Department for International Trade

Trade Remedies Investigations Directorate
☐ Confidential ☒ Non-Confidential

Anti-dumping and Subsidy Investigations:

Application form

When you have completed this form, indicate the **confidentiality** of this document by placing an X in the relevant box below:

☐ Confidential
X Non-Confidential – will be made publicly available

Please note that you will have to provide **two copies of your response** – a **Confidential** and a **Non-Confidential version.** Both copies should be returned to TRID using the Trade Remedies Service (www.trade-remedies.service.gov.uk).

Contents

Instructions

About us

The Trade Remedies Investigations Directorate (TRID) is part of the UK's Department for International Trade. It carries out trade remedies investigations to find out if a new trade measure may be needed to counter dumped or subsidised imports or a sudden surge in imports.

The legislative framework that TRID operates under is found in the Taxation (Cross-border Trade) Act 2018) ('the Act') and the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ('the Regulations').

About you

You can apply to us to open an investigation if you are a UK producer of goods or a representative of a UK producer and you have evidence of unfair trade practices relating to the dumping or subsidy of goods imported into the UK.

You must provide sufficient evidence of dumped or subsidised goods being imported in the UK and that the dumped or subsidised imports have caused or are causing injury to the UK industry (in compliance with the Act)

You can find out more about our remit and how we work by reading our guidance on trade remedies investigations.

About this form

Complete this form and the relevant annexes if you want to apply for a new anti-dumping or subsidy investigation. This form will give us the information we need to decide whether to initiate an investigation into your concerns. You can find more information on how we assess applications in our guidance.

You must submit your application online through the Trade Remedies Service (https://www.trade-remedies.service.gov.uk). When you submit your application, you must also submit a non-confidential version (including the annexes) which doesn't contain any data you think is sensitive (for instance, commercial data about your company), as we are required to publish a copy of the application form. You can find out more about what can be considered confidential and how to prepare a non-confidential version of your documents in our guidance.

If you are considering submitting an application and would like to discuss it with someone first, please email contact@traderemedies.gov.uk. You can find more on completing this application in our Pre-Application Office and application assessment guidance.

If you have any issues or queries about using the Trade Remedies Service, please email help@traderemedies.gov.uk.

What happens next

Once you have completed this application form you can share a confidential version with the Pre-Application Office to get feedback before you formally submit your application. When you formally submit your application, you will need to submit a confidential and a non-confidential version of this form. Please upload these through our Trade Remedies Service at www.trade-remedies.service.gov.uk.

Once you have done this:

- you will receive an email confirming the documents have been uploaded successfully;
- the assessor(s) of your application will contact you if further information is required; and
- the assessor(s) of your application may contact you to arrange a visit to verify the information contained in your responses.

How to complete this application form

Please read and follow all the instructions carefully. You will need to provide evidence to support your concerns. You may need to attach supporting documents in appendices to supplement the answers you give.

Please also note the following points:

- Try to avoid leaving any questions blank. If the question isn't relevant to you, please try to explain why.
- If the answer to a question is "zero", "no", "none" or "not applicable", please write this rather than leaving the answer blank.
- If you feel you can't present the information as requested, please contact the Pre-Application Office by emailing contact@traderemedies.gov.uk.
- If there is not enough space in any part of the application form to provide a full answer, please attach appendices. Please ensure that any attachments are given a corresponding appendix reference in the title of the document and that these are referenced in the boxes provided.
- If you include any documents not in English, please provide an English translation.
- Provide all dates in the format DD/MM/YYYY (e.g. 23/05/2019).

- For all numerical figures, where appropriate please express every third number with a comma (e.g. ‘1,300’ for one-thousand three hundred, ‘1,300,000’ for one million and three-hundred thousand).
- Limit all sales/currency/income figures to two decimal places and use the appropriate currency symbol (e.g. £1,300.00).
- All figures should be reported net of tax unless otherwise stated.
- For definitions of the incoterms used throughout this document, please visit the International Chamber of Commerce.

About The Goods

This section of the application form is about the imported goods you want us to investigate. These imported goods will be referred simply to as 'the goods'.

You can only ask us to investigate imported goods if you (or the industry you represent) produce 'like goods'. Like goods are defined as goods which are similar to the goods under investigation in all respects or have characteristics which closely resemble them. When we decide what are like goods, we will consider the following non-exhaustive list of criteria:

- physical likeness, such as physical characteristics
- commercial likeness, including competition and distribution channels
- functional likeness, such as end-use or if the goods can be substituted for each other
- similarities in production, such as method and inputs
- other relevant characteristics

The Imported Goods

1. Describe the imported goods you are concerned about (if possible, please attach digital versions of images, brochures, catalogues, etc which show the goods in question).

I. The product concerned: single-mode optical fibre cables

1. The product subject to this Application is single mode optical fibre cables, made up of one or more individually sheathed fibres, with protective casing, whether or not containing electric conductors. This product is commonly referred to as "optical fibre cables" ("**the product concerned**").

2. Hybrid cables, which are fitted both with optical fibres and electrical conductors, fall within the product scope of the Application.

3. The following products are excluded from the scope of the Application:

   (i) *Multimode optical fibre cables* due to differences in construction, applications and costs.[1]

[1] **Annex A.1.1**, also available at https://www.belden.com/blog/smart-building/singlemode-multimode-fiber-differences

(ii) *Cables* in which all the optical fibres are individually *fitted with operational connectors* at one or both extremities; and

(iii) *Cables for submarine use* because they have different applications and are designed differently from land cables. More specifically, unlike land cables, submarine cables 1) have different constructions because they are subject to different external environmental constraints (e.g. water pressure); 2) use different types of fibres (typically G.654 fibres); 3) include a conductor to feed the optical repeaters, which generally contain copper or aluminium; 4) are priced higher than land cables; and 5) are usually sold inside turnkey projects, which include installation. Submarine cables are laid out on the seabed by using specially modified ships.

4. Optical fibre cables are usually imported in coils. They are subsequently cut to length according to customer specifications.

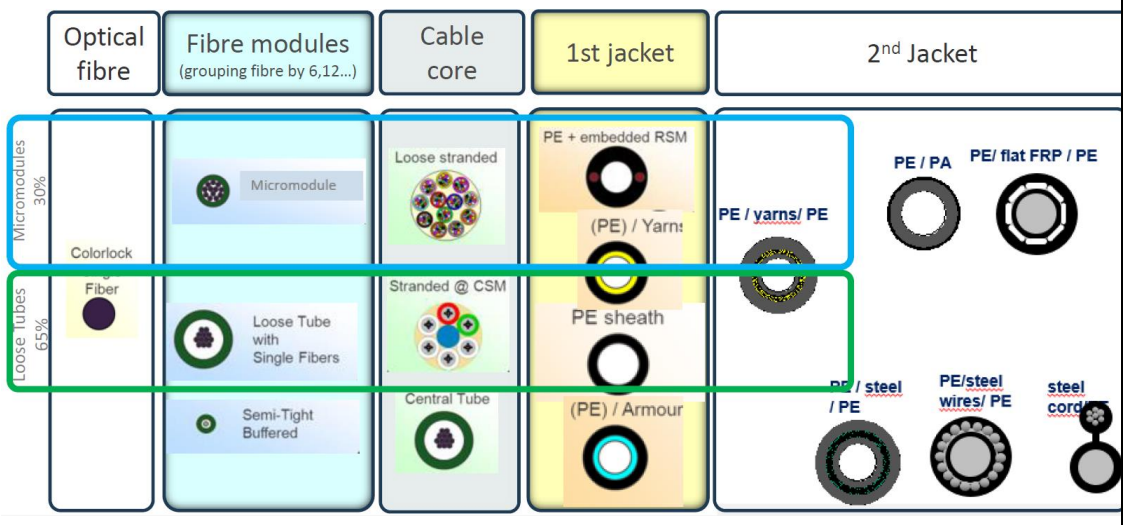
II. Characteristics of the product concerned

A. General description of the product concerned

5. A single mode optical fibre cable is used as a carrier to transmit a single spatial mode of light that is used for signal transmissions within certain bands.

6. As we will explain in more detail below, the construction of an optical fibre cable can be broken down as follows:

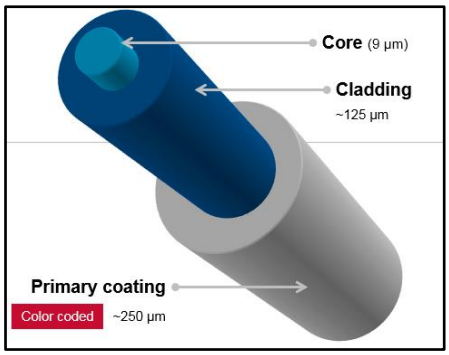
Cable construction summary



7. The main components of an optical fibre cable are:

(i) **Optical fibre**: A single mode optical fibre cable is made of an optical core which consists of thin strands of either glass or plastic and has a diameter of 9 microns.

It is composed of a core (a physical medium that delivers optical signals from where the light originates to the device that receives it), a cladding (a thin layer of glass that extends over the length of the core and which confines the light inside the core) and a coating (plastic that protects the fibre core and cladding from external forces and cable bends).



(ii) **Fibre module(s)** which groups a certain number of fibres (6, 12, etc.)

(iii) A **construction core,** which can have a Stranded Central Strength member ("**CSM**") (typically for micro-module cables), a central tube (typically for loose-tube cables) or some other central cores.

(iv) The **cable jacket(s),** which can be the innermost and/or outer protection layer that is made suitable for the environment in which the cable will be deployed. An optical fibre cable can have one, two or even three jackets which are composed of various materials, including polyethylene ("**PE**") and Halogen Free Flame Retardant ("**HFFR**").

(v) The **reinforcements not in the cable jacket** which take the tensile force that is applied to the cable during the installation process. The reinforcements can include aramid yarn (such as Kevlar) or other reinforcing yarns (such as glass, polyester or steel).

B. The different types of optical fibres contained in the product concerned

8. An optical fibre is the main input material of an optical fibre cable and its main cost driver. An optical fibre cable typically contains between 1 and 864 optical fibres, depending on the application required, but it is also possible that a particular cable contains several thousands of optical fibres.

9. The International Telecommunication Union ("**ITU**") is the specialised agency of the United Nations that is responsible for issues pertaining to information and communication technologies and assists in the development and coordination of technical standards. The most standardised single mode optical fibres defined by the ITU include, amongst others, the "*non-dispersion shifted fibre*" (G.652) and the "*bend*

insensitive single mode fibre" (G.657). These types of optical fibre cables are discussed below.

(i) **G.652 fibres**.[2] A single mode optical fibre cable which is referenced as G.652 has a zero-dispersion wavelength and can be used in the 1310 nm and 1550 nm regions. Both analogue and digital transmissions can be used with this type of fibre. Optical fibre cables with fibres referred to as G.652D constitute the most important category of the G.652 cables and represent about 80% of the cables sold in the UK market.

(ii) **G.657 fibres**.[3] Technologies for general transport networks and broadband access networks have been advancing rapidly. This has an impact on the demand for fibres and cables and on their optimal performance characteristics. The existence of a high-density network of distribution, the limited available space and the numerous manipulations, require an operator-friendly fibre performance and low-bending sensitivity. To this end, the ITU-T has recommended a fibre, i.e., the optical fibre G.657, which has improved bending performance compared with the G.652 single mode fibre.

10. The G.657 fibre was originally developed to be used in access networks, including inside buildings at the end of these networks. Within the G.657 fibres category, G.657.A fibres have been optimised for reduced macro-bending loss compared with G.652D fibres and could be deployed throughout the access network. G.657 fibres are a subset of the G.652D fibres: they are therefore compliant with G.652D fibres and have the same transmission and interconnection properties. Thus, G.657 fibres can be used for all networks where G.652D fibres are specified.

11. There are two main subcategories of G.657 optical fibres:[4]

(i) G.657.A1 optical fibre: the G.657.A1 fibre is appropriate for a minimum design radius of 10 mm.

(ii) G.657.A2 optical fibre: the G.657.A2 fibre is appropriate for a minimum design radius of 7.5 mm. It is used in advanced access cable network installations, where higher bend resistance is required for smaller cable jointing pits. A G657.A2 fibre allows for cable and hardware miniaturisation. A G657.A2 fibre has greater resistance to bending (macro-bend) losses and facilitates low-cost deployment techniques. It comes in patch cords that provide an improved bend radius and flexibility, which may allow for better cable management and routing in congested areas. The improved bend radius may also allow for increased density in high-

2 **Annex A.1.2,** detailed information on the characteristics of optical fibre cables G.652 can be found in the ITU-T's note on the "*Characteristics of a single-mode optical fibre and cable, G.652*".

3 **Annex A.1.3,** detailed information on the characteristics of optical fibre cables G.652 can be found in the ITU-T's note on "*Characteristics of a bending-loss insensitive single-mode optical fibre and cable, Recommendation ITU-T G.657*".

4 **Annex A.1.4**, also available at https://www.itu.int/dms_pub/itu-t/oth/0b/04/T0B040000542C01PDFE.pdf.

density patching fields. A G657.A2 optical fibre is becoming very popular in the Data Centre and Enterprise network deployments.[5]

12. The type of optical fibre that is used affects the final price of the product concerned. Generally, the pricing order of optical fibre cables, from lowest to highest, is as follows: (i) optical fibre cable G.652D; (ii) optical fibre cable G.657.A1; and (iii) optical fibre cable G.657.A2.

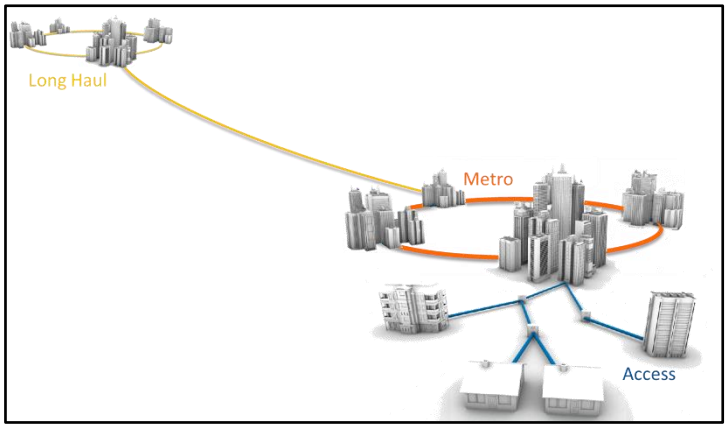
13. Optical fibre cables that include G.654 fibres are generally submarine cables.[6] These cables fall outside of the scope of the investigation.

C. Applications of the product concerned

14. Optical fibre cables are used in telecommunications networks such as long haul, metro and access networks:[7]

- ***Long Haul Networks***
  - Long Haul Networks transmit information over long distances in regions, countries, states and continents and connect Metro Networks. The optical fibre cable types deployed are, e.g., underground cables, aerial cables and submarine communications cables. These are outdoor cables engineered to withstand the more demanding conditions seen outside, from environmental extremes to mechanical forces.

- ***Metro Networks***
  - Metro Networks distribute signals within metro areas, e.g., cities, communities, etc., using outdoor cables.



5 **Annex A.1.5**, also available at https://wbnetworks.com.au/blog/g652d-vs-g657a2-singlemode-optical-fibres-differences-and-advantages

6 **Annex A.1.6**, also available at https://www.itu.int/rec/T-REC-G.654-202003-I/en

7 See, *An introduction to Telecommunication Cables*, 20 March 2013, p. 4, available at https://europacable.eu/wp-content/uploads/2021/01/Europacable_Introduction_to_Telecommunication_Cables_20_March_2013.pdf

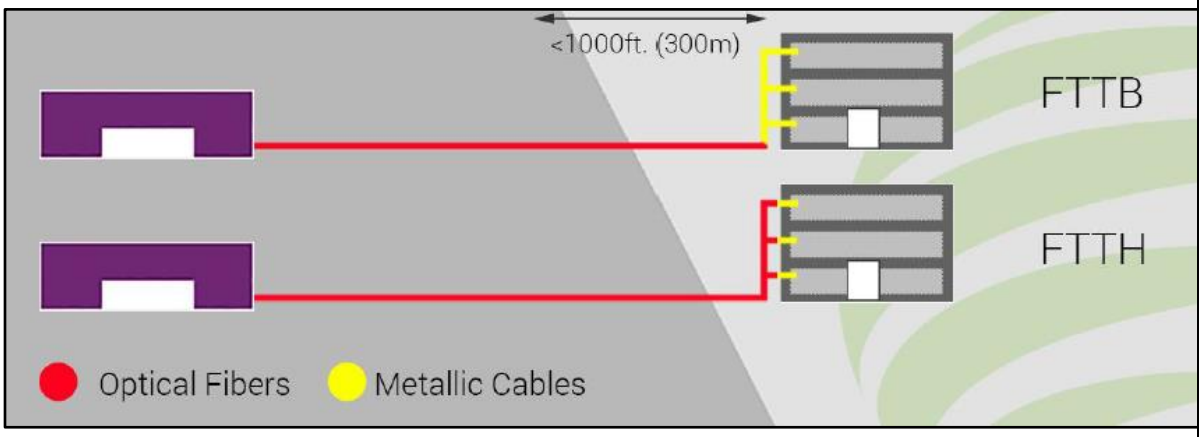
- ***Access Network***
  - ***Fibre to the home (FTTH):*** FTTH networks provide for fibre optic access solutions designed for residential deployments. Put simply, optical fibre cables are directly connected to individual homes or multi-tenant buildings.

  - ***Fibre to the building (FTTB)***: FFTB provide for fibre optic access solutions designed to connect apartment blocks and larger office buildings to the network.

15. For "*Fibre to the X*" (FTTx) applications (e.g., FFTH and FFTB), Indoor/Outdoor Cables are deployed: these cables are designed to meet both the rigorous environment of the outdoors but can be routed indoors, where flame-rating requirements also apply.

16. Indoor Cables are deployed to distribute the signals within buildings, apartments and offices: these cables are used exclusively within buildings and racks and must have a flame-retardant jacket to fit this purpose.

Figure 1: Examples of different types of access networks



D. Type of the product concerned

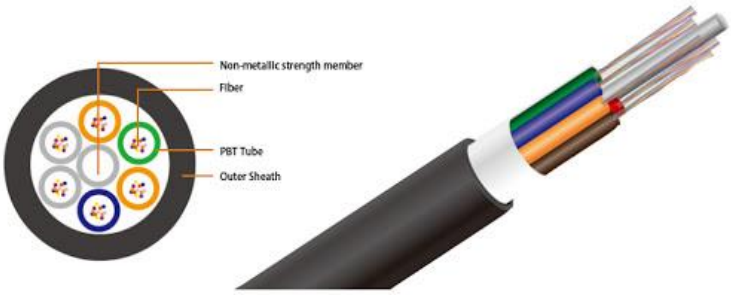
17. The product concerned produced and sold in the UK can be classified according to the technology and applications described below.

18. First, optical fibre cables can have **outdoor applications**. Outdoor cables are engineered to withstand demanding external conditions, from environmental extremes (such as high/low temperatures, humidity, chemicals or radiation) to mechanical forces (such as shock, vibration, tensile force or crush force). Outdoor cables comprise aerial

installations, which are suspended on poles or other tower infrastructure, and buried installations.[8]

(i) **Underground cables**. Underground cables can be differentiated based on the following technologies:

a. **Loose Tube (LT)**:[9] this is one of the most common technologies used in the UK. A loose tube buffer construction consists of a central tube (typically for fibre counts from 1 up to 24 fibres) or multi-tubes stranded around a central element (typically for fibre counts from 12 up to 864 fibres). The rest of the construction of the cable will contain one or more plastic jackets (typically of Polyethylene material) and different types of reinforcements or protection. Typically, cables that are installed in ducts will have one or two jackets with reinforcement elements made of yarns, while directly buried cables will have an additional corrugated steel tape to provide a stronger mechanical protection to the fibre.

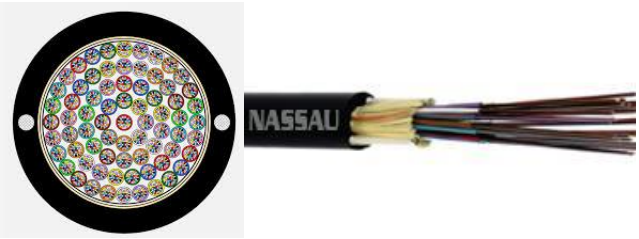


b. **Flexible Tube (or micro-module)**:[10] This is another common technology used in the UK. It is based on the use of more flexible tubes which are easier to manage and install than the Loose Tubes ones. The flexible tubes, which contain the fibres, are protected with one or two plastic jackets (typically of Polyethylene material) and different types of reinforcements or protection. Typically, cables that are installed in ducts will have one jacket with reinforcement elements made of glass reinforced rods, while direct buried cables will have an additional corrugated steel tape.

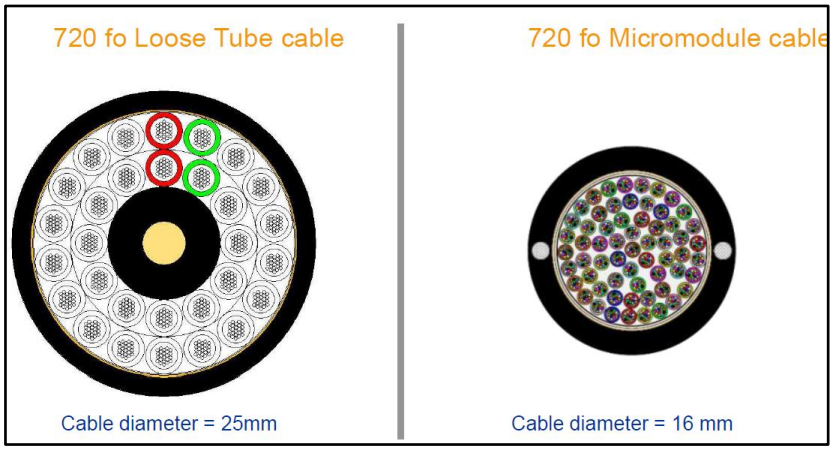
8 For more information on fibre optical outdoor cables, see for example https://www.corning.com/worldwide/en/products/communication-networks/products/fiber-optic-cable/outdoor-cables.html

9 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables).*

10 **Annex A.1.9**, Flex tube brochure.



As seen below, the flexible tube (or micromodule cable) can incorporate a higher number of fibres within a cable of a smaller diameter.



c. **Ribbon:**[11] A speciality cable: this technology is not that common in the UK. It is very suitable for high and very high fibre count cables. The main difference is that fibres are put in ribbons of 12 fibres that can be spliced at once, instead of doing it by single fibre to single fibre. For the rest of the construction of the cable, the logic is very similar to LT cables.

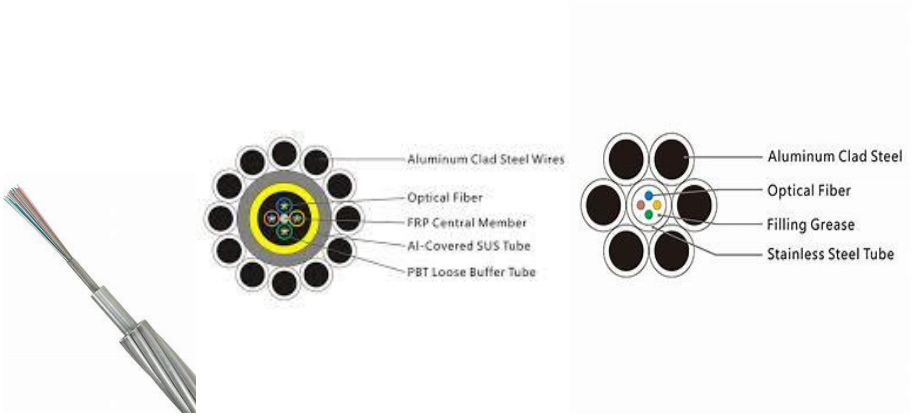
(drawing of a typical Ribbon cable)

(ii) **Aerial cables**. Aerial cables are installed by hanging the cables in towers or poles. We can distinguish at least three types: i) OPGW (Optical Power Ground Wire) that are cables installed on the top of the overhead transmission lines of the power utilities, ii) Figure 8 (fig-8) cables that are like Loose Tube cables but with the addition of a steel cable to support them after they are installed on top of

11 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables)*. See also **Annex A.1.10**, Ribbon brochure.

the poles, and iii) ADSS (All Dielectric Self Supporting) that can be installed in the bottom part of the overhead transmission lines of the power utilities or in the poles of any existing infrastructure.

a. **OPGW:**[12] A speciality cable: an Optical Power Ground Wire cable is a metallic cable composed of an optical core that contains the fibres in a central or multitube structure, with a protection of a metallic tube (made of aluminium or stainless steel) and one or two armours of metallic wires (aluminium alloy and aluminium clad steel wires) that provide the mechanical and electrical characteristics to the cable.



(drawing of a typical OPGW cable and its cross section)

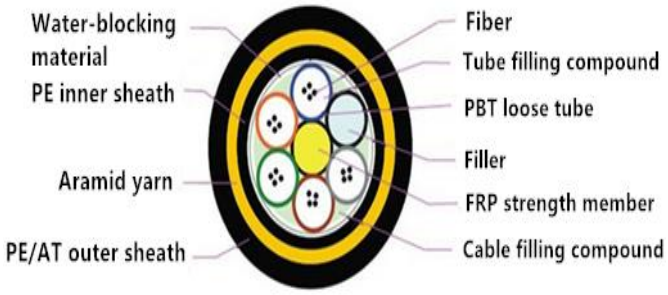
b. **Figure 8**:[13] A speciality cable: Fig-8 cables have the structure of a Loose Tube cable with a metallic messenger (typically a steel wire) that is extruded together with the optical core providing a figure 8 shape (see drawings below). The metallic messenger provides the mechanical strength to hang the cables on poles or towers.

12 **Annex A.1.11**, Integrated solutions for transport and distribution overhead networks (OPGW Brochure).

13 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables)*

(drawing of a typical Fig-8 cable and its cross section)

c. **ADSS:**[14] A speciality cable: all Dielectric Self-Supporting cables are non-metallic cables that can be installed in the towers of power lines or in poles. The optical core structure is very similar to a LT cable while the rest of the cable structure is reinforced with aramid yarns to provide the mechanical characteristics to allow to hang the cable.



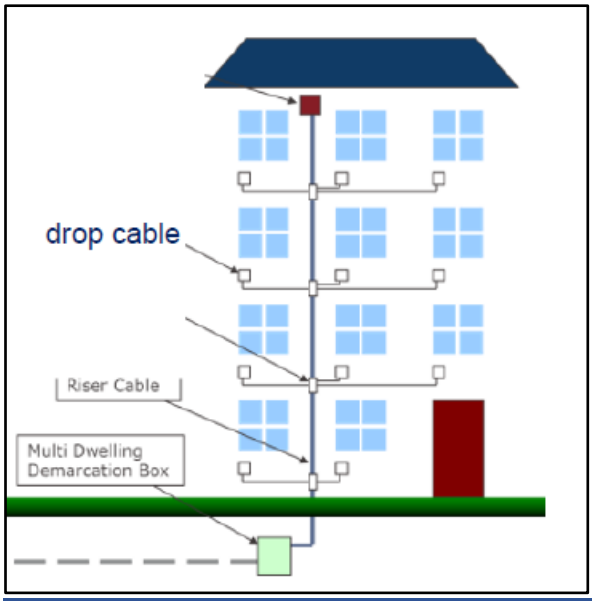
ADSS Stranded Structure

(drawing of a typical ADSS cable and its cross section)

19. Second, optical fibre cables can have **indoor applications** (referred to as Inside Plant Cables or "ISP"). These cables are used exclusively within buildings (such as IT rooms) and racks. Indoor cables are subject to strict regulatory requirements and standards: they have to be non-corrosive, low-smoke and have a flame-retardant jacket to fit this purpose.[15] Indoor cables are mainly divided into two types: i) vertical cables (also called riser cables), and ii) horizontal cables (also called drop cables).

14 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables).* See also **Annex A.1.12**, ADSS Brochure.

15 For more information on fibre optical indoor cables, see https://www.corning.com/worldwide/en/products/communication-networks/products/fiber-optic-cable/indoor-cables.html



a. **Riser cables**:[16] Riser cables are typically used in indoor applications for cabling multi-dwelling unit homes. The riser cables are used to connect vertically the basement of the building with all the floors of the building. Typically, they have a range of fibre count that goes from 12 to 48 fibres. The structure is very similar to a Loose Tube or a micro-module cable but with an outer jacket with low smoke and halogen free performances.

(drawing of a typical drop cable and its cross section)

b. **Drop cables**:[17] Drop cables are typically used to connect the end-user's premises. These cables are typically indoor cables although indoor/outdoor versions are also available. Fibre counts are relatively low, i.e. between 1 to 12 fibres. The structure is a central tube containing the fibres, plus some dielectric or metallic reinforcement covered with an outer jacket with low smoke and halogen free performances.

16 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables).* See also **Annex A.1.13**, Indoor Verticasa Brochure.

17 **Annex A.1.8**, *General Telcom Product Line Brochure (Loose Tube, Ribbon, Drop and Specialty Fiber Cables).* See also **Annex A.1.12**, Indoor Verticasa Brochure.

(drawing of a typical drop cable and its cross section)

20. Some indoor/outdoor cables are designed to meet the rigorous outdoor environment requirements but can also be routed indoors, where flame-rating requirements also apply.[18]

21. Finally, there are **special optical fibre cables** with low volume of sales that have niche applications. Examples include cables for oil refineries or cables for harsh industrial environments, etc.[19]

2. Explain where the imported goods you are concerned about are being exported from.

The product subject to this Application falls under CN code ex 8544.70.00.

3. Provide the tariff classification(s) for the imported goods.

The product subject to this Application falls under CN code ex 8544.70.00.

As further explained below, since this CN code also covers products other than the product concerned, adjustments have to be made to the import statistics extracted from the UK database.

4. Give details regarding whether the imported goods are currently subject to any anti-dumping/countervailing/safeguard measures or ongoing investigations in other countries.

To the best of the Applicant's knowledge, the following trade measures have been imposed on imports of preforms, optical fibres and optical fibre cables:

i) European Union: On 18 November 2021, the European Commission imposed definitive anti-dumping measures on EU imports of optical fibre cables originating

[18] For more information on fibre optical indoor/outdoor cables, see https://www.corning.com/worldwide/en/products/communication-networks/products/fiber-optic-cable/indoor-outdoor-cables.html .

[19] See **Annex A.1.14**, *Fibre optic systems for special applications*.

in China.[20] On 18 January 2022 the European Commission imposed definitive countervailing measures on EU imports of optical fibre cables originating in China.[21]

ii) United States: A 25% *ad valorem* duty was imposed on 20 June 2018 optical fibre cables originating from China under the Harmonized Tariff Schedule of the United States (HTSUS) 8544.70.00.[22]

iii) China: On 21 April 2011, China imposed anti-dumping duties against imported dispersion unshifted single-mode optical fibre originating in the EU and the US.[23] These measures were extended on 22 April 2017.[24]

On 1 January 2011, China imposed definitive anti-dumping duties against imported dispersion non-dispersion-shifted single-mode optical fibres originating in Japan and South Korea.[25] These measures were extended on 1 January 2017.[26]

On 13 August 2014, China imposed anti-dumping duties against imports of single-mode optical fibres originating in India.[27] These measures were extended on 13 August 2020.[28]

On 21 August 2015, China imposed anti-dumping duties against imports of optical fibre preform originating in Japan and the U.S.[29] On 12 July 2018, these measures were extended.[30] On 26 September 2020, the anti-dumping duty rate for imports of optical fibre preforms originating in Japan was adjusted following an interim review.[31]

20 Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China, L410/51.

21 Commission Implementing Regulation (EU) 2022/72 of 18 January 2022 imposing a definitive countervailing duty on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China L12/34.

22 **Annex A.1.15**, Timely Trump tariffs tax tech totally 25 per cent levy on modems, fiber optics, networking gear, semiconductors

23 Source: http://english.mofcom.gov.cn/article/policyrelease/announcement/201105/20110507575509.shtml

24 Source: http://english.mofcom.gov.cn/article/policyrelease/announcement/201705/20170502577388.shtml

25 Source : https://www.globaltradealert.org/intervention/15735/anti-dumping/china-extension-of-definitive-antidumping-duty-on-imports-of-non-dispersion-shifted-single-mode-optical-fiber-from-japan-and-the-republic-of-korea

26 Source: https://www.globaltradealert.org/intervention/15735/anti-dumping/china-extension-of-definitive-antidumping-duty-on-imports-of-non-dispersion-shifted-single-mode-optical-fiber-from-japan-and-the-republic-of-korea

27 Source: http://english.mofcom.gov.cn/article/policyrelease/buwei/201409/20140900725501.shtml

28 Source: https://www.globaltradealert.org/intervention/18440/anti-dumping/china-extension-of-definitive-antidumping-duty-on-imports-of-single-mode-optical-fibers-from-india

29 Source. http://english.mofcom.gov.cn/article/policyrelease/buwei/201510/20151001139385.shtml

30 Source: http://english.mofcom.gov.cn/article/policyrelease/buwei/201807/20180702766315.shtml

31 Source: http://english.mofcom.gov.cn/article/traderemedydatabase/201910/20191002904010.shtml

On 20 June 2020, Saudi Arabia increased the customs duty rates on imports of optic fibres[32] from 5% to 15%.

The Like Goods

1. Describe the like goods produced by the UK industry (if possible, attach digital versions of images, brochures, catalogues, etc).

The UK Industry produces all the optical fibre cables that have been described in the above section "Imported Goods". These cables have:

- the same general construction, namely optical fibres, fibre module(s), a construction core, cable jacket(s) and reinforcements not in the cable jacket.
- the same choice of type of optical fibre, including G.652 (D) fibres and G.657 (A1 / A2) fibres.
- the same applications, namely 1) outdoor applications, which include underground cables (loose tube, flexible tube and ribbon) and aerial cables (OPGW, figure 8 and ADSS) and 2) indoor applications (riser cables and drop cables).

Examples of brochures of the optical fibre cables produced by Prysmian have been provided in **Annex A.1.8** to **Annex A.1.14**.

Comparability between the Goods

1. Explain how the like goods produced by the UK industry are like the imported goods. Please cover the following aspects of the goods.

   The physical, technical, chemical and any other characteristics that describe the goods – explain any differences:

There are no differences with respect to physical, technical, chemical and any other characteristics between the optical fibre cables produced and sold in the UK and those produced in China and exported to the UK.

Optical fibre cables need to comply with customer technical specifications and the relevant international standards (see e.g., **Annex A.1.2** to **Annex A.1.4** and **Annex A.1.6**) established for this product sector.

[32] Source: https://home.kpmg/us/en/home/insights/2020/06/tnf-saudi-arabia-increased-customs-duties-effective-20-june-2020.html; See also the applicable duty rates for CN Code https://alborsaanews.com/app/uploads/2020/05/1590835573_225_1021081_.pdf

2. If the goods can be subdivided into separate models – provide details about each of the models, such as their product literature and technical documentation:

As explained in the section "Imported Goods", optical fibre cables can be separated into different models based on their application, namely 1) outdoor applications, which include underground cables (loose tube, flexible tube and ribbon) and aerial cables (OPGW, figure 8 and ADSS) and 2) indoor applications (riser cables and drop cables).

These cables may include different types of optical fibres, including G.652 (D) fibres and G.657 (A1 / A2) fibres.

Examples of brochures of the optical fibre cables produced by Prysmian have been provided in **Annex A.1.8** to **Annex A.1.14**.

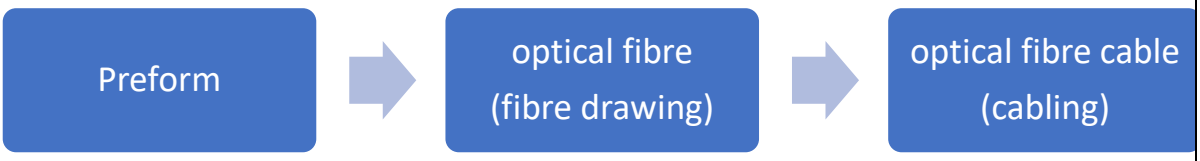
3. Give the tariff classification of the goods (customs commodity code) – if there are multiple models, provide the customs commodity code for each model:

The product subject to this Application falls under CN code ex 8544.70.00.

4. Summarise the production process of the goods in the UK and in the exporting country/countries. Make sure you explain if there are different production processes within the UK and/or the exporting country/countries concerned:

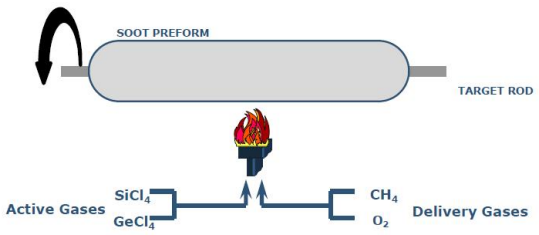
1. The production process of optical fibre cables in the UK and in China is the same.

2. The production chain for optical fibre cables can be summarised by the following diagram:



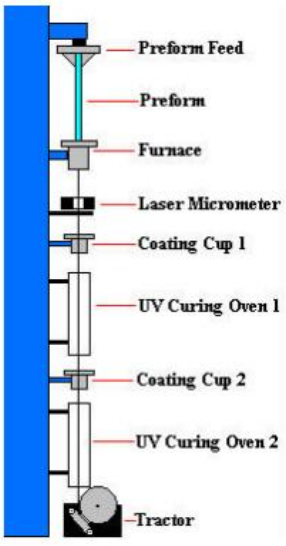
i) Preform: In the preform stage, a cylindrical preform is made by depositing layers of specially formulated silicon dioxide on the inside surface of a hollow substrate rod. The layers are deposited by applying a gaseous stream of pure oxygen to the substrate rod. The result is a glassy soot, several layers thick, deposited inside the rod. This soot will become the core.

