

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1617**of 8 August 2023****amending Commission Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 12 thereof,

Whereas:

1. PROCEDURE**1.1. Measures in force**

- (1) On 17 November 2021, the Commission adopted Implementing Regulation (EU) 2021/2011 ⁽²⁾ ('the original Regulation') imposing a definitive anti-dumping duty on imports of optical fibre cables ('OFC', 'the product under investigation') originating in the People's Republic of China ('China' or 'the country concerned'). The definitive anti-dumping duty imposed initially was ranging from 19,7 % to 44 % ('the duty imposed initially').
- (2) The product under investigation is also subject to a definitive countervailing duty ranging from 5,1 % to 10,3 %, imposed by the Commission Implementing Regulation (EU) 2022/72 ⁽³⁾, as corrected by the Commission Implementing Regulation (EU) 2022/469 ⁽⁴⁾. However, the countervailing duty is not subject to this reinvestigation. Following the imposition of the definitive countervailing duty on the product under investigation, in order to avoid offsetting the effects of subsidisation twice, the definitive anti-dumping duty was reduced to a range of 14,6 % to 33,7 %.

1.2. Request for an absorption reinvestigation

- (3) The Commission received a request for an absorption reinvestigation of the anti-dumping measures in force with respect to imports of the product under investigation, pursuant to Article 12 of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 410, 18.11.2021, p. 51).

⁽³⁾ Commission Implementing Regulation (EU) 2022/72 of 18 January 2022 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 12, 19.1.2022, p. 34).

⁽⁴⁾ Commission Implementing Regulation (EU) 2022/469 of 23 March 2022 correcting Implementing Regulation (EU) 2022/72 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 96, 24.3.2022, p. 36).

- (4) The request was lodged on 28 October 2022 by Europacable ('the applicant') on behalf of the Union producers. The applicant represents more than 25 % of the total Union production of OFC.
- (5) The applicant has submitted sufficient evidence showing that after the original investigation period, Chinese export prices have decreased and that the decrease in Chinese export prices impeded the intended remedial effects of the measures in force. The evidence contained in the request indicated that the decrease in export prices cannot be explained by a decrease of the price of the major raw material or other costs or by a change in the product mix.

1.3. Reopening of the anti-dumping investigation

- (6) On 8 December 2022, the Commission reopened the anti-dumping investigation by a notice published in the *Official Journal of the European Union* ('the Notice of Reopening') ⁽⁹⁾.
- (7) The reinvestigation concerned the current anti-dumping duties imposed, as set out in Article 1(2) of the original Regulation, as amended and corrected.

1.4. Interested parties

- (8) In the Notice of Reopening, the Commission invited interested parties to contact it to participate in the reinvestigation. In addition, the Commission specifically informed the applicant, exporting producers and importers known to be concerned and the authorities of the country concerned about the reinvestigation and invited them to participate.
- (9) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.5. Sampling of exporting producers in the People's Republic of China

- (10) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in China to provide the Commission with the information requested in the Notice of Reopening. In addition, the Commission requested the Mission of the People's Republic of China to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the reinvestigation.
- (11) Eleven exporting producers in China provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of exporting producers based on the largest representative volume of exports to the Union which could reasonably be investigated within the time available. The sampled groups of exporting producers were FiberHome Telecommunication Technologies Co., Ltd. and related companies ('the FTT Group') and Jiangsu Zhongtian Technology Co., Ltd. and related companies ('the ZTT Group'). The sampled exporting producers represented 58 % of the total estimated export volume of OFC from China to the Union during the absorption investigation period (from 1 October 2021 to 30 September 2022). The sample selected was identical to the sample in the investigation that led to the imposition of the duty imposed initially ('the original investigation').
- (12) In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned were consulted on the selection of the sample. No comments were received and thus the sample was confirmed.

⁽⁹⁾ Notice of reopening the anti-dumping investigation concerning imports of optical fibre cables originating in the People's Republic of China (OJ C 467, 8.12.2022, p. 36).

1.6. Sampling of unrelated importers

- (13) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Reopening.
- (14) Two companies (Cable 77 Danmark Aps and Connect Com GmbH) provided the requested information and agreed to be included in the sample. After analysing the sampling information supplied by them, the Commission decided that sampling was not necessary and asked both cooperating companies to submit their replies to the questionnaire for unrelated importers.

