



Trade Remedies
Authority

FINAL DETERMINATION

Optical Fibre Cables imported into the United Kingdom

from the People's Republic of China

Investigation No. AS0022 into alleged subsidisation

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Section A: Introduction

A1. Investigation

1. This investigation covers the alleged importation of subsidised optical fibre cables (OFC) into the United Kingdom (UK) from the People's Republic of China (PRC). A full description of the goods concerned can be found in [Section E2: Goods concerned](#) and details of the recommendation can be found in [B6. Final determination and recommended measure](#).
2. This section briefly summarises the legal framework for this Final Determination and the Trade Remedies Authority (TRA)'s main findings. The background to and details of the investigation (see [Section C: Background](#)) are explained fully in the subsequent sections.
3. The purpose of this document is to set out our Final Determination and recommendation to the Secretary of State for Business and Trade (Secretary of State) and detail the facts and analysis on which we have based our recommendation. It should be read in conjunction with other public documents available for this case on the [public file](#).
4. For further guidance and information about our investigations, please see our [public guidance](#).

A2. Legal framework

5. This Final Determination is made pursuant to paragraphs 11(5) and (6) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 (the Act).

A3. About this investigation

6. This investigation concerns a new application for countervailing measures to be applied on OFC, imported into the UK from the PRC. The case, AS0022, was initiated by the TRA on 26 April 2022, and the [Notice of Initiation \(NOI\)](#) was published on that date.
7. The period of investigation (POI) is 01 January 2021 to 31 December 2021. To assess injury, the TRA has chosen to examine the period from 01 January 2018 to 31 December 2021 as the injury period (IP).
8. On 20 June 2023, we published our [Statement of Essential Facts \(SEF\)](#). See [Section D: SEF publication and comments](#) for more information.

Section B: Summary and findings

B1. Interested parties and contributors

9. This investigation involves the following interested parties:
 - Prysmian Cables & Systems Ltd (the Applicant), (domestic producer)
 - Shenzhen SDG Information Co. Ltd & Shenzhen SDGI Optical Network Technologies Co., Ltd. (collectively hereafter the SDG Group) (exporter)
 - The Government of China (GOC) through its Ministry of Commerce, P.R.C. (MOFCOM) (foreign government)
10. This investigation involves the following contributor:
 - China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) (trade body)
11. This investigation involves the following overseas producers from the Republic of Türkiye:
 - Turk Prysmian Kablo ve Sistemleri A.S (overseas producer)
 - Corning Incorporated (overseas producer)
12. The following interested parties registered to the case but were determined to be non-cooperative by the TRA:
 - Mayflex UK Limited (Mayflex) (importer)
 - BT Telecommunications plc (BT) (downstream contributor)
 - Yangtze Optical Fibre and Cable Joint Stock Limited Company (exporter)

- ZTT Group (including Jiangsu Zhongtian Technology Co. Ltd & Zhongtian Power Optical Cable Co., Ltd) (exporter)
13. The following interested parties registered to and cooperated with the investigation but were not sampled:
- Suzhou Furukawa Power Optic Cable Co.,Ltd. (overseas producer)
 - Shanghai Wanbao Optical Technologies Co. Ltd (exporter)
 - Ningbo Geyida Cable Technology Co.,Ltd (exporter)
 - XDK Communication Equipment Huizhou Co., Ltd. (overseas producer)
 - Jiangsu Fasten Optical Cable Co., Ltd. (exporter)
 - Hengtong Optic-Electric co. Ltd. (exporter)
 - ZheJiang JinYuan WanBao Optical Fiber Co. Ltd. (exporter)
 - FibreHome Telecommunication Technologies Co Ltd (overseas producer)
14. Relevant non-confidential submissions are published and available on the [public file](#).

B2. Scope

15. The [NOI](#) describes the goods concerned and sets out the scope of this investigation as:

Single mode optical fibre cables, made up of one or more individually sheathed fibres, with protective casing, whether or not containing electric conductors and hybrid cables, which are fitted both with optical fibres and electrical conductors. This product is commonly referred to as “optical fibre cables”.

The following product types are excluded:

- *Multimode optical fibre cables due to differences in construction, applications, and costs*
- *Cables in which all the optical fibres are individually fitted with operational connectors at one or both extremities; and*
- *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.*

16. The goods concerned as described in the NOI correspond to the 10-digit commodity code, 8544700010, a description of which is set out in [Section E2](#) and [Section E3](#) (the goods concerned and the like goods).

B3. Subsidy

17. In accordance with paragraphs 3(1) and 8(3)(a) of Schedule 4 to the Act the TRA has examined whether the goods concerned are subsidised.
18. We have concluded that the goods concerned which have been or are being imported into the UK from the PRC are subsidised (see [Section G: Subsidy](#)).

B4. Injury

19. In accordance with paragraphs 5 and 8(3)(b) of Schedule 4 to the Act, the TRA has examined whether the importation of the subsidised goods has caused or is causing injury to a UK industry in the like goods.

20. We have concluded that the UK industry has suffered injury and that the subsidised imports from the PRC have caused injury to the UK industry (see [Section H: Injury](#)).

B5. Economic Interest Test (EIT)

21. The TRA has considered the evidence before it and the following factors set out under paragraph 25(4) of Schedule 4 to the Act:
- the injury caused by the importation of the subsidised goods to a UK industry in the goods and the benefits to that UK industry in removing that injury;
 - the economic significance of affected industries and consumers in the UK;
 - the likely impact on affected industries and consumers in the UK;
 - the likely impact on particular geographic areas, or particular groups, in the UK;
 - the likely consequences for the competitive environment, and for the structure of markets for goods, in the UK; and
 - such other matters as we considered relevant.
22. We have concluded that the application of the countervailing measure that the TRA recommends to the Secretary of State meets the EIT (see [Section I: EIT](#)).

B6. Final determination and recommended measure

23. Our final affirmative determination is in respect of goods concerned originating from the PRC that fall under commodity code 8544700010 in accordance with paragraphs 11(5) and 11(6)(a) of Schedule 4 to the Act.

24. The TRA has determined that the goods concerned have been or are being imported into the UK and are subsidised, and the importation of the subsidised goods has caused or is causing injury to the UK industry. We determined that the application of the countervailing measure we are recommending to the Secretary of State meets the EIT.
25. In accordance with paragraphs 17(4),18(2)(a), and 18(5) of Schedule 4 to the Act, we recommend that the Secretary of State impose an ad-valorem duty at the following rates for a period of five years on the goods concerned which are the subject of the final affirmative determination.
26. If the Secretary of State accepts this recommendation, this period of five years will begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the recommendation (in accordance with paragraph 18(2)(b) of Schedule 4 to the Act).

Table 1: Recommended ad-valorem duty rates

Table 1: Countervailing amount	
Overseas exporter/producer	Countervailing amount
SDG Group	10.62%
Suzhou Furukawa Power Optic Cable Co.,Ltd.	10.62%
Shanghai Wanbao Optical Technologies Co. Ltd	10.62%
Ningbo Geyida Cable Technology Co.,Ltd	10.62%
XDK Communication Equipment Huizhou Co., Ltd.	10.62%
Jiangsu Fasten Optical Cable Co., Ltd.	10.62%
Hengtong Optic-Electric co. Ltd.	10.62%
ZheJiang JinYuan WanBao Optical Fiber Co. Ltd.	10.62%
FibreHome Telecommunication Technologies Co Ltd	10.62%
All other overseas exporters (residual amount)	11.79%

Section C: Background

C1. Initiation

27. On 11 March 2022, the TRA received an [application](#) lodged by the Applicant alleging that OFC imported into the UK from the PRC are subsidised and causing injury to the UK industry.
28. The Applicant was the only UK producer of OFC to support the application; however, as the Applicant has at least 25% of the total production in the UK of the like goods and the application was not opposed by other UK producers of the goods cornered whose collective output is greater than or equal to that percentage, we determined the application was made by or on behalf of a UK industry in accordance with regulation 52(2) of the Regulations.
29. The application contained evidence of the importation of subsidised goods and of resulting injury that the TRA deemed sufficient to justify the initiation of an investigation. The case, AS0022, was then initiated by the TRA on 26 April 2022, and the [Notice of Initiation \(NOI\)](#) was published on that date.
30. Prior to the initiation of AS0022, the TRA invited the GOC to participate in consultations in accordance with our obligations under Article 13.1 of the Agreement on Subsidies and Countervailing Measures (ASCM) and paragraph 9(6)(b) of Schedule 4 to the Act.
31. The GOC initially accepted the invitation for consultations, but also requested that initiation of the case be delayed allowing it time to review and prepare for consultations. The TRA considered Article 13.3 of the ASCM which states: *“these provisions regarding consultations are not intended to prevent the authorities of a Member from proceeding expeditiously with regard to initiating the investigation”*. As an invitation for consultations had been made to the GOC, the TRA proceeded with its initiation as planned but offered to hold consultations

with the GOC in parallel with the investigation proceeding. At that time the GOC did not pursue the offer of consultations.

32. In June 2022, the TRA approached the GOC again regarding its original offer for consultations, confirming that the invitation for consultation remained open. The GOC initially accepted this additional offer of consultations but did not proceed further. As per regulation 63 of the Regulations and footnote 44 to Article 13.2 ASCM that no final determination is made without reasonable opportunity for consultations being given, the TRA reiterated its invitation to the GOC to participate in consultations prior to the SEF being published. Further details of the response to this offer are given in [Section D](#).

C2. Participation in the investigation

33. The TRA invited interested parties and contributors to register in order to participate in the investigation.
34. [Annex A: Interested parties and contributors](#) contains a summary of information received from all interested parties and contributors.

C2.1. UK Producers

35. Other than the Applicant, no other UK producer registered an interest in the case. As requested in submissions from CCCME and the GOC through MOFCOM, the TRA confirms that it contacted all other likely domestic producers of OFC it identified during the course of the investigation but did not receive any responses, and no additional domestic producers of OFC contacted the TRA.
36. Following the publication of our SEF, we received comments from the Applicant, which are detailed below in [Section D2.1](#).

C2.2. Exporters/Producers from the PRC

37. Overseas exporters that registered their interest in the case are included in [Annex A: Interested parties and contributors](#).
38. Due to the number of responses received during the registration period, the TRA limited its examination of overseas exporters. The TRA published a notice of [proposed sample](#) on 20 June 2022.
39. The overseas exporters selected to be within the sample were:
 - Yangtze Optical Fibre and Cable Joint Stock Limited Company (YOFC)
 - ZTT Group (including Jiangsu Zhongtian Technology Co. Ltd & Zhongtian Power Optical Cable Co., Ltd)
 - SDG Group (including Shenzhen SDG Information Co. Ltd & Shenzhen SDGI Optical Network Technologies Co., Ltd.)
40. Following the published sample notification, YOFC contacted the TRA on 28 June 2022 to state that it did not wish to respond to our request for information. The TRA determined YOFC to be a non-cooperative party with regard to the investigation pursuant to regulation 49 of the Regulations. The limited information supplied by YOFC has been disregarded in accordance with regulation 49(1) of the Regulations.
41. On 27 July 2022, after initially requesting an extension to the deadline, ZTT Group also informed the TRA that it did not wish to respond to our request for information. Therefore, the TRA also determined ZTT Group to be a non-cooperative party with regard to the investigation. The limited information supplied by ZTT Group has been disregarded in accordance with regulation 49(1) of the Regulations.
42. Shenzhen SDG Information Co., Ltd. ('SDG') is an exporting producer of the goods concerned registered in the PRC. Shenzhen SDGI Optical Network

Technologies Co., Ltd., ('SDGI') is a subsidiary of SDG (which holds 51% of the shares) and also acts as an exporting producer of the goods concerned. Both SDGI and SDG submitted questionnaire responses and have been fully cooperative with the investigation. For the purposes of the investigation, all companies related to SDG were collapsed into the 'SDG Group' with the subsequent duty rate covering the overall SDG Group. We received comments from the SDG Group following the publication of our SEF, which are detailed below in [Section D2.2](#).

C2.3. Importers

43. During the registration period two UK importers of the relevant goods, Mayflex and BT registered their interest in the case and submitted completed pre-sampling questionnaires.
44. Mayflex did not fully respond for our request for information through a questionnaire response. On 14 October 2022, the TRA determined Mayflex to be a non-cooperative party, pursuant to regulation 49 of the Regulations.
45. BT is a significant user of the relevant goods in the UK market and imports the relevant goods through its logistics partners. BT submitted a questionnaire which was deemed to be incomplete and could not be used within the investigation.
46. The TRA did not receive any correspondence from BT between 16 September 2022 and 30 March 2023 when it reached out to change its contact information. The TRA made several attempts during this period to resume contact with BT, but no further submissions from this party were received during this period. BT has therefore been deemed a non-cooperative party, pursuant to regulation 49 of the Regulations.

C2.4. Foreign Government

47. The GOC registered its interest in the case through MOFCOM. The GOC submitted a pre-sampling questionnaire and fully completed a questionnaire.
48. We received comments from the GOC following the publication of our SEF, which are detailed below in [Section D2.4.](#) and [Section D3.](#)

C2.5. Overseas Producers

49. On 12 December 2022, the TRA published a note to the public file for the parallel anti-dumping investigation, case AD0021, inviting overseas producers and sellers of the like goods in the Republic of Türkiye to assist in providing information for use in the creation of cost benchmarks. Over the course of this investigation, we determined that the same overseas producers could also assist this investigation and requested that all registered Turkish producers for the dumping case also register and submit questionnaires for AS0022.
50. The Turkish producers Corning Incorporated and Turk Prysmian registered an interest in the case and submitted completed questionnaires.

C2.6. Contributors

51. CCCME registered an interest in the case and submitted a fully completed a questionnaire.
52. We received comments from CCCME following the publication of our SEF, which are detailed below in [Section D2.3.](#) and [Section D3.](#)

C3. How submitted data was used

53. The TRA has used data submitted by cooperating parties as part of the evidence upon which we have based our assessments and formed our conclusions. We have not used any evidence submitted by parties that have been deemed non-

cooperative by the TRA. We have compared submitted data against the totality of relevant evidence available to us including submissions from other interested parties and contributors, evidence from TRA data submissions, and publicly available data from governmental, industry and other sources.

54. We have also used submitted data to corroborate or gain a level of assurance as to that data itself, or other evidence either submitted to us or gathered by us.

C4. Verification of data

55. We undertook verification activities in relation to the information provided by the cooperating interested parties, during which we assessed the completeness, relevance, and accuracy of that information. We have had regard to the information supplied by interested parties and contributors, provided that this:

- complied with our statutory obligations and public guidance;
- was verifiable;
- could be used without undue difficulty; and
- was supplied within an applicable time limit and in a form that the TRA has requested.

56. The TRA conducted an onsite verification visit with the Applicant from 26 October to 29 October 2022.

57. The TRA conducted virtual verification activities with the SDG Group from 9 January to 13 January 2023.

58. The TRA conducted desk-based verification activities with the Turkish producers registered to the investigation from 26 January 2023.

59. Verification reports were produced for each of the parties verified and non-confidential versions of these reports are available on the [public file](#).

60. Secondary source information was used in accordance with the Regulations. This secondary information was treated with special circumspection and, where practicable, verified using independent sources. This included, but was not limited to, official import statistics and data pertaining to relevant markets. Where data has not been considered to be verifiable, we have highlighted the areas and drawn conclusions where possible.
61. Although information pertaining to grants, preferential tax programmes and export credit insurance provided by SDG was assessed as verifiable, we have not been able to gain similar assurance for information relating to some land use rights and some loans. We have therefore made adjustments, using our own calculations within these areas using information supplied by SDG. Further details can be found in the published [verification report](#).

Section D: SEF publication and comments

D1. Overview

62. On 20 June 2023, we published our SEF.
63. The SEF was published in accordance with regulation 62 of the [Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) 2019](#) (the Regulations).
64. Following the publication of the SEF, we invited interested parties, contributors and any other person who supplied information to the TRA to make submissions in response. The deadline for submissions of comments was 23:59 hours on 16 July 2023. Following [deadline extensions](#) made on 27 June 2023 this deadline was extended for certain parties until 23:59 hours on 18 July 2023.
65. Prior to publication of the SEF, on 16 June 2023, we offered consultations additional to those offered prior to initiating the case to the GOC under Article 13.2 of the ASCM and regulation 63 of the Regulations, via the GOC's legal representative VVGB law firm. Due to the investigation being in the latter stages and to ensure a timely completion it was made clear in the correspondence that any request for consultations, should be made prior to the deadline for submissions of comments above, 18 July 2023. VVGB attempted contact on 11 August 2023 and eventually spoke to the TRA on 15 August 2023. It was mutually agreed that consultations would now not take place as the TRA was at that stage, finalising the conclusions of the case.

D2. SEF comments

66. The following submissions were received by the TRA and have been published to the [public file](#). The section below discusses the points raised by the various parties and how we have considered them.

D2.1. The Applicant

67. The Applicant made a submission in response to the SEF via its legal representatives Van Bael & Bellis (VBB) on 17 July 2023. This was one day after the deadline, but we determined that this late submission would be accepted as it was unlikely that the acceptance would cause delays to the case. A revised version of the Applicant's submission was submitted on 21 July 2023 after it was clarified that no provisional affirmative determination (PAD) for this subsidy investigation would be made.
68. The comments submitted by the Applicant support the imposition of the recommended countervailing measure. The Applicant stated that the proposed countervailing duty is lower than expected and that it would expect the duty to be higher if there had been increased cooperation from additional PRC exporters. No evidence was submitted by the Applicant to necessitate a reconsideration of the proposed countervailing duties and therefore the proposed duties have not changed based on these comments.

D2.2. SDG Group

69. The SDG Group made a submission via its legal representatives, Chance Bridge, on 18 July 2023.
70. The SDG Group's submission was divided into five sections: the sampling procedure, subsidy determination and subsidy amount calculations, land use rights, external benchmark of bank interest rates, and double remedies.
71. The comments in reference to the sampling process state that the TRA should provide justification for the use of sampling in the investigation and clarify if the inclusion of a single exporter is appropriate for the purpose of the investigation.

72. As noted above in [Section C.2.2](#), owing to the number of responses received during the investigation's registration period, we limited our planned examination of overseas exporters.
73. The decision to limit our planned examination of overseas exporters by sampling was accompanied by a published [notice of proposed sample](#) on 20 June 2022. Interested parties were invited to consult following the publication of the proposed sample; no responses were received requesting amendments to the sample before the deadline of 26 June 2022. Following the publication of the notice of proposed sample, YOFC indicated that it did not wish to respond to our request for information. Subsequently, we published our [notice of final sample](#) to the public file on 4 July 2022. This notice confirmed that additional exporters could request individual margins if the necessary information was submitted in time to be considered during the investigation, indicating extended consultation with parties to construct the sample. No additional requests for individual margins were received; consequently, we maintained our sample of the SDG Group and the ZTT Group.
74. Subsequently, ZTT informed the TRA on 27 July 2022 that it would not respond to the questionnaire; this was after the period for completing questionnaires had closed. There was no resampling after ZTT was deemed to be non-cooperative as this would have required an additional sampling process and granting the newly sampled exporters sufficient time to complete questionnaires. This would have unreasonably delayed the investigation's timescales and so we considered it reasonable for the investigation to proceed with a single exporter group, the SDG Group.
75. In relation to the subsidy determination and subsidy amount calculations, the SDG Group disputed that it had derived any benefit from some of the loans detailed in the SEF. This has been addressed in [Section G5.6](#). Additionally, the SDG Group queried the difference between the benchmark interest rates applied to its long and short-term loans. This has been addressed in [Section G.5.6.2](#),

where we have outlined why adjustments to benchmark interest rates for loans have been determined to be inappropriate.

76. Comments from the SDG Group were received in relation to how the TRA determined the land unit cost used in calculating the benefit from land use rights. The calculation was set out in paragraph 257 of the SEF, which states that the annual amortization of the relevant land use right was used.
77. The SDG Group expressed that it did not agree with our decision to use an external benchmark interest rate to calculate the benefit conferred by preferential loans or with the choice of external benchmark country. No new information has been submitted by the SDG Group regarding this and our reasoning related to the external benchmark has been detailed in the SEF.
78. The SDG Group asked how the TRA have avoided double remedies on the parallel anti-dumping and anti-subsidy investigations. We have detailed our conclusions with regard to double remedies in [Section G12.1](#).

D2.3. CCCME

79. CCCME submitted comments in response to the SEF on 18 July 2023 which covered both AD0021 and AS0022. Comments relevant to the subsidy investigation were made in relation to the following areas: procedure, injury, causation.
80. CCCME has contested that there has been insufficient and incomplete disclosure of essential facts in the SEF. We consider that we have been consistent with the procedural requirements set out in our domestic legislation and Articles 12.3 and 12.8 of the SCM Agreement in our presentation and disclosure of essential facts. In the absence of any evidence that we have failed to follow correct procedures, no change has been made to the final determination based on these comments.

81. The comments regarding injury were made in relation to our definition of the UK industry, the assessment of import volumes from the PRC, price undercutting and depression analysis, the analysis of the state of the UK industry, and issues with individual injury factors and interaction between multiple factors. The comments concerning non-attribution and causation concern our causation analysis, our consideration of all known factors in non-attribution analysis, and the conclusions drawn. We have responded to all injury and causation comments within the [Injury Section](#).

D2.4. The GOC

82. The GOC submitted comments on the SEF via its representative VVGB Law on 18 July 2023.
83. The GOC submission in response to the SEF was divided into six sections: procedure, subsidy, conflict of AD0021 and AS0022 case facts, double counting, injury, and causation. Where we have changed our analysis as a result of the GOC's comments, we have referred explicitly to its submission.
84. With regard to the GOC's comments on procedural issues around pre-initiation consultation and disclosure of essential facts, we maintain our position that we have been consistent with the procedural requirements set out in our domestic legislation and Articles 13.1 and 12.8 of the SCM Agreement. This concerns our approach to pre-initiation consultations, as addressed above in [Section C](#), and our presentation and disclosure of essential facts. In the absence of any evidence that we have not followed correct procedures, we have not changed the final determination based on these comments.
85. The GOC disputed our conclusions relating to the subsidisation of the OFC industry in the PRC and asserted that the evidence cited constitutes general policy documents that do not have any mandatory legal effects. We are confident in our findings based on the sources that we have cited that the OFC industry is encouraged in the PRC, and that the language used in these policy

documents does not support the assertion that they are suggestions only. This is discussed in [Section G5.2.3](#), [Section G5.4.1](#) and [Section G6.4](#), respectively.

86. The GOC disagreed with our assessment that OFC producers in the PRC have benefitted from preferential financing. We have considered the comments by the GOC and the SDG Group (as noted in [Section D2.2](#)) regarding preferential financing and the benchmark interest rate used in calculations, but these have not changed our determinations regarding preferential financing or our calculation of the benefit conferred. This is discussed in full in [Section G5](#).
87. The GOC commented on the provision of land use rights at less than adequate remuneration (LTAR); these comments regarding financial contribution, specificity and benefit have been addressed in [Section G6.5](#).
88. With regard to preferential tax rates, the GOC disagreed with our assessment that the privileges under the enterprise income tax system constitute countervailable subsidies. The TRA has considered the GOC's comments and addressed them in [Section G4.4](#).
89. The TRA has considered the GOC's comments regarding grants, where it stated that insufficient evidence has been included in the SEF for the countervailability assessments for grants. The GOC also commented that the analysis is excessively focused on certain OFC producers and should have included other industries that received the same grants. Our analysis was conducted based on the data submitted by the participating parties and no new evidence has been submitted to indicate that the analysis should have been conducted in a different manner. These comments have been addressed in more detail in [Section G3](#).
90. The GOC argued that the findings of the AS0022 and AD0021 SEFs constitute double counting since the claims of PMS and subsidisation are based on the same legal and factual basis. In fact, the TRA has considered carefully the possibility of double counting in the AD0021 and AS0022 investigations, as explained in the SEF. Within the TRA's AD0021 investigation, only some of the

costs were replaced and they were done so selectively. We have concluded that there has been no offsetting of the same subsidisation twice between the parallel investigations. The TRA maintains its position that no double remedies are imposed and remains confident in its findings, as addressed in [Section G12.1](#).

91. The TRA has also considered comments made by the GOC on the difference between the AD0021 and AS0022 SEFs. In the AD0021 SEF preferential loans and land use rights for LTAR were determined to have low materiality on OFC producers' production and sales costs, whereas the AS0022 SEF concluded that preferential loans and land use rights confer a benefit. This argument by the GOC does not change the TRA's findings. Fundamentally, conclusions in subsidy investigations are not based on the producers' costs, and the AD0021 and AS0022 are separate investigations, with different considerations made to avoid double remedies. As such, the decision in the AD0021 investigation on whether to make adjustments does not affect how preferential loans or land use rights are treated in the subsidy investigation. As no new information relevant to these topics has been submitted by the GOC, the TRA maintains the findings outlined in the SEF.
92. The injury and causation comments made by the GOC in its submission are the same as the comments submitted by CCCME in its joint dumping and subsidy submission on the same date. Responses to these comments have been addressed above in [Section D2.3](#), and in the [Injury Section](#).

D3. Additional requests for information

93. Following publication of the SEF, we received submissions on 26 June 2023 from both the GOC and CCCME requesting further information on several sections of the SEF to allow them to provide comments on the SEF.

94. The GOC requested that the TRA provide further information regarding the loan benchmark rate calculated by the TRA based on the interest rates of the Turkish Central Bank and the factual data underlying that benchmark. We provided the GOC with the specific benchmark interest rate used to calculate the benefit from preferential loans (20.78%).
95. The GOC requested that the TRA provide further information regarding the data from “the independent bank in the benchmark country” used to establish the benchmark allocation fee for credit lines, as well as the allocation fee used itself. This has been addressed in [Section G.5.6.1](#).
96. In its submission, CCCME focused its comments, where relevant to AS0022, on injury. Following comments seeking clarification on the use of fkm versus cable kilometres (ckm), this final determination identifies more clearly where ckm has been used for the assessments in the [Injury Section](#) below. CCCME also requested additional information on the calculation of price depression, which has been addressed in [Section H5.2](#).
97. Further requests for additional information from the GOC and CCCME have been considered but did not result in any supplementary disclosure on the grounds that the requested information has either already been made available within the SEF or cannot be disclosed to all interested parties on the grounds of confidentiality. We have clarified relevant information in this final determination in response to these submissions within the bounds of confidentiality.

Section E: The goods concerned and the like goods

E1. Legislative framework

98. The goods concerned are defined in regulation 2 of the Regulations as “the goods described in the relevant notice of initiation [...] of a subsidisation investigation under regulation 65(2) [of the Regulations]”.
99. In accordance with paragraph 17(2) of Schedule 4 to the Act, the goods to which a final affirmative determination is made are referred to as the ‘relevant goods’. Since the goods subject to our final affirmative determination are the same goods as defined in [Section E2](#), we will hereafter only refer to the ‘goods concerned’.
100. For the purposes of the recommendation, we will refer to ‘like goods’ as those which are like the goods concerned in all respects or have characteristics which closely resemble them (paragraph 7 of Schedule 4 to the Act). A further description of the like goods and the like goods assessment is set out in [Section E3](#).

E2. Goods concerned

101. The goods concerned in this investigation are OFC originating in the PRC and exported to the UK, described in the [NOI](#) and detailed in [Section B2](#).
102. Within the NOI, the goods concerned are noted to be subject to the commodity code 854470 00. As the description in the NOI aligns with the description for commodity code 854470 00 10, the investigation has considered the goods concerned at a 10-digit level and the measures will apply for commodity code 854470 00 10.

103. Optical fibre cables are made from:

- optical fibres;
- fibre module(s);
- a construction core;
- cable jacket(s) and
- reinforcements not in the cable jacket.

104. Types of optical fibre typically used are G.652 (D) and G.657 (A1 / A2).

Reinforcements can include aramid yarn, polyester, or coated steel wires.

Polymers such as polyethylene can form the basis for the cable jacket. Coating materials can also be a key input for optical fibre cables.

105. OFC are used for data transmission, namely in outdoor applications, which include underground cables such as:

- a) Loose tube – commonly used in the UK, constructed of a central tube or multi-tubes stranded around a central element with one or more plastic jackets and different types of reinforcements or protection.
- b) Flexible tube – commonly used in the UK, based on the use of flexible tubes, which contain the fibres, are protected with one or two plastic jackets and different types of reinforcements or protection.

106. Additionally, they can be used overground as aerial cables such as:

- a) Optical Power Ground Wire - installed on the top of the overhead transmission lines on towers or poles
- b) All Dielectric Self Supporting - that can be installed in the bottom part of the overhead transmission lines or in the poles of any existing infrastructure.

107. OFC are also used for indoor applications such as:

- a) Riser cables – for cabling multi-dwelling unit homes. The riser cables used to connect vertically the basement with all floors of the building.
- b) Drop cables – typically used to connect the end-user's premises. These cables are typically indoor cables although outdoor versions are also available.