Figure 2: Manufacturing process for preform



ii) Fibre Drawing: After being tested for quality control, the preform blank is loaded vertically into a fibre drawing tower (see **Figure 3** below). The preform blank is put into a furnace at temperatures ranging from 1,900 to 2,200 degrees Celsius. The preform tip melts until it falls by the effect of gravity, forming a molten glob, and then cools down to form a thread-like fibre. The operator threads the strand through a series of coating cups (buffer coatings) and ultraviolet light curing ovens onto a tractor-controlled spool. The tractor mechanism slowly pulls the fibre from the heated preform blank and is precisely controlled by using a laser micrometre to measure the diameter of the fibre and feed the information back to the tractor mechanism.

Figure 3: Diagram of a fibre drawing tower used to draw optical fibre glass fibres from a preform blank

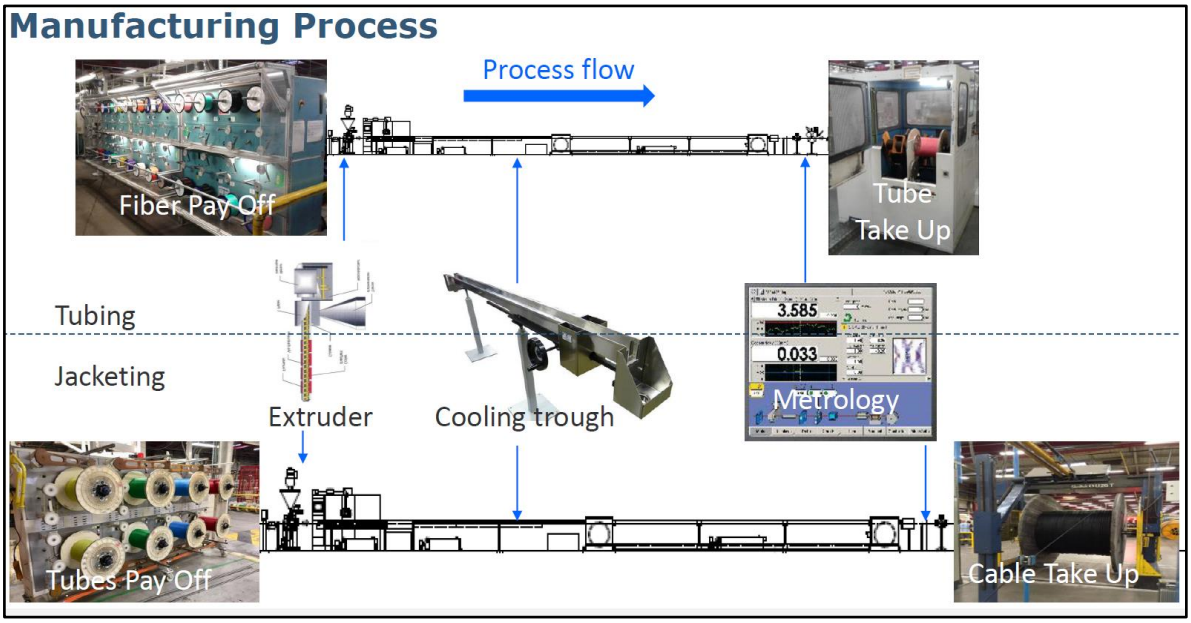


iii) Cabling: The optical fibres are covered by tubes/modules and a single jacket or multiple jackets to protect the fibre within the cable against the surrounding environment in which it will be placed. The tubes and jackets are made of a material that will allow the cable to remain flexible and serviceable at all

temperatures it will experience during its lifetime. The type of material used for cable jacketing depends on the cable's application requirements.[33]

Armouring, as well as added strength elements, can be added to increase the strength of a cable relative to its surroundings. The armouring is placed either just under the outside plastic jacket for single jacket cables or between two layers of jacket material for dual jacket cables. The armouring layer can be made of corrugated metallic tape or of a dielectric fibre layer. Non-armoured cables, which provide suitable service in underground conduit systems or aerial pole lines, are also available. Non-armoured cable will not have the extra crush resistance, impact strength, or rodent resistance of armoured cable.

3. The typical cabling manufacturing process can be illustrated as follows:



5. Provide a general description of the UK market for the goods including the nature and conditions of competition within the overall market. In your answer please refer to:

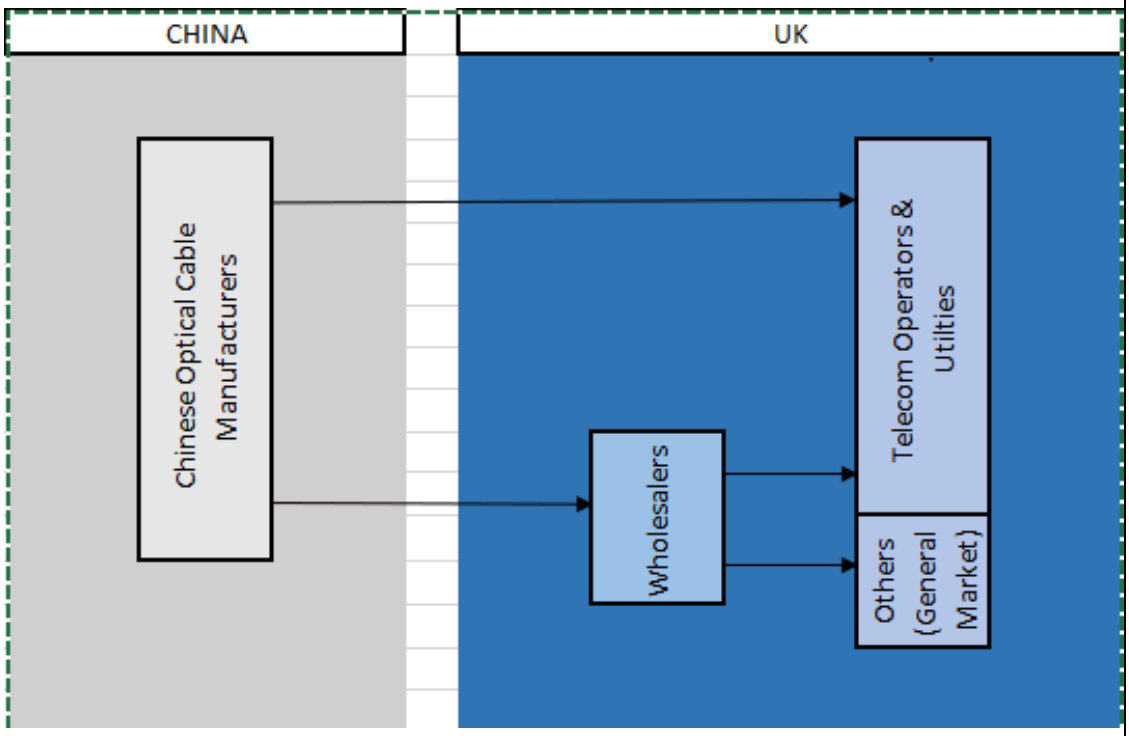
- general users/consumers/customers;
- market segmentation;
- government regulation or tax;

[33] **Annex A.1.17**, also available at https://www.stl.tech/optical-interconnect-products/optical-fibre-cable/pdf/Selection_of_the_Correct_Optical_Cable.pdf

- distribution and marketing (for example, how is the product sold and is quality or price the deciding factor);
- the nature of competition within the overall market;
- the degree of price sensitivity;
- the trends and drivers of demand, including causes of demand fluctuations and any factors contributing to overall market growth or decline;
- developments in technology affecting the characteristics, demand or the production process of the goods;
- other commercially significant goods which could be substituted for your goods and the goods being imported into the UK; and
- any other factors that influence the market.

I. Nature and conditions of competition within the optical fibre cable market

1. The Chinese producers use two main sales channels to sell their optical fibre cables into the UK, namely sales to wholesalers and sales to telecom operators and utility companies.



2. More specifically, the customer segmentation of the optical fibre cable business in the UK can be categorised as follows:

i. Telecom operators (around 70% of total sales), which include incumbent operators (such as former monopolistic operators), alternative operators (such as newcomers in fixed and mobile business), CATV operators (cable and TV operators moving to telecom services) and carriers & wholesale operators (which include operators that rent the network to other operators but do not offer retail services).

ii. General market (around 25% of total sales), which includes distributors, installers and contractors, as well as system integrators.

iii. Others (5% of total sales), which include utility companies and other infrastructure owners.

3. There are two main distribution channels of optical fibre cables that are sold: (i) either through a tendering process generally organised by telecom operators, or (ii) through spot sales / projects to the general market (which includes sales to distributors and installers).

i. Telecom operators (tenders): Telecom operators usually purchase optical fibre cables through tenders which are issued on a yearly basis or every two to three years. Participation in tenders is usually by invitation with one, two or several negotiation rounds. The tender process usually lasts one to three months, depending on its complexity. A typical tender awards multiple suppliers (between 2 and 5 depending on the volume and the product range). An overwhelming majority (90%) of the tenders is limited to the supply of optical fibre cables, while the rest (10%) may require the supply of, *inter alia*, other products such as connectivity products. The terms of the tender usually do not include the maintenance of the optical fibre cables or other services. Tenders are generally awarded based on price (which is the main award criterion and sometimes the only one on which the operators take their decision), although in some cases, technical marks and service may play a minor role.

ii. General market (spot): The general market (which includes distributors and installers) typically buys optical fibre cables on spot or in relation to specific projects, rather than through tenders, because the volumes are more limited and the duration of the supply agreement is shorter (e.g., one delivery or a few deliveries every few months).

4. For higher volumes, general market operators may issue tenders which typically have the following characteristics: 1) the tender process lasts between one and three weeks; 2) the tender is typically awarded to one supplier; 3) an overwhelming majority (95%) of the tenders require only the supply of optical fibre cables, and only a minority (5%) requires the provision of other products such as connectivity products; 4) participation in the tender is by invitation, with one or two negotiation rounds; and 5) price is the main, and sometimes only, award criteria (other criteria of minor importance may include technical marks or service).

5. The three main telecommunications installers in the UK, namely, [*Sensitive information*], build the cable network and then rent it to network operators (which include [*Sensitive information*]) and alternative network operators (which include [*Sensitive information*]). Distributors, which include [*Sensitive information*], also purchase optical fibre cables for resale to alternative network operators. A list of the known players active on the UK market can be found in **Annex A.2.1**.

6. As explained below, the fact that most of the sales of optical fibre cables are sold through tenders is a specificity of the distribution channel for this product. This impacts the manner in which injury is assessed: in essence, the injury suffered by a UK producer that loses a tender to a Chinese producer will only materialise several months, or even a few years, after the conclusion of the tender.

7. The product concerned cannot be substituted by other products.

II. China: the subject country

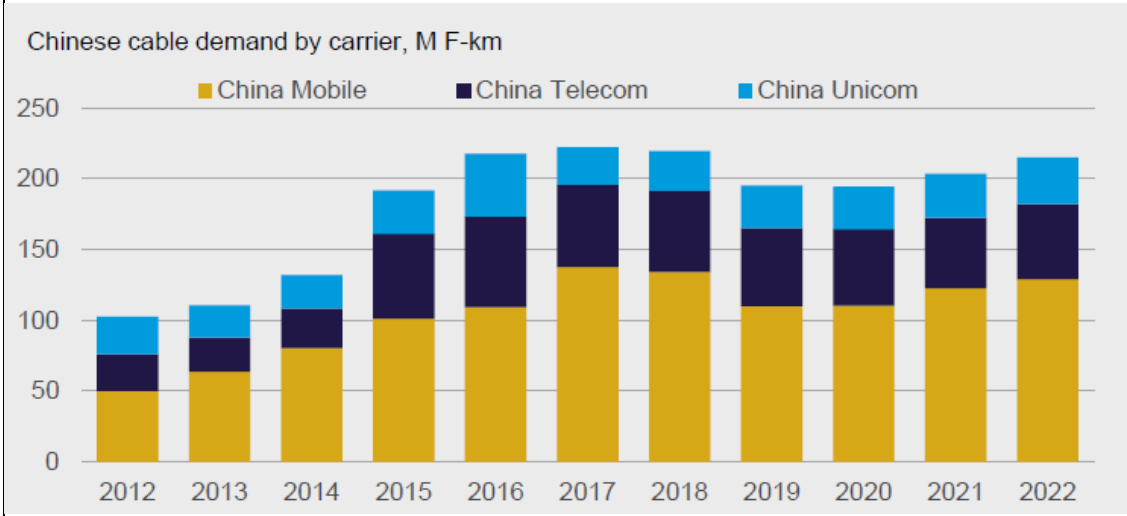
8. China is by far the most important manufacturing country of optical fibre cables worldwide. This country represents more than half of the world's total annual demand for optical fibre cables, as shown in the table below.[34]

	2018	2019	2020	2021
Worldwide consumption of optical fibre cables (in '000 fkm)	505,006	471,931	462,933	494,634
Chinese consumption of optical fibre cables (in '000 fkm)	276,140	237,431	234,662	244,725
Ratio	55%	50%	51%	49%

[34] **Annex A.2.2**, Optical Cable Markets, CRU

9. After years of exponential growth, consumption of worldwide optical fibre (the input of optical fibre cables) which exceeded 505 million kilometres in 2018, slowed down to 472 million kilometres in 2019 and 463 million kilometres in 2020. Worldwide consumption has shown an increase in 2021 (494 million fkm).

10. Chinese domestic demand for optical fibre cables contracted between 2018 and 2021 by 11%, from 275,950 million fkm to 244,500 million fkm. This fall is due to the particularity of the Chinese market: Chinese carriers completed vast 4G and Fibre to the Home ("FTTH") projects in a limited number of years, causing an unusually high level of demand for optical fibre during those years. With China's FTTH networks installed in 90% of the homes, China's market became saturated in 2019.[35] As a result, the world's largest purchasers of optical fibre cables, namely China Mobile, China Telecom and China Unicom, have been ordering lower volumes of optical fibre cables since 2019 than they have in previous years, as shown below:[36]



11. As a result of this slow-down, China has significant cable overcapacity, which can be estimated at approximately 205 million ckm on the basis of CRU data.[37] That represents 36 times the total UK market demand of optical fibre cables in 2021![38]

35 **Annex A.2.3**, *What is behind the Chinese optical cable contraction and outlook post 2019*, page 4, CRU, 12 April 2019.

36 **Annex A.2.4**, *Global outlook healthy, but price remains an issue - Telecom Cables Market Outlook Q3 2021*, page 5, CRU, August 2021.

37 The calculation of that estimate is provided in **Annex A.2.5**.

38 The CRU estimated the UK market of optical fibre cables in 2021 at 5,707 Mfkm (see **Annex A.2.2**)

China's significant overcapacity is not expected to change anytime soon: demand is expected to increase only marginally compared to 2020 lows and the full scale of the rolling-out of the 5G network in China is not expected for the next few years.[39] Industry reports have a pessimistic near-term view on the Chinese optical fibre cable market as the increase in demand for the 5G technology will take several years to be rolled out.[40] This bleak forecast leaves the UK market in a very vulnerable state of being over-flooded by cheap imports from China for the coming years and the recent imposition of measures on EU imports of optical fibre cables from China has only exacerbated this vulnerability.

6. We give goods in our investigations Product Control Numbers (PCNs) which are identifiers unique to our work and are created on the basis of the main characteristics differentiating the goods from other goods. We use PCNs to allow comparison between products made by domestic and foreign producers. The accuracy of TRID's PCN structure is directly proportionate to information supplied by the applicant. If the goods concerned covers a range of goods with different characteristics that would affect comparability:

- Please describe the key physical characteristics that have a consequential and material effect on prices, with the list of characteristics going from most to least consequential
- Please provide evidence to substantiate that these physical characteristics have a consequential and material effect on prices. This evidence could be in reference to specific unit costs, if those costs effect price comparability
- Use this information to delineate between models of not only the goods produced by the UK industry, but by the exporting producers, giving the information requested in the subsequent sections in refence to each model rather the goods category as a whole. The annex will indicate where information is being asked for on an individual model basis.
- If you already have a view on a PCN structure, please propose that here.

1. In order to assist the TRA for the dumping margin and injury margin calculations and to accurately compare the main cost drivers of the optical fibre cables manufactured respectively by the UK and Chinese producers, the Applicant proposes the Product Control Numbers (PCNs) to be structured on the basis of the following criteria and sub-criteria:

39 *Ibid*., p. 4.

40 **Annex A.2.6**, *China's 'transition phase': how deep, how long and what are the implications on international mark*ets, CRU Wire & Cable Conference, June 2019, Slide 9,

Description	Value	Comments
Type of single mode optical fibre in the cable	**A**	Type G.652D https://www.itu.int/itu-t/recommendations/rec.aspx?rec=13076
	B	Type G.657 A1 https://www.itu.int/itu-t/recommendations/rec.aspx?rec=13078
	C	Type G.657 A2 https://www.itu.int/itu-t/recommendations/rec.aspx?rec=13078
	D	Type G.654 https://www.itu.int/itu-t/recommendations/rec.aspx?rec=14198
	E	Other types of single mode optical fibre
Number of fibres in the cable	**NNNNN**	An optical fibre cable with 48 fibres would be marked as 00048
First (innermost) cable jacket	**A**	polyethylene (PE) + embedded radial strength member (RSM)
	B	polyethylene (PE) sheath
	C	Halogen Free Flame Retardant (HFFR)
	D	Other type of jacket

2. On the basis of the above PCN categorisation, the DIT should be able to identify different product groups, which constitute representative sales of both UK producers and the Chinese producers during the relevant period.

3. By way of example, the PCN identifying an optical fibre cable containing 1) G.652D fibres; 2) 48 fibres; with 3) a first (innermost) cable jacket of Halogen Free Flame Retardant (HFFR), would be A00048C.

4. As a matter of principle, the main price driver of the product concerned is the number of optical fibres it contains. Thus, the cost of production and the sales price of an optical fibre cable containing 288 fibres will be higher than an optical fibre cable containing 12 fibres.

5. As discussed above, the type of optical fibre that is used also affects the final price of the product concerned. Generally, the pricing order of optical fibre cables, from lowest to

highest, is as follows: (i) optical fibre cable G.652D; (ii) optical fibre cable G.657.A1; and (iii) optical fibre cable G.657.A2.

6. Finally, the general price difference of the different types of first (innermost) cable jacket is as follows:

	Type of first (inmost) cable jacket	**Production Cost index**	**Sales Price index**
A	polyethylene (PE) + embedded radial strength member (RSM)	**120**	**120**
B	polyethylene (PE) sheath	**100**	**100**
C	Halogen Free Flame Retardant (HFFR)	**105**	**110**
D	Other type of jacket	**n/a**	**n/a**

7. This means that an optical fibre cable with a first cable (inmost) cable jacket composed of "*PE sheath*" (category B) will have a production cost index of 100 and a sales price index of 100. The same optical fibre cable with a first (inmost) cable jacket composed of "*PE and an RSM*" (category A) will have a production cost and a sales price 20% higher (i.e. an index of 120).

About the Application

Individuals or groupings of companies, individuals and trade bodies can all be applicants. Generally, an industry that is concerned about a set of imported goods should make only one application to us for an investigation. When we assess your application, we will consider information about all the companies which make up the group that is applying. When you are answering questions about the goods you produce, please include information about the goods produced by all the companies and individuals who are submitting this application.

Applicant Information

Name of Applicant

Prysmian Cables & Systems Ltd

Address

Chickenhall Lane, S050 6YU Eastleigh (Hampshire), United Kingdom

Email

[*Sensitive information removed – Personal data*]

Telephone

Contact Name

[*Sensitive information removed – Personal data*]

Company Ownership (provide broad details of shareholding)

Prysmian SpA is the holding company and listed at the Milan Stock Exchange.

Name of Lawyer/Representative

Van Bael & Bellis:
- Richard Luff (rluff@vbb.com)
- Steve Ross (sross@vbb.com)
- Sergiy Beketov (sbeketov@vbb.com)
- Agnieszka Paulina Regiec (aregiec@vbb.com)

Prysmian Cables & Systems Ltd (PCS) produces and sells optical fibre cables.

Draka Comteq UK Limited is a related sales entity.

Period of Investigation

For the subsequent sections, please use the same 12-month period for every question and indicate below which 12-month period you are using. This period should not end more than six months before the date this application is submitted. This period will be referred to as 'the period of investigation (POI)' for the rest of the application. The 36-month period preceding the POI, will be referred to as the injury period. Please indicate the 12-month POI in the box below.

The period of investigation ("IP") is calendar year 2021.

Please give the volume and value of like goods you produced in the UK for the POI.

During the IP, the Applicant produced an estimated [35,000 – 45,000] cable kilometres ([1,000,000 – 1,500,000] fibre kilometres) for an estimated value of GBP [27,000,000—32,000,000].

About Other Interested Parties

UK Producers

Your application must be supported by other UK producers who represent at least 25% of total UK production. This is based on production physically located in the UK. The level of support for the application must be greater than the level of opposition among UK producers.

If there are other UK producers, you will need to contact them and ask them whether they support or oppose this application. Please attach their written responses to your application OR their details should be provided below. Use a separate table for each producer.

We understand that other producers may be concerned about providing confidential information for this form. If necessary, you can ask an independent third party to confidentially combine information from the individual companies. Alternatively, the other producers can send the information separately to TRID for us to combine.

UK producer	
Legal name of company:	
Name (point of contact):	
Role:	
Address:	
Telephone No:	
Email:	
Company website:	
Goods produced Please list all the UK-made goods this producer makes which are sold on the UK market and are like the imports this application is about	
Position regarding application (delete as applicable)	Support/oppose/undeclared

We have reached out to the other UK producers of optical fibre cables. However, they are unable to expressly support this Complaint for fear of retaliation from Chinese entities. We understand that these UK producers have decided to import part of their requirements of optical fibre cables from China, rather than increase their own production, because they are significantly undercut by Chinese manufacturers. These low prices have made it economically unviable for the UK producers to increase their own production of optical fibre cables. If prices were to increase, UK producers would be in a position to resume their own production rather than import.

According to the CRU, other than the Applicant, there are three main UK producers active on the UK market with the following cable production in 2021 (**Annex A.2.2**):

UK producer	Cable production (in '000 fkm)
AFL Europe	**433**
Brand Rex	**148**
TE Connectivity	**361**

Other Parties

1. Provide details of all known producers/exporters in the exporting country or producer/exporter associations in the exporting country, including:

Name:	Yangtze Optical Fibre and Cable Joint Stock Limited Company (YOFC)
Address:	Guanggu Avenue, East Lake High-tech Development Zone, Wuhan, Hubei, China
Email:	liuxueqi@yofc.com https://en.yofc.com/
Telephone Number:	+86-400-006-6869

Name:	Sichuan Huiyuan Optical Communications Co., Ltd.
Address:	No.2 Xinye Road, West Zone, Chengdu High & New Tech Development District, Sichuan 611731, China
Email:	miao.bing@163.com http://www.hyoc.com.cn/
Telephone Number:	+86 28 87826112

Name:	Jiangsu Zhongtian Technology Co. Ltd (ZTT)
Address:	Zhongtian village, Hekou town, Rudong County, 226463, Jiangsu Province, China
Email:	sunshine.sang@zttcable.com https://ztoc.zttcable.com/
Telephone Number:	(0513) 84887080

Name:	LianGang Optoelectronic Technology Co., Ltd
Address:	No 148, JingHai West Road, ShaQu Village, ShaTou Area, 523841, ChangAn Town, DongGuan, GuangDong, China
Email:	sales6@lg-oe.com www.lg-oe.com
Telephone Number:	86-0769-82380850

Name:	Hengtong Optic-electric Co., Ltd.
Address:	No. 88 Hengtong Road, Wujang District, Suzhou, Jiangsu Province, 215200, China

Email:	Info@hengtonggroup.com ; www.htgd.com.cn
Telephone Number:	+86 512 6395 7850

Name:	HUBER + SUHNER Cable & Connector Manufacture (Changzhou) Co., Ltd.
Address:	No.6, Xin Yong Road, 213164, Changzhou, Jiangsu Province, China
Email:	China.marketing@hubersuhner.com www.hubersuhner.com
Telephone Number:	+41 44 952 22 11

Name:	Shenzhen SDG Information Co., Ltd
Address:	No. 2 Kefeng Road, 518000, Nanshan District, Shenzhen City, China
Email:	guojia@sdgi.com.cn www.sdgi.com.cn/
Telephone Number:	0755-66832882

Name:	Suzhou Torres Optic-electic Technology CO., Ltd
Address:	Tangjiahu Avenue, 215221, Zhonglu Development District, Pingwang County, Wujiang District, Suzhou City, Jiangsu Province, China
Email:	hjh@sztorres.com
Telephone Number:	

Name:	Jiangsu Etern Company Limited
Address:	Northside of Luxu Section, 74K Site of National Highway 318, Lili Town, Wujiang District, 215211, Suzhou city, Jiangsu province, China
Email:	gjswb@yongding.com.cn *zgb@yongding.com.cn* www.yongding.com.cn
Telephone Number:	0512-63271201 and 0512-63272489

Name:	Jiangsu Tongguang Optical Fiber Cable Co.,Ltd.

Address:	No.1933 GuangZhou Road,Binjiang Sub-District,Haimen City, 226103, Haimen City, China
Email:	Lawrence.jiang@tggcable.com www.chinatgg.com.cn
Telephone Number:	+ 86-513-82105999

Name:	Suzhou Furukawa Power Optic Cable Co.,Ltd.
Address:	No. 449, Fenhu Guodao Road, Lili Town, Wujiang District, 215211, Suzhou, China
Email:	design@sfpoc-opgw.com www.sfpoc.com
Telephone Number:	+ 86-512-63272807

Name:	ShenZhen WanBao optical fiber communication co. LTD.
Address:	Room 202, 2nd Floor, No.399 Jiaqian Road, 201802, Jiading District Shanghai, China
Email:	markets@wboptictech.com www.wboptictech.com
Telephone Number:	+86-21-52188985

Name:	Ningbo Geyida Cable Technology Co.,LTD
Address:	No.1555 Jinhai Road, 315311, Cixi,Ningbo, China
Email:	ella_mi@chinagyd.com http://www.chinagyd.com/
Telephone Number:	0574-23673982

Name:	Nanjing Huamai Technology Co., Ltd
Address:	No. 11 Runfa Road, Dongshan Gaoqiao Industry, 211103, Jiangning District, Nanjing City, China
Email:	chenkaihua@huamai.com trade@huamai.cn www.huamai.com
Telephone Number:	0086-25-52707173

Name:	Anhui Tianji Information Technology Co.,Ltd

Address:	Suchu Modern Industry Park, 239000, Chuzhou, China
Email:	sales@efoncable.com www.efoncable.com
Telephone Number:	+86-574-87238272 ; +86-574-87239256 and 86-574-87239252

Name:	Dongjie Optical Technology (Suzhou) Co.,LTD
Address:	7# building, No.100, Jin Chang Road, 215101, Suzhou, China
Email:	terry@djoptical.com quain@djoptical.com www.djoptical.com
Telephone Number:	0512-66558801/66558802

Name:	Shanghai Qishen International Trade Co.,LTD
Address:	Room 601, Building 66, Lane 199, Dianshahu Rd,Qingpu District, 201700, Shanghi, China
Email:	lsq321@163.com https://qishen.en.china.cn/
Telephone Number:	0086-21-59835778

Name:	Zhongtian Power Optical Cable Co., Ltd.
Address:	Zhaogang Village, Hekou Town, 226405, Rudong County, Nantong City, Jiangsu Province, China
Email:	sunshine.sang@zttcable.com https://ztoc.zttcable.com/
Telephone Number:	(0513) 84887080

Name:	Guangdong Hengtong Optic-Electronical Technology Co., Ltd.
Address:	NO.10 North Industrial Road, 523000, SSL Hi-Tech Industrial Development Zone, Dongguan City, Guangdong Province, China
Email:	Info@hengtonggroup.com ; www.htgd.com.cn
Telephone Number:	+86 0512 63956972; +86 0512 63956971

Name:	Zhejiang Dongtong Optical Network and IOT Technology Co, Ltd.
Address:	No.2299 East Part Road, 313009, Nanxun Economic Development Zone, Huzhou City, Zhejiang Province, China
Email:	Info@hengtonggroup.com ; www.htgd.com.cn
Telephone Number:	+86 0512 63956972; +86 0512 63956971

Name:	Hangzhou Futong Communication Technology Co., Ltd.
Address:	Yinhu Development Zone, 311422, Fuyang, Hangzhou, Zhejiang Province, China
Email:	ftjck@ftjt.net www.fso.com.cn
Telephone Number:	86 (0) 571-6332262

Name:	FiberHome Telecommunications Technologies Co., Ltd.
Address:	No.88,Posts and Telecommunications Sciences Road, Hongshan District, Wuhan, China, 430074, WuHan City, China
Email:	jndeng@fiberhome.com support@fiberhome.com https://en.fiberhome.com/default.aspx
Telephone Number:	+86-27-87693756 ; +86 800-8800787: +86 400-8890787

Name:	Nanjing Wasin Fujikura Optical Communication Ltd.
Address:	No 76 Xingang Road Economical & Technical Development Zone, 210038, Nangjing, China
Email:	jndeng@fiberhome.com http://www.nwf.cn/
Telephone Number:	025-85569598

Name:	Lin'an Longshine Imp. & Exp. Co., Ltd
Address:	Linglong Industry Zone, Linan, 311300, Hangzhou, China
Email:	

	https://shgcatv.en.made-in-china.com/contact-info.html
Telephone Number:	86-571-6106238; 86-18868709980

Name:	Hangzhou Tuolima Network Technologies Co.,Ltd
Address:	No.388 Wensan Road, 310012, China
Email:	louli@tuolima.com *tuolima@tuolima.com* www.tuolima.com
Telephone Number:	+86 0571 2833 9001

Name:	XDK Communication Equipment (Huizhou) Ltd
Address:	No. S-12-6, Huizhou Digital Industrial Park South Zone, Hui'ao Avenue, Huicheng Area, 516025, Huizhou, Guangdong, China
Email:	connie@xdkgroup.com https://www.xdkgroup.com/
Telephone Number:	+86 (0)752-5855131/ +86 (0)752-5855315

Name:	Jiangsu Trigiant Optic-Electric Communication Co.,Ltd.
Address:	No.8 Junzhi Road Industrial Park for Environment Protection Science & Technology, 214206, Yixing, China
Email:	daisy@trigiant.com.cn www.trigiant.com.cn
Telephone Number:	0510-80711111

Name:	Jiangsu Hengtong Smart Grids Co., Ltd.
Address:	No. 88 Hengtong Avenue, 215200, Qidu Township, Wujiang District, Suzhou City, JQidu Township, Wujiang District, Suzhou City, China
Email:	Info@hengtonggroup.com ; htgd@htgd.com.cn ww.htgd.com.cn
Telephone Number:	+86 0512 63956972; +86 0512 63956971

Name:	Fasten Group Imp. & Exp. Co., Ltd.

Address:	No.165 Middle Chengjiang Road, 214434, Jiangyin, China
Email:	services@chinafasten.com; www.chinafasten.com
Telephone Number:	

Name:	LEONI Cable (China) Co., Ltd
Address:	No.21 Taihu West Road, New District, 213022, Changzhou, China
Email:	cn.wire-cable@leoni.com ; www.leoni.cn
Telephone Number:	86 519 89887818

Name:	Twentsche (Nanjing) Fibre Optics Ltd
Address:	No. 2, Xinke 4 Road, New & High Technology Industry Development Zone, Pukou, 210061, Nanjing,China
Email:	nancy_qu@tfo.com.cn ; www.tfo.com.cn
Telephone Number:	+86 25 58844888 660; +86 25 58844888 620

2. Provide the details of all known importers of the goods in the UK or any associations of importers in the UK, including:

Because the line of between each category is often blurred, you will find in the reply to question 3 below a list of the known importers, suppliers, users and consumers of optical fibre cables.

Name:	
Address:	
Email:	
Telephone Number:	
Contact person (if available)	
Nature of their business (retailer/agent etc)	

3. Provide the details of all known suppliers, users and consumers of the goods in the UK, or associations of suppliers, users or consumers including:

Because the line of between each category is often blurred, you will find below a list of the known importers, suppliers, users and consumers of optical fibre cables.

Name:	Openreach
Address:	123 Judd Street, Kings Cross, London WC1H 9NP, GB
Email:	https://www.openreach.com/ press@openreach.co.uk
Telephone Number:	0800 023 2023
Contact Person (if available)	

Name:	CityFibre Holdings Limited
Address:	Registered in England: 15 Bedford Street London, WC2E 9HE
Email:	https://www.cityfibre.com/
Telephone Number:	0800 083 6160; 0800 298 6267
Contact Person (if available)	

Name:	Comtec
Address:	Cardinal Way, Cardinal Distribution Park, Godmanchester, Huntingdon, England, PE29 2XJ
Email:	info@comtecdirect.co.uk https://www.comtecdirect.co.uk/
Telephone Number:	+44 (0)1480 415415
Contact Person (if available)	

Name:	Mills
Address:	Unit 2, Zodiac Business Park, High Road Cowley, Uxbridge, UB8 2GU
Email:	sales@millsltd.com https://www.millsltd.com/
Telephone Number:	020 8833 2626
Contact Person (if available)	

Name:	Wolseley
Address:	2 Kingmaker Court, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DY
Email:	https://corporate.wolseley.co.uk/
Telephone Number:	01926 705000
Contact Person (if available)	

Name:	Hyperoptic

Address:	Hythe House 200 Shepherds Bush Road, London W6 7NL
Email:	support@hyperoptic.com https://www.hyperoptic.com/
Telephone Number:	+44 0333 332 1111; +44 0203 318 8216; +44 333 332 1100
Contact Person (if available)	

Name:	Jurassic Fibre
Address:	Sowton Business and Technology Centre, Capital Court, Bittern Road, Sowton, Exeter, EX2 7FW
Email:	sales@jurassic-fibre.com https://jurassic-fibre.com/
Telephone Number:	01392345595; 01392345595
Contact Person (if available)	

Name:	Community Fibre
Address:	83 Baker Street, Level 3, London, England W1U 6AG, GB
Email:	https://www.communityfibre.co.uk/
Telephone Number:	+44 800 082 0770
Contact Person (if available)	

Name:	Ligth speed broadband
Address:	Fulney Hall, Holbeach Road, Spalding, Lincolnshire PE12 6ER
Email:	hello@lightspeed.co.uk https://www.lightspeed.co.uk/
Telephone Number:	01775 830 830
Contact Person (if available)	

Name:	Call Flow
Address:	1 Abbey Wood Road, Kings Hill West Malling, Kent, ME19 4YT
Email:	helpdesk@callflow.co.uk https://www.callflow.co.uk/
Telephone Number:	0800 280 0590
Contact Person (if available)	

Name:	Orbitalnet

Address:	Head Office, County house, Station Approach, Bekesbourne, Canterbury, Kent, CT4 5DT
Email:	education@orbital.net / solutions@orbital.net https://www.orbital.net/
Telephone Number:	0330 324 4444
Contact Person (if available)	

Name:	Grain hyperfast broadband
Address:	Parkhouse, Atlantic House, Fletcher Way Carlisle, GB
Email:	hello@grainconnect.com https://www.grainconnect.com/
Telephone Number:	0330 223 2266
Contact Person (if available)	

Name:	Glide
Address:	Rivermead Court, Kenn Business Park, Windmill Road, Kenn, Clevedon BS21 6FT, GB
Email:	glide@glide.co.uk / info@glide.co.uk https://glidegroup.co.uk/
Telephone Number:	01275 793400
Contact Person (if available)	

Name:	Gigaclear ultrafast Fibre Broadband
Address:	Building One, Wyndyke Furlong Abingdon, Oxfordshire OX14 1UQ, GB
Email:	Support@Gigaclear.com https://gigaclear.com/
Telephone Number:	01865 591 131
Contact Person (if available)	

Name:	Axione
Address:	132 Boulevard Camelinat Malakoff, IdF 92240, FR
Email:	https://www.axione.co.uk/contact/
Telephone Number:	+33 1 72 33 93 00
Contact Person (if available)	

Name:	Ofnl (Open Fibre Networks)

Address:	Driscoll 2, Ellen St, Cardiff CF10 4BP
Email:	enquiries@ofnl.co.uk https://www.ofnl.co.uk/
Telephone Number:	+ 44 02921 678 550
Contact Person (if available)	

Name:	Netomnia
Address:	Tewkesbury, England, United Kingdom
Email:	pr@netomnia.com https://www.netomnia.com/
Telephone Number:	
Contact Person (if available)	

Name:	Power On connections
Address:	Dovecote Court, Potters Marston Hall Leicester, Leicestershire LE9 3JR, GB
Email:	https://www.poweronconnections.co.uk/
Telephone Number:	+44 1277 811735
Contact Person (if available)	

Representativeness

Summary of UK Producer support or opposition for this application

We need to know about the total volume of UK production for UK markets by the producers who support your application. **Please complete Annex 1**, which will guide you through the calculation of whether representativeness requirement is met in terms of volume and value. If any figures are estimates, please explain how you worked out this information.

See the reply in the above section “UK producers”.

Market Share

1. The applicant UK industry/industries should have at least a 1% share of the UK market for the goods, irrespective of where the goods were produced. Please demonstrate this by **completing Annex 2**. If you have other specific market share information, please also provide that.

The Applicant had an estimated [35 – 45] % share of the UK market of optical fibre cables (see **Annex G.A.2**) during the IP.

2. Please note that the requirement can be waived in certain circumstances, for example if your application is about imports preventing a UK industry from being established for a 1% market share. If you think the requirement should be waived, explain why.

Not applicable.

Related Persons

If you know that the Applicant or any other known UK producer of the goods is related (as defined under Regulation 128 of the Customs (Import Duty) (EU Exit) Regulations 2018 (a)) to an exporter or an importer of the goods, describe the company and the relationship.

The Applicant is a subsidiary of Prysmian SpA. Prysmian SpA has a commercial relationship with the following Chinese entities: 1) Wuxi and 2) a joint venture with YOFC Shanghai.

About the allegedly dumped imports you want us to investigate

Complete this section if you are making an application for a dumping investigation.

Please give us all the information you can about the imported goods you believe are being dumped and the injury being caused to UK industry.

Sufficiency Test

Please note that we may reject your application if there is not sufficient evidence of dumping or injury. Evidence of dumping is insufficient if the margin of dumping is less than 2% of the export price (minimal).

1. List all countries (or territories) where the imported goods are produced (country of origin) and the countries (or territories) from which they are exported to the UK, if this is different.

