

COMMISSION IMPLEMENTING REGULATION (EU) 2020/379**of 5 March 2020****imposing a provisional countervailing duty on imports of continuous filament glass fibre products originating in Egypt**

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 Articles 12 and 24(1) thereof,

After consulting the Member States,

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 (or the 'country concerned') pursuant to Article 10 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ (the 'Notice of Initiation').
- (2) 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 more than 25 % of total Union production. Producers representing 71 % of the total Union production of continuous filament glass fibre products supported the complaint.
- (3) Prior to the initiation of the anti-subsidy investigation, the Commission notified the Government of Egypt ('GOE') that it had received a properly documented complaint, and invited the GOE for consultations in accordance with Article 10(7) of the basic Regulation. The GOE refused the offer for consultations, which were not held but submitted two set of comments concerning the initiation of the investigation, one before the publication of the Notice of Initiation and one after.
- (4) On 3 May 2019 the Commission initiated a separate anti-dumping investigation with regard to imports into the Union of the same continuous filament glass fibre products originating in Egypt and Bahrain ⁽³⁾. The Commission notified all interested parties on 12 December 2019 that the investigation would continue without imposition of provisional anti-dumping duties.
- (5) Prior to the initiation of the investigation the GOE submitted that the complaint did not include sufficient evidence of subsidisation or injury to warrant an opening of a proceeding. Their comments regarding subsidisation were dealt with in the memorandum on sufficiency of evidence which was placed on the open file, and their comments regarding injury are dealt with below.
- (6) Following initiation the Commission received further comments from the GOE, again noting their comments on subsidy, but also making a submission regarding the allegations of injury caused by imports from Egypt that were set out in the complaint.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ OJ C 192, 7.6.2019, p. 30.

⁽³⁾ OJ C 151, 3.5.2019, p. 4.

- (7) The GOE first analysed the data in the complaint showing prices on the Union market in 2017 and 2018, and noted that EU sales prices did not fall, and import prices from Egypt only dropped by 2 %.
- (8) This price analysis, however, only compared two years out of the period considered and thus did not take into account the full set of data in the complaint showing the full evolution of import prices and EU sales prices that show falling import prices and stagnant EU sales prices.
- (9) The Commission also noted the data shown in recitals (84) to (91) below on price trends and the Commission's conclusions based on the whole dataset.
- (10) The GOE analysed the economic indicators set out in the complaint and concluded that they did not show material injury. This is not the Commission's analysis of the data provided in the complaint which clearly shows injury on the basis of steeply declining profits from 2016 to 2018.
- (11) The Commission's analysis of the indicators, both macroeconomic and microeconomic, is set out in detail in the whole of Section 4.4 below.
- (12) The GOE then posited other causes of material injury, should the Commission find evidence of it. They allege that injury would be caused by lack of technological development, insufficient production capacity, a contraction in demand, increased costs and imports from other countries.
- (13) The complaint already addresses these factors, and provides evidence that the Union industry has invested in their facilities and also that there is no causal link between imports from other countries and the injury suffered by the Union industry.
- (14) All of these factors have been investigated and the Commission's provisional findings are set out in the whole of Section 5 below.
- (15) The Commission also received a submission regarding the allegations of injury caused by imports from Egypt from a group of users of GFR in the Union.
- (16) The group of users, who wished to remain anonymous, commented on the absence of injury in 2015; the volume of imports from Egypt; that the volume of imports was not likely to increase further; and the economic indicators set out in the complaint.
- (17) Again all of these factors have been investigated and the Commission's provisional findings are set out in the whole of Section 4 below. The Commission confirmed that, at the initiation stage, the complaint contained sufficient evidence of injurious subsidisation.
- (18) The GOE and Jushi Egypt also stated that the remission of import duties on raw materials is not a subsidy to the extent that these imported products are re-exported as such or as processed into a downstream product.
- (19) The Commission acknowledged that in particular when the conditions of Article 3(1)(a)(ii) of the basic Regulation and Annexes I, II and III referred to therein are met, only the excess remission of import duties on raw materials constitutes a countervailable subsidy, and paid particular attention to this during the investigation.
- (20) The Commission further noted that the GOE's comment did not concern import duty exemptions with respect to production equipment.

1.2. Amendment to the Notice of Initiation

- (21) On 12 February 2020, the Commission published a Notice amending the Notice of Initiation in the *Official Journal of the European Union* ⁽⁴⁾.
- (22) During the investigation, the Commission found additional evidence of relevant subsidies, which were not fully included in the Notice of Initiation of 7 June 2019.

⁽⁴⁾ OJ C 48, 12.2.2020, p. 18.

