Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt

COMMISSION IMPLEMENTING REGULATION (EU) 2020/776

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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 ('the basic Regulation')[(1)], and in particular Articles 15 and 24(1) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 16 May 2019, based on Article 10 of the basic Regulation, the European Commission ('the Commission') initiated an anti-subsidy investigation with regard to imports into the Union of certain woven and/or stitched glass fibre fabrics ('GFF') originating in the People's Republic of China (the 'PRC') and Egypt (together referred to as 'the countries concerned'). The Commission published a Notice of Initiation in the *Official Journal of the European Union* ('Notice of Initiation')[(2)] on 16 May 2019.

(2) The Commission initiated the investigation following a complaint lodged on 1 April 2019 by Tech-Fab Europe ('the complainant') on behalf of producers representing more than 25 % of the total Union production of certain woven and/or stitched glass fibre fabrics. The complaint contained evidence of subsidisation and of a resulting injury that was sufficient to justify the initiation of the investigation.

(3) Prior to the initiation of the anti-subsidy investigation, the Commission notified the Government of China ('GOC')[(3)] and the Government of Egypt ('GOE')[(4)] that it had received a properly documented complaint, and invited the GOC and the GOE for consultations in accordance with Article 10(7) of the basic Regulation.

Consultations were held on 13 May 2019 with the GOC and with the GOE. However, no mutually agreed solution could be reached.

(4) On 21 February 2019, the Commission initiated a separate anti-dumping investigation of the same product originating in the PRC and Egypt[(5)] ('the separate anti-dumping investigation'). On 7 April 2020, the Commission imposed definitive anti-dumping duties on imports of the product concerned originating in the PRC and Egypt[(6)] ('the definitive anti-dumping Regulation'). The injury, causation and Union interest analyses performed in the present anti-subsidy investigation and the separate anti-dumping investigation are *mutatis mutandis* identical, since the definition of the Union industry, the sampled Union producers, the period considered and the investigation period are the same in both investigations.

1.1.1. *Comments by the GOC concerning initiation*

(5) The GOC claimed that the investigation should not be initiated because the complaint did not satisfy the evidentiary requirements of Articles 11(2) and 11(3) of the WTO Agreement on Subsidies and Countervailing Measures ('SCM Agreement') and of Article 10(2) of the Basic Regulation. According to the GOC, there was insufficient evidence of countervailable subsidies, injury and a causal link between the subsidised imports and the injury.

(6) The Commission rejected that claim. The evidence submitted in the complaint constituted the information reasonably available to the complainant at that stage. As shown in the memorandum on sufficiency of evidence, which contains the Commission's assessment on all the evidence at the disposal of the Commission concerning the People's Republic of China and Egypt, and on the basis of which the Commission initiated the investigation, there was sufficient evidence at initiation stage that the alleged subsidies were countervailable in terms of their existence, amount and nature. The complaint also contained sufficient evidence of the existence of injury to the Union industry, which was caused by the subsidised imports.

(7) More specifically, during the pre-initiation consultations, the GOC indicated that the complainant's references to any Chinese plans, programmes, or recommendations were irrelevant as they are not binding and that the GFF industry is not mentioned in China's 13th Five Year Plan nor in the 13th Five Year Plan for the Building Materials Industry (2016-2020). Following initiation, the GOC also stated that GFF is not covered by the document 'Made in China 2025'. The Commission noted that the GOC does not dispute the existence of such plans, programmes, or recommendations but only the extent to which they are binding or to which they cover the GFF industry. The Commission further observed that the complainant provided evidence indicating that 'new materials' are mentioned in several government documents, while 'glass-based materials' are mentioned in the 13th Five Year Plan for the Building Materials Industry (2016-2020). The GOC failed to produce any evidence showing that those statements would not be applicable to the product concerned.

(8) The GOC also stated that neither the Chinese Export & Credit Insurance Corporation ('Sinosure') nor State-owned commercial banks are public bodies and that

the GOC did not entrust or direct private banks. The Commission noted that this claim is connected to the claim already evoked above, and that the complaint among others mentioned the Bank Law in China, which the GOC does not dispute to belong to the Chinese legislation. The Commission also highlighted that recent EU anti-subsidy investigations had concluded differently on this matter[(7)].

(9) Furthermore, the GOC claimed that export buyers' credit are provided to foreign companies and hence do not benefit Chinese GFF producers. The Commission found however that benefits granted to foreign companies owned by Chinese GFF producers may benefit the latter.

(10) The GOC indicated that the tax scheme relating to accelerated depreciation of equipment used by High-Tech enterprises for High-Tech development and production, as well as some of the mentioned grants programmes had been terminated. The Commission took note of this comment, but highlighted that it does not apply to all programmes nor to the different levels of government authorities (i.e. national, regional or local) mentioned in the complaint. In addition, the tax scheme related to accelerated depreciation could still procure ongoing benefits such as depreciation over the lifespan of the relevant equipment, possibly covering the investigation period.

(11) Following initiation, the GOC further argued that the complainant did not establish the conditions for applying an out-of-country benchmark for loans and for land use rights. The Commission found, however, that the allegations contained in the complaint are supported by recent EU anti-subsidy investigations concluding on those matters the need for external benchmarks adjusted to the prevailing conditions in the PRC[(8)].