See **Annex A.G.1**

2. **Complete Annex 2**, giving the volume and value of the imported goods for the POI, to demonstrate percentage of total imports.

3. Provide details and evidence of how the volume and value of dumped imports have been calculated.

See **Annex A.G.1.** For the methodology used to convert one kilogram of optical fibre cable to one cable kilometre, please refer to page 137.

Normal value

Normal value refers to the domestic price that the imported goods are normally sold for on the domestic market in their country of export. This value should then be adjusted for costs arising after the ex-works (EXW) level (and any other factors that need to be considered) to make a fair comparison with the export price.

If your complaint concerns more than one exporting country, calculate the normal value for each country

There are several different methods for calculating normal value, with the appropriate method being determined by the circumstances of trade between the exporting country and the UK, and the nature of exporting country's economy.

Therefore, when you tell us the normal value of the goods, you will also need to explain which method you are using to calculate it and why.

The methods are:

- 'Comparable Price', this is the price of the goods in the ordinary course of trade in the home market of the exporting country;
- Constructed Normal Values in the country of export based on the cost of production, plus reasonable amounts that would have been incurred on a domestic sale in the country of export for administrative, selling and general expenses and for profit;
- 'Sales made to a third country by the exporter', provided this amount is representative of the domestic selling price in sales in the country of export (provide evidence to support this); or
- If none of the above is possible, establish the normal domestic value from the best information available to you and provide this information to us, along with an explanation of the approach you have adopted. Alternatively, if prices in the exporter's domestic market are unavailable and it is not possible to construct a normal value, please contact TRID to discuss further options.

Where possible, you should calculate normal value using the 'Comparable Price' Method. However, there are situations where this would be inappropriate, and so one of the alternative methods should be used. This includes situations where:

- the goods are not sold in the ordinary course of trade in the domestic market of the exporting country;
- these sales on the domestic market of the exporting country sales don't allow a proper comparison with their sales on foreign markets because of:
    - a particular market situation;
    - low volume of sales in the domestic market of the exporting country;
- the overseas exporter does not sell these goods in their domestic market;
- the imports are from a particular foreign country – this is a specific term defined under Regulation 14 of the Dumping & Subsidy Regulations which means that it's difficult to use prices of goods in that country as a fair comparison.

More information on each of these conditions and when they apply can be found in our guidance on dumping investigations.

Method

Please indicate below the method you have used for calculating normal value of the imported goods. If you have used an alternative basis to comparable price (e.g. constructed normal value), please explain why you believe it isn't appropriate to use comparable price and provide your evidence to support this.

1. The regulatory framework under the Regulation for the calculation of the normal value is as follows:

   - According to point 7(1) of the Regulation, "[t]*he TRA must use the comparable price to determine the normal value unless it is not appropriate to use that price*".
   - Point 7(2)(b) further provides that "*it is not appropriate to use the comparable price to determine the normal value of the goods where, because of a particular situation* […] *such sales do not permit a proper comparison between the life goods destined for consumption in the exporting country or territory and the goods concerned*".
   - The words "*a particular market situation*" are explained by Point 7(4)(c) and includes situations where "*prices reflect non-commercial factors*".
   - Point 8(1)(a) provides that, where it is not appropriate to use the comparable price in accordance with Point 7(2), "*the TRA must determine the normal value of the goods by determining the costs of production plus a reasonable amount for administrative, selling and general costs and for profits*".

2. In the present case, the prices of optical fibre cables in China *"reflect non-commercial factors*" within the meaning of Point 7(4)(c). This is because, in China, market conditions, and in particular costs and prices, are not driven by market forces of supply and demand but, rather, are distorted by the intervention of the State in the economy.

3. The fact that Chinese exports of optical fibre cables into the UK are heavily subsidised is subject to a separate anti-subsidy Application, the details of which can be found below. The findings of the anti-subsidy investigation should be considered when assessing whether China is in "*a particular market situation*" where "*prices reflect non-commercial factors*".

4. In addition to the findings made in the anti-subsidy Application, the Applicant relies on the European Commission's working document "on *significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations*", dated 20 December 2017.[41] In that Working Document, the European Commission collected comprehensive evidence about the existence of substantial Chinese government intervention at many levels of the economy, including specific

[41] European Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic Of China for the Purposes of Trade Defence Investigations of 20 December 2017, available here: https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf (hereinafter "**the Working Document**"). For the purposes of this exercise, we consider that the concepts developed in Points 7(2) and 7(4) apply to a situation where significant distortions exist in the economy of China.

distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors.

- State presence in firms allows the State to interfere with respect to prices and costs (**Section A**);
- The market in question is served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country (**Section B**);
- Public policies or measures discriminate in favour of domestic suppliers or otherwise influence free market forces (**Section C**);
- The lack and discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws (**Section D**);
- The distortion of wage costs (**Section E**); and
- Access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State (**Section F**).

A. Significant distortions affecting the domestic prices and costs in China

5. The European Commission has provided substantial evidence that there are significant distortions affecting the domestic prices and costs in China.[42] In particular, the European Commission has found that:

> (1) the Chinese economic system is based on the concept of a socialist market economy, the core principle of which is the "*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*";
>
> (2) the socialist market economy is developed under the leadership of the Chinese Communist Party ("**CCP**") and that the structures of the Chinese State and those of the CCP are intertwined at every level; and
>
> (3) the Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market.

6. As also shown below, these general findings concerning the governance of China equally apply and affect the market of optical fibre cables.

B. The market in question is served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country

[42] *Ibid*., paras. 109-115.

7. In China, companies which operate under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy. The Chinese government and the CCP actively formulate and oversee the implementation of general economic policies by companies, in particular State-owned-enterprises ("SOEs"), and also participate in operational decision making in SOEs.[43]

4. The Chinese government considers the telecommunications sector as a strategic sector and directly shares the competitive landscape of that sector to achieve strategic economic goals. This is the case, for example, for SOEs China Telecom Group, China Mobile Group (the single largest purchaser of optical fibre cables) and China United Network Communications Group, which operate under the absolute control of the Chinese State.[44]

5. More specifically, as explained in the anti-subsidy Application, in the optical fibre cable sector, there continues to be a substantial degree of direct or indirect ownership by the Chinese government.

6. Given the high level of government intervention in the telecommunications sector in general, and in the optical fibre cable industry in particular, even privately owned producers are prevented from operating under normal market conditions. This is because both public and privately owned enterprises in the optical fibre cable sector are also subject to the policy supervision by the state.

C. Public policies or measures discriminate in favour of domestic suppliers or otherwise influence free market forces

7. The central and local Chinese governments set out the priorities and prescribe the goals of the Chinese economy. Relevant plans exist at all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are binding in nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in China results in resources being driven to sectors designated as strategic, or otherwise politically important by the government, rather than being allocated in line with market forces.[45]

8. The optical fibre cable industry is regarded as an important industry supported by the government of China. This is confirmed by the "*Made in China 2025*" initiative which introduces a road map for the Chinese manufacturing sector. One of the goals of this initiative is to strengthen the development of the Internet infrastructure, including by accelerating the deployment and construction of optical fibre networks, mobile communication networks and wireless local area networks.[46]

43 *Ibid*., paras 116-117.
44 Working Document, p.97.
45 Working Document, pages 41-42; 83.
46 **Annex F.4**, *Made in China 2025*, Notice of the State Council, 19 May 2015 (AI translation), page 10.

9. There is also evidence of public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces. For example, the 2017 Foreign Investment Catalogue, which sets out market access restrictions and strict requirements for foreign investors, names telecommunications companies within the scope of "*restricted category*" and sets forth additional requirements for *inter alia*, equity ownership and capital contribution.[47]

10. The European Commission's Working Document also contains references to distortions in the telecommunications sector, including:

- the Illustrative list of China's Planning System includes "*Information and Telecommunications Industry Development Plan*". The full text of the plan is available on the websites of the respective authorities which have issued the plan, typically the State Council, the NDRC, the relevant line ministries (such as MIIT, MoF, MoA) or other agencies (e.g. NEA).[48]

- Specific laws and regulations prohibiting or restricting the activities of private investors (both domestic and foreign) apply for specific industries, including telecommunications.[49]

11. There is also evidence of distortions with respect to the raw materials which are used in the manufacture of optical fibre cables. The raw materials used to manufacture optical fibre cables, which are subject to specific development targets by the Chinese government, include:

- The development and industrialisation of high-value added downstream applications of new chemical materials, including high performance fibres;[50]

- National programmes to speed up the development of strategic products, including aramid fibres;[51]

- The development of glass fibres.[52]

D. The lack and discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

12. The European Commission concluded that the Chinese bankruptcy and property laws do not work properly and that they apply in a discriminatory manner, therefore generating distortions when maintaining insolvent firms afloat and when allocating land

47 Section 8.2.3 of the Working Document.
48 Working Document, p.42.
49 Working Document, p.171.
50 Working Document, p.420.
51 Working Document, p.285.
52 Working Document, p.285.

use rights in China.[53] There is no reason to consider that those general considerations do not equally apply to the Chinese companies producing optical fibre cables.

E. Wage costs are being distorted

13. The European Commission has found that a system of market-based wages cannot fully develop in China as workers and employers are impeded in the exercise of their rights to collective organisation. Internationally, China is not a member of the International Labour Organisation and, nationally, there is a single active union organisation but it lacks independence from the State authorities.[54]

14. Moreover, the European Commission has also determined that the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. The typical result is that workers who do not possess a local residence registration find themselves in a vulnerable employment position and have a lower income than holders of the residence registration.[55]

15. Both of those findings support the argument that wage costs in China are being distorted. There is no reason to suppose that those general considerations do not equally apply to the Chinese companies producing optical fibre cables.

F. Access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

16. The European Commission has previously found that the corporate credit system in China, and thus access to capital for corporate actors, is affected by significant distortions resulting from the continuing pervasive role played by the State in the capital markets. This is evidenced by the fact that (1) the Chinese financial system is characterised by the strong position of State-owned banks which, when granting access to finance, take into consideration criteria other than the economic viability of a project;[56] (2) borrowing costs have been kept artificially low to stimulate investment growth;[57] and (3) Chinese credit institutions have been granting artificially low interest rates in a large number of cases.[58]

17. We also refer to the anti-subsidy Application, in which it is explained that the Chinese government has awarded or granted asset-related or project-related government subsidies to be spent for the industrial revitalisation, technological development and

53 European Commission Implementing Regulation (EU) 2020/492 of 1 April 2020 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt, OJ 2020 L108/1, paras 139-141.
54 GFF AD Regulation, para. 143.
55 GFF AD Regulation, para. 143. Working Document, pp. 337-341.
56 GFF AD Regulation, para. 147; Working Document, pp. 114–117.
57 GFF AD Regulation, para. 151.
58 GFF AD Regulation, para. 152.

construction projects relating to the telecommunications sector. These companies include.

G. Conclusion on the existence of market distortions

18. In light of the above, there is evidence of significant distortions in China in general and in the Chinese optical fibre cable industry in particular leading to the conclusion that "*prices reflect non-commercial factors*" under Point 7(4)(c) of the Regulation. As a result, it is appropriate to calculate the normal value exclusively on the basis of costs of production and sales reflecting undistorted prices or benchmarks in an appropriate representative country, in accordance with Point 8(1)(a) of the Regulation.

Please give the normal value calculations using the appropriate section below, making sure to use the section relevant to the method you have described in this section. Delete tables for any methodologies you are not using.

The evidence you provide of normal value should, as far as possible:

be representative of different product types or models within the goods you are applying to us to investigate, if there are substantial differences in the normal value between these product types and models; and relate to normal value spread over the POI

Comparable Price

Prices should be net ex-works (EXW) and exclude all internal taxes, such as VAT. If EXW prices are not available e.g. if Cost Insurance and Freight (CIF) or Free On Board (FOB) prices are the only ones available, these prices should be adjusted to bring them to a net ex-works level. If using this method, **please complete Annex 3**.

Constructed Normal Value

Please complete Annex 4, explaining how each cost was calculated including:

- materials;
- direct labour;
- overheads;
- administration, sales and general expenses (ASG), excluding transport costs; and

- the reasonable profit margin in the country of origin.

Please refer to **Annex E.1** for the methodology used to construct the normal value.

Where there is a particular market situation, make adjustments to elements of cost or profit that are not substantially determined by market forces. For further information, see our guidance on adjusting costs when constructing normal value or contact our Pre-Application Office (contact@traderemedies.gov.uk)

For any of the above methodologies, attach supporting documentation for the prices, costs and any adjustments (see below) you have made. This can include:

- price lists;
- price quotations;
- sales invoices for domestic sales;
- sales correspondence;
- publicly available material containing information on domestic selling prices; and
- market surveys.

Please refer to **Annex E.1** and **Annex E.2.**
No adjustments have been made: the constructed normal value (CNV) has been constructed on an *ex-works* basis from the outset. Thus, there was no netting-back from some delivered, packaged, insured terms to *ex-works*.

Selling Price from Exporter to a Third Country

If this is the preferred method, **please use Annex 3**, indicating here which country you are using, and amending the listed adjustments to better reflect the adjustments made. Prices should be net ex-works (EXW) and exclude all internal taxes, such as VAT. If EXW prices are not available e.g. if Cost Insurance and Freight (CIF) or Free On Board (FOB) prices are the only ones available, these prices should be adjusted to bring them to a net ex-works level

Not applicable.

Appropriate third country

This method is only available for particular foreign countries as defined under Regulation 14 of the D&S Regulations.

1. Nominate an appropriate third country so you can establish normal values based on their selling prices.

Turkey is considered to be an appropriate third country.

2. Explain your basis for selecting this third country.

Turkey is considered an appropriate representative country because:

(1) according to the data published by the World Bank, Turkey and China have a similar level of economic development, as both countries are classified as upper-middle income countries;[59]

(2) Turkey has production of the product concerned;

(3) Turkey is a competitive market as shown by the high number of Turkish producers and the significant imports from third countries; and

(4) the products originating in China and those produced in Turkey are identical with respect to applications, physical, technical and chemical characteristics.

3. **Please use Annex 3** to calculate the Normal value based on the third country data, amending the listed adjustments to better reflect the adjustments made. Prices should be net ex-works (EXW) and exclude all internal taxes, such as VAT. If EXW prices are not available e.g. if Cost Insurance and Freight (CIF) or Free On Board (FOB) prices are the only ones available, these prices should be adjusted to bring them to a net ex-works level

Please refer to **Annex E.1** for the methodology used to calculate the Normal value.

Export price of the goods

The export price is the selling price of the goods from the exporting country to a UK importer or a third party for export to the UK. This is adjusted to account for export costs and calculated back to the ex-works export price in the country of export. In most cases, you can base the export price on the price charged by the exporter to an

[59] World Bank country classifications, available at; https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups.

unrelated importer in the UK. If your complaint concerns more than one exporting country, calculate the export price for each country

However, you may need to construct export price based on sales to first independent buyers or another reasonable method if:

- there is no export price;
- the price is unreliable due to an association or compensatory arrangement between the exporter and UK importer or third party.

Before providing the export price of the goods, please explain which basis you are using to calculate this and why. If you have constructed the export price, please give your reasoning for doing this and evidence to support this.

Please refer to **Annex E.3** (sheet "*3. Export price -worksheet"*), which reproduces **Annex G.A.22** and **Annex G.A.23.**

Please give your export price calculations in the appropriate table below. Make sure you use the basis you described above and delete tables for any methodologies you are not using. Please note that whichever methodology you use, you will need to provide an export price on a CIF and EXW level. You should use price information from the POI.

The evidence you provide of the export price should, as far as possible:

- be representative of different product types or models within the goods you are applying to us to investigate, if there are substantial differences in the normal value between these product types and models; and
- relate to normal value spread over the POI

If either/both of these are not possible, please explain why. If you consider that export prices would not have varied significantly over the last year and so prices over the period outlined above would not be relevant for establishing representative export prices, please explain why you consider that to be the case.

Export price based on the selling price of the goods from the exporting country to a UK importer or a third party for export to the UK

Provide the export prices of the allegedly dumped goods using Annex 5 Evidence and individually itemise the costs subtracted from this selling price to bring it back to

an ex-works level, such as publicly available freight rates. Explain how the amounts were established.

Provide documentary evidence for the selling price to the importer in the UK, such as:

- sales invoices;
- written offers;
- price quotations;
- sales correspondence; or
- official statistics.

Please refer to **Annex E.3** (sheet "*3. Export price -worksheet"*), which reproduces **Annex G.A.22** and **Annex G.A.23.**

Constructed Export Price

Calculate the constructed export price(s).

You may need to adjust for any costs included in the selling price which relate to the movement of the goods to the UK. If you are using sales to the first independent buyer as a basis for constructing, establish the details of the first sale to an independent buyer in the UK and deduct taxes, costs, charges, expenses and profit margins to obtain an ex-works price in the country of origin.

If there are different models or types of product for the imported goods, please construct a price for each one. Provide each adjustment separately. If your starting point is a CIF value, you will only have to find and deduct costs incurred by the exporter in the country of export from CIF back to the ex-works level.

Provide evidence to show how you have calculated or estimated the export prices. Include all the evidence you have on the resale price of the imported goods in the UK. Provide the basis for the costs and profits subtracted from this selling price to bring it back to an ex-works level such as published industry mark-ups or publicly available freight rates and give evidence to support each cost adjustment.

Please refer to **Annex E.3** (sheet "*3. Export price -worksheet"*), which reproduces **Annex G.A.22** and **Annex G.A.23.**

Fair Comparison

To achieve an appropriate price comparison, the export price and the normal value should be compared at a fair level, in terms of their basic physical and chemical characteristics and the terms and conditions of sale. To achieve this comparison, please adjust your calculations to account for any differences which affect price comparability. This means that the comparison should be made at the same level of trade (such as wholesale or retail), at ex-factory level (EXW), and where possible, at the same time.

For certain types of adjustment, only the normal value may need to be adjusted. Sometimes both the normal value and export price will need to be adjusted. Use the table of adjustments below to check if the adjustment can be applied to export price or normal value or both. For more information, please consult our fair comparison guidance.

Table of adjustments	Export Price	Normal Value
Physical characteristics	No	Yes
Import charges and indirect taxes	No	Yes
Discounts, rebates, quantities	Yes	Yes
Level of trade	No	Yes
Transport, insurance, handling	Yes	Yes
Packing	Yes	Yes
Credit	Yes	Yes
After sales costs	Yes	Yes
Commissions	Yes	Yes
Currency Conversion	Yes	Yes

1. Provide the relevant adjustments so you can compare the export price and normal value.

Please refer to **Annex E.1.**

2. Provide, for all adjustments you make, the following:

- details of the differences that resulted in an adjustment;
- details of how you produced the estimate of the allowances for the differences; and
- supporting evidence concerning these differences.

Please refer to **Annex E.1.**

Dumping Margin

If the overall dumping margin calculated across all product types/models and across all transactions is **less than 2%**, the Regulations consider this to be minimal and we cannot initiate an investigation.

1. Calculate the dumping margin. **Complete Annex 7**, repeating the calculation for each different model of the imported goods you have previously identified. Make sure you do this for each export price you have provided and for the normal value you have provided which is most closely comparable to that export price. If your complaint concerns more than one exporting country, calculate the dumping margin for each country.

If the normal value or the export price (or both) you have used was not an ex-works price, please describe the level of trade it relates to.

For the dumping calculations, please refer to **Annex E.3**, in which the Applicant has (conservatively) estimated the dumping margin with respect to four representative types of optical fibre cables, namely:

- An optical fibre cable with a low fibre count (12): 63%
- An optical fibre cable with a standard fibre count (36): 27%
- An optical fibre cable with a standard fibre count (48): 116%
- An optical fibre cable with a high fibre count (96): 171%

The magnitude of the above dumping margins speaks for itself and constitutes clear evidence that imports of optical fibre cables from China are being heavily dumped on the UK market.

Subsidised imports

Complete this section if you are making an application for a subsidy investigation.

In order for us to investigate whether the goods are subsidised, we must be satisfied that the application contains enough evidence:

- that the goods are being imported
- that the goods are subsidised
- that the goods are causing injury to UK industry
- that the volume of goods and injury is more than negligible and the amount of subsidy is more than minimal
- that the market share is met or waived.

'Minimal', for developed countries, means a subsidy amount that is less than 1% of the estimated value of the goods (2% in the case of a developing country).

'Negligible' is where the exporting country accounts for less than 3% of imports of the goods in question into the UK (less than 4% in the case of a developing country). The other exception to this is where the exporting countries individually account for less than 3%, but collectively account for more than 7% of imports of the goods being imported.

Volume of subsidised imports

1. List all countries (or territories) that export the goods to the UK, noting whether they are the country of origin or just the exporting country; in the latter case, please provide the identity of the country of origin.

Please see **Annex G.A.1**.

2. **Complete the Annex 2**, giving the volume and value of the imported goods for the POI, to demonstrate percentage of total imports.

3. Provide details and evidence of how the volume and value of subsidised imports have been calculated.

For the reply, please see **Annex G.A.1**. For the methodology used to convert one kilogram of optical fibre cable to one cable kilometre, please refer to page 137.

Countervailable subsidies in the exporting country

A subsidy exists if there is a financial contribution by a foreign authority which confers a benefit on the recipient (usually an industry or business manufacturing goods) or a form of income or price support received from a foreign authority which confers a benefit on the recipient. Forms of income and price support are defined in Article XVI of the General Agreement on Tariffs and Trade 1994 (part of Annex 1A to the WTO Agreement).

Not all subsidies are countervailable. A subsidy is countervailable if it is specific to certain companies or industries (rather than general) and when it is granted either directly or indirectly for the manufacture, production, export or transport of goods.

Please refer to our guidance on How we carry out a subsidy investigation for further information.

1. Using the table below, list all known countervailable subsidy programmes in the exporting country which relate to the production and/or sale of the goods you are asking us to investigate. Subsidy programmes can include, but are not limited to:

- Grants
- Loans and loan guarantees
- Tariff/tax exemptions (including VAT/Sales Tax)
- Debt for equity swaps
- Land use rights
- Export credits and financing
- Equity infusions
- Provision of goods and services
- Purchase of goods
- Income or price support arrangements.

Subsidy programmes

Subsidy name	Subsidy type
The Applicant has identified 69 subsidy measures applied by the Chinese OFC producers. This Annex provides the following publicly available information on the subsidy measures**: (i) name of the measure; (ii) commandment date of the measure;**	

(iii) value of the subsidies granted under the measure; (iv) the periodicity of the measure; (v) the eligibility criteria to apply the measure; and (vi) the region where the measure is applicable. Even though some of the programs, policies and guidelines are generally applied at the national and centralized level, in combination with other measures they form a part of the specific subsidies. The Applicant is unable to provide some information on specific measures, because it is not publicly available. In addition, the Applicant is unable to find some of the subsidy measures (underlined in orange in the Annex). In addition, the Applicant is unable to access some of the measures (underlined in blue), because the Chinese websites do not permit it. For further information please see **Annex F6.**

+Add/remove additional rows as required.

1. This part of the Application addresses in detail the subsidisation of the optical fibre cables industry in China. **Section 1** offers a general introduction. **Section 2** provides an overview of the optical fibre cables industry in China in the context of subsidisation. **Section 3** describes the general measures adopted by the GOC and explains how they apply to the telecommunications and OFC sectors. **Section 4** analyses whether the Chinese measures at issue constitute actionable subsidies within the meaning of the SCM Agreement,[60] as well as the Trade Remedies (Dumping and Subsidization) (EU Exit) Regulations 2019 ("**EU Exit Regulations**")[61] and Schedule 4 "*Dumping of Goods or Foreign Subsidies Causing Injury to UK Industry*" to the Taxation (Cross-border Trade) Act (2018) ("**Schedule 4**")[62] and discusses specific subsidisation schemes applicable to the Chinese telecommunications and optical fibre cable sectors that are included and described in detail in **Annex F6.**

1. INTRODUCTION

2. Based on the *prima facie* evidence provided in this section, the Applicant considers that imports into the United Kingdom of OFC originating in China are being subsidised under numerous subsidy schemes introduced by the Government of China ("**GOC**"), which will be identified and explained in detail in the following sections.

60 Agreement on subsidies and countervailing measures.
61 The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (2019 No. 450).
62 Schedule 4 "*Dumping of Goods or Foreign Subsidies Causing Injury to UK Industry*" to the Taxation (Cross-border Trade) Act (2018).

3. For many years, the GOC has been heavily supporting the Chinese telecommunications sector, including the OFC industry, and has provided multiple types of subsidies to the Chinese exporting producers during the period under consideration.

4. The general context and situation in the exporting country, namely China, must be considered in the overall assessment of the existence of distortions. These factors are typically considered where the fundamental elements of the exporting country's economic and administrative set-up provide the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces. In this respect, notably, both the United States and the European Union continue to treat China as a Non-Market Economy ("**NME**").[63]

5. As we will further explain in **Section 3**, the central and local levels of the GOC set out the priorities and prescribe the goals of the Chinese economy. Relevant plans and guidelines exist at all levels of government and cover virtually all economic sectors. The objectives set forth by these planning instruments are binding in nature and the authorities at each administrative level of the Chinese government monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in China results in resources being driven to sectors designated as strategic, or otherwise deemed as politically important by the government, rather than being allocated in line with market conditions.[64]

6. More particularly, the telecommunications sector has been designated as a "*strategic industry"*. The 12th Five-Year Plan identified new generation information technology, which includes OFC, as one of the seven "*strategic industries*" and stipulated that this technology should be strengthened and developed through comprehensive policy support.[65] Similarly, the 13th Five-Year Plan aimed to further develop the strategic OFC industry through the National Broadband Agenda by establishing a high-speed, high-capacity optical telecommunications

63 On 12 December 2016, China requested consultations with the United States (DS515) and the European Union (DS516) concerning certain provisions of US and EU law pertaining to the determination of normal value for "non-market economy" countries in anti-dumping proceedings involving products from China. Subsequently, China decided to only pursue the case against the EU, whereby it eventually requested a suspension of the proceedings. As a result, the authority for establishment of the panel lapsed as of 15 June 2020. In addition, the fact that China is an NME has been highlighted in the European Commission's Staff Working Document on "*Significant distortions in the economy of the People's Republic of China for the purpose of trade defence investigations*", where the European Commission found that *"[t]he overall picture that emerges concerning the framework in which economic activity takes place in China is one where the State continues to exert a decisive influence on the allocation of resources and on their prices*" and that "the allocation and pricing of the various factors of production is influenced by the State in a very significant manner. *See: Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations of 20 December 2017* ("**Working Document**"). Since the Working Document is a very detailed report on the Chinese economy prepared by the European Commission, the Applicant refers to it for guidance.

64 See *Commission Implementing Regulation (EU) 2020/492 of 1 April 2020 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt* ("**GFF AD Regulation**"), para. 123. *See* also Working Document, pp. 41-42; 83.

65 **Annex F1.** The 12th Five-year Plan for National Economic and Social Development of The People's Republic of China (2011-2015), Chapter 10.

system.[66] Additionally, the 14th Five Year Plan focuses on digital transformation and building innovative information infrastructure.[67]

7. The new generation information technology industry is also an "*encouraged industry*" under the "*Made in China 2025*" initiative and, accordingly, is eligible to benefit from considerable State funding. Relatively new products such as OFC are very much part of the *"Made in China 2025"* strategy.[68]

8. The sections that follow will provide a detailed analysis on how the OFC industry in China is structured, supported, and subsidised by the GOC.

2. GENERAL STRUCTURE OF THE OPTICAL FIBRE INDUSTRY IN CHINA

9. Before describing the substance of the subsidisation schemes, this Application addresses the general structure of the optical fibre cable industry in China. In China, companies that operate under the ownership, control and/or policy supervision or guidance of the State represent an essential part of the economy. The GOC and the Chinese Communist Party ("**CCP**") actively formulate and oversee the implementation of general economic policies by companies, in particular by state-owned-enterprises ("**SOEs**"), and also participate in the operational decision-making in SOEs.[69]

10. The GOC considers the telecommunications sector to be of strategic importance and directly intervenes in its competitive landscape to achieve its strategic economic goals. This is the case, for example, for the following SOEs, **which all operate under the absolute control of the Chinese State**: China Telecom Group, China Mobile Group (the single largest purchaser of OFC) and China United Network Communications Group.[70]

11. More specifically, in the OFC sector, the GOC continues to exercise a significant degree of direct or indirect ownership.[71] Indeed, the 2020 Annual Reports and 2021 Semi-Annual Reports of optical fibre manufacturers indicate that a number of SOEs are shareholders of those manufacturers. For instance, two of Jiangsu Zhongli's shareholders are Sta-owned companies: (i) China Development Bank Guokai Finance Co.,Ltd. holds 36,679,116 shares (4.21%) and (ii) ChangShu Development and Investment holds 26,966,292 shares (3.09%).[72] Other Chinese OFC manufacturers mention several Chinese SOEs as shareholders, including Shenzen Tefa Information Co,[73] Jiangsu Zhongtian Technology,[74]

66 **Annex F2.** The 13th Five-year Plan for National Economic and Social Development of The People's Republic of China (2016-2020), Box 9, Information Technology Projects.
67 **Annex F3.A/ F3.B.** The Fourteenth Five-Year Plan for the National Economic and Social Development of the People's Republic of China Planning and 2035 long-term goals outline.
68 **Annex F4**. *"Made in China 2025": Quality in quantity*, CRU, 12 September 2017.
69 GFF AD Regulation, paras. 116-117.
70 Working Document, p. 97.
71 **Annex F5.** Overview of the involvement of the Chinese State in the Organic Structure of OFC Producers.
72 **Annex F7.A.**, **Annex F7.B**. Jiangsu Zhongli Group Co., Ltd. Annual Report 2020, p. 50.
73 **Annex F8.A.**, **Annex F8.B.** Shenzhen Tefa Information Co., Ltd. Annual Report 2020, p. 171.
74 **Annex F9.A**, **Annex F9.B.** Jiangsu Zhongtian Technology Co., Ltd. Semi-Annual Report 2021, p. 36.

Changfei Optical Fibre & Cable (YOFC),[75] Tianjin Futong Xinmao Technology,[76] and Fibrehome Communication Technology.[77]

12. In addition, in 2012, the U.S. Trade Representative reported that the Ministry of Industry and Information Technology ("**MIIT**") "*has still not rescinded an internal circular issued in 1998 instructing telecommunications companies to buy components and equipment from domestic sources*".[78] This is a clear indication of the vertically integrated nature of the telecommunications industry in China.

13. It is therefore clear that the Chinese OFC industry has been established and has been operating based on the continuous support and presence of the Chinese State. The following sections provide detailed information on the GOC's direct and indirect involvement in the OFC sector, by pointing out various subsidy programmes introduced as a result of the implementation of numerous aggressive public policies.

3. GENERAL MEASURES ADOPTED BY THE GOC WHICH APPLY TO THE TELECOMMUNICATIONS AND OPTICAL FIBRE CABLE SECTORS

14. The development of Chinese economy is determined by the existence of a planning system that sets the priorities and binding targets on which the GOC must focus. This system ensures that resources are allocated to sectors designated as strategic (such as the OFC sector) rather than to sectors that would be appropriate according to market forces.[79]

15. OFC products are considered as "*key products*" by the Chinese authorities,[80] because they play a fundamental role in the development of optical fibres and broadband Internet networks. Therefore, there are specific policies and support measures aimed at stimulating the development of this sector, as will be further explained in this Application.[81]

16. This section describes the general measures adopted by the GOC that apply to the telecommunications and optical fibre cable sectors, which include: (i) high-tech products (**Section 3.1**); (ii) the "**Broadband China Strategy**" (**Section 3.2**); (iii) the 13th Five-Year Plan and the 14th Five-Year Plan (**Section 3.3**), and (iv) the "**Made in China 2025**" (**Section 3.4**). These measures create a general framework for encouraging the telecommunications

75 **Annex F10. A.**, **Annex F10.B**. YOFC Optical Fibre & Cable Co., Ltd. Annual Report 2020, p. 34.
76 **Annex F11.A.**, **Annex F11. B.** Tianjin Futong Xinmao Technology Co. Ltd. Semi-Annual Report 2021, p. 96.
77 **Annex F12.A.**, **Annex F12.B.** Fiberhome Communication Technology, Semi-Annual Report 2021, pp. 33, 36.
78 **Annex F13.** U.S. Trade Representative, 2012 National Trade Estimate Report on Foreign Trade Barriers, p. 69.
79 Regulation 2022/72 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China("**Regulation 2022/72**"). *See* Regulation 2022/72, recital 79, p. 11.
80 **Annex F14.A. Annex F14.B**. Guiding Catalogue of key products and services in strategic emerging industries. **Annex F15.A. Annex F15.B.** *Made in China 2025 Catalogue of "Four Essentials".*
81 Regulation 2022/72, recital 80, p. 11.

industries (including OFC and preform) that has been further developed by the GOC by introducing implementing regulations and guidelines (see **Section 4**).

3.1 Policies adopted by the GOC concerning high-tech products

17. In a globalised world, the national competitiveness of any country strategically depends on research and development of its high technology industry. Its high technology policy is shaped by its fast development strategy. Accordingly, the GOC has established a set of policies, guidelines, and programmes to promote high-tech industrialisation. To this effect, the GOC introduced a wide scope definition of "*high-tech products*" and has been providing basic investment and financial support to almost all companies producing or co-producing these products that are based in China.

18. In this vein, China issued several lists (catalogues) identifying high and new technology products for various purposes, which have subsequently been updated. The three lists (catalogues) indicated in **Table F1.** below establish a general framework, which has been further developed by more specific policies [See e.g. **para. 20**].[82]

Table F1.

Name of the List (Catalogues)	Main Policy Objective
"**China's High Technology Export Products**"[83] (2000, 2003 and 2006)	Basis for export value added tax (VAT) rebate benefits
"**Foreign Investment Promotion High and New Technology Product Catalogue**" (2003)	Industrial policy guidance for foreign investors
"**China's High Technology Products Catalogue**" (2000 and 2006)	Basis for high-tech enterprise recognition and granting corporate (income) tax preferential benefits

82 **Annex F16.** Joint working paper "*Classification of Trade in Advanced Technology Products And its Statistics Reconciliation: The Case of China and the United States*"; Michael Ferrantino, Robert Koopman, Zhi Wang, and Falan Yinug (United States International Trade Commission); Ling Chen Tsinghua University, PRC Fengjie Qu and Haifeng Wang (National Development and Reform Commission, PRC), also available here.

83 **Annex F17.** Notice on Printing and Distributing the 2006 "*China High-tech Products Export Catalogue*".

19. The current recognition of China's high-tech products was built on the high-tech industry classification and the catalogues mentioned above. "*China's High-tech Product Export Catalogue*" and "*China's High-tech Product Catalogue*" became important policy reference tools for encouraging the development and production of high-tech products and high-tech industries. The two 2006 catalogues were revised and are now integrated and compiled in the "*Guiding Catalogue of China's High-tech Products*" to further implement relevant policies to encourage independent innovation and the development of high-tech industries.[84]

20. The Chinese authorities have included OFC products and preforms in numerous high-tech catalogues such as, among others: (i) the Catalogue of Major Industries, Products and Technologies Encouraged for Development in China;[85] (ii) the Catalogue of Industries for Foreign Investment Guidance, revised in 2017;[86] and (iii) the Catalogue of Guidance for Industrial Structure Adjustment Guidance, revised in 2019.[87] The inclusion of OFC and preforms in these catalogues illustrates the GOC's intention to consider them as high-tech products.

21. Since OFC and preforms are recognised by the GOC as high-tech products, every measure (or programme, policy, guideline, strategy) that applies to high-tech products, will therefore apply to OFC and preforms. In addition, because these measures apply only to high-tech enterprises ("**HTEs**") to the exclusion of non-HTEs, they should be deemed as specific within the meaning of the SCM Agreement and Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations.

22. More specifically, OFC and preforms are subject to multiple subsidy schemes developed both at the central, regional, and local levels of the GOC. First, in relation to country-wide measures, as outlined in China's Law on the Progress of Science and Technology,[88] Chinese high-tech enterprises established in the High-Tech Industry Development Zones can benefit from numerous preferential policies, such as, among others:[89]

- Preferential enterprise income tax ("**EIT**"), where High-tech enterprises are subject to income tax at a rate of 15%, instead of the normal EIT of 25% (for further information see **Section 5.4.1**);
- For the development of new technologies and the production of HTEs run by domestic capital, the construction tax (or investment direction adjustment tax) is exempted;

84 **Annex F18**. Notice on Compiling the "*Guiding Catalogue of China's High-tech Products*".
85 **Annex F19.** Catalogue of Major Industries, Products and Technologies Encouraged for Development in China, approved and published by CG OF China State council on December 29, Issued by State Planning Commission on December 31, 1997, and take effect as of January 1, 1998.
86 **Annex F20.** Catalogue of Industries for Guiding Foreign Investment (Revision 2017), approved by the Party Central Committee and the State Council, in force as of July 28, 2017.
87 **Annex F21.A**, **Annex F21.B**, Catalogue for the Guidance of Industrial Structure Adjustment 2019, adopted at the second committee meeting on August 27, 2019, and in force as of January 1, 2020; **Annex F22.** Background Material for US-China, Economic and Security Review Commission, 6 June 2012.
88 **Annex F23.** The Law of the People's Republic of China on Progress of Science and Technology.
89 **Annex F24**. Preferential policies of the National High-Tech Industrial Development Zones, p. 1.

- High-tech enterprises are eligible to apply accelerated depreciation for high-tech development and production of high-tech products;

- In general, exported products manufactured by HTEs are exempted from export tariffs, except those restricted by the State or relating to specific products.

23. Second, regional and local governments also implement the high-tech development strategy by developing preferential tax, credit, as well as import and export policies.[90]

24. In view of the above, it appears that all Chinese OFC producers located in the high technology industry development zones can benefit from the preferential policies described above.