1.7. Replies to the questionnaires and verifications

- (15) The Commission sent questionnaires to the sampled groups of exporting producers and to the companies which provided information requested from unrelated importers. The questionnaires were also made available online on the day of the initiation ⁽⁶⁾.
- (16) One of these companies, Cable 77 Danmark Aps (Denmark), an unrelated importer, submitted an incomplete questionnaire reply. The Commission sent a deficiency letter requesting additional information. However, the company did not reply. The second company, Connect Com GmbH (Germany), informed the Commission that during the absorption investigation period, it did not import the product under investigation from China but purchased it from companies located in the Union. Therefore, the Commission did not consider this company as an unrelated importer in the sense of the basic Regulation in the context of the current reinvestigation. Therefore, the Commission did not verify the information provided by these two companies and did not use this information in the present reinvestigation.
- (17) The Commission sought and verified or cross-checked all the information deemed necessary for the purpose of this reinvestigation provided by the sampled exporting producers. In view of the outbreak of COVID-19, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at the premises of FiberHome Telecommunication Technologies Co., Ltd and Nanjing Wasin Fujikura Optical Communication Ltd. (both belonging to the FTT Group) as well as at the premises of Jiangsu Zhongtian Technology Co., Ltd., Zhongtian Power Optical Cable Co., Ltd., ZTT International Limited and ZTT Europe GmbH (all belonging to the ZTT Group). Instead, the Commission cross-checked remotely via videoconference the information provided by these companies, in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽⁷⁾.
- (18) In addition, the Commission carried out verification visits pursuant to Article 16 of the basic Regulation at the premises of the following related importers in the Union belonging to the FTT Group:
- FiberHome International Germany GmbH, Germany;
 - FiberHome International Poland Sp. z o.o., Poland.

1.8. Period covered by the absorption reinvestigation

- (19) The absorption investigation period ('AIP') was from 1 October 2021 to 30 September 2022. The original investigation period ('OIP') was from 1 July 2019 to 30 June 2020.

1.9. Comments on the request and the initiation

- (20) The Commission received comments on the request and the initiation from Connect Com GmbH ('Connect Com'), an unrelated importer that cooperated in the original investigation.

⁽⁶⁾ Available at <https://tron.trade.ec.europa.eu/investigations/case-view?caselid=2642>

⁽⁷⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

- (21) Connect Com claimed that the use of average price per cable-km was not a meaningful indicator to check whether the anti-dumping duties have been absorbed because cables with high number of fibres were more expensive per cable-km than cables with low number of fibres. Connect Com argued that the fall of average price per cable-km was caused by the change of product mix sold before and after the imposition of anti-dumping duties.
- (22) The Commission recalled that the applicant relied on import prices from the TARIC database of Eurostat for the product under investigation, which is the usual practice because the statistical data is gathered based on the product description as a whole, rather than individual product types. The Commission considered it sufficient to reopen the reinvestigation on this basis. Furthermore, it was noted that Connect Com did not submit any evidence showing that the decrease in import price was due to a change in product mix. During the reinvestigation, the Commission collected more detailed data at product type level based on product control numbers ('PCNs') and was able to compare prices of the same product types as explained in recital (40). The claim was therefore rejected.
- (23) Connect Com also stated that the unit of measurement 'kg' or 'tonnes' was not common in the cable business. The usual units of measurement for cables were meters or kilometres.
- (24) The Commission observed that, like for all other products in the TARIC database of Eurostat, import volumes of the product under investigation are also available in tonnes/kg, in addition to cable-km. The applicant's request indicated the (relevant) import volumes in both units with the relevant price per each unit. The claim was therefore rejected.
- (25) Connect Com claimed that the consideration of prices only until the end of the first half of 2022, as indicated in the request, led to a distorted result because the prices rose again in June 2022 and were expected to continue to rise in the second half of 2022.
- (26) The Commission recalled that, given the lodging date of the request, the period used in the request to show trends ending on 30 June 2022 was the most recent period with a full set of data available to the applicants at the time of the request. In addition, during the reinvestigation the Commission assessed prices until the end of the AIP, i.e., 30 September 2022. It follows that the period during which, according to Connect Com, the prices rose was partially included in the AIP. Therefore, the claim was rejected.
- (27) Connect Com also disputed the causality between the allegedly fallen prices and the imposition of the duties. It claimed that an extreme price decrease already occurred from August 2021 to September 2021, before the duties were imposed and that the subsequent price drop from EUR 10 in December 2021 to EUR 7 in June 2022 was not significant anymore and not linked to the imposition of the measures.
- (28) According to Article 12 of the basic Regulation, when there is sufficient evidence of duties being absorbed, the original investigation might be re-opened at the request of any interested party. The Commission assessed the evidence submitted by the applicant showing that after the original investigation period, Chinese export prices had decreased. In view of this information, the Commission decided to open the absorption reinvestigation. Furthermore, Article 12(2) of the basic Regulation does allow the Commission to consider evidence of price decreases occurring after the OIP and before the imposition of duties, such as the ones discussed by Connect Com. The claim put forward by Connect Com was therefore rejected.