E3. Like goods

108. Like goods are defined as goods which are like the goods concerned in all respects or, if there are no such goods, goods which, although not alike in all respects, have characteristics closely resembling the goods concerned under paragraph 7 of Schedule 4 to the Act.

109. In identifying like goods, the TRA has considered:

- physical likeness, such as physical characteristics;
- commercial likeness, including competition and distribution channels;
- functional likeness, such as end-use or interchangeability;
- similarities in production, such as method and inputs; and
- other relevant characteristics.

110. The like goods produced by UK industry are OFC that have the same general construction as the goods concerned. They are also used for the same applications named in [Section E2. Goods concerned](#).

111. The standards in respect of OFC are set by [The International Telecommunication Union \(ITU\)](#), 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. OFC comply with customer technical specifications often stipulated within the tenders but must meet the relevant international standards established for this product sector. Therefore, the TRA has determined that the goods concerned, and the like goods are comparable.

E4. Unit of Measurement

112. The international standard uses distance as an indicator of measurement of volume within the OFC industry instead of weight; the standard unit being either cable kilometres (ckm) or fibre kilometres (fkm). We have used fkm for much of the injury assessment for consistency purposes, whilst ckm is used for analysis of injury to productivity, growth, and output and production capacity as these trends are able to be shown without need for conversion.

E5. Product Control Numbers

113. The TRA uses Product Control Numbers (PCNs) to define and group different types of products that fall under the goods description above ([Section E2](#)) to ensure that the prices of similar products are compared to each other during any calculations.

114. PCNs are created on the basis of the main physical characteristics differentiating the goods, providing that the characteristics have an impact on price.

115. In a subsidy investigation, the use of PCNs allows the TRA to calculate the injury margins (see [Section H9.4: Injury margins](#)).

116. The PCN structure used in this case is detailed in [Annex B: PCN Structure](#).

117. The TRA invited parties to comment on the PCN structure. We did not receive any comments from interested parties on this PCN structure and have therefore

concluded that the PCN structure was suitable for the purposes of this investigation.

118. The TRA had reasonable assurance that parties had allocated PCNs consistently within their submissions, and where anomalies were identified this was addressed with the parties.

E6. PCN analysis

119. In our injury calculations, we used the methodology of conducting a PCN-by-PCN margin calculation. When calculating the injury margin, PCN-by-PCN calculations were possible for PCNs that were both sold in the UK as domestically produced like goods and exported from the PRC to the UK as the goods concerned.

Section F: The UK industry and UK market

F1. Scope of the UK industry

120. In accordance with paragraph 6 of Schedule 4 of the Act, the “UK industry” is defined as:

- a) all the producers in the United Kingdom of the like goods, or
- b) those of them whose collective output of like goods constitutes a major proportion of its total production in the United Kingdom of those goods.

121. There is one confirmed producer of OFC in the UK, the Applicant, with three other possible producers who have not participated in the investigation: AFL Europe, Leviton Manufacturing UK Limited and TE Connectivity. We have been unable to confirm UK based production levels of the three companies above.

122. Our research suggests that Leviton, based in Glenrothes, imports goods through commodity code 85447000 from a number of different countries. In its [2022 catalogue](#) Leviton states that it is “a single-source global manufacturer”, where components come from Leviton factories. Leviton possibly design and assemble OFC based products in the UK but the OFC themselves may be imported as finished goods.

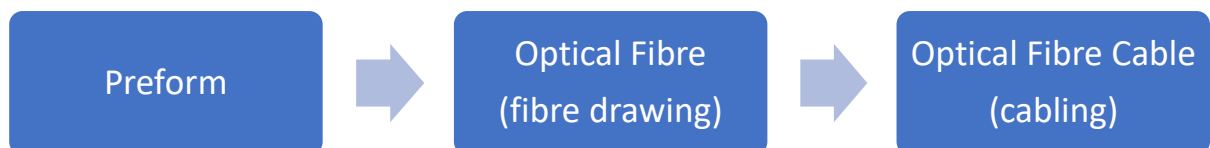
123. The UK operations of TE Connectivity’s appear to consist of a holding company for companies incorporated outside of the UK, with no employees other than directors. Tyco Electronics UK Ltd, a related UK incorporated company with a common ultimate parent company and identical directors, appears to focus on “subsea fibre optic communications” which appear to be outside the scope of the investigation.

124. The Applicant's volume of production has been used together with CRU International Limited (CRU) data which demonstrates that during the POI their production accounted for more than 50% of the overall UK production.
125. For clarification, prompted by a CCCME submission, although attempts were made to contact other UK producers of OFC during the investigation by inviting them to register to the case, none of them responded. Therefore, CRU data on estimated production per facility was used for the above calculation. The raw CRU data was requested during verification of the Applicant's data, and we were able to confirm the accuracy of the estimated production values against the Applicant's data. This reassured us that the data was a good estimation of overall UK production levels.
126. CRU provides business intelligence on the world and UK optical fibre market and is recognised as a reliable data source within the OFC industry. The underlying data is accessible via subscription only and has therefore not been disclosed due to confidentiality.
127. The Applicant meets the definition of "UK industry" under paragraph 6(1)(b) of Schedule 4 to the Act and will therefore be treated accordingly for the purposes of this investigation.

F2. Production processes

128. The UK industry's production process of OFC is as follows:

Figure 1: Diagram of production



Source: Questionnaire response

- Preform: The cylindrical core of the OFC is produced by depositing layers of silicon dioxide on the inside surface of a rod.
- Fibre drawing: A preform tip is melted and then cooled to form a thread like fibre.
- 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. The type of material used for cable jacketing depends on the cable's application requirements. Armouring, as well as strength elements can be added. The armouring layer can be made of corrugated metallic tape or a dielectric fibre layer.

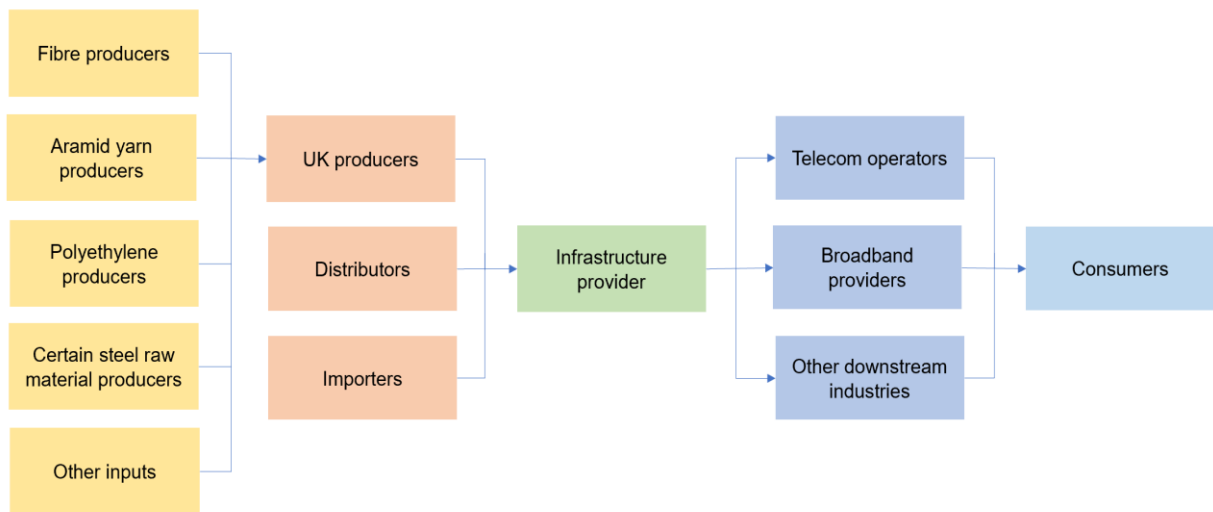
F3. UK Market

129. The UK market for the goods concerned is mainly driven by network operators who build and maintain the broadband infrastructure and sell the use of the UK's network to consumers. They purchase OFC to expand or maintain the network to accommodate the needs of broadband service providers.
130. There are two main distribution channels. OFC are either sold through a tendering process, generally organised by telecom operators, or through spot sales/projects to the general market (which includes sales to distributors and installers). Broadband 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 or more negotiation rounds, lasting one to three months.

F4. Market structure

131. Figure 2 (see below) illustrates the supply chain for OFC in the UK, detailing the main upstream industries and the structure of the market between production and consumption. This is a simplified version of a complex supply chain, due to some businesses falling into more than one category. For example, the UK producers also import and distribute OFC. Importers can also act as distributors, and some telecom operators also import OFC.
132. The available evidence suggests that OFC tenders are generally awarded based on price. The second sales channel involves distributors and installers in the general market, whereby OFC are purchased as needed or in relation to particular projects. The Applicant questionnaire response suggests 70% of sales are through tenders and 30% of sales through distribution.
133. The OFC infrastructure needs to be installed and maintained as it is essential for downstream industries to provide services to final consumers. Although the infrastructure provider usually operates separately whilst working closely with downstream users, in some cases the downstream user industries install and maintain the OFC infrastructure.
134. The main downstream user industries include telecommunications and broadband service providers, who use OFC to carry information as a service to final consumers. Other downstream uses of OFC include cable TV, underground cabling, aerial cables, and power cables.
135. Whilst OFC are not considered to be a consumer product, consumers purchase services that use them as an input, such as broadband.

Figure 2: An overview of the OFC supply chain



Source: Questionnaire responses

F5. Market size

136. CRU market research has estimated that approximately 5.7 million fkm were sold in the UK in 2021, which represents UK producer sales plus imports of the goods concerned. This equates to £69m (\$86m) sales value.

F6. Market analysis

137. The UK market is expected to see an increase in demand for OFC over the next five years. Telecommunications companies are expected to continue to upgrade their networks as demand for broadband increases. Government investment in broadband infrastructure, such as [‘Project Gigabit](#), is also projected to rise and propel industry revenue growth. Project Gigabit was launched in 2021 and is a project designed to bring fast broadband speeds to more than one million hard to reach homes and businesses.
138. The [Office for Communications \(Ofcom\)](#) stated in 2022 that 99.7% of fixed locations in the UK have at least 10Mbit/s download and 1Mbits/s upload speed broadband coverage in 2022, with 42% of UK premises having access to full

fibre broadband in 2022 (a 14% increase in coverage from 2021). This indicates a large customer base for the end product of OFC and a broadband network that is rapidly developing with OFC as a key input.

139. [Section H](#) addresses relevant historical market trends in detail as part of our injury assessment.

F7. Sources of supply

140. UK consumption of OFC is sourced from a wide range of suppliers, with UK produced OFC estimated to account for around 50% of overall UK production (see [F1. Scope of the UK industry](#)). The rest of the market is supplied by imports predominately from the PRC, India, United States of America (USA), Poland, and Germany (based on His Majesty's Revenue and Customs ("HMRC") import statistics). The PRC is estimated to account for 18.8% of total imports of OFC during the IP. India, USA, Poland, and Germany collectively accounted for 44% over the same period. The remaining imports are from sixty-nine other countries that collectively account for 37% of the total imports over the IP.

F8. Competition in the market

141. There are three main broadband infrastructure providers who drive the market consumption and hold the lucrative tendering processes. There are three main installers in the UK, namely, British Telecommunications (Openreach), CityFibre and Virgin Media, all of whom build the vast amount of cable network, which incorporate OFC and also provide internet service directly to customers. Additionally, they have the ability to rent network access to network operators (including TalkTalk, Vodafone and Sky Broadband). Distributors, (including Comtec, Mills and Wolseley) also purchase OFC for resale to alternative network operators (including Axione, Community Fibre and Jurassic Fibre), who are building their own network and contributing to the expanding UK competition in broadband service delivery.

142. The TRA attempted to contact all known installers, network operators, distributors, and alternate network operators during the course of the investigation. We received responses only from BT, which registered its interest in the case but was eventually deemed to be non-cooperative during the course of the investigation.

Section G: Subsidy

G1. Introduction to subsidy

143. In accordance with paragraph 3(3) of Schedule 4 to the Act, a subsidy exists if there is either:

- a) a financial contribution by a foreign authority which confers a benefit; or
- b) a form of income or price support within the meaning [of Article XVI of the General Agreement on Tariffs and Trade 1994](#) (part of Annex 1A to the WTO Agreement) received from a foreign authority which confers a benefit.

144. Not all subsidies are countervailable (i.e. capable of being offset through a trade remedy). In accordance with paragraph 3(2) of Schedule 4 to the Act, a subsidy is countervailable if it is specific and is granted either directly or indirectly for the manufacture, production, export or transport of goods. These subsidies may promote unfair trade in goods that harm UK industry.

145. This section will outline:

- the alleged subsidy schemes that the TRA has considered;
- the TRA's assessment of the countervailability of the schemes identified to be within the scope of the investigation, including:
 - whether there is a financial contribution by a foreign authority;
 - whether that financial contribution confers a benefit; and
 - whether the subsidy is specific in nature;

- the methodology for determining the amount of subsidy attributable to the goods concerned in the POI for each subsidy determined to be countervailable; and
 - the individual subsidy amounts applicable to participating exporters and producers, and the residual amount.
146. The submission from the GOC in May 2023 mentioned that ‘the Applicant continues to make irrelevant references to various documents’ and uses ‘random financial figures’ to evidence subsidisation in the OFC industry in the PRC. We considered that the application had sufficient evidence to initiate the investigation and we have fully, independently, researched the alleged subsidy areas and used figures from the participating overseas exporters within our findings, details of which are given in the subsequent sections.
147. Furthermore, the GOC alleges that the Applicant’s ‘additional analysis’ misinterprets the applicable legal standard. Over the course of the investigation, we have assessed each alleged subsidy for the nature of the financial contribution; benefit; specificity and the amount attributable to the goods concerned. We also ensured any amount was attributable to the POI.
148. The GOC has alleged that general country-wide and sector-wide allegations against the GOC are unnecessary and does not constitute sufficient evidence. Although both “Made in China” and “14th Five year plan” are referenced, conclusions are supported by wider evidence and each subsidy is assessed for its specificity and countervailable specifically with regard to the OFC industry in the PRC.
149. The TRA calculated a single subsidy amount for the two cooperating overseas exporters due to the close nature of their business and governance. This is the same amount applied to the non-sampled cooperating exporters due to the inability to calculate a weighted average amount because of the nature of the relationship between the cooperating parties.

150. The TRA calculated a subsidy amount for all other overseas exporters. This is known as the residual amount.
151. With the exception of the loan and land use rights figures mentioned in [C4. Verification of data](#), we have obtained sufficient and appropriate evidence to conclude that the information provided by the SDG Group is verifiable. We have used the verifiable information including the replacement figures for loans and land use rights to calculate the subsidy amount set out in [Section G12: Subsidy Amounts](#). The methodology used to calculate the subsidy amounts is set out in the sections below.

G2. Background for subsidies

152. The Applicant has alleged that producers of OFCs in the PRC receive subsidies in the form of:
- Direct transfer of funds in the form of grants
 - Preferential tax rates (government revenue forgone or not collected) in the form of:
 - Enterprise income tax benefits
 - Tax offset for research and development
 - Accelerated depreciation of instruments and equipment
 - Loans (provision of preferential financing) in the form of:
 - Loans by state-owned banks
 - Export-contingent loans
 - Credit lines

- Preferential financing through bonds (standard and convertible corporate)
- Provision of the following goods and service at LTAR:
 - Land use rights
 - Raw materials and inputs
 - Energy
- Preferential export credit insurance and guarantee

153. Based on the analysis of the submissions received, we investigated the evidence and identified several subsidies received by the SDG Group that are countervailable. Further information on these findings is detailed below.

G3. Grants

154. The Applicant provided copies of the audited financial statements of a number of OFC producers in the PRC as evidence that these producers received grants from the GOC. We also received financial statements from the SDG Group, which provided evidence of the receipt of grants, and we performed independent research into the grant programmes disclosed.

G3.1. Relevant laws, regulations, and guidelines.

155. The SDG Group stated that the details of the grants it reported for the POI, including the names of the grant programmes and the individual eligibility criteria are confidential. In response to further inquiry during the course of the investigation, the SDG Group reaffirmed the confidentiality of these details. On this basis, we cannot name any individual grants received by the SDG Group. Therefore, to explain our assessment of whether each grant is a subsidy, as defined in paragraph 3(3) of the Act, and whether each grant is specific, in line

with regulation 22, we have provided an overall summary, including links to open-source information where relevant.

156. Submissions from all parties were reviewed to identify laws, regulations, or administrative guidelines that were relevant to our assessment of whether the grants reported should be considered a countervailable subsidy. We identified the following relevant sources, which we have summarised in the table below, showing the source and applicable articles relevant to our investigation, which can be viewed through the various links.

Table 2: Laws, regulations, and guidelines applicable to grants

Relevant Law/Regulation	Applicable Article
Notice of Shenzhen Science and Technology Innovation Commission on the issuance of the Administrative Measures for the Funding of Shenzhen Enterprise Research and Development Projects and High-tech Enterprise Cultivation Projects	Article 2 Article 6
The Ministry of Science and Technology, the Ministry of Finance, and the State Administration of Taxation issued a circular on revising and issuing the "Administrative Measures for the Identification of High-tech Enterprises." Guoke Fa Huo [2016] No. 32	
Notice on the application of 2021 Nanshan District National High-tech Enterprise Multiplication and other support plan projects	
Notice of the Municipal Bureau of Industry and Information Technology on the announcement of the first batch of projects to be funded by the 2021 New Generation Information Technology Industry Support Plan	
Shenzhen Science and Technology R&D Fund Management Measures	

G3.2. Financial contribution by a foreign authority

157. We identified that the grants reported by the SDG Group were paid by a variety of government departments; we verified that all of these were foreign authorities through open-source internet research into the awarding bodies for all grants. Consequently, we consider that owing to all of the grants having been made by a government, the grants were made by a foreign authority, within the meaning of para 3(4) of Schedule 4 to the Act.
158. In addition to the audited financial statements received from the cooperating exporters, we reviewed audited financial statements for the SDG Group, bank receipts and accounting system extracts, as detailed in the [relevant verification reports](#) for the SDG Group. This evidence covered all 33 grants considered during the investigation and established that each of these took the form of a direct transfer of funds. In line with regulations 20(1)(a) and 20(3)(a) of the Regulations, we considered that these grants constituted financial contributions. As noted above, we concluded that these financial contributions had been made by foreign authorities.
159. Responding to the SEF, the GOC contended that the findings did not demonstrate that the grants considered were provided by a foreign authority. As we noted in the SEF, we verified that all of the providers of the grants included in the calculations were government agencies. As noted above, owing to the confidentiality claimed by the SDG Group for the grant information provided, we are unable to name grants individually. However, we confirmed that the grant awarding bodies were government bodies through open-source research, including comparing the names of the grant awarding bodies against lists of

municipal government departments, such as those available from the [Shenzhen Government](#).

G3.3. Conferring a benefit

160. The direct transfer of funds from the municipal government provided greater resources without creating any specific reciprocal obligation on the part of the SDG Group. We therefore have concluded that it was a benefit received by the SDG Group in line with regulation 21(2) of the Regulations. The amount of benefit conferred on the SDG Group in the POI is detailed below.
161. Responding to the SEF, the GOC contended that insufficient evidence was presented to demonstrate that a benefit was conferred by grants and that no reciprocal obligation was created by the SDG Group receiving the grants. As noted above, the SDG Group indicated that the details of the grants it received were confidential business-sensitive information. Consequently, we cannot provide details of the terms of individual grants. However, we did review the documentation submitted for the grants during verification to identify any obligations that resulted from the grants. We did not identify any such obligations. Consequently, we consider that the direct transfer of funds in the form of grants, without the creation of a reciprocal obligation did confer a benefit to the SDG Group.

G3.4. Specificity

162. Following our determination that the grants reported by the SDG Group constituted a financial contribution by a foreign authority that conferred a benefit, we sought to establish if each of these grants was specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with Regulation 22(1) of the Regulations, including considering Regulations 22(2), 22(4), and 22(5).
163. The criteria for each reported grant were reviewed, and this provided evidence of specificity for the majority of the grants received. This was supplemented by

project documentation such as contracts and application details. Where the SDG Group did not report any eligibility criteria for the grants, that was sufficient for us to consider a subsidy specific, we reviewed the relevant submission from the GOC and performed independent research into the details of any supporting laws stated in project documents. The specific documents evidencing the specificity of grants are detailed below.

164. We considered that the [Shenzhen Enterprise Research and Development Project and High-tech Enterprise Cultivation Project Funding Management Measures](#) provided evidence of specificity for one grant. Article 2 of these measures state that, “These Measures apply to the city's funding activities for enterprise research and development projects and high-tech enterprise cultivation projects that comply with the ‘High-tech Fields Supported by the State’”. Article 6 of these measures reports the criteria that must be met to apply for project funding through these measures, this includes, “National high-tech enterprises lawfully registered in the city (including the Shenzhen-Shantou Special Cooperation Zone) and having legal personality, high-tech enterprises in Shenzhen, or industrial and service enterprises above designated size that were included in the statistical scope of the city's statistical department in the previous year;”.
165. In the GOC’s May 2023 submission they argued that reference to "several Measures of Suzhou Industrial Park on Promoting High-quality Development of Manufacturing Industry" is based around "biomedicine, nanotechnology, and artificial intelligence (AI)" industries and therefore does not provide evidence of the OFC industry falling into the category of ‘high tech industry’.
166. However, we reviewed the [associated list of high-tech fields](#) supported by the state and identified the following fields as relevant to the status of OFC producers in the PRC:
- “New optical transmission equipment technologies that can be used for metro networks and access networks, including: new multi-service optical

transmission equipment and systems at the mid/low end; New optical access equipment and systems; New low-cost miniaturized wavelength division multiplexing transmission equipment and system; New key module optical transmission system simulation calculation and other special software in optical transmission equipment.”

- “Technology of optical emission and optical receiving equipment with independent intellectual property rights, including: laser module; photoelectric conversion module; Amplitude modulation return optical transmitter; Outdoor broadband optical receiver, etc.”

167. We also reviewed the Circular on revising and issuing the "[Administrative Measures for the Identification of High-tech Enterprises](#)", pertinent to Article 6 of the [Shenzhen Enterprise Research and Development Project and High-tech Enterprise Cultivation Project Funding Management Measures](#). We identified that Article 11 of the circular lists the requirements for an enterprise to receive high and new technology enterprise (HNTE) status. One of the requirements is that the relevant enterprise's main products play a core support role in technology listed within the "High-tech Fields Supported by the State", our review of which is detailed above.

168. Based on our assessment of the relevant evidence related to the grant with eligibility requirements governed by the [Shenzhen Enterprise Research and Development Project and High-tech Enterprise Cultivation Project Funding Management Measures](#), we have established that the programme is specific by being explicitly limited to, and favouring, certain enterprises or industries in the PRC (regulation 22(2)(a)(i) of the Regulations), and that OFC producers are amongst the favoured industries eligible for the programme.

169. A further two grant programmes were reported by the recipient to be restricted to high-tech enterprises. In line with our determination, above, that HNTE status is specific by way of being explicitly limited to, and favouring, certain enterprises or industries in the PRC (with OFC producers included in these industries), we

consider these programmes explicitly specific (regulation 22(2)(a)(i) of the Regulations) in favouring certain industries.

170. We considered the [Notice on the application of 2021 Nanshan District National High-tech Enterprise Multiplication and other support plan projects](#), which governed the eligibility of one of the grant programmes we examined. The annex to this notice, “Operating regulations”, indicates that to apply, enterprises must be “Registered in Nanshan, passed the national high-tech enterprise certification last year”. As noted above, we have established that the eligibility criteria to receive HNTE status is specific by way of being explicitly limited to, and favouring, certain enterprises or industries in the PRC (regulation 22(2)(a)(i) of the Regulations), and that OFC producers are among the industries eligible for the programme.
171. In our examination of a single grant programme, we identified that the proceeds of the first batch of funding released from the programme are detailed in the [Notice of the Municipal Bureau of Industry and Information Technology on the announcement of the first batch of projects to be funded by the 2021 New Generation Information Technology Industry Support Plan](#), published by the Shenzhen Bureau of Industry and Information Technology. From the annex in this announcement, which identifies the projects funded, we have determined that the overwhelming majority of projects funded were related to high-technology products, such as 5G communication networks and LED visual display equipment. Based on the concentration of funding to a small subset of industries, we have determined that the subsidy has in fact been applied in a specific manner (regulation 22(2)(b) of the Regulations) by way of being granted disproportionately to, and favouring, certain groups and industries (regulation 22(3)(a) of the Regulations), which include OFC producers.
172. There were two grant programmes that were governed by the [Shenzhen Science and Technology R&D Fund Management Measures](#). Article 7 of this measure specifies the purposes of projects to receive funding from the

programme. Of the nine areas eligible for funding, scientific or technological innovation and research are referenced in seven, two of which also refer explicitly to high-tech industry (established as the basis for specificity above). Although not explicitly limited in terms of the industries that may apply for funding, we consider that the concentration of funding is primarily restricted to high-technology enterprises; consequently, we have determined that the subsidy has in fact been applied in a specific manner (regulation 22(2)(b) of the Regulations) by way of being granted disproportionately to, and favouring, certain groups and industries (regulation 22(3)(a) of the Regulations), which include OFC producers.

173. We considered the [Notice of the Municipal Bureau of Industry and Information Technology on the funding projects of the 2021 Industrial Internet Development Support Plan](#), which governed the eligibility of a single grant programme we examined. From the annex to this announcement, which identifies the projects funded, we have determined that the overwhelming majority of projects funded were industrial internet-related projects. Based on the concentration of funding to a small subset of industries, we have determined that the subsidy has in fact been applied in a specific manner (regulation 22(2)(b) of the Regulations) by way of being granted disproportionately to, and favouring, certain groups and industries (regulation 22(3)(a) of the Regulations), which include OFC producers.

174. We considered the [Notice of the Municipal Bureau of Industry and Information Technology on the announcement of the proposed funding plan for the 2021 industrial enterprise capacity expansion incentive project](#), which governed the eligibility of a single grant programme we examined. From the annex to this announcement, which identifies the projects funded, we have determined that the overwhelming majority of projects funded were industrial internet-related projects. Based on the concentration of funding to a small subset of industries, we have determined that the subsidy has been in fact applied in a specific manner (regulation 22(2)(b) of the Regulations) by way of being granted

disproportionately to, and favouring, certain groups and industries (regulation 22(3)(a) of the Regulations), which include OFC producers.

175. Responding to the SEF, the GOC contended that insufficient evidence was presented to demonstrate that the grants provided to the SDG Group were specifically limited to OFC producers. As noted above, SDG Group indicated that the details of the grants it received were confidential business-sensitive information. Consequently, we cannot provide details of the terms of individual grants. However, we have provided details where publicly available documents are relevant and consider that the analysis of the evidence identified regarding these grants does sufficiently demonstrate both the explicit specificity of grants as well as grants being specific in fact, in the form of them being limited to, and favouring, particular industries.

G3.5. Conclusion on countervailability

176. We have identified that there is a financial contribution by a foreign authority with regard to the grants received by OFC producers in the PRC, and that these direct transfers of funds, which do not create any specific reciprocal obligation, confer a benefit on the SDG Group. Consequently, we have concluded that these grants are a subsidy (paragraph 3(3)) of Schedule 4 to the Act). We have found these subsidies to be specific. These grants support the daily business operations of OFC producers and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, these grants constitute countervailable subsidies (paragraph 3(2) of Schedule 4 to the Act).

G3.6. Amount of subsidy

177. For the grants reported by the SDG Group, the amount of subsidy attributable to the goods concerned was calculated in line with regulation 23(1) of the Regulations.

178. The total amount of countervailable subsidy for each grant was calculated in accordance with regulation 23(2)(a) and 24(1) of the Regulations. The total value of each grant received by the SDG Group was considered to be the benefit conferred, in accordance with regulation 24(1) of the Regulations. No deductions to the values were deemed necessary as we did not identify any fees associated with applying for the grants, in line with Regulation 24(3).
179. We calculated the benefit attributable to the POI, in accordance with regulations 23(2)(b) and 25(1) of the Regulations. A number of grants were received during the POI and the benefit was attributed in full to the POI as per regulation 25(1) of the Regulations. None of the aforementioned grants were only part attributable to the POI, as per regulation 25(3) of the Regulations. Several of the grants reported were received before the POI in full or in part. For the grants received outside of the POI, none were found to be qualifying countervailable subsidies, in line with regulation 25(4) of the Regulations.
180. We determined which goods the countervailable subsidy could be allocated to during the POI according to regulations 23(2)(c) and 26 of the Regulations. Of the grants determined to be countervailable subsidies, the SDG Group did not attribute any grants to particular goods and our review of the supporting documentation submitted did not identify any associations between individual grants and any specific goods, or to the destination of goods (domestic sales or exports). Consequently, we considered that the benefit of the subsidy was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.
181. The subsidy amount attributable to grants was calculated for the cooperating exporters, as per regulation 23(3) of the Regulations, and is expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4) of the Regulations, in table 3 below.