- (23) In particular, the Commission identified additional evidence of preferential policy loans by Chinese State-owned or State-controlled entities, granted directly to Jushi Egypt and indirectly via the parent company of Jushi Egypt in the People's Republic of China.
- (24) With respect to these loans, the Commission found evidence that they involve a financial contribution that may be attributable to the Government of Egypt and confer a benefit to the exporting producer of the product concerned.
- (25) In the course of the investigation, the Commission also identified other elements in the cooperation between Egypt and the People's Republic of China which may be relevant for the examination of other subsidy practices already mentioned in the Notice of Initiation, such as the provision of land for less than adequate remuneration.
- (26) 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 7 June 2019. A note to the file was added in this respect and the GOE was invited to hold consultations on those additional subsidies.

1.3. Investigation period and period considered

- (27) The investigation of subsidisation and injury covered the period from 1 April 2018 to 31 March 2019 (the 'investigation period' or the 'IP'). 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'). Where appropriate, the Commission also examined post-IP data.

1.4. Registration

- (28) The Commission made imports of the product concerned subject to registration for the three-week period of pre-disclosure under Article 24(5a) of the basic Regulation by Commission Implementing Regulation (EU) 2020/199 ^(?) ('the registration Regulation').

1.5. Interested parties

- (29) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the GOE, the known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.
- (30) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (31) Interested parties that had already cooperated in the separate anti-dumping investigation were invited to state that they were cooperating in both investigations, and were considered to be interested parties in both when they had done so. That being said, the Commission considered the anti-dumping and anti-subsidy investigations as two separate proceedings and requested interested parties to clearly specify in their submissions whether they referred to the anti-dumping investigation, the anti-subsidy investigation or both.

1.6. Sampling

- (32) In its Notice of Initiation, the Commission stated that it might sample interested parties in accordance with Article 27 of the basic Regulation.

1.6.1. Sampling of Union producers

- (33) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the highest representative quantity of production which could reasonably be investigated within the time available. The sample originally selected was the same as for the separate anti-dumping investigation concerning the same product originating in Egypt and Bahrain.

^(?) Commission Implementing Regulation (EU) 2020/199 of 13 February 2020 making imports of continuous filament glass fibre products originating in Egypt subject to registration (OJ L 42, 14.2.2020, p. 10).

- (34) No comments on the sample selection were received.

1.6.2. *Sampling of importers*

- (35) 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 Initiation.
- (36) Given that only two unrelated importers provided completed sampling forms, sampling was not applied.
- (37) The two unrelated importers were also selected for inspection in the separate anti-dumping investigation.

1.6.3. *Sampling of exporting producers in Egypt*

- (38) The Commission did not resort to sampling in relation to exporting producers in Egypt as the Jushi Group is the only exporting producer of the product concerned in Egypt.

1.6.4. *Questionnaire replies and verification visits*

- (39) The Commission sent questionnaires to the GOE, to the exporting producer, to the three sampled Union producers, and to two unrelated importers. A questionnaire was provided for users to complete, if they so wished, rather than making a submission.
- (40) The Commission received questionnaire replies from the GOE, the exporting producer, all sampled Union producers and both unrelated importers. Two completed user questionnaires were also received.
- (41) The Commission sought and verified all the information deemed necessary for a determination of subsidy, resulting injury and Union interest. A verification visit took place at the premises of the GOE, the General Authority for the Suez Economic Zone and the General Authority for Investment and Free Zones, during which officials from other relevant ministries also participated.
- (42) The methodology and correctness of the data gathered by the complainants for the purposes of the macroeconomic indicators was subject to a verification visit under Article 26 of the basic Regulation carried out at the premises of the lawyers of the complainants.
- (43) Verification visits under Article 26 of the basic Regulation were carried out at the premises of the following companies:

Union producers and related companies

- 3B Fibreglass, Battice, Belgium,
- Johns Manville Slovakia a.s., Trnava, Slovak Republic,
- European Owens Corning Fibreglass SPRL, Watermael-Boitsfort, Belgium

Unrelated importers in the European Union

- Euroresins UK Limited, Ellesmere Port, UK,
- Helm AG, Hamburg, Germany

Unrelated users in the European Union

- Polykemi, Ystad, Sweden,
- Company A ⁽⁶⁾

Exporting producer in Egypt and related companies

- Jushi Group:
 - Jushi Egypt for Fibreglass Industry S.A.E., Egypt,
 - Jushi France SAS, France,

⁽⁶⁾ Company A requested anonymity on the grounds that they would expose themselves to a significant risk of commercial retaliation should it be perceived by certain producers to act in a manner that runs counter to their interests.

- Jushi Italia srl, Italy,
- Jushi Spain SA, Spain.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under investigation

- (44) The product subject to this investigation is chopped glass fibre strands, of a length of not more than 50 mm ('chopped strands'); glass fibre rovings, excluding glass fibre rovings which are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887) ('rovings'); and mats made of glass fibre filaments excluding mats of glass wool ('mats') ('the product under investigation'). The product under investigation is known as 'glass fibre reinforcements' or 'GFR'.
- (45) The product concerned is the product under investigation originating in Egypt.
- (46) The product concerned is currently falling under CN codes 7019 11 00, ex 7019 12 00, 7019 31 00 (TARIC codes 7019 12 00 22, 7019 12 00 25, 7019 12 00 26 and 7019 12 00 39).

