

Comments by Prysmian Cables & Systems Ltd on the Statement of Essential Facts in the anti-subsidy investigation concerning imports of optical fibre cables originating in the People's Republic of China

Case AS0022

1. On 20 June 2023, the Trade Remedies Authority ("**TRA**") published its Statement of Essential Facts ("**SEF**"), which provides the TRA's analysis "forming the basis of the intended determination" (§5 of the SEF).
2. Prysmian Cables & Systems Ltd ("**Prysmian UK**"), the complaining UK industry, is pleased with the TRA's determination that "the goods concerned have been or are being subsidised and the importation of the subsidised goods has caused injury to the UK industry" (§21 of the SEF).
3. Prysmian UK also welcomes the TRA's recommendation to the Secretary of State for Business and Trade ("**Secretary of State**") to impose an ad-valorem countervailing duty for the period of five years on the goods concerned.
4. The proposed countervailing measure, combined with the proposed anti-dumping measure in parallel case AD0021, will hopefully contribute to restoring fair competition on the UK market and will remedy the market distortions caused by the injurious subsidised imports of optical fibre cables ("**OFC**") from the People's Republic of China ("**China**").
5. Prysmian UK takes this opportunity to make the following additional comments.

1. PRYSMIAN UK WELCOMES THE TRA'S FINDINGS IN THE STATEMENT OF ESSENTIAL FACTS

6. Prysmian UK welcomes the TRA's final determination to recommend to the Secretary of State that a definitive countervailing measure is imposed ranging between 10.62% (on the SDG Group and cooperating Chinese exporting producers) and 11.79% (on non-cooperating Chinese producers). At the same time, Prysmian UK regrets that the proposed countervailing measure is not higher, especially considering the low level of cooperation of the Chinese exporting producers.
7. Prysmian UK appreciates the TRA's detailed analysis and findings in relation to different types of subsidies on which the Chinese exporting producers have relied to export at such low prices. This task has not been made particularly easy, considering the abovementioned low cooperation from the Chinese exporting producers, the complex structure of the Chinese economy and the overwhelming interference of the Government of China ("**GOC**") across all major industries, including but not limited to high-tech industries, as well as the lack of publicly available information.
8. Prysmian UK is unable to provide meaningful comments on the different types of direct transfers of funds in the form of grants that were received by the SDG Group because it "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" (§110 of the SEF).

9. Prysmian UK also believes that had ZTT and YOFC fully cooperated, the subsidy margins would likely have been higher. For instance, the TRA might have been able to determine whether either or both groups benefitted from accelerated depreciation for fixed assets. The TRA would perhaps also have been able to collect sufficient data to determine that standard corporate bonds and convertible corporate bonds might have been issued at preferential rates. A similar comment can be made in relation to the argument raised by Prysmian UK in its initial Application that Chinese OFC producers are obtaining raw materials and inputs at less than adequate remuneration.

10. In any event, the TRA's findings on other types of subsidies are a clear confirmation of what Prysmian UK has been arguing throughout this entire proceeding, namely that the Chinese producers of optical fibre cables, which are heavily subsidised by the GOC, are not competing fairly in the UK market.

11. Prysmian UK also agrees with the TRA's finding that the UK industry has been suffering material injury within the meaning of paragraph 5(1) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 ("**the Act**") due to severe undercutting and underselling by imports originating in China combined with a surge in import volumes.

12. In view of the material injury suffered by the industry, Prysmian UK considers that the proposed countervailing measure will contribute to adequately supporting a viable UK optical fibre cable industry and allow the UK industry to resume the important investments that are necessary to remain competitive in the digital market.

2. THE ABSENCE OF ANY SIGNIFICANT OPPOSITION TO THE PROPOSED MEASURE BY OTHER INTERESTED PARTIES CONFIRMS THE NEED TO PROTECT THE UK INDUSTRY OF OPTICAL FIBRE CABLES

13. Prysmian UK takes note of the absence of any significant opposition by importers, distributors and more generally user industries in this investigation.

14. According to the SEF, both importers that registered initial interest in the case, namely Mayflex UK Limited and BT Telecommunications plc were deemed as non-cooperative parties.

15. The lack of cooperation of the user industry is not surprising. If the UK OFC industry is not adequately protected against subsidised imports from China, the user industry, including the telecom operators, would be dependent on vertically integrated Chinese producers.

16. There is a clear consensus that it is in the UK's Economic Interest to protect the UK optical fibre cables industry from injurious subsidised imports from China.

3. CONCLUSION

17. Prysmian UK welcomes the TRA's findings as established in the SEF and, more specifically, the TRA's recommendation of the imposition of an ad-valorem countervailing duty on UK imports of OFC originating in China.

18. The situation of the UK producers has been further deteriorating since the end of the investigation period (2021). In the absence of measures, tenders continue to be lost and, as a result, the UK producers have had to further reduce their prices (at unsustainable levels) to maintain their positions with their customers.

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