Table 3: Subsidy amount attributable to grants

Organisation	Subsidy type	Subsidy amount
SDG Group	Grant	0.2678%

Source: Questionnaire responses

G4. Preferential tax rates

182. As stated in Section G2, the Applicant alleged that producers of OFCs in the PRC receive subsidies through preferential tax rates in the form of:

- Enterprise Income Tax privileges and benefits for high and new technology enterprises (HNTEs)
- Tax offset for research and development (R&D)
- Accelerated depreciation of instruments and equipment used by high-tech enterprises, for high-tech development and production

183. We considered these alleged subsidies through our assessment of the information provided by the various parties involved in the investigation and our own independent research to assess whether tax programmes utilised by the OFC industry in the PRC constitute preferential tax treatment and whether these represent countervailable subsidies.

G4.1. Relevant laws, regulations, and guidelines.

184. Submissions from all parties were reviewed to identify laws, regulations, or administrative guidelines that were relevant to our assessment of whether alleged preferential tax programmes should be considered a countervailable subsidy. We identified the following relevant sources, which we have summarised in the table below, citing the source and applicable articles relevant to our investigation, which can be viewed through the various links.

Table 4: Laws, regulations and guidelines applicable to preferential tax rates

Relevant Law/Regulation	Applicable Article
The Ministry of Science and Technology, the Ministry of Finance, and the State Administration of Taxation issued a circular on revising and issuing the "Administrative Measures for the Identification of High-tech Enterprises.	Article 11 Article 12
Announcement on Further Improving the Pre-tax Super Deduction Policy for R&D Expenses Announcement (No. 13 of 2021 of the State Administration of Taxation of the Ministry of Finance)	
Announcement on increasing support for pre-tax deductions for scientific and technological innovation. Ministry of Finance, State Administration of Taxation, Ministry of Science and Technology Announcement No. 2022 of 28	
Circular on Raising the Proportion of Pre-tax Super Deduction of Research and Development Expenses (Cai Shui [2018] No 99)	
Circular of the Ministry of Finance and the State Administration of Taxation on improving the enterprise income tax policy for accelerated depreciation of fixed assets (Cai Shui [2014] No. 75)	
Enterprise Income Tax Law of the People's Republic of China	Article 4 Article 28 Article 30 Article 32
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)	Section 4

Ministry of Finance, State Administration of Taxation, Ministry of Science and Technology. Notice on policy issues related to the pre-tax super-deduction of overseas R&D expenses entrusted by enterprises. (Cai Shui [2018] No. 64)	
Notice on the deduction of equipment and appliances regarding the corporate income tax policy (Cai Shui [2018] No. 54)	
Notice on further improving the corporate income tax policy for accelerated depreciation of fixed assets. Cai Shui [2015] No. 106	
Regulations for the Implementation of the Enterprise Income Tax Law of the People's Republic of China	Article 95
State Administration of Taxation. Announcement on issues related to the scope of pre-tax super-deduction for R&D expenses (SAT Announcement No. 40 of 2017)	
State Administration of Taxation. Announcement on issues related to the pre-tax super-deduction policy for corporate R&D expenses. (SAT Announcement No. 97 of 2015)	
Circular on revising and issuing the "Administrative Measures for the Identification of High-tech Enterprises High-tech Fields Supported by the State	Article 11 Article 12
High-tech Fields Supported by the State	

G4.2. Financial Contribution by a foreign authority

185. For each of the alleged preferential tax programmes mentioned in Section G4.1 we considered submissions from all parties to identify laws, regulations, or administrative guidelines relevant to our assessment of whether the tax programmes constituted a subsidy.

186. [The Law of the PRC on Enterprise Income Tax](#) (enterprise income tax law), was adopted at the fifth session of the tenth National People's Congress of the PRC on 16 March 2007, and went into effect as of 1 January 2008. Contained within the law are provisions that allow HNTEs to receive lower tax rates than other industries.
187. We identified in article 28 of the enterprise income tax law, that the enterprise income tax reduction received by companies that are designated HNTEs results in a reduction in enterprise income tax paid directly to the GOC. We have found evidence of this in the tax forms of the SDG Group, and within the financial statements of other OFC companies.
188. An additional tax reduction programme identified in article 30 of the above enterprise income tax law, allows R&D expenditure to be deducted from a qualifying company's charge to its enterprise income tax. The tax offset for R&D expenditure results in a reduction of the profit figure that is used when an enterprise calculates its enterprise income tax payment for the financial year. This has the effect of reducing the total enterprise income tax paid by a company directly to the GOC.
189. Article 32 of the above enterprise income tax law identifies a further tax programme that indicates that the number of years of depreciation for fixed assets can be reduced. Such a reduction has the effect of reducing a company's profit figure in the year that the accelerated depreciation occurs. This has the effect of reducing the total amount of enterprise income tax paid to the GOC.
190. These three programmes, if utilised, represent tax revenue foregone that would normally have been paid to the GOC. As the central government of the PRC, the GOC constitutes a foreign authority, within the meaning of paragraph 3(4) of Schedule 4 to the Act.
191. Owing to the tax revenue due to the GOC being reduced by the programmes identified above, we consider that they represent a form of financial contribution,

in accordance with regulation 20(1)(b) of the Regulations. Consequently, we determined that the programmes giving preferential tax rates constituted a financial contribution by a foreign authority.

G4.3. Conferring a benefit

192. This section details whether the identified preferential tax programmes confer a benefit.
193. Article 4 of the enterprise income tax law indicates that the general enterprise income tax rate for companies in the PRC is 25%. We considered that the difference between that tax rate and the lower rate of 15% paid by HNTEs, which includes OFC producers, represents the benefit received.
194. Article 30 of the enterprise income tax law indicates that where companies incur expenses on R&D to develop new technologies, products or techniques, these expenses can be deducted when the total taxable income is calculated. Making this deduction when calculating taxable income has the effect of reducing the tax payable by a company which constitutes a benefit.
195. Article 32 of the enterprise income tax law indicates that the number of years fixed assets can be depreciated over can be reduced. This reduction has the effect of reducing a company's profit figure in the year that accelerated depreciation is utilised. This reduces the total amount of enterprise income tax paid to the GOC in that year. This confers a benefit equal to the difference between the total accelerated depreciation amount for the year of a fixed asset, and the depreciation charge that would normally apply to that same asset in a year, in the absence of accelerated depreciation being applied.
196. We have concluded that in the absence of the reduced enterprise income tax, R&D expense offsetting, and accelerated depreciation programmes, OFC exporters originating from the PRC would under normal conditions, have had to pay a greater amount of tax to the GOC.

197. In accordance with regulation 21(1) and 21(2) of the Regulations, we considered that the reduced rate of enterprise income tax, the offsetting of R&D expenditure, and the use of accelerated depreciation can confer a benefit. In the case of the SDG Group, benefit was identified for the reduced rate of enterprise income tax and the offsetting of R&D expenditure, but no benefit was identified for accelerated depreciation during the POI. Details of the amount of benefit received by the SDG Group in the POI are set out below within 'amount of subsidy'.

G4.4. Specificity

198. Following our determination that the preferential tax programmes reported by the SDG Group constituted a financial contribution by a foreign authority that conferred a benefit, we sought to establish if each of these programmes was specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with Regulation 22(1) of the Regulations, including considering Regulations 22(2), 22(4), and 22(5).

199. We noted in article 28 of the enterprise income tax law, that the reduction in enterprise income tax rate is applicable to companies that have the designated HNTE status and are considered to need key support by the State. Based on our review of the submissions from parties, and our own review of the laws, regulations and guidelines relevant to this tax reduction programme, we consider that the preferential tax rate is specific by being explicitly limited to certain enterprises or industries in the PRC (regulation 22(2)(a)(i) of the Regulations). The audited financial statements also indicate that OFC companies have received the "Certificate of High-tech Enterprise". Consequently, we consider that this tax reduction programme is specific by way of being explicitly limited to certain enterprises or industries in the PRC (regulation 22(2)(a)(i) of the Regulations), and that OFC producers are among the industries eligible for the programme.

200. In our review of the relevant information related to the tax offset for R&D expenses, we noted that article 30 of the enterprise income tax law does not place specific restrictions on the industries that are eligible for this particular tax offsetting programme. We identified that some industries are excluded from the programme. [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](#) includes a list of enterprises that may not apply the tax deduction; however, the list is broad in nature (such as “real estate”), and we considered that this list did not restrict access to the tax reduction programme sufficiently to constitute evidence of specificity. Therefore, we did not identify any information that indicated the programme is explicitly specific (regulation 22(2)(a) of the Regulations), or that it is in fact applied in a specific manner (regulation 22(2)(b) of the Regulations).
201. Article 32 is the provision of the enterprise income law that establishes the use of accelerated depreciation of fixed assets. We identified that [the Notice on further improving the corporate income tax policy for accelerated depreciation of fixed assets](#) provides greater detail on the industries that can apply accelerated depreciation to fixed assets. The annex to this notice includes the broad category “Electrical machinery and equipment manufacturing”. Among the industries included in this group is “Manufacture of wires, cables, optical cables and electrical equipment”. Therefore, based on our assessment of the relevant laws, regulations and guidelines associated with the accelerated depreciation tax reduction programme, we consider that the programme is specific by way of being explicitly limited to certain enterprises or industries in the PRC (regulation 22(2)(a)(i) of the Regulations), and that OFC producers are among the industries eligible for the programme.
202. Responding to the SEF, the GOC indicated that it disagrees with our assessment that the privileges under the enterprise income tax system constitute countervailable subsidies. The GOC argues that the eligibility criteria for the 15% enterprise income tax rate cannot be considered specific because

they result from objective criteria that do not favour certain enterprises over others.

203. We reviewed the [Circular on revising and issuing the "Administrative Measures for the Identification of High-tech Enterprises"](#), which outlines the requirements for enterprises being designated HNTEs. We identified that article 11 of the circular lists the requirements for an enterprise to receive HNTE status. One of the requirements is that the relevant enterprise's main products play a core support role in technology listed within the ["High-tech Fields Supported by the State"](#). The High-tech Fields Supported by the State contains a list of eight industry types. Consequently, we consider that HNTE status does not result from objective criteria, within the meaning of Article 2.1 of the ASCM and Articles 22(4)(a) and 22(5)(b) of the Regulations, owing to the criteria explicitly favouring certain enterprises and industries over others.

G4.5. Conclusion on countervailability

204. We have identified that there is a financial contribution by a foreign authority with regard to the enterprise income tax programme used by OFC producers in the PRC, and that this confers a benefit to the recipients. Consequently, we have concluded that this programme is a subsidy (paragraph 3(3)) of Schedule 4 to the Act). We have found that the reduced enterprise income tax rate of 15% for HNTEs is a specific subsidy. The benefit from the specific subsidies we identified supports the daily business operations of OFC producers and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the enterprise income tax programme constitutes a countervailable subsidy (paragraph 3(2) of Schedule 4 to the Act). We have not found evidence to demonstrate that the tax offset for R&D expenses is specific.

G4.6. Amount of subsidy

205. In line with regulations 23(2)(a) and 24(1), the total amount of benefit conferred by the subsidies was calculated.
206. From the annual income tax statements provided by the SDG Group, we were able to determine that, during the POI, the companies did not derive any benefit from the use of accelerated depreciation for fixed assets. Consequently, we recorded a benefit of zero for the SDG Group and did not perform any further calculations with regard to this subsidy.
207. From the annual income tax statements provided, we were able to identify the specific tax deduction that the SDG Group received from the reduced rate of enterprise income tax. We did not identify any expenses associated with using this preferential tax programme, so we did not make any adjustments to these values.
208. When calculating the benefit attributable to the POI for the reduced enterprise income tax rate of 15%, we considered that the benefit received from the programme accumulated entirely during the POI owing to the complete overlap between the POI and the tax year ending 31 December 2021 in the PRC. Consequently, we attributed the full benefit received from the reduced enterprise income tax rate to the POI (regulation 25(1)).
209. We determined which goods the countervailable subsidy could be allocated to during the POI according to regulations 23(2)(c) and 26 of the Regulations. The SDG Group did not attribute the reduced rate of enterprise income tax to particular goods and our review of the supporting documentation submitted did not identify any associations with specific goods. Consequently, we considered that the benefit of the subsidy was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.

210. The subsidy amount attributable to preferential tax rates was calculated for the cooperating exporters, as per regulation 23(3) of the Regulations, and is expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4) of the Regulations, in table 5 below.

Table 5: Subsidy amount attributable to preferential tax rates

Organisation	Subsidy	Subsidy amount
SDG Group	Enterprise income tax of 15% for HNTes	0.5045%

Source: Questionnaire responses

G5. Preferential financing

211. As stated in [Section G2](#), the Applicant alleged that producers of OFCs in the PRC receive subsidies through preferential financing in the form of:

- Preferential loans
- Export-contingent loans received from the Export–Import Bank of China
- Credit lines

212. We considered the countervailability of these alleged subsidies through our assessment of the information provided by the various parties involved in the investigation and our own independent research. Our assessment of loan interest rates also applied to interest related to financing through credit lines. Our findings regarding whether the GOC direct banks to offer loans at preferential interest rates to OFC producers in the PRC, and whether this constitutes a countervailable subsidy do not exclude the Export–Import Bank of China. In our assessment of interest rates, we treated the loans and interest related to credit lines in the same manner as all the other loans reported by the cooperating exporters for the POI.

G5.1. Relevant laws, regulations, and guidelines

213. Submissions from all parties were reviewed to identify laws, regulations, or administrative guidelines that were relevant to our assessment of whether loans and credit lines were made available to OFC producers on terms that conferred a benefit, and if these should be considered countervailable subsidies. We identified the following relevant sources, which we have summarised in the table below, indicating the source and applicable articles relevant to our investigation.

Table 6: Laws, regulations and guidelines applicable to preferential financing

Relevant Law/Regulation	Applicable Article
Company Law of the People’s Republic of China, Chapter 1	Chapter 1, Article 14
Law of the People’s Republic of China on Commercial Banks	Article 4 Article 5 Article 9 Article 34 Article 38 Article 47
General rules on loans 1996	Article 15
Law of the People’s Republic of China on Regulation of and Supervision over the Banking Industry	Article 3 Article 45
Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring	Article 12 Article 13 Article 17 Article 18 Article 19
Encouraged industries from the National Development and Reform Commission revised and issued the Catalogue for	Part 7 Part 13 Part 14

the Guidance of Industrial Structure Adjustment (2019 version)	Part 47
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G5.2. Financial contribution by a foreign authority

214. In line with paragraph 3(3)(a) of Schedule 4 to the Act, we must determine if there is a financial contribution by a foreign authority. In doing so, we considered whether there is a foreign authority, meaning a government or public body (paragraph 3(4) of Schedule 4 to the Act), and whether that foreign authority makes a financial contribution (regulation 20 of the Regulations). With regard to preferential financing, we considered if a foreign authority makes a financial contribution in the form of a direct or potential direct transfer of funds (regulation 20(1)(a) and 20(3)(a) of the Regulations). We also considered whether a foreign authority entrusts or directs private bodies to undertake the direct or potential direct transfer of funds (regulation 20(1)(e) of the Regulations). For the purpose of regulation 20(1)(e) of the Regulations and considering if entrustment has occurred, we considered whether a foreign authority has given responsibility to a private body to perform a direct or potential direct transfer of funds. Similarly, for the purpose of determining if direction has been given, we considered whether a foreign authority possesses the authority, and has exercised such authority, to instruct a private body to perform a direct or potential direct transfer of funds.

G5.2.1. PRC bank regulations

215. We identified several laws and legal rules relating to the provision of loans in the PRC that we considered relevant to examining whether loans made to the OFC industry represented a financial contribution by a foreign authority. The loan data provided by the SDG Group demonstrated that the loans it received from banks in the PRC involved the direct transfer of funds from the banks to the SDG Group. We noted that the [Company Law of the People's Republic of China](#) indicates that all companies in the PRC “must... accept supervision of the

government”. Similarly, the [Law of the People's Republic of China on Commercial Banks](#) indicates that banks “shall” conduct lending “under the guidance of the industrial policies of the State”. Finally, the [General rules on loans](#) state that “departments may subsidize interests on loans, with a view to promoting the growth of certain industries and economic development in some areas”.

216. In its [response to the questionnaire](#), the GOC reported that the interpretation of the relevant laws in the PRC presented by the Applicant was inaccurate. The GOC stated that the laws identified do not demonstrate that banks in the PRC are public bodies or are entrusted or directed by the GOC. The GOC cite articles 4, 5, and 9 of the [Law of the People's Republic of China on Commercial Banks](#), asserting that these articles demonstrate that commercial banks in the PRC must perform commercial operations independently of any external individual or entity. We have noted these provisions in the [Law of the People's Republic of China on Commercial Banks](#); however, we also note that article 34 of this law indicates that bank’s lending activities must be performed “under the guidance of the industrial policies of the State”. We consider that the extensive references to banks acting under the direction of the GOC, including in the [Company Law of the People's Republic of China](#) and the [General rules on loans](#), indicate that accepting the direction of GOC state policies would override article 4 of the [Law of the People's Republic of China on Commercial Banks](#), as evidenced by article 34 expressly directing banks to align lending activities with GOC policies.
217. The GOC also advanced that article 15 of the [General rules on loans](#) could only be applicable to any reduction in interest rate, and that any suggestion that banks in the PRC were obliged to provide such a loan was inappropriately conflating interest rates and whether banks acted as a foreign authority, or under direction of a foreign authority.
218. We have noted that, as the GOC highlights, the phrasing of article 15 of the [General rules on loans](#) does include that interest rates “may” be subsidised to

promote favoured industries. Although the use of “may” does imply that this is not mandatory, we consider that, when viewed alongside article 14 of the [Company Law of the People's Republic of China](#) and article 34 of the [Law of the People's Republic of China on Commercial Banks](#), any voluntary aspects introduced by the inclusion of “may” cannot be considered absolute.

G5.2.2. Governance of banks

219. To further consider whether banks provide finance to OFC producers at the direction of the GOC, we examined the governance of banks that we were aware had provided financing to the SDG Group.
220. For each of the banks that the SDG Group reported having received loans or credit lines from that were relevant to the POI, we sought to examine the articles of association, the composition of senior leadership, annual reports relevant to the POI, and public statements made by banks that were available on their own websites.
221. We reviewed the Industrial Bank Co (IBC)'s [articles of association \(amended August 2022\)](#) to identify any information that could indicate whether the GOC exercises any level of control over the company's operations. Chapter 4 of the document provides information on “The Communist Party of China Industrial Bank Co”, identified throughout the document as “The Party Committee”. Article 43 of the articles demonstrates that members of the Party Committee occupy senior positions within the IBC:
222. “Qualified members of the Party Committee may be appointed to the Board of Directors, the Supervisory Board and the senior management through legal procedures.... Party members of the Board of Directors, Supervisory Board and senior management may join the Party Committee in accordance with the relevant regulations and procedures. At the same time, the Discipline Inspection Committee shall be established in accordance with the provisions.”

223. Article 44 of IBC's articles of association also outline the role of the Party Committee within IBC's operations by stating that 'The Party Committee shall...ensure the implementation of the Party and State policies in the Bank, the implementation of the major strategic decisions of the Party Central Committee and the State Council', and that the role of the Party Committee includes, "To strengthen the leadership and control over the selection and appointment of personnel, to control the criteria, procedures, inspection, recommendation and supervision, and to adhere to the principle of Party control over cadres and the Board of Directors' selection of management and exercise of human rights in accordance with the law...".
224. These articles demonstrate that members of the Communist Party of China (CPC) may occupy the senior ranks of the IBC and that the Committee that represents the GOC within the company expressly states that its role includes influencing IBC's actions based on CPC and government policies.
225. We reviewed the composition of the Board of Directors of the IBC. During the POI, the Chair, President, Secretary, and three Vice Presidents of the Board of Directors were [elected](#); we reviewed the resumes of the appointments (recorded in an attachment to the [Announcement on Resolutions of the Twenty-ninth Meeting of the Ninth Board of Directors](#)) and all were members of the CPC Party Committee of the bank. This demonstrated that CPC party members do occupy significant senior leadership positions at the IBC.
226. Our review of IBC's articles of association and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.
227. With particular reference to the Bank of Communications (BOC), this organisation [describes itself](#) as "a large state-owned banking group". Further, Article 67 of the bank's [articles of association](#) suggests that the implementation of guiding policies of the GOC is strictly enforced within the BOC. In particular, the concept of adherence to "the principle of Party control of personnel and the

Board of Directors' selection", indicates the GOC exerts relatively direct control over the leadership of the bank. This demonstrates the extent of the role of the bank's CPC Party Committee in determining the bank's strategic decision making, and the level of alignment between this and the policies of the GOC. Our review of the BOC's articles of association and public statements supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

228. The Agricultural Development Bank of China (ADBC), Shenzhen Branch, is described as a state-owned policy bank. A review of the [website](#) of the ADBC indicates that it makes decisions based on non-market factors. The ADBC describes itself as "under the direct leadership of the State Council" and lists its "Business Philosophy" as "Execute the state will, serve agricultural needs and conform to the law of banking". Further, the President of the ADBC is also the Deputy Secretary of CPC ADBC Committee, and the Vice President of the ADBC is also a Member of CPC ADBC Committee. These Committees serve as a workers' union but also function to install CPC representatives in senior positions in companies in the PRC. Our review of the ADBC's public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.
229. The Bank of China is another bank offering loans to OFC producers that is influenced by the GOC. On its [website](#) it describes itself as a, "...large state-controlled commercial bank..." and that it will, "...adhere to the guidance of Xi Jinping..., completely, accurately and comprehensively implement the new development concept...". There is also a significant government presence in the bank's leadership; the Chair of the bank's [Supervisory Board](#), the functions of which include "to inspect and supervise the financial activities of the Bank" is also Deputy Secretary of the Party Committee of the Bank. Our review of the Bank of China's public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

230. The Bank of Jiangsu's [annual report for 2021](#) was examined and this provided evidence of governmental control in the bank's operations. In the report, the bank describes itself as a "Politically competent bank", stating that it acts to, "Uphold and strengthen the Party's overall leadership, endeavoring [sic] to be a leading bank and demonstrative bank serving the development of local economy and society...". Within the bank's description of its corporate governance in its annual report it states, "The Company kept the organic integration of the leadership of the Party and corporate governance constantly and implemented the requirements of Party committee's study and discussion before making major decisions on operation and management". Our review of the Bank of Jiangsu's public statements supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.
231. The China CITIC Bank, the ultimate parent of which, CITIC Group, is "a conglomerate established upon the approval of the State Council" is funded by the Ministry of Finance on behalf of the State Council. Its parent group [describes itself](#) as "a pilot for national economic reform" and "[aligns] its mission with national goals and contributing to national rejuvenation, pursues a vision of 'building an outstanding conglomerate with a lasting reputation'". Of the 11 directors listed on the bank's [website](#), three are also members of the CPC's Committee for the bank; these three individuals comprise the bank's President, Vice President and Executive Vice President. In addition, the Chair of the bank is also the CPC Party Secretary for the parent group, CITIC Group. Our review of the China CITIC Bank's public statements and the bank's leadership supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.
232. The China Construction Bank (CCB) Corporation, as a 'state-owned domestic bank' [reported](#) in 2022, that it had "carried out in-depth special work of 'study, investigation and reform'", the relevant press release stated that, "It is necessary to always bear in mind that CCB is a state-owned financial enterprise under the leadership of the Party, adhere to the political construction in the first place...and

promote high-quality development.” Additionally, in a [circular](#) issued by the CCB Committee of the CPC, it is mentioned numerous times that the functions of the CCB are aligned with the priorities of the GOC. One such example, under the heading “Improve the quality and effectiveness of major national strategies”, states the aim is to, “Strengthen financial support for advanced manufacturing industries, issue the "14th Five-Year Plan" Financial Support for the High-quality Development of the Manufacturing Industry, and that the "Notice on Enhancing The Ability to Serve the High-quality Development of the Manufacturing Industry", further clarify the development goals of the manufacturing loan business and implement exclusive supporting policies”. Our review of the CCB’s public statements supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

233. The China Development Bank (CDB) included within the Corporate Governance section of its [2021 annual report](#), a sub-section titled “Strengthening CPC leadership and corporate governance”, stating “CDB improves corporate governance in sync with the consolidation of the Party’s leadership. It fully implements the important instructions of General Secretary Xi Jinping to ‘uphold Party leadership and build modern corporate systems in state-owned enterprises’ to ensure the implementation of major policies and plans made by the CPC Central Committee...”. In the CDB website’s [“leadership”](#) section, five individuals are named, including the Chair of CDB’s board of directors, the President of CDB, the company’s Chief Inspector of Discipline Inspection and Supervision, and two Executive Vice Presidents; all are members of the CDB Party Committee. Our review of the CDB’s public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

234. The Export–Import Bank of China included statements in its [2021 annual report](#) from both the bank’s Chair and its President indicating a high level of integration between the bank’s operations and the GOC. These include, “We integrated Party leadership into corporate governance...”, “We acted on the Party’s

organizational guideline in the new era and gave priority to political standards in selecting loyal, upright, responsible and high-caliber [sic] talents”, and “In 2021, we at the Export-Import Bank of China followed the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, fully implemented the major decisions made by the CPC Central Committee and the State Council, and scaled up the Bank’s business in a steady manner.” Additionally, within the company’s [governance structure](#), it can be seen that members of the bank’s Party Committee occupy senior positions, with the Party Secretary also being the Chair of the Board of Directors, and the Deputy Secretary of the Party Committee also being the Vice Chair of the Board of Directors and the President of the bank. Our review of the Export–Import Bank of China’s public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

235. The [2021 annual report](#) of the Industrial and Commercial Bank of China (ICBC) was reviewed. In outlining its outlook for 2022, ICBC make several statements indicating that guiding policies issued by the GOC hold primacy in the bank’s decision making. ICBC notes that it will, “...uphold and strengthen the Party’s leadership, further integrate it with corporate governance, better align the procedural rules of the Party Committee and the decision-making mechanism in corporate governance...” and will, “...further promote the organic integration of the Party’s leadership and corporate governance...”. Additionally, Article 53 of the [ICBC’s articles of association](#), identifies the role of the banks Party Committee; the Committee’s role includes to, “Guarantee and supervise the implementation of the principles and policies of the Party and the state in the Bank, and implement the major strategies of the Party Central Committee and the State Council”. Our review of the ICBC’s articles of association and its public statements supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

236. The China Everbright Bank is a subsidiary of the China Everbright Group, which describes itself on its [website](#) as a “large-scale state-owned comprehensive financial holding group”. The bank’s website was reviewed and the findings demonstrated a strong role for the GOC in the bank’s activities. In a [press-release from August 2022](#), China Everbright Bank celebrated becoming the first joint-stock commercial bank to provide support financing for a major national infrastructure project in the Wusha Port Area of Chizhou Port. In this press release, China Everbright Bank promotes that “Since the beginning of this year, Everbright Bank has implemented the decision-making and deployment of the Party Central Committee and the State Council, and continued to increase the construction of major infrastructure projects” and that “Everbright Bank attaches great importance to and acts quickly to set up a ‘National Infrastructure Major Project Supporting Financing Rapid Response Team’, build a guarantee mechanism of ‘responsibility refined to people, multi-line collaborative consultation, and efficient sharing of information’, include all major projects in the ‘Special Support White List’, and formulate a set of special support measures including the establishment of special credit plans”. Such statements demonstrate a close link between the bank’s business strategy and the goals of significant committees of the GOC. Further, the [senior management](#) team of China Everbright Bank comprises six individuals, five of whom are also members of the bank’s Party Committee. Our review of the China Everbright Bank’s public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.
237. The profile of the Shenzhen Hi Tech Investment Micro Loan Co., Ltd on the [website of the Shenzhen Microfinance Industry Association](#) describes the company as having been established “by the Shenzhen Municipal Government” and, of the shareholders identified on the [parent company’s own website](#) , more than 59% of the company is owned by two state-owned investment firms, Shenzhen Investment Holding Co. Ltd. and Shenzhen Stable Development Investment Co., Ltd. Among the individuals identified on the company’s [group](#)

[leadership page](#), the Chair of the company's Board of Directors and the President of the group are also the Secretary and Deputy Secretary, respectively, of the company's CPC Party Committee., indicating that senior leadership positions within the group are held by individuals affiliated with the GOC. Additionally, the company news section of the company's website includes an [article](#) summarising and publicising local government policies in relation to subsidised financing, including loan interest. A summary of the company's [2021 annual general meeting](#) was also promoted; this indicated that the company insisted on "Policy-based positioning" and referred to "Looking back on 2021, High-tech Investment adheres to the principle of party building leading the cohesion, and firmly adheres to the general tone of the work of keeping the word stable and seeking progress while maintaining stability". Our review of the Shenzhen Hi Tech Investment Micro Loan Co's public statements and the leadership of the bank supports our finding above that banks in the PRC treat guiding policies from the GOC as mandatory directions.