2.2. Like product

- (47) The investigation showed that the following products have the same basic physical, chemical, and technical characteristics as well as the same basic uses:
- (a) the product concerned;
 - (b) the product produced and sold on the domestic market of Egypt;
 - (c) the product produced and sold in the Union by the Union industry.
- (48) The Commission decided that, for the purpose of this investigation, those products are therefore like products within the meaning of Article 2(c) of the basic Regulation.

3. SUBSIDISATION

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

- (49) On the basis of the information available, including information contained in the complaint, the Notice of Initiation and the replies to the Commission's questionnaire, the Commission investigated the alleged subsidisation by the GOE through the following subsidies:
- Preferential policy loans, credit lines, other financing, insurance and guarantees,
 - Revenue foregone through Direct Tax Exemption and Reduction programmes:
 - Income tax privileges for Enterprises located in a Special Economic Zone,
 - 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,
 - 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.

3.2. Introduction

- (50) The alleged subsidisation in Egypt concerns Jushi Egypt for Fiberglass Industry S.A.E. ('Jushi Egypt'), a company located in the China-Egypt Suez Economic and Trade Cooperation Zone ('SETC-Zone'). The zone covers an area of 7,34 km², which is divided into a starting area of 1,34 km² and an expansion area of 6 km².
- (51) In 2002, the wider area of 20 km² in which the SETC-Zone was located, the Northwest Gulf of Suez Economic Zone, was officially classified as a special economic zone ('SEZone') by the GOE ⁽⁷⁾. As such, the provisions of the Egyptian Law No 83/2002 on Economic Zones of a Special Nature ('Law 83/2002') were now also applicable to the SETC-Zone.
- (52) In 2014, Egypt launched the 'Suez Canal Corridor Development Plan'. In the context of this Plan, the SE Zone was officially incorporated in to the wider Suez Canal Economic Zone ('SCZone') in 2015, comprising the whole area around the Suez Canal of 461 km². The entire area is now considered as an 'economic area of special nature' in accordance with Law 83/2002 and amendments thereof ⁽⁸⁾. As a special area, companies located therein benefit from preferential treatment as outlined in the subsidy programmes mentioned below.

3.3. VAT exemptions and import tariff rebates for imported equipment

- (53) This programme provides an exemption from VAT and import tariffs for imports of equipment used in the production process of the companies located in the SCZone.

3.3.1. Analysis

- (54) The legal bases of this programme are:
- (a) Law No 83/2002 on Economic Zones of a Special Nature ('Law 83/2002');
 - (b) Decree of the President of the Arab Republic of Egypt on Law No 27/2015 Amending some Provisions of Law of Economic Zone of Special Nature issued by Law No 83/2002 ('Law 27/2015');
 - (c) Investment Law as Enacted by Law No 72 of 2017;
 - (d) The Prime Minister's Draft Resolution No (2310) of 2017 Concerning issuing the Executive Regulations of Investment Law Issued by virtue of Law No 72 of 2017;
 - (e) VAT Law as Enacted by Law No 67 of 2016;
 - (f) Executive Regulations of the VAT Law, Decree of the Ministry of Finance No 66/2017.

3.3.2. Findings of the investigation

- (55) According to Article 22 of Law 83/2002, as amended by Law 27/2015, the SCZone is part of a separate customs area by virtue of a decree issued by the Minister of Finance. This separate customs area functions under the supervision of a supreme customs committee, established by the Chairman of the Authority of the zone.
- (56) Furthermore, according to Article 42 of Law 83/2002, imported equipment, tools, or apparatus shall be exempted from taxes and duties as long as they are allocated to produced goods or services for the licensed activity within the SCZone. On the other hand, as the SCZone is not an export only zone, all taxes and duties need to be paid for any products released into the domestic market outside of the zone.
- (57) Finally, according to the relevant laws, companies located outside of the SCZone pay import VAT upfront and net it against the VAT on their domestic sales or, if applicable, refunded when finished goods are exported.

⁽⁷⁾ See Presidential Decree No (35) of the Arab Republic of Egypt, dated 15.2.2003.

⁽⁸⁾ Decree of the President of the Arab Republic of Egypt No 330 of the year 2015 'On the establishment of the Suez Canal Economic Zone', 19 August 2015.

