

72. The detailed entry wise information of DGCI&S, Directorate General of Systems and Directorate of Valuation has been analysed on transaction by transaction basis. It is noted that this information cannot be used to determine volume of imports for the reason that imports have been reported under large number of different unit of measurement viz., Kgs, LOT, MT, NOs, Pcs, SET etc and it is not possible for the purpose of the present investigations, to express all these imports on weight basis.

73. Further, the petitioners have also provided information showing “pending supply position” with various offices of PGCIL against the orders placed by PGCIL, which shows as follows –

Sno.	Orders	Particular	Unit	2007- 08	2008- 09	2009- 10	2010- 11	Apr'11- Nov'11
1	Placed	Total	Rs. Laacs	13,517	50,888	93,057	32,766	35,760
		Chinese	Rs. Laacs	1,477	15,878	44,150	22,232	30,654
		India	Rs. Laacs	12,040	33,525	35,378	10,213	4,380

		Others	Rs. Lacs	-	1,486	13,530	321	726
2	Received	Total	Rs. Lacs	3,326	13,598	24,819	8,749	4,283
		Chinese	Rs. Lacs	256	6,821	21,072	7,923	5,141
		India	Rs. Lacs	3,083	9,125	10,425	3,278	51
3	Pending	Total	Rs. Lacs	10,191	37,291	68,238	24,017	31,477
		Chinese	Rs. Lacs	1,222	9,057	23,078	14,310	25,513
		India	Rs. Lacs	8,957	24,400	24,953	6,936	4,329

(Source: Domestic Industry)

74. It is argued that exports from China may not imply imports into India. The Domestic Industry argued (and none of the interested parties have disputed), that the subject goods are produced against specific customers' orders. It is made to order item; that majority imports were of the goods ordered by PGCIL. Therefore, the goods invoiced by an exporter from China as exports to India were meant for a consumer in India and ought to have been reported as import into India. The only difference between two can be in terms of time lag involved between dispatch of goods from China and arrival of goods in India. However, considering the objective of determination of import volumes and the fact that information for sufficient long period is being adopted for the purpose of the determination, it would not be inappropriate on this ground to base the determination on China Customs statistics.
75. The petitioners submitted in their post hearing submissions that should there be a doubt about inclusion of any other products within HS Code mentioned under China Customs, the petitioners have provided exporter wise exports under these HS codes. The information provided by the petitioners contains names of the Chinese companies who have exported the product to India. While commenting on this claim of the Domestic Industry, it is observed that none of the other parties have been able to show why this information could not be adopted. The petitioners further submitted that the information of top eight exporters could be adopt by volume and that all these companies with the exception of M/s Shanghai Airic Cable Accessories Co., Ltd were clearly engaged in production and sale of Insulators (petitioners provided website information to corroborate their claim in this regard). The interested parties had an opportunity to comment on the correctness of this statement. It is, however noted that in their rejoinder submissions, these interested parties have not provided any cogent reason as to why this information could not be adopted.
76. It is noted that none of the interested parties disputing claim of the petitioners with regard to increased imports have provided any information with regard to gross imports of Electrical Insulators in India. Interested parties have not lodged any verifiable claims with regard to total imports of Electrical Insulators in India from China and other countries.

The argument of the Domestic Industry that even if information on exports made by top eight Chinese companies is considered (with the exception of Shanghai Airic Cable Accessories, as it is not clear whether this company is a producer and even though a trader can export the product and the HS code clearly shows that the export must be of electrical Insulators), there can be no doubt that the exports made are of the product under consideration. The table below summarises the position –

(Volume in MT)

SN	Company Name	2008- 09	2009- 10	2010- 11	2011- 12
1	Zigong Sediver Toughened Glass Insulator Co.,Ltd	1,372	3,615	11,726	10,704
2	Dalian Insulator Co., Ltd.	3,121	8,474	6,264	8,868
3	Nanjing Electric(Group) Co.Ltd.	2,983	3,076	765	5,215
4	Shanghai Airic Cable Accessories Co., Ltd	0	22	286	3,328
5	NGK Insulators Tangshan Co.,Ltd	1,018	32	3,056	1,667
6	Fushun Hi-Tech Electric Porcelain And Equipment Manufacturing Co,. Ltd.	2	55	891	1,071
7	Sichuan Yibin Global Group Co.,Ltd.	0	0	-	805
8	Liling Yangdong Porcelain Insulators Industry Co.,Ltd.	1,243	302	1,134	501
9	Sub total	9,739	15,576	24,121	32,158
10	Sub total excluding Shanghai Airic Cable	9,739	15,554	23,835	28,830
11	Others	2,295	846	2,429	3,664
	Grand Total	12,034	16,422	26,550	35,822

(Source: Domestic Industry)

77. After taking into account information provided by various interested parties, including information made available by the Ministry of Commerce & Industry and other agencies of Govt. of India, submissions made on behalf of Govt. of China and by CCCIEME, it is decided that it would be appropriate to determine volume and value of imports of the product under consideration during the relevant period on the basis of Chinese Customs data under HS codes 854610 and 854620. However, since the scope of the product under consideration now excludes telephone, telegraph and other electrical or electronics appliances/device Insulators and low voltage Insulators of voltage rating upto 1 kV, import of these products, as per best available information, have been excluded. The table below shows the volume of imports during relevant period.

	Category	Electrical Insulators Below 1kV	Insulators used in Electrical Appliances	Insulators used in Electronic Devices	Telephone & Telegraph	Grand Total
Volume (in MT)	2008- 09	1	136	6	0	143
	2009- 10	0	139	2	0	140
	2010- 11	0	174	0.21	0	174.21
	2011-12	0	40	0.07	0	40.07
Value (in Rs. Lac)	2008- 09	0	12	15	0	27
	2009- 10	0	125	4	0	129
	2010- 11	0	100	5	0	105
	2011-12	0.31	67	13		80.31

(Source: Domestic Industry)

78. With regard to the difference in import data claimed by the petitioners in their anti-dumping petition and present petition, the petitioners have clarified that there was a typographical error in their anti dumping petition and the same was clarified to the Designated Authority and the Directorate.

(H). Confidentiality of information submitted

79. The interested parties have provided some information on confidential basis and sought confidentiality of the information/data submitted. The Domestic Industry provided non confidential version of the application for Safeguard measure as per the provisions of Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 and Trade Notice No. SG/TN/1/97 dt. 06.09.1997. Further the Domestic Industry has submitted reasons for seeking confidentiality at the time of filing the application.

80. The other interested parties have also provided some information on confidential basis and have requested for confidentiality of information and have submitted non confidential version of such submissions. Following is the information claimed confidential by the interested parties

- a. Distribution and Marketing Channel
- b. Raw Materials and components and other inputs used for production
- c. Details of industrial users/consumers of exported product
- d. Capacity, production, cost of production, selling price per unit in domestic market, export/selling price per unit in India – indexed, range.
- e. Quantity exported to India – indexed, range.
- f. Commitment to supply the product in different markets including India – indexed, range.
- g. Cost of Production.
- h. Domestic Sales.
- i. Sales to India.

81. **Confidentiality of China Customs data** - The petitioners have also claimed confidentiality on transaction wise China Customs data. It is submitted that the data providing agency has placed several

riders which prohibit reproduction of this data in any form. The petitioners have provided imports summary of transaction wise data which is said to be sufficient to enable opposing parties to provide comments on the claim made by petitioners. They have also provided supplier wise summary as well. They have denied the allegation that petitioners shall provide China Customs data to other interested parties as well. It is clarified by them that they had undertaken to provide China Customs data to Director General Safeguards.

- 82. Confidentiality of WSI Import figures** -The petitioners have claimed data confidentiality on imports made by WSI on the ground that it is business sensitive information and is not amenable to summarization; that this information concerns business transaction between to private parties and are therefore not in public domain. According to them, revealing of this information would significantly compromise company's business position, totally prejudicing the legitimate business interest of WSI.
- 83.** Some of the interested parties have objected to the confidentiality claims of the Domestic Industry. The interested parties have argued that the Domestic Industry has claimed excessive confidentiality and that meaningful argument can be put forward only when actual data on economic parameters is disclosed to the interested parties. These interested parties have argued that confidentiality should not be granted on such information.

The petitioners have countered stating that information on imports by WSI is confidential business information relating to the company and has not been disclosed even to other Indian producers and petitioning companies. Further, petitioners have provided information on market disruption to the Domestic Industry by excluding entirety of WSI data. The petition also contains information on market disruption to the Domestic Industry after excluding imports by WSI from total imports. It would be seen that (a) the volume of imports clearly shows that imports were reported in "increased quantities" even if WSI imports are excluded and; (b) the Domestic Industry has suffered market disruption, even if WSI data is excluded. (It may be clarified here that the Rules do not require exclusion of data pertaining to imports made by petitioner Domestic Industry from the purview of market disruption analysis in Safeguards investigation.)