1.10. Disclosure

- (29) On 1 June 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to amend the definitive anti-dumping duty on imports of OFC originating in China. All parties were granted a period within which they could make comments on the disclosure. The Commission received comments from FTT Group, ZTT Group and Twentsche (Nanjing) Fibre Optics Ltd ('TFO').

- (30) TFO, a non-sampled cooperating exporting producer, claimed that its request for individual examination was ignored. Furthermore, TFO claimed that it was 100 % owned by the Dutch company TKH Group NV and that it sells OFC under normal condition of competition to its subsidiary in the Union. They also claimed that the pricing did not change between the OIP and the AIP. They finally disagreed with the Commission assessment regarding the dumping duty applicable to them as a result of the anti-absorption investigation.
- (31) The Commission notes that TFO applied for individual examination in the original investigation. During the original investigation, its request for individual examination was rejected as explained in recital (40) of the original Regulation. Therefore, the duty applicable to TFO was the duty of the cooperating non-sampled companies as explained in recitals (397) and (565) of the original Regulation. In the current investigation, the Commission calculated the dumping margin of the cooperating non-sampled companies during the AIP as explained in recital (85) of this Regulation. The duty applicable to the cooperating non-sampled companies of the original investigation was increased as explained in recital (99) of this Regulation.
- (32) Regarding the shareholding of TFO, the Commission noted that TFO is an exporting producer based in China which exports to the Union and is subject to the anti-dumping duty for cooperating non-sampled companies. The fact that TFO is owned by another company established in the Union has no bearing on this finding or the applicability of the relevant duty rate. Therefore, these claims were rejected.
- (33) Following final disclosure, interested parties were granted an opportunity to be heard. No hearings were requested.
- (34) On 26 June 2023, the Commission provided interested parties with an additional final disclosure on the basis of which it intended to amend the definitive anti-dumping duty on imports of OFC originating in China. All parties were granted a period within which they could make comments on the additional disclosure. The Commission received comments from the FTT Group and the ZTT Group.

2. PRODUCT UNDER INVESTIGATION

- (35) The product under investigation is single mode optical fibre cables, made up of one or more individually sheathed fibres, with protective casing, whether containing electric conductors, originating in China, currently falling under CN code ex 8544 70 00 (TARIC code 8544 70 00 10).
- (36) The following products are excluded:
- i. cables in which all the optical fibres are individually fitted with operational connectors at one or both extremities; and
 - ii. cables for submarine use. Cables for submarine use are plastic insulated optical fibre cables, containing a copper or aluminium conductor, in which fibres are contained in metal module(s).
- (37) The optical fibre cables are used as an optical transmission medium in telecommunication networks in long haul, metro, and access networks.

3. FINDINGS OF THE ABSORPTION REINVESTIGATION

- (38) The absorption reinvestigation pursuant to Article 12 of the basic Regulation aims at establishing whether export prices have decreased or whether there has been no movement, or insufficient movement, in resale prices or subsequent selling prices in the Union of the product under investigation after the OIP. As a second step, if it is concluded that the measure should have led to movements in such prices, then, to remove the injury previously established in accordance with Article 3 of the basic Regulation, export prices shall be reassessed in accordance with Article 2 of the basic Regulation and dumping margins shall be recalculated to take account of the reassessed export prices.