- (58) For companies located in the SCZone, import VAT is initially not charged in accordance with a letter of understanding on this point between the Ministry of Finance and the General Authority of the SCZone.
- (59) The Commission found that Jushi Egypt's VAT and import duties on imported equipment had indeed been withheld since 2017 and throughout the investigation period. Before 2017, the company actually paid its import duties and VAT/general sales tax ('GST')⁽⁹⁾ on imported equipment since it had not yet entered the SCZone. However, through the 2017 opt-in of the company to the SCZone's tax and administrative regime, Jushi Egypt benefits from the preferential tax treatments within the zone, including the VAT and tariff exemptions.
- (60) As a general rule in Egypt, companies buying machines subject to the 5 % VAT rate should utilize the amounts as a credit against future payments⁽¹⁰⁾. However, where the credit balance is retained for more than 6 consecutive tax periods (months), which is the case of companies heavily engaging in exports that cannot offset any input VAT as a credit against future payments, the registered person shall apply in writing, showing the amount of the credit balance. The Egyptian Tax Authority should check the correctness of the balance and refund within 45 days of the date of submitting the application.
- (61) However, the investigation revealed that in practice, the GOE does not reimburse the VAT paid upfront so that the tax constitutes an actual cost for such companies. Indeed, an analysis of the GST/VAT credits of Jushi Egypt listed in the 2016-2018 Annual Reports showed that amounts due by the GOE to Jushi Egypt were still outstanding after several years⁽¹¹⁾ and Jushi Egypt confirmed that it did not expect to receive the reimbursements⁽¹²⁾.
- (62) It also needs to be considered that since equipment used in the manufacturing of products, including the product under investigation, will in all likelihood be used for its entire useful life within the Egyptian territory without being re-exported or sold domestically, there is no rationale for granting an exemption from customs duties and VAT on its purchase, other than benefiting the companies located in the SCZone. This therefore constitutes revenue foregone in the form of customs duties and VAT not payable without any justification, as this equipment is used for the local production of the product under investigation on which customs duty and VAT are normally due for producers located outside of the SCZone.
- (63) Therefore, since Jushi Egypt became subject to the preferential treatment under the legal regime of the SCZone in 2017, it benefited from a *de facto* VAT exemption on the import of machinery. This exemption constitutes revenue foregone because, as stated in the preceding paragraphs, even though VAT should eventually be refunded, in essence there is no evidence that the GOE reimbursed Jushi Egypt the VAT paid on machinery in the past. The evidence available indeed showed that Jushi Egypt was not obtaining those refunds when it was located outside the zone.
- (64) Companies located in the SCZone, which do not have to pay VAT upfront, receive a *de facto* VAT exemption that saves them from incurring an actual cost in addition to saving the administrative burden of having to claim VAT reimbursements or offsetting VAT credits. The same conclusion applies even more clearly with respect to the exemption of paying import tariffs on imported equipment.

3.3.3. Conclusion

- (65) In light of the above, the Commission provisionally concluded that this programme provides a financial contribution in the form of revenue forgone by the GOE within the meaning of Article 3(1)(a)(ii) of the basic Regulation as eligible enterprises are relieved from payment of VAT and/or tariffs which would be otherwise due. It also confers a benefit on the recipient companies in the sense of Article 3(2) of the basic Regulation since they are placed in a better financial position than they would be absent the scheme. In fact, without the scheme they would have paid the VAT and import tariffs upon importation of the equipment.

⁽⁹⁾ In July 2016, Egypt replaced the 'general sales tax' with VAT. While there are certain differences between the two tax regimes, both tax regimes permitted producers of goods to deduct the tax previously paid, thereby accumulating credits when the amount of tax paid exceeds the amount of tax collected from customers, notably export-oriented companies.

⁽¹⁰⁾ Art. 22, law 67 of 2016.

⁽¹¹⁾ Indeed the majority of the VAT/other indirect tax receivables reported in the 2016-2018 Annual Reports refer to foreign purchases under the 10 % GST regime, which was in force until July 2016.

⁽¹²⁾ Several international publications on tax matters confirm that reimbursement of VAT paid upfront in Egypt is extremely difficult (LINK). The World Bank report 'Doing Business in Egypt 2020' ranks Egypt in 156th place out of 190 in tax matters.

- (66) The programme is specific within the meaning of Article 4(2)(a) of the basic Regulation as it is not generally applicable in Egypt, and applies only to the companies located in Economic Zones of a Special Nature, such as the SCZone. The legislation pursuant to which the granting authority operates limits its access to enterprises that are located within such Economic Zones of a Special Nature.

3.3.4. Calculation of the subsidy amount

- (67) The amount of this countervailable subsidy is calculated in terms of the benefit conferred on the recipient, which is found to exist during the investigation period. The benefit conferred on the recipient is considered to be:
- (a) the amount of customs duties exempted on the imported equipment purchased since 2017. In order to ensure that the countervailable amount only covered the investigation period, the benefit received was amortized over the useful life of the equipment according to the company's normal accounting procedures, except for one of the asset categories, where the amortization period was adapted to better reflect the actual useful life, as verified by the Commission services.
 - (b) Concerning the revenue foregone in the form of a *de facto* VAT exemption, the benefit was calculated by taking the full amount of VAT normally payable but not paid during the investigation period on the purchases of imported equipment (during the IP).
- (68) The amount of subsidy provisionally established with regard to this type of subsidies during the investigation period for the exporting producer was 0,78 %.