25. In addition, Chinese OFC producers receive benefits from the GOC related to the raw materials they use in the manufacturing process of their products. In its Working Document (see **footnote 63**), the European Commission reported that raw materials are subject to specific development targets by the GOC, which include: (i) the development and industrialisation of downstream high value-added applications of new chemical materials, including high-performance fibres;[91] (ii) national programmes to accelerate the development of strategic products, including aramid fibres;[92] and (iii) the development of glass fibres.[93]

3.2 Policies adopted by the GOC: the "Broadband China Strategy"

26. Through the "Broadband China Strategy", the Chinese authorities promote "*access networks [...] in accordance with the ideas of high-speed access*" and the "*extension of optical fibre to the user's side*" in order to achieve "*a fixed broadband access network with optical fibre as the main source*".[94]

27. This section describes the stages in which the GOC develops a strategy, which is subsequently implemented at local levels of government. The steps followed by GOC in subsidising an OFC producer appear to be the following: First, the GOC develops a detailed and centralised strategy for the development of the broadband optical fibre network (**Section 3.2.1**).[95] Second, the GOC launches an accelerated implementation programme to encourage local and regional governments to participate in the project (**Section 3.2.2**).[96] Third, local and regional governments implement the centrally-developed policy through a set of specific

90 **Annex F24.** Preferential policies of the National High-Tech Industrial Development Zones, p. 1.
91 Working Document, p. 420.
92 Working Document, p. 285.
93 Working Document, p. 285.
94 Regulation 2022/72, recital 101, p. 14. **Annex F25**. State Council's Issue ("**SCI**") of the *"Broadband China Strategy" and Notification of Implementation Plan*, State Development (2013), No. 31 (last accessed on 29 September 2020), p. 6.
95 **Annex F26.**, Ministry of Industry and Information Technology, National Development and Reform Commission, Science and Technology Department, Ministry of Finance Documents, Ministry of Land and Resources, Housing and Urban-Rural Development, State Administration of Taxation, Ministry of Industry and Information Technology Unicom, *Opinions on Promoting the Construction of Optical Fibre Broadband Network (2010)*, No. 105 (last accessed on 29 September 2020).
96 **Annex F25**, SCI *…and Notification of Implementation Plan*, p. 1.

subsidisation programmes offered to companies within a specific industry (developing broadband fibre cable networks) (**Section 3.2.3**).[97]

3.2.1 GOC's Optical Fibres Broadband Network Subsidisation Programme

28. In 2010, the GOC published the "*Opinions on Promoting the Construction of Optical Fibre Broadband Network*" document,[98] which emphasizes the importance of fibre optic broadband network construction and mentions the concept of developing a broadband network.

29. In addition, in order to implement the "*Electronic Information Industry Adjustment and Revitalisation Plan*", the GOC stated that it would "*1) guide and promote the construction of optical fibre broadband networks, 2) stimulate the development of domestic related industries and 3) give full play to the fundamental and promoting role of optical fibre broadband in national economic and social development*".[99]

30. At the same time, the GOC acknowledged the existence of obstacles and problems with deploying networks in certain communities, the unbalanced development in urban and rural areas, and a lack of broadband applications, which are linked mainly to the fact that:

> *"telecommunications companies lack enthusiasm due to the large investment and poor efficiency in the construction of optical fibre broadband networks in economically underdeveloped rural areas. The solution of the above-mentioned problems requires relevant policy guidance and support."*[100]

31. To that end, the GOC has set the following objectives: (i) to understand the importance of fibre optic broadband network construction and its promotion;[101] (ii) to speed up the construction of optical fibre broadband network and improve the capacity of information infrastructure;[102] (iii) to formulate and improve support measures for optical broadband network construction to support its development;[103] (iv) to guide the development and innovation of broadband applications and drive the construction of optical fibre broadband networks;[104] (v) to improve other related supporting measures to ensure the construction of optical fibre broadband networks;[105] and (vi) to strengthen organisation and leadership to ensure that all tasks are implemented.[106]

---

97 **Annex F27.** The General Office of the State Council, *Accelerating the Construction of High-speed Broadband Networks Guiding Opinions on Promoting Network Speed Increase and Fee Reduction State Council* (2015), No. 41.

98 **Annex F26.** MIIT, *…Construction of Optical Fibre Broadband Network (2010)*, No. 105.

99 **Annex F26**. MIIT, *… Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 1.

100 **Annex F26.** MIIT, *… Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 2.

101 **Annex F26.** MIIT, *…. Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 2, point 1.

102 **Annex F26.** MIIT *…Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 3, point 2.

103 **Annex F26.** MIIT, *… Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 3, point 3.

104 **Annex F26.** MIIT, *…. Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 4, point 4.

105 **Annex F26.** MIIT, *…Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 5, point 5.

106 **Annex F26.** MIIIT, *…Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 6, point 6.

32. In order to meet the fourth goal, namely "*guiding the development and innovation of broadband applications and driving the construction of optical fibre broadband networks*", the GOC stated that:

> *"Local governments at all levels are encouraged to provide financial subsidies for the use of optical fibre broadband by public service organizations and the construction of high-speed broadband channels in software and service outsourcing parks. Encourage government and industry informatization of optical fibre broadband network applications, promote the popularization of broadband in e-government, medical and health, urban management, community services and other fields, promote broadband-based video applications, and develop broadband-based information services and cultural and creative industries. Continue to use existing funding channels and related policies to encourage college students to start their own businesses based on fibre-optic broadband networks, and support enterprises and units to use fibre-optic broadband networks to develop business and attract college students' employment (emphasis added)."*[107]

33. The introduction of a centralised strategy for the development of the broadband optical fibre cable network was the first step in establishing a basis for governmental subsidies. The subsequent steps will be analysed below.

3.2.2 *"Broadband China Strategy"* as a detailed plan for development that created a basis for action on the local government level.

34. As a second step in the broadband network development, at the central level of the GOC, the State Council issued the "*Broadband China* Strategy and Notification of Implementation Plan, State Development**"** ("**Broadband China Strategy**") in 2013.[108] The GOC stated that the broadband network was a strategic public infrastructure necessary for the economic and social development of China.[109] The new strategy addressed key problems, such as the unclear positioning of public infrastructure, unbalanced regional and urban-rural development, insufficient application services, insufficient technological originality, and incomplete environmental development.[110] Subsidisation schemes which followed this announcement addressed the cross-cutting issues and were directly connected to them.

35. According to the basic principles of the *"Broadband China Strategy,"* its overall goal should be achieved by the "*combination of government guidance and market regulation*", more specifically by adhering "*to the basic role of the market in allocating resources*" and giving "*play to the government's strategic leadership role, as well as improving policies and measures"*.[111]

---

107 **Annex F26.** MIIT, *…Construction of Optical Fibre Broadband Network (2010)*, No. 105, p. 5.
108 **Annex F25.** SCI …*and Notification of Implementation Plan*.
109 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 1.
110 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 2.
111 **Annex F25**. SCI *…and Notification of Implementation Plan*, p. 3.

36. While designing the *"Broadband China Strategy,"* the GOC stated that: "*by 2020, a broadband network infrastructure covering urban and rural areas, convenient services, unobstructed high speed, and advanced technology will be completed*".[112] According to the information that is currently available, the project is 100% complete.[113]

37. Even though the *"Broadband China Strategy"* does not explicitly refer to subsidies, its predecessor, the "*Opinions on Promoting the Construction of Optical Fibre Broadband Network*", explicitly includes them in its scope. Furthermore, the *"Broadband China Strategy"* refers to subsidies indirectly by, for example, describing its support for the Midwestern Region:

> *"Give policy preference, support the construction of broadband networks in the central and western regions, increase optical cable routing, increase backbone network capacity, expand access network coverage, and deploy and apply new-generation mobile communication technologies, next-generation radio and television network technologies, and next-generation Internet simultaneously with the eastern region. Speed up the construction of information content and websites in the central and western regions, and promote the development of information resources and broadband application services with national characteristics. Create a favourable environment and guide large-scale cloud computing data centres to settle in areas with suitable conditions in the Midwest*."[114]

38. Moreover, the promotion of the development of optical fibre networks between villages is clear from the *"Broadband China Strategy":*

> *"Various technical means such as optical fibre, copper wire, coaxial cable, 3G/LTE, microwave, satellite, etc. shall be adopted in accordance with local conditions to accelerate the extension of broadband networks from towns to administrative villages and natural villages. In densely populated rural areas, actively promote optical fibre and other wired methods to reach the village. In sparsely populated and scattered rural areas, various wireless technologies are used flexibly to achieve broadband network coverage."*[115]

39. A further example of the importance of the development of OFC is explained in Box 2 of the *"Broadband China Strategy"* document ("*Broadband network optimization and speed*"), which describes "*engineering optical fibre city construction*".[116]

40. Other examples of the scope of *"Broadband China Strategy"* include:

---

112 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 9.
113 **Annex F28A. Annex F28.B**. China Broadband Development White Paper.
114 **Annex F25**. SCI *…and Notification of Implementation Plan*, p. 15.
115 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 27.
116 **Annex F25**. SCI *…and Notification of Implementation Plan*, p. 17.

(i) As part of the development of rural parts of China, the Central Government set a goal of establishing rural public broadband Internet service centres.

(ii) Promotion of continuous improvement of the broadband network industry chain.

(iii) Research and development of key technologies in the field with focus on breakthroughs in key core technologies of broadband networks.

(iv) Support for the development, industrialization, and demonstration applications of core broadband network equipment.

(v) Development and presentation of core equipment for optical fibre broadband access. Break through the key technologies of the new generation of optical fibre access network with large capacity, high bandwidth, and long distance.[117]

41. In order to achieve the objectives of the *"Broadband China Strategy"*, the GOC identified the need to: (i) improve the institutional environment, (ii) accelerate the introduction of the necessary laws and regulations, and (iii) clarify the legal status of broadband networks as national public infrastructure.[118] In addition, the GOC placed emphasis on the strict implementation of broadband network construction planning and specifications. In line with this statement, broadband network construction was included in the overall urban and rural planning and land use of various regions.[119]

42. The GOC also gave clear instructions to local governments. The GOC stated that local governments at all levels should: (i) incorporate broadband development into the regional economic and social and urbanization development plans, (ii) strengthen organizational leadership, (iii) appropriately advance deployment based on actual conditions, (iv) increase capital investment and policy support, (v) avoid duplication of construction, and (vi) promote the rapid and healthy development of broadband in the region.[120]

43. In order to implement the *"Broadband China Strategy"* both at central and local levels, the central level of the GOC decided to increase financial (fiscal and taxation) support, improve the universal service compensation mechanism of telecommunications, and establish a long-term mechanism to support the development of a broadband network in rural, central, and western regions.[121] For example, a tax strengthening preferential support that included the construction and operation of broadband network in the western region into the "*Catalogue of Encouraged Industries in the Western Region*" was introduced by the *"Broadband China*

117 **Annex F25.** SCI *…and Notification of Implementation Plan*, pp. 20-23.
118 **Annex F25**. SCI *…and Notification of Implementation Plan*, pp. 25-26.
119 In accordance with the Urban and Rural Planning Law, the Land Management Law, and the Urban Communication Project Planning Regulations, and other laws. See: **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 27.
120 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 25.
121 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 28.

Strategy."[122] At the same time, financial support for broadband application service companies was increased.[123]

44. Overall, the *"Broadband China Strategy*" clearly illustrates the vision of the GOC in relation to broadband network expansion. The means employed to support the strategy are cross-cutting and apply to each of the sectors connected to the industry both at the downstream and upstream levels.

3.2.3 GOC issues guidelines on speeding up the construction of high-speed broadband networks to promote network speed reductions

45. The General Office of the State Council of the GOC issued Guidelines on *Accelerating the Construction of High-speed Broadband Networks*,[124] which further demonstrate the importance of the industry to Chinese economic and societal development. This document is used as a legal basis for the local and regional governments to establish their own policies and subsidy measures. In addition, this document also encourages "*places where conditions permit to give appropriate subsidies to the broadband network*".[125]

3.3 The 13th and 14th Five-Year Plans

46. In March 2016, the China's National People's Congress (the Chinese legislature) ratified the 13th Five-Year Plan ("**FYP**") (2016–2020), which sets out targets to rebalance the economy toward higher value-added manufacturing and domestic consumption, reform SOEs, increase urbanisation, enhance indigenous innovation, and improve the quality of life for its citizens through improvements to health, education, and social welfare. This plan also emphasises the GOC's intention to strengthen the development of strategic high technologies, including information technology.[126]

47. The 13th FYP largely reiterates the Chinese Government's State-directed strategy established under the 12th FYP, including "*indigenous innovation*", an initiative strongly condemned by the U.S., other foreign governments and companies following its inclusion in the 12th FYP.[127] The U.S. government, as well as other foreign governments and companies, have argued that this policy inherently discriminates against foreign companies by seeking to replace foreign technology with products and services from Chinese companies.

48. According to the US-China Economic and Security Review Commission, China's 13th FYP set ambitious targets for the information and telecommunications industry through its

122 **Annex F25.** SCI *…and Notification of Implementation Plan*, p. 28.
123 **Annex F25**. SCI *….and Notification of Implementation Plan*, p. 28.
124 **Annex F27**. GOSC *…on Promoting Network Speed Increase and Fee Reduction State Council*.
125 **Annex F27**. GOSC *…on Promoting Network Speed Increase and Fee Reduction State Council* p. 7.
126 Regulation 2022/72, recital 81, p. 12. **Annex F5.** The 13th Five-year Plan for National Economic and Social Development of The People's Republic of China (2016–2020).
127 **Annex F29**. James McGregor, *China's Drive for 'Indigenous Innovation': A Web of Industrial Policies*, American Chamber of Commerce, 2010; **Annex F30.** Office of the U.S. Trade Representative, *U.S. Trade Representative Ron Kirk Statement Following the Strategic and Economic Dialogue*, May 2010; **Annex F31.**, U.S. Department of Commerce, *U.S. and China Conclude 2nd Session of the Joint Commission on Commerce and Trade*, November 21, 2011.

"*Internet Plus plan*"[128] from 2015, which is "*aimed at building up the country's domestic mobile Internet*" and "*creating global competitors by assisting domestic firms' expansion abroad*". This document will contribute to the acceleration of the implementation of the "*Broadband China Strategy*".[129] It is reported that the Cyberspace Administration of China and the Ministry of Finance launched a $14.9 billion (RMB 100 billion) China Internet Investment Fund to provide equity investment in Chinese Internet and Internet of Things sector firms.[130] The Agriculture Bank of China, the China Development Bank, and the Industrial and Commercial Bank of China are also expected to provide $22.4 billion (RMB 150 billion) in credit lines to firms that the fund has invested in.[131] In **paragraph 11** below, evidence is provided that State-owned banks are shareholders in a number of OFC manufacturers.

49. In March 2021, the National People's Congress approved the 14th Five-Year Plan (2021-2025),[132] which sets itself the following main objectives: (i) growth and innovation, (ii) dual circulation, (iii) environment and climate change, and (iv) urban-rural inequalities and demographic trends. In contrast to the 13th FYP's emphasis on growth and restructuring, the new plan focuses on sustainable growth and quality of life by incorporating *"long-range objectives for 2030"* that were not included in previous plans.

50. The 14th Five-Year Plan aims at strengthening innovation by emphasising technological independence by further incentivising the development of "*indigenous innovation*", [133] by expanding domestic demand and increasing consumption, as well as applying new industrial policies.[134] Its objective is to increase the share of strategic emerging industries, thereby reducing reliance on heavy industries and improving the efficiency of SOEs through incentives and the gradual adoption of market-based wages.[135]

51. In addition, in relation to building a modern infrastructure system, the 14th FYP emphasises the need to accelerate implementation of the 5G network and promote the innovation required to set up the 6G network:

> *"Accelerate the large-scale deployment of 5G networks, increase the user penetration rate to 56%, and promote the upgrading of gigabit fibre-optic networks. Lay out 6G network technology reserves in a forward-looking manner. Expand backbone network interconnection nodes, set up a number of new international communication entrances and exits, and comprehensively promote the commercial deployment of Internet Protocol version 6 (IPv6). Implement a project to improve the basic network in small and medium-sized cities in the central and western regions. Promote the comprehensive*

128 **Annex F32.A. Annex F32.B**. The Internet Plus Plan.
129 Regulation 2022/72, recital 106, p. 15.
130 **Annex F33**. The 13th Five-Year Plan, US-China Economic and Security Review Commission, 14 February 2017, p. 13.
131 **Annex F33.** The 13th Five-Year Plan, US-China Economic and…, 14 February 2017, p. 13.
132 **Annex F6.A. Annex F6.B.** 14th Five-Year Plan for National Economic and Social Development…
133 **Annex F34**. China's 14th Five-Year Plan: A First Look.
134 **Annex F34.** China's 14th Five-Year Plan: A First Look.
135 **Annex F35.** The 14th Five-Year Plan of the People's Republic of China —Fostering High-Quality Development.

> *development of the Internet of Things (IoT), and build an IoT access capability that supports fixed-mobile convergence and a combination of broad and narrow access. Accelerate the construction of a nationwide integrated big data centre system, strengthen the co-ordination and intelligent scheduling of computing power, build a number of national hub nodes and big data centre clusters, and construct E-class and 10E-class supercomputing centres. Actively and steadily develop the industrial Internet and the Internet of Vehicles."*[136]

52. It follows from the above that both the 13th and 14th FYPs encourage the development of "indigenous innovation". In addition, both plans emphasise the development of measures to develop innovation to ensure greater technological independence of information and of the telecommunications industry.

3.4 The "Made in China 2025" Plan

53. The State Council announced the "*Made in China 2025*" Plan on 19 May 2015.[137] This is China's first ten-year action plan that focuses on the promotion of manufacturing and on transforming China into a leading manufacturing power by 2049.

54. One of the main goals of the "*Made in China 2025*" Plan is to strengthen the development of the Internet infrastructure, *inter alia*, by accelerating the deployment and construction of optical fibre networks, mobile communication networks, and wireless local area networks.[138]

55. "*Made in China 2025*" has also set a series of targets (please see **Table F2** below) that aim to contribute to the country achieving 40% self-sufficiency by 2020 and 70% self-sufficiency by 2025 in the manufacture of core components and materials in a selection of key industries, including OFC.[139]

Table F2: Made in China 2025 targets.

136 **Annex F6 A. Annex F6. B**. … 14th Five-Year Plan for National Economic and Social …, p. 14.
137 **Annex F36**. "*Made in China 2025*," Notice of the State Council, 19 May 2015 (AI translation).
138 **Annex F36.** *"Made in China 2025*," Notice of the State Council, p. 10.
139 **Annex F37.** Institute for Security & Development Policy, "*Made in China 2025*," Backgrounder, June 2018.

Table 2: The *Made in China 2025*'s 2020 and 2025 Targets

Target	2015 (Actual)	2020	2025
R&D spending as a share of operating revenue	0.95%	1.26%	1.68%
Number of patents per 100 million RMB of total revenue	0.44	0.7	1.1
Quality competitiveness index*	83.5	84.5	85.5
Growth of industrial value-added	5.9%	7.9%	9.9%
Average annual productivity growth	6.6%	7.5%	6.5%
Penetration of broadband internet	50%	70%	82%
Use of digital design tools in R&D	58	72	84
Use of numerical control machines in key production processes	33	50	64
Change in industrial energy intensity from 2015 levels	—	-18%	-34%
Change in carbon dioxide emissions intensity from 2015 levels	—	-22%	-40%
Change in water usage intensity from 2015 levels	—	-23%	-41%
Reuse of solid industrial waste as a share of total waste	65%	73%	79%

Note:* This index reviews the implementation of quality management and supervision and planned quality improvements based on data from 250,000 enterprises.
Source: State Council of the People's Republic of China, *Made in China 2025*, May 8, 2015. Translation. *http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm*; Jost Wubbeke et al., "Made in China 2025: The Making of a High-Tech Superpower and Consequences for Industrial Countries," *Mercator Institute for China Studies*, December 2016, 19. *https://www.merics.org/fileadmin/user_upload/downloads/MPOC/MPOC_Made_in_China_2025/MPOC_No.2_MadeinChina_2025.pdf.*

56. This programme also promotes the "*new generation of information technology industry*", which includes the category "*Information and communication equipment*" which, in turn, includes OFC. As a result, the OFC industry enjoys benefits from support mechanisms such as tax and fiscal policy.[140]

57. The *"Made in China 2025"* Plan is a fundamental evolution of China's long-standing industrial policies aimed at boosting domestic growth and promoting strategic and emerging industries as "*national champions*". Envisaged under the 13th FYP, the *"Made in China 2025"* Plan aims at increasing the penetration of broadband internet from 50% to 82% between 2015 and 2025. This is an indication that China's subsidies on the optical fibre network infrastructure will continue at a constantly increasing pace. In addition, the *"Made in China 2025"* Plan is aligned and overlaps with China's 13th and 14th FYP by seeking "*to advance indigenous innovation and build global champions through linkages with other plans*".[141]

58. It is worth noting that new information technology and the development of new materials (such as polymers) are included as key sectors in the Plan. Polymers are used to manufacture polyethylene, one of the main raw materials used in the manufacturing of OFC.

59. The key Chinese industries are developed through very broad access to governmental financial support. State-owned banks distribute financing in the form of, among others,

140 Regulation 2022/72, recital 89, p. 13. **Annex F36**. "*Made in China 2025*," Chapter 4.
141 **Annex F37.** Institute for Security & Development Policy, "*Made in China 2025*".

subsidies, low-interest loans, and bonds to Chinese businesses, especially for small and medium-sized enterprises, including OFC producers. Moreover, various agencies and funds also offer direct financial support to OFC producers. For example,[142] $3 billion is available from the Advanced Manufacturing Fund to upgrade technology in key industries, while the National Integrated Circuit Fund[143] facilitates access to $21 billion. Importantly, funding is linked to the use of indigenous intellectual property to push companies to replace foreign intellectual property.[144]

60. The aforementioned policies highlight the strategic vision of the GOC for the OFC industry. Through its various subsidisation programmes, the GOC is creating national and provincial champions specially equipped to compete internationally. Many of the Chinese optical fibre producers have been granted the status of "*Intelligent/Smart manufacturing pilot demonstration enterprise*", which entails eligibility for significant government benefits and support.[145]

61. Besides implementing its development plans at both national and regional/provincial levels through government agencies, the GOC also implements its policies through State-owned enterprises as explained in **paragraphs 9-11** of the present application.[146]

62. To conclude: the OFC industry is a strategic industry, where optical fibres and preforms represent key products for the Chinese authorities in the development of networks and infrastructures serving connectivity. This industry is subsidised as it receives support and promotion by various plans and strategies that other industries do not receive.[147]

4. CHINESE MEASURES CONSTITUTE COUNTERVAILABLE SUBSIDIES

63. This section addresses various Chinese programmes, policies, strategies and applicable laws, which the Applicant considers to be actionable subsidies within the meaning of the WTO Agreement on Subsidies and Countervailing Measures ("**SCM Agreement**"), as well as the Trade Remedies (Dumping and Subsidization) (EU Exit) Regulations 2019 ("**EU Exit Regulations**") and Schedule 4 "*Dumping of Goods or Foreign Subsidies Causing Injury to UK Industry*" to the Taxation (Cross-border Trade) Act (2018) ("**Schedule 4**").

142 Please see also other examples in the Regulation 2022/72, recital 87, p. 12.
143 **Annex F38.** National Integrated Circuit Fund.
144 **Annex F37**, Institute for Security & Development Policy, "*Made in China 2025*,"
145 See **Section 5.1**
146 **Annex F39**. Temporary provisions on promoting industrial structure adjustment, Article 17.
147 Regulation 2022/72, recital 131, p. 20. The European Commission has found that all the measures which are assessed in **Section 5** are part of the implementation of the GOC's central planning to promote the OFC industry (Regulation 2022/72, recital 78, p. 11).

4.1 Definition of subsidies in SCM Agreement and EU Exit Regulations

64. In order to determine whether the Chinese measures at issue constitute actionable subsidies under the SCM Agreement, EU Exit Regulations, and Schedule 4, it is necessary to first assess whether they are subsidies. For the purposes of the SCM Agreement, EU Exit Regulations, and Schedule 4, a countervailable subsidy is deemed to exist if: (i) there is a financial contribution; (ii) the financial contribution is made by a government or any public body (foreign authority) within the territory of a Member or there is any form of income or price support in the sense of Article XVI of General Agreement on Tariffs and Trade 1994 ("**GATT**"); (iii) a benefit is conferred; and (iv) the measure is specific to an industry or group of enterprises. The second step is to assess whether the subsidies are actionable.

4.1.1 Financial contribution

65. Article 1.1 of the SCM Agreement sets out an exhaustive list of measures that are considered financial contributions by a government or any public body within the territory of a WTO Member or that are a form of income or price support under Article XVI of GATT. Similarly, Regulation 20 of Schedule 4 defines the meaning of financial contribution by a foreign authority. For the assessment of the Chinese measures at issue, the types of measures outlined below are relevant.

66. First, a direct (or potential direct) transfer of funds involves the conveyance of funds from the government to the recipient, where the money, financial resources or financial claims are made available to a recipient,[148] and where the funds are moved from a transferor to a transferee.[149]

67. Second, government revenue, otherwise due, that is forgone or is not collected, means that "*less revenue has been raised by the government than would have been raised in a different situation*…",[150] which "*implies some kind of comparison between the revenue actually raised and the revenue that would have been raised otherwise*".[151]

68. Third, the provision of goods or services other than general infrastructure by a government means "*making* [goods or services] *available*" for the recipient or "*putting* [them] *at the disposal of*" the recipient. This requires a reasonably proximate relationship between the action of the government providing the good or service and the use or enjoyment of the good or service by the recipient.[152] Accordingly, the determination of whether the relationship between the provision of goods or services is reasonably proximate to the final goods, is essential.[153] A notable exception is the provision of "*general infrastructure*", which is defined as infrastructure that is not provided to or for the advantage of only a single entity or limited

148 Appellate Body Report, *US – Large Civil Aircraft (2nd complaint)*, para. 617.
149 Appellate Body Report, *US – Carbon Steel (India)*, paras. 4.94 and 4.96.
150 Appellate Body Report, *US – FSC*, para. 90.
151 Appellate Body Report, *US – FSC*, para. 90.
152 Appellate Body Report, *US – Softwood Lumber IV*, para. 53; Appellate Body Report, *US – Carbon Steel (India)*, para. 4.68.
153 Appellate Body Report, *US – Carbon Steel (India)*, paras. 4.72 and 4.73.

group of entities, but is available to all or nearly all entities.[154] It is accepted that the creation of infrastructure is a precondition for providing that good or service. Thus, the emphasis on the "*provision*" of goods or services does not exclude the possibility that circumstances surrounding the creation of infrastructure may be relevant to a proper characterisation of what is provided.[155]

69. Fourth, a financial contribution by a foreign authority is made, when a foreign authority purchases goods, or a foreign authority "*makes payments to a funding mechanism or entrusts or directs a private body to undertake one or more of the type of functions (…), which would normally be vested in the foreign authority, and the practice in no real sense differs from practices normally followed by foreign authorities*." (Paragraph 20 of Schedule 4).

4.1.2 Government or any public body

70. On a more general note, this Application form refers in its instructions to a term "*foreign authority*", which Paragraph 3 of Schedule 4 defines as: "*a government or public body within the territory of a foreign country or territory*". Hence, the term "*foreign authority*" includes the term "*public body*" as defined by the WTO jurisprudence within its scope.

71. The financial contribution must be made by a government or a public body within the territory of a WTO Member, which includes regional and local authorities, as well as State-owned companies. The term "*public body*" covers an entity that "*possesses, exercises or is vested with governmental authority*". Furthermore, "*a public body may exercise its authority in order to compel or command a private body, or govern a private body's actions (direction), and may give responsibility for certain tasks to a private body (entrustment)*".[156]

4.1.3 A financial contribution must confer a benefit

72. Paragraph 21 of Schedule 4 sets forth detailed criteria to determine if a financial contribution by a foreign authority confers a benefit in order to assess whether a measure constitutes a subsidy. More specifically, the criteria provided in Paragraph 21 of Schedule 4 depend on the type of subsidy, e.g. "*Where a foreign authority grants a loan, the TRA may determine that a benefit is conferred where it considers there is a difference between the amount that the recipient receiving the loan pays on the loan from the foreign authority and the amount that the recipient would pay for a comparable commercial loan which the recipient could actually obtain on the market*". These specific instructions will be applied by the Applicant in **Section 5.2.2**. below.

73. Moreover, the Applicant turns to WTO jurisprudence for guidance where a "*benefit*" is understood as something that "*does not exist in the abstract, but must be received and enjoyed by a beneficiary or a recipient*".[157] Therefore, the focus is on the recipient and not on

154 Panel Report, *EC – Large Civil Aircraft*, para. 7.1063.
155 Appellate Body Report, *EC – Large Civil Aircraft*, para. 965.
156 Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)*, para. 294.
157 Appellate Body Report, *Canada – Aircraft*, para. 154.

the granting authority. In essence, a benefit exists where a financial contribution makes the recipient "*better off than it would otherwise have been, absent that contribution*".[158]

4.1.4 Specificity

74. The final requirement to determine whether a measure constitutes a countervailable subsidy is that this subsidy must be specific within the meaning of Article 2 of the SCM Agreement and Paragraph 22 of Schedule 4. According to these provisions, a subsidy is deemed to be *de jure* specific if one of the following applies to the measure at issue: (i) it explicitly limits access to that subsidy to an enterprise or industry or group of enterprises; (ii) it is contingent on export performance; (iii) it is contingent on the use of domestic over imported goods; (iv) it is limited to a specific geographical region within the jurisdiction of the granting authority. Furthermore, a subsidy is *de facto* specific if it is "*in fact applied in a specific manner*".

75. Moreover, pursuant to WTO jurisprudence, a subsidy is specific where the limitation is express, unambiguous, leaving nothing merely implied or suggested, or is clear from the content of the relevant instrument, and is not merely "*implied*" or "*suggested*".[159]

76. In addition to the conditions set out in **paragraph 74** , the TRA must consider the criteria or conditions governing the eligibility for, and the amount of, the subsidy (Regulation 22(2) of EU Exit Regulations), which will be further analyzed in the following sections.

4.1.5 Actionable subsidies

77. Subsidies are actionable if they cause adverse effects to the interests of another WTO Member. There are three types of potential adverse effects: (i) injury to the domestic industry of another Member (Article 5(a)); (ii) nullification or impairment of benefits accruing directly or indirectly to other Members under GATT 1994 (Article 5(b)); and (iii) serious prejudice, including a threat thereof, to the interests of another Member (Article 5(c)). Subsidies are actionable when they cause adverse effects on the domestic industry of another WTO Member and if they affect a like product.

78. Taking the above into consideration, in the following sections the Applicant analyses specific measures developed by the GOC, which should be classified as actionable countervailable subsidies within the meaning of the SCM Agreement, Regulation 22 of the EU Exit Regulations, as well as Paragraph 22 of Schedule 4.

---

158 Appellate Body Report, *Canada – Aircraft*, para. 157; Appellate Body Report, *US – Large Civil Aircraft (2nd complaint)*, para. 662; Appellate Body Report, *US – Carbon Steel (India)*, para. 4.123; Appellate Body Report, *US – Countervailing Duties (China)*, para. 4.44.

159 Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)*, para. 372.

4.2 Specific subsidisation schemes applicable to the Chinese optical fibre cable industry

79. There is substantial evidence that Chinese optical fibre cable producers have received the following types of subsidies:

1) Direct transfer of funds (**Section 5.1**).
2) Provision of preferential financing, directed credits and funding through equity, quasi-equity, and other capital instruments (**Section 5.2**):
    a) preferential loans by State-owned banks (**Section 5.2.1**);
    b) Export-contingent loans (**Section 5.2.2**);
    c) Preferential financing through credit lines (**Section 5.2.3**);
    d) Preferential financing through standard corporate bonds (**Section 5.2.4**);
    e) Preferential financing through convertible corporate bonds (**Section 5.2.5**).
3) Preferential Export credit insurance and guarantee (**Section 5.3**).
4) Government revenue forgone or not collected (**Section 5.4**):
    a) Enterprise Income Tax ("**EIT**") privileges and benefits for High and New Technology Enterprises (**Section 5.4.1**).
    b) Tax offset for research and development (**"R&D"**) (**Section 5.4.2**).
    c) Accelerated depreciation of instruments and equipment used by High-Tech enterprises for High-Tech development and production (**Section 5.4.3**).
5) Provision of goods and services at less than adequate remuneration (LTAR) (**Section 5.5**):
    a) LTAR provision of land (**Section 5.5.1**).
    b) LTAR provision of raw materials and inputs (**Section 5.5.2**).
    c) LTAR provision of power (**Section 5.5.3**).

To understand if there has been a financial contribution, we need to identify if:

- there has been a direct transfer of funds from a foreign authority, including making money and financial resources available;
- there has been a potential direct transfer of funds from a foreign authority, including a commitment to transfer funds;
- revenue that is rightfully due to government has not been collected (waived or deferred), including, taxes, debt, derivatives, or dividends;
- goods and services have been provided for by a foreign authority, at a lower amount than normally would have been paid;
- goods were purchased from a producer by a foreign authority, that artificially increases the revenue gained from selling the goods; or

- a foreign authority has:
    - made payments through a financial mechanism, or
    - entrusted or directed a private body to carry out any of the above functions.

2. For all subsidy programmes listed above, please explain and provide documentary evidence of the subsidy programme (the financial contribution), including:

- the subsidy programme's commencement date;
- the subsidy amount or value; and
- the frequency of subsidy i.e. one-off or re-occurring.

For the reply, please see **Annex F6**.

Appendix reference:

3. For all subsidy programmes listed above, please explain and provide documentary evidence that the subsidy has been (or is still being) provided by a foreign authority.

For the reply, please see **Annex F6.**

Appendix reference:

As well as establishing that a subsidy is in place, we need to understand the benefit it confers on the recipient. A benefit cannot exist theoretically – it has to be received by a recipient. It is important to note that the recipient of the benefit doesn't necessarily need to be the same recipient that received the financial contribution. For example, a subsidy provided to an upstream industry provides a benefit to a downstream industry.

4. For all subsidy programmes listed above, please explain and provide documentary evidence of the effect of the subsidy on the production and sales of the goods being imported to the UK.

The broad spectrum of subsidies provided to the Chinese OFC producers allows them to focus on their export activities by e.g. decreasing prices of OFC as well as reallocation of funds through a variety of tax incentives. Further explanation on how each of the subsidy supports the OFC producers has been provided in reply to **Question 1** below under *"Calculating how much subsidy the imported goods attract".*

Appendix reference:

5. For all subsidy programmes listed above, please explain and provide documentary evidence of the specific nature of the subsidy, including:

- conditions of eligibility to receive the subsidy;
- all known recipients of the subsidy;
- whether the subsidy is only available to certain regions or territories within the exporting country.

For the reply, please see **Annex F6** and **Annexes F51, F53, F54**. In addition, for further information please see the annual (2020) and semi-annual (2021) reports for all other OFC exporting producers (**Annexes F7 – F12; F42 – F63**).

Appendix reference:

Calculating how much subsidy the imported goods attract

We need to understand the amount of subsidy which the subsidised imports receive. If we establish that a measure is needed to counteract the injury the goods are causing to the UK market, this will help us determine what sort of measure to recommend and at what level.

To make this calculation, we will need to establish:

- the total amount of the countervailable subsidy;
- the amount of the countervailable subsidy that can be attributed to the POI; and
- which goods the countervailable subsidy can be allocated to during the POI.

1. For all subsidy programmes listed above, please explain and provide documentary evidence about the total amount of countervailable subsidy that the imported goods attract. You will need to explain the calculation methodology used. It is the benefit to the recipient that matters, not the cost (or opportunity cost) to the foreign authority. You should refer to our How we assess the benefit a subsidy provides guidance to understand what is required.

5. SPECIFIC SUBSIDISATION SCHEMES APPLICABLE TO THE CHINESE OPTICAL FIBRE CABLE INDUSTRY

80. There is substantial evidence that Chinese optical fibre cable producers have received the following types of subsidies:

1) Direct transfer of funds (**Section 5.1**).
2) Provision of preferential financing, directed credits and funding through equity, quasi-equity, and other capital instruments (**Section 5.2)**:
    a) Preferential loans by State-owned banks (**Section 5.2.1**);
    b) Export-contingent loans (**Section 5.2.2**);
    c) Preferential financing through credit lines (**Section 5.2.3**);
    d) Preferential financing through standard corporate bonds (**Section 5.2.4**);
    e) Preferential financing through convertible corporate bonds (**Section 5.2.5**).
3) Preferential Export credit insurance and guarantee (**Section 5.3**).
4) Government revenue forgone or not collected (**Section 5.4):**
    a) Enterprise Income Tax ("**EIT**") privileges and benefits for High and New Technology Enterprises (**Section 5.4.1**).
    b) Tax offset for research and development (**"R&D**") (**Section 5.4.2**).
    c) Accelerated depreciation of instruments and equipment used by High-Tech enterprises for High-Tech development and production (**Section 5.4.3**).
5) Provision of goods and services at less than adequate remuneration (LTAR) (**Section 5.5**):
    a) LTAR provision of land (**Section 203**).
    b) LTAR provision of raw materials and inputs (**Section 5.5.2**).
    c) LTAR provision of power (**Section 5.5.3**).

5.1 Direct transfer of funds

81. The GOC has provided specific subsidies to the Chinese OFC producers in the form of direct transfers of funds within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations through e.g. allocation of funds (**Section 5.1**).

82. There is *prima facie* evidence that the key OFC producers established in China have been receiving Government subsidies in the form of direct transfer of funds within the framework of the public policies and measures introduced by the GOC identified in **Section 3** above. This is confirmed, among others, by official documents published by the GOC for the implementation of these policies. For instance, the Guiding Opinions of the State Council on Actively Promoting the "*Internet Plus*" Action No. [2015-40][160] explicitly include: (i)

investments and construction subsidies, for the acceleration of the implementation of the "*Broadband China Strategy*";[161] (ii) promotion of the transformation of broadband networks to OFC; and (iii) support for the construction and operation of broadband network in the remote areas.

83. Similar support was envisaged in the "*Broadband China Strategy*" itself for the promotion of the construction of high-speed access network, the strengthening the construction of OFC networks, as well as the promotion of optical advancement and interconnection.[162]

84. Moreover, according to the Guidelines released by the National Development and Reform Commission and the Ministry of Industry and Information Technology ("**MIIT**"), China spent more than RMB 1.2 trillion in information infrastructure for the construction of more than 90,000 kilometres of high-speed OFC and 2 million 4G base stations between 2016 and 2018.[163] It is clear that for the deployment of 5G and 6G networks additional funding is needed.