238. Within the articles of association that we reviewed, all contained references to the role of Communist Party Committees in the governance of banks. Without exception, the articles of association reported that the role the Party Committees included ensuring the implementation of the policies of the state and of the CPC, controlling the selection and appointment of personnel, and adhering to the principle of CPC control over the selection of members of Boards of Directors.
239. When we reviewed the details of the leadership of the banks, a majority of members of every Board of Directors and Supervisors' Board were reported to be members of the CPC or members of Communist Party Committees. This further supports our finding from reviewing articles of association of various banks that the GOC enacts control over the appointment of the senior leadership of banks in the PRC.
240. Our review of annual reports and public statements from the banks identified numerous statements expressing adherence with GOC guidance, to the

implementation of CPC policies, to implementing the instructions of General Secretary Xi Jinping, and to strengthening the principle of CPC control over boards of directors.

241. In our review of information made publicly available by banks that have made loans to OFC producers in the PRC, we identified numerous references to adhering to the policies of the GOC and to implementing guidance; the banks do not refer to GOC policies and guidance in advisory terms. Additionally, leadership positions of the banks we examined were consistently dominated by individuals affiliated with the CPC. We consider that this supports our finding that the GOC possesses the authority to direct commercial banks in the PRC, that it does give direction to commercial banks, and that the banks accept these directions for operations.
242. Although the [Law of the People's Republic of China on Commercial Banks](#) indicates that commercial banks shall perform business operations “without interference from any unit or individual” and the [General rules on loans](#) indicating that banks “may subsidize interests on loans” only, the totality of the evidence we reviewed indicates that banks in the PRC are directed to subsidise interest on loans by the GOC. With regard to regulation 20(1)(e) of the Regulations, we consider that, in line with article 14 of the [Company Law of the People's Republic of China](#), the GOC does explicitly possess the authority to instruct commercial banks in the PRC. Further, we consider that article 34 of the [Law of the People's Republic of China on Commercial Banks](#) does explicitly issue an instruction to commercial banks in the PRC, that lending activities must be aligned with the GOC’s industrial policies. The issuing of loans and the provision of credit lines, which we consider are included within “lending activities”, constitute a financial contribution, in line with regulation 20(1)(a) and 20(3)(a) of the Regulations. Consequently, we consider that loans provided by commercial banks in China constitute a financial contribution by a foreign authority.

G5.2.3. Conclusion on financial contribution by a foreign authority

243. As the central government of the PRC, the GOC constitutes a foreign authority, within the meaning of para 3(4) of Schedule 4 to the Act.
244. We have concluded that the laws identified above demonstrate that the GOC does explicitly possess the authority to instruct commercial banks in the PRC, and that it exercises this authority to direct banks' lending activities (regulation 20(1)(e) of the Regulations). This is further supported by our review of public statements by banks identifying the universal reporting of the implementation of GOC policies, and by the articles of association we reviewed for banks all stating that Communist Party Committees take an active role in ensuring that GOC policies are implemented within banks. Further, we found that CPC-affiliated individuals and Communist Party Committee members occupied the overwhelming majority of positions on the Boards of Directors for every bank we examined, demonstrating the GOC's ability to direct the behaviour of these entities. The accumulated evidence we identified demonstrates that banks in the PRC treat guiding policies from the GOC as mandatory directions.
245. We also established, based on bank receipts and accounting system extracts, that a direct transfer of funds had occurred for the loans and credit lines reported by the SDG Group, demonstrating the presence of a financial contribution.
246. Based on our holistic assessment of the information submitted and our own research, we have concluded that financing provided by the banks examined in this investigation represents a financial contribution by a foreign authority. The GOC possess and exercises the authority to instruct commercial banks regarding their lending practices. Commercial banks provide finance to companies in the PRC based on the instructions communicated through GOC policies and guidance. Consequently, we have concluded that the financing provided to OFC producers in the PRC constitutes a financial contribution through the direct transfer of funds in the form of loans and credit lines

(regulations 20(1)(a) and 20(3)(a) of the Regulations), at the direction of a foreign authority, the GOC (regulation 20(1)(e) of the Regulations).

247. Responding to the SEF, the GOC contended that it does not adequately demonstrate the existence of a "financial contribution by a government or any public body". The GOC indicated that it considered our interpretation of the relevant laws regarding loans in the PRC inaccurate, restating the emphasis on article 4 of the [Law of the People's Republic of China on Commercial Banks](#) from its questionnaire response. The GOC also contended that the analysis conducted relied excessively on statements and actions of the banks identified above, and that the SEF did not include a holistic assessment of government intervention and the behaviour of banks and compliance with government interventions. Finally, the GOC contended that our analysis of the ADBC did not sufficiently evidence that non-market factors affect the bank's decision making.
248. We have considered the arguments advanced by the GOC. We consider that our interpretation of the relevant laws outlined above is appropriate and accurate. As noted above, we did consider the significance of article 4 of [Law of the People's Republic of China on Commercial Banks](#); however, our assessment also considered the references in the [Company Law of the People's Republic of China](#) and the [General rules on loans](#) to banks acting under the direction of the GOC. Our assessment that the effect of that these statements, including article 34 of the [Law of the People's Republic of China on Commercial Banks](#) itself, which expressly directs banks to lend in accordance with GOC policies, would override article 4, is unchanged.
249. When considering the noted statements and actions of the banks identified, we did not rely excessively on these, with these statements representing individual pieces of evidence included in our holistic assessment. Taken in context alongside the policy documents and laws directing banks to align lending activities with GOC policies, we still consider that this evidence demonstrates

that the banks relevant to the present investigation have acted in accordance with GOC directions identified.

250. Similarly, we consider that our analysis provides a holistic assessment of government intervention, and bank behaviour and compliance with government interventions. We note the relevant laws and policies that the GOC uses to expressly direct banks' lending activities and the evidence demonstrating that banks adhere to these directions. Viewing these two lines of evidence in context of one another has informed our affirmative determination of the link between the actions of the GOC and the resultant conduct of the relevant banks.
251. Finally, with regard to the ADBC, considered in context of the GOC directing banks to align lending with its policies, statements by the bank that its business philosophy is to execute the will of the state and the pronouncement that it is under the "direct leadership" of the state council clearly demonstrate the consideration of factors other than market forces in decision making. We note that GOC laws expressly direct banks regarding lending. The [Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring](#) groups industries as being encouraged, restricted, eliminated, or permitted. Regarding industries included in the "eliminated category", article 19 indicates that banks should, "cease all forms of credit support and take measures to recover loans disbursed" and states that if a bank does not comply, "the person directly responsible and the relevant leaders should be held accountable in accordance with the law". As noted above, we performed a holistic assessment of the evidence available. In the context of the directions issued to banks, we consider the statements made by the ADBC to sufficiently evidence that non-market factors feature in the bank's decision making.

G5.3 Benefit conferred

252. Having determined that the loans reported by the SDG Group for the POI are a financial contribution by a foreign authority (detailed above), we examined whether these loans conferred a benefit. In accordance with regulation 21(4), we considered whether there was a difference between the amount of interest paid on each loan and the amount that the recipient would pay for a comparable commercial loan which it could actually obtain on the market, potentially including adjustments for any fees paid to receive the loans (regulation 21(5)). For the purposes of regulation 21(11) of the Regulations, we also considered whether the prevailing market terms and conditions of banks in the PRC were an appropriate benchmark. We reviewed the submissions made by all parties when performing these assessments.
253. We noted that article 38 of the [Law of the People's Republic of China on Commercial Banks](#), refers to the prescription of upper and lower limits for loan interest rates by the People's Bank of China (PBOC). The presence of an upper limit clearly implies a form of interest rate capping by the PBOC; such a cap would reduce interest rates universally in the PRC and have the effect of fundamentally distorting the entire commercial loan market in the PRC. We consider that although article 47 indicates that commercial banks should not lower interest rates to grant loans, it specifies that this should not be performed "in violation of regulations". The presence of article 15 in the [General rules on loans](#) shows that the provision of subsidised interest rates "In accordance with the State's policies... to promote the growth of certain industries" would mean that such a reduction in interest rates would not be "in violation of regulations". Consequently, this article does not preclude the provision of loans at subsidised interest rates.
254. In a similar manner, we identified a further relevant provision in the [Law of the People's Republic of China on Regulation of and Supervision over the Banking Industry](#).

255. Similar to our observation regarding article 47 of the [Law of the People's Republic of China on Commercial Banks](#), Article 45(4) of the [Law of the People's Republic of China on Regulation of and Supervision over the Banking Industry](#) refers to changing interest rates “in violation of relevant regulations”. The presence of article 15 in the [General rules on loans](#) indicates that article 45(4) would not apply to the provision of reduce interest rates that were in line with GOC policies.
256. We also identified articles within the [Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring](#) as relevant to whether loans provided by foreign authorities confer a benefit. This Decision has an accompanying document, the [Industrial structure adjustment guidance catalogue \(2019 version\)](#). This catalogue is applicable to all types of enterprises in the PRC and contains three classifications of industry: encouraged, restricted, and eliminated; any industries not classified as belonging to one of these three categories are considered “permitted”. Articles 17, 18, and 19 provide useful evidence in assessing whether a benefit is conferred.
257. Article 17 gives further context to article 34 of the [Law of the People's Republic of China on Commercial Banks](#), which refers to commercial banks conducting their business “under the guidance of the industrial policies of the State”. Article 17 indicates that financial institutions should provide credit support for encouraged industries. Additionally, we consider that the reference to “credit support” for encouraged projects in article 17 represents an example of the subsidisation of interest to certain industries described in article 15 of the [General rules on loans](#).

G5.3.1. The wider credit market in the PRC

258. The data submitted to the TRA via completed exporter questionnaires indicates that for the majority of the total amount of loan value that was reported, the SDG

Group consistently paid below the benchmark loan prime rate (LPR), published by the [PBOC](#). The LPR is an interest rate that a commercial bank offers to its prime, or most creditworthy, clients and is used by domestic banks as a reference for the lending rates they offer to those prime clients.

259. Articles 18 and 19 of the [Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring](#) indicates that, in contrast to the credit support provided to “encouraged industries”, industries classed as “restricted” and “eliminated” by GOC policies are prevented from accessing financing from commercial banks. Article 18 indicates that this extends to financial institutions being prohibited from issuing loans to companies from restricted industries and Article 19 indicates that financial institutions should cease all credit support to eliminated industries and recover disbursed loans. The removal of groups of industries from the commercial loan market would result in the creditworthiness of such industries not being included within any domestic benchmark interest rate for the PRC, and is a significant distortion within the PRC credit market.
260. In addition to the laws noted above, we conducted independent research into the wider commercial loan market in the PRC, and into the known impacts of state-owned enterprises and state-owned banks in credit markets. Our analysis indicates that the creditworthiness of companies is not based on market-related factors only.
261. An [IMF working paper](#) reported that state-owned enterprises, such as the SDG Group, receive an uplift in credit ratings that results from the implicit guarantee of their debts by the government; the report estimated that this could result in state-owned enterprises receiving interest rates 0.5–1 percentage point lower than would be received by an independently owned company. Other relevant findings include a [working paper](#) from the US National Bureau of Economic Research that sought to quantify the credit premium associated with being a state-owned enterprise in the PRC compared with non-state ownership and

identified an increasing premium for state-owned enterprises, and a [report](#) from the World Bank that identified that relationships between state-owned enterprises and state-owned banks are not always purely commercial in nature. The issuance of credit ratings to companies in the PRC has also been identified as an area where systemic distortions exist. Domestic credit rating agencies have been identified by the [IMF](#) as issuing high credit ratings to an extremely high proportion of firms when compared against other international comparators, further suggesting that credit in the PRC is likely based, in part, on non-commercial factors.

262. Despite it not being possible to identify if the loans received by the cooperating exporters are related to specific subsidy programmes, and the GOC having highlighted areas of legislation stating that banks should act based on market forces, we consider that the combination of legislation and notices of the GOC mentioned above, including the explicit [statement](#) that banks may subsidise loan interest rates, support this conclusion.
263. Regarding credit lines, publicly available information from [Barclays Bank UK PLC](#) regarding fees associated with credit in other countries and a previous trade remedies [investigation](#) by the European Commission (the Commission) noted that, typically, credit lines have accompanying arrangement and renewal fees. This is in apparent contrast with favoured industries in the PRC, which the Commission found receive access to credit lines without such fees. We considered that credit lines would normally be expected to carry accompanying fees. We analysed the data submitted to the investigation and noted that credit lines carried no fees or charges outside of the interest associated with borrowing the funds.

G5.3.2. Conclusion on benefit conferred

264. We consider that the loans and credit lines provided to OFC producers in the PRC do confer a benefit, in the form of lower interest rates and credit line fees

compared with what would be comparable commercial borrowing that the recipient could actually obtain on the market (Regulation 21(4)). We have considered the laws and articles highlighted by the GOC; and despite the references in these laws to fair competition, our assessment of the entirety of the evidence examined demonstrates that loans and credit lines are provided to favoured, strategically important industries at reduced interest rates and credit line fees in comparison with the terms offered to other borrowers.

265. As detailed in Article 17 of the Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring, encouraged industries receive credit support, which we consider includes the subsidisation of interest rates, as outlined in the General rules on loans in the PRC. Consequently, the rates provided to encouraged industries are below those prevalent in the PRC more widely. However, in addition to this, interest rates available across the PRC are themselves distorted through the presence of a credit premium for state-owned enterprises and the high prevalence of high credit ratings in the PRC market.
266. Our assessment of the laws cited by the participating parties indicates that, although there are laws stating that banks in the PRC should conduct their business based on commercial terms agreed upon between the parties, the cumulative effect of the laws underpinning the provision of loans and credit lines by banks in the PRC stipulates that preferential terms should be provided to preferred industries.
267. Further supporting this, the reports we identified in our independent research provide evidence that state-owned companies in the PRC, such as the participating exporters in our investigation, receive a credit premium owing to an implicit guarantee of debts by the GOC, and that, worldwide, state-owned banks and state-owned enterprises are known to interact counter to normal commercial market terms.

268. Our holistic assessment of the evidence detailed above has informed our determination that, in the PRC, loans are provided at lower interest rates than would be paid on a comparable commercial loan that the recipient could obtain in a competitive commercial market. Consequently, we have concluded that these loans do confer a benefit to the recipients (Regulation 21(4)).
269. In addition to the under-pricing of loans to favoured industries, we have determined that there is a prohibition on commercial banks providing loans to industries categorized as “restricted” (as specified in Article 18 of the Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring, above). This removal of restricted industries from the commercial loan market in the PRC would result in the creditworthiness of such industries not being included within any domestic benchmark interest rate obtained for the PRC. These effects, combined with those identified in the wider PRC credit market, represent significant distortions within the commercial loan market in the PRC; as such, we consider that the prevailing market terms and conditions for commercial loans in the PRC are not an appropriate benchmark to determine the benefit conferred by preferential loans and credit lines. Consequently, in such calculations, we will use the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients, as per regulation 21(11)(b) of the Regulations. Based upon these foreign country terms and conditions, we conclude that a benefit has been conferred on the SDG Group in line with regulation 21(4) of the Regulations, with the amount of benefit conferred on the SDG Group detailed within the calculation of the subsidy amount section below.
270. Responding to the SEF, the GOC contended that the SEF relies excessively on the findings of the Commission and that we have not sufficiently demonstrated the presence of distortions in the loan market in the PRC to justify the use of an out-of-country benchmark.

271. Regarding the GOC's contention that our assessment of the benefit conferred by preferential financing is heavily reliant on previous findings alleged by the GOC, we note that only a single investigation has been cited; further, its application has been in relation to the normality of credit line fees only. Consequently, we do not consider that our determinations relied excessively on the findings from the [investigation](#) cited.
272. Regarding distortions to the loan market in the PRC, we consider that the analysis outlined above has sufficiently demonstrated the presence of systemic distortions in the commercial loan market in the PRC, that this provides justification for the use of an out-of-country benchmark in the calculation of the benefit conferred by the loans, and that a reasoned and adequate explanation for this determination has already been provided.

G5.4 Specificity

273. Following our determination that the loans (including those made by the Export–Import Bank of China) reported by the SDG Group constituted a financial contribution by a foreign authority that conferred a benefit, we sought to establish if these subsidised loans were specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with regulation 22(1) of the Regulations, including considering Regulations 22(2), 22(4), and 22(5).
274. In order to determine whether the loans were specific, we have considered article 34 of the [Law of the People's Republic of China on Commercial Banks](#), article 15 of the [General rules on loans](#), and the [Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring](#). The Applicant also cited previous trade remedies investigations performed by the EC, and independent reports, and advanced that preferential lending to enterprises from encouraged industries occurs owing to, “significant distortions resulting from the continuing pervasive role of the State in the capital markets”. The Applicant asserted that it is the summation of these laws that

indicates specificity and that, consequently, direct evidence of a loan interest rate being contingent on the nature of the business might not be expected to be readily identifiable from loan documents submitted by exporters.

275. In its questionnaire response, the GOC indicated that there are no laws related to banking that favour the producers of optical fibre cables. In support of this it referred again to articles 4, 5, and 9 from the [Law of the People's Republic of China on Commercial Banks](#), and article 3 of the [Law of the People's Republic of China on Regulation of and Supervision over the Banking Industry](#), stating that these indicated that banks in the PRC must conduct lending activities based on commercial market principles only.
276. We examined loan contracts provided by the SDG Group. No terms were identified in the contracts that explicitly state that the loans have been granted as part of a subsidy programme, or that the loans have been granted based on the SDG Group being an OFC producer. However, as recorded in the verification report for SDG, the company was unable to provide contracts for some of its outstanding loans; consequently, we were unable to verify the content of the loan agreements for all loans.

G5.4.1 Conclusion on specificity

277. Article 15 of the [General rules on loans](#) notes that subsidised interest rates may be provided to guide industrial economic development. Alongside this, article 12 of the [Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring](#) indicates that the Catalogue for the Guidance of Industrial Structure Adjustment should be used as a guiding document for the implementation of policies related to credit (among other areas). Article 17 of this Decision indicates that financial institutions should provide “credit support” to an explicit subset of industries – those classed as encouraged in line with article 13 of the Decision. The [Catalogue for the Guidance of Industrial Structure Adjustment](#) provides clear evidence that OFC

producers in the PRC are an encouraged industry. As well as enjoying credit support, the position of the OFC industry can be contrasted with access to credit among other less favoured industries in article 18 of the Decision, which clearly indicates that “restricted enterprises” are not able to access loans. We consider that banks in the PRC are directed to provide preferential financing to specific industries that are endorsed or encouraged by the GOC. Encouraged industries from the [Catalogue for the Guidance of Industrial Structure Adjustment](#) for the Guidance of Industrial Structure Adjustment specifically mentions broadband equipment, optical fibre systems and industrial internet network construction. The combination of these legal provisions and guiding documents provides clear evidence that subsidised interest rates are explicitly specific in nature, in line with Regulation 22(2)(a)(i).

278. We consider that the provision of loans to OFC producers in the PRC at subsidised interest rates that confer a benefit occurs in a specific manner. We have determined that the preferential interest rates and credit line fees are explicitly specific in terms of only being available to, and thereby favouring, certain groups of enterprises (Regulation 22(2)(a)(i)).
279. Responding to the SEF, the GOC advanced that it did not demonstrate that preferential loans were provided specifically to the OFC sector. The GOC contended that our determination that OFC producers in the PRC are an encouraged industry was based on assumption only, and that the limitations identified in accessing preferential loans are not clear or unambiguous. We consider that our conclusions are evidenced based, as outlined above, and that the limitation of loans to favoured industries is both clear and unambiguous.

G5.5 Conclusion on countervailability

280. We have identified that there is a financial contribution by a foreign authority with regard to the provision of financing in the form of loans and credit lines to OFC producers in the PRC, and that the preferential terms of these loans and credit

lines confer a benefit to the recipients. Consequently, we have concluded that these loans and credit lines are a subsidy (paragraph 3(3)) of Schedule 4 to the Act). We have found these subsidies to be specific. This financing supports the daily business operations of OFC producers and so is granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, subsidised loans and credit lines constitute countervailable subsidies (paragraph 3(2) of Schedule 4 to the Act).

G5.6 Calculation of subsidy amount

281. In line with regulation 23(1), we calculated the amount of subsidy attributable to the goods. To do so, we determined the amount of benefit conferred (regulation 24(1)); the amount of the countervailable subsidy that is attributable to the POI (regulation 25(1)), and the goods the subsidy is attributable to during the POI (regulation 26(1)).
282. Responding to the SEF, the SDG Group commented that some of the loans it had reported receiving during the POI had not been used by the company and had been transferred to related entities. The SDG Group stated that, as a result, it did not derive any benefit from these loans and that they should be removed from the subsidy amount. We considered this reasoning but concluded that, as the named recipient of the relevant loan agreements and contracts and, consequently, the party liable for the interest payments, the SDG Group had received the benefit from the preferential interest rates. The SDG Group was obligated to make the interest payments regardless of whether or not it was reimbursed for these payments by a related entity, and so received the benefit from the preferential interest rates.

G5.6.1. Benchmark country

283. As noted in our conclusions regarding the benefit conferred by preferential financing, encouraged industries receive credit terms that are below those

available within a market that is itself distorted through the presence of credit premiums for state-owned enterprises, a high prevalence of high credit ratings, and the removal of restricted and eliminated industries from the wider credit market. Consequently, we consider the prevailing market terms and conditions for commercial loans in the PRC to be inappropriate for use as a benchmark. Consequently, we have used the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients, in line with regulation 21(11)(b).

284. The Republic of Türkiye (Türkiye) was selected as a suitable benchmark country. Both Türkiye and PRC are classified as upper-middle income countries by the World Bank and are within the same [World Bank lending group](#). Additionally, considerable similarities were identified across a number of [World Bank financial indicators](#) related to banking systems when PRC and Türkiye were compared across a 5-year period running until the end of the POI. Furthermore, both Türkiye and PRC have active OFC manufacturing industries. In [another investigation](#), we did not identify significant distortions in commercial financing in Türkiye and an in-country benchmark was used to calculate subsidy benefit within that investigation. In line with those findings, we considered a country-wide benchmark interest rate from Türkiye appropriate for use as a benchmark.
285. Interest rate data was retrieved from the [Central Bank of Türkiye](#) (dataset TP.KTF17). All data points for commercial loan rates in domestic currency for the POI were included in calculating an average benchmark interest rate for the POI. Using this data, the benchmark loan interest rate was calculated at 20.78%.
286. For credit line fees, we identified an independent bank in the benchmark country with [available data for review](#). The benchmarks were obtained from the [commercial product and service fees](#) reported by the bank identified. Our review of the commercial loan fees cited identified benchmark credit allocation and credit disbursement fees of 0.25% and 1.1%, respectively.

287. Having considered the lending rates and fees in both the PRC market and the Turkish market we consider that the interest rates received, and credit line fees incurred by the SDG Group represent the provision of a service (financing) at a reduced cost (lower interest rates and reduced fees) than what would normally be paid. Our review of the financing received by the SDG Group and the wider area of commercial financing in the PRC indicates that these terms do not reflect normal market terms and conditions, and that we consider them to be a benefit provided by a government authority.
288. Responding to the SEF, the GOC contended that selection of Türkiye as a suitable benchmark country is incorrect, citing the European Neighbourhood Policy and Enlargement Negotiations [Türkiye Report 2022](#) as evidence of distortions in the commercial loan market in Türkiye.
289. We consider, for the reasons outlined above, that Türkiye is an appropriate benchmark country. Further, we note the report also states that, “The banking sector remained largely stable and capital adequacy above the regulatory requirements”; further, this report does not conclude that there are widespread distortions in the financial markets in Türkiye.

G5.6.2. Amount of subsidy

290. For loans received by the SDG Group, the amount of subsidy attributable to the goods concerned was calculated in line with regulation 23(1) of the Regulations. Our calculation methods differed between loans depending on the structure of the loan repayments, reflecting whether the loan principal was repaid throughout the term of the loan or in full at the end of the loan term.
291. The total amount of countervailable subsidy for each loan was calculated in accordance with regulation 23(2)(a) and 24(2)(a) of the Regulations. The benefit was calculated as the difference between the loan interest accrued on the preferential loans and the amount that would accrue for a comparable commercial loan. We did not identify any fees or costs necessarily incurred to

obtain the loans reported; consequently, no deductions were made from the amount calculated, in line with Regulation 24(3).

292. We calculated the amount of subsidy based on the loan interest that accrued or, for the purposes of a credit line, the fees that would have been incurred during the POI, in accordance with regulations 23(2)(b) and 25(1) of the Regulations. For loans, we examined the length of each loan and the final repayment dates and calculated the benchmark interest that would have accrued based on the number of days of the loan period that were within the POI, accounting for any reductions in outstanding loan balance during the POI. We then calculated the interest accrual from the actual interest rate during the POI and subtracted this from the benchmark interest accrual to calculate the subsidy amount.
293. Responding to the SEF, the GOC and the SDG Group contended that the benchmark used to calculate the benefit conferred required adjustments to reflect the terms of the loans examined and changing conditions in the PRC during the POI.
294. We considered the comments of the SDG Group and the GOC but have not made adjustments to the benchmark interest rate used to calculate the benefit conferred by the preferential loans. The benchmark used to calculate the benefit is a weighted average interest rate calculated from the loans extended by the banks reporting to the Central Bank of Türkiye, without stratification based on loan term. Consequently, loans of all term lengths are included in the benchmark, and the interest rate has been weighted by the total value of the loan, accounting for the effects that loan principals may have on the interest rates for individual loans. As such, we consider that the benchmark is appropriate for the purpose of calculating the benefit conferred by preferential loans without further adjustment. Regarding conditions in the PRC during the POI, we have already determined that the prevailing market terms and conditions for commercial loans in the PRC are not an appropriate benchmark, creating challenges in making adjustments based on an already distorted credit

market. However, notwithstanding these distortions, we note that LPR interest rates in the PRC were extremely stable across the POI, remaining unchanged for the 5-year LPR and decreasing by only 0.05% in the final month of the POI for the 1-year LPR. Consequently, we did not make further adjustments to the benchmark.

295. For credit line fees, we calculated the benchmark allocation fee for each of the credit lines drawn during the POI by multiplying the benchmark allocation fee by the drawdown amount(s). We then calculated the benchmark disbursement fee for each of the credit lines drawn during the POI by multiplying the benchmark disbursement fee by the drawdown amount(s). The difference between these benchmark fees and those incurred by the SDG Group was considered the amount of subsidy.
296. We also believe that standard corporate bonds and convertible corporate bonds are potentially issued by OFC producers in the PRC below a commercial rate of interest. However, we had insufficient data to conclude definitively and therefore this area has not contributed to the overall subsidy amount.

G5.6.3. Attributable goods

297. We determined which goods the countervailable subsidy could be allocated to during the POI according to regulations 23(2)(c) and 26 of the Regulations. The SDG Group did not attribute any of the loans to particular goods and our review of the supporting documentation submitted did not identify any associations between individual loans and any specific goods, or to the destination of goods (domestic sales or exports). Consequently, we considered that the benefit of the subsidy was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.
298. The subsidy amount attributable to preferential financing was calculated for the cooperating exporters, as per regulation 23(3) of the Regulations, and is

expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4) of the Regulations, in table 7 below.

Table 7: Subsidy amount attributable to loans of sampled exporters.

Subsidy type	Subsidy amount
Loans	9.0646%
Credit line fees	0.1173%
Total	9.1819%

Source: Questionnaire responses

G6. Land Use Rights

299. As stated in [Section G2](#), the Applicant alleged that OFC producers in the PRC receive subsidies through provision of land use rights for LTAR.

300. We considered the countervailability of these alleged subsidies through our assessment of the information provided by the various parties involved in the investigation and our own independent research.

G6.1. Relevant laws, regulations, and guidelines

301. Submissions from all parties were reviewed to identify laws, regulations, or administrative guidelines that were relevant to our assessment of whether land use rights were provided at LTAR and should be considered a countervailable subsidy. We identified the following relevant sources, which we have summarised in the table below, showing the source and applicable articles relevant to our investigation, which can be viewed through the various links.