3.1. Change of export prices

- (39) To determine whether export prices have decreased, the Commission first established for each sampled exporting producer its cost, insurance, and freight ('CIF') export prices at the Union customs border during the AIP and compared these prices to the corresponding CIF export prices determined during the original investigation for the OIP.
- (40) The Commission then compared for each sampled exporting producer the prices of the product types sold in the AIP with the prices of the same product types sold in the OIP and calculated for them the weighted average price difference. Not all product types sold in the AIP were also sold in the OIP. To ensure sufficient comparability level, the Commission compared the prices of the most sold 'unmatched' product types in the AIP with the prices of the most closely resembling product types sold in the OIP, where available.
- (41) The above comparison made for the two sampled groups of exporting producers resulted in the weighted average export price decrease of 50,5 % for the FTT Group and the weighted average export price decrease of 13,2 % for the ZTT Group.
- (42) Regarding the claim made by Connect Com as stated in recital (21), the investigation revealed that one sampled group of exporting producers exported the same PCNs in the AIP as in the OIP, while the other sampled exporting producer sold also other PCNs in the AIP as compared to OIP. The investigation revealed that the prices decreased for the matching PCNs. Therefore, the claim was rejected.
- (43) Since there was a fall in export prices, as required under Article 12(2) of the basic Regulation, the Commission recalculated dumping margins of the sampled exporting producers, in accordance with Article 2 of the basic Regulation.
- (44) The ZTT Group submitted that ZTT Europe GmbH ('ZTT Europe'), its related importer in the Union, purchased all product under investigation resold during the AIP before the imposition of the anti-dumping duty (that is all ZTT Europe's resales of the product under investigation during the AIP were free from anti-dumping duty) and therefore the Commission should disregard ZTT Europe's sales from its assessment in this reinvestigation.
- (45) The Commission observed that according to Article 12(2) of the basic Regulation it should assess the change of prices which had occurred after the OIP and prior to or following the imposition of measures. Therefore, the claim was rejected, except for sales made by ZTT Europe of the product under investigation purchased before or during the OIP, which the Commission indeed disregarded in its assessment.
- (46) Connect Com stated that no comprehensible justification was given as to why individual importers should have reported their imports in fibre-km instead of cable-km.
- (47) In the questionnaires the Commission requested both the exporting producers and the importers to report the data in cable-km and fibre-km as it was requested in the original investigation. However, all the calculations have been carried out in cable-km.
- (48) In their comments on the final disclosure, ZTT Group claimed that when determining whether the export prices have decreased, the Commission should only take into consideration those product types that were also sold in the OIP. ZTT Group argued that the Commission's methodology to compare the price level of most closely resembling product types would be distortive as a minor change in the technical specifications of the PCN structure could lead to considerable cost and price variances.
- (49) The Commission considered it more appropriate to establish export price comparisons for the majority of the product types sold during the AIP, to give a more accurate picture of price developments between the OIP and the AIP. The Commission noted, however, that even if the comparison would have been based only on the matching PCNs, there would still be a price decrease of 20,6 %. This claim was therefore rejected.

- (50) In their comments on disclosure, the ZTT Group claimed that the Commission did not adequately explain the methodology used to identify the most closely resembling product types or why they were considered to resemble the non-matching product types sold in the AIP, in the absence of which the Commission could have compared prices of very different product types, which would not accurately reflect the price development. This claim was reiterated by ZTT in the comments on additional final disclosure.
- (51) The Commission noted that the final disclosure provided to ZTT already identified the most closely resembling PCNs used by the Commission. On the basis of such disclosure, ZTT could have explained why the choice of each closely resembling PCN would be inappropriate in view of the physical characteristics or other elements and thus lead to distorting results. However, ZTT did not provide any evidence or specific arguments to substantiate its claim that the methodology used by the Commission would lead to distortive outcomes for the purpose of price comparability. Accordingly, the claim was rejected.
- (52) Furthermore, ZTT Group claimed that when determining whether the export prices have decreased, the Commission disregarded the effect of the difference in the product mix sold in terms of price and quantity in the AIP as compared to the one sold in the OIP. ZTT Group claimed that, in order to take into account the product mix, the Commission should either: (1) calculate for each product type its weight in the total export value in the AIP and then multiply this weight with the price difference ratio; or (2) multiply the price difference per each product type with the quantity sold in the AIP of that product type. In this case, ZTT Group claimed that there would have been an increase in the export price overall. ZTT Group also claimed that during the AIP it sold more cables with a lower number of fibres which were cheaper than cables with a higher number of fibres. ZTT Group did not however specify what would constitute a cable with 'lower number of fibres' and a cable with 'higher number of fibres'. ZTT Group concluded on this basis that the majority of the product types sold in the AIP were low priced products whereas more of higher priced products were sold in the OIP, and that therefore a simple comparison of the weighted average price level per product type in each period would result in a distorted picture.
- (53) The Commission noted that the weight of the cables with lower number of fibres (i.e. up to 6 fibres) represented [45 % – 56 %] of the total volume of sales in the OIP as compared to [43 % – 54 %] in the AIP. Therefore, these cables represented lesser portion of sales in the AIP as compared to the OIP, contrary to what ZTT Group claimed. By taking into account cables with up to 8 fibres, these cables represented [47 % – 60 %] in the OIP as compared to [48 % – 61 %] in the AIP, which is a rather similar percentages with marginal impact on the average price of these product types.
- (54) Furthermore, contrary to what the ZTT Group claimed, the two methods suggested by the ZTT Group for taking into account the difference in the product mix in terms of value and volume between OIP and AIP do not actually address the difference in the product mix between OIP and AIP, as in both methods only the product mix in the AIP is taken into account. Moreover, the first method weighs relative price changes by the proportion of the sales value of each PCN in the total sales in the AIP, while the second method weighs absolute price differences by the volume of sales of each PCN in the AIP. The ZTT Group does not explain why one method is based on absolute numbers while the other one is based on relative numbers (percentages). This shows that the methods suggested by the ZTT Group were arbitrary and inconsistent.
- (55) In any event, the Commission noted that as stated in recital (38), pursuant to Article 12 of the basic Regulation the absorption investigation aims at establishing, as a first step, whether export prices have decreased or whether there has been no movement, or insufficient movement, in resale prices or subsequent selling prices in the Union of the product under investigation after the OIP (per product type), which would warrant a redetermination of the dumping margin in a second step. In relation to the first step, the Commission examined whether the export prices in AIP decreased compared to the export prices in OIP. This examination was conducted per product type. When calculating the price difference per product type, the Commission noted that, for many product types, the export prices actually decreased. On that basis, it can already be concluded that prices decreased within the meaning of Article 12 of the basic Regulation. As already noted in recital (41), the weighted average export price for the ZTT Group decreased by 13,2 %. Therefore, the claim was rejected.