Rule 7 of the Rules provides for confidentiality treatment to certain information. The rules provide that an interested party can claim confidentiality on certain information. An interested party is not required to disclose an information on actual basis, if such information is confidential business information of the company and its disclosure can cause serious prejudice to the legitimate business interests of such party. Similarly, an interested party is not required to disclose information on actual basis, if the same is not in public domain and if the interested party has not disclosed such information before public at large in the past. Further, the rules require the parties providing information on confidential basis to furnish non-confidential summary of such confidential information. If, in the opinion of the party providing such information, such information cannot be summarized, the rules allow such party to submit a statement of reasons why summarization is not possible. Accordingly confidentiality, as prayed for by the Domestic Industry and other interested parties, has been granted under the provisions of the aforesaid rule.

(I) Anti-dumping measures

- 84.** M/s WS Industries (India) Ltd., M/s Modern Insulators Limited; M/s Insulators & Electrical Company and M/s Aditya Birla Nuvo Ltd. have jointly filed an application before the Designated Authority on Anti Dumping in accordance with the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on

Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time, for initiation of anti-dumping investigation concerning imports of electrical Insulators originating in or exported from China The Designated Authority, on 9th April, 2012⁸, initiated an investigation into the alleged dumping, and consequent injury to the Domestic Industry to determine the existence, degree and effect of any alleged dumping and to recommend the amount of antidumping duty, which, if levied, would be adequate to remove the injury to the Domestic Industry. The period of investigation (POI) for the purpose of this investigation is from 1st January, 2011 to 31st December, 2011. However, for the purpose of analyzing injury, the data of previous three years, i.e. Apr'08-Mar'09, Apr'09-Mar'10, Apr'10-Mar'11 and the period of investigation is proposed to be considered by the Authority.

- 85.** It has been argued by the interested parties that market disruption, if any, is due to dumping. As such, same injury is receiving double protection, since in Anti-Dumping petition, injury margin estimated by the Domestic Industry is 20%-40% and 30-50% for Porcelain and Glass Insulators respectively, and dumping margin is 64.30%, 81.73%. Since dumping margin claimed by the Domestic Industry is higher than injury margin, entirety of injury would be addressed by imposition of anti dumping duty. Following the Rules, complaint should have been referred to the Designated Authority on Anti Dumping and the Director General has no jurisdiction to continue with the present investigations and recommend Safeguard duty.
- 86.** The petitioners have countered the claim of the interested parties and have submitted that (a) this is not the first case where parallel investigations are being conducted, or where anti dumping duty and Safeguard duty are proposed to be imposed at the same time, (b) petitioners have not demanded dual protection and have already consented to cap the total protection to the extent of injury found, (c) the interested parties participating in the anti dumping investigations have not admitted dumping to the extent of the claims made by the Domestic Industry (d) the Designated Authority has merely initiated and has not made any determination, preliminary or otherwise. Mere claims by the petitioners cannot form a basis for determination by the Director General.
- 87.** It is observed that mere initiation of investigations by Designated Authority on Anti Dumping does not mean that dumping of the product and consequent injury to the Domestic Industry due to dumped imports and quantum thereof are established. The Designated Authority has not come to any conclusion, interim or otherwise. The Designated Authority may or may not find dumping of the product in respect of one or more producers from China. Since the interested parties participating in the present Safeguard investigation have not admitted existence of dumping of the product, no conclusion can be drawn from initiation of anti dumping investigations, unless the Designated Authority records a finding.
- 88.** It is however clarified that the present recommendations are being made considering material injury, if any, suffered due to market disruption by the Domestic Industry and on the basis of level of profit that is considered appropriate. In the event of imposition of anti dumping duty, the injury already proposed to be addressed by the Director General is required to be appropriately considered.

(J). Increased Imports

- 89.** Section 8C of Customs Tariff Act, 1975 deals with the power of the Central Government to impose Safeguard duty and provides as follows:

⁸ Initiation Notification No.14/6/2011-DGAD dated 9th April, 2012
(http://commerce.nic.in/writereaddata/traderemedies/adint_Electrical_Insulators_China_P.R.%20PR.pdf)

“1. Notwithstanding anything contained in Section 8B, if the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the People’s Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to Domestic Industry, then, it may, by notification in the Official Gazette, impose a Safeguard duty on that article”

90. Further, Rule 2(c) of Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 provides as follows

“(c) ‘Increased quantity’ includes increase in imports whether in absolute terms or relative to domestic production”

91. The rules require a determination of whether the product under consideration is imported into India in increased quantities as a basic prerequisite for the application of a Safeguard measures. To determine whether imports of the product under consideration have “increased in such quantities” for purposes of applying a Safeguard measure, the rules require an analysis of the rate and amount of the increase in imports, in absolute terms and in relation to domestic production and consumption as has been held by the panel and later confirmed by the Appellate Body in Argentina –Footwear case⁹ also.

92. In its evaluation of whether the investigation by the Argentine authorities demonstrated the required increase in imports under Articles 2.1 and 4.2(a), the Panel in Argentina-Footwear case¹⁰ stated the following:

... the Agreement requires not just an increase (i.e., any increase) in imports, but an increase in "such...quantities" as to cause or threaten to cause serious injury. The Agreement provides no numerical guidance as to how this is to be judged, nor in our view could it do so. But this does not mean that this requirement is meaningless. To the contrary, we believe that it means that the increase in imports must be judged in its full context, in particular with regard to its "rate and amount" as required by Article 4.2(a). Thus, considering the changes in import levels over the entire period of investigation, as discussed above, seems unavoidable when making a determination of whether there has been an increase in imports "in such quantities" in the sense of Article 2.1. (emphasis added)

93. With regard to the nature of the increase in imports, the Appellate Body in *Argentina—Footwear (EC)*¹¹, in contrast to the Panel, held that the increase in imports must have been recent, sudden, sharp and significant enough to cause or threaten to cause serious injury. Relevant extracts are as follows:

“131. [T]he determination of whether the requirement of imports ‘in such increased quantities’ is met is not a merely mathematical or technical determination. In other words, it is not enough for an investigation to show simply that imports of the product this year were more than last year — or five years ago. Again, and it bears repeating, not just any increased quantities of imports will suffice. There must be ‘such increased quantities’ as to cause or threaten to cause serious injury to the Domestic Industry in order to fulfil this requirement for applying a Safeguard measure. And this language in both Article 2.1 of the Agreement on Safeguards and Article XIX:1(a) of the GATT 1994, we believe, requires that the increase in imports must have been recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause ‘serious injury’.”

⁹ Appellate Body Reports on Argentina — Footwear (EC) WT/DS121/AB/R dated 14 December 1999

¹⁰ Panel Report on Argentina — Footwear (EC) WT/DS121/R dated 25 June 1999

¹¹ Appellate Body Reports on Argentina — Footwear (EC) WT/DS121/AB/R dated 14 December 1999

94. The Panel on US — Wheat Gluten¹², interpreted the phrase “in such increased quantities” as follows:

“8.31 [A]rticle XIX:1(a) of the GATT 1994 and Article 2.1 [of the Agreement on Safeguards (“SA”)] do not speak only of an ‘increase’ in imports. Rather, they contain specific requirements with respect to the quantitative and qualitative nature of the ‘increase’ in imports of the product concerned. Both Article XIX:1(a) of the GATT 1994 and Article 2.1 SA require that a product is being imported into the territory of the Member concerned in such increased quantities (absolute or relative to domestic production) as to cause or threaten serious injury. Thus, not just any increase in imports will suffice. Rather, we agree with the Appellate Body’s finding in Argentina — Footwear Safeguard that the increase must be sufficiently recent, sudden, sharp and significant, both quantitatively and qualitatively, to cause or threaten to cause serious injury.”

95. In US — Line Pipe¹³, the Panel found, in a statement not reviewed by the Appellate Body, that the word “recent” implies a “retrospective analysis”; but that it does not imply an analysis of the conditions immediately preceding the authority’s decision nor does it imply that the analysis must focus exclusively on conditions at the very end of the period of investigation. relevant extracts are as follows:

“7.024 [W]e note that the Appellate Body in Argentina-Footwear Safeguard found that ‘the phrase “is being imported” implies that the increase in imports must have been sudden and recent’. According to Korea, the phrase ‘is being imported ... in such increased quantities’ refers to ‘the period immediately preceding the authority’s decision’. The word ‘recent’ — which was used by the Appellate Body in interpreting the phrase ‘is being imported’ — is defined as ‘not long past; that happened, appeared, began to exist, or existed lately’. In other words, the word ‘recent’ implies some form of retrospective analysis. It does not imply an analysis of the conditions immediately preceding the authority’s decision. Nor does it imply that the analysis must focus exclusively on conditions at the very end of the period of investigation. We consider that an analysis that compares the first semester of 1998 with the first semester of 1999 is not inconsistent with the requirement that the increase in imports be ‘recent’.”