3.4. VAT exemptions and import tariff rebates for imported materials

- (69) Pursuant to Law 83/2002, entities operating in a Special Economic Zone are allowed to import materials without paying any customs duties, sales taxes or any other taxes or duties, which would otherwise be due, to the extent that these imported materials are re-exported as such or as processed into a downstream product which is then exported.

3.4.1. Legal basis

- (70) The legal bases of this programme are:
- Law No 83/2002 on Economic Zones of a Special Nature ('Law 83/2002'),
 - Prime Ministerial Decree No 1625 of 2002 Issuing The Executive Regulations for the Law of Economic Zones of a Special Nature,
 - Decree of the President of the Arab Republic of Egypt on Law No 27/2015 Amending some Provisions of Law of Economic Zone of Special Nature issued by Law No 83/2002 ('Law 27/2015'),
 - Investment Law as Enacted by Law No 72 of 2017,
 - The Prime Minister's Draft Resolution No (2310) of 2017 Concerning issuing the Executive Regulations of Investment Law Issued by virtue of Law No 72 of 2017,
 - VAT Law as Enacted by Law No 67 of 2016,
 - Executive Regulations of the VAT Law, Decree of the Ministry of Finance No 66/2017.

3.4.2. Findings of the investigation

- (71) As mentioned in recital (46) above, the SCZone is part of a separate customs area. According to Article 42 of Law 83/2002, imported raw materials, supplies, spare parts, and any other material or components imported from overseas shall be exempted from taxes and duties as long as they are allocated to produced goods or services for the licensed activity within the SCZone. On the other hand, all taxes and duties need to be paid for any products released into the domestic market outside of the SCZone.
- (72) During the investigation, the Commission found that, in line with the provisions of the above-mentioned article of Law 83/2002, Jushi Egypt had received waivers of VAT and import duties on imports of input materials used in the production of exported finished goods (and in particular, the product concerned).

- (73) Concerning the waiver for import duties, such a setup would seem to correspond to a duty drawback scheme as described in Annex I(i) of the basic Regulation. Pursuant to point (i) of Annex I, substitution drawback systems can constitute an export subsidy to the extent that they result in an excess drawback of the import charges levied initially on the imported inputs for which drawback is being claimed.
- (74) In order to determine whether such excess remission existed, in accordance with Annex III, point II of the basic Regulation, the Commission requested additional information from the GOE on the duty drawback scheme in general, and more specifically on the existence and effective application of the accompanying monitoring and verification procedures.
- (75) Based on the information initially received, it appeared the GOE had put a legislative framework in place for monitoring the duty drawback system, including where applicable the refund of import duties paid. However, during the verification visits at Jushi Egypt, it was found out that this framework was not effectively applied in practice.
- (76) Jushi Egypt did not pay any import duties (or VAT) on any of their material purchases in the investigation period, be they used for domestic or for export sales of finished goods. Normally, a deposit needs to be made on a blocked account of the customs authorities, from which duties can be collected periodically. However, during the investigation period, no deposit was made, and no amounts were collected by the authorities.
- (77) After the investigation period, Jushi Egypt made a small payment to the Egyptian authorities, allegedly to cover excess remission for domestic sales. However, no evidence was provided that this payment was indeed made for excess remission of domestic sales, or related to domestic sales made during the investigation period. Yet, there was also evidence that Jushi Egypt received reimbursement of import duties paid in previous periods, before obtaining a waiver for import duties.
- (78) After further exchanges with the GOE, additional information was received, showing that in fact the monitoring and verification framework for the collection of customs duties in the SCZone was still under construction during the investigation period. For example, the Committee for the Adjustment of Import Duties Balances was only established in 2019 according to the Decree of the Head of Customs Authority No 158, the setup of a customs inspection committee was still ongoing in 2019, and executive procedures had not been issued yet. Thus, the Commission provisionally concluded that there was no effective and proper duty drawback system in place.
- (79) In addition, as mentioned in recital (50) above, VAT on imported goods is withheld instead of paid upfront in the SCZone. Tax authorities only retain a right to reclaim VAT afterwards.
- (80) The investigation also revealed that for certain inputs that Jushi Egypt used in the production process from Egyptian based suppliers, VAT was charged at the standard rate regardless of the fact that the company was based in the special zone where VAT was not normally due. These transactions did give rise to a VAT credit for Jushi Egypt. Conversely, sales of inputs between companies located within the special zone were not subject to domestic VAT regardless of whether the goods produced with such inputs would be exported or sold domestically. Jushi Egypt was not able to show which inputs (sourced domestically or imported) were used or consumed into products exported or sold domestically.
- (81) All these elements show that this special zone is not a classical export processing zone, and is also different from other special free zones existing within Egypt, but it is a unique and hybrid kind of special zone with several specific features that distinguish it from other zones. The applicable laws and regulations do not appear to be applied in practice in the zone, so the Commission provisionally based its findings on its understanding of how operations in the zone work in practice.