- (56) In their comments to the additional final disclosure the ZTT Group claimed that the methodology of 'constructed CIF' price used by the Commission to establish the export price change is flawed as for the sales made through related importer the Commission should have compared the resale price of the related importer rather than the 'constructed CIF' price as allegedly required by Article 12 of the basic Regulation or, absent that, the Commission should have used a more appropriate profit margin of an unrelated EU importer than the one it used to construct the CIF price.
- (57) The Commission disregarded the allegations made about the inappropriate use of the CIF prices, as they were provided outside the deadline set for comments on the final disclosure. Moreover, no explanation was given as to why the export price should not be adjusted during the AIP, unlike in the OIP. As regards the level of the profit, the Commission referred to recital (70), where this issue was already addressed. No new evidence was provided.
- (58) On the basis of the above, the Commission concluded that the export prices have decreased pursuant to Article 12 of the basic Regulation.

3.2. Dumping

3.2.1. Export price

- (59) The export prices for the AIP, collected and verified or cross-checked in the framework of this reinvestigation were used, pursuant to Article 12(2) basic Regulation.
- (60) The sampled groups of exporting producers exported to the Union either directly to independent customers or through related companies acting either as an agent, trader, or an importer.
- (61) The export price for sales made directly to independent customers in the Union and through related trading companies was the price actually paid or payable for the product under investigation when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (62) The export price for sales made through related importers was established based on the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including selling, general & administrative ('SG&A') expenses of the related importers and reasonable profit. The related importers are ZTT Europe GmbH for the ZTT Group, and FiberHome International Poland Sp. z o.o., and FiberHome International Germany GmbH for the FTT Group.
- (63) In their comments to the final disclosure, the ZTT Group claimed that when calculating the export price, the Commission double counted the package expenses for ZTT's sales made via certain related companies in the AIP.
- (64) This claim was found to be justified and the export price was adjusted accordingly.
- (65) The ZTT Group further claimed that when calculating the export price of ZTT's sales via one of its related companies in the AIP, the Commission wrongly used as a proxy, a unit allowance based on data of the OIP in order to establish the allowances to ZTT's sales to one of its related companies. The ZTT Group argued that this proxy was not accurate as it related to a different period than the AIP and it was calculated based on only one transaction in the OIP with a low quantity which was not representative. The ZTT Group suggested that the Commission should use instead the unit allowance between two of its related companies in the AIP.
- (66) This claim was found to be justified and the export price was adjusted accordingly.