96. The analysis of the increased imports of Electrical Insulators has been conducted in the light of the above mentioned evaluations. Imports of Electrical Insulators from China into India have shown sharp increase in absolute terms as well as in relative terms. It is also noticed that the rate of increase in imports from People’s Republic of China is significantly higher than that imports from countries other than People’s Republic of China causing market disruption and threat of market disruption to the Domestic Industry.

(a) Increase in Imports from China P. R. in absolute terms:

97. Imports of the product under consideration have increased rapidly and throughout the period in absolute terms. There is a sudden, sharp and significant increase in imports in the recent period. The imports from China increased from 11,891 MT in 2008-09 to 35,782 MT in 2011-12 which is an increase of 201% whereas imports from other countries, which were already quite low in volumes, declined over the period. There is a sudden and sharp surge in imports in 2010-11 as well as in 2011-12 from China P. R.

¹² Panel Report on US — Wheat Gluten WT/DS166/R 31 July 2000

¹³ Panel Report on US — Line Pipe WT/DS202/R29 October 2001

Financial Year	Unit	2008-09	2009-10	2010-11	2011-12
Import from China	MT	11,891	16,282	26,376	35,782
Imports from other countries	MT	364	517	405	573
Total imports into India	MT	12,255	16,799	26,781	36,355
Trends in imports into India					
China	Index	100	137	222	301
Other countries	Index	100	142	111	157

(Source: China Customs/ DGCI&S)

(b) Imports from China in relation to Total Imports

98. The imports of product under consideration in India are primarily from China. Imports from other countries are quite low in volume. The Domestic Industry argued that the low volume of imports from other countries and the fact that majority imports are from China (97-98%) clearly establishes that it is only the Chinese producers who are causing market disruption as producers from other countries find the prices prevailing in the Indian market un-remunerative.

(c) Increase in imports in relation to production of the Domestic Industry

99. The imports of product under consideration in India have also increased rapidly in relation to production of the Domestic Industry.

Financial Year	Unit	2008-09	2009-10	2010-11	2011-12
Imports from China	MT	11,891	16,282	26,376	35,782
Domestic Industry production	MT	73,723	77,769	88,776	79,801
Chinese imports in relation to domestic production	%	16.13%	20.94%	29.71%	44.84%

(Source: China Customs/Domestic Industry)

It is seen that imports from China constituted 16% of the Domestic Industry production in 2008-09, which has sharply increased to nearly 45% in 2011-12.

(d) Imports in relation to Consumption/Demand

100. The imports of product under consideration in India have also increased rapidly in relation to consumption/demand of the product in India.

Financial Year	Unit	2008-09	2009-10	2010-11	2011-12
Imports from China	MT	11,891	16,282	26,376	35,782
Other countries imports	MT	364	517	405	573
Domestic Industry sales	MT	58,684	65,663	76,384	68179

Other domestic producers sales	MT	29,630	30,805	28,970	28,181
Total Demand/consumption in India	MT	100,569	113,267	132,135	132,715
Share in demand/consumption:					
Imports from China	%	11.82%	14.37%	19.96%	26.96%
Other countries imports	%	0.36%	0.46%	0.31%	0.43%
Domestic Industry sales	%	58.35%	57.97%	57.81%	51.37%
Other domestic producers sales	%	29.46%	27.20%	21.92%	21.23%

For the purpose of the present investigations, consumption or demand of the product is determined considering the imports of product into India from China, other countries and sales of the domestic producers. Exports made by the domestic producers have not been included for the purpose. The demand/consumption so determined over the period has been compared with the imports from various sources and supplies by the Domestic Industry in order to determine whether imports of product under consideration in India have increased significantly in relation to consumption or demand for the product in the Country.

The Chinese imports of the product under consideration in India have increased rapidly in relation to Indian consumption of product under consideration. It is seen that imports from China were about 12% during 2008-09. However, the imports have increased significantly thereafter in 2011-12 to such an extent that the imports in relation to consumption constituted 27% of Indian consumption.

Some of the interested parties have argued that if the imports of WSI are excluded from the total Chinese imports, there would be no increase in import volume. The petitioners have countered the argument stating that the imports by WSI are in the range of 5-15% of the total imports from China. They have submitted the following data in support of their claim that even if the imports of WSI be excluded from the total Chinese imports, the trend of imports from China would still show an increase in imports. However, the Rules do not require exclusion of data pertaining to imports made by petitioner Domestic Industry from the purview of market disruption analysis in Safeguards investigation. The imports made by WSI may be self inflicted market disruption but these have also affected the other Domestic Industry members and Indian producers. As such, imports of WSI need to be examined for factual analysis of market disruption caused. The analysis of increased imports elsewhere is therefore based on import volumes including WSI imports.

Imports volumes		2008-09	2009-10	2010-11	2011-12
WSI Imports from China	Indexed	100	69	228	265
Imports From China (excluding WSI)	Indexed	100	148	220	307
Total Imports from China	MT	11890	16282	26376	35782

In view of the above, it is observed that imports of Electrical Insulators from China have increased in absolute and relative terms and that the increase in imports is recent enough, sudden enough, sharp enough and significant enough to constitute “increased imports” within the meaning of Section 8C of the Customs Tariff Act, 1975.

(K). Reasons for increase in imports, unforeseen developments

101. It is noted that there is no specific requirement either in Indian Rules or under Accession Treaty of the People’s Republic of China on the methodology that should be followed for analyzing unforeseen developments. The Agreement on Safeguard also does not make any prescription with regard to the methodology that should be followed or the parameters that must be met in deciding unforeseen developments. However it is important to examine the circumstances which have led to increased imports.

In Argentina — Footwear (EC) and Korea — Dairy, the Appellate Body held that “any Safeguard measure imposed after the entry into force of the WTO Agreement must comply with the provisions of both the Agreement on Safeguards and Article XIX of the GATT 1994¹⁴

Article XIX of GATT 1994 states as follows

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

The Appellate Body in Argentina – Footwear (EC case) held that the phrase unforeseen developments means the developments which were unexpected. ‘Unforeseen developments’ requires that the developments which led to a product being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers must have been ‘unexpected’. The Body in the same case noted a GATT panel report which held that the development must have been unforeseen at the time of tariff negotiation. The Appellate Body in Korea-Dairy case held that unforeseen developments are developments not foreseen or expected when member incurred that obligation.

The Appellate Body, in Argentina — Footwear (EC), then held that the requirement of “unforeseen developments” did not establish a separate “condition” for the imposition of Safeguard measures, but described a certain set of “circumstances”:

The panel on US- Steel Safeguards¹⁵ concluded that the confluence of several events can unite to form the basis of an unforeseen development:

“... .. The United States argues that the robustness of the US dollar was a development which combined with the other developments, namely, the currency crises in Asia and the former USSR and the continued growth in steel demand in the United States’ market as other markets declined, lead to increased imports.”

The petitioners have given a number of reasons for surge in imports, which are summarized below.

¹⁴ Appellate Body Report on Argentina — Footwear (EC), para. 84 and Appellate Body Report on Korea — Dairy, paras. 76–77.

¹⁵ Para 86 of Korea Dairy case Appellate Body Report Of WTO 36

- a. Petitioners have pointed out that China is a significant exporter of the Insulators. It was earlier importing significant volumes, which have significantly declined now as is seen from the table below :

Sno	Period	Imports into China from India			Exports from China to India		
		Volume MT	Value US\$ Lacs	Price US\$/ Kg	Volume MT	Value US\$ Lacs	Price US\$/ Kg
1	2005	1,874	44.76	2.39	73	1.26	1.73
2	2006	2,298	64.57	2.81	2,019	31.30	1.55
3	2007	1,108	30.67	2.77	6,855	82.95	1.21
4	2008	51	1.75	3.42	12,596	178.60	1.42
5	2009	30	1.02	3.41	11,406	190.36	1.67
6	2010	1	0.07	9.63	27,051	495.52	1.83
7	2011	-	-	-	28,656	592.45	2.07

Source: China customs, as reported by UNCOMTRADE

- b. Significant addition of capacities in China far disproportionate to their domestic demand has resulted in a situation where the present production capacity in China far exceeds their domestic requirement. This has resulted in decline in imports into China and increase in exports from China
- c. 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 transmissions equipments, including Insulators. This led to substantial additions to the capacities for Insulators 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. After the Beijing Olympics, and once these fresh power generation and transmission capacities were set up, 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 utilizing their capacities, which are increasingly becoming idle. Considering the huge production capacities of the subject goods in subject country and now their export orientation and the increasing demand for the subject goods in India, in all likelihood imports will continue to remain high, causing market disruption to the Domestic Industry.
- d. India on the other hand is focusing on energy sector. In order to meet the country's soaring demand for electricity, Government planned to build power plants capable of generating 78000MW 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 12th Five Year plan. This has made India a target market for Chinese manufacturers to utilize their excess capacity. The Chinese producers would increase their exports in the Indian market, should Safeguard duty not be imposed forthwith.
- e. Price advantages available to Chinese producers – there are various advantages to the Chinese suppliers as illustrated below:

- a. Chinese suppliers receive easy financing from Chinese lenders.
- b. Export subsidies - the cash rebate for Insulators is 17% which is much higher than the VAT impact on these products
- c. Metal parts are one of the major inputs to the product under consideration and the policies of China mandates direct subsidization of the Industry.
- d. Fuel price in China shall continue to be much lower than international prices.
- f. Given high demand for fresh power generation plants in India and declining demand in China, Chinese producers will continue to remain aggressive in the Indian market. This has lead to significant increase.