5.1.1 Allocation of funds in the form of government grants

85. The allocation of funds is based on a two-step approach: (i) the identification of the types of projects that will receive financial support from the GOC for their development; and (ii) the direct allocation of specific funding for a current fiscal year.

86. Chinese exporting OFC procedures benefit from multiple grant programmes,[164] such as grants related to technology, innovation and development, asset-related grants, interest discounts on loans, grants supporting exports, grants targeting the development of smart and medium size enterprises, and special grants related to the economic impact of the COVID-19 pandemic. The subsections below discuss the following: (**A**) the description of types of subsidies received in the form of direct transfer of funds; (**B**) the quantifications of government subsidies; and (**C**) the government subsidies related to equipment and construction services.

160 **Annex F40**. The People's Republic of China, The State Council, *Guiding Opinions of the State Council on Actively Promoting the "Internet Plus" Action No. [2015-40]*, 4 July 2015.

161 **Annex F25**. *"Broadband China Strategy" and Notification of Implementation Plan*.

162 **Annex F25**. *"Broadband China Strategy" and Notification of Implementation Plan.*

163 **Annex F41**. China Daily, *China to invest 1.2 trillion yuan in information infrastructure*, 13 January 2017.

164 **Annex F10.A**, **Annex F10.B**, YOFC 2020 Annual Report; **Annex F42.A. Annex F42. B**. Jiangsu Zhongtian Technology Co., Ltd. Annual Report 2020; **Annex F43.A.**, **Annex F43.B** Fiberhome Communication Technology Co., Ltd. Annual Report 2020; **AnnexF44.A. Annex F44.B.** Jiangsu Hengtong Optoelectronics Co., Ltd. Annual Report 2020; **Annex F45.A. Annex F45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020; **Annex F7.A. Annex F7.B**, Jiangsu Zhongli Group Co. Ltd. Annual Report 2020**; Annex 10.A. Annex F10.B.** Shenzhen Tefa Information Co., Ltd. Annual Report 2020; **Annex F46.A. Annex F46.B.** Tianjin Futong Xinmao Technology Co. Ltd., Annual Report 2020; **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd. Annual Report 2020; **Annex F48.A**. **Annex F48.B.**, Etern Annual Report 2020; **Annex F49.A. Annex F49.B.** Sichuan Huiyuan Optical Communication Co., Ltd. Annual Report 2020; **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020.

(A) Description of types of subsidies received in the form of direct transfer of funds

87. As evidenced by the Annual (2020) and Semi-Annual (2021) reports of the companies, financial support received by the key Chinese OFC producers clearly reflects the implementation of State's policies, strategies, and guidelines. Examples of subsides received by each of the Chinese OFC exporting producers are described below.

1. **YOFC**[165] received (i) asset-based subsidies in the form of investment for industrial revitalization, technological development and construction projects relating to optical fibres as part of the Changfei Fibre Optic Cable Expansion Project;[166] and (ii) subsidies related to raw materials used in the production of OFC within the framework of the "*Political Fibre Preform Industrialisation Project*".[167] YOFC also received a specific grant which amounted to approximately RMB 317.000 for the project "*2019 Provincial-level R&D investment subsidies, district-level supporting facilities*".[168] According to the 2020 Annual report, YOFC received approximately RMB 127.390.031 of government grants, of which RMB 27.965.271 was related to assets and RMB 99.424.760 was related to income.[169] YOFC's 2021 Semi-Annual report indicates that YOFC has also received other government grants in the amount of RMB 28.975.501 government grants as receivables as well.[170] Moreover, YOFC received various government subsidies, such as "*One Enterprise One Policy Five-Year Development Special Fund*" (RMB 70.190.248); "*Special funds for trade development"* (RMB 5.004.000); "*Job stabilization subsidy"* (RMB 4.798.055); or the "*Special funds allocated by the Development Zone Management Committee*" (RMB 4.427.600).[171] For further information on specific subsidies received by OFC please see pages 116 and 122 of its Annual report of 2020 and page 91 of its Semi-Annual report of 2021.[172]

2. **Jiangsu Zhongtian Technology (ZTT)**[173] has disclosed in its 2020 Annual report that it has received RMB 215,963,623.14 of government subsidies related to Deferred income. This represents a significant increase (RMB 101,966,889.98) from the government subsidies obtained in the previous year. [174] ZTT also received project-based government subsidies aiming to support the industrialisation and the development of the company's technology, as well as introducing advanced technologies especially in the field of telecommunication and optical fibres. The projects mentioned in ZTT's 2020 Annual report for the implementation of which the company received grants from the Chinese authorities included the following: "*Technical Transformation of Super Large Preform"; "Lithium battery construction project"; "Special cable project"; and "Investment package*".[175] ZTT received other government subsidies, including a total amount of RMB 81.751.770,86 in 2021.[176] For further information on specific subsidies received by ZTT please see pages 152, 153, 154 and 160 of its Annual report of 2020 and pages 112 and 118 of its Semi-Annual report of 2021.[177]

3. In 2017, **Fiberhome**[178] disclosed "*in its stock exchange filings the receipt of approximately 81 million USD of government subsidies"* and reported *"government subsidies obtained in the prior year (386 million USD)*".[179] In 2020, FTT received a

total amount of RMB 467.480.187,76 in government grants for projects involving public subsidies.[180] In the first semester of 2021, FTT also received RMB 495.820.427,95 of government subsidies related to Deferred income. This represents an increase of RMB 81.493.089,66 from the government subsidies obtained in the previous year.[181] For further information on the specific subsidies received by FTT, please see pages 127 and 145 of its Annual report of 2020 and pages 87 and 101 of its Semi-Annual report of 2021.[182]

4. **Hengtong** received project-related government subsidies for technological development, industrial and information transformation, independent innovation, and construction within the scope of distinct subsidy schemes, namely "*Ultra Low Loss Fibre Implementation*", "*High-voltage Submarine Composite Cable Project*", and "Special funds for transformation and upgrading of industry and information technology".[183] In addition, Hengtong received various government subsidies, such as a "*Wujiang District Industrial Quality Development Support Fund*" in the amount of RMB 38.440.900 and "*Local financial subsidies"* in the amount of RMB 10.408.347,68.[184] According to Hengtong's 2020 Annual report, the company received RMB 318.727.174,11 as "*Government subsidies recognized in profit or loss (closely related to the business of the enterprise, fixed or quantitative according to the national standard)".* [185] In 2021, the company received RMB 54,831,814.12 in government grants.[186] For further information on specific subsidies received by

165 For detailed analysis of the Annual Report 2020 and Semi-Annual Report 2021 of YOFC, please see **Annex F.51**. YOFC Detailed analysis Annual Report 2020 and Semi-Annual Report 2021.
166 **Annex F10.A. Annex F10.B.** YOFC Optical Fibre & Cable Co., Ltd. Annual Report 2020, p. 158, **Annex F52.A. Annex F52.B.** YOFC Optical Fibre & Cable Co., Ltd. Semi-Annual Report 2021, p. 120.
167 **Annex F10. A. Annex F10.B.** YOFC Optical Fibre & Cable Co., Ltd. Annual Report 2020, p. 158, **Annex F52.A. Annex F52.B.** YOFC Optical Fibre & Cable Co., Ltd. Semi-Annual Report 2021, p. 120.
168 **Annex F10.A. Annex F10.B.** YOFC Annual Report 2020, p.122.
169 **Annex F10.A. Annex F10.B**. YOFC Annual Report 2020, p. 122.
170 **Annex F52.A. Annex F52.B.** YOFC Semi-Annual Report 2021, p. 97.
171 **Annex F10. A. Annex F10.B.** YOFC Annual Report 2020, p. 122.
172 **Annex F10. A. Annex F10.B.** YOFC Annual Report 2020; **Annex F52.A. Annex F52.B.** YOFC Semi-Annual Report 2021.
173 For detailed analysis of the Annual Report 2020 and Semi-Annual Report 2021 of ZTT, please see **Annex F53**. ZTT Detailed analysis Annual Report 2020 and Semi-Annual Report 2021.
174 **Annex F42A. Annex F42.B.** Jiangsu Zhongtian Technology Co., Ltd Annual Report 2020, p. 152.
175 **Annex F42A. Annex F42.B.** Jiangsu Zhongtian Technology Co., Ltd Annual Report 2020, p. 160.
176 **Annex F9.A. Annex F9.B.** Jiangsu Zhongtian Technology Co., Ltd Semi-Annual Report 2021, p.157.
177 **Annex F42A. Annex F42.B.** Jiangsu Zhongtian Technology Co., Ltd Annual Report 2020. **Annex F9.A. Annex F9.B.** Jiangsu Zhongtian Technology Co., Ltd Semi-Annual Report 2021.
178 For detailed analysis of the Annual Report 2020 and Semi-Annual Report 2021 of FTT, please see **Annex F54**. FTT Detailed analysis Annual Report 2020 and Semi-Annual Report 2021.
179 **Annex F55.** China: Government subsidy changes for listed company Fiberhome in year 2017.
180 **Annex F43.A. Annex F43.B.** Fiberhome Communication Technology Co., Ltd. Annual Report 2020, p.145.
181 **Annex F12.A. Annex F12.B.** Fiberhome Communication Technology Co., Ltd. Semi-Annual Report 2021, p. 87.
182 **Annex F43. A. Annex F43.B** Fiberhome Communication Technology Co., Ltd. Annual Report 2020; **Annex F12. A. Annex F12. B.** Fiberhome Communication Technology Co., Ltd.Semi-Annual Report 2021.
183 **Annex F44A. Annex F44.B**. Jiangsu Hengtong Optoelectronics Co., Ltd. Annual Report 2020.
184 **Annex F44A. Annex F44.B** Jiangsu Hengtong Optoelectronics Co., Ltd Annual Report 2020, p.397
185 **Annex F44.A. Annex F44.B.** Jiangsu Hengtong Optoelectronics Co., Ltd Annual Report 2020, p. 499.
186 **Annex F56.A. AnnexF56.B.** Jiangsu Hengtong Optoelectronics Co., Ltd Sem-Annual Report 2021, p. 269.

Hengtong, please see pages 362 and 397 of its Annual report of 2020 and pages 253 to 263 of its Semi-Annual report of 2021.[187]

5. **Tongding** received project-based industrial transformation and upgrading funds from the GOC and other government subsidies aiming to boost the technology development of the company (including in the field of telecommunication and optical fibres). The subsidies which were granted to Tongding supported (i) its technological transformation; (ii) construction projects; and (iii) the purchase of Fibre-optic drawing towers.[188] In 2020, Tongding received a government subsidy in the amount of RMB 18.097.516,82.[189] In addition, in the first semester of 2021, the company received "*government subsidies recognized in profit or loss (closely related to the business of the enterprise, fixed or quantitative according to the national standard)*" in the amount of RMB 46.992.602,72.[190] For further information on specific subsidies received by Tongding, please see pages 248 to 250 of its Annual report of 2020 and pages 221 and 306 to 307 of its Semi-Annual report of 2021.[191]

6. **Zhongli** and its subsidiaries, namely, Qinghai Zhongli Optical Fibre Technology Co., Ltd. and Changshu Zhonglian Optoelectronics New Materials Co., Ltd. have received, in 2020, RMB 105.255.373,23 of government subsidies related to Deferred Income. This represents an increase of RMB 6.779.000 from the government subsidies obtained in the previous year. [192] In 2020, they have also received other government subsidies amounting to RMB 18.269.758,89.[193] The group received direct funding through the Enterprise Technology in Qinghai Province Innovation Funds in the amount of RMB 107.000 approximately.[194] In 2021, Zhongli also received other government grants in the amount of RMB 8.886.430,41.[195] For further information on specific subsidies received by Zhongli, please see page 136 of its Annual report of 2020 and page 109 of its Semi-Annual report of 2021.[196]

7. **Shenzen Tefa** received government grants related to the company's assets in the amount of RMB 42.650.250,67.It also received government grants related to the company's income in the amount of RMB 51.303.547,89.[197] The fact that Xinmao benefitted from government grants is further confirmed by its 2021 Semi-Annual report.[198] In addition, Shenzen Tefa received "*government grants recognized in profit or loss (except those closely related to the business of the enterprise and enjoyed in*

187 **Annex F44.A. Annex F44.B.** Jiangsu Hengtong Optoelectronics Co., Ltd Annual Report 2020; **Annex F56.A. AnnexF56.B.** Jiangsu Hengtong Optoelectronics Co., Ltd Semi-Annual Report 2021.
188 **Annex F45.A. AnnexF45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020.
189 **Annex F45.A. AnnexF45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020, p. 240.
190 **Annex F57.A. Annex F57.B.** Tongding Interconnection Information Co., Ltd Semi-Annual Report 2021, p. 13.
191 **Annex F45.A. AnnexF45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020; **Annex F57.A. Annex F57.B.** Tongding Interconnection Information Co., Ltd Semi-Annual Report 2021.
192 **Annex F7.A. Annex F7.B.** Jiangsu Zhongli Group Co. Ltd Annual Report 2020, p. 136.
193 **Annex F7.A. Annex F7.B.** Jiangsu Zhongli Group Co. Ltd Annual Report 2020, p. 142.
194 **Annex F7.A. Annex F7.B.** Jiangsu Zhongli Group Co. Ltd Annual Report 2020, p. 137.
195 **Annex F58.A. Annex F58.B.** Jiangsu Zhongli Group Co. Ltd Semi-Annual Report 2021, p. 114.
196 **Annex F7.A. Annex F7.B.** Jiangsu Zhongli Group Co. Ltd Annual Report 2020; **Annex F58.A. Annex F58.B.** Jiangsu Zhongli Group Co. Ltd Semi-Annual Report 2021.
197 **Annex F10.A. Annex F10.B.** Shenzhen Tefa Information Co., Ltd Annual Report 2020, p. 397.
198 **Annex F59.A. Annex F59.B**. Shenzhen Tefa Information Co., Ltd Semi-Annual Report 2021, p. 284.

a fixed or quantitative amount in accordance with the national uniform standards)" in the amount of RMB 51.303.547,89.[199] In 2021, the company also received other grants amounting to RMB 16.307.334,37.[200] For further information on specific subsidies received by Shenzen Tefa, please see page 369 to 371 and 397 of its Annual report of 2020 and pages 258 to 261 and 284 of its Semi-Annual report of 2021.[201]

8. **Xinmao** received government grants to develop projects such as "*Fiber optic prefabrica ted rod project section"; "2018 Provincial Special Funds for Developmen t of Strategic Emerging Industries"*; and *"The third batch of 2018 provincial industrial enterprises technical transformation Funded project section*".[202] In addition, in 2021, the company received "*Government grants recognized in profit or loss (except those closely related to the business of the enterprise and enjoyed in a fixed or quantitative amount in accordance with the national uniform standards*)" in the amount of RMB 3.367.485,52.[203] For further information on specific subsidies received by Xinmao, please see page 280 to 283 and 307 to 309 of its Annual report of 2020 and page 183 to 185 and 204 of its Semi-Annual report of 2021.[204]

9. **Kaile** received subsidies to complete its "*Quantum Communication Photoelectric Quantum Communications Building Second decoration project*" and "*Quantum Communication Optoelectronics Fiber Engineering construction project*"[205], in order to boost the quality and speed of the network in China. In 2020, the company received RMB 8.865.440,45 of government subsidies included in current profit and loss[206] and a total of RMB 33,513,966.98 in other government subsidies.[207] In addition, in the first semester of 2021, the company received RMB 7.791.482,50 of government subsidies included in current profit and loss[208] and a total of RMB 18.764.162,50 in other government subsidies.[209] For further information on specific subsidies received by Kaile, please see pages 121, 127 to 128 and 132 to 133 of its Annual report of 2020 and pages 80, 85 and 92 of its Semi-Annual report of 2021.[210]

10. **Etern** received government subsidies used in the technological development and industrialisation projects related to optical fibres and communication. Some of the subsidies granted by the GOC to Etern were reported in Etern's 2020 Annual report as "*Laixiu Road Land Financial Subsidy", "Intelligent technology transformation"*,

199 **Annex F59.A. Annex F59.B.** Shenzen Tefa Annual Report 2021, p. 443.
200 **Annex F59.A. Annex F59.B.** Shenzen Tefa Annual Report 2021, p. 275.
201 **Annex F10.A. Annex F10.B.** Shenzhen Tefa Information Co., Ltd Annual Report 2020; **Annex F59.A. Annex F59.B**. Shenzhen Tefa Information Co., Ltd Semi-Annual Report 2021.
202 **Annex F46.A. Annex F46.B**. Tianjin Futong Xinmao Technology Co. Ltd. Annual Report 2020, p. 280.
203 **Annex F11.A Annex F11.B**. Tianjin Futong Xinmao Technology Co. Ltd. Semi-Annual Report 2021, p. 236.
204 **Annex F46.A. Annex F46.B**. Tianjin Futong Xinmao Technology Co. Ltd. Annual Report 2020; **Annex F11.A Annex F11.B**. Tianjin Futong Xinmao Technology Co. Ltd. Semi-Annual Report 2021.
205 **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd Annual Report 2020, p. 121. **Annex F60.A. Annex F60.B.** Hubei Kaile Technology Co., Ltd Semi-Annual report 2021, p. 80.
206 **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd Annual Report 2020, p. 127.
207 **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd Annual Report 2020, p. 133.
208 **Annex F60.A. Annex F60.B.** Hubei Kaile Technology Co., Ltd Semi-Annual Report 2021, p. 87.
209 **Annex F60.A. Annex F60.B.** Hubei Kaile Technology Co., Ltd Semi-Annual Report 2021, p. 92.
210 **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd Annual Report 2020; **Annex F60.A. Annex F60.B**. Hubei Kaile Technology Co., Ltd Semi-Annual Report 2021.

"Financial subsidies for stubborn land", and *"Optical fiber production line technical transformation project*".[211] In addition, in the first semester of 2021, Etern received a total amount of RMB 61,296,816.71 in government grants[212] and RMB 13.350.798,19 of financial subsidies.[213] For further information on specific subsidies received by Etern, please see pages 160, 173 and 130 of its Annual report of 2020 and pages 246 to 250 of its Semi-Annual report of 2021.[214]

11. **Huiyuan** was granted various subsidies to support its high-tech projects, for instance, the "*Sichuan Province 2016 Second Batch of Science"* and *"R&D project to purchase and build a big data application platform for vehicle networking system*".[215] This is further confirmed by its 2021 Semi-Annual report which indicates that Huiyuan received government grants amounting to RMB 1,067,328.62 in 2021.[216] For further information on specific subsidies received by Huiyuan, please see pages 242 to 244 and 270 to 271 of their Annual report of 2020 and pages 192 to 194 and 216 to 217 of their Semi-Annual report of 2021.[217]

12. **Huamai** received a total amount of RMB 128.993.734,59 of government subsidies for the development of information infrastructures in the optical fibre cable industry, as well as for the promotion and improvement of gigabit optical fibre networks.[218] This is further confirmed by its 2021 Semi-Annual report where it is indicated that it received government grants in the amount of RMB 126.590.681,39.[219] In addition, in 2020, the company received "*Government subsidies recognized in profit or loss (closely related to the business of the enterprise, fixed or quantitative according to the national standard)*" in the amount of RMB 20.132.907,46.[220] For further information on specific subsidies received by Huiyuan, please see pages 345 to 346 and 369 to 373 of its Annual report of 2020 and pages 298 to 300 of its Semi-Annual report of 2021.[221]

88. In view of the above, these grant programmes in the form of direct transfers of funds from the GOC to the OFC producers confer subsidies within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations.

211 **Annex F48.A Annex F48.B.** Etren Annual Report 2020, p. 180.
212 **Annex F61.A. Annex F61.B.** Etren Semi-Annual Report 2021, p. 246.
213 **Annex F61.A. Annex F61.B.** Etren Semi-Annual Report 2021, p. 272.
214 **Annex F48.A. Annex F48.B.** Etern Annual Report 2020. **Annex F61.A. Annex F61.B.** Etern Semi-Annual Report 2021.
215 **Annex F49.A. Annex F49.B**. Sichuan Huiyuan Optical Communication Co., Ltd. Annual Report 2020, p. 271.
216 **Annex F62.A Annex F62.B.** Sichuan Huiyuan Optical Communication Co., Ltd. Semi-Annual Report 2021, p. 217.
217 **Annex F49.A. Annex F49.B**. Sichuan Huiyuan Optical Communication Co., Ltd. Annual Report 2020. **Annex F62.A Annex F62.B**. Sichuan Huiyuan Optical Communication Co., Ltd. Semi-Annual Report 2021.
218 **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020, p. 373
219 **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020, p. 300.
220 **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020, p. 415.
221 **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020. **Annex F63.A. Annex F63.B.** Nanjing Huamai Technology Co., Ltd. Semi-Annual Report 2021.

(B) Quantification of government subsidies

89. In order to calculate the exact benefit obtained by the OFC producers during the investigation period, the following subsidies should be taken into account: (i) subsidies received during the investigation period; and (ii) subsidies received prior to the investigation period but which continue to be amortized during the investigation period. For subsidies received during the investigation period that are not amortized, the entire grant amount should be considered as a benefit. On the other hand, for subsidies received during the investigation period that are subject to amortization, the benefit from project and asset related subsidies is the portion of the total amount of the subsidy that was amortized during the investigation period.

90. The annual reports of the OFC producers list the total amount of government subsidies received, expressed also as a percentage of the company's total turnover. **Table F3** shows examples of the amount of subsidy received by each of these companies, which corresponds to the exact amount reported in the annual reports of the OFC producers. The total subsidy amounts for the 12 Chinese producers are shown in **Annex F64**. [222]

Table F3: Total government subsidies received according to 2020 Annual Reports of selected companies as a percentage of operating income

Company name	Total government subsidies reported in the Annual Report of 2019 (RMB)	Total government subsidies as a percentage of operating income
YOFC	128.593.868	2,9592%
FTT	278.380.972,47	2,6641%
Xinmao	11.721.874,93	2,1543%

(C) Government subsidies related to equipment and construction services

91. The Chinese OFC exporting producers list specific subsidies received for different types of projects in the "*Government Subsidies*" section of their Annual and Semi-Annual reports. These subsidies are included in the calculation of the "*Total government subsidies*" received by each company and do not need be accounted for separately. Based on the publicly available information, **Table F4** below presents examples of specific subsidies received by the companies for further projects related to the provision of equipment and construction services identified in their Annual (2020) and Semi-Annual (2021) reports under the section "*Government subsidies*". However, not all of the producers clearly identify which government subsidies are related to equipment and construction services. The Applicant invites the TRA to further examine this aspect during its investigation.

Table F4: Government subsidies related to equipment and construction

Companies	Subsidy schemes - CN	Subsidy schemes - EN	Subsidy amount (RMB)	Source
YOFC	长飞光纤光缆兰州有限公司二期扩产工程项目	The second phase expansion project of YOFC Lanzhou Co., Ltd.	23,738,111	P116 of the 2020 Annual report
	长飞自主预制棒及光纤产业化智能制造 项目	Changfei's independent prefabricated rod and optical fiber industrialization intelligent manufacturing project	82,455,901	P91 of the 2021 Semi-Annual report
ZTT	**特种光纤智能制造**	Speciality Light Fiber Smart Manufacturing	6 6,139,053.50	P154 of the 2020 Annual report
	特种光纤智能**制造**	Special Optical Fiber Smart Manufacturing	80,718,659.17	P112 of the 2021 Semi-Annual report
Hentong	**高**压海底复合缆项目财政拨款	Financial allocation for high-voltage submarine composite cable project	21,016,412.43	P362 of the 2020 Annual report
	鼓励进口结构调整项目	Encourage import restructuring projects	46,413.41	P233 of the 2021 S-Annual report
Tonding	经发局转型 **升级**奖励	EDA transformation and upgrading incentives	23,980,798.34	P307 of the 2020 Annual report

222 **Annex F64.** Quantification of Subsidies Received by the Exporting Producers.

	基础设施补 偿款[	Infrastructure reimbursement	21,282,233.76	P222 of the 2021 Semi-Annual report
Zhongli	2015年产业振兴和技术 改造专项资金	Industrial revitalization and technology in 2015 Special funds for renovation	22,833,333.33	P136 of the 2020 Annual report
	工业技改和新建项目贴息	Industrial technology reform and new projects discount interest	9,253,000.15	P109 of the 2021 Semi-Annual report
Tefa	绵阳科技城军民融合 高技术产业集聚发展 项目	Mianyang Science and Technology City Military Civilian Fusion High Technology Industry Cluster Development Project	11,200,000.00	P369 of the 2020 Annual report
	构建智慧城市 信息网络全覆 盖的宽带接入 技术	Broadband access technology for building a full coverage of information network in smart cities	6,573,739.59	P258 of the 2021 Semi-Annual report
Xinmao	光纤预制棒 项目款	Fiber optic prefabrica ted rod project section	95,000,000.00	P280 of the 2020 Annual report
	2018 年省级 战略性新兴 产业发展专 项资金	2018 Provincial Strategic Emerging Industry Development Funds	8,000,000.00	P183 of the 2021 Semi-Annual report

Kaile	量子通信 光电量子 通信大楼 二次装修 项目	Quantum Communication Photonics Quantum Communication Building Secondary Renovation Project	7,029,510.00	P121 of the 2020 Annual report
	量子通信光 电量子通信 大楼二次装 修项目	Quantum Communication Light Electrical quantum communication Building refurbishment Repair project	4,686,340.00	P80 of the 2021 Semi-Annual report
Etern	来秀路土地财政补贴	Laixiu Road Land Finance subsidy	8,744,383.55	P160 of the 2020 Annual report
	超高速大容量 CWZ 级高 耐火阻燃通信光缆的研发及产业化	Research on ultra-high speed and high capacity CWZ class high fire resistance and flame retardant communication cable Development and industrialization	5,000,000.00	P248 of the 2021 Semi-Annual report
Huiyuan	购建车联网系统大数 据应用平台的研发项 目	R&D project to purchase and build a big data application platform for vehicle networking systems table of contents	2,393,220.26	P242 of the 2020 Annual report
	实验室建设专项资金	Special funds for laboratory construction	2,417,948.71	P193 of the 2021 Semi-

				Annual report
Huamai	集成型波分/功分器件研发与产业化	Development and industrializati on of integrated wavelength division/power division devices	7,000,000.00	P345 of the 2020 Annual report
	光纤光缆建设项目专项资金	Fiber optic cable construction project	91,749,999.91	P266 of the 2021 Semi-Annual report

92. In view of the above, and considering that the OFC is an encouraged industry, it is likely that a large number of other Chinese OFC exporting producers benefited from direct transfers of funds programmes, which constitute a countervailable subsidy.

5.2 Provision of preferential financing

93. The following section describes different types of preferential financing obtained by the Chinese OFC producers in the form of: (i) preferential loans (**Section 5.2.1**); (ii) export-contingent loans (**Section 5.2.2**); (iii) credit lines (**Section 5.2.3**); (iv) standard corporate bonds (**Section 5.2.4**); and (v) convertible corporate bonds (**Section 5.2.5**).

5.2.1 Preferential loans by State-owned banks

(A) Introduction

94. The corporate credit system in China and access to capital for corporate actors is affected by significant distortions resulting from the continuing pervasive role of the State in the capital markets. This is evidenced by the following: (i) the Chinese financial system is characterised by the strong position of State-owned banks, which take into consideration criteria other than the economic viability of a project when granting access to finance;[223] (ii) borrowing costs have been kept artificially low to stimulate investment growth;[224] and (iii) Chinese credit institutions have been granting artificially low interest rates in a large number of cases.[225]

95. First, the provision of preferential financing is possible because the Chinese banking system is dominated by State policy banks and State-owned commercial banks (see e.g. *Hot-*

223 GFF Antidumping Regulation (EU), para. 147; Working Document, pp. 114-117.
224 GFF Antidumping Regulation (EU), para. 151.
225 GFF Antidumping Regulation (EU), para. 152.

Rolled Steel from China, *Certain filament glass fibre products (glass fibre reinforcements – GFR)* from China, *Coated Fine Paper (CFP)* from China, and *Electrical bicycles (E-bikes)* from China).[226]

96. In addition, Article 34 of the Law of the People's Republic of China on Commercial Banks ("*Chinese Commercial Banks Law*"),[227] which applies to all financial institutions operating in China, stipulates that commercial banks have to conduct their business in accordance with the needs of the national economic and social development, and under the guidance of the industrial policies of the State.[228] Furthermore, Article 15 of the General Rules on Loans[229] implemented by the People's Bank of China, provides that, in accordance with the State's policy, relevant departments may subsidise interest on loans, with a view to promoting the growth of certain industries and economic development in some areas.[230] In general, financial institutions operating in China, including state-owned banks, operate in a legal environment that directs them to align their internal financial policies and strategies with the GOC's industrial policy objectives.

97. Second, borrowing costs have been kept artificially low to stimulate investment growth with the aim of increasing the competitiveness of Chinese enterprises *vis-à-vis* their global competitors by removing infrastructure bottlenecks and facilitating the long-term access to strategically important natural resources.[231] More specifically, Chinese State-owned banks have been granting loans based on political directives from the central or regional governments, rather than on creditworthiness or other market-based factors.[232]

226 *See, e.g.,* Commission Implementing Regulation 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China, OJ 2017 L146/17 ("***Hot-rolled steel Countervailing Regulation***") recital 129. See also Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China, OJ 2019 L16/5 ("***Electrical Bikes case")*** recitals 216 and 217.

227 **Annex F65.** Law of the People's Republic of China on Commercial Banks.

228 Hot-rolled flat products of iron, non-alloy or other alloy steel Countervailing Regulation, recital 106.

229 **Annex F66.** General Rules on Loans – 1996.

230 Hot-rolled steel Countervailing Regulation, recital 106.

231 **Annex F67**. China's export credit agencies and development banks, pp. 1-5.

232 *See, e.g.,* Hot-Rolled Steel Countervailing Regulation, recitals 83 *et seq*., Commission Implementing Regulation (EU) No 1379/2014 of 16 December 2014 imposing a definitive countervailing duty on imports of certain filament glass fibre products originating in the People's Republic of China and amending Council Implementing Regulation (EU) No 248/2011 imposing a definitive anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China, OJ 2014 L367/22 ("***Filament glass fibre Regulation***"), recital 108; Commission Implementing Regulation (EU) 2017/1187 of 3 July 2017 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council, OJ 2017 L171/134 ("***CFP Regulation***"), recitals 53 *et seq*., Electrical Bikes case, recitals 175 *et seq*.

98. Third, Chinese credit institutions have been granting artificially low interest rates to many enterprises. For example, high risk exporters have also received revolving loans which allow them to immediately replace the capital repaid on loans at the maturity date by fresh capital from new loans.[233]

99. At the same time, Chinese State-owned banks do not report loans that should be reported under the category "*not normal loans*" to the national central credit register, thereby distorting the image of the Chinese producers' credit situation in that register.[234]

(B) Types of preferential loans

100. Encouraged industries, such as OFC, have received the following three types of loans:

1) Short-term and long-term loans used to finance projects and day-to-day operations or to cover working capital needs. This category of loans also includes export credit insurances and guarantees described in detail in **Section 5.3**;

2) Loans for the specific purpose of substituting other loans from other banks. The purpose of these loans is to replenish the company's liabilities and to obtain new funds to cover its obligations;

3) Shareholder loans issued by the China Development Bank. The China Development Bank Fund mainly supports "*projects in key sectors recognized by the state*" through "*project capital investment, entity investment, shareholder loans and investments in local investment funds and enterprise financing, to cover the shortfalls of key projects*".[235] The China Development Bank has special funds for projects that can be provided in the form of loans only to centrally owned entities, which are directly under the State-owned Assets Supervision and Administration Commission of the State Council's ("**SASAC**") control. SASAC is a special agency of the State Council of the People's Republic of China that has the responsibility to supervise, on behalf of the State, the enterprises in which the Chinese Government has an equity interest.

101. In addition, documents such as Administrative Measures for the Qualifications of Directors and Senior Officers of Financial Institutions in the Banking Sector[236] or Implementing Measures of the China Banking and Insurance Regulatory Commission ("**CBIRC**") for Administrative Licensing Matters relating to Foreign-funded Bank[237]

233 Hot-Rolled Steel Countervailing Regulation, recital 123.
234 Hot-Rolled Steel Countervailing Regulation, recital 125.
235 China Development Bank Fund's website.
236 **Annex F68.A. Annex F68.B**. Administrative Measures for the Qualifications of Directors and Senior Officers of Financial Institutions in the Banking Sector (CBIRC [2013] No. 3).
237 **Annex F69.A. Annex F69.B.** Implementing Measures of the CBIRC for Administrative Licensing Matters relating to Foreign-funded Banks (Order of the CBIRC [2015] No. 4).

demonstrate that financial institutions only provide preferential financing to those industries that comply with the relevant policies of the Chinese authorities, such as for example OFC producers.

102. However, only information on the total amount of short-term and long-term loans can be extracted from the Annual (2020) and Semi-Annual (2021) reports. For example, YOFC has received a total of RMB 1.455.554.072 through a short-term loan and RMB 1.434.700.000 through a long-term loan in 2021. [238] In addition, FTT received a total amount of RMB 1.680.020.000 through a short-term loan and RMB 4.056.900.000 through a long-term loan in 2021.[239] Therefore, the TRA may wish to investigate the remaining loans received by the Chinese OFC producers during the period of investigation.

103. In view of the above, loans provided by the GOC's policy banks constitute preferential financing. At the same time, both the government policy banks and the State-owned commercial banks act as public bodies withing the meaning of Paragraph 3(4) of Schedule 4 since they are controlled by the GOC and exercise government authority in such a manner that their actions can be attributed to the State.[240] These preferential financial instruments confer a benefit in the form of credit lines or loans with preferential interest rates within the meaning of Paragraphs 20 and 21 of Schedule 4 and Regulations 20 and 21 of the EU Exit Regulations.

(C) Calculation Methodology

104. In the case of preferential loans, the benefit conferred on the recipients is the difference between the amount of interest that the company has paid on the preferential loan and the amount that the company would have paid for a comparable commercial loan, which the company could have obtained on the market. As explained in **Section (B)** above, the loans provided by Chinese financial institutions demonstrate the GOC's significant intervention and do not reflect rates that would normally be found in a functioning market.

105. At the same time, the provision of such preferential loans for specific Chinese OFC producers as well as the specific preferential terms which determine the existence and amount of benefit they provide, constitute confidential commercial information which is unavailable to the Applicant. The Applicant has therefore provided all information reasonably available to it at the time of filing the Application, in accordance with Paragraph 50(2) of the EU Exit Regulations. The Applicant understands that on the assumption that Chinese authorities and exporting producers will fully cooperate with the investigation - the TRA will be in a better position to individually assess the financial situation of each of the exporting producers in order to confirm the existence, as well as the specific terms and conditions of these loans.

238 **Annex F52.A Annex F52.B.** YOFC Semi-Annual Report 2021, pp. 31 and 84.
239 **Annex F12.A. Annex F12.B**. Fiberhome Communication Technology, Semi-Annual Report 2021, pp. 80 and 85.
240 *See* CFP Regulation, recital 49. See also Filament glass fibre Regulation, recitals 107-121.

(D) Example of Specific Policies

106. As indicated above in **paragraph 48**, the Cyberspace Administration of China and the Ministry of Finance launched the China Internet Investment Fund ("**Internet Investment Fund**")[241] to provide equity investment in Chinese Internet and Internet of Things sector firms. The establishment of this fund contributed to the development of a total of 90,000 km of high-speed optical fibre networks to all urban areas and 90% of the countryside.[242] The internet investment fund serves as an umbrella to all other programmes.

107. As part of this investment fund, Chinese State-owned banks established an RMB 100 billion ($14.5 billion) State fund to invest, nurture, and support internet companies and spearhead the country's technological innovations and economic transformation into the so-called "**Internet Plus**" era. The first round of funding raised RMB 30 billion, while additional RMB 150 billion of credit lines were offered by the Agricultural Bank of China, China Development Bank, and the Industrial & Commercial Bank of China. In addition to granting loans, the Chinese State-owned Industrial and Commercial Bank of China ("**ICBC**") also invested RMB 10 billion directly into this fund. The fund is invested in equity stakes among China's internet companies to make them "*bigger and stronger*".[243] In addition, two of the biggest users of OFC, China Unicom and China Mobile, provided financing to the Internet Investment Fund. In this way, the Chinese OFC producers are supported both by the GOC and the OFC users, meaning that the initial investment has come full circle.

108. Furthermore, the fact that the GOC subsidised OFC producers, was recently confirmed by the MIIT Director, who explained that "[t]*he general approach* [of China] *has been for the central government to channel funds, while local authorities provide coordination and support, and enterprises playing the major role of advancing development*." In the same interview, the MIIT Director also provided a future projection, noting that "[n]*ext, we will accelerate the construction of new infrastructure projects including the 5G network, a 1-gigabit per second optical Fibre network and data centres, according to the arrangement of the central government*".[244] The GOC has reiterated its message to further support the telecommunications sector for the establishment of 5G infrastructure in more recent press releases published on 23 July 2020[245] and on 7 September 2020.[246] This is a clear indication that the GOC will continue to subsidise the OFC producers through its currently applicable and future policies relating to 5G networks.