Table 8: Laws, regulations and guidelines applicable to land use rights

Relevant Law/Regulation/Guidelines	Applicable Article
Circular of the State Council on Issues related to Strengthening Land Regulation (Guo Fa [2006] No. 31) and Decision of the State Council on Deepening Reform and Strict Land Management (Guo Fa [2004] No. 28)	
Decision of the State Council on Promulgating and Implementing the “Interim Provisions on Promoting Industrial Restructuring”	Article 7 Article 12 Article 18
Decree of the Ministry of Land and Resources of the PRC Number 39	Article 2 Article 5 Article 10
Industrial structure adjustment guidance catalogue (2019 version)	
Land Administration Law of the PRC	Article 2 Article 3
Notice of the People's Government of Shenzhen Municipality on the issuance of the Administrative Measures for the Supply of Industrial and Other Industrial Land	Article 2 Article 4 Article 5 Article 6 Article 7 Article 20 Article 23
Notice of the General Office of the People's Government of Shenzhen Municipality on Printing and Distributing the Rules for Calculating Land Prices in Shenzhen	Section 1.3 Section 1.6 Section 1.7
Notice of Shenzhen Municipal Planning and Land Resources Commission on the issuance of the Rules for Estimating Parcel Land Prices in Shenzhen (for Trial Implementation)	Article 4 Article 5

Parcel Land Prices in Shenzhen (for Trial Implementation)	
Policy interpretation of the Measures for the Administration of Industrial and Other Industrial Land Supply in Shenzhen	
Policy interpretation of the Shenzhen Land Price Measurement Rules	
Regulations on the Administration of Land Prices in Guangdong Province	Article 10
Regulation on the Implementation of the Land Administration Law of the PRC (2021 Revision)	Article 17

G6.2. Financial Contribution by a Foreign Authority

302. Article 2 of the [Land Administration Law of the People's Republic of China](#) indicates that all land in the PRC is owned by the state. [Article 2 of the Decree of the Ministry of Land and Resources of the People's Republic of China Number 39](#) (Decree number 39) does not distinguish between land use rights purchased from the state directly and those transferred between parties, stating that the auction and listing rules set out in the Decree apply to “the right to use the state-owned construction land”. With all land in the PRC being owned by the state, such rules would apply to all land use right transfers. Further, Article 2 indicates that the process of issuing bidding announcements, inviting bids, and determining the holder of land use rights following bidding is conducted by “...competent administrative departments for land and resources of the people's governments of cities and counties”. Article 10 of Decree number 39 demonstrates that this extends to the determination of bid starting prices and reserve prices.
303. As detailed in Article 2 of Decree number 39, the entity providing land use rights is the relevant department of a local government body. As a government body, these constitute foreign authorities, within the meaning of para 3(4) of Schedule 4 to the Act.

304. As goods other than general infrastructure, we consider that the transfer of land use rights within the PRC constitutes a financial contribution in line with regulation 20(1)(c) of the Regulations.
305. Consequently, the provision of land use rights in the PRC constitutes a financial contribution by a foreign authority.
306. Responding to the SEF, the GOC contended that it does not adequately demonstrate the existence of a financial contribution by a government or public body and that the bidding process involved in the transfer of land use rights results in market forces, and not the GOC, determining the allocation of such rights. However, from reviewing a land right use [auction listing](#) published by the Shenzhen Municipal Bureau of Planning and Natural Resources, we note that the listing includes restrictions not only on the general use of the land (such as “General industrial land”), but also on the type of industry that can bid for a parcel of land; in the listing referenced, this is termed the “Access industry category”. This is an explicit restriction on the industry that can purchase the rights to use a particular parcel of land. This demonstrates that, contrary to the GOC’s assertion that market considerations dictate land allocation, the relevant municipal government bodies (foreign authorities, within the meaning of para 3(4) of Schedule 4 to the Act) determine the land use for individual land parcels.

G6.3. Conferring a benefit

307. Having determined that the provision of land reported by OFC producers in the PRC are financial contributions by foreign authorities (detailed above), we examined whether the terms of such transfers confer a benefit. In accordance with regulation 21(8) of the Regulations, we considered whether there was a difference between the amount paid for land use rights and the amount that the recipient would pay for comparable land use rights on the market. We reviewed the submissions made by all parties when performing this assessment.

308. Article 10 of Decree number 39 indicates that land valuations across the PRC are affected by government industrial policies. Additionally, the [Notice of the General Office of the People's Government of Shenzhen Municipality on Printing and Distributing the Rules for Calculating Land Prices in Shenzhen](#) and its preceding trial implementation notice make reference to a 'correction coefficient' which is used for the purpose of calculating reserve prices for groups of industries. The correction coefficient is reported as 0.5. Purchasers of land priced in this manner would derive significant benefit through land rights purchased at LTAR compared with those industries not subject to such measures. The [policy interpretation](#) of the Measures for the Administration of Industrial Land Supply in Shenzhen which includes the [Notice of the People's Government of Shenzhen Municipality on the issuance of the Administrative Measures for the Supply of Industrial and Other Industrial Land](#) indicates that its purpose is to reduce the cost of industrial land, and that the scope of application of the land price industry development-oriented correction coefficient is consistent with national standards. This indicates that, although this Notice applies to Shenzhen directly, the inclusion of a "correction factor", or other mechanisms intended to reduce land prices for some industries when determining land parcel prices, is a process applied at a national level across the PRC.
309. We have determined that the financial contribution by a foreign authority (in the form of the provision of land use rights) confers a benefit in line with regulation 21(1) of the Regulations. This occurs through the provision of land use rights at LTAR in line with regulation 21(8) of the Regulations.
310. Consequently, as a result of all land within the PRC being owned by the GOC and any land use rights being strictly controlled by government departments, we have concluded that when calculating the amount of benefit conferred, it is appropriate to use the terms and conditions prevailing in the market of a third country (in line with regulation 21(11)(b)) since benchmarks from the PRC would not reflect market conditions. Based upon these foreign country terms and

conditions, we conclude that a benefit has been received by the SDG Group in line with regulation 21(4) of the Regulations, with the amount of benefit conferred on the SDG Group detailed within the calculation of the subsidy amount section below.

311. Responding to the SEF, the GOC challenged the conclusions of our analysis regarding whether a benefit is conferred by this subsidy programme. The GOC contended that the SEF states that Article 10 of the Decree of the Ministry of Land and Resources of the PRC Number 39 lowers the prices of land use rights in the PRC, asserting that the opposite is true. However, at no point in the analysis above do we make such an assertion. We clearly report only that this article demonstrates that the GOC policies affect bid and reserve prices; indeed, the article in question states, “The competent administrative departments for land and resources of the people's governments of cities and counties shall, on the basis of the results of land valuation and the government's industrial policies, comprehensively determine the bid or reserve price.” Our determination that the policies of the GOC lower industrial land prices is based on the holistic assessment of multiple pieces of evidence, as outlined above.
312. Further, the GOC contended that the evidence identified are only guiding documents and so are not appropriate evidence for the determinations made. However, we note that the language used throughout these sources does not support such a statement. Within the Measures for the Administration of Industrial and Other Industrial Land Supply in Shenzhen, which were cited by the GOC in its comments on the SEF, Article 2 states “These Measures shall apply to the supply of industrial and other industrial land by means of bidding, auction or listing within the administrative jurisdiction of Shenzhen”. We consider that the language used in these measures, which are published by the Shenzhen Municipal People's Government, demonstrates that, rather than being suggestions for the transfer of land use rights, they determine how the rights to land use are transferred to parties.

313. Finally, the GOC contended that the analysis was not suitably evidenced and that we have not sufficiently demonstrated the presence of distortions in the land use rights market in the PRC to justify the use of an out-of-country benchmark. We consider that the analysis outlined above has sufficiently demonstrated the presence of systemic distortions in the land use rights market in the PRC, that this provides justification for the use of an out-of-country benchmark in the calculation of the benefit conferred by these subsidies, and that a reasoned and adequate explanation for this determination has already been provided.

G6.4. Specificity

314. Following our determination that the provision of land use rights to OFC producers in the PRC constitutes a financial contribution by a foreign authority that confers a benefit, we sought to establish if the subsidised transfer of land use rights were specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with Regulation 22(1), including considering Regulations 22(2), 22(4), and 22(5).

315. We have concluded that, based on the GOC's industrial policies, certain groups of industries are prevented from participating in the land use rights market at all, whereas other favoured industrial groups, including OFC producers, have auction reserve prices adjusted downwards. The downward adjustment of prices occurs through the restriction of industries that can participate in auctions for land parcels. This can be seen in the conditions set out in [land use rights auction listings](#); in addition to the listing including a land use type, an "Access industry category" is included. By limiting the companies that can participate in auctions for the land use rights for particular parcels of land, and reducing the reserve prices for preferred industries, these industries are able to purchase land use rights at lower prices in comparison with industries that are not subject to these preferential policies. The [Decision of the State Council on Promulgating and Implementing the "Interim Provisions on Promoting Industrial Restructuring"](#) and the accompanying [Industrial structure adjustment guidance catalogue \(2019](#)

[version](#)) indicates that the catalogue should be used to guide policy development in the administration of the sale of land use rights.

316. Regarding Shenzhen, which has specific significance to our cooperating exporters in that their land use rights are held there, we identified that land use prices were associated with the type of industry using the land. We noted in Article 23 of the [Notice of the People's Government of Shenzhen Municipality on the issuance of the Administrative Measures for the Supply of Industrial and Other Industrial Land](#), a “correction coefficient” is reported. The policies appear to be applied across the PRC and the [Regulations on the Administration of Land Prices in Guangdong Province](#) support this. Article 10 of these regulations clearly state that “key industries” and projects supported by the state may be subject to preferential prices for land use.
317. In conclusion, we have identified that the opportunity to participate in auctions for specific land parcels is restricted based on industry, that the reduced reserve prices for such auctions are also dependent on industry type, and that the beneficiaries of such policies include high-technology industries. We considered that OFC producers’ status as HNTEs indicated that they were included in the businesses eligible to participate in auctions with reduced land prices.
318. Based on our analysis, we have determined that the provision of land use rights at LTAR is specific, in line with paragraph 3 of Schedule 4 to the Act and regulation 22(1) of the Regulations. We have established that the subsidy is explicitly limited to, and favours, certain groups of enterprises, including OFC producers in line with regulation 22(2)(a)(i) of the Regulations.
319. Additionally, in line with paragraph 3(2) of Schedule 4 to the Act, the status of OFC producers as HNTEs and their ability to participate in auctions with reduced land prices means that the subsidy has been granted indirectly for the manufacture of the goods concerned.

320. Responding to the SEF, the GOC contended that the analysis of specificity does not include reasoned and adequate explanation for the findings. Specifically, that the documents referred to do not refer to OFC producers directly, that no evidence is cited to support the finding that clear restrictions are placed on participating in industrial land auctions to the benefit of OFC producers, that limiting participation in auctions would not result in the provision of land use rights at LTAR, and that OFC producers are not a key industry or an encouraged industry.
321. We consider that we have clearly outlined the evidence base regarding these points. OFC producers are not named directly; however, we have determined that OFC producers are included in the industries that are able to access auctions where reserve prices are reduced in comparison with less-favoured industries. In the auction listing identified above, the inclusion of an industry type category for each land parcel indicates clearly that participation in these auctions is restricted. Restricting participation in auctions and reducing the reserve prices for such auctions (as determined above for the benefit conferred), will result in auctions with reduced competitive pressures. The intention of such policies is also evidenced clearly; as noted in the [policy interpretation](#) of the Measures for the Administration of Industrial Land Supply in Shenzhen, this process reduces land prices for “strategic emerging industries”. Finally, the combination of references to high-end equipment manufacturing in the policy interpretation, the inclusion of OFC equipment in the industrial restricting catalogue, and the HNTE status of OFC producers, indicates that it is an encouraged key industry in the PRC.

G6.5. Conclusion on countervailability

322. We reviewed the documents submitted by the SDG Group, the references cited by interested parties and contributors, and the legal and policy documents we identified independently. From these, we concluded that OFC producers in the

PRC obtain land use rights at LTAR, and that this constitutes a countervailable subsidy (paragraph 3(2) of Schedule 4 to the Act).

323. In demonstrating that the transfer of land use rights constitutes a financial contribution by a foreign authority (as in regulation 20(1)(c) and regulation 20(1)(e), detailed above), we established that all land in the PRC is owned by the state, and that the right to use that land is purchased from foreign authorities or transferred between parties according to the same process, as determined by the GOC.
324. We have determined that a benefit is conferred through the transfer of land use rights for LTAR (regulation 21(8)). To do so, we established that the GOC mandates that its industrial policies are factored into land use prices in addition to land valuations. Additionally, we have demonstrated that despite under-pricing of land use rights by local authorities to attract investment being illegal, enforcement in this area is inconsistent. Further, we have demonstrated that industrial land use prices in Shenzhen are intentionally under-priced, using a specific “correction coefficient”, to reduce the costs of industrial land, and that this approach is consistent with state-wide policies across the PRC.
325. Finally, we have established that the land use subsidies received by OFC producers in the PRC are explicitly specific in terms of access being limited to certain enterprises (regulation 22(2)(a)(i)). We identified that the opportunity to participate in auctions for specific land parcels is restricted based on industry, that the reduced reserve prices for such auctions are also dependent on industry type, and that the beneficiaries of such policies include high-technology industries. We considered that OFC producers’ status as HNTEs indicated that they were included in the businesses eligible to participate in auctions with reduced land prices, meaning that the countervailable subsidy has been granted indirectly for the manufacture of the goods concerned as required by paragraph 3(2) of Schedule 4 to the Act.

G6.6. Calculation of the subsidy amount

326. In line with regulation 23(1), we calculated the amount of subsidy attributable to goods. To do so, we determined the amount of benefit conferred (regulation 24(1)), amount of the countervailable subsidy that is attributable to the POI (regulation 25(1)), and the goods the subsidy is attributable to during the POI (regulation 26(1)).

G6.6.1 Benchmark country

327. The evidence reviewed in this area indicates that the provision of land use rights across the PRC is sufficiently distorted that the prevailing market terms and conditions for the acquisition of land use rights in the PRC cannot be used as an appropriate benchmark for calculating the benefit conferred through this form of subsidy, as per regulation 21(11) of the Regulations and it is appropriate to use the terms and conditions prevailing in the market of a third country. We obtained details of land lease costs from a participating OFC producer in Türkiye in order to make a comparison.

328. Responding to the SEF, the GOC contended that Türkiye is not sufficiently comparable with the PRC to be used as a benchmark country for land use rights, citing economic and land market differences between the countries. As outlined above, we consider that our assessment of Türkiye as a potential benchmark country demonstrated that it is an appropriate benchmark for the purpose of this investigation.

G6.6.2 Subsidy amount

329. For the SDG Group's land use rights, the amount of subsidy attributable to the goods concerned was calculated in line with regulation 23(1) of the Regulations.

330. The total amount of countervailable subsidy for each land use right was calculated in accordance with regulation 23(2)(a) and 24(1) of the Regulations.

To calculate the benefit, we compared the annual amortization of an SDG Group land use right for the POI that was purchased contemporaneously to the land lease costs from a participating OFC producer in Türkiye. This produced an amount of benefit per square metre of land for the POI. We then used the benefit per square metre of land to calculate the total benefit conferred to the SDG Group from the total area of its land use rights. No deductions were made from the amount calculated, in line with Regulation 24(3). We calculated the amount of subsidy using a benchmark figure of the benefit amount per metre squared for the POI, in accordance with regulations 23(2)(b) and 25(1) of the Regulations.

331. Responding to the SEF, the GOC contended that the benchmark used had not been selected and adjusted to suitably “approximate” land use right prices in the PRC. However, as noted above, where a benchmark value was obtained from OFC producers in Türkiye, this was compared only against a land use right from the same period. This comparison was then used to calculate an amount of benefit per square metre of land for the POI. This figure was then used to determine the benefit received for each land use right based on the area of the land parcel. Consequently, we consider that the adjustment in the benefit calculation to only include a comparison between contemporary land use right and rent costs ensured that the benefit calculation performed was appropriate.

G6.6.3 Attributable goods

332. We determined which goods the countervailable subsidy could be allocated to during the POI according to regulations 23(2)(c) and 26 of the Regulations. We considered that the benefit of the subsidy was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.
333. The subsidy amount attributable to land use rights was calculated for the cooperating exporters, as per regulation 23(3) of the Regulations, and is expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4) of the Regulations, in table 9 below.

Table 9: Subsidy amount attributable to land use rights.

Organisation	Subsidy type	Subsidy amount
SDG Group	Land use rights	0.6726%

Source: Questionnaire responses

G7. Raw Materials and Inputs

334. We have investigated the allegation made by the Applicant that producers of OFCs in the PRC benefit from the provision of raw materials and inputs at LTAR, specifically:

- Preforms used to manufacture optical fibres
- Polymers used to manufacture polyethylene, one of the main raw materials in the production of OFCs
- Steel products used to reinforce or shield certain types of OFCs

335. We have established that OFC producers in the PRC are the recipients of other government subsidies, but we have been unable to find sufficient evidence that companies supplying the raw materials to produce OFCs (whether state owned or private bodies) act under the direction of the GOC.

336. Based on a review of the evidence submitted to this investigation, we have not been able to determine that the provision of raw materials at LTAR to the OFC industry in the PRC constitutes a countervailable subsidy, within the meaning of paragraph 3 of Schedule 4 to the Act.

337. Specifically with regard to the allegation that optical fibres, preforms, polymer, polyethylene or steel products are being supplied to OFC producers in the PRC at LTAR, we consider that the evidence presented is insufficient to determine that either a foreign authority is providing goods or services other than general infrastructure to OFC producers (regulation 20(1)(c) of the Regulations), or that

a foreign authority is directing private bodies to do so (regulation 20(1)(e) of the Regulations).

338. As well as a direct financial contribution to OFC producers, we considered financial contributions from a foreign authority, indirectly received via pass-through from subsidies received by the suppliers of raw materials as per regulation 21(2) of the Regulations. Although we observed a difference between the price of optical fibre purchased by the SDG Group and a comparative benchmark, we could not attribute the price difference to pass-through. Thus, we were unable to find evidence to suggest the OFC producers received any form of pass-through subsidy.

G8. Energy

339. We have investigated whether producers of OFCs in the PRC receive subsidies through purchasing energy at LTAR in the form of discounts on energy tariffs for encouraged industries.

G8.1. Relevant laws, regulations, and guidelines

Table 10: Laws, regulations, and guidelines applicable to energy

Relevant Law/Regulation/Guidelines	Applicable Article
Company Law of the People's Republic of China; Chapter 1 [2019]	Chapter I, Article 5
Several Opinions of the CPC Central Committee and the State Council on Further Deepening the Reform of the Electric Power System (Full Text) [2015]	Article 1, Paragraph 9
Notice of the National Development and Reform Commission on the comprehensive liberalization of the power generation and consumption plan of operational power users [2019]	Article 1, Paragraph 3

The National Development and Reform Commission and the National Energy Administration on active promotion Electricity Market-oriented Trading Notice on further improving the trading mechanism. Development and Reform Operation [2018] No. 1027	Article 1(1) Article 3(2) Article 6(2) Article 8(1)
Notice of the Development and Reform Commission of Guangdong Province on further deepening the reform of electricity prices in our province [2021]	Article 4
Cancel the price of electricity in the industrial and commercial catalogue 29 provinces and cities have successively implemented electricity price reform (with the latest electricity price list) [2021]	Article 2
Notice of the National Development and Reform Commission on Phased Reduction of Enterprises' Electricity Costs to Support Enterprises' Resumption of Work and Production (Fagai Price [2020] No. 258)	Article 1 Article 2
Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring [2005]	Article 12 Article 17 Article 19
Opinions on Promoting the Construction of Optical Fiber Broadband Network. Gongxinbu Liantong [2010] No. 105	Article 4
Encouraged industries from the National Development and Reform Commission revised and issued the Catalogue for the Guidance of Industrial Structure Adjustment (2019 version)	Article 7 Article 13 Article 14 Article 47

G8.2. Financial contribution by a foreign authority

340. We identified several laws and legal rules relating to the provision of energy, in particular electricity, in the PRC that we considered relevant to examining

whether energy provision to the OFC industry, allegedly at LTAR, constitutes a financial contribution by a foreign authority. In particular, we noted that [article 14 of the Company Law of the PRC; Chapter 1 \[2019\]](#) indicates that all companies in the PRC “must... accept supervision of the government and the public”. We have also noted in [Several Opinions of the CPC Central Committee and the State Council on Further Deepening the Reform of the Electric Power System \(Full Text\) \[2015\]](#) that electricity price management was dominated by government pricing as recently as 2015 and in the [Notice of the National Development and Reform Commission on the comprehensive liberalization of the power generation and consumption plan of operational power users \[2019\]](#) it states that certain energy users must “strictly implement” electricity pricing policy. These sources indicate that the GOC still significantly influences the electricity pricing policy of energy providers in the PRC.

341. The GOC has stated within its submission that there has been a liberalisation programme with the stated objective of introducing market forces to the energy industry; however, within section one of the notice [Several Opinions of the CPC Central Committee and the State Council on Further Deepening the Reform of the Electric Power System \(Full Text\) \[2015\]](#) it is stated that when liberalisation is attempted, energy prices remain dominated by the GOC, despite the best efforts. More recently in 2018, section one of [The National Development and Reform Commission and the National Energy Administration on active promotion Electricity Market-oriented Trading Notice on further improving the trading mechanism. Development and Reform Operation \[2018\] No. 1027](#), shows it is evident that market reform continues to struggle as the GOC continued to release notices about accelerating and expanding the market liberalisation of the energy market.
342. Again, in [the Notice of the Development and Reform Commission of Guangdong Province on further deepening the reform of electricity prices in our province \[2021\]](#) and the notice [Cancel the price of electricity in the industrial and commercial catalogue 29 provinces and cities have successively implemented](#)

[electricity price reform \(with the latest electricity price list\) \[2021\]](#), both evidence the GOC role in electricity pricing structures.

343. The regulations and notices affecting the energy provision industry within the PRC and our review of available information on the provision of energy indicates an ongoing level of integration between energy company decision making and the policies and guiding plans of the GOC.
344. Multiple regulations grant the GOC the ability to influence price lists for energy based on state-led policies. Although we have limited information on the implementation of state regulations and policies by individual energy providers, the absence of such information regarding the implementation of energy policies as directed by GOC regulations does not dismiss the implications of the evidence we have identified that direct the behaviour of the energy market in the PRC, as described in regulation 20(1)(e) of the Regulations.
345. We have determined that the GOC directly and indirectly influences the activity of energy providers in the PRC, which results in the provision of goods at LTAR. As the central government of the PRC, we consider the GOC to be a foreign authority, as defined in para 3(4) of Schedule 4 to the Act. We have therefore concluded that any energy provided to OFC producers in the PRC at LTAR, represent a financial contribution by a foreign authority, as per regulation 20(1)(c) of the Regulations.

G8.3. Conferring a benefit

346. Having determined that the provision of energy to OFC producers constitutes a financial contribution by a foreign authority (detailed above) in the form of the provision of a service other than general infrastructure, we examined whether energy provision conferred a benefit, in line with regulations 21(1) and 21(8) of the Regulations. For the purposes of regulation 21(11) of the Regulations, we also considered whether the prevailing market terms and conditions of energy

provision in the PRC were an appropriate benchmark. We reviewed the submissions made by all parties when performing these assessments.

347. Several of the notices highlighted above also provided evidence of energy being provided to industries at LTAR. The [Notice of the National Development and Reform Commission on Reducing Electricity Costs of Enterprises in Stages to Support the Resumption of Work and Production of Enterprises \(Fa Gai Price \[2020\] No. 258\)](#) was identified as providing such evidence. This notice, issued by the National Development and Reform Commission of the PRC explicitly outlines several measures to reduce electricity prices. Although the price-control measures included in this notice expired immediately prior to the beginning of the POI, it does indicate that the GOC supervises and directly implements changes to the energy market and has granted beneficial pricing to consumers compared with those that would have otherwise been present in the energy market in the PRC.
348. Further evidence of the provision of energy conferring a benefit comes from [Development and Reform Operation \[2018\] No. 1027](#). In this notice, published by The National Development and Reform Commission of the PRC and the National Energy Administration of the PRC, explicit reference is made to subsidisation within the energy market in the PRC. This notice indicates that its function is to increase market-orientated pricing in the PRC. One of the articles included indicates the benefits associated with being able to access market-orientated electricity trading, including explicitly referencing cross-subsidisation, the process of charging one group of consumers a higher amount to reduce the prices paid by another. The subsequent articles in the notice indicate that participating in the market-driven pricing is beneficial to eligible companies, with referencing to support for high-end manufacturing and allowing “priority users” to enter the market. These references are indicative that the cross-subsidisation that occurs in the energy market is beneficial to companies that are permitted access to the market-orientated pricing, with users referred to as “high-value added emerging industries” and “priority users”. Although this notice was

published prior to the POI, we consider that, in the absence of any specific expiry notice, that such notices would have remained in effect during the POI.

349. We consider that the provision of energy to OFC producers in the PRC could be provided at LTAR (regulation 21(8) of the Regulations), thereby conferring a benefit to producers of OFC. However, we have examined this further in G8.2.4 Benchmarking.
350. In addition to the under-pricing of energy, we have also determined that significant distortions in the energy market in the PRC. Multiple industries are placed at a significant disadvantage regarding the terms under which they access energy in the PRC. Article 19 of the [Decision of the State Council on Promulgating and Implementing the "Interim Provisions on Promoting Industrial Restructuring" \(Guo Fa \[2005\] No. 40\)](#) indicates that, for industries classified as “eliminated”, “the national price authority may increase the price of electricity”. Further, for these industries, “Power supply enterprises shall stop supplying electricity according to law”. Additionally, the [Notice of the Development and Reform Commission of Guangdong Province on further deepening the reform of electricity prices \(Yue Fa Gai Price \[2021\] No. 402\)](#) provides evidence that market reforms to the energy market in the PRC are incomplete. Article 4 of this notice is entitled “promote industrial and commercial users to enter the market”, and indicates that, “Users who have not yet entered the market, users of 10 kV and above should all enter, and other users should also enter as soon as possible”. These references to increasing the number of energy users participating in market-based electricity purchases demonstrate that a significant number of users were involved in non-market electricity pricing; this notice was published in October 2021, indicating that this was the case in Guangdong (where the SDG Group is located) during the POI.
351. These effects represent significant distortions within the electricity market in the PRC; as such, we consider that the prevailing market terms and conditions for electricity in the PRC are not an appropriate benchmark to determine the benefit

conferred by the provision of energy at LTAR. Consequently, in such calculations, we will use the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients, as per regulation 21(11)(b) of the Regulations.

352. Although the financial contribution of the provision of energy to OFC producers in the PRC is capable of conferring a benefit on a recipient (regulation 21(8) of the Regulations), no benefit has been found in the case of the SDG Group in the POI and this is considered further below in [G8.6 Benchmarking](#). Owing to this capability, we will discuss specificity for completeness of our analysis in this area.

G8.4. Specificity

353. Following our determination that the purchase of electricity at LTAR in the PRC constituted a financial contribution by a foreign authority that conferred a benefit, we sought to establish if such purchases were specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with Regulation 22(1) of the Regulations, including considering Regulations 22(2), 22(4), and 22(5).
354. The [Notice of the National Development and Reform Commission on Phased Reduction of Enterprises' Electricity Costs to Support Enterprises' Resumption of Work and Production \(Fagai Price \[2020\] No. 258\)](#) and its extension notice indicate that the GOC supervises and directly implements changes to the energy market and has granted beneficial pricing to planned industries several times.
355. The [Notice of the National Development and Reform Commission \[2019\]](#); [the Decision of the State Council on promulgating and implementing the Interim Provisions on Promoting Industrial Restructuring \[2005\]](#), and the [Notice of the Development and Reform Commission of Guangdong Province \[2021\]](#), all state negative consequences for industries that are being phased out or are not being encouraged by GOC central planning which provides a relative benefit of staying within the GOC industrial planning. The [Catalogue for the Guidance of Industrial](#)

[Structure Adjustment](#) includes lists of industries that are classified as encouraged, restricted and eliminated. The catalogue provides clear evidence that OFC producers in the PRC are an encouraged industry, fitting within several categories of encouraged industries included in the catalogue. Consequently, we can conclude that the OFC industry has not been targeted by these negative consequences as a discouraged industry.

356. The benefits of being part of an industry encouraged by GOC policies, and the explicitly specific targeting of these benefits are further evidenced in the [Development and Reform Operation \(2018\) No. 1027](#), published by The National Development and Reform Commission of the PRC and the National Energy Administration of the PRC. As noted above with regard to the benefit conferred, the “market-orientated transactions” to which the publication refers include cross-subsidisation, whereby prices are structured to the benefit of certain customers at the expense of others. This notice also explicitly states that specific industries should be supported in participating in these transactions, with reference made to supporting “high-value-added emerging industries such as high-tech, Internet, big data, and high-end manufacturing”. As established above for preferential tax rates, OFC producers in the PRC can qualify as HNTes, which we consider would be included within the “high-tech” industries reference in [Development and Reform Operation \(2018\) No. 1027](#). Consequently, we consider that OFC producers are explicitly included among the electricity users on which the market-orientated transactions confers a benefit.
357. We have also found several instances where OFC is described as an encouraged industry, thereby qualifying for other benefits as described in the aforementioned notices. [The Opinions on Promoting the Construction of Optical Fiber Broadband Network. Gongxinbu Liantong \[2010\] No. 10](#) states that construction, research and development of optical fibre cable networks is an encouraged industry. [Encouraged industries from the National Development and Reform Commission revised and issued the Catalogue for the Guidance of Industrial Structure Adjustment \(2019 version\)](#) states that industries such as

broadband network infrastructure and optical fibre networks are encouraged industries, both of which indicate OFC remained an encouraged industry for a prolonged period of time with no indication it would be removed. If OFC remains an encouraged industry, this qualifies it for additional support as referenced in several publications by the PRC, such as the [notice](#) from the National Development and Reform Commission and the National Energy Administration, or the notice [‘Cancel the price of electricity...\[2021\]’](#).