102. The opposing interested parties have given following reasons for increased imports.

- i. Increase to some extent is due to the execution of orders finalized one or two years earlier for 765 kV or 800 kV HVDC lines for which petitioners (except WSI) and BHEL could not offer supplies.
- ii. The largest manufacturer in India, due to scarcity on the supply side, was charging abnormally high prices in cartel with other petitioners.
- iii. The country requires extra-high and HVDC transmission lines, which is why PGCIL is not procuring lower grade low voltage Insulators from a few domestic producers but floating international bids.
- iv. WSI has very limited capacity in relation to the total requirements of PGCIL and in general fails to supply in time.
- v. Increase in imports in 2010-11 is due to expansion by power sector.
- vi. The National Power Grid explicitly and strictly requires qualifications for bidders supplying High Voltage Insulators. These include manufacturing experience for at least five years and sales experience for at least two years.
- vii. None of the domestic producers are capable of producing the products comparable to imports given their technical specification and high level of sophistication involved.

103. It is observed that in India, practically entirety of the imports of Insulators are from China

SN	Particular	Unit	2008-09	2009-10	2010-11	2011-12
1	Volumes of imports into India					
2	From China	MT	11,891	16,282	26,376	35,782
3	From Other countries	MT	364	517	405	573
	Total Import		12,255	16,799	26,781	36,355
4	Share in import volume					
5	From China	%	97%	97%	98%	98%
6	From Other countries	%	3%	3%	2%	2%

(Source: China Customs/DGCI&S)

104. Almost negligible imports of insulator from other countries globally show that the global manufacturers do not appear to be keen to export the product in Indian market. Petitioners contended

that this was in view of highly competitive prices prevailing in Indian market due to Chinese suppliers. Domestic Industry also contended that apart from China, globally, Insulators are being produced in a fairly large number of countries; however, imports from these countries are almost negligible. Despite significant production in several countries and high demand in India, imports of Insulators in India (other than China) had remained extremely limited.

105. Having regard to the information on record and submissions made by the interested parties, it is observed that the imports of product under consideration increased from China for a number of reasons. The evidence shows that China became a net and significant exporter of the product from a situation of a net importer of the product. The claim of Domestic Industry with regard to significant capacity addition in China, far disproportionate to the domestic demand, significant decline in Chinese demand after the Beijing Olympics, a number of cost advantages to the Chinese producers vis-a-vis Indian producers on one hand and significant demand for the product in Indian market on other hand led to significantly lower prices offered by Chinese producers as compared to the prices offered by the Domestic Industry. The Chinese producers were found to have quoted lower price in one after other tenders floated by PGCIL thus leading to placement of orders by PGCIL on Chinese producers. The PGCIL opens price bids only after the bidder qualifies the technical bid and therefore the orders were placed on Chinese suppliers only because of lower prices quoted by them. No evidence has been provided by the interested parties to establish that the orders had to be placed on Chinese suppliers because of technical constraints or inability of Indian producers to supply the goods.

(L). Market disruption or Threat of Market disruption

106. Safeguard provisions under the Customs Tariff Act 1975 defines the terms “Market disruption” and “Threat of Market disruption”. The “market disruption” shall be caused whenever imports of a like article or a directly competitive article produced by the Domestic Industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the Domestic Industry¹⁶. “Threat of market disruption”¹⁷ means a clear and imminent danger of market disruption.

107. However the definition of ‘material injury’ is not found either in the Act or Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002. Therefore, the practice followed in past investigations by the Directorate and laws and practices of other countries were studied. It was noted that the law of USA relating to Safeguard duty against imports of China provides definition of ‘material injury’. The term ‘material injury’ appears in Section 406 of the Trade Act, 1974 of USA and Title VII of the Tariff Act, 1930 of USA. Title VII of the Tariff Act of 1930 defines ‘material injury’ to mean “harm which is not inconsequential, immaterial, or unimportant”.

108. Further, Annexure to Rule 8 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 requires that certain listed factors as well as other relevant factors must be evaluated to determine market disruption or threat of market disruption. Any such evaluation will be different for different industries in different cases, depending on the facts of the particular case and the situation of the industry concerned. An evaluation of each listed factor will not necessarily have to show that each such factor is "declining". In one case, for example, there may be significant decline in sales, employment and productivity which may show "material injury" to the Domestic Industry, and therefore may justify a finding of market disruption. In another case, a certain factor may not be declining, but the overall picture may nevertheless demonstrate "material injury" to the Domestic Industry. Thus, in addition to a technical examination of all the listed factors and any other

¹⁶ Section 8C(7)(b) of the Customs Tariff Act, 1975

¹⁷ Section 8C(7)(c) of the Customs Tariff Act, 1975

relevant factors, it is essential that the overall *position* of the Domestic Industry is evaluated, in light of all the relevant factors having a bearing on the situation of that industry.¹⁸

109. Accordingly, in analyzing market disruption or threat of market disruption all factors, which are mentioned in the rules as well as other factors which are relevant for determination of market disruption or threat of market disruption, have been considered. All relevant factors within the context of the relevant business cycle and conditions of competition which are relevant to the affected industry have been considered. The determination of market disruption or threat of market disruption is based on evaluation of the overall position of the Domestic Industry, in light of all the relevant factors having a bearing on the situation of that industry.

110. The following factors have been considered appropriate and relevant to determine existence of continued threat of market disruption or market disruption:

a. Demand: Demand or apparent consumption of the product in India has been determined as the sum of Indian production and imports from all sources. Exports made by the Indian Producers have been excluded from the computation in order to ascertain apparent consumption. It is noted that the demand of Electrical Insulators has shown a positive trend throughout the period. The Domestic Industry contended that the demand for the product under consideration cannot in fact decline, given the Govt. of India program for fresh power generation facilities, and that the demand is bound to increase further.

SN	Year	Unit	2008-09	2009-10	2010-11	2011-12
1	Imports from					
A	China	MT	11,891	16,282	26,376	35,782
B	Other Countries	MT	364	517	405	573
2	Domestic Industry sales	MT	58,684	65,663	76,384	68179
3	Other Indian Producers sales	MT	29,630	30,805	28,970	28,181
4	Total Demand	MT	100,569	113,531	132,810	132,715

It is seen that whereas demand for the product under consideration showed positive trend throughout the period, the sales volumes increase in Chinese imports was far more than increase in demand. Further, whereas the demand was positive, the Domestic Industry has had negative sales. This negative trend in sales is despite fresh capacity additions by the Domestic Industry.

It has been argued by some interested parties that Chinese imports are in that market segment where the Indian producers are not present. It has also been argued that only some market segments were open to International Competitive Bidding (ICB). PGCIL has in fact reserved certain product types only for domestic bidding. However, the fact that PGCIL had not opened its entire requirement to global bidding at the least establishes that the present surge in import is in fact lower than what it could otherwise have been.

b. Rate and amount of increase in imports – the Rules require examination of the rate and amount of increase in imports from China in absolute term and relative terms. As noted hereinabove, imports of the

¹⁸ Based on Para 139 of Argentina footwear Case Appellate Body Report Of WTO

product under consideration from China increased rapidly in absolute terms and in relation to production and consumption in India. It is noted that imports have increased in every successive year.