- (82) In addition and importantly, the absence of administrative authorities in charge of the administration, monitoring and enforcement of the tax system and any of the tax obligations relating to the special tax system applicable in the zone make it a unique area where the companies established therein are entirely free to follow or dodge the tax rules without any possible consequence whatsoever. Therefore, in view of the special circumstances of this zone, and on the basis of the information available, the Commission provisionally decided to consider the VAT exemptions on imported inputs as a *de facto* exemption to pay such VAT, regardless of whether the inputs are later on incorporated into finished products exported or sold domestically.

3.4.3. Conclusion

- (83) The Commission thus provisionally concluded that the GOE's duty drawback monitoring system was not effectively applied and could not be qualified as such for all the reasons explained in the previous section and summarised at recital (73). In fact, as explained in at recitals (68) and (70), the investigation showed that the GOE had not even set up an authority in charge of administering and enforcing any tax obligation for entities located in the zone, including customs duties and VAT due on imported materials.
- (84) Furthermore, the Commission determined that the purported duty drawback system for inputs used in exported finished goods led to revenue forgone, which constitute a countervailable subsidy within the meaning of Article 3(1)(a)(ii) of the basic Regulation, as they result in an excess drawback of the import charges levied initially on the imported inputs for which drawback is being claimed. The GOE did not provide a further examination of the transactions at issue either.
- (85) These excess remissions are also specific within the meaning of Article 4(2)(a) of the basic Regulation as they are not generally applicable in Egypt, and apply only to the companies located in the SCZone.
- (86) Furthermore, the *de facto* VAT exemption on imported materials constitutes a financial contribution in the form of revenue forgone by the GOE within the meaning of Article 3(1)(a)(ii) of the basic Regulation as eligible enterprises are relieved from payment of VAT which would be otherwise due. It also confers a benefit on the recipient companies in the sense of Article 3(2) of the basic Regulation. The programme is specific within the meaning of Article 4(2)(a) of the basic Regulation, since the legislation limits the VAT exemption only to enterprises that are located within the SCZone.

3.4.4. Calculation of the subsidy amount

- (87) The amount of this countervailable subsidy is calculated in terms of the benefit conferred on the recipient, which is found to exist during the investigation period.
- (88) Concerning the import duties, the benefit conferred on the recipient is considered to be the difference between the amount of import duties due during the investigation period, and the actual amount of import duties paid during the investigation period.
- (89) In order to determine the amount of import duties due, the Commission considered that the average consumption ratio for all types of finished goods is the same, since they all belong to the same general category of products. The Commission based the consumption ratio on the records of the exporting producer. Then, it first established the quantity of materials imported during the investigation period. Second, it calculated the ratio between the domestic sales in comparison with the total sales of Jushi Egypt. Third, the Commission applied this domestic sales ratio to the total volume of imported materials and it determined the quantity of imported materials for which import duties would be due.
- (90) Finally, in order to establish the amount of benefit, the Commission calculated the amount of import duty payable for the quantities of materials used for the production of goods sold on the domestic market.
- (91) Concerning the revenue foregone in the form of a *de facto* VAT exemption, the benefit was calculated by taking the full amount of VAT normally payable but not paid during the investigation period on the purchases of imported inputs.

- (92) The amount of subsidy provisionally established with regard to this type of subsidies during the investigation period for the exporting producers was 7,42 %.

3.5. Income tax

- (93) The legal bases of this programme are:

- The Income Tax Law as enacted by law 91 of 2005, and
- Ministry of Investment Decree No 16 of 2017 adding an addendum (A) entitled 'The effects of changes in currencies exchange rates' to Egyptian Accounting Standard No 13.