109. In addition, while the GOC has already granted considerable amounts of subsidies to the Chinese telecommunications sector, only some of which could be identified in the present Application, investments are expected to remain at a consistently high level in the long term, that is, at least until 2030, and with at least RMB 200 billion (approximately € 26 billion) of investment per year. China's Academy of Information and Communication Technologies, which is the research arm of the MIIT, expects investment between 2020 and 2030 in domestic 5G networks to reach RMB 2.8 trillion (approximately € 370 billion).[247]

5.2.2 Export-contingent loans

(A) Introduction

110. In order to define an export-contingent loan, the meaning of the term "*export-contingent"* should be defined. According to WTO jurisprudence, contingent means "*dependent on the existence of*" a factor.[248] Furthermore, a subsidy can be *de jure* and *de facto* contingent. A subsidy is considered to be *de jure* contingent upon export when the condition to export is clearly stated in the legal instrument comprising the measure.[249] On the other hand, for a subsidy to be *de facto* contingent in law, dependency on export must be inferred from the "*total configuration of the facts constituting and surrounding the grant of the subsidy*".[250]

(B) Export-Import Bank of China

111. The Export-Import Bank of China ("**EXIM Bank**") is a state-owned bank with an independent legal entity status but which is directly dependent on the State Council. Its main objective is to support China's foreign trade, investment, and international economic cooperation.[251] This bank provides short-, medium- and long-term loans such as: import credits, overseas contracted engineering loans, overseas investment loans, Chinese government foreign aid loans and export buyer loans. The EXIM Bank also assists exporters through export buyers' credits that are provided to foreign companies to finance their imports of Chinese products, technologies, and services.[252] In 2016, the EXIM Bank granted loans

241 See China Internet Investment Fund webpage.
242 **Annex F70**. Private Equity International, Chinese government launches $14.6 billion internet fund, 23.01.2017.
243 **Annex F71**, South China Morning Post, *China sets up 100 billion yuan state fund to invest in the internet*, 22 January 2017.
244 **Annex F72**, China.org.cn, *SCIO briefing on Chinas industrial and communications development in Q1*, 26 April 2020.
245 **Annex F73**. South China Morning Post, *Chinese officials reiterate support for 5G, semiconductor sectors amid tech war with US*, 23 July 2020.
246 **Annex F74**. South China Morning Post, *China has reached about 96 per cent of its target to build 500,000 5G base stations this year*, 7 September 2020.
247 *See, e.g.,* European Parliament, Committee on Industry, Research and Energy, Colin Blackman and Simon Forge, *5G Deployment: State of Play in Europe, USA and Asia*, April 2019.
248 WTO analytical index. SCM Agreement – Article 3 (Jurisprudence), p. 4.
249 DS139: Canada — Certain Measures Affecting the Automotive Industry. Appellate body, paras. 99 and 118.
250 DS139: Canada — Certain Measures Affecting the Automotive Industry. Appellate body, paras. 99 and 118.
251 The Export-Import bank of China webpage.
252 **Annex F75.** Chinese Export-Import Bank 2016 Annual Report, p. 33.

totalling RMB 2.879 billion.[253] These loans were mainly aimed at implementing the objectives established in the 13th FYP.

112. The EXIM Bank provides export-contingent loans at preferential rates to Chinese companies that manufacture: (i) high and new tech products; (ii) products with indigenous intellectual rights; (iii) high value-added products; (iv) software products that are registered with the authorities for industry and commerce; and (v) represent self-owned brands.[254]

113. Chinese OFC producers qualify for export-oriented loans as high and new tech products and/or as self-owned brands, given that several producers are recognised as "*National High-tech Enterprises*" or have been awarded the status of a "*famous brand*", "*top brand*", etc. Semi-Annual reports of Chinese OFC producers also make explicit references to "*export credits*".[255] More specifically, ZTT's 2020 Annual report indicates an export credit rebate of RMB 564.006,44.[256]

114. To conclude, considering that the EXIM Bank acts as a public body and because this type of export credit financing is limited to encouraged industries, such as e.g., the OFC industry,[257] it constitutes a specific subsidy in accordance with Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations.

(C) Calculation Methodology

115. Export-contingent loan programmes are administered on preferential, non-commercial terms conferring a benefit to recipients which is equal to the difference between what the recipient paid for the loan and the amount that would have been paid for a comparable commercial loan.[258]

5.2.3 Preferential financing through credit lines

(A) Introduction

116. Credit lines, by being a flexible and immediately available source of working capital financing, seek to limit the indebtedness incurred by a company in the course of financing its current operations. In principle, short-term financing received by companies, such as bills of exchange or loans, should be covered by a credit line.[259]

253 **Annex F75.** Chinese Export-Import Bank 2016 Annual Report, pp. 4-5.
254 **Annex F75.** Chinese Export-Import Bank 2016 Annual Report, p. 5.
255 **Annex F76.A**. **Annex F76.B**. Jiangsu Yongding Semi-Annual Report 2019, p. 101/172.
256 **Annex F7A. Annex F7.B.** Jiangsu Zhongli Group Co., Ltd. Annual Report 2020, p. 127.
257 See **sub-section 5.2.3** below.
258 *See* TRA Guidance, How we calculate the benefit in dealing with different types of subsidy.
259 Regulation 2022/72, recital 340, p. 47.

117. Preferential credit lines are administered on preferential, non-commercial terms under the FYPs and local and regional implementing acts, and are limited to encouraged industries, such as the OFC industry.[260] They also appear to be granted on an *ad hoc* basis.

118. Advantages related to the opening of credit lines confer a benefit as they improve the liquidity of the entities to which they are granted, which in turn improves their competitiveness on the market. In addition, this type of financing allows for flexible access to funds.

(B) Legal Basis

119. The applicable regulations relevant to credit lines are the following:

1) Notice of the General Office of the State Council on Promoting the Third Batch of Reform Measures to Support Innovation (2020) No. 3;[261]

2) Notice of the People's Bank of China on the in-depth implementation of the project to improve the financial service capacity of small and medium-sized enterprises;[262] and

3) Financial support for the development of science and innovation enterprises and the "high enterprise loan" credit service program conference was held (2019).[263]

(C) Calculation Methodology

120. In relation to credit lines, a benefit is conferred in the amount equal to the difference between the amount of fees charged for the opening or renewal of the credit line (if any) and the normal commercial fees applicable to a company with the same credit rating for the opening of a credit line for the same amount.

121. Typically, the arrangement fee is paid on a flat-rate basis at the time of the opening of a new credit line and the renewal fee is paid on a flat-rate basis at the time of the renewal of an existing credit line. However, in the present case, the calculation must include both the credit lines opened or renewed during the investigation period, as well as those credit lines that were opened or renewed prior to the investigation period and that are still at the disposal of the companies. Thus, the benefit would be calculated based on the period of investigation and the entire period during which the credit line has been available to the specific company.

260 **Annex F77. A. Annex F77.B.** Temporary Provisions on Promoting Industrial Structure Adjustment (Decision No. 40 from 2005 of the State Council) establishes that financial institutions must provide credit support to encouraged industries, such as the OFC sector.

261 **Annex F78. A. Annex F78.B**. Notice of the General Office of the State Council on Promoting the Third Batch of Reform Measures to Support Innovation (2020) No. 3.

262 **Annex F79.A. Annex F79.B.** Notice of the People's Bank of China on the in-depth implementation of the project to improve the financial service capacity of small and medium-sized enterprises.

263 **Annex F80.A. Annex F80.B.** Financial support for the development of science and innovation enterprises and the "high enterprise loan" credit service program conference was held (2019).

122. Publicly available information establishes the appropriate benchmarks for the arrangement and the renewal fees as 1.5% and 1.25%, respectively.[264] However, Chinese OFC producers have benefited from credit lines that have been granted free of charge.[265]

123. In addition, domestic credit ratings awarded to Chinese companies are not reliable.[266] According to the IMF, over 90% of Chinese bonds are rated from AA to AAA by local rating agencies. In comparison, in the United States only less than 2% of companies enjoy the highest ratings.[267] Chinese credit rating agencies are thus heavily skewed towards the highest end of the rating scale.

5.2.4 Preferential financing through standard corporate bonds

124. A corporate bond is a type of debt security that is issued by a company and sold to investors. The company raises the capital it needs, and, in return, the investor receives a pre-specified number of interest payments at a fixed or variable interest rate. When the bond expires, or matures, payments are terminated, and the original investment is repaid. The backing for the bond is usually the company's ability to repay, which depends on its future revenue and profitability prospects. In some cases, the company's physical assets may be used as collateral.

125. In China, bonds cannot be issued or traded freely, but must be issued by the government authorities at annual quotas.[268] In addition, the public offering of bonds must "*comply with the industrial policies of the State*"[269] and "*the proceeds of a public offering of corporate bonds shall be used only for the approved purposes*".[270]

126. The subsections below discuss the following: (**A**) the legal basis and (**B**) the application of this programme, and (**C**) the calculation methodology used to calculate the value of the corporate bonds received by the Chinese OFC producers.

(A) Legal Basis

127. The following measures are relevant to the emission of corporate bonds:

1) Law of the People's Republic of China on Securities (version 2014) ("**Securities Law**");[271]

264 **Annex F81**. Overdraft calculator, Fees for executive overdraft– - "*overdrafts over £15,000 have a set-up fee of 1.5% of the arranged overdraft limit, and a renewal fee of 1.5%".*

265 Regulation 2022/72, recital 343, p. 48.

266 **Annex F82**. IMF Working Paper '*Resolving China's Corporate Debt Problem',* by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan, October 2016, WP/16/203.

267 Regulation 2022/72, recitals 265 – 269, p. 38.

268 **Annex F83.** Regulations on the Administration of Corporate Bonds, issued by the State Council on 18 January 2011.

269 **Annex F83.** Regulations on the Administration of Corporate Bonds, article 12.

270 **Annex F84**. Law of the People's Republic of China on Securities (version 2014).article 16.

271 **Annex 84**. Law of the People's Republic of China on Securities (version 2014).

2) Administrative Measures for the Issuance and Trading of Corporate Bonds, Order of the China Securities Regulatory Commission No.113, 15 January 2015;[272]

3) Regulations on the Administration of Corporate Bonds, issued by the State Council on 18 January 2011;[273]

4) Measures of the Administration of Debt Financing Instruments of Non-financial Enterprises on the Inter-bank Bond Market Issued by the People's Bank of China, Order of the People's Bank of China [2008] No. 12, 9 April 2008.[274]

(B) Application of the programme

128. Bond issuance in China intends to support encouraged industries, such as the optical fibre cables industry. More specifically, OFC producers receive beneficial treatment because they are allowed to invest in corporate bonds issued at an interest rate that does not reflect market-based criteria.

129. A 2021 China bond market survey reveals that investors buying corporate bonds are mainly state-owned banks. According to the report, bonds listed on the market account for 88% of the total bond trading volume, with institutions (including financial institutions) making up the majority of investors. In particular, commercial banks account for 57% and political banks for 3% of investors.[275]

130. More specifically, Article 16 (5) of the Securities Law states that "*the coupon rate of the corporate bonds shall not exceed the coupon rate stipulated by the State Council*". Furthermore, Article 18 of the Regulation on the Administration of Corporate Bonds adds that "*the interest rate offered for any corporate bonds shall not be higher than 40% of the prevailing interest rate paid by banks to individuals for fixed-term savings deposits of the same maturity*".

131. In addition, Article 18 of the Administrative Measures for the Issuance and Trading of Corporate Bonds provides that bonds, which meet the specific quality criteria (such as e.g., AAA credit-rating) may be publicly issued to public investors or other private qualified investors, while those that do not meet these criteria may only be publicly issued to qualified investors.

272 **Annex F85.A. Annex F85.B.** Administrative Measures for the Issuance and Trading of Corporate Bonds, Order of the China Securities Regulatory Commission No.113, 15 January 2015.

273 **Annex F83.** Regulations on the Administration of Corporate Bonds.

274 **Annex F86.A. Annex F86.B.** Measures of the Administration of Debt Financing Instruments of Non-financial Enterprises on the Inter-bank Bond Market.

275 **Annex F87**. China bond market insight 2021.

132. The following five Chinese local rating agencies dominate the bond market: (i) China Chengxin; (ii) Dagong; (iii) Lianhe; (iv) Shanghai Brilliance; and (v) Golden Credit Rating. Around 90% of the bonds in China are rated AAA by local Chinese rating agencies, whereby many of the issuers have received a lower S&P global issuer rating of A and BBB.[276]

133. Corporate bond interest rates are influenced by the company's credit rating. However, because the local credit rating market is distorted, the credit ratings are unreliable.[277]

134. Taking the above into account, it appears that corporate bonds are issued with an interest rate below the level expected given the financial and credit risk situation of the companies generating a benefit for the OFC producers.[278]

(C) Calculation methodology

135. As discussed in above **paragraph 133**, Chinese credit ratings are not reliable. First, the credit ratings of the companies in China are too high. Second, the interest rates applicable to each credit rating, e.g., AAA and AA are lower than interest rates applied to the same category in e.g., the US or the EU. In other words, there are two issues relating to credit rating in China: (i) incorrect granting of the AAA-rated status to a company; (ii) applying lower interest rates to companies that were granted the AAA-rated status in comparison to market economy interest rates.

136. The financial benefit received by the Chinese exporting OFC producers should be determined by comparing the actual interest rate paid by the company in China and (for example)[279] the difference between U.S. AA corporate bonds and U.S. BB corporate bonds (relative spread) with the same duration applied to the People's Bank of China ("**PBOC**") benchmark borrowing rate. In addition, after 20 August 2019, this difference should be applied to the preferred borrowing rate published by the National Interbank Funding Centre ("**NIFC**").[280]

5.2.5 Preferential financing through convertible corporate bonds

137. Convertible corporate bonds are defined as "*corporate bonds which are issued by an issuing company pursuant to law and which may be converted to shares during a certain period and under stipulated conditions*".[281] Companies intending to issue convertible corporate bonds must engage the services of an underwriter, called a "*securities sponsor*", which is responsible for arranging the issuance of the bonds, recommending the issuer, and negotiating the applicable interest rates. In addition, the security sponsor is responsible for

276 **Annex F87.** China bond market insight 2021, footnote 61, p. 31.
277 Regulation 2022/72, recitals 274-279, pp. 39 and 40.
278 GFF Antidumping Regulation (EU), pp. 48 and 49.
279 Other market economy conditions could be taken as an example, e.g., European Union's borrowing rates for AA and BB corporate bonds.
280 **Annex F88.A. Annex F88.B**. Loan market quotation rate (LPR).
281 **Annex F89**. Administrative Measures on Issuance of Securities by Listed Companies (version 2008). Article 14.

submitting the application file to the China Securities Regulatory Commission ("**CSRC**") and for finding investors who agree to the terms of the issuance.[282]

138. The issuance of bonds in China must be approved and supervised by the CSRC.[283] This is required by, among others, Article 16 of the Securities Law: "*listed companies issuing convertible corporate bonds shall […] satisfy the requirements stipulated in this Law for public offering of shares; and shall obtain the approval of the securities regulatory authorities of the State Council*". In other words, bonds issuance is controlled, and they cannot be freely traded on the Chinese market.

139. Subsections below discuss the following: (**A**) the legal basis and (**B**) the application of this programme, as well as (**C**) the calculation methodology used to calculate the value of the subsidies received by the Chinese OFC producers.

(A) Legal Basis

140. The main regulations establishing the legal framework for corporate bonds are (i) The Regulations on the Administration of Corporate Bonds (see **paragraph 127**)[284] and (ii) the Administrative Measures for the Issuance and Trading of Corporate Bonds (see **paragraph 127**).[285] However, there is also a set of specific rules applicable to convertible corporate bonds:

1) Law of the People's Republic of China on Securities (see **paragraph 127**);

2) Administrative Measures on Issuance of Securities by Listed Companies (version 2008); [286]

3) Administrative Measures on Sponsorship for Securities Issuance and Listing (version 2008); [287]

4) Administrative Measures on Issue and Underwriting of Securities (version 2018); [288] and

282 **Annex F84**. Securities Law. Article 11. **Annex F89.** Administrative Measures on Issuance of Securities by Listed Companies (version 2008), Article 45. **Annex F90.** Administrative Measures on Sponsorship for Securities Issuance and Listing (version 2008). Article 2.

283 **Annex F91**. Administrative Measures on Issue and Underwriting of Securities , Article 3.

284 **Annex F83.** Regulations on the Administration of Corporate Bonds .

285 **Annex F85.A. Annex F85.B.** Administrative Measures for the Issuance and Trading of Corporate Bonds.

286 **Annex F89**. Administrative Measures on Issuance of Securities by Listed Companies (version 2008). Lastly amended on 14 February 2020 pursuant to the Decision on Revision of the "*Administrative Measures on Securities Issuance by Listed Companies*" of the China Securities Regulatory Commission with effect from 14 February 2020.(**Annex F92. A. Annex F92.B**).

287 **Annex F90.** Administrative Measures on Sponsorship for Securities Issuance and Listing (version 2008). Replaced by Administrative Measures on the Sponsor Service for Securities Issuances and Listings, Decree No. 170 of the China Securities Regulatory Commission of 12 June 2020 with effect from 12 June 2020 (**Annex F93.A. Annex F93.B.**).

288 **Annex F91**. Administrative Measures on Issue and Underwriting of Securities (version 2018).

5) Measures of the Administration of Debt Financing Instruments of Non-financial Enterprises on the Inter-bank Bond Market Issued by the People's Bank of China, Order of the People's Bank of China [2008] No. 12, 9 April 2008 (See **paragraph 127**).[289]

(B) Application of the programme

141. The Guidance Catalogue for Industry Restructuring[290] states that the encouraged industries, such as OFC, are entitled to receive credit support from financial institutions.

142. In China, convertible bonds are issued at low interest rates, irrespective of the financial and credit risk situations of the companies.[291] In addition, because financial institutions are significantly influenced by the State and have a legal obligation to provide credit support to OFC producers, they are the primary investors in convertible bonds. On the other hand, investors that operate under normal market conditions are typically more sensitive to the financial return on investment and would most likely not invest in convertible corporate bonds with a very low interest rate and offering a low yield. This demonstrates that only investors in incentivised industries, such as e.g., OFC, which are pressured by the GOC and motivated by factors other than financial return, grant this type of bonds.

143. In addition, the interest rate of convertible corporate bonds is influenced by the company's credit rating. However, the local credit rating market is distorted, causing the credit ratings to be unreliable (see **paragraph 133**).

144. Therefore, in compliance with the guidelines laid down by Decision no. 40,[292] the financial institutions provide preferential financing at a very low interest rate to companies belonging to encouraged industries and therefore act as public bodies within the meaning of Paragraph 3(4) of Schedule 4.

145. In addition, preferential financing through convertible bonds is specific within the meaning of Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations because the issuance of convertible corporate bonds must be in line with the industrial policies of the State and is applied to encouraged industries.[293] Therefore, this investment project falls within the content "encouraged" in the Guidance Catalogue for Industry Restructuring[294] to which the OFC producers belong.

289 **Annex F86.A. Annex F86.B.**. … Enterprises on the Inter-bank Bond Market.
290 **Annex F94.A. Annex F94.B**. Guidance Catalogue for Industry Restructuring.
291 Regulation 2022/72, recital 405, p. 56; and recital 410, p. 57.
292 **Annex F95.A. Annex F95.B**. Temporary Provisions on Promoting Industrial Structure Adjustment.
293 Regulation 2022/72, recital 417, p. 58.
294 **Annex F94.A. Annex F94.B**. Guidance Catalogue for Industry Restructuring.

(C) Calculation methodology

146. Convertible corporate bonds are hybrid debt instruments that have the characteristics of a bond (such as the payment of interest), with the possibility of converting the amount invested into shares (conversion aspect). Because in practice the Chinese OFC producers only convert a very small portion of convertible bonds into shares, this instrument should be treated as a bond with a yield similar to that of a loan.

147. The benefit received by the OFC producers is the difference between the amount of interest that the company should have paid using the market-based interest rate and the actual interest paid by the OFC companies (which is lower than a standard rate of return, granted irrespective of the risk profile of the company).

148. The market-based interest rate is the relative spread between the amount of interest paid for the U.S. AA corporate bonds and U.S. BB corporate bonds with the same duration that applies to the benchmark borrowing rates published by the PBOC or, after August 20, 2019, the prime lending rate published by the NIFC (see **paragraph 136**).

5.2.6 Conclusion on preferential financing

149. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefited from preferential financing in the form of credit lines, convertible corporate bonds and cooperate bonds, which constitute countervailable subsidies. The Applicant would therefore invite the TRA to further investigate this issue during its proceedings.

5.3 Preferential Export credit insurance and guarantee

150. The China Export & Credit Insurance Corporation ("**Sinosure**") is a policy-oriented public government body[295] within the meaning of Paragraph 3(4) of Schedule 4 and the sole official institution in China that provides export credit insurance. Sinosure provides short-, medium- and long-term export credit insurance, investment insurance and bond guarantees, among other services, on a concessional basis to encouraged industries, which include the OFC industry.[296]

151. Sinosure is 100% owned by the Chinese State**,** according to Sinosure's reply to the questionnaire in Electric Bicycles: "*Sinosure is a State-owned policy insurance company established and supported by the State to support the PRC's foreign economic and trade development and cooperation. The company is 100% owned by the State. It has a board of directors and a board of supervisors. The Government has the power to appoint and dismiss the company's senior managers. Based on the reply to the questionnaire, as well as the information provided during the verification visit, the Commission concluded that there is formal indicia of government control with respect to Sinosure*."[297] In accordance with the GOC's diplomatic, international trade, industrial, fiscal, and financial policies, Sinosure is mandated to promote Chinese exports and investments, especially exports of high-tech or

high value-added capital goods, by offering export credit insurance against non-payment risks.[298]

152. Subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) methodology used to calculate the value of the subsidies received by the Chinese OFC producers; and (**D**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

153. The following measures are relevant to the implementation of subsidy programmes provided by Sinosure:

1) The Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang JiFa [2004] No. 368) ("**Notice 368**");[299]

2) The Notice on Cultivation and Development of the State Council on Accelerating Emerging Industries of Strategic Decision (GuoFa [2010] No. 32 of 18 October 2010), issued by the State Council and its Implementing Guidelines (GuoFa [2011] No. 310 of 21 October 2011);[300] and

3) Notice on the issuance of the 2006 edition of China's High-tech Products Export Catalogue No. 16 of the National Science and Technology Department (2006).[301]

(B) Application of the programme

154. Sinosure provides export credit insurance on preferential terms to Chinese exporting producers pursuant to Notice 368,[302] issued jointly by the Ministry of Commerce of the

295 CFP Regulation, recitals 130 and 139.

296 **Annex F96.A**. **Annex F96.B**. Sichuan Huiyuan Optical Communication Co. Ltd. Semi-Annual Report 2019, pp. 104,117/141. See also **Annex F97.A**, **Annex F97.B**, Sichuan Huiyuan Optical Communication Co. Ltd. Annual Report 2019.

297 Electrical Bikes case, para. 354.

298 **Annex F98**. Sinosure's profile.

299 **Annex F99.A. F99.B**. Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology.

300 **Annex F100.A. Annex F100.B**. The Notice on Cultivation and Development of the State Council on Accelerating Emerging Industries of Strategic Decision (GuoFa [2010] No. 32 of 18 October 2010), issued by the State Council and its Implementing Guidelines (GuoFa [2011] No. 310 of 21 October 2011). See Commission Implementing Regulation (EU) 2017/366 of 1 March 2017 imposing definitive countervailing duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 18(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 19(3) of Regulation (EU) 2016/1037, OJ 2017 L56/1 ("***CSPMKC Regulation***"), recital 285.

301 **Annex F101.A Annex F101.B.** Notice on the issuance of the 2006 edition of China's High-tech Products Export Catalogue No. 16 of the National Science and Technology Department (2006).

302 **Annex F99.A. F99.B**. Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology.

People's Republic of China and Sinosure. Export credit insurance is provided by Sinosure to companies that manufacture and export products that are listed as high-tech in line with China High-tech Products Export Catalogue.[303] Optical fibre cables, optical fibres, and optical fibre transmission equipment are included in the 2006 edition of this Export Catalogue[304] and therefore "*may enjoy preferential policies granted by the State for the export of high-tech products*." [305] Considering the above measures, Sinosure provides high and new technology products, including "*information and communications*" products, with comprehensive support in terms of underwriting, capped approval, claims processing speed, and rate flexibility.

155. A study of the Organization for Economic Cooperation and Development ("**OECD**") shows that 21% of the total export credit insurance granted by Sinosure was received by the Chinese high-tech industry (including the OFC sector).[306] In addition, Sinosure's annual report of 2019 confirms that Sinosure, has "*supported the steady development of key industries"* and *"accelerated the growth of strategic emerging industries*".[307] Sinosure's Annual report 2020 also confirms that Sinosure has been "*effectively protecting exports to key markets and trade in key industries*".[308]

156. OFC producers pay premiums well below the minimum amount needed to cover operating costs. In principle, Sinosure was supposed to charge a 0.22% premium to cover the cost of claims, but OFC producers pay a much lower premium.[309]

157. In view of the above, Sinosure acts as a public body (see **paragraph 151**) by providing specific subsidies under the export insurance programme in accordance with Paragraphs 20 and 22 of Schedule 4 and Regulations 20 and 22 of the EU Exit Regulations. OFC producers obtain a benefit because the insurance is provided at rates below the minimum fee necessary for Sinosure to cover its operating costs.

(C) Calculation methodology

158. The Applicant understands that a benefit conferred on the recipients is the difference between the amount that the company had actually paid as insurance premium and the amount that it should have paid by applying the external benchmark premium rate.

303 **Annex F17.** Notice on Printing and Distributing the 2006 "*China High-tech Products Export Catalogue*".
304 **Annex F17.** "*China's High-tech Products Export Catalogue"*, e.g. No 775, 780, 781, 1035, 1098, 1100, 1104, 1107 and 1109.
305 **Annex 99.A. F99.B**. Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology.
306 **Annex F102**. OECD Study on Chinese export credit policies and programmes, para. 32, p. 7.
307 **Annex F103**. Sinosure Annual Report 2019.
308 **Annex F104**. Sinosure Annual Report 2020.
309 **Annex F103**. Sinosure Annual Report 2019, pp. 28-29. In addition, the European Commission confirmed that OFC producers had outstanding export insurance agreements with Sinosure. Regulation 2022/72, recital 447, p. 63.

159. Because Sinosure holds a predominant market position in China, it is not possible to find a market-based domestic insurance premium by a comparable institution. In order to address this issue, the European Commission used, for example, "*the most appropriate external benchmark, for which information was readily available, i.e. the premium rates applied by the Export-Import Bank of the United States of America to non-financial institutions for exports to OECD countries*."[310]

(D) Examples of Chinese exporting OFC producers that benefitted from the subsidy

160. For example, Jiangsu Zhongtian reported export credit insurance of RMB 1,000,000.00.[311] Tongding reported an import and export credit insurance of RMB 35,000.00.[312] However, information regarding specific refunds of the premiums that would allow for the calculation of the total benefit received by these companies is not reported in their Annual and Semi-Annual reports. Likewise, Hentong reported purchasing "export insurance" without disclosing any details.[313] The Applicant invites the TRA to further investigate this issue.

161. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefited from preferential export credit insurances and guarantees which constitute countervailable subsidies.

5.4 Government revenue forgone or not collected

162. The GOC has provided industry subsidies to the Chinese OFC in the form of government revenue forgone or not collected within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations, including:

1) Enterprise Income Tax ("**EIT**") privileges and benefits for High and New Technology Enterprises (**Section 5.4.1**.);

2) Tax offset for research and development ("**R&D**") (**Section 5.4.2**); and

3) Accelerated depreciation of instruments and equipment used by High-Tech enterprises for High-Tech development and production (**Section 5.4.3**).

163. Subsidies obtained in the form of a preferential tax rate or a tax deduction (See **Annex F64)**[314] are **not** included in each company's annual and semi-annual reports as a part of the "*total government subsidies*" received and reported by these companies.

310 Regulation 2022/72, recital 460, p. 65.
311 **Annex F9.A. Annex F9.B**. Jiangsu Zhongtian Technology Co., Ltd. Semi-Annual Report 2021, p. 119.
312 **Annex F45.A. Annex F45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020, p. 337.
313 **Annex F44.A. Annex F44.B.** Jiangsu Hengtong Optoelectronics Co., Ltd., Annual Report 2020, p. 47.
314 **Annex F64**. Quantification of Subsidies Received by the Exporting Producers.

5.4.1 Enterprise Income Tax privileges and benefits for High and New Technology Enterprises

164. During the IP, the Chinese OFC producers have obtained benefits under the tax scheme available for "*High and New Technology Enterprises*" **("HNTE")**. In case a company is classified as a high and new technology enterprise, the corporate income tax rate applicable to that company is reduced from 25% to 15%, according to the Article 28 of the Law of the People's Republic of China on Corporate Income Tax ("**EIT Law**").[315] Subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) the methodology used to calculate the value of the subsidies received by the Chinese OFC producers; and (**D**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

165. In addition to the Article 28 of the EIT Law mentioned above in **paragraph 164** and Article 93 of Regulation on the Implementation of Enterprise Income Tax Law of China (the "**EIT Implementing Regulations**"),[316] the following measures are relevant to the implementation of tax privileges available to HNTEs:

1) Circular of the Ministry of Science and Technology, Ministry of Finance, and the State Administration of Taxation on revising and issuing "*Administrative Measures for the Recognition of High-Tech Enterprises*", G.K.F.H. [2016] No. 32;[317]

2) Notification of the Ministry of Science and Technology, Ministry of Finance and State Administration of Taxation concerning "*Revising, Printing and Issuing the Guidance for the Recognition Management of High and New Tech Enterprises*", G.K.F.H. [2016] No. 195; [318]

315 **Annex F105.A. Annex F105.B.** Law of the People's Republic of China on Corporate Income Tax. **Annex F10.A**. **Annex F.12.B.** YOFC Annual Report 2020, p. 90; **Annex F42.A. Annex F42.B.** Jiangsu Zhongtian Technology Co., Ltd. Annual Report 2020, p. 117; **Annex F43.A. Annex F43.B.** Fiberhome Communication Technology Co., Ltd. 2020 Annual Report, p. 95; **Annex F44.A. Annex F44.B.** Jiangsu Hengtong Optoelectronics Co., Ltd. 2020 Annual Report, p. 384; **Annex F45.A. Annex F45.B.** Tongding Interconnection Information Co., Ltd Annual Report 2020, p. 241; **Annex F9.A. Annex F9.B.** Jiangsu Zhongli Group Co. Ltd. Annual Report 2020, p. 109**; Annex F10.A. Annex F10.B.** Shenzhen Tefa Information Co., Ltd. Annual Report 2020, p. 314; **Annex F46.A. Annex F46.B.** Tianjin Futong Xinmao Technology Co. Ltd., Annual Report 2020, p. 226; **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd. Annual Report 2020, p. 92; **Annex F48.A. Annex F48.B.** Etern Annual Report 2020, p. 122; **Annex F49.A. Annex F49.B.** Sichuan Huiyuan Optical Communication Co., Ltd. Annual Report 2020, p. 189; **Annex F50.A. Annex F50.B.** Nanjing Huamai Technology Co., Ltd. Annual Report 2020, p. 291.

316 **Annex F106.** Enterprise Income Law and Implementing Regulation.

317 **Annex F107.A, Annex F107.B.** Circular of the Ministry of Science and Technology, Ministry of Finance and the State Administration of Taxation on revising and issuing Administrative Measures for the Recognition of High-Tech Enterprises, G.K.F.H. [2016] No. 32.

318 **Annex F108.A. Annex F108.B**. Circular of the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation on Revising and Issuing the Guidelines for the Administration of Accreditation of High-tech Enterprises, Guo Ke Fa Huo [2016] No. 195.

3) Announcement [2017] No. 24 of the State Administration of Taxation on the "*Application of Preferential Income Tax Policies to High-tech Enterprises*";[319]

4) "*Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries*" [2011], issued by the NDRC, the Ministry of Science and Technology, the Ministry of Commerce and the National Intellectual Property Office;[320]

5) The 2016 "*Catalogue of High-tech Fields Supported by the State*";[321]

6) Ministry of Finance and State Administration of Taxation Announcement [2019] No. 68.[322]

(B) Application of the programme

166. This programme applies to companies identified as High and New Technology Enterprises that qualify for the "*key support*" from the State. The eligibility criteria which a company (an enterprise) must meet in order to receive a certificate of a High and New Technology Enterprise set forth in the *Administrative Measures for the Recognition of High-Tech Enterprises*, are as follows:[323]

(i) the enterprise must be registered in China (excluding Hong Kong, Macao, and Taiwan), and must own intellectual property rights concerning the core technology of its main product;

(ii) the products must fall within the areas stipulated as the high and new technology fields supported by the State;

(iii) the scientific and technical personnel with a college degree or high qualification accounts for more than 30% of the total number of employees in the same year, of which the research and development personnel accounts for more than 10% of the total number of employees in the enterprise; and

(iv) the enterprise must continue to carry out R&D activities and has done so in the three most recent fiscal years; and the ratio of total R&D costs to total sales revenue must meet the thresholds set forth in the legislation.

167. If a company fulfils the above-mentioned criteria, it may submit its application form to be classified as a High and New Technology Enterprise to the relevant authority. Upon receipt

319 **Annex F109.A. Annex F109.B**. Announcement [2017] No. 24 of the State Administration of Taxation on the Application of Preferential Income Tax Policies to High-tech Enterprises.
320 Electrical Bikes case.
321 **Annex F110.A. Annex F110.B.** The 2016 Catalogue of High-tech Fields Supported by the State.
322 **Annex F111.A. Annex F111.B.** Ministry of Finance and State Administration of Taxation Announcement [2019] No. 68.
323 **Annex F107.A, Annex F107.B.** … of High-Tech Enterprises, G.K.F.H. [2016] No. 32.

of an application, the State Taxation Administration of the People's Republic of China will assess the application and grade the company on the basis presented in **Table F.5** below**.**

Table F.5: Grading companies for High and New Technology Enterprise

	Index	Score
1.	Core intellectual rights	30
2.	Scientific and technologic achievements and transformation ability	30
3.	R&D organisation and management level	20
4.	Growth indicators	20
Total		100

168. In order to qualify for the HNTE benefits, an applicant must receive a minimum of 70 points as a result of the above-mentioned assessment by the relevant authority.

169. In addition, in order to be eligible for this programme, the core product of the company must fall within one of the following areas, which are identified as the high and new technology fields supported by the State:

- Electronic information technology;
- Biology and new medicine technology;
- Aeronautics and aeronautical technology,
- New material technology;
- High technology service industry;
- New energy and energy saving technology;
- Resources and environmental technology; or
- Reform of the traditional industry by high and new technology.

170. If a company (an enterprise) receives a High and New Technology Enterprise certificate, the preferential 15% income tax rate will be automatically applied when the entity will electronically submit its quarterly declarations of the income tax to the Tax Bureau every January, April, July, and October.

171. Notably, this programme was found countervailable in, *inter alia*, the following cases: *CFP* from China;[324] *GFR* from China;[325] *Solar Glass* from China;[326] *PV cells and modules*

[324] CFP Regulation, recitals 68 *et seq*.
[325] Filament glass fibre Regulation, recitals 158 *et seq*.
[326] See Commission Implementing Regulation (EU) No 471/2014 of 13 May 2014 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China, OJ 2014 L143/23 ("***Solar Glass Regulation***") recitals 143 *et seq*.

from China;[327] *OCS* from China;[328] and *E-bikes* from China.[329] The European Commission has confirmed that the OFC industry, as a high and new technology industry, has also benefitted from it.[330] In addition, in previous cases, the European Commission found that these programmes accounted for substantial financial contributions. For example, in *CFP* from China, the European Commission found countervailable *ad valorem* subsidies of 0.58-1.22%;[331] in *E-bikes* from China, 0.41 to 0.70%;[332] and in *PV modules* and cells from China, 0.02 to 0.75%.[333]

172. This preferential tax scheme constitutes a subsidy within the meaning of Paragraphs 20 and 21 of Schedule 4 and Regulations 20 and 21 of the EU Exit Regulations because there is a financial contribution in the form of forgone government revenue which confers a benefit upon the recipient companies. The benefit for the recipient is equal to the tax saving enjoyed through this programme in accordance with Paragraph 21 of Schedule 4 and Regulation 21 of the EU Exit Regulations.

173. In addition, this subsidy is specific within the meaning of Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations since it is limited to the enterprises receiving the certification of High and New Technology Enterprises, and the OFC industry is a High and New Technology Industry as indicated above (see **Section 3.1**).[334]

(C) Calculation Methodology

174. The exact amount of the subsidy received by each of the companies is the difference between the tax amount that would have been paid under the standard corporate income tax rate of 25% and the tax amount paid under the preferential tax rate of 15%. In other words, the exact subsidy amount is 10% of the taxable income ("*pre-tax income*"), see **Annex F64** Quantification of Subsidies Received by the Exporting Producers in 2020.[335]

327 Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China, OJ 2013 L325/66 ("***CSPMKC Regulation 2013***"), recitals 320 *et seq*.

328 Council Implementing Regulation (EU) No 215/2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China, OJ 2013 L73/16 ("***OCS Regulation***"), recital 256.

329 Electrical Bikes case, recital 542.

330 See **Section 3.1**.

331 See CFP Regulation, recital 68 *et seq*.

332 Electrical Bikes case, recital 534 *et seq*.

333 See CSPMKC Regulation, recital 366.

334 See **Section 5.1.**

335 **Annex F64**. Quantification of Subsidies Received by the Exporting Producers 2020.

(D) Examples of Chinese exporting OFC producers that benefited from this subsidy

175. **Table F.6** below provides examples of the Chinese exporting producers of OFC which were granted High and New Technology Enterprise status and received subsidies in the form of government revenue that is forgone or not collected.

Table F.6: Amounts of subsidies resulting from the application of the 15% preferential tax rate

Company name	YOFC	ZTT	FTT
Amount (RMB)	86.886.141,45	413.409.965,55	30.796.535,03

176. Based on the information above, and in view of the evidence provided, it is clear that numerous Chinese OFC exporting producers benefited from the EIT privileges and benefits for High and New Technology Enterprises programme which constitutes a countervailable subsidy.

5.4.2 Tax offset for research and development ("**R&D**")

177. During the IP, the Chinese OFC producers have benefited from the "*Weighed Pre-Tax Deduction of Enterprise Research and Development Expenses*" (**"R&D Pre-Tax Deduction"**) programme.[336] This programme includes a tax offset for research and development ("**R&D**") that entitles companies to preferential tax treatment for their R&D activities in certain high technology priority areas determined by the State and when certain thresholds for R&D spending are met.[337] This measure represents a subsidy in the form of revenue forgone or not collected by foreign authority within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations.