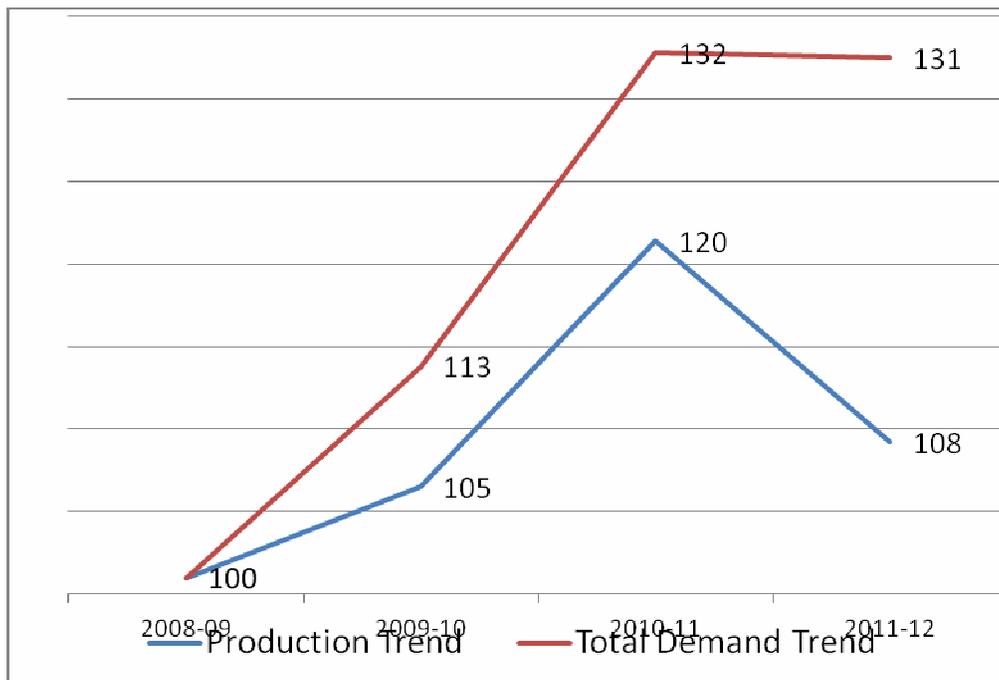
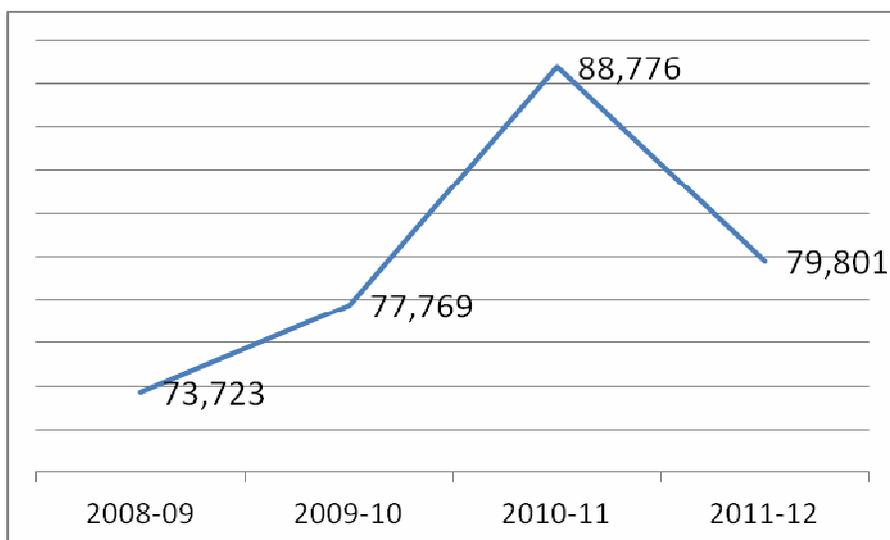
c. **Market share-** the market share of the Domestic Industry has declined significantly during 2011-12. The market share of the Domestic Industry has declined from 58.35% in 2008-09 to 51.37% in 2011-12 whereas that of Chinese imports has increased from 11.82% in 2008-09 to 26.96% in the 2011-12. The Chinese imports have captured the market share of the Domestic Industry as well as other Indian producers which can be seen from the declining market share of other Indian producers. The market share of other countries has also declined. The surge in Chinese imports of Electrical Insulators has adversely impacted the market share of the Domestic Industry. This decline in the market share of the Domestic Industry is despite significant addition to the production capacities by the Domestic Industry.

Financial Year	Unit	2008-09	2009-10	2010-11	2011-12
Imports from China	MT	11,891	16,282	26,376	35,782
Other countries imports	MT	364	517	405	573
Domestic Industry sales	MT	58,684	65,663	76,384	68179
Other domestic producers sales	MT	29,630	30,805	28,970	28,181
Demand/consumption in	MT	100,569	113,267	132,135	132,715
Share in demand/consumption					
Imports from China	%	11.82%	14.34%	19.86%	26.96%
Other countries imports	%	0.36%	0.46%	0.30%	0.43%
Domestic Industry sales	%	58.35%	57.84%	57.51%	51.37%
Other domestic producers sales	%	29.46%	27.37%	22.32%	21.23%

Further, the present increase in Chinese market share on one hand and decline in market share of the Domestic Industry on the other hand is required to be seen in the context of significant pending supplies situation in respect of PGCIL orders. Against cumulative orders of Rs. 1100 crores placed by PGCIL, the information on record shows that significant quantities are still pending delivery. Had supplies against all the pending orders being effected, the market share of China in demand for the product would have been substantially higher than above levels.

e. **Production-** The production has been determined on the basis of production reported by the Domestic Industry in its excise records. It would be seen that the production of the Domestic Industry has increased till 2010-11 but thereafter declined during 2011-12. This decline in production is despite the additions in capacities. It is also noted that demand for Electrical Insulators has shown consistent increase over the period. Thus, decline in production suffered by the Domestic Industry is despite continued increase in demand for the product in the Country.

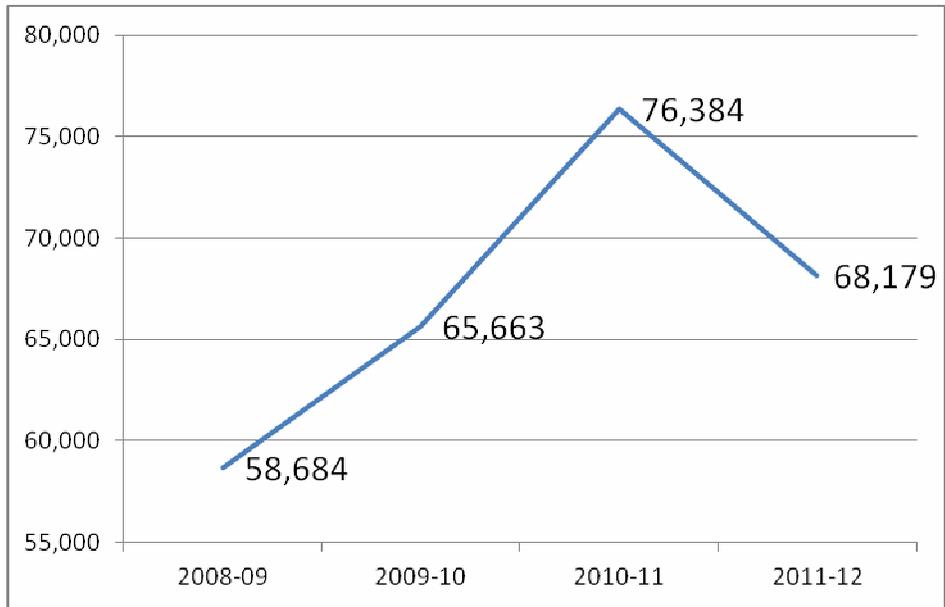
Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Production	MT	73,723	77,769	88,776	79,801
Total Demand	MT	100,569	113,267	132,135	132,715



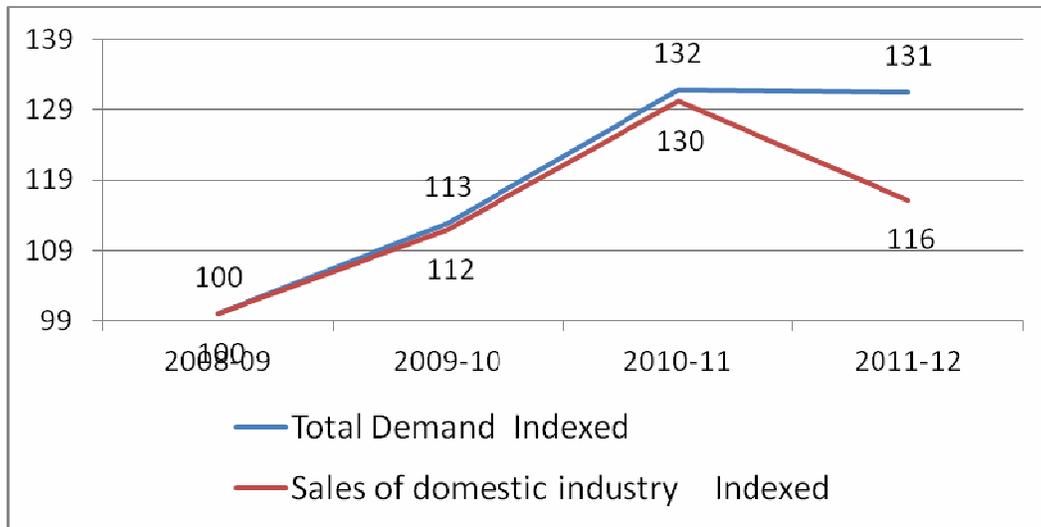
- f. **Sales:** The sale has been determined on the basis of goods cleared by the Domestic Industry from their factory premises, as reported in their excise records:

(Source: Domestic Industry)

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Production	MT	73,723	77,769	88,776	79,801
Sales of Domestic Industry	MT	58,684	65,663	76,384	68,179
Sales of other Indian Producers	MT	29,630	30,805	28,970	28,181
Total Demand	MT	100,569	113,267	132,135	132,715
Exports	MT	13,312	11,393	11,821	11,340



It is seen that the sales of the Domestic Industry increased till 2010-11 but thereafter declined during most recent period i.e. 2011-12. It is noted that in relative term, sales of the Domestic Industry as percentage to total demand of the product has declined significantly with the surge in imports as can be seen from table on market share.



