Commission Implementing Regulation (EU) 2020/870 of 24 June 2020 imposing a definitive countervailing duty and definitively collecting the provisional countervailing duty imposed on imports of continuous filament glass fibre products originating in Egypt, and levying the definitive countervailing duty on the registered imports of continuous filament glass fibre products originating in Egypt

COMMISSION IMPLEMENTING REGULATION (EU) 2020/870

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THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)] ('the basic Regulation'), and in particular Article 15 and Article 16(4) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 7 June 2019, the European Commission ('the Commission') initiated an anti-subsidy investigation with regard to imports into the European Union ('the Union') of continuous filament glass fibre products ('GFR') originating in Egypt on the basis of Article 10 of the basic Regulation.

(2) The Commission published a Notice of initiation in the *Official Journal of the European Union*[(2)] ('the Notice of initiation').

(3) The Commission initiated the investigation following a complaint lodged on 24 April 2019 by the European Glass Fibre Producers Association ('the complainant' or 'APFE') on behalf of producers representing 71 % of total Union production.

(4) During the investigation, the Commission found additional evidence of relevant subsidies, which were not fully included in the Notice of initiation. Therefore, the Commission decided in accordance with Article 10(7) of the basic Regulation to include these subsidies within the scope of the current investigation and to amend accordingly the Notice of initiation.

(5) On 12 February 2020, the Commission published a Notice amending the Notice of initiation in the *Official Journal of the European Union*[(3)]. A note to the

file was added in this respect and the Government of Egypt ('GOE') was invited for consultations on those additional subsidies.

1.2. **Provisional measures**

(6) On 7 March 2020, the Commission imposed provisional countervailing duties on imports into the Union of GFR originating in Egypt by Commission Implementing Regulation (EU) 2020/379[(4)] ('the provisional Regulation').

(7) As stated in recital 27 of the provisional Regulation, the investigation of subsidisation and injury covered the period from 1 April 2018 to 31 March 2019 ('the investigation period' or 'IP') and the examination of trends relevant for the assessment of injury covered the period from 1 January 2016 to the end of the investigation period ('the period considered').

1.3. **Subsequent procedure**

(8) On the basis of the publication of a Notice amending the Notice of initiation in the *Official Journal of the European Union* (see recital 4 above), the Commission sent a request for information to the GOE, to the exporting producer and the Government of the People's Republic of China ('GOC').

(9) The request for information to the GOE was sent in order to fully investigate the cooperation between the GOE and the GOC to benefit the exporting producer. In view of the GOC's involvement and close cooperation with the GOE as regards the subsidisation granted to GFR originating in Egypt ('the product under investigation'), the Commission identified the GOC as an interested party to the investigation and forwarded the request for information sent to the GOE to the GOC with an invitation to cooperate with the investigation. However, the GOC never replied to the invite of the Commission and did not register as an interested party to the investigation.

(10) Following the publication of the Notice amending the Notice of initiation and the request for information received by the GOE, the GOE noted first that it could not be requested to provide information or coordinate the response of entities, either governmental or private, which are outside of its jurisdiction.

(11) Secondly, the GOE noted that the information requested by the Commission were located outside of its jurisdiction. According to the GOE, the Commission placed an unreasonable burden on it by requesting to provide information which is not necessary to the investigation.

(12) Thirdly, the GOE claimed that the Commission was in fact including the People's Republic of China ('PRC' or 'China') in the scope of this investigation without inviting it to consultation prior to initiation.

(13) Fourthly, the GOE noted that the basic anti-subsidy Regulation provides that a subsidy exists only if 'there is a financial contribution by a government in the country of origin or export'. The GOE noted that the Notice amending the Notice of initiation concerned subsidies allegedly granted by the Government of the

PRC ('GOC'). Consequently the Commission via the Notice amending the Notice of initiation violated the basic anti-subsidy Regulation by including in the investigation financial contributions that cannot be considered as subsidies under EU law.

(14) Finally, the GOE argued that the request for information was in reality the initial questionnaire to be sent to the GOC. Therefore, by granting 15 days to reply instead of 30, the Commission had violated Article 12.1.1 of the Agreement on Subsidies and Countervailing Measures ('SCM Agreement') and Article 11(2) of the basic Regulation.

(15) The Commission disagreed with the views of the GOE. Concerning the lack of jurisdiction of the GOE and the *de facto* inclusion of the GOC in the investigation as the country of export, the Commission considered that, the subsidies investigated by the Commission are granted in the framework of a cooperation between the GOE and the GOC. Therefore, the subsidies may have been attributable to Egypt by virtue of the acknowledgment and adoption of the GOC's measures by Egypt as its own. The findings on this point are developed at length in Section 3.2.2 below.

(16) Moreover, the Commission noted that it asked the GOE to provide the information relating to the general legal framework of the banking sector in China as well as concerning financial institutions in China because the GOE is the government concerned by this investigation and these subsidies may have been attributed to them as explained in Section 3.2.2 below. The information so requested was thus necessary for the Commission to establish the existence of subsidisation.