3.5.1. Analysis

- (94) Jushi Egypt is subject to the normal Egyptian income tax of 22,5 %.
- (95) In 2016, the Egyptian government decided to change the fixed exchange rate of the Egyptian pound ('EGP') into a floating exchange rate, based on a recommendation from the International Monetary Fund. As a result, the Egyptian pound lost around half of its value against other major currencies such as the USD and the EUR within a month. In order to address this sudden currency fluctuation, the GOE issued a special accounting standard, as well as a special tax rule for treating foreign exchange differences. As a result, companies were allowed to deduct foreign exchange differences due to the devaluation of the EGP from their taxable income more extensively.
- (96) Although this legislation was generally applicable to all companies in Egypt and was meant to offset the negative effects of the devaluation of the Egyptian currency, it created a *de facto* substantial benefit for a limited number of companies in Egypt, i.e. companies that are export-oriented and operate their business almost entirely in foreign currencies such as USD or EUR. This particular category of companies did not incur any actual loss as a consequence of the devaluation of the EGP, but could benefit from the special accounting standard issued by the GOE for tax purposes. As a consequence, companies operating their business in a foreign currency appear to be loss making for tax purposes even though their financial situation can show healthy profits. On the contrary, Egyptian companies operating their business in EGP have suffered actual losses that had a real impact on their business, which was addressed by the special tax rule issued by the GOE.
- (97) Jushi Egypt benefitted disproportionately from this measure, since the investigation showed that Jushi Egypt operates its business almost exclusively in USD or EUR and it has almost no transactions in Egyptian pounds. Indeed, it is almost exclusively export-oriented, imports almost all of its equipment, its loans are in foreign currencies as well as a major part of its materials. Indeed, As a result, the losses registered by Jushi Egypt because of the devaluation of the EGP, in particular because of the significant foreign currency loans, are not actual and are only used for tax purposes to decrease the taxable income.
- (98) In addition, the tax deduction was supposed to be a temporary measure, applicable only to transactions affected at the time of the devaluation. Nevertheless, in the investigation period, Jushi Egypt still deducted substantial amounts from its taxable income under realized and unrealized foreign exchange differences. As a result, it was loss-making according to its income tax statements, even though its financial statements showed a healthy and sustainable profit.

3.5.2. Conclusion

- (99) In light of the above considerations, the Commission concluded that these tax benefits constitute revenue foregone by the GOE in the sense of Article 3(1)(a)(ii) of the basic Regulation and provided a benefit under Article 3(2) of the basic Regulation.

- (100) In addition, they are *de facto* specific to the exporting producer Jushi Egypt, in accordance with Article 4(2)(c) of the basic Regulation, as it is used predominantly by a limited group of companies operating almost exclusively in foreign currencies.

3.5.3. Calculation of the subsidy amount

- (101) The benefit to Jushi Egypt was established on the basis of the information contained in the 2018 income tax declaration. Firstly, the amount deducted from the taxable income under the provision mentioned above in Section 3.5.1 was established. Secondly, the generally applicable tax rate of 22,5 % was applied to this deducted amount. Finally, this amount was expressed as a percentage of the total turnover of Jushi Egypt in the investigation period.
- (102) The subsidy amounts found for this direct tax programme amounted to 1,68 % for Jushi Egypt.

3.6. Other schemes

- (103) Regarding all other schemes listed in recital (43) above, the Commission continues its investigation, including in view of the amendments of the Notice of Initiation referred to in recital (18) above.

3.7. Conclusion on subsidisation

- (104) The Commission calculated the amount of countervailable subsidies for the exporting producer in accordance with the provisions of the basic Regulation by examining each subsidy or subsidy programme, and added these figures together to calculate a total amount of subsidisation for the exporting producer for the investigation period. To calculate the overall subsidisation below, the Commission first calculated the percentage subsidisation, being the subsidy amount as a percentage of the company's total turnover. This percentage was then used to calculate the subsidy allocated to exports of the product concerned to the Union during the investigation period. The subsidy amount per tonne of product concerned exported to the Union during the investigation period was then calculated, and the margins below calculated as a percentage of the Costs, Insurance and Freight ('CIF') value of the same exports per tonne.
- (105) Given the full cooperation of Egyptian exporting producers, the amount for 'all other companies' was provisionally set at the level of the sole Egyptian exporting producer.

Table 1

Provisional subsidy rates

Company	Provisional subsidy rate
Jushi Egypt for Fiberglass Industry S.A.E.	8,7 %
All other companies	8,7 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (106) During the investigation period, seven producers in the Union manufactured the like product. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.
- (107) As indicated in recitals (31) and (32), the Commission selected a sample of Union producers. The sample contained three Union producers representing 68 % of the total Union production of the like product during the investigation period.

- (108) The Commission established the total Union production of GFR during the investigation period at around 695 000 tonnes, based on information gathered by the complainant and verified during the investigation.

Table 2

Union production

	2016	2017	2018	IP
Total Union production (tonnes)	701 611	694 178	693 123	695 324
<i>Index</i>	100	99	99	99

Source: Complainant

- (109) Total Union production remained stable between 2016 and the end of the investigation period, showing a very slightly downward trend.

4.2. Union consumption

- (110) The Commission established the Union consumption of GFR by adding imports of GFR into the Union to the sales of the Union industry on the Union market.

- (111) Union consumption developed as follows:

Table 3

Union consumption

	2016	2017	2018	IP
Total Union consumption (tonnes)	978 454	1 045 331	1 058 263	1 027 982
<i>Index</i>	100	107	108	105

Source: Complainant, Surveillance 2 database

- (112) The Union's consumption of GFR rose between the beginning of the period considered and the end by 5 %; however, the year-on-year trend shows consumption slightly varying throughout the period.

4.3. Imports from the country concerned**4.3.1. Volume and market share of the imports from the country concerned**

- (113) The Commission established the volume of imports and their market share based on data from the Surveillance 2 ⁽¹³⁾ database.