It is further noted that the Chinese imports have increased as a % of the domestic sales of the Domestic Industry. The Chinese imports were 20% of Domestic Industry sales in 2008-09, which increased to almost 52% in 2011-12 clearly showing the increased in imports and its effect on domestic sales of the Domestic Industry.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Import from China	MT	11,891	16,282	26,376	35,782
Sales of Domestic Industry	MT	58,684	65,663	76,384	68,179
Chinese Imports as a % of sales of Domestic Industry	%	20%	25%	35%	52%

(Source: Domestic Industry)

The Domestic Industry further contended that the market disruption to the Domestic Industry gets established by the table below showing the volumes of business given to Domestic Industry and Chinese manufacturers by one of the largest consumers/buyers of product under consideration. It would be seen that the largest consumer PGCIL was sourcing its requirement of Insulators in large volumes from the Domestic Industry, but now it is buying in significantly increased quantities from China. The single largest consumer at present is practically buying from China in view of significant price difference between domestic and imported product.

(Quantity in Nos.)

Product	Year	Supplies ordered			Share of	
		Domestic	Imports	Total	Domestic	Imports
400 kV	2008-09	4599271	230798	4830069	95%	5%
	2009-10	3789351		3789351	100%	0%
	2010-11	1054235	514786	1569021	67%	33%
	2011-12	252228	100740	352968	71%	29%
765 kV	2008-09	1614202	1798754	3412956	47%	53%
	2009-10	-	-	-	-	-
	2010-11		6669865	6669865	NIL	100%

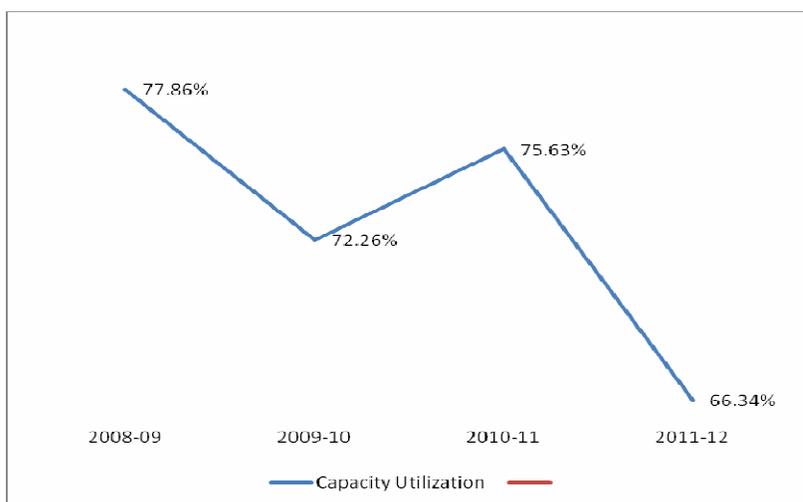
(Source: RTI replies by PGCIL provided to Domestic Industry)

- g. **Capacity utilization:** The Domestic Industry has added capacity over the period. The Domestic Industry contended that the addition to capacity is in view of present and potential demand of the product in the market. It is noted that the Domestic Industry added capacity throughout the injury period and despite these additions in capacity, the Domestic Industry was able to improve its capacity utilization in 2010-11, after some decline in 2009-10. However, capacity utilization fell sharply in 2011-12 to 66.34%. The capacity utilization of Domestic Industry in the most recent period is at the lowest level. The expansion in capacity in 2011-12 was 2.4% over 2010-11 but the capacity utilization declined by about 9.3% during the same period due to increase in imports and consequent decline in sales and production.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Installed capacity	MT	94,684	107,622	117,380	120,290
Production	MT	73,723	77,769	88,776	79,801
Capacity Utilization	%	77.86%	72.26%	75.63%	66.34%

(Source: Domestic Industry)

Besides Domestic Industry, M/s BHEL, supporter of the petition, have confirmed that they have the installed capacity of 17828 MT in addition to the capacity of Domestic Industry.



Petitioners contend that the Indian industry enhanced its capacities having regard to the present and potential demand of the product in the country. The petitioners further contended that the Indian producers expanded their capacities based on the projections drawn by Central Electricity Authority, Ministry of Power and PGCIL. However, whereas Indian producers enhanced their capacities, the Chinese producers quoted lower prices and took away the demand which was legitimate expectation of the Indian producers.

The interested parties have contended that Chinese producers have supplied the goods because of inability of the Indian Industry to supply certain product types and high end products required by the Indian consumers. PGCIL, one of the largest consumers of the product stated that Indian producers “might not have the requisite operational experience to supply Glass/ Porcelain Insulators of high ratings required for transmission of power at higher voltage levels”. However, if this was the reason for procurement of insulator, PGCIL could not have approved the Indian producers for supply of goods. Having approved the supplies technically and having allowed the domestic producers to participate in the tender, PGCIL could not have assumed that there might be some supply constraints with the Indian producers.

g. Inventories: It is seen that as the market share of the Domestic Industry was declining and that of imports was increasing, inventories with the Domestic Industry were rising. The Domestic Industry was unable to increase its sales volume (sales volumes in fact declined) and had to face the problems of accumulated inventories. The closing stock of Domestic Industry increased from 6,038MT in 2008-09 to 6,319MT in 2009-10, declined in 2010-11 to 5959 but thereafter increased in 2011-12 to 6677MT.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Production	MT	73,723	77,769	88,776	79,801
Domestic Sales	MT	58,684	65,663	76,384	68,179
Export Sales	MT	13,312	11,393	11,821	11340
Closing stock	MT	6,038	6,319	5,959	6,677

(Source: Domestic Industry)

h. Employment and Productivity: there is an increase in the level of employment with the Domestic Industry, with the increase in installed capacities. The productivity of the Domestic Industry has shown the same trend as that of production. It has been contended by the Domestic Industry that insulator industry is highly labour intensive industry and such market disruption to the Domestic Industry would lead to loss of employment in the country. It is further submitted that apart from the permanent labour employed by the constituents of the Domestic Industry (for which information has earlier been provided in the petition), there is significant contract labors employed by the Domestic Industry. There is significant decline in employment through contract labor.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Employment	Nos	6,130	6,788	6,885	6,827
Production	MT	73,723	77,769	88,776	79,801
Productivity per employee	MT/Nos.	12	11	13	12
Productivity per day	MT/day	205	216	247	222

i. Price undercutting, suppression/depression:

A comparison of the prices offered was made to examine the extent to which the Chinese product is cheaper as compared to the price offered by the Domestic Industry. It is noted that weighted average landed price of imports, after addition for basic customs duty (additional duty of customs has not been considered, as the excise duty paid by the Domestic Industry has also not been considered) is significantly lower than the selling price of the Domestic Industry.

Period	Net Selling Price of domestic industry	Landed price of imports	Price undercutting
	Rs/MT	Rs/MT	Rs/MT
2008-09	100	69	31
2009-10	100	79	21
2010-11	100	93	7
2011-12	100	98	2

(Source : Domestic Industry)

The landed price of imports is significantly lower than the selling prices of the domestic industry as is evident from the table above. The imports are available at prices lower than the selling price of domestic industry making it attractive for consumers to switch over to imports. Due to low priced imports domestic industry is facing decline in production, capacity utilization, profits and return on investment. The imports are undercutting the prices of the domestic industry and forcing the domestic industry to offer sub-optimal prices. The domestic industry has been facing decline in profits and return on

investment.

The trend in cost of production and selling price is also examined. It is seen that whereas both the cost of production and selling price increased, the increase in selling price is less than the increase in cost of production. The imports are suppressing the Domestic Industry prices in the market.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Cost of Sales	Rs/kg	****	****	****	****
Selling price	Rs/kg	****	****	****	****
Trends in					
Cost of sales	Indexed	100	89	94	102
Selling price	Indexed	100	90	93	93

The information on record also shows that the Chinese producers have been increasingly awarded contracts by PGCIL since the Chinese producer's prices have been much less than Indian producers' prices in these contracts. The table below gives number of contracts awarded to Chinese and domestic producers by PGCIL. It is evident that Chinese exporters have captured nearly 80% of the orders in view of the lower prices quoted by them.