178. The subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) methodology used to calculate the value of the subsidies received by the Chinese OFC producers; and (**D**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

179. The two most important pieces of legislation, which govern the R&D Pre-Tax Deduction programme are: (i) the **EIT Implementing Regulations** (see **paragraph 165**) and (ii) the EIT Law (see **paragraph 164**). Article 95 of the EIT Implementing Regulations states that the additional 50% deduction of R&D expenditures incurred for the purpose to develop new technologies, new products and new crafts indicated in Article 30(1) of the EIT Law is granted for high and new technology products, so that they will be subject to an amortisation

based on 150% of the intangible asset costs. Moreover, from January 2021, the additional pre-tax deduction for R&D expenses has been increased from 50% to 100%.[338]

180. In addition, the following measures are relevant to the implementation of R&D Pre-Tax Deduction:

1) Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on "*Improving the Policy of Pre-tax Deduction of R&D Expenses*" (Cai Shui [2015] No. 119);[339]

2) The Announcement [2015] No. 97 of the State Administration of Taxation on Relevant Issues concerning Policies of Additional Pre-tax Deduction of Research and Development Expenses of Enterprises, the Announcement 2017 No. 40 of the State Administration of Taxation on Issues Concerning the Eligible Scope of Calculation of Additional Pre-tax Deduction of Research and Development Expenses;[340]

3) The Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries [2011], issued by the NDRC, the Ministry of Science of Technology, the Ministry of Commerce, and the National Intellectual Property Office;[341]

4) Circular on Raising the Proportion of Pre-tax Super Deduction of Research and Development Expenses ("**Cai Shui [2018] No. 99**");[342]

5) Announcement of the Ministry of Finance and the State Administration of Taxation on Further Improving the Policy on Pre-tax Deduction of R&D Expenses ("***Cai Shui [202] No. 13***");[343]

6) Announcement [2017] No. 40 of the State Administration of Taxation on Issues Concerning the Eligible Scope of Calculation of Additional Pre-tax Deduction of Research and Development Expenses;[344] and

336 This programme is established in the Announcement on Issues Related to the Policy of Pre-tax Deduction of Enterprise Research and Development Expenses (2015), No. 97 (**Annex F112.A. Annex F112.B.**)

337 Electrical Bikes case.

338 **Annex F113.A. Annex F113.B**. Announcement [2021] No. 13 of the Ministry of Finance and the State Taxation Administration on Further Improvements to the Policy of Weighted Pre-tax Deduction for Research and Development Expenses.

339 **Annexes F114.A. Annex F114.B.** Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology Improving the Policy of Pre-tax Deduction of R&D Expenses (Cai Shui [2015] No. 119).

340 **Annexes F112.A. Annex F112.B.** … Research and Development Expenses (2015), No. 97.

341 GFF Antidumping Regulation (EU), recital 559.

342 **Annex F115.A. Annex F115.B.** Circular on Raising the Proportion of Pre-tax Super Deduction of Research and Development Expenses (Cai Shui [2018] No. 99).

343 **Annex F113.A. Annex F113.B**. … Deduction for Research and Development Expenses.

344 **Annex F116.A. Annex F116.B.** Announcement 2017 No. 40 of the State Administration of Taxation on Issues Concerning the Eligible Scope of Calculation of Additional Pre-tax Deduction of Research and Development Expenses.

7) The 2016 Catalogue of High-tech Fields Supported by the State.[345]

(B) Application of the programme

181. According to the Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on "*Improving the Policy of Pre-tax Deduction of R&D Expenses*",[346] the R&D Pre-Tax Deduction programme applies to resident companies that have well-established accounting and auditing practices, which accurately collect and differentiate their R&D expenses. The authority responsible for administering this programme is the National Tax Bureau.

182. In addition, Cai Shui [2018] No. 99 states that "*with respect to research and development (R&D) expenses actually incurred by an enterprise from its R&D activities, an extra 75% of the actual amount of expenses is deductible before tax, in addition to other actual deductions, during the period from January 1, 2018 till December 31, 2020, provided that the said expenses are not converted into the intangible asset and balanced into this enterprise's current gains and losses; however, if the said expenses have been converted into the intangible asset, such expenses may be amortized at a rate of 175% of the intangible asset's costs before tax during the above-said period*". Moreover, it is important to highlight that the implementation period of the tax preferential policies of this regulation is extended to December 31, 2023.

183. Furthermore, according to the New Policy Guidelines for the Additional Tax Deduction of R&D Expenses of 14 May 2021,[347] the Cai Shui [2018] No. 99 applies to all industries, except for tobacco manufacturing, accommodation and catering, wholesale and retail, real estate, leasing and business services, and entertainment. All other companies can apply the additional 75% R&D deduction. However, as of 2021 the OFC producers can increase the R&D deduction to 100%.[348]

184. In relation to the Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries,[349] the "*new technologies, new products and new crafts*" eligible for the tax deduction are part of certain high technology fields supported by the State.[350] In accordance with these guidelines, the R&D Pre-Tax Deduction programme is implemented in two steps:

(i) First, in the original tax report all costs (including R&D expenses) are deducted from the sales revenue to reach the taxable profit.

345 **Annex F110.A. Annex F110.B.** The 2016 Catalogue of High-tech Fields Supported by the State.
346 **Annexes F114.A. Annex F114. B.** … of pre-tax deduction of research and development expenses.
Annex F117.A. Annex F117.B. New Policy Guidelines for the Additional Tax Deduction of R&D Expenses.
348 **Annex F117.A. Annex F117.B.** New Policy Guidelines for the Additional Tax Deduction of R&D Expenses.
Annex F113.A. Annex F113.B . Cai Shui Notice [2021] no. 13.
349 Electrical Bikes case.
350 See Hot-Rolled Steel Countervailing Regulation, recital 330.

(ii) Second, after paying the full amount of the income tax due, the company can apply for a tax return on the basis of the additional deduction for 50% of the R&D expenses (100% as of January 2021).

185. There is clear *prima facie* evidence that incentivised Chinese industries benefit from these subsidy schemes and, based on the GOC documents referred to in **Section 3** above, the OFC industry is a highly encouraged industry. It is therefore reasonable to conclude that OFC producers have also received these kinds of tax breaks. In any case, the semi-annual reports of Chinese OFC producers reveal that they benefitted from tax deduction for R&D expenses.[351]

186. The subsidy is specific within the meaning of Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations as the legislation itself limits the application of this programme to certain enterprises formally recognised as High and New Technology enterprises – which includes OFC manufacturers – and which incur in R&D expenses to develop new technologies, new products, and new crafts.

187. For example, the findings in *CFP* imports from China,[352] *Solar glass* from China,[353] *PV modules and cells* from China,[354] *OCS* from China,[355] and *E-bikes* from China[356] established that this programme provides a benefit limited to companies which are formally recognised as HNTE, which includes OFC manufacturers. In previous cases, the European Commission found that these programmes account for substantial financial contributions. For example, in *PV modules and cells* from China, the European Commission found countervailable subsidies of 0.15 to 0.74%; in *CFP* from China, 0.02 and 0.05%; in *hot-rolled flat products* from China, 0.28%; and in *E-bikes* from China, 0.05% to 0.51%. In view of the similar turnover and importance of the activities developed by OFC producers, it is reasonable to estimate that the subsidy amounts granted to OFC producers are similar to, if not exceed, those found for other encouraged products in recent EU investigations.

(C) Calculation Methodology

188. The total amount of benefit that a company may obtain when applying the R&D Pre-Tax Deduction programme is calculated by applying the following formula:

R&D expenses * 100% * 15%

351 **Annex F10.A. Annex F10.B.** YOFC Annual Report 2020, p. 124. See also **Annex F52.A. Annex F52.B.** YOFC Semi-Annual Report 2021, p. 100.
352 *See* CFP Regulation, recitals 77 *et seq*.
353 *See* Solar Glass Regulation, recitals 161 *et seq*.
354 *See* CSPMKC Regulation, recitals 339 *et seq*.
355 *See* OCS Regulation, recital 226.
356 *See* Electrical Bikes case, recitals 543 *et seq*.

189. According to the New Policy Guidelines for the Additional Tax Deduction of R&D Expenses[357], the OFC producers can increase the R&D deduction to 100%, because they are manufacturing enterprises.

(D) Examples of Chinese exporting OFC producers that benefited from this subsidy

190. According to the Annual report of 2020, YOFC received an extra deduction for R&D expenses in the amount of 56.775.855,00 in 2021.[358] **Table F7** below gives additional examples of R&D expense deductions.

Table F7: Amounts of subsidies due to tax deductions for R&D[359]

Company name	YOFC	ZTT	Kaile
Amount (RMB)	56.775.855,00	65.721.279,17	33.184.624,37

191. The details of tax offsets for R&D received by individual Chinese OFC producers are **not** publicly available. Partial information is available in the annual reports. It would therefore meet the standard set forth in Regulation 50(2) of the EU Exit Regulations to require the Applicant to provide as much information as "*reasonably available to them*".

192. Based on the information above, and in view of the evidence provided in this Application, it is clear that numerous Chinese OFC exporting producers benefited from the R&D Pre-Tax Deduction programme, which constitutes a countervailable subsidy.

5.4.3. Accelerated depreciation of instruments and equipment used by High-Tech enterprises for High-Tech development and production

193. Accelerated depreciation is a method of depreciation used for accounting and income tax purposes that allows for greater depreciation expenses in the early years of the life of an asset. The measure at issue is the accelerated depreciation of instruments and equipment used by High-Technology enterprises for High-Technology development and production ("**Accelerated Depreciation Programme**"). This measure represents a subsidy in the form of revenue forgone or not collected by a foreign authority within the meaning of Paragraph

357 **Annex F117.A. Annex F117.B**. … for the Additional Tax Deduction of R&D Expenses, Section 3.

358 **Annex F10.A. Annex F10.B**. YOFC Annual Report 2020, p. 124. **Annex F52.A. Annex F52.B**. YOFC Semi-Annual Report 2021, pp. 63-64.

359 **Annex F42.A. Annex F42.B.** Jiangsu Zhongtian Technology Co., Ltd. Annual Report 2020, p. 164. **Annex F9.A. Annex F9.B.** Jiangsu Zhongtian Technology Co., Ltd. Semi-Annual Report 2021, pp. 81-82. **Annex F47.A. Annex F47.B.** Hubei Kaile Technology Co., Ltd Annual Report 2020, p. 129. **Annex F60.A. Annex F60.B.** Hubei Kaile Technology Co., Ltd Semi-Annual Report 2021, p. 54.

20 of Schedule 4 and Regulation 20 to the EU Exit Regulations.[360] The subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

194. The primary legal basis of Accelerated Depreciation Programme is Article 32 of the EIT Law. In addition, the following measures are relevant to the implementation of this programme applied by HNTEs:

1) Notice of the Ministry of Finance and the State Administration of Taxation on the Policies of Deduction of Equipment and Appliances for Enterprise Income Tax Purposes (Cai Shui [2018] No. 54) ("**Cai Shui 2018**");[361]

2) Notice of the Ministry of Finance and the State Administration of Taxation on Fine-tuning the Enterprise Income Tax Policies Applicable to Accelerated Depreciation of Fixed Assets (Cai Shui [2014] No. 75) ("**Cai Shui 2014**"); [362]

3) Notice of the Ministry of Finance and the State Administration of Taxation on Further Fine-tuning the Enterprise Income Tax Policies Applicable to Accelerated Depreciation of Fixed Assets (Cai Shui [2015] No. 106) ("**Cai Shui 2015**");[363] and

4) Announcement of the State Administration of Taxation on Issues concerning further improving the Enterprise Income Tax Policies relating to the accelerated depreciation of Fixed Assets (Announcement of the State Administration of Taxation [2015] No. 68).[364]

(B) Application of the programme

360 For example, the European Commission concluded that the Accelerated Depreciation Programme constitutes a countervailable subsidy. The fact that the two sampled producers in the EU investigation did not benefit from this subsidy during the period of investigation, does not necessarily mean that none of the other producers also did not benefit. See Regulation 2022/72.

361 **Annex F118.A. Annex F118.B.** Notice of the Ministry of Finance and the State Administration of Taxation on the Policies of Deduction of Equipment and Appliances for Enterprise Income Tax Purposes (Cai Shui [2018] No. 54).See also the explanation on **Annex F119.** Cai Shui notices.

362 **Annex F120.A. Annex F120.B.** Notice of the Ministry of Finance and the State Administration of Taxation on Fine-tuning the Enterprise Income Tax Policies Applicable to Accelerated Depreciation of Fixed Assets (Cai Shui [2014] No. 75). See also the explanation on **Annex F119.** Cai Shui notices.

363 **Annex F121.A. Annex F121.B**. Notice of the Ministry of Finance and the State Administration of Taxation on Further Fine-tuning the Enterprise Income Tax Policies Applicable to Accelerated Depreciation of Fixed Assets (Cai Shui [2015] No. 106). See also the explanation on **Annex F119.** Cai Shui notices.

364 **Annex F122.A. Annex F122.B.** Announcement of the State Administration of Taxation on Issues concerning further improving the Enterprise Income Tax Policies relating to the accelerated depreciation of Fixed Assets (Announcement of the State Administration of Taxation [2015] No. 68).

195. Accelerated depreciation is an incentive available only to certain enterprises, including the OFC producers. According to Article 32 of the EIT Law (see **paragraph 164**), "*where the fixed assets of enterprises require accelerated depreciation due to technology advancement, the years of depreciation may be shortened, or the accelerated depreciation method may be adopted*".[365] All the notices mentioned in **Section A** above have broadened the scope of this tax incentive and they implement the GOC's objectives to promote industrial upgrading and accelerate the development of HNTEs.

196. The Accelerated Depreciation Programme applies to the companies whose fixed assets exceed certain thresholds set by the Cai Shui 2014 and 2018 notices. First, Cai Shui 2014 notice applies to 6 specific industries, including the OFC industry (as "*communication and other electronic equipment manufacturing*").[366] This notice establishes a threshold of RMB 1 million that applies in the following way: (i) for instruments and equipment purchased for R&D operations after 1 January 2014 above RMB 1 million, the eligible companies may choose between applying: A) accelerated depreciation or B) reduced useful life depreciation; (ii) for instruments and equipment purchased for R&D operations after 1 January 2014 below RMB 1 million, companies are eligible for the EIT deduction.

197. Second, the Cai Shui 2018 notice introduces a new eligibility threshold to apply the EIT tax deduction for new equipment and appliances purchased by enterprises, excluding households and buildings. In accordance with the Cai Shui 2018 notice, in order for the Cai Shui 2014 notice to apply, the unit value of new equipment and appliances purchased by the company must exceed RMB 5 million. Once that threshold is met, and the Cai Shui 2014 notice applies, the measure becomes industry-specific as it applies to 6 specific industries (see **footnote 366**), including the OFC sector.

198. The subsidy at issue, namely the Accelerated Depreciation Programme is specific within the meaning of Paragraph 22 of Schedule 4 and Regulation 22 EU Exit Regulations as the legislation itself limits the application of this measure only to certain industries.

199. As evident from the specific set of industries to which the Accelerated Depreciation Programme applies, the OFC industry is eligible to take advantage of this type of preferential tax treatment. As the Applicant does not have access to the confidential accounts of the Chinese exporting OFC producers, it is unable to provide any further proof of receipt of this specific subsidy. The Applicant is therefore urging the TRA to further investigate this issue and collect the necessary information about this subsidy over the course of its investigation.

365 **Annex F123**. Worldwide capital and fixed assets guide 2016, p. 35.

366 The six industries to which these measures apply are: biological drug manufacturing, special equipment manufacturing, railway, ship, aerospace and other transportation equipment manufacturing, computer, communication and other electronic equipment manufacturing, instrumentation manufacturing, information transmission, software and information technology services, etc. **Annex F120.A. Annex F120.B**. … (Cai Shui [2014] No. 75).

200. In addition, for example in *OCS* from China,[367] the European Commission found countervailable subsidies received through a similar subsidy programme representing an *ad valorem* amount of 0.61%. In view of the similar turnover and importance of the activities developed by OFC producers, it is reasonable to estimate that the subsidy amounts granted to OFC producers are similar to, if not in excess of, those found for other encouraged products in previous investigations.

(C) Examples of Chinese exporting OFC producers that benefited from this subsidy

201. Details of accelerated depreciation related benefits received by individual Chinese OFC producers are not publicly available and thus the Applicant is unable to provide any further details. It would therefore exceed the standard set forth in Regulation 50(2) of the EU Exit Regulations to require the Applicant to provide more information than is "*reasonably available to them*".

202. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefited from the Accelerated Depreciation programme, which constitutes a countervailable subsidy.

5.5 Provision of goods and services at less than adequate remuneration (LTAR)

203. During the period of investigation, the GOC granted subsidies to the Chinese OFC industry in the form of the provision of goods and services at less than adequate remuneration ("**LTAR**") within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations, in particular in the form of:

1) LTAR provision of land (**Section 5.5.1**);
2) LTAR provision of raw materials (**Section 5.5.2**);
3) LTAR provision of power (**Section 5.5.3**).

[367] OCS Regulation, recital 80.

5.5.1 LTAR provision of land

204. According to Article 2 of the Land Administration Law [368] and the Chinese Constitution, all land in China is either government-owned or collectively owned by the villages or townships of the Chinese population. No land can be sold, but "*land use rights*" can be transferred by the state authorities, in accordance with the law, by public tender, competition or auction[369] to companies and individuals. In addition, according to Article 3 of the Interim Regulation of the People's Republic of China,[370] "*any company, enterprise, other organization and individual within or outside the People's Republic of China may, unless otherwise provided by law, obtain the right to the use of the land and engage in land development, utilization and management in accordance with the provisions of these Regulations*". Typically, in relation to industrial land, the land lease is for a term of 50 years, which can be extended for another 50 years.

205. Promoted industries, including the OFC industry, receive land use rights ("**LURs"**) from the national, regional, and local administrations at LTAR. [371] The Chinese producers typically purchase the LURs from the (State-owned) industrial zones. For example, the European Commission typically compares the price of LURs paid to the industrial zone with the normal land prices in the benchmark country and considers that the LUR was obtained at LTAR.

206. Subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) methodology used to calculate the value of the subsidies received by the Chinese OFC producers; and (**D**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

207. The main legislation that regulates the land use rights is the Land Administration Law (see **paragraph 204**). In addition, the following measures are relevant to the implementation of LTAR provision of land:

1) Property Law of the People's Republic of China (Order of the President of the People's Republic of China No. 62);[372]

2) Law of the People's Republic of China on Urban Real Estate Administration (Order of the President of the People's Republic of China No. 18);[373]

3) Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas (Decree No. 55 of the State Council of the People's Republic of China);[374]

368 **Annex F124.A. Annex F124.B.** Land Administration Law of the People's Republic of China (Order of the President of the People's Republic of China No. 28).

4) Regulation on the Implementation of the Land Administration Law of the People's Republic of China (Order of the State Council of the People's Republic of China [2014] No. 653);[375]

5) Provision on Assignment of State-owned Construction Land Use Right through Bid Invitation, Auction and Quotation (Announcement No. 39 of the CSRC);[376] and

6) Notice of the State Council on the Relevant Issues Concerning the Strengthening of Land Control (Guo Fa [2006] No. 31).[377]

(B) Application of the programme

208. The authorities set land prices on the basis of the GOC's industrial policies and the urban land evaluation system is updated every three years. At the same time, the auction prices are arbitrarily set by the Chinese authorities and are not representative of a market price which would be determined by supply and demand on the free market (as confirmed by the European Commission in previous investigations).[378] Henceforth, the acquisition of land use rights lacks transparency.

209. Furthermore, in previous investigations, the European Commission has determined that the provision of land at LTAR is a countervailable subsidy in several anti-subsidies cases against China, including in: *CFP*; *GFR*; *Solar Glass*; *PV modules and cells; OCS* and *E-bikes from China*.[379] The European Commission found that these programmes account for substantial financial contributions. For example, the European Commission found countervailable subsidies (expressed *ad valorem)* ranging in the amount of: (i) 0.69 to 2.81% in *CFP* imports from China;[380] (ii) 0.23 to 0.74% in *PV modules and cells* from China;[381](iii)

369 **Annex F125.A. Annex F125.B.** Property Law of the People's Republic of China (Order of the President of the People's Republic of China No. 62), article 137.

370 **Annex F126.A. Annex F126.B**. Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas (Decree No. 55 of the State Council of the People's Republic of China).

371 *See, e.g.,* Canada Semi-Annual Report on countervailing duty actions, pp. 11, 14, 18, 21, 24, 26-29, 31-32 and 36.

372 **Annex F125.A. Annex F125.B**. Property Law of the People's Republic of China.

373 **AnnexF127.A. Annex F127.B.** Law of the People's Republic of China on Urban Real Estate Administration.

374 **Annex F126.A Annex F126.b.** … the Use of the State-owned Land in the Urban Areas.

375 **Annex F128.A. Annex F128.B**. Regulation on the Implementation of the Land Administration Law of the People's Republic of China.

376 **Annex F129.A. Annex F129.B**. Provision on Assignment of State-owned Construction Land Use Right through Bid Invitation, Auction and Quotation.

377 **Annex F130.A. Annex F130.B**. Notice of the State Council on the Relevant Issues Concerning the Strengthening of Land Control.

378 OCS Regulation, recitals 111-118.

379 CFP Regulation, recitals 120 et seq. Solar Glass Regulation, recitals 172 et seq. Filament glass fibre Regulation, recitals 188 *et seq*. OCS Regulation, recitals 111-118, CSPMKC Regulation, recitals 417 *et seq*. and Electrical Bikes case, recitals 551 *et seq*.

380 CFP Regulation, recitals 120 *et seq*.

381 CSPMKC Regulation, recital 438.

1.20 to 7.63% in *Hot-rolled flat products* from China;[382] and (iv) 0.43 to 1.46% in *E-bikes* from China.[383] Based on the information above, it is therefore likely that the Chinese OFC producers benefit from this subsidy programme as they are a part of encouraged industries.

210. Accordingly, the provision of land-use rights by the GOC is a subsidy within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations in the form of the provision of goods, which confers a financial benefit upon the recipient companies.[384] In addition, this subsidy is specific in that the land-use policies are administered on a specific basis under Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations because local governments only provide LTAR access to land for certain encouraged industries,[385] such as the OFC industry.[386]

(C) Calculation methodology

211. Given the absence of a functioning market for land in China, the TRA may wish to consider land prices in another country as an external benchmark,[387] when calculating the subsidy amount.[388]

212. In order to calculate the benefit conferred on the Chinese OFC producers, the difference between the amount actually paid by each of the exporting producers for land use rights and the amount that would typically have been paid on the basis of the external benchmark has to be calculated.

213. In addition, the average land price per square metre established in the reference location corrected for inflation and the evolution of GDP as of the dates of the respective land use right contracts should be applied (following the methodology used in previous investigations).[389] For example, if Taiwan is used as a benchmark, information regarding industrial land prices as of 2015 can be obtained from the website of the Industrial Bureau of Taiwan's Ministry of Economic Affairs.[390]

382 Hot-Rolled Steel Countervailing Regulation, recital 311.

383 Electrical Bikes case, recitals 551 *et seq*.

384 For example, CSPMKC Regulation, recitals 432 and OCS Regulation, recital 118.

385 *See, e.g.,* CFP Regulation, recitals 126 *et seq*.

386 See **Section 5.1.**

387 Judgment of the General Court, of 11 September 2014, Case T-444/11- Gold East Paper and Gold Huacheng Paper versus Council, ECLI:EU:T:2014:773.

388 In previous European Commission investigations, such as e.g. *OCS* from China and *E-bikes* from China, the European Commission demonstrated that the prices paid for land-use rights by Chinese industries are well below a normal market rate. *See* OCS Regulation, recitals 118 et seq. and Electrical Bikes case, recitals 512 *et seq*.

389 OCS Regulation.

390 Industrial Bureau of Taiwan's Ministry of Economic Affairs.

(D) Examples of Chinese exporting OFC producers that benefited from this subsidy

214. The land-use arrangements of specific Chinese OFC producers are confidential and are **not** publicly available. However, annual and semi-annual reports of Chinese OFC producers confirm that land subsidies have been granted.[391]

215. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefited from LTAR provision of land programmes which constitute a countervailable subsidy.

5.5.2 LTAR provision of raw materials and inputs

216. In line with the support provided by the GOC to the OFC industry in the 13th Five-Year Plan, both public and private enterprises operating under government direction, and therefore acting as public bodies, supply raw materials and inputs as well as parts and components at LTAR to favoured and encouraged industries. [392] More specifically, the following products are provided to the OFC industry at LTAR: (i) preforms (used to manufacture optical fibres); (ii) polymers (used to manufacture polyethylene, one of the main raw materials in the production of OFC); (iii) steel products (used to reinforce or shield certain types of OFC).

217. Subsections below discuss the following: (**A**) the legal basis and (**B**) application of this programme, as well as (**C**) methodology used to calculate the value of the subsidies received by the Chinese OFC producers; and (**D**) examples of Chinese exporting OFC producers that benefited from this subsidy.

(A) Legal Basis

218. The following measures are relevant to the implementation of LTAR provision of raw materials and inputs:

1) Notice of the People's Government of Zhejiang Province on Issuing the Action Plan for Comprehensive Transformation and Upgrade of Traditional Manufacturing Industries in Zhejiang Province (2017-2020) ("**Action Plan for Comprehensive Transformation**");[393]

2) Guidance Catalogue for Key Products and Services of Strategic Emerging Industries (2016 Edition) ("**Guidance Catalogue of Strategic Emerging Industries**");[394] and

3) Implementation Plan for the Transformation and Upgrading of Chemical Fibre Manufacturing Industry (2017-2020).[395]

(B) Application of the programme

219. The increase in production throughout the chemical fibres industry is encouraged by the Action Plan for Comprehensive Transformation and the Implementation Plan for the Transformation of Chemical Fibre Industry aims to implement the acceleration of the development of high-performance fibres, such as aramid, ultra-high molecular weight polyethylene, polyphenyl ether, and basalt fibre.[396]

220. In addition, the Guidance Catalogue of Strategic Emerging Industries lists aramid as a key development project.[397] The two major producers of aramid in China are: (i) Yantai Tayho Advanced Materials Co., Ltd. and (ii) SC Sinochem.

221. First, Yantai Tayho Advanced Materials Co., Ltd. is the largest shareholder of Yantai Tayho in the Yantai Tayho New Advanced Materials Group and owns 35.5% Yantai Tayho shares. Yantai Tayho New Advanced Materials Group is a State-owned company.[398] The ultimate controller of Yantai Tayho New Advanced Materials Group is the State-owned Assets Supervision and Administration Commission of Yantai City People's Government.[399]

222. Second, 59.45% of SC Sinochem's shares are owned by State-owned companies,[400] and the company at its helm is the Sinochem Group,[401] which is ultimately owned by the SASAC (see **paragraph 100**).

223. Taking above into consideration, it is clear that both producers of raw materials and producers of OFC are State-owned companies (**see paragraph 11**).

224. As evidenced by the applicable legislation, it is clear that the GOC provides raw materials at LTAR to encouraged industries. In the present case, considering that Chinese OFC producers operate in a highly encouraged industry,[402] it is reasonable to conclude that the subsidies provided to producers of raw materials benefit Chinese OFC producers both directly, to the extent that they are vertically integrated, and indirectly, to the extent those subsidies result in lower prices for inputs on the Chinese domestic market than would otherwise be the case.

225. Therefore, measures relating to production and supply of raw materials constitute subsidies within the meaning of Paragraphs 20 of Schedule 4 and Regulations 20 of the EU

391 **Annex F131.A**. **Annex F131.B**. YOFC Annual Report 2019, p. 106.
392 *See* e.g. OCS Regulation, recital 533.
393 **Annex F132.A**. **Annex F132.B**. Notice of the People's Government of Zhejiang Province on Issuing the Action Plan for Comprehensive Transformation and Upgrade of Traditional Manufacturing Industries in Zhejiang Province (2017-2020).
394 **Annex F133.A**. **Annex F133.B**. Guidance Catalogue for Key Products and Services of Strategic Emerging Industries" (2016 Edition).
395 **Annex F134.A**. **Annex F134.B**. Implementation Plan for the Transformation and Upgrading of Chemical Fiber Manufacturing Industry (2017-2020).
396 **Annex F134.A**. **Annex F134.B**. … Chemical Fiber Manufacturing Industry (2017-2020), p. 3.
397 **Annex F133.A**. **Annex F133.B.** … Strategic Emerging Industries" (2016 Edition), p. 36, **Section 3.3.1**.
398 **Annex F135.A**. **Annex F135.B**. Yantai Tayho Annual Report 2019, p. 44
399 **Annex F135.A**. **Annex F135.B**. Yantai Tayho Annual Report 2019, p. 46. See the structure chart on p. 47.
400 **Annex F136.A**. **Annex F136.B**. SC Sinochem Annual Report 2019, pp. 62-63.
401 **Annex F136.A**. **Annex F136.B**. SC Sinochem Annual Report 2019, p. 65.
402 See **Section 5.1.** See also Filament glass fibre Regulation, recitals 67-82.

Exit Regulations. These measures are specific within the meaning of Paragraph 22 of Schedule 4 and Regulation 22 of the EU Exit Regulations, as they are selectively provided to encouraged industries, such as the OFC industry.[403]

226. Finally, the producers and suppliers of raw materials for the OFC industry (among others) operate under entrustment and direction from the GOC both through the ownership structure of these companies and through the policies and strategies established and supported by the GOC. Therefore, the provision of raw and input materials at LTAR by SOEs is a financial government contribution, as referred to in Paragraphs 20 of Schedule 4 and Regulations 20 of the EU Exit Regulations.

(C) Calculation methodology

227. In order to determine the benefit received by the OFC producers, the difference between the prices paid by these producers and the prices paid by third country customers must be calculated. In determining the price paid by the Chinese OFC producers, what should be taken into account is not only the invoice price paid, but also any credit or rebate arrangements, whether formally agreed upon or provided on an *ad hoc* basis.

(D) Examples of Chinese exporting OFC producers that benefited from this subsidy

228. The Applicant has obtained some information concerning specific sales through the Complaining EU Industry's market intelligence provided in **Table F.8** below[404] and in **Annex F138**.[405]

Table F.8: Price Comparison of Raw Materials Supplied in Europe and in China

229. [*Sensitive business information removed – Pricing of raw materials*].

230. [*Sensitive business information removed – Pricing of raw materials*].

231. [*Sensitive business information removed – Pricing of raw materials*].

232. The Applicant is not able to provide more details about prices of raw materials and inputs, as the content of the agreements between: (i) public authorities and suppliers of OFC and other input materials and components; and (ii) the arrangements of specific Chinese OFC producers with their suppliers, is confidential and **not** publicly available. It would therefore exceed the standard set forth in Regulation 50(2) of the EU Exit Regulations to require the Applicant to provide more information than is "*reasonably available to them*".

403 See **Section 5.1.**

404 **Annex F137.** Information on raw materials prices obtained through market intelligence of the complaining industry (Confidential).

405 **Annex F138.** Information on raw materials prices in China and the EU obtained through market intelligence of the complaining industry (Confidential).

233. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefited from provision of raw materials and inputs at LTAR, which constitutes a countervailable subsidy.

5.5.3 LTAR provision of power

234. Some industrial users of electricity can purchase electricity directly from power generators by signing a direct purchasing agreement or by being included in the market-oriented electricity trading system. Additionally, high-tech industrial parks or economic and technological development zones can set up specific and separate legal entities to engage in direct electricity purchases.

235. By purchasing electricity directly from power generators or by participating in the market-oriented electricity trading system, some key industrial users, including the Chinese OFC producers, benefit from cheaper electricity prices.

236. In addition, encouraged industries, including OFC, are often entitled to discounts on electricity tariffs in an effort to promote production. Therefore, many Chinese provinces offer electricity, gas, and other energy sources at subsidised prices or grant significant discounts to companies within preferred industries.[406]

237. The following subsections discuss the following: **(A)** Legal basis; **(B)** Application of this programme; **(C)** Calculation methodology; and **(D)** Examples of the Chinese OFC producers who apply this measure.

(A) Legal basis

238. The primary legal basis for the provision of electricity at a reduced rate is the Circular of the National Development and Reform Commission and the National Energy Administration on Actively Promoting the Market-Oriented Power Transactions and Further Improving the Trading Mechanism (Fa Gai Yun Xing [2018] No. 1027).[407] Other relevant measures are established by:

1) Several Opinions of the Central Committee of the Communist Party of China and the State Council on Further Deepening the Reform of the Power System (Zhong Fa [2015] No. 9);[408]

406 CSPMKC Regulation 2013, recitals 348 *et seq*. See also CSPMKC Regulation, recital 415.

407 **Annex F139.A. Annex F139.B.** Circular of the National Development and Reform Commission and the National Energy Administration on Actively Promoting the Market-oriented Power Transactions and Further Improving the Trading Mechanism, Fa Gua Yun Xing [2018] No 1027, issued on 16 July 2018.

408 **Annex F140.A. Annex F140.B.** Several Opinions of the Central Committee of the Communist Party of China and the State Council on Further Deepening the Reform of the Power System (Zhong Fa [2015] No. 9).

2) Notice on Fully Liberalizing the Electricity Generation and Consumption Plan for Commercially Operational Users (National Development and Reform Commission [2019] No. 1105);[409]

3) Circular of the National Development and Reform Commission on Reducing Electricity Cost of Enterprises to Supporting Restoration of Work and Production Development and Reform Price [2020] No. 258.[410]

(B) Application of the programme

239. To benefit from the direct trading system, companies need to apply to local authorities, and must fulfil certain criteria. However, according to the Fa Gai Yun Xing [2018] No. 1027,[411] certain industries – including high-tech industries – can "*participate in transactions, free from voltage levels and power consumption restrictions*."[412] This demonstrates that there is a preferential system in place that benefits the high-tech industries such as OFC.

240. In addition, there is *prima facie* evidence that encouraged Chinese industries, such as OFC, benefit from these subsidy schemes. Indeed, based on the findings of previous investigations, both SOE's, which appear to dominate the supply of the various forms of power in China, and any private suppliers that may exist, are effectively forced by the GOC through the direct exercise of influence to act as "*public bodies*" (i.e., are entrusted or directed by the GOC) and carry out the GOC's policy of promoting cheap supplies of energy to domestic OFC producers.[413]

241. The provision of electricity, gas and other power sources at discounted prices is a financial contribution within the meaning of Paragraph 20 of Schedule 4 and Regulation 20 of the EU Exit Regulations in the form of provision of goods and services.

409 **Annex F141.A. Annex F141.B.** Notice on Fully Liberalizing the Electricity Generation and Consumption Plan for Commercially Operational Users (National Development and Reform Commission [2019] No. 1105.

410 **Annex F142.A. Annex F142.B**. Circular of the National Development and Reform Commission on Reducing Electricity Cost of Enterprises to Supporting Restoration of Work and Production Development and Reform Price [2020] No. 258. .

411 **Annex F139.A. Annex F139.B**... Fa Gua Yun Xing [2018] No 1027, issued on 16 July 2018.

412 Regulation 2022/72, recital 524, p. 73.

413 *See* OCS Regulation, recital 144. See also Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163, recitals 464-465.

242. The provision of power at preferential rates or the granting of rebates confers a financial benefit to the extent that the power is provided at LTAR.[414] For companies located inside special economic development zones ("**SEDZs**"), an additional benefit is conferred to the extent that companies located inside the SEDZs pay less for the power they receive than if they were located outside the SEDZs.

243. The receipt of discounted electricity, gas and other power sources is specific within the meaning of Paragraphs 22 of Schedule 4 and Regulations 22 of the EU Exit Regulations, because lower rates or rebates are limited to enterprises in specific encouraged industries,[415] such as the OFC industry.[416]

(C) Calculation methodology

244. There are no "*market prices*" for electricity, gas, and other power sources in China to use as a benchmark. For example, as regards electricity, even though private ownership of power plants is increasing in China, the two transmission companies, namely State Grid and China Southern Power Grid, are State-owned and the prices for uploading electricity to the power grid, transmitting, and selling electricity to end users are generally regulated by the GOC. Indeed, it appears that the GOC controls electricity rates in China through the National Development and Reform EC ("**NDRC**").[417]

245. Moreover, Chinese import prices cannot be considered an appropriate benchmark for determining the "*market price*" either because, for example, electricity is loaded onto the grid and distributed across the grid. In addition, the import price is not a retail price and therefore does not reflect a price that would be available to individual enterprises.

246. In the absence of an appropriate internal commercial benchmark, any adequate reference to an external benchmark is justified, in accordance with Section 15(b) of China's WTO Accession Protocol.[418]

247. The subsidy amount consists of the difference between the total amount payable calculated by using the official electricity price and the total electricity price (world market prices) actually paid by the companies under the reduced rate. In the absence of adequate world market prices, the TRA may consider using as benchmarks the prices charged in countries in the Asia-Pacific region that operate under market conditions, such as Japan, the Republic of Korea or Taiwan.

414 *See* CSPMKC Regulation 2013, recital 350.
415 *See* CSPMKC Regulation 2013, recital 351; and **paragraph 228** above.
416 *See* Section 7.2, which explains that the OFC industry is an encouraged industry.
417 *See* OCS Regulation, recitals 141-142.
418 **Annex F143.** China's WTO Accession Protocol**.**

(D) Examples of the Chinese OFC producers which apply this measure

248. Provinces of Hubei and Jiangsu adopted rules for electricity trading transactions.[419] In addition, power arrangements of specific Chinese OFC producers are confidential and **not** publicly available. It would therefore exceed the standard set forth in Regulation 50(2) of the EU Exit Regulations to require the Applicant to provide more information than is "*reasonably available to them*".

249. In view of the above, and considering that the OFC is an encouraged industry, it is likely that numerous Chinese OFC exporting producers benefit from LTAR provision of power, which constitutes a countervailable subsidy.

2. For all subsidy programmes listed above, please explain and provide documentary evidence relating to the amount of the countervailable subsidy that can attributed to the period of investigation, including the calculation methodology you used. You should refer to our guidance on Determining the amount of the subsidy that can be attributed to the period of investigation when completing this section.

Please see reply to above question 1 in this section.