358. We have determined that the provision of energy for LTAR is explicitly specific, with regard to regulation 22(2)(a)(i) of the Regulations, in terms of only being available to, and thereby favouring, certain groups of enterprises, which include OFC producers in the PRC. We have identified several GOC publications stating that OFC is an encouraged industry, with GOC publications outlining specific benefits in the form of energy for LTAR for those encouraged industries. We have also found several GOC publications that show disincentivised processes and industries experiencing price rises or withdrawal of energy provision, which provides a further relative advantage to encouraged industries.

G8.5. Conclusion on countervailability

359. We have identified that there is a financial contribution by a foreign authority with regard to the provision of energy to OFC producers in the PRC, and that this confers a benefit to the recipients. Consequently, we have concluded that the provision of energy at LTAR is a subsidy (paragraph 3(3)) of Schedule 4 to the Act). We have found this subsidy to be specific. The benefit from the provision of energy at LTAR supports the daily business operations of OFC producers and so is granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the provision of energy at LTAR constitutes a countervailable subsidy (paragraph 3(2) of Schedule 4 to the Act).

G8.6. Benchmarking

360. As with our benchmarks for other areas of this investigation, we identified Türkiye as a suitable benchmark country to compare energy prices. We compared the electricity prices paid by a sample of OFC producers in Türkiye to the prices paid by participating exporters. This comparison indicated that no benefit was received by the SDG Group from electricity purchases in this instance. Therefore, no further calculations were undertaken regarding this subsidy.

G9. Export Credit Insurance

361. We have assessed whether export credit insurance was provided by China Export and Credit Insurance Corporation (Sinasure) to the OFC industry in the PRC at premiums that are LTAR and, if this constituted a countervailable subsidy.

G9.1. Relevant laws, regulations, and guidelines

Table 11: Laws, regulations, and guidelines applicable to export credit insurance

Relevant Law/Regulation/Guidelines	Applicable Article
Notice of the Ministry of Commerce and the China Export and Credit Insurance Corporation on the use of export credit insurance to implement the strategy of invigorating trade through science and technology	Article 2
Circular on further giving play to the role of export credit insurance and accelerating the high-quality development of commerce jointly issued by the Ministry of Commerce and the China Export and Credit Insurance Corporation	

Catalogue of Chinese New and High-tech Export Products (2003)	
Decision of the State Council on Accelerating the Cultivation and Development of Strategic Emerging Industries Guo Fa [2010] No. 32	Article 6(3)
Ministry of Commerce, Development and Reform Commission, Ministry of Science and Technology, Ministry of Industry and Information Technology, Ministry of Finance, Ministry of Environmental Protection, General Administration of Customs, State Administration of Taxation, General Administration of Quality Supervision, Inspection and Quarantine, Intellectual Property Office. Guiding opinions on promoting the internationalization of strategic emerging industries. Shangsanza (2011) No. 310	
Opinions of the Ministry of Commerce, the Ministry of Science and Technology, and the China Export and Credit Insurance Corporation on the use of credit insurance to support the national science and technology invigoration and trade innovation base	Article 5
Ministry of Commerce China Export and Credit Insurance Corporation on increasing export credit insurance support Do a good job in cross-cycle adjustment and further stabilize foreign trade. Shang Cai Han (2022) No. 54	Article 1
Notice on the issuance of the 2006 edition of the "Export Catalogue of China's High-tech Products" Guoke Fa Jizi [2006] No. 16	
Opinions on Promoting the Construction of Optical Fiber Broadband Networks. Gongxinbu Liantong (2010) No. 105	
Notice of the State Council on Printing and Distributing "Made in China 2025". Guo Fa (2015) No. 28	Article 4(3)

G9.2. Financial contribution by a foreign authority

362. The joint [Notice](#) in 2004 from the GOC and Sinasure on the use of export credit insurance to implement the strategy of invigorating trade through science and technology references “Provinces, autonomous regions, municipalities directly under the Central Government and municipalities in charge of commerce, China Export and Credit Insurance Corporation branches,” which indicates that Sinasure functions directly under the guidance of the Central Government of the PRC.
363. The GOC and Sinasure jointly issued a [circular](#) on the role export credit insurance has on accelerating the high-quality development of commerce again in 2021. This appeared to be an update to the above notice and highlights the collaboration of the GOC and Sinasure regarding the role of export credit insurance within “competent departments of commerce of all provinces, autonomous regions, municipalities directly under the Central Government, cities with separate planning status and the Xinjiang Production and Construction Corps, and the business institutions of the China Export and Credit Insurance Corporation.” It also highlights the longevity of this association, with at least 17 years of connection including the year of the POI.
364. The joint notice referenced in the above paragraph from the GOC and Sinasure states that “Sinasure should increase its support for key industries and products” and provides an accompanying [catalogue](#) specifying the relevant industries.
365. Numerous sections of Sinasure’s own [company profile](#) indicate not only the company’s position as a state-owned institution but that it is vested with authority to exercise governmental functions through its integrated policy and suggest that the company’s export credit insurance programme acts as a function by a foreign authority. It is stated that “Since the 18th National Congress of the Communist Party of China, Sinasure has always adhered to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, resolutely implemented the spirit of General Secretary Xi Jinping's important

instructions and the decision-making and deployment of the Party Central Committee and the State Council...closely followed the positioning of policy functions...”.

366. Sinasure states that it is “a policy-oriented financial institution established to meet the demands of economic globalization and the development of China’s foreign economy and trade, will closely focus on the goal of serving the national strategies” and that since the 2021 National Congress of the CPC, it has “earnestly implemented the decision-making and deployment of the Party Central Committee on targeted poverty alleviation and poverty alleviation...”
367. Additionally, a [press release](#) related to the work of the Party Committee of Sinasure identifies references to the close integration of government policy and decision making within Sinasure’s operations and activities:
368. “As a central financial institution, especially a policy company, [Sinasure] must raise its political standing and quickly unify its thinking and actions with the central government’s decision-making and deployment of economic work.”
369. “Leading cadres at all levels of Sinasure should put political construction in the first place, be good at observing and analyzing economic and social issues from a political perspective, and really do solid work to implement the decisions and arrangements of the Party Central Committee in all aspects of economic work.”
370. We also reviewed publicly available information relating to the leadership of Sinasure from the “[Company leadership](#)” section of its website. From this information, we identified that all but one of the individuals concerned had a direct affiliation to the CPC; these included being members of the CPC Party Committee of Sinasure and activity within the Discipline Inspection and Supervision Team of the Central Commission for Discipline Inspection and the State Supervision Commission stationed in Sinasure.
371. The notices and published opinions relating to Sinasure, and our review of publicly available information on Sinasure indicates the integration of Sinasure’s

decision making and the policies and guiding plans of the GOC. Sinasure does not refer to policies of the GOC in advisory terms; Sinasure's company profile openly states that it will "resolutely implement" the decision-making and deployment of the Party Central Committee and the State Council, and that it has "earnestly implemented the decision-making and deployment of the Party Central Committee" regarding other policies of the CPC.

372. We conclude Sinasure is a public body and, consequently, a foreign authority within the meaning of para 3(4) of Schedule 4 to the Act. The joint notices identified above refer to China Export and Credit Insurance Corporation branches directly alongside "municipalities directly under the Central Government and municipalities in charge of commerce". Sinasure is identified as a "a state-owned policy insurance company" in its own company profile and we have established that the CPC occupy the majority of senior leadership positions with Sinasure.

373. As a service other than general infrastructure, we consider the provision of export-credit insurance by Sinasure constitutes a financial contribution by a foreign authority, in line with regulation 20(1)(c) of the Regulations.

G9.3. Benefit conferred

374. Within the joint [Notice](#) from the GOC and Sinasure on the use of export credit insurance to implement the strategy of invigorating trade through science and technology, we noted multiple instances indicating that Sinasure provides export credit insurance with premiums at potentially LTAR. The notice states that support for the export of high-tech products should be strengthened, with the "China High-tech Products Export Catalogue" used as a guide to the relevant exports. Within the 2003 version of this catalogue, we identified two entries that would apply to the goods concerned, which would be included under the commodity code category 85447000. This notice also indicates that, within a

floating insurance premium rate range, products within the catalogue shall receive “the highest preferential treatment”.

375. In further support of this assertion, [Decision of the State Council Guo Fa \(2010\) No. 32](#) refers to the improvement of export credit as part of, “active support for key products, technologies and services in strategic emerging industries to open up international markets”. Similarly, [guiding opinions on promoting internationalization Shangsanfa \(2011\) No. 310](#) indicates that export credit insurance should be used in the promotion of international development of strategic emerging industries in the PRC. The document makes reference to the provision of active support to key industries, such as high-end equipment manufacturing.
376. The joint [Opinions of MOFCOM, the Ministry of Science and Technology, and Sinosure on the use of credit insurance to support the national science and technology invigoration and trade innovation base](#), refers explicitly to an “active underwriting policy for high-tech enterprises applying for credit insurance” and states that Sinosure deploys an “active special underwriting policy for international and domestic trade of high-tech enterprises, and gives preferential underwriting conditions to high-tech enterprises”.
377. More recently guidance by [Shang Cai Han \(2022\) No. 54](#), jointly issued by the GOC and Sinosure, indicates that all Sinosure business offices should increase “support for green and low-carbon products, strategic emerging industries, and high-tech products”. The nature of the increased support is not explicitly stated in this notice; however, we consider that, in light of the content of the previous notices, including the 2008 opinion also issued jointly by the GOC and Sinosure mentioned in the previous paragraph, that “increased support” would include the provision of preferential underwriting for high-tech enterprises such as OFC producers.
378. From our assessment of the laws, notices and opinions identified during our investigation, we have determined that Sinosure provides export credit

insurance to OFC producers in the PRC at premiums that confer a benefit by way of being potentially provided at LTAR with regard to regulation 21(8) of the Regulations. No benefit has been found in the case of the SDG Group in the POI and this is considered further below, within ‘amount of benefit conferred’.

379. Further, we have determined that it would not be appropriate to use the prevailing market terms and conditions for export credit insurance in the PRC as a benchmark with regard to regulation 21(11) of the Regulations. Sinasure occupies a preeminent position in the export credit market in the PRC. Additionally, we noted that, in addition to referring to Sinasure, the guidance by Shang Cai Han (2022) No. 54, also specifically refers to the CITIC Insurance Corporation, a commercial bank in the PRC, indicating that “All business institutions of CITIC Insurance Company should effectively play the role of policy-oriented financial institutions”. Taken together, we consider that this demonstrates that the prevailing market terms and conditions for export credit insurance in the PRC are not an appropriate benchmark and we will use the terms and conditions prevailing in the market of another foreign country as an appropriate benchmark to calculate any benefit conferred as per regulation 21(11)(b) of the Regulations.

G9.4. Specificity

380. Following our determination that the provision of export credit insurance at LTAR by Sinasure constituted a financial contribution by a foreign authority that conferred a benefit, we sought to establish if this subsidy was specific for the purpose of paragraph 3 of Schedule 4 to the Act, in line with Regulation 22(1) of the Regulations, including considering Regulations 22(2), 22(4), and 22(5).
381. As noted in above, OFCs are listed in the [Catalogue of Chinese New and High-tech Export Products \(2003\)](#). OFCs are also listed as high-tech products in the 2006 version of the [Export Catalogue of China’s High-tech Products](#). This indicates that the OFC industry is a promoted and preferential industry in the

PRC and as such, this industry has received subsidies through preferential export credit insurance as a means of encouraging the industry.

382. OFCs continued to be considered high-tech products in 2010 when the PRC State Council issued [Opinions on Promoting the Construction of Optical Fiber Broadband Networks](#), which highlights the State Council is actively promoting the growth of the OFC industry. In 2015, the State Council issued the [Notice of the State Council on Printing and Distributing "Made in China 2025"](#), which outlines the 10-year plan to promote scientific and technology developments. Both of these regulations further underline the OFC industry's privileged position with the PRC's policymaking and demonstrate that this position has been in place over a long period of time with no new information or legislation known to have removed OFC products from the high-tech product index. With this in mind, we have judged OFCs' position in the Export Catalogue of China's High-tech Products to still be relevant and accurate.
383. As mentioned in above, export credit insurance is used to support high-tech enterprises, which includes OFCs. In [Article 1](#), published in 2022 it states that the policy issued jointly by the GOC and Sinasure ensures an "Increase support for green and low-carbon products, strategic emerging industries, and high-tech products." These sources demonstrate that it is a GOC policy decision to use export credit insurance as a means of promoting the OFC industry. Within the same reasoning, a section of [Sinasure's 2020 Annual Report](#) detailing the company's performance review states that it is "effectively protecting exports to key markets and trade in key industries."
384. We consider that the combination of these legal provisions and guiding documents provides clear evidence that the provision of export credit insurance at premiums that are LTAR is explicitly specific in nature, in terms of only being available to, and thereby favouring, certain groups of enterprises, which include OFC producers in the PRC, in line with regulation 22(2)(a)(i) of the Regulations.

G9.5. Conclusion on countervailability

385. We have identified that there is a financial contribution by a foreign authority with regard to the provision of export credit insurance at LTAR to OFC producers in the PRC, and that this confers a benefit to the recipients. Consequently, we have concluded that any provision of export credit insurance at LTAR is a subsidy (paragraph 3(3)) of Schedule 4 to the Act). We have found this subsidy to be specific. Any benefit from the provision of export credit insurance at LTAR would support the daily business operations of OFC producers and so would be granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, any provision of export credit insurance at LTAR constitutes a countervailable subsidy (paragraph 3(2) of Schedule 4 to the Act).

G9.6. Amount of benefit conferred

386. In line with regulation 24(1) of the Regulations, the total amount of countervailable subsidy for the export credit insurance purchased was calculated. This was calculated as the difference between the premium paid by SDG and a benchmark premium, for each export credit insurance policy that was relevant to the POI. We identified a suitable benchmark country to evaluate the terms and conditions prevailing in the market that would be available to the recipients in line with regulation 21(11)(b) of the Regulations.

387. In line with our benchmarks from other areas of this investigation, we identified Türkiye as a suitable benchmark country. However, we were not able to obtain a benchmark from the Export Credit Bank of Türkiye due to them failing to engage with the investigation and had to source an appropriate benchmark from another source. We obtained a benchmark premium from the New Zealand Export Credit Office based on the terms of the export credit insurance received by SDG during the POI. We compared the insurance premium paid by the SDG Group against the benchmark rate. This comparison indicated that no benefit was received by

the SDG Group from export credit insurance during the POI. Therefore, no further calculations were undertaken regarding this countervailable subsidy.

G10. Volume of subsidised goods

388. Under regulation 5(3) of the Regulations, the volume of subsidised imports is “negligible” where the exporting country is a developing country, and the exports account for less than 4% of imports of the like goods imported into the UK.

389. HMRC import statistics indicates that the goods concerned accounted for 18.8% of all imports of like goods into the UK in the POI, so the volume of imports is more than negligible (4%).

G11. Conclusions and findings

390. We identified the following subsidy schemes within the investigation that are able to benefit OFC producers within the PRC:

- Grants
- Preferential tax rates
- Preferential financing
- Provision of goods at LTAR

391. Table 12 below, highlights the countervailable subsidy schemes that have contributed to the subsidy amount and the relevant percentages. The subsidy amount is shown as N/A where no countervailable subsidy was found for the SDG Group. Individual amounts for each subsidy have been recorded at four decimal points to give a true reflection of the total. The total subsidy amount applicable to the SDG Group, was calculated to be 10.62%.

Table 12: Subsidy amounts applicable to the SDG Group

Subsidy type	Subtype	Subsidy amount
Grants		0.2678%
Preferential tax rates	Enterprise income tax of 15% for HNTEs	0.5045%
	R&D tax offset	N/A
	Accelerated depreciation	N/A
Preferential financing	Loans	9.0646%
	Credit line fees	0.1173%
Provision of goods at LTAR	Land use rights	0.6726%
	Raw materials	N/A
	Energy	N/A
Export credit insurance		N/A
Total		10.62%

392. Based on the above findings, we concluded that:

- The goods concerned have been imported into the UK and are in receipt of countervailable subsidies;
- the amount of subsidy is more than minimal; and
- the volume of subsidised goods (actual or potential) is more than negligible.

G12. Subsidy amounts

393. We have determined that the sampled exporters received subsidies during the production and sale of OFC that were imported into the UK during the POI. Using the information available, we were able to calculate an individual subsidy

amount for the SDG Group in accordance with regulations 23-26 of the Regulations.

394. In line with regulation 37(2), owing to having limited our examination through sampling (regulation 57(1)(a) and 57(2)(b) of the Regulations), we must determine the subsidy amount for non-sampled overseas exporters. In line with regulation 37(3), this should be the weighted average of the amounts determined for the overseas exporters in the sample. Since the two sampled overseas exporters that participated in the investigation are closely aligned as associated parties and a partial subsidiary as described in [C2.2. Exporters/Producers from the PRC](#), the relevant non-sampled subsidy amount cannot be a weighted average amount and is therefore also 10.62%.
395. In line with regulation 38(1), we must determine a subsidy amount for overseas exporters where we have not determined an individual subsidy amount and the exporter is not a non-sampled overseas exporter within the meaning of regulation 37. We considered the audited financial statements from the POI for other OFC producers in the PRC to be a suitable source of information as per regulation 38(4)(b) of the Regulations. The financial statements disclosed details of government grants, annual amortization charges in relation to land use rights, and income tax expenses. We estimated subsidy amounts where the financial statements contained sufficient information, based on the subsidy amounts we calculated for the SDG Group. Where there was insufficient detail, we included the subsidy amount calculated for the SDG Group. This is termed the residual amount and is set at 11.79%. Table 13 below, highlights the countervailable subsidy schemes that have contributed to the residual amount and the relevant percentages.

Table 13: Residual subsidy amount

Subsidy type	Subtype	Residual subsidy amount
Grants		0.4051%
Preferential tax rates	Enterprise income tax of 15% for HNTEs	0.7843%
	R&D tax offset	N/A
	Accelerated depreciation	N/A
Preferential financing	Loans	9.0646%
	Credit line fees	0.1173%
Provision of goods at LTAR	Land use rights	1.4213%
	Raw materials	N/A
	Energy	N/A
Export credit insurance		N/A
Total		11.79%

396. The subsidy amount for the SDG Group, the non-sampled exporters/producers and the residual rate is stated in table 14 below.

Table 14: Subsidy amount

Overseas Exporter/Producer	Participation	Subsidy amount
Shenzhen SDG Information Co., Ltd	Co-operating	10.62%
Shenzhen SDGI Optical Network Technologies Co., Ltd	Co-operating	10.62%
Hengtong Optic-Electric co. Ltd.	Non-sampled	10.62%
Jiangsu Fasten Optical Cable Co., Ltd.	Non-sampled	10.62%
Ningbo Geyida Cable Technology Co.,Ltd	Non-sampled	10.62%
Shanghai Wanbao Optical Technologies Co. Ltd	Non-sampled	10.62%
Suzhou Furukawa Power Optic Cable Co.,Ltd.	Non-sampled	10.62%
XDK Communication Equipment Huizhou Co., Ltd.	Non-sampled	10.62%
ZheJiang JinYuan WanBao Optical Fiber Co. Ltd.	Non-sampled	10.62%
FibreHome Telecommunication Technologies Co Ltd	Non-sampled	10.62%
All other overseas exporters (residual amount)		11.79%

G12.1. Double remedies

397. This investigation was carried out in parallel with a separate anti-dumping investigation (AD0021) concerning the goods concerned originating from the PRC, in which the TRA is recommending imposing anti-dumping measures at the level of the dumping margin.

398. Responding to the SEF, the SDG Group asked how double remedies have been avoided in the parallel anti-dumping and anti-subsidy investigations. The GOC contended the findings of the subsidy SEF constitute double counting, citing Appellate Body findings in support of this contention.
399. The GOC contended that the SEF did not adequately fulfil the TRA's affirmative obligation to determine whether the concurrent imposition of duties from the present investigation and the parallel anti-dumping investigation constitute double counting.
400. We disagree with this contention. As noted in the SEF published in the parallel anti-dumping investigation, the only cost surrogated when constructing the normal value was the cost of optical fibres as an input to produce OFCs. By contrast, in the present investigation we did not determine that any raw material inputs constituted countervailable subsidies, and no subsidy amounts were calculated in relation to OFC producers' optical fibre costs. Similarly, we note that the parallel anti-dumping investigation did not surrogate OFC producer costs in relation to financing or land costs, both of which were determined to be countervailable subsidies in the present investigation.
401. Based on our comparison of the calculation methods and findings in the parallel investigation, we have concluded that there has been no offsetting of the same subsidisation twice (double remedies).

Section H: Injury

H1. Introduction to injury

402. In accordance with Paragraph 11(2) of Schedule 4 to the Act, in order to make an affirmative determination, the TRA is required to determine whether:

- a) goods have been or are being imported into the United Kingdom and are subsidised, and
- b) the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods.

403. Under regulation 27(2) of the Regulations, where the TRA has determined that goods that have been or are being imported into the United Kingdom benefit from a countervailable subsidy, it must determine whether the UK industry has suffered or is suffering injury; and whether the subsidised imports have caused or are causing that injury to that UK industry.

H2. Injury analysis

404. For the purposes of this assessment and in line with Paragraph 5 of Schedule 4 to the Act, 'injury' to the UK industry from the goods concerned means:

- a) material injury, or the threat of material injury, to the industry, or
- b) material retardation of the establishment of the industry”

405. To determine whether a UK industry is suffering or has suffered injury from subsidised imports of the goods concerned, in line with regulation 30 of the Regulations, we examined the following:

- the volume of the subsidised imports during the IP;

- the effect of the subsidised imports on prices of the like goods in the UK during the IP;
- the consequent impact of the subsidised imports on the UK industry during the IP; and
- any other factors we considered relevant.

406. This involved assessing 15 injury factors during the course of the investigation.

407. As mentioned in [Section C2.6: Contributors](#), CCCME's questionnaire and response to the SEF submission contained comments on the causes of injury to the UK industry, with particular reference to 'other known factors'. We have taken these comments into consideration within this section. To determine whether the subsidised imports have caused or are causing injury to UK industry, in line with regulation 35 we have also examined whether any known factors other than the subsidised imports (other known factors) have caused or are causing injury to a UK industry. We considered the following factors:

- the economic impact of the COVID-19 pandemic;
- third-country imports and prices;
- EU Exit;

408. In CCCME's response to the SEF, it raised the following three points as factors to consider for 'other known factors' which we have now assessed.

- Self-inflicted injury; ([Section H7.4](#))
- Export performance; and ([Section H7.5](#))
- Anti-competitive behaviour ([Section H7.6](#))
- Sales of other domestic producers ([Section H7.7](#))

H3. Considerations of the injury and causation analysis

H3.1 HMRC Import Statistics

409. The TRA used the official import statistics published by HMRC for analysis of the volume of imports. The official import statistics published by HMRC report import volumes in kilograms (kg). Interested parties stated that this unit of measurement is not suitable for a proper measurement of the volumes of the goods. Additionally, while HMRC import statistics provide an accurate picture of the trend of UK imports of OFC, the goods imported into the UK under the commodity code 8544 70 00 do not contain only single mode optical fibre cables, therefore an adjustment was necessary to determine the volume of imports of OFC more accurately. CRU data was used to estimate the size of the UK market in terms of fkm and the percentage of imports.
410. In order to determine the volume of imports of the goods concerned in fkm, the ratio of the volume of goods concerned from the PRC to the total volume of UK imports was calculated using HMRC import statistics. In 2021, the volume of goods concerned from the PRC represented 18.8% of total UK imports. This 18.8% ratio was applied to the CRU data on consumption of single mode OFC in the UK to estimate the volume of goods concerned that were consumed during 2021 in fkm. CCCME requested, in a submission received by the TRA on 27 June 2023, clarification as to whether this calculation method was also used to calculate the consumption figures for 2018, 2019, and 2020 because the SEF only specified that this calculation applied to the POI. The TRA confirms that the same methodology was also used to estimate the volume of UK consumption of the goods concerned for the years 2018, 2019 and 2020.

H3.2. Confidentiality of data used in injury assessments

411. The TRA received comments from CCCME requesting disclosure of additional information in relation to our injury assessments, stating that the TRA must

disclose “facts necessary to understand the basis of intermediate findings or analysis on which this determination is based” with reference to the panel decision [Ukraine – Ammonium Nitrate](#). We maintain that our injury analysis is based upon confidential data provided by the Applicant. The disclosure of this data in an indexed format is appropriate and sufficient to enable interested parties to understand the basis on which the TRA’s determination is based.

H4. Volume of subsidised imports from PRC

412. In order to confirm if subsidised imports may be injuring the UK industry, we examined the trends in the volume of subsidised imports entering the UK market (absolute changes). We also compared the volume of subsidised imports entering the UK market to both the size of the UK market and the level of UK production (relative changes). A high level of imports, or increasing levels of imports, may indicate that the injury is being caused by these imports.

413. In accordance with regulation 31 of the Regulations, when considering the volume of subsidised imports during the IP for the purpose of regulation 30(2)(a) of the Regulations, we considered whether there has been a significant increase in the subsidised imports either in absolute terms or relative to domestic production or consumption.

414. The following table shows a significant increase in the volume of imports of OFC from the PRC into the UK during the POI.

Table 15: The volume of imports of OFC from the PRC – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Import volume (fkm)	120,962	102,868	159,417	535,565
Import volume (indexed)	100	85	132	443

Source: HMRC import statistics

415. Whilst there was a slight decrease in import volume in 2019 compared with 2018, there was an increase of 47% from 2019 to 2020 and a much greater increase in 2021, the POI. Overall, there was a significant increase of 343% from 2018 to 2021 and therefore the TRA have concluded that imports from the PRC have shown increasing penetration of the UK OFC market throughout 2020 and 2021.

416. The following table shows the significant increase in goods concerned during the POI relative to UK industry production which had been in decline over the IP.

Table 16: Import volume (fkm) of OFC from the PRC in relation to UK production - 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
UK industry production (indexed)	100	92	84	93
Imports from PRC relative to UK industry production (%)	8	8	13	39

Source: The Applicant's submissions and HMRC import statistics

417. There was a reduction in the level of UK industry production every year throughout the IP when compared to the 2018 level. However, the PRC imports relative to UK industry production highlight the growing market influence of imports from the PRC, increasing from 8% to 39% over the IP.

418. The following table shows that the significant increase in the volume of imports of the goods concerned during the latter part of the IP, is beyond the rate of increase in the UK consumption of OFC overall.

419. CCCME commented on a perceived lack of accuracy and consistency of the TRA's reporting of PRC import volumes of the goods concerned. In the SEF, we used CRU and HMRC import statistics, two different estimates, when reporting imports from PRC. In response to their comments, we amended the calculation for the UK consumption and UK market share by using the same volumes and

period for both calculations. UK consumption has been calculated using import volumes of goods concerned from all countries from HMRC import statistics and UK industry domestic sales volumes of like goods.

Table 17: Import volume (fkm) of OFC from the PRC in relation to UK consumption, UK industry sales and total import volume (fkm) from third countries - 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
UK consumption of OFC (indexed)	100	112	116	168
UK industry sales (indexed)	100	125	110	127
Imports from the PRC (indexed)	100	85	132	443
Imports from third countries (indexed)	100	115	127	171

Source: The Applicant's submission and HMRC import statistics

420. UK consumption of OFC increased by 68% during the IP. During the same period, UK industry sales increased by 27%, which is less than the growth in overall UK consumption. By contrast, imports from the PRC increased by 343% over the IP. This sharp absolute increase in imports and the resultant significant increase relative to UK production has prevented the UK industry from benefitting from the increase in consumption of OFC over the IP.
421. The increase in the volume of third country imports during the IP is at a comparable level to the rate of consumption increase in the UK. This growth in third country imports (discussed in more detail in [H7.1 Third country imports and prices](#)) is far below the rate at which imports from the PRC increased during the same period and is similar to the rate of overall UK consumption. Therefore, the TRA has concluded that imports from the PRC have benefited from the growth in UK consumption to a greater extent than imports from third countries.

H5. Effect of the imports on prices in the UK market for like goods

422. To determine whether subsidised imports of the goods concerned have affected UK prices of the like goods, in accordance with regulation 32 of the Regulations, we have considered whether:

- a) prices of the subsidised imports are significantly undercutting prices of the like goods produced in the UK; or
- b) the subsidised imports have significantly depressed or suppressed domestic prices of the like goods produced in the UK.

H5.1 Undercutting analysis

423. Price undercutting is where the goods concerned are consistently sold at a price below that of the like goods in the UK.

424. To establish whether this has been occurring we used POI data and compared the average landed price of the goods concerned with the average domestic sales prices of the like goods at an ex-works level. To ensure price comparability, we adjusted exporter sales prices to British Pound Sterling (GBP).