(17) In addition, the Commission also gave a direct opportunity to the GOC to register as interested party and to provide directly the requested information on these issues. Indeed, as explained in recitals 96 and 97 below, the GOE together with the GOC have established a management mechanism with three administrative levels provided in Article 8 of the 2016 Agreement on Egypt Suez Economic and Trade Cooperation Zone between the Ministry of Commerce of the PRC and the General Authority for the Suez Canal Economic Zone. This mechanism is set up, inter alia, to deal with the issues which may affect the operation of the Cooperation Zone (thereby including the imposition of countervailing duties on exports from that zone).

(18) Therefore, even if some of the information requested to the GOE was not in its possession, the Commission considered that the GOE had all the necessary means to obtain the requested information from the GOC.

(19) Furthermore, the Commission disagreed with the GOE concerning the qualification of the request for information. The sending of such a request occurred months after sending the initial questionnaire intended for the GOE. The request for information responded to the need of the Commission to gather additional data which had become necessary following the additional evidence it had gathered in the course of the investigation. In this context, the Commission noted that the GOE had already received the initial questionnaire and was given 37 days to reply.

(20) Furthermore, the Commission noted that the actual content of the request of information was limited to other relevant subsidies found in the course of the investigation, and the level and amount of information request is in no way comparable to that of an initial questionnaire. The Commission finally noted that the total time granted to the GOE, following an extension request, to reply to this additional request for information amounted to 22 days despite the very late stage of the proceeding.

(21) Thus, when comparing the amount of time allotted to the GOE to reply to the most extensive request for information in the initial questionnaire with the period granted for the additional request for information, the Commission considered that the GOE had been granted sufficient time.

(22) In light of the above considerations, these claims by the GOE were rejected.

(23) Following the disclosure of the essential facts and considerations on the basis of which provisional countervailing duties were imposed ('provisional disclosure'), the GOE and the Egyptian exporting producer made written submissions making their views known on the provisional findings.

(24) The GOE and the Egyptian exporting producer were granted an opportunity to be heard.

(25) The GOE also had a hearing with the Hearing Officer in trade proceedings.

(26) The Commission considered the comments submitted by interested parties and addressed them as detailed in this Regulation.

(27) Due to the threat of the COVID-19 transmission and the consequent measures taken to deal with the outbreak[(5)], the Commission was unable to fully verify the data submitted by the exporting producer and the GOE. Given that this situation occurred at a very late stage of the proceeding and that another solution (such as organising a session to cross-check remotely the information submitted with other verifiable sources in accordance with the COVID-19 Notice issued by the Commission) was no longer possible, the Commission exceptionally used the information submitted by these parties for the subsidy calculation, which was verified on the basis of all available information.

1.4. **Final disclosure**

(28) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive countervailing duty on imports into the Union of GFR originating in Egypt ('final disclosure').

(29) Following final disclosure, the GOE, Jushi Group, the complainants and a group of European users and distributors of GFR made written submissions making their views known on the definitive findings.

(30) The parties who so requested were granted an opportunity to be heard. After final disclosure, the Commission services had hearings with the GOE and Jushi Group.

(31) The Commission considered the comments submitted by interested parties following final disclosure and addressed them in this Regulation.

1.5. **Investigation period and period considered**

(32) In the absence of comments concerning the investigation period and period considered, recital 27 of the provisional Regulation was confirmed.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Claims regarding the product scope**

(33) In the absence of any comments with respect to the product scope, the Commission confirmed the conclusions set out in recitals 44 and 48 of the provisional Regulation.

3. **SUBSIDISATION**

3.1. **Subsidies and subsidy programmes within the scope of the current investigation**

(34) On the basis of the information contained in the complaint, the Notice of initiation, the Notice amending the Notice of initiation and the replies to the Commission's questionnaire and to the request for additional information, the alleged subsidisation through the following subsidies by the GOE were investigated:

(a) Preferential policy loans, credit lines, other financing, insurance and guarantees.

(b) Government provision of goods and services for less than adequate remuneration ('LTAR')
- Government provision of power for less than adequate remuneration;
- Government provision of land for less than adequate remuneration.

(c) Revenue foregone through Direct Tax Exemption and Reduction programmes
- EIT privileges for Enterprises located in a Special Economic Zone.

(d) Revenue foregone through Indirect Tax and Import Tariff Programmes
- Value Added Tax ('VAT') exemptions and import tariff rebates for the use of imported equipment;
- VAT exemptions and import tariff waivers for imported input materials used in exported finished goods.

3.2. **The Suez Economic and Trade Cooperation Zone ('SETC-zone')**

(35) The alleged subsidisation in Egypt concerns a company in the China-Egypt Suez Economic and Trade Cooperation Zone ('SETC-Zone'). The zone covers an area of 7,34 km^2, which is divided into a starting area of 1,34 km^2 and an expansion area of 6 km^2.