Appendix reference:

3. For all subsidy programmes listed above, please explain and provide documentary evidence relating to the goods the countervailable subsidy that can be attributed to during the period of investigation, including any calculation methodologies used. You should refer to our guidance on Determining the amount of the subsidy that can be attributed to the period of investigation when completing this section. We will be specifically looking at whether the subsidy is linked to the export of certain goods, the sale of certain goods, or to sales to a certain market.

Please see reply to above question 1 in this section.

Appendix reference:

419 **Annex F144.A Annex F144.B**. Rules for Electricity Trading for Medium and Long-term Transactions Implementation Rules (Interim) in Hubei Province of 29 November 2019. **Annex F145.A Annex F145.B**. Rules for Electricity Trading for Medium and Long Term Transactions in Jiangsu Province.

Injury

This section is about injury which the imports may be causing to the UK industry for the goods.

Injury as defined by the Act can refer to:

- Material injury, or the threat of material injury to the industry, or
- Material retardation of the establishment of the industry.

If your industry has suffered or is suffering material injury, all companies/associations involved in this application must complete the section G1 separately. This section should also be completed to represent the entire UK industry. Label each completed section clearly showing who it relates to.

If your industry is threatened with material injury but there is no injury yet, all companies/associations involved in this application must complete the section G1 separately. This section should also be completed to represent the entire UK industry. Label each completed section clearly showing who it relates to.

If your industry is nascent and is being or has been materially retarded, please contact us at contact@traderemedies.gov.uk.

Material Injury

Material injury is determined through a number of injury indicators. Not all the injury factors need to indicate material injury, but all the factors need to be considered in order to establish material injury. These include, but are not limited to:

- Actual and potential decline in: sales, profit, output, market share, productivity, return on investments, or use of capacity;
- Factors affecting domestic prices of the goods;
- The magnitude of the margin of dumping and/or the amount of subsidy; and
- Actual and potential negative effects on: cash flow, inventories, employment, wages, growth, ability to raise capital, or investments.

1. Please describe, with appropriate figures, how the UK industry for these goods has performed in terms of each of the above injury indicators for the POI, and injury period.

- Explain how you have calculated the figures and substantiate your figures with evidence.
- Provide evidence for each indicator.

- If you don't know the exact figures for other UK producers, provide an estimate based on reasonable assumptions.
- State the methodology and assumptions that you used.

1. The legal framework applicable for the determination of injury under the Regulation is as follows:

   - Point 30(1) provides that "*the TRA must determine whether a UK industry has suffered or is suffering injury during the injury period*".

   - Point 30(2) states that, "*in order to determine whether a UK industry is suffering or has suffered injury the TRA must consider:*

     (a) the volume of the dumped goods or subsidised imports during the injury period;
     (b) the effect of the dumped goods or subsidised imports on prices of the like goods in the United Kingdom during the injury period;
     (c) the consequent impact of the dumped goods or subsidised imports on a UK industry during the injury period; and
     (d) any other factors it considers relevant.

   - Point 31 sets out that, "*in considering the volume of dumped goods or subsidised imports during the injury period for the purpose of regulation 30(2)(a), the TRA must consider whether there has been a significant increase in the dumped goods or subsidised imports in the United Kingdom either in absolute terms or relative to domestic production or consumption*".

   - Point 33 specifies that "*the TRA must take into account all relevant economic factors and indices having a bearing on the UK industry including*

     (a) actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity;
     (b) factors affecting domestic prices of the like goods;
     (c) in the case of dumping, the magnitude of the margin of dumping;
     (d) actual and potential negative effects on cash flow, inventories, employment, wages, growth, the ability to raise capital or investments".

2. It is important to stress that optical fibre cables are predominantly sold through tender procedures. Optical fibre cables are not mere commodity products but are generally

produced to order to meet precise specifications which have been defined in tenders.[420]

3. This particular nature of the optical fibre cable market must be taken into consideration when assessing the different injury parameters of the UK industry. While competition between UK and Chinese manufacturers of optical fibre cables should be assessed at the time of the tender, the effects on the UK market of these tenders will only materialise with a "*time lag*" of several months to several years depending on the injury parameter concerned. Tenders won by Chinese manufacturers impact the structure of the UK market and the macro-economic indicators of the UK producers several months after the award of the tender, namely when the optical fibre cable is delivered to an UK customer. Tenders won by Chinese manufacturers will also adversely impact UK producers in the long-term, for example, in relation to their levels of investment. Considering that the optical fibre cable industry is highly investment driven (due, notably, to the development and the implementation of 5G technology), any decrease or *status quo* in the levels of investment is a bad omen for the UK industry for years to come.

4. Thus, the full effects of the tenders lost to Chinese producers in 2021 will only start to materialise in 2021-2022. Similarly, while the effects of tenders lost in 2021 may already have an immediate impact on certain decisions (e.g. on-going investments), the actual effects on pricing, production quantities, volumes sold and ultimately market shares, will essentially start to appear in 2022-2023.

5. As explained further below, the Applicant has provided substantial evidence that Chinese imports have put tremendous pressure on UK prices which have dropped significantly. For the four most representative types of optical fibre cables (namely those including 12 fibres, 36 fibres, 48 fibres and 96 fibres), the injury margin are significant – the undercutting ranging from 37% to 53% (see **Annex E.4**)

I. Volume of imports of optical fibre cables from China

6. According to UK Statistics, the volume of imports of the product concerned originating in China increased by a staggering 270% between 2018 and the IP, from 784 tons to 2,905 tons.

[420] In practice, a telecom operator would request manufacturers of optical fibre cables to submit bids for the supply of certain types of optical fibre cables over a period covering several months to several years.

Table 1: Volume of UK imports of optical fibre cables from China (in tons), falling within the scope of CN Code 8544.70.00[421]

	2018	2019	2020	IP 2021
Import volumes (in tons)	784	744	880	2,905
Index	*100*	*94*	*112*	*370*

7. While UK statistics provide an accurate picture of the increasing trend of UK imports of optical fibre cables from China, several adjustments have to be made to these figures to correctly determine the volume of imports of the product concerned for the following two main reasons: (1) while UK statistics report import volumes in terms of weight (kilograms), the industry measures optical fibre cables in terms of distance (cable kilometres ("ckm") or fibre kilometres ("fkm")[422]); and (2) the products that are imported into the UK under the CN Code 8544.70.00 do not contain only single mode optical fibre cables, but also other products, such as connectors, pigtails, patch-cords and termination kits which are not covered by the present Application. Therefore, the volume of imports of optical fibre cables from China (and other exporting countries) had to be adjusted. The following methodology was used:

- CRU provided an estimate of the size of the UK market in terms of fkm: 5,707 Mfkm in 2021.[423]

- CRU estimated that the volume of imports represented between 48% (2018) and 50% (2019 - 2021) of total UK consumption of optical fibre cables. In 2021, the volume of imports is thus estimated to be 2,853 Mfkm (50% of 5,707 Mfkm).[424]

- In order to evaluate the volume of imports of optical fibre cables originating in China in fibre kilometres, the following two-step approach was used:

  1) the ratio of the volume of imports from China was calculated by comparing the import volume from China to the total volume of imports from all countries, as extracted from UK Statistics. In 2021, the volume of imports of optical fibre cables from China represented **18.8%** of total imports (2,905 tons / 15,754 tons).

  2) This 18.8% ratio was then applied to the volume of imports (2,853 Mfkm) to estimate the volume of UK imports of optical fibre cables from China in 2021 (approx. 535,637 fkm). The same methodology was used to estimate the volume of Chinese imports for 2018, 2019 and 2020.

- Finally, in order to express the volume of imports in ckm, a ratio of 44.6 fibres per cable kilometre was applied.[425]

8. After these adjustments, the yearly and monthly volumes (in fkm and ckm) of UK imports of the product concerned originating in China are as follows:

Table 2: Annual volume of UK imports of optical fibre cables from China (in fibre and cable kilometres after adjustment)[426]

	2018	2019	2020	IP 2021
UK import volumes (in fkm)	170,348	133,716	175,376	535,637
UK import volume (in ckm)[427]	3,816	2,996	3,929	12,000
Index	100	78	103	314

Table 3: Monthly volume of UK imports of optical fibre cables from China for the IP (in fibre and cable kilometres, after adjustments)[428]

	Jan-21	Feb-21	Mar-21	Apr-21	May-21	June-21
UK import volume (in tons)	62	46	104	73	45	282
UK import volume (in fkm)	11,345	8,554	19,176	13,378	8,288	51,968
UK import volume (in ckm)	254	192	430	300	186	1,164

	Jul-21	Aug-21	Sept-21	Oct-21	Nov-21	Dec-21

421 **Annex G.A.1**, UK import statistics.

422 The industry uses both cable km and fibre km to measure an optical fibre cable. For example, one km of cable containing 48 fibres will be considered to measure 48 fibre km.

423 **Annex G.A.2** (sheet "UK consumption – CRU")

424 According to the Complaining Industry's market intelligence, while CRU accurately estimated UK consumption in 2021, CRU underestimated it by at least 30% in 2018 and 2019 and by at least 10% in 2020 (see slide 5 of **Annex A.2.1**). UK consumption for these years have been adjusted accordingly (see **Annex G.A.2**).

425 **Annex G.A.3**, Average number of fibres per cable.

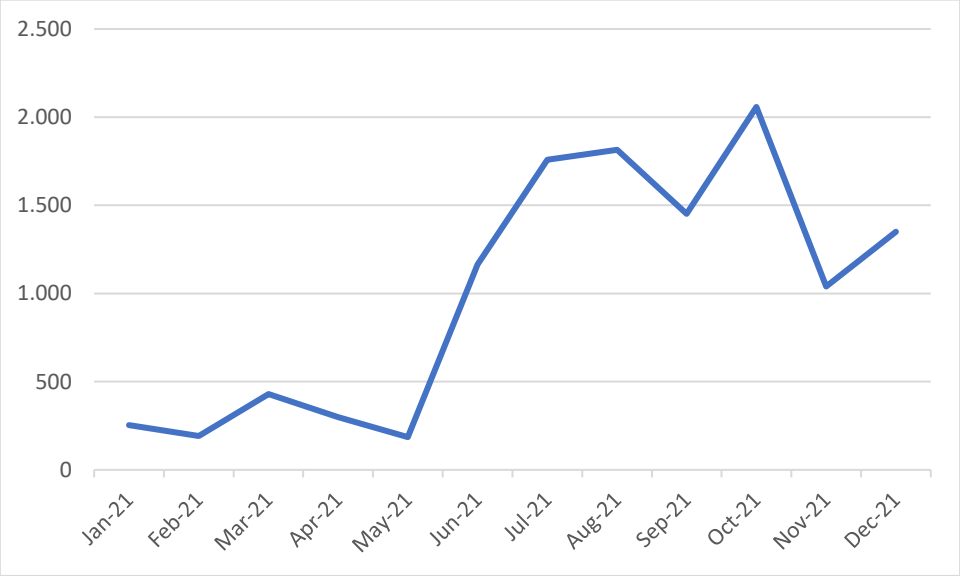
426 **Annex G.A.2**, Estimation of the UK consumption of optical fibre cables and market shares.

427 On average, one optical fibre cable contains 44.6 fibres (see **Annex G.A.3**)

428 **Annex G.A.1**, UK import statistics.

UK import volume (in tons)	426	440	351	498	252	327
UK import volume (in fkm)	78,502	81,051	64,814	91,854	46,409	60,299
UK import volume (in ckm)	1,759	1,816	1,452	2,058	1,040	1,351

Figure 4: Monthly volume of UK imports of optical fibre cables from China (in cable kilometres)[429]



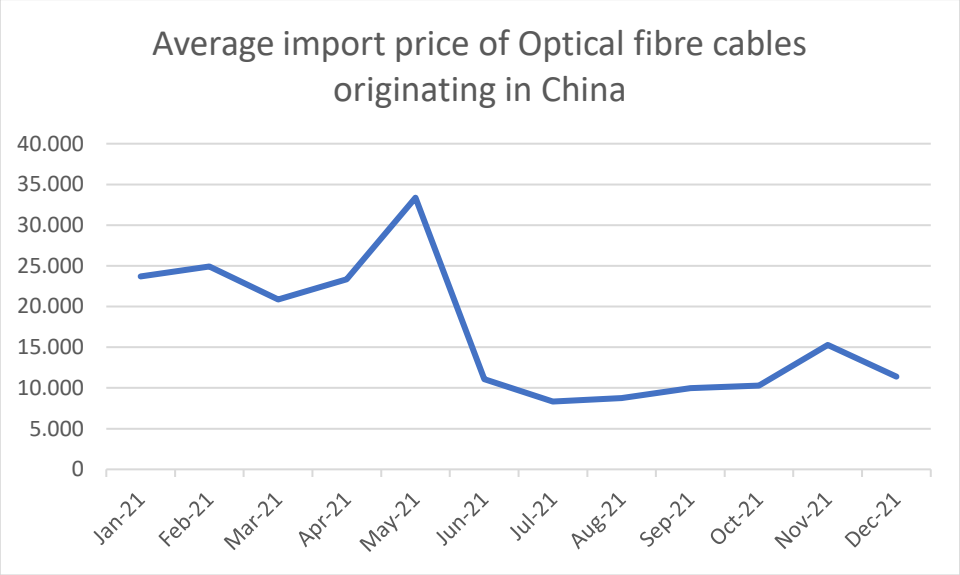
9. **Table 2** shows that the volume of imports from China increased by 214% between 2018 (170,348 fkm or 3,816 ckm) and 2021 (535,637 fkm or 12,000 ckm), which has put tremendous pressure on the UK industry. When breaking down the volume of imports from China on a monthly basis (**Table 3**), we note that these imports started surging in June 2021. The timing of that increase is not coincidental: the European Commission was expected to impose provisional measures in the context of the EU investigation in May 2021. Although EU provisional measures were ultimately not imposed, Chinese producers were nevertheless already seeking for alternatives to the EU market to dump their optical fibre cables. The unprotected and nearby UK market is an obvious choice.

II. Average value of imports of optical fibre cables from China

429 *Ibid*.

10. According to UK statistics, the average value of imports of optical fibre cables from China decreased by 32% between 2018 (17,720 GBP/ton) and 2021 (11,939 GBP/ton) (see **Annex G.A.1**).

11. When considering average prices on a monthly basis in 2021, the decline is even more drastic and coincides with the European Commission's initial intention of imposing provisional measures in the context of the EU investigation concerning imports of optical fibre cables from China. Chinese producers were looking for alternatives to the EU market and decided to dump their excess optical fibre cables on the UK market.



12. While average prices of optical fibre cables in terms of weight do not fully reflect market realities since optical fibre cables are measured by the industry in terms of distance (fkm or ckm), these average prices nevertheless provide a clear trend of decreasing prices. In order to have a more accurate picture of the extent of the price undercutting by the Chinese producers, it was necessary to rely on market information provided by the Complaining UK Industry. That information was provided below in the context of the tenders organised by [*Sensitive information removed – Information concerning the identity of two entities that issued tenders*] and clearly show that the Complaining UK industry is suffering injury from low import prices from China.

III. UK consumption of optical fibre cables

13. CRU provided data on the UK consumption of optical fibre cables by adding the estimated sales volume of the UK industry to the total volume of imports of the product concerned. On the basis of the methodology described in paragraph 7, UK consumption has been estimated as follows:

Table 4: Estimated UK consumption of the product concerned (in ckm)[430]

	2018	2019	2020	IP 2021
Total UK sales	43,083	48,458	46,322	63,938
Index	*100*	*112*	*108*	*148*
(including sales of the Complaining UK industry)	[35,000-45,000]	[40,000-50,000]	[40,000-50,000]	[40,000-50,000]
Index	*100*	*126*	*111*	*129*
+ UK imports (China)	3,816	2,996	3,929	12,000
Index	*100*	*78*	*103*	*314*
+ UK import (Other)	42,857	45,462	42,393	51,938
Index	*100*	*106*	*99*	*121*
UK consumption of cables	**89,757**	**96,915**	**92,644**	**127,877**
Index	*100*	*108*	*103*	*142*

14. As shown in the table above, the estimated UK consumption of the product concerned increased by 42% between 2018 (89,757 ckm) and the IP (127,877 ckm). This growth, however, mainly benefitted Chinese imports which increased by a staggering 214**%** over the same period. As discussed below, the UK Industry barely benefitted of this increase since its sales increased by 48% over the same period (from 43,083 ckm to 63,938 ckm). The dramatic increase in Chinese imports deprived the Applicant from being able to take a larger share of domestic growth, thereby losing precious market share points.

15. While imports from third countries have also increased in absolute terms, this was at a slower pace than Chinese imports and there is no evidence at this stage suggesting that such imports would have been made at significantly dumped prices, causing material injury to the Complaining UK Industry. Nevertheless, the Complaining UK Industry is monitoring import developments very closely and may decide to take action should evidence of injurious dumping be sufficient to warrant the initiation of trade proceedings against imports from any other country.

IV. Market share

16. Imports from China have increased, not only in absolute terms, but also relative to UK consumption of optical fibre cables. The market share held by Chinese imports more

430 **Annex G.A.2**, Estimation of the UK consumption of optical fibre cables and market shares. No exports were reported.

than doubled between 2018 and the IP, from 4.3% to 9.4%.[431] These market shares have been estimated very conservatively and are, most likely, higher in reality. These market shares also do not provide a full picture of the impact of the Chinese producers on the UK industry: Chinese producers are the main drivers for exercising downward price pressure during tender proceedings and that, even if they are not ultimately selected, they nevertheless force the UK industry to significantly decrease their prices to unsustainable levels (by way of example, see below the tenders issued by Openreach/British Telecom and Cityfibres).

17. During the same period, the Complaining UK Industry lost [4-9]% market share, i.e., from [40-45]% in 2018 to [35-40]% during the IP as shown in **Table 5** below. The loss in market share was even more drastic between 2019 and the IP where the Complaining UK Industry lost [10-15]% share.

Table 5: Estimated market shares of the product concerned[432]

	2018	2019	2020	2021
Market share of all UK producers	48%	50%	50%	50%
Index	100	104	104	104
Market share of the Complaining UK Industry	[40-45]%	[45-50]%	[42-47]%	[35-40]%
Index	100	116	107	90
Market share of Chinese imports	4.3%	3.1%	4.2%	9.4%
Index	100	73	100	221
Market share of third country imports	47.7%	46.9%	45.8%	40.6%
Index	100	98	96	104

V. Production, production capacity and utilisation of capacity

19. The production of the Complaining UK Industry decreased by [5-10]% between 2018 and the IP, from [40,000 - 45,000] ckm in 2018 to [35,000 – 40,000] ckm in the IP. This is despite the fact that consumption of optical fibre cables in the UK increased by 42% over the same period (see above **Table 4**).

20. In anticipation of fast-growing demand in the UK, the Complaining UK industry has made long-term investment plans over the past years to be in a position to respond to the increasing demand. As a result, the total production capacity of the Complaining UK Industry increased by [35-45]% (from [40,000 - 45,000] ckm in 2018 to [55,000 – 65,000] ckm in the IP). Forecasts proved to be rather accurate as, over the same period, UK consumption also increased by close to 42% (see above **Table 4**). Yet,

431 **Annex G.A.2**, Estimation of the UK consumption of optical fibre cables and market shares.
432 *Ibid*.

because of the significant increase in imports from China, production capacity utilisation rates declined between 2018 and the IP from [90-100]% to [60-70]%, as shown in **Table 6**.

21. The Complaining UK Industry expects a further significant drop in capacity utilisation rates if volume of imports from China continue to increase at the same rate. Considering that the UK industry requires high production capacity utilisation to remain viably profitable, the current level of capacity utilisation ([60 – 70]%) simply does not enable the Complaining UK Industry to operate in a sufficiently cost-efficient manner.

Table 6: Production, production capacity and utilisation of capacity of the Complaining UK Industry[433]

	2018	2019	2020	IP 2021
Complaining UK Industry Production volume (in ckm)	[40,000 - 45,000]	[27,000 - 32,000]	[27,000 - 32,000]	[37,000 – 42,000]
Index	100	68	72	92
Production capacity (in ckm)	[40,000 - 50,000]	[45,000 – 55,000]	[45,000 – 55,000]	[55,000 – 65,000]
Index	100	110	114	139
Production capacity utilisation (in %)	[90-100]%	[55-65]%	[55-65]%	[60-70]%
Index	100	62	63	67

VI. Employment, investment and stocks

	2018	2019	2020	IP (H2 2020-H1 2021)
Employment (FTE)	[60-70]	[55-65]	[60-70]	[60-70]
Index	*100*	*91*	*98*	*106*
Investments (in GBP)	[75,000 - 125,000]	[525,000 – 575,000]	[300,000 – 350,000]	[200,000 – 250,000]

433 **Annex G.A.4**, Production, production capacity and capacity utilisation.

Index	100	517	303	219
Stocks (in ckm)	[3,000 – 4,000]	[4,000 – 5,000]	[4,000 – 5,000]	[6,000 – 7,000]
Index	*100*	*120*	*138*	*192*

22. Over the period 2018-IP, the Complaining UK Industry's workforce increased by only 6% (from [60-70] to [60-70] full time employees (FTE)).[434] That increase is far below the 42% increase in UK consumption of the product concerned. The Complaining UK industry is unable to expand its workforce mainly due to the significant increase in the volume of Chinese imports over the same period.

23. The level of investment of the Complaining UK Industry increased by 119% from 2018 to the IP.[435] When considering the period 2019 – IP, the level of investment decreased continuously by an alarming 57% (from GBP [525,000 – 575,000] to GBP [200,000 – 250,000]). The Complaining UK industry was forced to significantly decrease its level of investment to maintain its profitability level as a result of the significant increase in the volume of Chinese imports over the same period. For an industry which is investment driven, lower investments are a very bad omen for the future viability of the UK's optical fibre cable Industry.

24. The level of stocks of the Complaining UK Industry increased significantly by as much as 92% (from [3,000 – 4,000] ckm to [6,000 – 7,000] ckm) between 2018 and the IP[436] following the surge in the volume of imports of the product concerned from China and despite the fact that UK consumption increased by 42% over the same period.

25. It is important to recall that, because the product concerned is not a commodity, a very significant proportion of the production of optical fibre cables is made to order and depends largely on the precise specifications of awarded tenders. At the same time, however, a certain proportion of the production will often be made in anticipation of likely recurring orders and/or, generally speaking, for distribution sales. The proportion of production to order versus production for distribution can vary significantly from one producer to the other and from one period to another. However, during the period under consideration, unsold volumes in stock increased dramatically primarily because the "distribution" market that used to be serviced by the Complaining UK Industry has been increasingly replaced by distributors offering particularly cheap Chinese product.

VII. Profitability of the Complaining UK Industry

434 **Annex G.A.5**, Employment data.
435 **Annex G.A.6**, Investment data.
436 **Annex G.A.7**, Closing stocks.

26. As a result of Chinese imports, the average profitability of the Complaining UK Industry on sales of the product concerned decreased by nearly [5-15] points from its peak in 2019 ([10 – 20]%) to the IP ([0-10]%). Between 2020 and 2021, the profitability of the Complaining UK industry was slashed by nearly half, from [10 – 20]% % to [0-10]%. This sudden decrease in profitability coincided in time with the surge in the volume of Chinese imports.

27. Even though these profit ratios might seem to be reasonable for a number of industries, they mask a situation that is rapidly deteriorating, as explained below:

    a. In some tenders, UK producers have preferred to try to maintain their presence on the UK market at reasonable levels in spite of the rapidly growing unfair competition from Chinese imports even if this meant accepting loss-making projects. These producers felt that they could simply not afford to lose all new tenders. This "*strategy of survival*" has resulted in dramatically reduced profitability ratios, including, in some cases, values that have become largely negative.

    b. In other tenders, UK producers have preferred to sacrifice market share by reducing production and sales output very significantly in order to maintain existing profitability on their sales.

    c. Finally, UK producers have had to curtail their investment programmes very significantly when the impact of cheap imports from China started to affect output and margins very seriously. While this reduction in investment costs may have led to a temporary increase in profitability, all indicators are currently showing that overall profitability of the Complaining UK Industry is expected to decrease very significantly compared to previous years.

Table 7: Estimated profitability of the Complaining UK Industry

	2018	**2019**	**2020**	**IP 2021**
Estimated profitability of the Complaining UK Industry (in %)	[10-20]%	[10-20]%	[10-20]%	[0-10]%
Index	100	125	106	56

28. In an industry which is heavily investment-driven and in which companies spend significant financial resources on research and development, the current level of profitability simply does not afford the Complaining UK Industry enough working capital to sufficiently invest in future technologies and in particular in developing the 5G network.

VIII. Conclusion on material injury

29. As demonstrated above, the Complaining UK Industry has been materially injured by dumped imports of optical fibre cables from China. The significant growth in demand between 2018 and IP did not fully benefit the UK producers of the product concerned, as a significant portion of the increase in consumption was taken by Chinese imports that grew significantly faster (214%) than demand (42%) during the same period. These increased imports were made at increasingly low prices, heavily undercutting UK prices and affecting the overall profitability of the industry. As a result, the Complaining UK Industry has suffered both severe market share losses and a dramatic loss of profitability to levels which are well below sustainable viability.

30. It is also important to note that, because most of the sales of optical fibre cables are made through tenders, there will be a time-lag of several months between the date on which the tender is concluded and the date on which the injurious effects of that tender will materialise.

2. Is your company suffering injury which you believe to have been caused by the imported goods? If so, please describe the injury. You may want to include the prices, volumes or profits associated with your production and sale of the goods you manufacture or describe other aspects of your business. Please specify and substantiate your claims with evidence. Please estimate the date when the injury began to affect your business. Explain how it has developed since this date.

See reply to question above.

3. Report your total cost to make and sell like goods in the UK. Please clearly separate your costs of production (direct manufacturing costs and indirect costs), from your administrative, selling and general expenses (AS&G). Provide costs for each model that you produce. When giving your labour costs, please ensure you include all labour costs, directly or indirectly incurred by any activity related to the goods.

See **Annex G.A.8.**

4. For the goods that you produce, please state what level of profit, before tax and as a percentage of turnover, your company would expect to achieve if there was no injury from the imported goods and explain how you arrived at this figure.

The UK industry of optical fibre cables considers that a minimum profitability rate of 20% is required for this industry, which is particularly capital intensive and requires very high levels of investment in particular in light of the upcoming 5G revolution.

5. Explain if your current sales prices for the goods are the same as your target sales prices. If not, please explain the reasons for this.

See above section on profitability, and in particular the different situations (described in para. 27a), b) and c) above) explaining why the current sales prices of optical fibre cables are not the same as the target prices.

6. Provide details of any price undercutting and and/or if the prices of the dumped and/or subsidised imports are reducing or negatively affecting prices in the UK. Compare the sales prices of the dumped and/or subsidised imports with the sales prices of your goods on the UK market. Include any supporting evidence.

1. The UK market is one of the fastest growing markets in Europe, with an estimated increase of [1 – 2]M fibre km (or +64%) between September 2019 and 2020.[437] The Complaining UK Industry estimates that the UK still needs to install [15 – 25] million fibre km for its market to be fully connected with optical fibre cables.[438] According to Prysmian, the market growth will mainly come from the following projects:[439]

   [*Sensitive information removed – Growth forecast of the UK market provided by the Complaining UK Industry based on its market intelligence*]

2. With the UK market presenting so many growth opportunities, it is not surprising that it is a prime target for Chinese imports, especially in light of the recent imposition of EU antidumping measures. Chinese exporting producers have carried out a very aggressive pricing strategy, which can be seen in two of the largest tenders issued by [*Sensitive information removed – Information concerning the identity of two entities that issued tenders*], as explained below.

437 **Annex A.2.1**, *Telecoms update*, presentation from the Prysmian Group, 20 October 2021, slide 15.
438 *Ibid*., Slide 9.
439 *Ibid*., Slide 15.

3. While the negotiations may have started slightly before the beginning of the IP, the conclusion of these tenders, and especially the effects on the UK market of these multi-year tenders, will be felt by the UK industry for years to come.

[*Sensitive information removed – Information provided by the UK Complaining Industry concerning two UK tender procedures which involved Chinese producers and the impact of these tenders on UK prices*]

Threat of injury

1. Describe the change in circumstances that means the threat of material injury from dumping and/or subsidisation is foreseeable and imminent. The factors behind these changes could include:

- the rate of increase of dumped and/or subsidised imports;
- changes to the available production capacity of the exporters;
- changes to inventories of the imported goods (i.e. if large stocks of these goods are building up in their country of origin ready for export);
- expected price depression or price suppression of further imports; and
- any other relevant factors.

Not Applicable.

2. If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that the threat is both foreseeable and imminent.

Not Applicable.

3. Explain why you believe the threatened injury to your industry will be material.

Not Applicable.

Causal link between the imported goods and injury to your industry

For TRID to initiate an investigation, there must be evidence of a causal relationship between the injury to the UK Industry and the alleged dumping and/or subsidisation.

1. If your company is suffering injury, please explain and provide evidence that shows how this has been caused by the goods you want us to investigate. Describe how the volumes and prices of the imported goods have affected your industry, basing your answer on the injury indicators in the previous section.

1. As shown above, the Complaining UK Industry has suffered material injury. The existence of a causal link between the imports of the product concerned from China and the injury suffered by the Complaining UK Industry is shown by the fact that the injury occurred at the same time as dumped imports from China flooded into the UK market.
2. In absolute terms, the volume of imports of the product concerned originating in China increased by 214% between 2018 and the IP. In relative terms, the market share of the Chinese producers increased between 2018 and the IP from 4.3% to 9.4%. This increase took place at the expense of the Complaining UK Industry, which lost [4-9]% of market share over the same period, from [40-45]% to [35-40]% (and [10-15]% from 2019 to the IP). The biggest year-on-year loss of market share (i.e. [5-10]%) occurred between 2020 and 2021 and coincided at a moment in time when the volume of imports from China increased threefold from 175,376 fkm to 535,637 fkm.
3. At the same time, the increase in volumes was accompanied by high levels of price undercutting, i.e., an average ranging between 37% to 53% (see **Annex E.4**).
4. Substantial undercutting and underselling over an extended period of time by imports originating in China, combined with a surge in import volumes, is a root cause of the injury suffered by the UK industry.
5. There are no other factors that could break the causal link between the imports of the product concerned from China and the material injury suffered by the Complaining UK Industry.

2. Please indicate if the injury to your industry could be attributable in part or in full to any factors other than dumped or subsidised imports, for example:

- volume and prices of imports not sold at dumped prices;
- contraction in demand or changes in patterns of consumption;
- restrictive trade practices of, and competition between, third country and UK producers;

- developments in technology; and
- export performance and the productivity of the UK industry.
- This may be relevant as an industry weakened by other events may be more susceptible to injury from dumped or subsidised goods.

3. Please provide evidence to support this information.

1. Point 35 of the Regulation provides that:

(1) For the purpose of making a determination under regulation 27(2)(b), the TRA must examine whether any known factors other than the dumped goods or subsidised imports ("other known factors") have caused or are causing injury to a UK industry.

(2) Injury caused by other known factors must not be attributed to the dumped goods or subsidised imports.

(3) For the purpose of paragraph (2), other known factors may include—
(a) the volume and the prices of imports that are not dumped or subsidised into the United Kingdom;
(b) contraction in demand or changes in the pattern of consumption of the like goods in the United Kingdom;
(c) trade restrictive practices of and competition between the overseas exporters and the UK industry;
(d) developments in technology;
(e) the export performance and productivity of the UK industry.

2. As we will explain below, there are no known factors other than Chinese imports that have caused or are causing injury to the Complaining UK industry.

A. Imports from third countries

19. Apart from China, the main third countries that import the product concerned into the UK are the EU countries (which account for over 55% of imports), India, the United States and Japan. None of the imports from these countries have been made at prices and/or volumes that would be sufficient to break the causal link between the injury suffered by the Complaining UK Industry and the dumped imports from China.

20. According to available statistics during the IP, and on the basis of the tons-to-km conversion methodology described above, the market shares held by third country imports in relation to total imports into the UK are as follows:[440]

	Volume of imports (in tons)	Volume of imports (in ckm, after conversion)	UK import volume (in ckm, after conversion)	%
Poland	3,889	16,065	63,938	25.1%
India	1,418	5,857		9.2%
Germany	1,246	5,146		8.0%
Belgium	1,237	5,112		8.0%
Romania	628	2,596		4.1%
Czech Republic	510	2,107		3.3%
Netherlands	663	2,739		4.3%
Japan	474	1,958		3.1%
Sweden	412	1,703		2.7%
United States	235	971		1.5%

21. The volume of imports from the United States and Sweden could not cause injury to the Complaining UK Industry because they are deemed to be negligible under the meaning of point9(1)(c)(i) of Schedule 4 of the Taxation (Cross-Border Trade) Act 2018.[441] While the term negligible is not defined in point 9(1)(c)(i), point 4 of the UK Trade Regulation (titled "*Meaning of negligible in relation to dumped goods*") states that "*the volume of dumped goods is negligible where the exporting country or territory accounts for less than 3 per cent. of imports of the like goods imported into the United Kingdom*".

22. According to the market intelligence gathered by the Complaining UK Industry, imports from the EU, (i.e. Poland, Germany, Belgium, Romania, the Czech Republic and the Netherlands) are not dumped on the UK market because the market conditions in the UK and in the EU are similar in terms of price. It is also the understanding of the Applicant that the EU producers concerned generally sell optical fibre cables to their UK sales entities at intercompany transfer prices: for example, Corning imports from its production plants located in Poland and Germany, Nexans from Belgium and Prysmian from Romania while sales to unrelated customers are made at normal market conditions.

23. The Applicant also considers that imports of optical fibre cables from Japan do not cause injury because the average unit import price during the IP is nearly 178% higher than the average unit import price from all sources.[442]

24. Finally, the Applicant considers that, while Indian producers would appear to represent 9.2% of total imports and sell optical fibre cables at prices below the average import price (but above the price of Chinese imports), this situation is likely to be temporary because the main Indian exporter, Sterlite Technologies, is planning to build a new facility in the UK in 2022 with a production capacity of 1.5M fkm.[443] Thus, in the near future, it can be expected that the optical fibre cables produced by Sterlite Technologies in the UK will replace its Indian originating imports.

B. Other factors

25. There are no other known factors that may have caused injury to the UK industry of optical fibre cables:

- There is no evidence that the volume and the prices of imports other than imports from China are dumped or subsidised into the UK and are causing material injury to the UK industry
- There is no evidence of any trade restrictive practices of and competition between the overseas exporters and the UK industry.

440 **Annex G.A.1**, UK import statistics

441 Point 9 of Schedule 4 of the Taxation (Cross-Border Trade) Act 2018 is titled "*Initiation of a dumping or a subsidisation investigation*". Point 9(1)(c)(i) states that The TRA may initiate a dumping or a subsidisation investigation in relation to goods only if "*the volume of dumped goods (whether actual or potential), and the injury, is more than negligible, and the margin of dumping in relation to those goods is more than minimal*".

442 **Annex G.A.1**, UK import statistics.

443 **Annex H.1**, *STL Plans Optical Fibre Manufacturing Capability Expansion; New Facilities In US, UK*, Article of 2 July 2021 (also available at: http://www.businessworld.in/article/STL-Plans-Optical-Fibre-Manufacturing-Capability-Expansion-New-Facilities-In-US-UK/02-07-2021-395262/)

- There is no failure to follow market and technology developments. The Complaining UK Industry represents about 70% of the production of the UK market. UK producers also have an in-depth expertise of their market. Any difficulties they are currently facing could not have been caused by the wrong assessment of, or failure adequately to follow, market developments.

- As explained above, there has been no contraction in demand of optical fibre cables nor any particular change in the UK's pattern of consumption. To the contrary, demand in the UK consumption for the product concerned has increased during the entire period considered. The injury suffered by the Complaining UK Industry cannot, therefore, be attributed to a reduction in demand.

- There is no evidence that the export performance of the Complaining UK Industry would in any way break the causal link.

C. Conclusion on causation

26. There is no doubt that the material injury to the Complaining UK Industry, as well as any immediate threat of further injury, is caused by the dumped and subsidised imports of the product concerned from China. There are no other factors that cause, or threaten to cause, imminent injury which would have the effect of breaking the causal link.

Declaration

This application is made by, or on behalf of, a UK industry that produces like goods to those that are the subject of this application.

This UK industry has at least 1% market share, taking into account the goods and particular market for those goods.

This application has the support of that UK industry as required in the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019. Specifically, producer support for this application is greater than producer opposition and represents at least 25% of all UK production of the like goods.

The information contained in this application:

- provides evidence that goods have been or are being dumped and/or evidence that subsidised goods have been or are being imported into the UK (as per schedule 1(g) and 2(g) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019);
- provides evidence that the dumped and/or subsidised goods are causing injury to the UK industry (as per schedule 1(i) and 2(i) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019);
- is sufficient to initiate an anti-dumping and/or subsidy investigation as per schedule 4 paragraph 9(1)(b) of the Taxation (Cross-border Trade) Act 2018; and
- is accurate and complete.

Name:	
Company/Association:	
Position:	
Company Registration number (if applicable):	
Date:	
Signature:	X_____

Checklist

Important

Please ensure that you have completed this application fully and refer to any attached documents using the corresponding appendix reference.

Complete the checklist above, to demonstrate you have covered all of the points, and attach evidence to support your claims and calculations.

Keep a copy of this application for your reference in case any queries arise when we are assessing the application. You will also need to refer to it if we initiate an investigation.

X The details of the UK producers making the application and level of UK industry support for the application

X The details of all known UK producers/associations of UK producers of like goods

X The volume and value of the domestic production of the like goods both by producers making the application and all other known UK producers

X Information that the market share requirement is met

X A complete description of the imported goods

X The names of countries/territories of origin and export of the imported goods

X The details of the exporters or overseas producers of the imported goods

X The details of the companies or individuals known to be importing the goods

X Normal values of the goods ***Dumping applications only***

X Export prices of the goods ***Dumping applications only***

X Details of subsidy programmes associated with the imported goods ***Subsidy applications only***

X The amount of countervailable subsidy attributable to the alleged subsidised goods imported into the UK ***Subsidy applications only***

X Changes in import volumes of the goods

X Effects of the imported goods on prices of like goods produced in the UK

X Impact of the imports have caused to the UK industry