(12) In addition, the GOC stated that the complaint lacked sufficient evidence as it relied mostly on previous EU regulations, which concern different product scopes. The Commission however noted that the findings made in previous and recent anti-subsidy investigations relate to the same subsidy programmes alleged in the complaint. Following initiation, the GOC furthermore submitted that substantial changes and reforms had occurred in the financial sector in the years 2016 to 2018, and that the complaint could thus not rely on any pre-existing situation. However, the Commission noted that the complainant also provided additional evidence in the complaint of the continued existence of the subsidy programmes, without having been substantially altered. The Commission further recalled that the GOC failed to provide evidence rebutting the continuation of the relevant programmes. Thus, at the stage of initiation, the evidence available tended to show that there was no relevant change in the subsidy programmes at issue. Ultimately, this was also confirmed in this investigation.

(13) The GOC further claimed, in relation to various subsidies, that the applicant failed to provide evidence of benefit and specificity. The Commission is of the view that the complainant provided sufficient evidence of benefit and specificity as was reasonably available to it. In any event, the Commission examined the evidence in the complaint and provided its own assessment of all relevant elements in the memorandum

of sufficiency of evidence, which was put on the open file upon initiation. The GOC reiterated its comments following initiation, but did not provide any further evidence.

(14) Therefore, the Commission concluded that there was sufficient evidence provided in the complaint tending to show the existence of the alleged subsidisation by the GOC.

(15) Finally, a particular element of this case is that the alleged subsidisation in Egypt concerns two companies in the China-Egypt Suez Economic and Trade Cooperation Zone ('SETC-Zone'), a special economic zone which was set up together by the PRC and Egypt, which are the two countries targeted by the complaint. The Commission stated its intention to investigate all subsidies received by these companies in the SETC-Zone, regardless of their source.

(16) During the pre-initiation consultations, the GOC indicated that the complainant had no legal basis to challenge the GOC via the product concerned originating in or exported from Egypt. The Commission noted the concerns of the GOC, but still considered that there was sufficient evidence to start an investigation into the alleged countervailable subsidies granted to the companies in the SETC-Zone, regardless of their source.

(17) Following initiation, the GOC argued that, when establishing the Union consumption, the adjustment made to the import data from the PRC was unfair when compared to the adjustment made to the import data from other third countries like Russia. The GOC further argued that these adjustments were not cross-checked by the Commission. The GOC also argued that there is no information on the record on what constitutes market information / intelligence used in adjustments made to import data.

(18) As also outlined in recital (937), further to the complainant's import analysis on CN-basis, the imports were also assessed based on import statistics at TARIC level, cross-checked with other sources and adjusted where appropriate. With regards to Russia, the import data was cross-checked and adjusted based on the import data from GFF producers related to the Union producers that were the only known GFF producers in Russia. This methodology was found reasonable leading to an accurate estimate of the imports of the product concerned from Russia. In the same way, during the investigation, as explained in recital (937) below, the Commission cross-checked the Eurostat TARIC-level data with the data submitted by the known producers in the PRC, who came forward during the sampling exercise. The export volume of GFF reported by the cooperating Chinese exporting producers represented the totality of the imports recorded in Eurostat under the relevant TARIC codes and all exports were therefore considered to be the product concerned. Finally, by contrast to what was claimed by the GOC, the complaint explained how market information / intelligence was used to adjust import data. This claim was therefore rejected.

(19) In its comments on initiation, the GOC argued that the market for GFF is segmented and each of the segments represent vastly different price bands. The GOC argued that the three main types of products woven rovings ('WR'), knitted non-crimp fabrics ('NCF'), and complex materials ('CM') have different

composition and production steps/processes, and therefore also production costs and sales prices. Moreover, these three product types have different physical and technical characteristics, which in turn define their end uses. According to the GOC, the price comparison/undercutting assessment, as well as the assessment of the allegedly injurious impact of the Chinese imports as done in the complaint at an aggregate level is misleading and insufficient without actually assessing the extent of the presence, i.e. volume and market share, of the Chinese and the Union producers in each of the product segments.

(20) The Commission considered that the GOC failed to submit any evidence to support those claims. At initiation, the complainant provided sufficient evidence regarding costs and prices of the product under investigation. The fact that different types of products exist that may have different production processes, costs and sales prices does not automatically entail that there is a segmentation of the market. It is noted that in accordance with Article 10(2) of the basic Regulation the complainant must provide the information that is reasonably available to it. As costs and prices of products types produced in China are by nature confidential and not available to the complainant, the Commission considered that the complaint contained sufficient information that was reasonably available to the complainant to initiate the investigation.

(21) Furthermore, the information collected and received by the Commission during the investigation showed that the Union market for GFF is not segmented. The claim that the three product types – WR, NCF and CM – have different physical and technical characteristics, which in turn define their end uses, is factually incorrect. As explained in the complaint and in recitals (129) to (138), and as undisputed by the GOC, the product concerned is used to reinforce thermoplastic and thermoset resins in the composites industry. There are many overlaps in usage; the fabric type chosen will depend on the surface look, the resin flow, the tension to which the finished product will be subject and the application technique. Certain product types are particularly good for closed mould production techniques, or hand lay-up.

(22) The three product types have the following main and overlapping uses: WRs are used on thermoset applications, especially hand lay-up, for marine products (boat hulls and decks), vehicle body panels (e.g. trucks, trains), windmill blades, pipes and tanks. NCFs are used for the construction of marine products (boat hulls and decks), vehicle bodies and panels (e.g. trucks, trains), windmill blades and nacelles, skis and snowboards, pipes and tanks. CMs are used in closed mould applications for vehicle bodies and panels, marine products (boat hulls and decks), windmill nacelles and leisure vehicles.

(23) Finally, the Commission notes that it is not unusual for a product concerned to have product types that have different cost structure and prices. This is the very reason for which the Commission collects data on the basis of detailed product types classification. That classification, aside of fabric forms, distinguished between sales formats, types of glass used, area weight and density of rovings. The undercutting calculation was based on product type per product type comparison and thus all these