- (67) The ZTT Group also claimed that the sales of the product concerned were usually made by project and that there was a relatively long lead time between the conclusion of the price negotiations and the delivery of all products covered by the projects. In certain cases, in particular when sales were made through a specific sales process, sales prices could no longer be modified to take into account freight cost. Therefore, the ZTT Group had to cover the higher ocean freight costs allegedly incurred in the AIP as compared to OIP. The ZTT Group claimed further that the exceptionally high ocean freight costs in the AIP had a significant impact on the calculation of the export price established at ex-works level and that thus, the high dumping margin established during the AIP was largely due to the deduction of these abnormally high freight costs in the AIP but did not reflect the normal course of trade. As a result, the ZTT Group requested the Commission to adjust downward these costs in proportion to their increase from the OIP to the AIP.
- (68) The Commission noted that no supporting evidence was submitted by ZTT Group regarding the alleged long lead time between the conclusion of price negotiations and the delivery of all products. Furthermore, during the remote cross checks, the companies within the ZTT Group confirmed that they did not sell OFC through the particular sales process ZTT Group referred to in its claim. This fact was recorded in the mission reports that were disclosed to the ZTT Group and the ZTT Group did not indicate that this factual finding was incorrect. Moreover, this claim was only made after the final disclosure and the Commission was able to verify it only based on the information available in the file which showed that there was a time lag of only two to four months between the date of the purchase order and the shipping date, which is not exceptionally long. Therefore, this claim was rejected.
- (69) Furthermore, the ZTT Group claimed that the profit margin of the unrelated importer referred to in recital (62) was established in the OIP and therefore it was overstated for the AIP, considering the high freight costs, the economic downturn amid the high inflation in Europe as well as the anti-dumping duties in place in the AIP. Therefore, the ZTT Group asked the Commission to establish a reasonable profit level of an unrelated importer in the AIP.
- (70) The Commission noted that the ZTT Group contradicted itself as concerns the freight costs. On the one hand it claimed that the high freight costs in the AIP were borne by the ZTT Group as explained in recital (67), while on the other hand the same high freight costs affected the profitability of an importer in the Union. Furthermore, as explained in recital (16) no unrelated importer cooperated in the investigation. As a result, there was no relevant information made available to the Commission specific to the AIP. The Commission also noted that the ZTT Group did not specify what the level of a reasonable profit margin of an unrelated importer was in the AIP. Therefore, the claim was rejected.
- (71) In their comments to the final disclosure, the FTT Group claimed that when calculating the export price for direct sales of FiberHome Telecommunication Technologies Co., Ltd (‘FTT’) and Nanjing Wasin Fujikura Optical Communication Ltd.’s sales via FTT, the Commission deducted twice the agent fee of Wuhan FiberHome International Technologies (‘WFIT’).
- (72) The Commission disagreed with this claim. As it was explained in the company specific confidential disclosure to the FTT Group, the amount of the agent fee reported under ‘other allowances’ was deducted from the total amount of the agent fee calculated based on the percentages of agent fees stipulated in the Agency agreements with WFIT for 2021 and 2022. This methodology was also visible in the company specific calculation files provided to the FTT Group. Therefore, this claim was rejected.
- (73) FTT Group also claimed that the Commission deducted twice the inland freight fee, once as an allowance in the transaction listing file and another time in the calculation of the SG&A of FTT.
- (74) The Commission found this claim to be justified and revised the export price accordingly.

3.2.2. Normal value

- (75) Normal value as established in the original investigation is used for the calculation of dumping margins during the AIP, unless revision of the normal value taking into account changes in the AIP is requested and substantiated under Article 12(5) of the basic Regulation.
- (76) In the present case, the sampled groups of exporting producers did not request revision of the normal value. Therefore, the normal value established in the original investigation was used to recalculate the dumping margins.
- (77) Some of the product types sold by the sampled groups of exporting producers in the AIP were not sold by them in the OIP. In this case the normal value for the most closely resembling product types sold by the respective producers in the original investigation was used.
- (78) In their comments to the final disclosure, the FTT Group claimed that the Commission, when identifying closely resembling product types, considered only the four PCN parameters, i.e. type of single mode optical fibres in the cable, coated optical fibre diameter, number of fibres in the cable and number of fibres per module. FTT argued that on this basis, several closely matching PCNs would have been available, and not just one, and that the Commission should have used the average normal value of all closely matching PCNs. In their comments to the additional final disclosure, the FTT Group further claimed that the method chosen by the Commission to identify closely resembling product types was inconsistent as certain PCNs were only matched by two and not by four PCN parameters.
- (79) Contrary to the claim, the Commission did not consider only four PCN parameters but took into account all of the parameters defined in the PCN. In case where there were more than one closely matching PCNs, the Commission chose the one with the least number of differences compared with the original PCN. More details were provided to the FTT Group in the company specific disclosure as it included confidential information. Therefore, the claim was rejected.