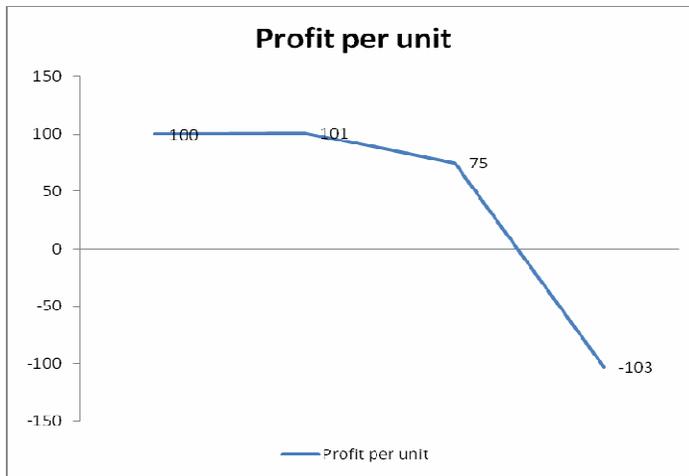
SN	Year	Total Tenders	Tenders Awarded		Value(Crores)	
			China	India	China	India
A	Number of tenders awarded					
1	2009-10	21	9	12	441	354
2	2010-11	20	12	8	227	101
3	2011-12	41	31	10	432	102
B	Ratio between Indian producers and Chinese Suppliers		Ratio of Orders		Ratio of Value	
1	2009-10		43	57	55	45
2	2010-11		60	40	69	31
3	2011-12		76	24	81	19

(Source: Information provided by PGCIL)

j. Profit/loss: The Domestic Industry has reported profit before tax, duly certified by a practicing Chartered Accountant. The profit reported by the Domestic Industry is considered in respect of product under consideration relating to its domestic operations only.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Cost of Sales	Rs/MT	****	****	****	****
Selling price	Rs/MT	****	****	****	****
Profit/loss per unit	Rs/MT	****	****	****	****
Profit on gross domestic sales	Rs Lacs	****	****	****	****

Trends					
Profit per unit	Rs/MT (Indexed)	100	101	75	-103
Profit on gross domestic sales	Indexed	100	113	97	-120



(Source: Domestic Industry)

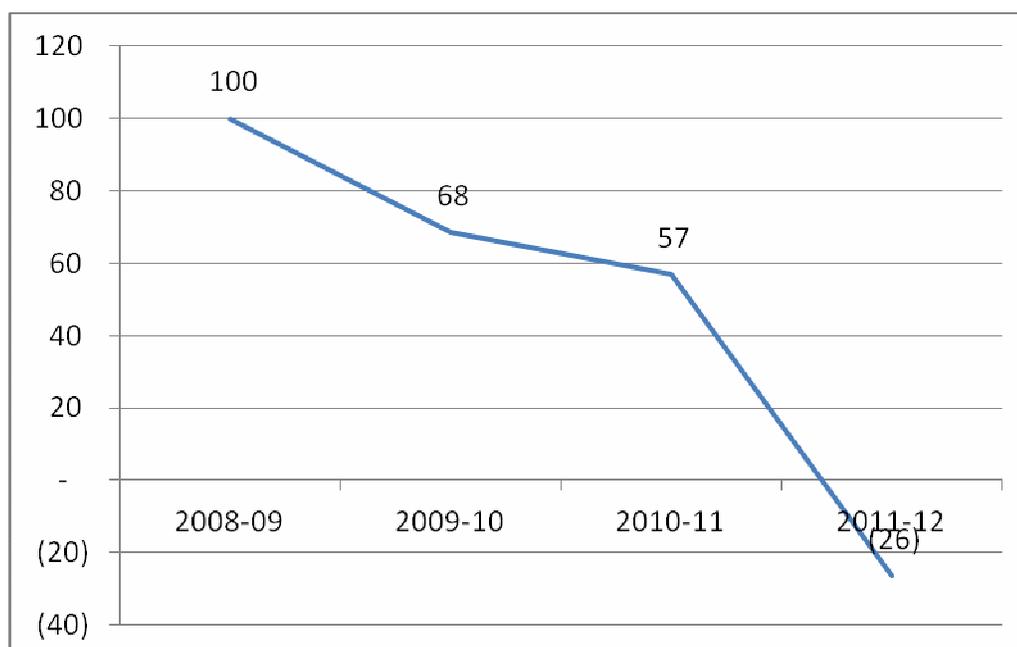
It is noted that the Domestic Industry has significant export activities in relation to the product under consideration. Profit earned by the Domestic Industry in the exports operations have been segregated and has not been considered for the purpose of analyzing impact of increased imports on the profits earned by the Domestic Industry. The profit earned by the Domestic Industry has thus been considered in relation to Electrical Insulators relating to domestic market only.

It is noted the profits of Domestic Industry declined throughout the injury period with significant losses in the most recent period. It has been contended by the Domestic Industry that due to availability of the cheap imports from China, the Domestic Industry in order to sustain in the market is forced to maintain or even reduce its prices to individual customers, despite increase in costs. The low priced imports have compelled the Domestic Industry not to increase the prices despite cost increases, which resulted in significant financial losses being suffered by Domestic Industry.

- k. **Return on investment:** The Domestic Industry has reported its return on investment considering profit before interest and taxes, earned in the domestic operations relating to the product under consideration alone. Capital employed has been considered in respect of product under consideration for the domestic operations alone. Returns on investment have been determined considering profit before interest and capital employed by the Domestic Industry. Capital employed for the purpose has been considered as net fixed asset plus working capital. It is seen that return on investments showed the same trend as that of profitability. The return on investments have declined from 100 points in 2008-09 to (26) points in 2011-12.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12
Profit before interest	Rs Lacs	****	****	****	****
Capital employed	Rs Lacs	****	****	****	****
Return on capital employed	%	****	****	****	****
Trends	Indexed	100	68	57	(26)

(Source: Domestic Industry)



(IV). Conclusion –The imports of the product under consideration have increased significantly in absolute terms and in relation to production and consumption in India. As a result of significant surge in Chinese imports, the Domestic Industry has suffered market disruption in terms of decline in market share of the Domestic Industry; decline in sales volumes, production & capacity utilisation; increase in inventories; deterioration in productivity, significant decline in profitability and return on investments. The imports are undercutting the prices of the Domestic Industry. Consequently, the Domestic Industry has suffered decline in profits and return on investment. It is thus evident that material injury to the Domestic Industry has been caused by the increased imports of the product under consideration from China.

111. Further, China continues to have growing surplus production and surplus capacity. Significant price difference between the domestic and imported product indicates the likely adverse price effect of increased imports on Domestic Industry. Considering the net selling price of the Domestic Industry for the subject goods, the price difference between domestic and Chinese price is

significantly high and is likely to remain positive making the imports lucrative and posing continued threat of increased import.

(V). Other factors causing Market Disruption or threat thereof:

112. The Para (2) of Annexure to Rule 8 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002 lays down that *The determination referred to in subparagraph (1) shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the article concerned and Market Disruption or threat thereof. When factors other than increased import are causing "Market Disruption" to the Domestic Industry at the same time, such "Market Disruption" shall not be attributed to increased imports.*

As such, the possible other factors that may be attributed to the market disruption to Domestic Industry have been examined. Followings are relevant in this regard –

- a) Possible decline in demand of the product: There is no contraction in demand of Electrical Insulators in India. Demand of the product in India has shown significant increase over the years.
- b) Changes in the patterns of consumption: The pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have contributed to the market disruption to the Domestic Industry.
- c) Trade restrictive practices of and competition between the foreign and domestic producers: There is no trade restrictive practice which could have contributed to the market disruption to the Domestic Industry.
- d) Developments in technology: Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of market disruption.
- e) Export performance: There is no significant decline in export volumes in 2011-12 as the exports have remained steady.
- f) Global competition: The Domestic Industry is operating in competition with the global players and therefore the quality supplied by them is at par with international standards.
- g) Imports from third countries – The imports from other countries are not increasing and their volume is also insignificant. Thus, other countries imports are not the cause of market disruption to the Domestic Industry.

It is seen from the above that factors other than increased imports are not causing market disruption to Domestic Industry.

(VI). Causal Link between Increased Import and Market disruption or Threat of Market disruption:

113. A comprehensive evaluation of parameters as above demonstrates that market disruption and imminent threat of market disruption is being caused by increased imports.