425. We identified that the SDG Group exported 17 different PCNs to the UK during the POI. The TRA identified eight PCNs which were both produced by the UK industry and exported to the UK by the SDG Group. The selected eight PCNs represented 78% of the total import volume and 89% of the total import value of UK sales for the SDG Group. The PCNs represent 17% of the total volume and 4% of the total value of all imports of goods concerned from the PRC.

426. CCCME requested on 19 May 2023 that the TRA disclose the percentage of sales of like goods in volume and value terms of the UK industry represented by the comparable PCNs. Of the comparable PCNs, the SDG Group sales volumes to the UK represents 4% of the UK industry total sales volume of like goods. Similarly, the overseas exporter sales value to the UK represents 4% of

the UK industry total sales value of like goods. We have used confidential sales data from the Applicant and the SDG Group so are unable to disclose any further information in relation to the undercutting margin calculation.

427. We calculated an average undercutting margin covering the eight PCNs and found an undercutting margin of 39.4% during the POI.

428. CCCME requested on 18 July 2023 that the undercutting analysis be conducted for every year in the IP. This request is rejected on the basis that the TRA has conducted price undercutting analysis during the IP in accordance with the legislative requirements under Regulation 32 of the Regulations.

H5.2 Price depression

429. Price depression occurs when the UK industry is forced to reduce prices to compete with lower priced subsidised imports.

430. The following table compares the average sales price of the UK industry like goods to the average import price of the goods concerned to establish whether there was price depression during the injury period.

Table 18: Average UK industry price of like goods and average import price of goods concerned - 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Average UK industry price (indexed)	100	93	92	80
Average goods concerned import price (indexed)	100	130	86	56

Source: The Applicant's submissions and HMRC import statistics

431. The average price of the goods concerned declined by 44% over the IP. During the same period, the average UK industry sales price declined by a smaller margin of 20%. When taken into consideration alongside the increased volume of imports of the goods concerned (See [H4. Volume of subsidised imports from PRC](#)), it appears that the UK industry is facing downward price pressure, forcing it to reduce prices to levels that it claims are unsustainable for its business operations.
432. CCCME requested clarification on the data used to calculate price depression in the UK and requested disclosure of this data. The TRA used HMRC import statistics to calculate the average prices of OFC imports from the PRC during the IP. The total import value of each year was divided by the corresponding year's import volume to determine the average price of imports. The same methodology was used to calculate the UK industry average price. We are unable to provide further information due to the confidential nature of the Applicant's pricing data. The TRA made no adjustments to the calculation of PRC prices when comparing to the UK industry prices.

H6. Impact of the subsidised imports on the UK industry

433. Having found evidence of a relative increase in import volumes and of price undercutting leading to price depression, we then assessed the impact this has had on the UK industry.

434. In accordance with regulation 33 of the Regulations, in considering, for the purpose of regulation 30(2)(c), the consequent impact of the subsidised imports on the UK industry, we must take into account all relevant macroeconomic and microeconomic 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; and
- c) actual and potential negative effects on cash flow, inventories, employment, wages, growth, the ability to raise capital or investments.

435. The following sections will address each of these factors in turn before undertaking a holistic assessment of the impact on UK injury.

H6.1 Sales

436. To assess whether the UK industry has been injured or is being injured, we assessed whether there has been a decline in both the volume and value of sales. A decline in domestic sales may be an indicator that the UK industry is suffering injury.

437. The following table shows the lack of correlation between the volume and value of UK industry domestic sales of like goods during the IP.

Table 19: UK industry domestic sales volume and value – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Sales volume (indexed)	100	125	110	127
Sales value (indexed)	100	116	100	98

Source: The Applicant's submissions

438. There had been an upwards trend in the UK industry sales volume during the initial stages of the IP. Sales increased in 2018 to 2021 by 27% but the increase was less than the increase in overall consumption of 68% in the UK.
439. UK industry sales value also initially followed a similar trend as sales volume increasing from 2018 to 2019; however, as sales volume increased in 2021, sales value did not follow a similar trend. As the volume of goods concerned increased significantly during 2021, UK industry sales value remained static.
440. The lack of increase in value, in contrast to the increase in volume, is an indicator of injury and an indicator that the UK industry have reduced their prices to compete with the subsidised imports from the PRC who had the biggest increase in imports over the same period.
441. CCCME requested on the 18 July 2023 that the TRA should consider the sales made by Draka Comteq UK Limited (Draka), who are a related sales entity of the Applicant. We identified, through verification, that sales from Draka were from imported goods, rather than UK produced goods. The TRA therefore deems Draka's sales data to be irrelevant to this investigation.

H6.2 Profits

442. The following table shows the trend in the UK industry profit margin for the domestic sale of like goods since 2019.

Table 20: UK industry domestic sales volume and value – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Net profit margin (indexed)	100	121	107	43

Source: The Applicant's submissions

443. There was a significant reduction in the profit margin of the UK industry during the POI, when compared with the rest of the IP. The UK industry aim for a minimum 15% net profit year-on-year, which is the average level shown in the Applicant's figures during the 2018-2020 period. There is a requirement within the OFC industry to have a comfortable profit margin due to the industry being heavily investment driven, with significant financial resources spent on research and development. An example of the areas of investment is expanding technologies such as 5G networks.
444. Profit margins were at their highest for the UK industry in 2019 when imports from the PRC had decreased by 15% from the previous year, which shows an inverse correlation between the two. While the total volume of sales for the UK industry was at its highest in the POI, this was not reflected in its profits, which were lower by 57% when compared to the start of the IP. This coincided with the large surge of imports of the goods concerned which appears to have pushed prices down and affected profit margins. The UK industry stated it has had to set prices so low in some instances that it could only cover costs, which is supported by the low profit margin in the POI.
445. The UK industry states within its [application](#) (page 145) that it has had to accept loss-making parts of tenders to maintain its presence in the UK market as it bids with competition from the PRC sector. This may become unsustainable for the UK industry in the long term if it continues. The decline in profits during the IP is a clear indicator of injury suffered by the UK industry.

H6.3 Market Share

446. The following table shows the impact the increased volumes of OFC imports from PRC has had on UK market share throughout the IP.

Table 21: Changes to UK market share for the UK industry, PRC imports and third country imports of OFC – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Market share of UK industry (indexed)	100	111	94	76
Market share of other UK producers (indexed)	100	32	82	167
Market share of PRC imports (indexed)	100	76	114	264
Market share of third country imports (indexed)	100	102	109	102

Source: The Applicant’s submissions and HMRC import statistics

447. The TRA has amended the market share figures from those used in this section of the SEF. Market share has now been calculated by dividing the UK industry domestic sales volumes of like goods by the total UK consumption figures.

448. From the start through to the end of the IP, imports from the PRC have more than doubled their market share as shown in table 21, while the UK industry lost 24% of the market over the same period. The market share of third country imports have remained stable in the IP, suggesting that they have not absorbed any share of the market from the UK industry.

449. During verification we were able to clarify that UK industry market share was based on UK production only and excluded any imported like goods. Due to the lack of participation from any other UK producer “other UK producers’ market share” has been calculated using CRU industry intelligence and we have been

unable to verify the components of the data, in particular the proportion arising from imports. As set out in Section F1: Scope of the UK Industry, we believe that the “other UK producers’ market share” may not solely be limited to production of the like goods in the UK and may contain imports which may include imports from the PRC, therefore not accurately reflecting UK production. Due to lack of participation in the investigation, we have been unable to verify the figures of the “other UK producers’ market share”. However, even if “other UK producers’ market share” was solely from UK production of the like goods, the PRC market share has increased over the IP by 164% as compared with a 67% increase for the other UK producers, suggesting that imports from the PRC have absorbed a far greater share of the market from the UK industry.

450. CCCME requested on 19 May 2023 that the market share data used to inform table 21 be disclosed on the basis that similar market share data was disclosed within the initial application. The TRA maintains that it cannot disclose this data as it has been calculated using confidential sales data from the Applicant, including CRU data containing sales data of other UK producers that cannot be disclosed due to data licensing restrictions. The non-confidential market share data gives the parties a reasonable understanding of the UK market share.

H6.4 Growth

451. The Applicant submitted its market share, production, sales and employment figures for each year of the IP. The trends for these factors can be seen in the following table. Figures for UK production are given in ckm as this is in line with industry standards for industrial output.

Table 22: UK industry growth indicators – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
UK OFC consumption (indexed)	100	112	116	168
UK industry domestic sales volume (fkm) (indexed)	100	125	110	127
UK industry market share (indexed)	100	111	94	76
UK production (ckm) (indexed)	100	68	72	92
Employment (indexed)	100	91	99	107

Source: The Applicant's submission and HMRC import statistics.

452. We measured UK industry growth by comparing trends in total UK consumption of OFC with the UK industry domestic sales of like goods, UK industry's market share, production, and employment figures.

453. UK OFC consumption increased over the IP. The volumes of UK industry sales and employment also increased but significantly less than the increase in overall consumption.

454. The UK industry's market share and production declined over the IP. It is clear that the increased consumption in the UK has not benefitted the UK industry with regard to their market share. Similarly, although their domestic sales volume did grow over the IP we would expect this to be at the same rate as consumption.

H6.5 Productivity and employment

455. We assessed employment trends by analysing how the number of employees in the UK industry has changed throughout the IP. Productivity is measured by establishing the output (in this instance the UK industry used ckm per employee during the IP. The number of employees includes employees working on the production of like goods and employees working in operational and administrative roles linked to the production of like goods.

456. The following table shows an upwards trend in the UK industry employment for like goods production, with a reduction in productivity during 2019-2020.

Table 23: UK industry employment for like goods and productivity – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Number of employees (indexed)	100	91	99	107
Productivity (employees/output ckm) (indexed)	100	75	73	87

Source: The Applicant's submissions

457. Over the IP the UK industry saw an initial decrease in the number of employees working on or connected to the production of OFCs, before a recovery to a level 7% above the start of the period. However, as explained in [H4. Volume of subsidised imports from PRC](#)), capacity of the UK industry increased by a much greater extent, 39%, over the same period. The UK industry capacity was not utilised as expected in line with the growth in UK consumption of OFCs due to loss of market share attributed to the goods concerned.

458. Productivity during the POI increased by 14% between 2020 to 2021, which coincided with the largest increase in UK industry capacity. However, productivity levels had already dropped 25% in 2019 and continued to struggle with low productivity levels at 13% below the 2018 mark at the end of the IP.

459. UK consumption increased over the IP, while the UK industry productivity decreased. The overall decrease of productivity coincides with the significant increase in PRC imports over the IP. However, UK productivity started to increase in the POI, when the volume of goods concerned increased dramatically, therefore indicating that productivity is not a clear indicator of injury in this instance.

H6.6 Investments, return on investments and cash flows

460. To assess whether UK industry is suffering injury, we considered whether there has been a decline in investments, a decline in return on investments (ROI) and decline in cash flow during the IP.

461. ROI measures business performance and earnings arising from investments. Cash flows and cash flow forecasts give us an overview of a business's capability to invest, maintain operations and grow. A decline in these factors may indicate the UK industry has suffered or is suffering injury.

462. The following table shows the increased trend in the UK industry investment and cash flow since 2018, with return on investments showing a downward trend since 2019.

Table 24: UK industry investment, return on investments and cash flows connected to the like goods production during the injury period – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Investments (indexed)	100	800	461	333
Return on investments (indexed)	100	177	46	-119
Cash Flow (indexed)	100	103	868	253

Source: The Applicant's submissions

463. Investments and cash flow show similar trends throughout the IP, with a considerable increase in both 2019 or 2020 before a considerable decline in 2021 when PRC imports increased. It should be noted that there was heavy investment in 2019 when PRC imports decreased by 15% from the previous year, as shown in table 17. Investments in 2019 were significantly higher due to a drive for increased capacity ahead of an anticipated increase in UK consumption and enhancement of production capabilities (detailed in [Market Analysis F.6](#)).
464. The UK industry state that a drop in profitability in 2021 has affected its ability to invest ([see H6.2 Profits](#)). The decrease in investments between 2020 and 2021 coincides with the drop in profits in 2021.
465. The ROI trend is more severe, increasing in 2019 before decreasing by 219% below the figure at the start of the IP. The heavy investment when compared to the 2018 level has not been beneficial to the company in the POI, as seen from overall profit levels. The Cash flow did increase overall during the IP by 153% but reduced by 615% in 2021 from the high in 2020.
466. Although these three indicators fluctuate, the trend in return on investments in general is a stronger indicator of injury to the UK industry, coinciding with the large increase in imports of OFC from the PRC. This has significant negative implications for an industry that is heavily investment driven.

H6.7 Output and capacity utilisation

467. To assess whether the UK industry has been injured or is being injured, the TRA assessed whether there has been a decline in output and use of production capacity during the IP. A decline in these economic factors may indicate that the UK industry is suffering injury.
468. Output is measured by the volume of like goods produced by the UK industry during the IP. Capacity utilisation is calculated by looking at output relative to

capacity. Capacity utilisation allows us to understand whether the UK industry is using its full capacity to produce the like goods during that period.

469. The following table shows the increased capacity of the UK industry since 2018, together with a reduction in output and utilisation of that capacity during the injury period. The use of ckm in table 25 is in line with industry standards for industrial output.

Table 25: Output, capacity, and capacity utilisation for the production of like goods for the UK industry – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Output (indexed)	100	68	72	92
Capacity (indexed)	100	114	116	139
Utilisation of capacity (indexed)	100	60	62	67

Source: The Applicant's submissions and HMRC import statistics

470. The UK industry increased its production capacity by 39% throughout the IP in anticipation of increased UK consumption. However, output and capacity utilisation declined during the same period to below 2018 levels. Output declined by 8% and capacity utilisation declined by 33% from 2018 to 2021. The UK industry has the ability to supply the increased demand in the UK market, demonstrated by its increased capacity; however, it has been unable to utilise this capability during the injury period.

471. The UK industry requires high production utilisation to remain viably profitable. If this current trend continues, the UK industry will face continued injury.

472. The overall decrease in output and utilisation of capacity can be linked to the significant rise in imports from PRC and loss of market share to PRC over the injury period (see [Section H6.3](#)). Therefore, the areas in table 25 indicate strong evidence that the UK industry is suffering injury from increased PRC imports.

H6.8 Inventories

473. To assess whether the UK industry is suffering from injury, we assessed whether there has been an increased inventory level that may indicate the UK industry has suffered or is suffering injury. The following table shows the increasing trend in the UK industry inventory of the like goods during the injury period.

Table 26: The Applicant's inventory (fkm) of like goods at the end of each year – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Inventory (indexed)	100	214	234	279

Source: The Applicant's submissions

474. The UK industry assesses its stock levels in terms of value and inventory days. Table 26 shows a significant increase in stock levels of 179% across the IP. This signifies a slower turnover of sales as the period progresses, which could be linked to the increasing difficulty of the UK industry in selling its products within the UK market due to the increased volume of PRC imports. It must be noted that a large proportion of OFC goods are made to order based on precise specifications through the awarded tendering process. However, a certain proportion of production is made in anticipation of demand through distribution sales. Increased inventory may therefore not necessarily indicate injury caused by PRC imports.

H6.9 Wages

475. The Applicant submitted its wage figures for each year of the IP. The trends for this factor can be seen in the following table and have been compared to the UK minimum wage.

Table 27: UK industry’s median wages for employees involved in the like goods compared against the UK minimum wage – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
Median average wage (indexed)	100	107	104	101
Hourly minimum wage in the UK (indexed)	100	105	111	114

Source: The Applicant’s questionnaire response and UK Government information

476. The average wage of the UK industry remained stable throughout the IP. In comparison, the hourly UK minimum wage increased by 14% over the IP. We would expect the UK industry median wage to increase throughout the IP at a similar rate to the hourly minimum wage in the UK. We are not able to provide details of our specific findings, due to confidentiality, therefore, we have determined that the consideration of wage levels as an injury indicator may not be reliable.

H6.10 Factors affecting domestic prices

477. The TRA has assessed factors affecting domestic prices in [Section H5](#) above and concluded that there has been significant price undercutting, as well as price depression by the goods concerned, leading to injury to the UK industry.

H7. Other causes of injury (non-attribution)

478. In accordance with regulation 35 of the Regulations, we considered whether any known factors other than the subsidised imports (“other known factors”) have caused or are causing injury to UK industry. The next sections cover the relevant factors.

H7.1 Third country imports and prices

479. Imports from third countries to the UK were examined to ascertain whether they break the causal link between the subsidised imports from the PRC and injury to the UK industry. Tables 28 and 29 focus on the three countries with the largest volume of OFC imported into the UK during the IP, which were Poland, Germany, and India.

Table 28: Poland, Germany, and India's import volume of OFC into the UK compared against the PRC volume – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
PRC (fkm)	120,962	102,868	159,417	535,565
PRC (indexed)	100	85	132	443
Poland (fkm)	265,170	314,184	530,816	716,988
Poland (indexed)	100	118	200	270
India (fkm)	88,331	162,640	167,533	261,407
India (indexed)	100	184	190	296
Germany (fkm)	363,856	174,550	97,984	230,012
Germany (indexed)	100	48	27	63

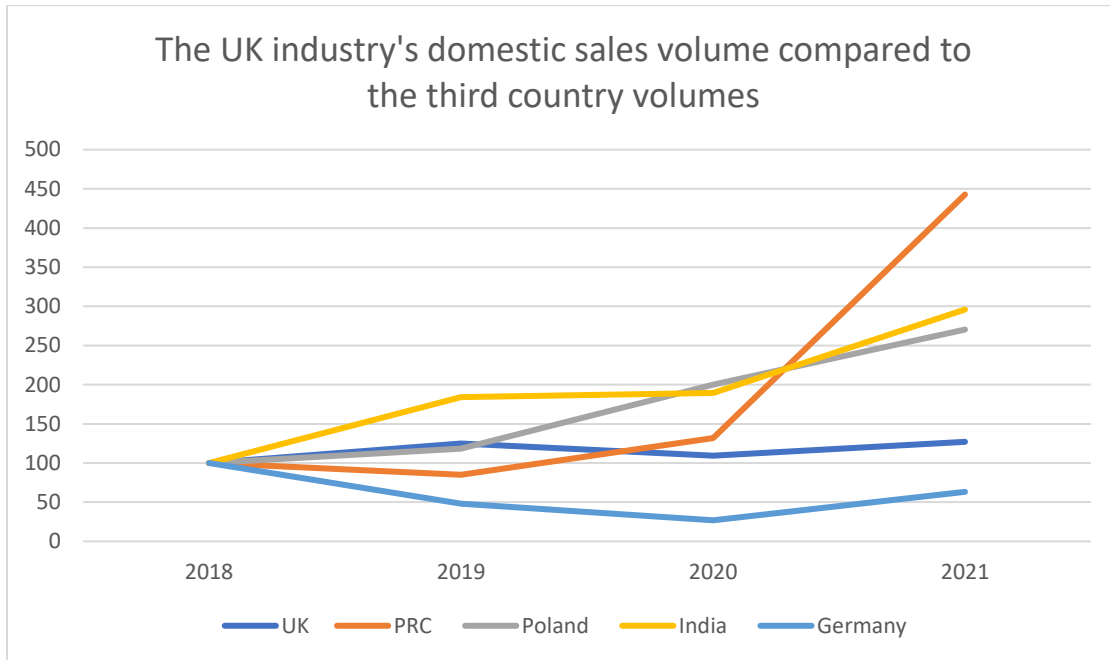
Source: HMRC import statistics

Table 29: Poland, Germany and India's average import unit price of OFC entering the UK compared against PRC average import unit price – 01 January 2018 to 31 December 2021

	2018	2019	2020	POI
PRC (indexed)	100	130	86	56
Poland (indexed)	100	128	97	66
India (indexed)	100	96	76	79
Germany (indexed)	100	139	313	184

Source: HMRC import statistics

Figure 3: The UK industry's domestic sales volume compared to the third country volumes (indexed)



Source: HMRC import statistics

480. The average unit price for third country imports have been calculated by dividing the sales volume (fkm) by sales value, consistent with the methodology for calculating average unit price for the UK and PRC.
481. The level of imports from Germany significantly decreased in volume and increased in average unit price during the injury period making it unlikely that those imports caused injury.
482. India significantly increased import volumes over the IP, and their average unit price for OFCs decreased by 21% over the same period. However, India's volume increased by 196% compared to the PRC volume increase of 343%. The unit price of imports from India reduced at a steady rate, never dropping lower than 24 percentage points when compared with the PRC figure that dropped 74 percentage points from the 2019 figure. Additionally, the Indian price actually increased in 2021 when the PRC unit price was at its lowest price. At the same time the UK industry lost most of its market share (see [H4. Volume of subsidised](#)

[imports from PRC](#)), hence the TRA consider that India's imports do not break the casual link and that the PRC imports are causing injury to the UK Industry.

483. Import volumes from Poland into the UK increased by 170% over the IP, a lower volume increase than both the PRC and imports from India. The average unit price of Polish OFCs dropped at a similar rate to the PRC goods but 10% less at 34%. Whilst these trends may indicate that some injury to the UK industry might be caused by the Polish import volume and prices, there is an absence of any available pricing data that would enable further assessment.
484. Assessing third country import volumes into the UK and average unit price for OFCs at this level of data does not provide a full picture of the true impact the goods have on the UK industry. Telecom operators usually purchase OFC through tenders which are issued on either a yearly basis, or every two to three years. Participation in tenders is usually by invitation with one, two or several negotiation rounds. The whole process is highly confidential with little information provided to bidders on who they are competing against. Therefore, the TRA has found it difficult to assess the country with which the UK industry is in direct competition during the tendering process. The UK industry alleges in its submissions that PRC 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. This should be considered when assessing the unit price for OFCs entering the UK.
485. The TRA had very little cooperation from the UK importers so no information could be gathered to dispute the above claim from an independent tendering entity. Therefore, the TRA conclude that the causal link between UK industry injury and increased PRC imports has not been broken by third party imports due to the combined PRC effect of significant increased volume and average unit price reduction during the POI.

H7.2 Economic impact of the COVID-19 pandemic

486. The TRA considered CCCME and the GOC's submissions following the publication of the SEF, in regard to the effects of the COVID-19 pandemic on the UK industry's OFC sales volume. It is acknowledged that the pandemic arose in early 2020 and the subsequent lockdown periods enforced by the UK government caused some disruption to supply chains and production.
487. The disruption to production and orders of OFCs in the UK appeared to be limited, and consumption of goods within the UK remained stable in this period. This is reflected in [H4. Volume of subsidised imports from PRC](#), which shows UK consumption of OFCs increased by 4% in 2020.
488. Continuing demand for OFCs is evidenced in a report commissioned by [OFCOM](#) in May 2020, that reported the number of homes that could access full-fibre broadband in the UK was up by a fifth since September 2019. Additionally, the ability of other high-speed broadband services has continued to increase over the same time period, with the total number of UK homes able to receive superfast broadband having increased by 300,000. This continued demand for improvement may in part be motivated by UK legislation that came into effect in March 2020 that allows households a legal right to request an improved broadband service.
489. By comparing the increase in UK consumption of OFC by 4% in 2020, against UK industry sales volumes in table 17, we can see that sales volumes dropped. The UK industry sales volumes dropped by 15% in 2020, at a time when PRC increased OFC import volume by 47%. Therefore, the evidence indicates that COVID-19 had little impact on the UK OFC industry, and it was subsidised imports from the PRC that were injuring the UK industry. The TRA concludes that the COVID-19 repercussions in 2020 did not break the link between subsidised imports from the PRC and the injury suffered by the UK industry.

H7.3 EU exit

490. The TRA considered CCCME and the GOC's submissions that the effects of the UK withdrawal from the European Union (EU) on 31 January 2020 (EU Exit) was a factor in causing injury to the UK industry. The Applicant's financial report published in 2017 highlights the challenges the company would face as a consequence of the EU exit, suggesting that there would be an increase in costs of raw materials. However, during verification of the Applicant, we were unable to find evidence that the Applicant's cost of production increased significantly throughout the IP.
491. CCCME submitted that the EU exit will increase the UK industry's production costs on the basis that that they will now be liable for import duties on raw materials used for OFC production, specifically citing the 2% duty on optical fibres. We identified that the duty is [suspended on optical fibre cable specifically therefore it is not a factor relevant to increasing production costs of the UK industry.](#) The TRA concludes that the causal link between UK industry injury and increased PRC imports has not been broken by the EU exit.

H7.4 Self-inflicted injury

492. The TRA considered CCCME and the GOC's submission stating that the Applicant started to expand its production capacity when demand of OFC stagnated, and the Applicant's poor timing for expansion is a factor for injury in the UK industry. We have identified that the Applicant was prepared for the increase in demand for OFC in the UK. The investment and improvement of production was in preparation for the increased consumption and demand in the UK. Therefore, we conclude that the causal link between UK industry injury and increased PRC imports has not been broken by self-inflicted injury.

H7.5 Export performance

493. The TRA considered CCCME's submission that the UK industry's export performance is a factor for injury to the UK industry. Whilst we agree that exports by the Applicant did decrease in the IP, we do not deem it as a relevant factor to cause injury to the UK industry.
494. The Applicant only exports small volumes of like goods, and primarily focuses on the domestic market, therefore the decrease in exports over the IP has limited impact on the UK industry and does not break the casual link.

H7.6 Anti-competitive behaviour

495. The TRA considered CCCME's submission that the UK industry's anti-competitive behaviour was a factor in causing injury. CCCME state 'The anti-competitive behaviour relates to the Applicant's conviction and fine by the Commission for its active role in long-standing price-fixing cartel concerning power cables'. CCCME commented that the Applicant had reported exceptional legal costs during the IP which has impacted and caused the decline in profits suffered by the Applicant. We have assessed profits on a like goods basis rather than the whole company, therefore the legal costs have not been incurred on the goods considered in our assessment. The TRA concluded that this factor has been resolved and has no relevance on the investigation and therefore does not break the casual link.

H7.7 Sales of other domestic producers

496. The TRA considered the CCCME submission stating that sales by other domestic producers were a factor in causing injury to the UK industry. We noted the increase in sales, depicted by an increase in market share, by other domestic producers in table 10. However, as set out in Section H6.3, the "other UK producers' market share" may contain imports including potentially from the PRC in addition to possible domestic production. Given the level of increase in

PRC imports we do not consider the increase in other UK producers' market share to break the casual link.

H8. Conclusions on injury

497. We have concluded that the goods concerned benefit from countervailable subsidies and considered the impacts on the UK industry.
498. After an assessment of the 15 injury factors, we have concluded that the UK OFC industry has suffered injury caused by the increased volume of subsidised imports originating from the PRC.
499. We have identified that a significant increase in subsidised imports from the PRC has coincided with various negative trends including loss of market share, price depression, price undercutting, profitability, return on investments, output utilisation and productivity.
500. The UK industry has had to forego investment programmes as a result of the price depression caused by the subsidised imports. While the reduction in investment costs in 2020 resulted in a slight drop in the level of profit, overall profitability decreased significantly in 2021 in tandem with a reduction again in investment costs in 2021 and increased PRC imports.
501. Other known factors including third country imports and prices have been assessed and we have concluded that the evidence does not break to the causal link due to the combined effect of significant increased volume and average unit price during the POI.
502. The TRA therefore concluded that UK industry suffered injury during the IP within the meaning of paragraph 5(1) of schedule 4 to the Act. Substantial undercutting and underselling over an extended period of time by imports originating in PRC, combined with a surge in import volumes, has been evidenced to be the main cause of the injury suffered by the UK industry.

H9. Injury amount

503. The injury margin is the extent of the injury to UK industry. We calculated a margin for each exporter based on the underselling margin. This is calculated by comparing a benchmark UK price (the target price) with the import price (the landed price). The target price is the price at which a UK producer would expect to sell its like goods if it was not being affected by the subsidised imports.
504. The margin was calculated using both SDG & SDGI costs data. We combined these figures to calculate an individual injury margin for the combined SDG Group.
505. Due to the close connection of SDG and SDGI, we calculated a combined injury amount for both, therefore we have been unable to calculate a weighted average non-sampled cooperative overseas exporter injury amount so this will be the same amount as the SDG Group.
506. We calculated an injury margin for all other overseas exporters. This is known as the residual injury margin.
507. During verification we were able to establish a reasonable level of profit for an optical fibre manufacturing business in the UK. The methodology used to calculate the injury margins is set out in the sections below.

H9.1 Target price

508. The target price is the price at which the UK industry would expect to sell its like goods if it was not being affected by the subsidised imports.
509. We calculated the target price by using the UK industry cost of production for the like goods, adding its AS&G costs, and applying a normal rate of profit. The normal rate of profit was set at 15% (profit margin) in this instance, which was based on historical data from the UK industry and what the TRA considers to be expected by the OFC industry under normal competition. This profit margin is

higher than might be expected for other industries due to the high-investment nature of the goods and the need to invest in research and development to ensure the business is competitive.