3.2.3. Comparison

- (80) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (81) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling and loading, EU customs duty, packing expenses, credit cost, bank charges and agent fee.
- (82) An adjustment under Article 2(10)(i) was made for sales through the ZTT related trading company, ZTT International Limited. Adjustments under Article 2(10)(i) were also made in the case of sales of products manufactured by Zhongtian Power Optical Cable Co., Ltd which were sold by Jiangsu Zhongtian Technology Co., Ltd, and in the case of sales of products manufactured by Nanjing Wasin Fujikura Optical Communication Ltd which were sold by FiberHome Telecommunication Technologies Co., Ltd. These adjustments were made in the original investigation and the Commission found that the conditions for making these adjustments were present in the AIP.
- (83) The adjustments consisted of the SG&A of the trading companies and 10 % profit (as established in the original investigation).

3.2.4. Dumping margin

- (84) To establish the dumping margin for the two cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product under investigation, on an ex-works basis, in accordance with Article 2(11) and (12) of the basic Regulation.

- (85) For the non-sampled cooperating exporting producers, the Commission established the dumping margin at the level of the weighted average dumping margin of the sampled exporting producers, in accordance with Article 9(6) of the basic Regulation.
- (86) To establish the margin for all other exporting producers in China, the Commission determined the level of cooperation of the exporting producers, considering the volume of exports of the cooperating exporting producers to the Union and the estimated total export volume from China.
- (87) The level of cooperation in this case was high. Therefore, the Commission considered it appropriate to base the residual dumping margin at the level of the sampled company with the highest dumping margin.
- (88) On this basis, the dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company name	Dumping margin in the OIP	Dumping margin in the AIP	Increase of dumping margin (p.p.)
FTT Group:			
— FiberHome Telecommunication Technologies Co., Ltd.	44,0 %	116,6 %	72,6
— Nanjing Wasin Fujikura Optical Communication Ltd.			
ZTT Group:			
— Jiangsu Zhongtian Technology Co., Ltd.	19,7 %	67,3 %	47,6
— Zhongtian Power Optical Cable Co., Ltd.			
Other cooperating companies	31,2 %	109,2 %	78,0
All other companies	44,0 %	116,6 %	72,6

- (89) As shown in the table above, in all cases the dumping margin in the AIP was higher than the one in the OIP.

3.3. Injury elimination level

- (90) In order to determine the level of applicable anti-dumping duty, the Commission checked whether dumping margins would still be below the injury margins based on the export prices in the AIP.
- (91) The Commission determined the injury elimination level based on a comparison of the weighted average export price of the sampled exporting producers established in the AIP with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market as established during the OIP. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (92) Not all product types sold by the cooperating exporting producers in the AIP were sold by the sampled Union producers in the OIP. To ensure sufficient comparability level, whenever possible, the Commission compared the prices of the 'unmatched' product types (the ones with the highest import quantity in the AIP) with the non-injurious prices of the most closely resembling product types sold by the Union producers as established during the OIP.
- (93) The injury elimination level for 'other cooperating companies' and for 'all other companies' was defined in the same manner as the dumping margins for these companies.

(94) The following injury margins were found:

Company name	Injury elimination level in the AIP
FTT Group:	
— FiberHome Telecommunication Technologies Co., Ltd.	131,5 %
— Nanjing Wasin Fujikura Optical Communication Ltd.	
ZTT Group:	
— Jiangsu Zhongtian Technology Co., Ltd.	99,1 %
— Zhongtian Power Optical Cable Co., Ltd.	
Other cooperating companies	128,7 %
All other companies	131,5 %

4. CONCLUSION

- (95) The dumping margins of the sampled groups of exporting producers calculated for the AIP increased compared to the ones established in the OIP.
- (96) In the anti-subsidy investigation (see recital (2)), the Commission reduced the dumping margin found in the original investigation with the entire amount of subsidisation to avoid 'double-counting' in accordance with Article 24(1) of the basic anti-subsidy Regulation ⁽⁸⁾. Accordingly, as the anti-subsidy investigation remains unaffected by the present investigation, the subsidisation rate originally established needs to be deducted from the dumping margins established in the AIP.
- (97) The dumping margins in the AIP, established as explained in recital (96), are lower than the injury elimination level established in the AIP. Therefore, in accordance with Article 9(4), second subparagraph, of the basic Regulation, the new dumping margins serve the basis for the anti-dumping duties.
- (98) The revised anti-dumping duty rate cannot exceed twice the amount of the anti-dumping duty initially imposed, in accordance with Article 12(3) of the basic Regulation.
- (99) Consequently, the revised rates of anti-dumping duty applicable, before duty, to the net free-at-Union-frontier price will be as follows:

Company name	Dumping margin in the AIP	Counter-vailing duty in the OIP	Injury elimination level in the AIP	Anti-dumping duty resulting from the AIP	Duty capped by Art. 12(3) BR (see recital (98))	Revised anti-dumping duty
FTT Group:						
FiberHome Telecommunication Technologies Co., Ltd.						
Nanjing Wasin Fujikura Optical Communication Ltd.	116,6 %	10,3 %	131,5 %	106,3 %	88,0 %	88,0 %
Hubei Fiberhome Boxin Electronic Co., Ltd ⁽¹⁾						

⁽⁸⁾ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).

ZTT Group: Jiangsu Zhongtian Technology Co., Ltd. Zhongtian Power Optical Cable Co., Ltd.	67,3 %	5,1 %	99,1 %	62,2 %	39,4 %	39,4 %
Other companies cooperating in both anti-subsidy and anti-dumping investigation	109,2 %	7,8 %	128,7 %	101,4 %	62,4 %	62,4 %
Other companies cooperating in anti-dumping investigation and not in the anti-subsidy investigation	109,2 %	10,3 %	128,7 %	98,9 %	62,4 %	62,4 %
All other companies	116,6 %	10,3 %	131,5 %	106,3 %	88,0 %	88,0 %

(¹) The FTT Group did not export to the EU the product under investigation made by Hubei Fiberhome Boxin Electronic Co., Ltd during the AIP but exported it during the OIP.

- (100) In their comments to the final disclosure, reiterated in the comments to the additional final disclosure, the ZTT Group claimed that as the revised anti-dumping duty rate should not exceed twice the amount of the anti-dumping duty initially imposed and the initial anti-dumping duty imposed on ZTT Group was 14,6 % the revised anti-dumping duty rate for ZTT Group should not exceed 29,2 %. Therefore, the anti-dumping duty rate cannot be 39,4 % as calculated by the Commission.
- (101) The Commission noted that the initial anti-dumping duty imposed on ZTT Group was 19,7 % pursuant to the original Regulation. The anti-dumping duty of 14,6 % that the ZTT Group refers to in recital (100), was the anti-dumping duty after the imposition of the countervailing duty which reduced the anti-dumping duty in force in order to avoid double counting as explained in recital (765) of Implementing Regulation (EU) 2022/72 and recital (2) of this Regulation. Therefore, the claim was rejected.
- (102) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2021/2011 is amended as follows:

(1) Article 1(2) is replaced by the following:

‘2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Definitive anti-dumping duty	TARIC additional code
FTT Group: FiberHome Telecommunication Technologies Co., Ltd. Nanjing Wasin Fujikura Optical Communication Ltd. Hubei Fiberhome Boxin Electronic Co., Ltd	88,0 %	C696

ZTT Group: Jiangsu Zhongtian Technology Co., Ltd. Zhongtian Power Optical Cable Co., Ltd.	39,4 %	C697
Other companies cooperating in both anti-subsidy and anti-dumping investigation listed in the Annex I of Implementing Regulation (EU) 2022/72	62,4 %	See Annex I
Other companies cooperating in anti-dumping investigation but not in anti-subsidy investigation listed in the Annex II of Implementing Regulation (EU) 2022/72	62,4 %	See Annex II
All other companies	88,0 %	C999'

(2) Article 2 is replaced by the following:

'Article 2

Where a new exporting producer from the People's Republic of China provides sufficient evidence to the Commission, the Annex of Implementing Regulation (EU) 2021/2011 may be amended by adding that new exporting producer to the list of cooperating companies not included in the sample and thus subject to the appropriate weighted average anti-dumping duty rate, namely 62,4 %. A new exporting producer shall provide evidence that:

- (a) it did not export the goods described in Article 1(1) of Implementing Regulation (EU) 2021/2011 originating in the People's Republic of China during the period of investigation (1 July 2019–30 June 2020);
- (b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
- (c) it has either actually exported the goods described in Article 1(1) originating in the People's Republic of China or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation.'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 August 2023.

For the Commission
The President
Ursula VON DER LEYEN