114. For the purpose of determining causation, all relevant factors of an objective and quantifiable nature having a bearing on the situation of the industry have been evaluated. In the instant case, the imports are available at prices lower than the selling price of Domestic Industry. The consumers are increasingly switching over to imports, thus forcing the Domestic Industry to offer sub-optimal

prices. The Domestic Industry is faced with losing sales and rising inventory. The production, capacity utilization, profits, return on investment, are all declining due to continued presence of low priced imports. The imports are undercutting the prices of the Domestic Industry. Consequently, the Domestic Industry has suffered decline in profits and return on investment. It is thus evident that material injury to the Domestic Industry has been caused by the increased imports.

115. It is noted that the increasing no. tenders being awarded to the Chinese manufacturers by PGCIL and increased quantities of product under consideration entering the Indian market from the subject country, clearly show that market disruption to the Domestic Industry is caused due to increased imports.

(VII). Public Interest:

116. Article 3 of the Agreement on Safeguards states as follows:

1. A Member may apply a Safeguard measure only following an investigation by the competent authorities of that Member pursuant to procedures previously established and made public in consonance with Article X of GATT 1994. This investigation shall include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentations of other parties and to submit their views, inter alia, as to whether or not the application of a Safeguard measure would be in the public interest. The competent authorities shall publish a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law.

117. The imposition of Safeguard duty can affect different players differently and the impacts may not always be most suitable for all the different economic players when they have competing interests. Therefore interests of various economic player groups have been analyzed based on the available information

118. Some interested parties have argued that imposition of Safeguard duty would not be in public interest on the ground that (i) most domestic enterprises in India will not manufacture high voltage Insulators in the near future, (ii) in case any Safeguards duties are imposed Power Grid Corporation and local power grids will have to import with higher costs. PGCIL has also contended that imposition of Safeguard duty on orders already placed by PGCIL shall not only add to the PGCIL procurement cost of Insulators but also will result in enhanced transmission tariff ultimately causing additional cost burden on general public at large, (iii) Safeguard measures will increase the cost to the users rather than relieve the alleged market disruption.

119. Disputing the claims of the interested parties, the Domestic Industry contended as follows

- a. if the current situation is allowed to continue, the Indian Domestic Industry will face further decline, eventually allowing foreign producers increased leverage.
- b. the past experience of India wherein the Chinese equipment has failed which took the Chinese producers almost 81 days to replace the same, clearly shows the lack of prompt services (which the Domestic Industry can easily provide) establishes the need for Domestic Industry in the larger public interest.
- c. if the Domestic Industry is made to suffer market disruption, it will eventually be wiped out and the consumers will be left at the mercy of the Chinese producers in view of practically negligible imports from other countries.
- d. further, Safeguard duty is in public interest in view of (i) insignificant financial impact of the proposed measures on the immediate consumer and eventual public at large, (ii) the need for

Domestic Industry in the country (iii) sufficient capacity in the country to meet the present and potential demand (iv) the need for prompt breakdown servicing (v) significant financial and other impacts of breakdown on the consumers and public at large, (vi) long life of the product but short warranty/guarantee period (vii) labour-intensive nature of industry and consequent adverse impact of market disruption on the employment in the industry and the Country (viii) the fact that the production process is continuous and therefore the Domestic Industry must be able to fully feed its production shops.

- e. the contention of PGCIL with regard to additional burden on eventual consumer in untenable in view of grossly insignificant impact, if any, of the proposed measures. The burden on the tariff shall be miniscule, considering 30 years life of Insulators proposed to be procured and installed.

120. An examination of the competing interests of different economic operators and public at large has been carried out. In this respect, it is important to keep the prime objective of transitional Safeguard laws in mind, which is to address market disruption to the Domestic Industry because of increased Chinese imports. It is in the interest of all to keep a healthy and competitive Industry. As regards the argument that most domestic enterprises in India will not manufacture high voltage Insulators in the near future, it is noted that the petitioner companies and BHEL are in fact able to produce and supply most of the product types required in the Country. It is also noted that submissions made by BHEL with regard to their capabilities and efforts made by them to provide new generation product types have remained undisputed. The fact is that successive tenders were taken away by Chinese suppliers by successively quoting lower prices in bids for high voltage Insulators.

121. Further, as regards the argument that Safeguard measures will increase the cost to the users rather than relieve the alleged market disruption, no quantified claim has been made by the interested parties. The imports from China, likely to be affected by Safeguard duty constitute 27% of the market share during the period of surge which is less than 1/3 rd of the market share. The Domestic Industry has sufficient capacities and capability to meet the present and potential demand of the product in the country and therefore imports can be avoided.

122. However if the consumers continue to import from China at the same levels, the imposition of Safeguard duty will have minimal impact on the cost. The petitioners have claimed that the cost of Electrical Insulators for the consumers is in the region of 5% of transmission and sub-station costs. Considering 30% as share of imports from China and minimum 20 years life for Insulators, the average annual cost of Insulators works out to only 0.075% i.e. $[(5 \times 30\%)/20]$ which implies a very low incidence of Safeguard duty on a part of total project cost.

123. It is apparent that if the Safeguard measures are not taken, both the prices and market share of Domestic Industry will further decline, resulting in further financial losses to the Domestic Industry to the extent of getting the Domestic Industry unviable and consequent loss of employment as well as loss of strategic and economic interest to keep the domestic market competitive. The imposition of Safeguard duty would allow the Domestic Industry to remain competitive and, at the same time, users/buyers will have a wider choice to source their material requirements, that too at competitive prices. It is therefore concluded that imposition of Safeguard duty is not likely to have an adverse impact on the stakeholders in this case.

(VIII). Simultaneous Anti-dumping duty and Safeguard duty:

124. The interested parties have opposed imposition of Anti-dumping duty and Safeguard duty simultaneously. They have submitted that imposition of both duties at the same time is not in the public interest. The issue has been analyzed. It is a fact that anti-dumping duty is also a trade remedy

measure to counter and neutralize the ill effects of dumped imports through raising tariff barrier. Safeguard duty is a measure to protect the Domestic Industry from injurious effects of increased imports by raising tariff barrier. Both the duties have one function in common i.e. neutralizing injurious effects of imports, besides other functions.

125. The Domestic Industry is legally justified for filing the present application. WTO laws also permits the same. No violation of either domestic or international law has been pointed out by the interested parties. It is also noted that the anti dumping duty will be based on a different investigation period, whereas the present Safeguard duty is being proposed based on much more recent period.

It is however clarified that the present recommendations are being made considering material injury, if any, suffered due to market disruption by the Domestic Industry and on the basis of level of profit that is considered appropriate. In the event of imposition of anti dumping duty, the material injury already proposed to be addressed by the Director General is required to be appropriately considered. The petitioners have in fact consented to restricting anti dumping duty and Safeguard duty relief to the total determined injury to the Domestic Industry. As such, there would not be dual protection against the same injury.

(IX). Conclusion:

126. In view of the findings above, it is concluded that:

- a. Increased imports of Electrical Insulators from People's Republic of China have caused and threatened to cause market disruption to the Domestic Industry/ producers of Electrical Insulators;
- b. A causal link exists between the increased imports and market disruption/threat of market disruption
- c. It will be in the public interest to impose Safeguard duty on import of Electrical Insulators from China PR.

(X). Recommendation

127. In arriving at the amount of Safeguard duty that would be adequate to prevent market disruption weighted average cost of production and profit that is considered appropriate has been taken into account. The present level of duties, import prices as well as the appropriate level of competition required in the domestic market has also been considered in arriving at the Safeguard duty and gradual liberalization of the duty. Further, the calculated Safeguard duty has been moderated downward to allow imports to maintain competition in domestic market in the interest of end users and consumers.

It is however clarified that the present recommendations are being made considering material injury, if any, suffered due to market disruption by the Domestic Industry. In the event of imposition of anti dumping duty, the injury already proposed to be addressed by the Safeguard duty is required to be appropriately considered.

Based on the above, it is recommended that Safeguard duty be imposed on imports of “Electrical Insulators, made of Glass or Porcelain/ Ceramics, whether assembled or unassembled, falling under customs classification 854610 and 854620” imported from China PR into India for a period of two years at the rates specified below as being the minimum necessary for the protection of the Domestic Industry from the market disruption caused and threatened to be caused by the increased imports of the products under consideration from Peoples Republic of China.

CTH	Description	Rate of Safeguard Duty	
		1 st year	2 nd year
8546	<i>Electrical Insulators</i>		
8546 10	- <i>Of Glass</i>	35%	25%
8546 20	- <i>Of Ceramics / Porcelain excluding Telephone/Telegraph Insulators, and other Electrical or Electronic Appliances/Device Insulators and Electrical Insulators of voltage rating up to 1 kV</i>	35%	25%

Sd/-

(Indrani Dutt Majumder)

Director General

(F.NO.D-22011/14/2011)