H9.2 Landed price

510. The landed price is the price of the goods concerned when they arrive at the UK port. It equates to the CIF (Cost, Insurance and Freight) import price plus any relevant import duties and other costs associated with import.

511. We calculated the landed price by using the CIF UK export price of the sampled exporters. The CIF value was provided in USD and YUAN, and we have used the HMRC monthly exchange rate to convert the price to GBP.

H9.3 Residual injury margin

512. Regulation 38(3) of the Regulations states that the TRA may determine the residual amount using any reasonable means.

513. In line with regulation 38(4)(b) of the Regulations the TRA has determined the residual margin taking account of information contained in the Applicant's and SDG Group's questionnaires.

514. The residual margin has been set by using a method of selecting the highest injury margin established for a PCN that had high sales volume when compared to the total export volume during the POI.

H9.4 Injury margins

515. Using the approaches and data detailed above, we calculated the following injury margins for overseas exporters from the PRC:

Table 30: Injury margins

Country	Overseas exporter/producer	Injury margin
PRC	SDG Group	64.5%
PRC	Non-sampled co-operating exporters	64.5%
PRC	All other overseas exporters (Residual Amount)	75%

Section I: Economic Interest Test

I1. Introduction

516. The aim of the Economic Interest Test (EIT) is to determine whether the application of a countervailing duty on the goods concerned is in the economic interest of the UK. The test is presumed to be met unless we are satisfied that the application of measures is not in the economic interest of the UK.
517. In accordance with paragraph 25 of Schedule 4 to the Act, the EIT is met in relation to the application of a countervailing duty if the application of the measure is in the economic interest of the UK.
518. The TRA may only recommend to the Secretary of State that a countervailing duty should be applied to the goods subject to a final affirmative determination where that recommendation meets the EIT, in accordance with paragraph 17(5) of Schedule 4 to the Act.
519. In line with paragraph 25 of Schedule 4 to the Act, the TRA has taken account of the following in conducting the EIT:
- the injury caused by the importation of subsidised goods to a UK industry in the like goods and the benefits to that UK industry in removing that injury;
 - the economic significance of affected industries and consumers in the UK;
 - the likely impact on affected industries and consumers in the UK;
 - the likely impact on particular geographic areas, or particular groups, in the UK;
 - the likely consequences for the competitive environment, and for the structure of markets for like goods, in the UK; and
 - such other matters as the TRA considers relevant.

I2. Evidence base

520. Our primary evidence sources were questionnaire responses from interested parties. The following responses contained information relevant to the EIT:

- One response from the Applicant.
- One response from a downstream user and importer of OFC.

521. We invited several other stakeholders to participate in this investigation; however, no other parties submitted evidence in relation to the EIT.

522. We supplemented the questionnaire responses with evidence from background research and collated additional information from UK government data sources, and recognised market data providers. The TRA has also conducted research relating to parties that have not participated in this investigation.

523. The sections that follow assess each of the factors of the EIT in turn.

I3. Injury caused by subsidised imports from the PRC and benefits to UK industry in removing injury

524. In [Section H: Injury](#), we found that the UK industry has been suffering injury as a result of subsidised imports of OFC from the PRC.

525. An assessment of the 15 injury factors determined that the significant increase in imports of OFC from the PRC coincided with a deterioration of the UK industry. Several factors saw negative trends during the IP, including profits, sales, market share, productivity and return on investments. We also found evidence of price undercutting with an average margin of 39.4% during the POI, which has led to price depression for the UK industry.

526. The injury assessment concluded that there would be further injury to the UK industry were a countervailing amount not imposed. This imposition of a

countervailing amount would prevent further injury, allowing the UK industry to regain lost market share and improve its profitability.

I4. Economic significance of affected industries and consumers in the UK

527. This section sets out the relative size and significance of the affected industry and consumers within the OFC supply chain. From the available evidence, the TRA identified the following groups in the UK as potentially being affected by a countervailing measure:

- upstream suppliers of raw materials;
- UK producers of OFC;
- distributors and importers of OFC;
- downstream industries; and
- consumers.

528. It should be noted that there is overlap between these groups. We have attributed all known businesses to one of these groups based on their principal activity to avoid double counting. Distributors and imports have been analysed together as many distributors are importers.

I4.1 Upstream businesses

529. We did not receive any submissions from upstream businesses, but we identified three upstream businesses based in the UK. These businesses supply raw materials to several industries, including the OFC industry.

530. Our analysis of the available evidence suggests less than 1% of the turnover of these upstream businesses comes from sales to OFC producers. Therefore, OFC is unlikely to be very important for these businesses.

14.2 UK producers

531. There is one confirmed UK producer of OFC in the UK (see [F1. Scope of the UK industry](#)). We received a questionnaire response from one producer: the Applicant.
532. In 2021, the Applicant employed 1,035 people and their turnover was £543.3m. Their EBITDA margin was 6.9%. EBITDA is earnings before interest, taxes, depreciation, and amortisation and is a widely used metric that measures a company's overall financial performance. The available evidence suggests that OFC are somewhat important to the UK producer, when considering revenue from OFC sales relative to total company turnover.

14.3 Distributors and Importers

533. Distributors and importers play a similar role in supplying OFC to downstream industries. Data was available for six of the 14 known distributors and importers of OFC. These firms employed 1,019 people across the UK based on accounts filed for the year 2021 and had a total turnover of £627.6m. They had an EBITDA margin of 1.6%. We estimate that their GVA was £64.5m.
534. The available evidence on purchases of OFC suggests that they are somewhat important to two of the six known businesses and unlikely to be very important for the other four.

14.4 Downstream businesses

535. We identified 67 downstream businesses and received one questionnaire response. We selected 10 businesses that have the largest proportion of purchases of OFC based on available data. Based on accounts filed for the year 2021, these businesses employed 85,728 people and their total turnover was £22.7bn. For the same period, we estimate that their average EBITDA margin was 12.1% and their combined GVA was £3.1bn.

536. There are some firms operating within the main downstream industries, telecoms, and broadband, that are vertically integrated. These tend to be larger firms, for example, some broadband providers are also network operators and own the infrastructure they use to provide their services to customers. Small firms generally rent the network with their main operation focused on the services provided to customers.
537. While OFC is used as an input for the downstream businesses identified, not all their employment can be directly attributed to OFC. For example, OFC is a key part of the infrastructure for fibre broadband; however, operations for some businesses extend beyond this. For example, BT sales of TV packages, which are not directly related to OFC, will contribute to its employment and financial figures. The available evidence suggests that OFC is somewhat important to a small number of the sampled firms when considering their purchases of OFC.
538. As OFC are used in various industries, the total number of downstream businesses is likely higher than those identified. We have no evidence to suggest that any of these industries are dependent on OFC imported from the PRC.

14.5 Consumers

539. OFCs are themselves not typically regarded as a consumer good. They are a key part of the infrastructure in providing services to consumers, with the most widely used application in fibre broadband for internet connectivity.

14.6 Summary table

540. Table 31 presents evidence on the economic significance for segments of the OFC supply chain. Based on the comparative metrics set out in the table, we believe OFC are a somewhat important product for the UK producer, distributors and importers, and downstream businesses.

Table 31: Summary table for the significance metrics for affected industries

	Upstream businesses	UK producers	Distributors and importers	Downstream businesses
Total known businesses	3	4	14	68
Total selected	3	1	6	10
Estimated importance of OFC to this group	Not very important (UK producer raw material costs vs upstream business turnover)	Somewhat important (OFC sales revenue vs whole business turnover)	Somewhat important (value of OFC purchases vs distributor/importer turnover)	Somewhat important (UK producer OFC sales revenue vs downstream business turnover)
Total employment of selected businesses	N/A	1,035	1,019	85,728
Total GVA of selected businesses (£m)	N/A	88.0	64.5	3,065.7
Total turnover of selected businesses (£m)	N/A	543.3	627.6	22,721.6
Average EBITDA margin for selected businesses (%)	N/A	6.9	1.6	12.1
Vulnerability to economic shocks	Low – company profitable across the IP, with profits increasingly in 2021	Low – producer remained profitable throughout the IP, with profits increasing in 2021	Medium – some companies experienced negative profits across the IP, whilst others were profitable	Low – most companies were profitable during the IP, only two firms experienced negative profits

Sources: Questionnaire responses, Companies House and Dun & Bradstreet.

Methodology: The importance of OFC to each of the groups was estimated using the comparison metrics set out in brackets for each group. GVA was estimated by summing operating profits, employment costs, depreciation, and amortisation. Average EBITDA margin was estimated by dividing the sum of operating profit, depreciation, and amortisation by turnover. The assessment of vulnerability to negative economic impacts was made by looking at financial data from 2017-2021, with gross profits being the measure of financial wellbeing used.

I5. Likely impact on affected industries and consumers

541. This section assesses how prices and quantities throughout the supply chain will be impacted with and without a countervailing duty. We then assess the impact of any changes in prices and quantities on affected industries and consumers.

I5.1 Prices and quantities in the event a measure is imposed as recommended

542. The imposition of a measure is likely to increase the prices of imports from the PRC by up to the level of the countervailing duty (10.62%).

543. The higher price of imports following the imposition of a measure is likely to lead to a decrease in imports of OFC from the PRC. However, we do not expect an immediate decline as there may be outstanding orders to be completed for contracts agreed ahead of time between suppliers. Given that the UK producer has some available capacity, the decrease in imports from the PRC could be filled by increased domestic supply or imports from third countries in the long term. We expect demand to remain unchanged even if prices of domestically produced and imported OFC increase, due to the lack of comparable alternative products to OFC.

544. The prices for importers and distributors that source OFC from the PRC will likely increase by up to the level of the countervailing amount.

545. We expect overall consumption of OFC to either remain unchanged or increase. This is because evidence from questionnaire responses and background research suggests that demand for OFC is relatively insensitive to changes in prices given the importance of fibre broadband and the lack of substitutes for OFC, especially when comparing the speed of fibre broadband to alternatives. Demand from suppliers investing in faster broadband is expected to continue, particularly to fulfil infrastructure projects delayed due to the Covid pandemic.

Additionally, [Project Gigabit](#), the government's programme to install fast broadband in hard-to-reach areas not included in suppliers' plans, will sustain demand for OFC.

546. Cost increases for downstream industries that use OFC will largely depend upon the nature of the product. For the main downstream industries, broadband and telecoms, OFC are an essential part of the infrastructure. This means that cost increases could be passed to final consumers, where price increases will depend on factors such as competition, price sensitivity and substitutability of the downstream services.
547. As previously mentioned, some downstream businesses are vertically integrated, providing services to consumers whilst also managing the infrastructure as network operators. These firms may have the ability to absorb some of the cost increases rather than passing onto customers or may have increased leverage to pass some of the costs onto smaller firms who rent the broadband network to provide their services to customers. Smaller firms who are less able to absorb these cost increases are more likely to pass them onto their customers. This demonstrates the uncertainty around the extent to which the costs of tariffs may be passed on to customers.
548. The impact of a measure on broadband consumers depends on whether downstream industries increase prices due to a potential increase in their costs. Many providers include clauses in the terms and conditions of their contracts for yearly price increases in line with the Consumer Price Index (CPI) and to account for rising business costs. Therefore, increases in costs can be passed onto consumers in line with the percentages quoted in contracts, [usually around 4-5%](#). Some providers will allow customers to switch suppliers within their contract period with no exit fees following price increases. For out-of-contract customers, price increases may be larger as broadband providers are able to increase prices. Other factors will also influence prices including supply of

broadband, regional competition, and market segmentation, with some of these factors applying downward pressure on prices.

549. We have produced illustrative estimates of the potential increase in broadband prices for consumers from the imposition of the measure using publicly available data. The [Commission's final recommendation](#) to impose countervailing duties on OFC imported from the PRC stated that OFC represented 5-10% of total costs of network projects based on information from interested parties. Using these Commission estimates in the absence of UK-specific evidence, and assuming that all additional costs are passed to consumers in a worst-case scenario, the proposed countervailing duty of 10.62% could translate into percentage price increases of 0.5% to 1.1%. Broadband prices paid by consumers can vary considerably, so we looked at data on the highest and lowest monthly [broadband prices by city in the UK](#), an approximate range of £25 to £45. Applying the estimated percentage price increases to the range of broadband prices provides an illustrative monthly price increase of 10p to 50p. However, this represents an illustrative worst-case scenario where all additional costs are passed on to consumers.
550. In reality, we expect the consumer impacts to be smaller. This is largely because of competition between broadband providers which may lead to downstream firms absorbing some of their increased costs to attract and retain customers. Moreover, there is no evidence that downstream firms are reliant on imports of OFC from the PRC and the market is competitive, which means there is the possibility for firms to source OFC from cheaper third country sources. Further, the OFC contained within broadband infrastructure typically has a long lifespan and is not regularly replaced, so downstream users of OFC would not regularly face increased costs that they may seek to pass on to their consumers.

15.2 Prices and quantities in the event a measure is not imposed

551. Questionnaire responses suggest that UK demand for OFC is expected to increase alongside the overall growth of the fibre broadband sector. An increase in imports will be necessary to facilitate this increase in demand because, in the long term, domestic capacity to produce and supply OFC will not be sufficient. Current nationwide rollouts of fibre broadband, including Project Gigabit, are acting as a sustained source of demand for OFC, which would likely continue with or without the imposition of a countervailing measure. This increased demand could lead to prices of OFC increasing.
552. If a countervailing measure is not imposed, subsidised imports from the PRC will continue to displace domestically produced OFC. During the IP, the volume of imports from the PRC significantly increased. The price undercutting of subsidised imports from the PRC will continue to cause injury. Consequently, quantities produced by the UK industry are likely to decline due to their inability to reduce prices to compete with the subsidised imports.
553. There is the possibility of further price undercutting, which may further depress prices of OFC in the UK market. However, if suppliers exit the market due to their inability to compete with imports from the PRC, the reduced competition may lead to an increase in prices, in the long term.
554. The UK producer highlighted the risk of further injury due to potential trade deflection from the EU to the UK after the EU's imposition of a definitive anti-dumping duty on imports of OFCs on 17 November 2021 and countervailing measures on 18 January 2022. We acknowledge this risk, given the increase in imports of OFC from the PRC during the IP.
555. If a measure is not imposed, we do not expect price increases for consumers. However, broadband customers may see price increases, in line with CPI as a minimum, as set out in the terms and conditions of their contracts. Additionally,

government subsidisation of high-speed broadband in rural areas may lead to prices falling in the long-term.

556. From the parallel anti-dumping investigation, AD0021, there is a possibility that an anti-dumping amount will be applied to imports of OFC from the PRC even if a countervailing duty is not imposed, which could lead to some prices increases.

I6 Likely impact on affected industries and consumers (by type)

I6.1 UK producer

557. The imposition of a measure would prevent further injury to the UK industry. A measure will allow them to compete with fairly priced imports and thus maintain levels of production required to satisfy a growing domestic market.
558. The non-imposition of a countervailing measure is likely to see the UK industry continue to lose market share to subsidised imports from the PRC due to their inability to reduce prices. This will likely lead to further deterioration of the domestic producers' market position in the long term.

I6.2 Distributors and importers

559. If a countervailing measure is imposed, the distributors and importers that source OFC from the PRC are likely to see prices increase by up to the level of the countervailing duty with no change expected for those who source OFC from third countries. The impact on the firms sourcing from the PRC will depend on the extent to which they can pass any cost increases onto their customers in downstream industries. As OFC are essential for some downstream industries, particularly in the absence of substitutes, it is likely that distributors and importers will pass some cost increases on. Demand for imports may decrease slightly.

560. We do not expect any significant impacts on distributors and importers if a measure is not imposed. However, it is possible that they gain the market share lost by the UK producer.

I6.3 Downstream businesses

561. There is limited information to assess the impact for all downstream industries that use OFC as part of the infrastructure to provide services to consumers. If a measure is imposed, costs are likely to increase for some downstream businesses, who may pass these onto final consumers. The extent of this depends upon several factors, including the price sensitivity and substitutability of downstream services.

562. If a measure is not imposed, we do not expect downstream businesses to be significantly impacted in the short-term.

I6.4 Consumers

563. If a measure is imposed, there could be a small negative impact on individual consumers, which could translate into a material increase in costs for broadband to consumers in aggregate terms. However, as discussed in [Section I5.1](#) our illustrative estimates of price impacts represent a worst-case scenario and it is unlikely that these impacts would materialise due to competition between broadband suppliers, no evidence of suppliers being reliant on imports of OFC from the PRC and the possibility to source OFC from cheaper third country suppliers.

Table 32: Expected impacts on affected groups if a countervailing is imposed

Group	Expected impacts
UK producer	Significant positive impact for domestic producer
Distributors and importers	Small negative impact
Downstream businesses	Small negative impact
Consumers	Small negative impact on individual consumers, with a larger impact in aggregate terms

17. Likely impact on particular geographic areas, or particular groups in the UK

564. This section considers how potential impacts of imposing a measure may be geographically distributed, and whether any particular groups might be disproportionately impacted.

17.1 Likely impact on particular areas

565. The TRA considered the geographic areas where UK producers, distributors, importers, upstream and downstream industries were located, as identified through questionnaire responses. The stakeholders included in our analysis are limited to those identified during the investigation and therefore may not represent the complete OFC industry and related industries within the UK.

566. We assessed the significance of affected industries by examining the employment of affected industries as a proportion of total employment in each local area. However, due to the absence of granular data, it was not always possible to attribute employees within a firm to particular sites in the UK.

17.2 UK producer

567. The UK producer operates four production sites across the UK and provided employment data for three of these sites. One site is located in South England, two sites in Wales and one in North East England. The site that focuses on OFC is located in Eastleigh in South England. Employment as a proportion of the total working-age population in this area is less than 1% so we do not expect the imposition or non-imposition of a measure to have any significant impacts.

17.3 Distributors and Importers

568. We considered the locations of the selected distributors and importers using available evidence and found that sites for these companies are located across England. We do not expect significant impacts from the imposition or non-imposition of a countervailing measure as employment for each site was not a significant proportion of total employment in each area.

17.4 Downstream businesses

569. For downstream businesses, which are predominantly broadband and telecoms providers and installers, we have limited information to analyse regional impacts. Although information on locations of headquarters is available, operation sites are far more extensive, particularly for larger firms. The pace at which high-speed fibre broadband is being rolled out across the UK also means that operations of downstream industries remain dynamic as they continue to expand.

17.5 Likely impact on Particular Groups

570. The TRA considered the likely impact on particular groups including those with protected characteristics as defined by the [Equality Act 2010](#).

571. Broadband prices differ by region, due to a number of reasons including speeds available and competition. This means that consumers in some parts of the UK could be subject to higher prices increases than others. There are some broadband providers that offer [social tariffs](#), cheaper broadband, and phone packages, for individuals claiming benefits. This means low-income households, who would otherwise spend a larger share of their income on broadband, have access to cheaper broadband at the same speeds and may not be subject to price increases.

I8 Likely consequences for the competitive environment, and for the structure of the market, in the UK

572. The assessment of the likely consequences for the competitive environment and structure of the UK market considers four factors:

- the impact on the number or range of suppliers;
- the impact on the ability of suppliers to compete;
- the impact on the incentives to compete vigorously; and
- the impact on the choices and information available to consumers.

I8.1 Background

573. There is one confirmed UK OFC producer, with three other cable producers with unknown OFC production volume, and 14 known UK distributors and importers of OFC. There are also a range of suppliers in the PRC and third countries exporting to the UK. During the POI, the UK imported OFC from 73 countries, including the PRC.

574. We estimated that the UK producers accounted for approximately 50% of total domestic consumption of OFC during the POI. Imports estimated in fkm from the

PRC, as a percentage of total UK consumption, more-than-doubled during the same period, from 3.6% to 9.4%, demonstrating the increasing influence of imports from the PRC. The rest of the market was supplied by imports predominantly from Germany, India and Poland.

18.2 The impact on the number or range of suppliers

575. The market for OFC has high barriers to entry in the form of technological expertise and investment. The level of expertise required to efficiently produce OFC at scale means that there is unlikely to be an increase in the number of UK producers with the imposition or non-imposition of a measure.
576. The imposition of a measure may lead to a reduction in the number or range of suppliers from the PRC. We expect the UK market to remain competitive, even if suppliers from the PRC exit the market, as there are suppliers from a number of third countries exporting OFC to the UK. A measure will allow the UK industry to compete on a level playing field with imports from the PRC. Any reduction of OFC imports from the PRC will likely be fulfilled by domestic production, imports from third countries, or a combination of the two.
577. The number or range of suppliers is unlikely to change with the non-imposition of a measure.

18.3 The impact on the ability of suppliers to compete

578. The imposition of a measure will increase the prices of subsidised imports from the PRC, which is likely to reduce the ability of PRC suppliers to compete. However, the removal of price undercutting will allow the UK industry to compete with imports of OFC from the PRC on a level playing field. The prevalence of imports, which are required to satisfy UK demand, suggests that suppliers in third countries will be able to compete with or without the imposition of a measure.

18.4 The impact on the incentives to compete vigorously

579. There is no evidence to suggest that suppliers would face reduced incentives to compete vigorously with the imposition or non-imposition of a measure. The tender process requires vigorous competition, as suppliers need to fulfil the requirements of the tender, so we do not expect any significant impacts.

18.5 Impact on the choices and information available to consumers

580. There is limited evidence to suggest that the choices and information available to consumers would be impacted by the imposition or non-imposition of a measure. The available evidence on how the market operates indicates that downstream industries have a choice between domestically produced versus imported OFC.

19 Such other matter as the TRA considers relevant

581. As part of the EIT assessment, the TRA can consider any other factors that may be relevant in concluding whether the proposed measure is in the economic interest of the UK.

582. We found no evidence of any other relevant factors for this investigation and no evidence was submitted by interested parties.

110 Conclusions

583. In accordance with paragraph 25 of Schedule 4 to the Act, the EIT is met in relation to the imposition of a measure if the application of the countervailing amount is in the economic interest of the UK. This test is presumed to be met unless the TRA is satisfied that the application of the countervailing amount is not in the economic interest of the UK.

584. As described in the [injury section](#), we determined that the UK industry has been suffering injury due to the goods concerned. The injury assessment concluded that there would be further injury were a measure not recommended.
585. The [economic significance section](#) assessed the financial metrics of the different groups that make up the supply chain for OFC in the UK. We found that OFC was somewhat important to UK producers, distributors and importers, and downstream businesses.
586. In the [impacts section](#) we found that the imposition of a measure would prevent further injury to the UK industry. While the imposition of a measure would increase the price of imports from the PRC by up to the level of the measure, it would allow the UK industry to compete on a level playing field. The relative price inelasticity of OFC means that distributors and importers could pass increased costs onto their customers. This means downstream industries, that use the infrastructure OFC is part of, may increase prices for consumers; however, this increase would depend on price sensitivity, competition and substitutability of downstream products and services. The impacts on consumers could be large in aggregate terms but small at an individual level. In contrast, not imposing a measure would cause further injury to the UK industry. The continued pressure on prices would further squeeze profit margins and could lead to declines in investment, which is unsustainable for an industry that is heavily investment driven.
587. We concluded that the imposition or non-imposition of a measure is not expected to have any [geographical impacts](#) due to sites being distributed across the UK and employment for each site being a small proportion of the total working-age population in each area. There was no evidence of impacts on particular groups.
588. In the [competition section](#), we determined that the market is competitive given the range of suppliers and due to businesses having to compete for tenders. The

imposition of a measure would be unlikely to substantially affect the level of competition in the OFC market.

589. We have identified the following key positive impacts of imposing the measure:

- The UK industry would benefit due to prevention of further injury.
- The UK industry would be able to compete with imports on a level playing field, increase profitability and realise returns on its investments.

590. The contrasting key negative impacts are:

- Importers and distributors would be unable to source cheaper OFC from the PRC.
- Downstream industries may face increased input costs.
- When considering the illustrative price increases for broadband, the impact on consumers could be large in aggregate terms, even though small at an individual level.

591. We do not have evidence to suggest that the potential negative impacts are disproportionate to the potential positive impacts. Though potentially material in aggregate terms, the illustrative impacts on consumers present a worst-case scenario and are likely to be smaller in reality whereas we consider that the impacts for the UK industry are more certain and severe. Therefore, having considered the evidence submitted by interested parties and all of the factors listed in the legislation, we conclude that the EIT is met.

Section J: Final determination and recommendation

592. Our final determination is set out below.
593. We make a final affirmative determination under paragraphs 11(5) and 11(6)(a) of Schedule 4 to the Act. Our final determination is in respect of goods concerned originating from the PRC as described in the NOI, that fall under commodity code: 8544700010.
594. We have determined that the goods concerned have been or are being imported into the UK and are subsidised, and the importation of the subsidised goods concerned has caused or is causing injury to the UK industry. We have determined that the application of the countervailing measure we are recommending to the Secretary of State meets the EIT.
595. In accordance with paragraphs 17(4), 18(2)(a), and 18(5) of Schedule 4 to the Act, we recommend that the Secretary of State impose an ad-valorem duty for a period of five years on the goods concerned subject to the final determination. This period of five years will begin the day after the date of publication of the public notice under section 13 of the Act, giving effect to the recommendation (in accordance with paragraph 18(2)(b) of Schedule 4 to the Act).
596. In accordance with paragraph 18(6) of Schedule 4 to the Act, the TRA recommends that the Secretary of State impose the countervailing amount at the level of the subsidy amount, as this is the lower of the subsidy amount and the injury margin. Individual company margins as well as the residual amount are shown below.

Table 33: Recommended ad-valorem duty rates

Country	Overseas exporter/producer	Subsidy amount	Injury Margin	Countervailing Amount
PRC	SDG Group (consisting of Shenzhen SDG Information Co., Ltd and Shenzhen SDGI Optical Network Technologies Co., Ltd)	10.62%	64.5%	10.62%
PRC	Suzhou Furukawa Power Optic Cable Co.,Ltd.	10.62%	64.5%	10.62%
PRC	Shanghai Wanbao Optical Technologies Co. Ltd	10.62%	64.5%	10.62%
PRC	Ningbo Geyida Cable Technology Co.,Ltd	10.62%	64.5%	10.62%
PRC	XDK Communication Equipment Huizhou Co., Ltd.	10.62%	64.5%	10.62%
PRC	Jiangsu Fasten Optical Cable Co., Ltd.	10.62%	64.5%	10.62%
PRC	Hengtong Optic-Electric co. Ltd.	10.62%	64.5%	10.62%
PRC	ZheJiang JinYuan WanBao Optical Fiber Co. Ltd.	10.62%	64.5%	10.62%
PRC	FibreHome Telecommunication Technologies Co Ltd	10.62%	64.5%	10.62%
PRC	All other overseas exporters (residual amount)	11.79%	75%	11.79%

Annex A: Interested parties and contributors

Table 34: Summary of information received from Interested parties and contributors

Interested Party/Contributor	Information Received	Status
Prysmian Cables & Systems Ltd	Application, Pre-Sampling Questionnaire (PSQ), Questionnaire, Comments on SEF	The Applicant
Shenzhen SDG Information Co. Ltd	PSQ, Questionnaire, Comments on SEF under SDG Group	Sampled Overseas Exporter
Shenzhen SDGI Optical Network Technologies Co., Ltd.	PSQ, Questionnaire, Comments on SEF under SDG Group	Sampled Overseas Exporter
Yangtze Optical Fibre and Cable Joint Stock Limited Company (YOFC)	PSQ	Non-cooperative
Jiangsu Zhongtian Technology Co. Ltd (ZTT)	PSQ	Non-cooperative
Suzhou Furukawa Power Optic Cable Co.,Ltd.	PSQ	Non-sampled
Shanghai Wanbao Optical Technologies Co. Ltd	PSQ	Non-sampled
Ningbo Geyida Cable Technology Co.,Ltd	PSQ	Non-sampled
XDK Communication Equipment Huizhou Co., Ltd.	PSQ	Non-sampled

Jiangsu Fasten Optical Cable Co., Ltd.	PSQ	Non-sampled
Hengtong Optic-Electric co. Ltd.	PSQ	Non-sampled
ZheJiang JinYuan WanBao Optical Fiber Co. Ltd.	PSQ	Non-sampled
FibreHome Telecommunication Technologies Co Ltd	PSQ	Non-sampled
Ministry of Commerce, PRC (MOFCOM)	Registration Questionnaire (RQ), Comments on SEF	Participant
China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME)	RQ, Questionnaire, additional submission, Comments on SEF	Participant
BT Telecommunications plc (BT)	PSQ	Non-cooperative
Mayflex	PSQ	Non-cooperative
Türk Prysmian Kablo Ve Sistemleri A.S.	RQ, Questionnaire	Participant
Corning Kablo ve Sistemleri Ltd.	RQ, Questionnaire	Participant

Annex B: PCN Structure

Table 35: Product Control Number (PCN) structure of AS0022

Description	Value	Comments
Type of single mode optical fibre in the cable	A	Type G.652D
	B	Type G.657 A1
	C	Type G.657 A2
	D	Type G.654
	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