- (114) GFR imports into the Union from the country concerned developed as follows:

⁽¹³⁾ Database of specific products under 'surveillance' or monitoring imported into the Union customs territory maintained by the Directorate-General for Taxation and Customs Union.

Table 4

Import volume and market share

	2016	2017	2018	IP
Volume of imports from Egypt (tonnes)	50 529	95 865	146 304	144 169
<i>Index</i>	100	190	290	285
Market share (%)	5	9	14	14

Source: Surveillance 2 database

- (115) Imports of GFR from Egypt increased rapidly from 2016 to 2018, nearly trebling in size. The market share of these imports, in the context of consumption rising by 5 %, therefore trebled as well.

4.3.2. Prices of imports from the country concerned and price undercutting

- (116) The evolution of average import prices in the period considered was as follows:

Table 5

Import price

	2016	2017	2018	IP
Import prices from Egypt (EUR per tonne)	993	918	898	904
<i>Index</i>	100	92	90	91

Source: Surveillance 2 database

- (117) The trend of import prices from Egypt is clearly downward during the period considered. During the IP, there was a difference of around 20 % between those import prices and the EU sales prices (Table 9).
- (118) The Commission determined the price undercutting during the investigation period by comparing:
- (1) the weighted average prices per product type of the imports from the Egyptian producer to the first independent customer on the Union market, established on a Cost, Insurance, Freight ('CIF') basis, with appropriate adjustments for post-importation costs; and
 - (2) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market.
- (119) The Commission made price comparisons on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts.
- (120) Where the sale from the Egyptian producer to the first independent customer on the Union market was through a related sales company based in the EU, the price of the import was established on a CIF basis, but an adjustment was made to this price to take account of the SG&A and profit of the related importer.
- (121) The comparison on a type-by-type basis was possible due to the use of a common Product Control Number ('PCN') to describe the product types of GFR exported to the EU from Egypt and also sold by the sampled Union producers.
- (122) The calculation showed a weighted average undercutting margin by the imports of Jushi Egypt on the Union market of 16 %.

- (123) Therefore the Commission provisionally established that the prices of Egyptian imports significantly undercut the prices of the Union industry.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (124) In accordance with Article 8(5) of the basic Regulation, the examination of the impact of the subsidised imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (125) As mentioned in recitals (17) to (20), sampling was used for the determination of injury and the negative impact on the level of the sales prices, quantities sold, market share and profits of the Union industry.
- (126) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators based on data contained in the questionnaire replies from the sampled Union producers and based on the information provided by the complainant. The microeconomic indicators were based on the data from the sampled producers' questionnaire replies.
- (127) Both sets of data were found to be representative of the economic situation of the Union industry.
- (128) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the amount of subsidisation, and recovery from past subsidisation or dumping.
- (129) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.4.2. Macroeconomic indicators

4.4.2.1. Production capacity and capacity utilisation

- (130) The total Union production capacity and capacity utilisation developed over the period considered as follows:

Table 6

Production capacity and capacity utilisation

	2016	2017	2018	IP
Production capacity (tonnes)	759 107	760 104	753 688	751 098
Index	100	100	99	99
Capacity utilisation (%)	92	91	92	93

Source: Complainant

- (131) Production capacity remained stable during the period considered. This is because capacity is based primarily on the number of furnaces feeding the production lines, and increasing capacity is a very capital intensive operation.
- (132) Capacity utilisation of the Union industry also remained high and stable during the period considered. Once a furnace is in operation, it is economically necessary to keep the furnace going without a break.

4.4.2.2. Sales volume and market share

(133) The Union industry's sales volume and market share developed over the period considered as follows:

Table 7

Sales volume and market share

	2016	2017	2018	IP
Sales volume on the Union market (tonnes)	622 504	651 082	609 902	594 097
<i>Index</i>	100	105	98	95
Market share (%)	64	62	58	58

Source: Complainant, import and export statistics

(134) The Union industry's sales increased in absolute terms between 2016 and 2017, but then dropped back, losing 5 percentage points between 2016 and the end of the IP. The market share of the Union industry has been decreasing throughout the period considered from 64 % to 58 %. This drop has to be seen against the backdrop of consumption in the Union growing by 5 % and rising imports from Egypt at lower and decreasing prices.

4.4.2.3. Employment and productivity

(135) Employment and productivity developed over the period considered as follows:

Table 8

Employment and productivity

	2016	2017	2018	IP
Number of employees	3 620	3 636	3 661	3 686
<i>Index</i>	100	100	101	102
Productivity (tonne/employee)	194	191	189	189
<i>Index</i>	100	99	98	97

Source: Complainant

(136) Both employment and productivity of the Union industry remained stable throughout the period considered.

4.4.2.4. Magnitude of the amount of the countervailable subsidies and recovery from past subsidisation or dumping

(137) Given that the Commission is still investigating some of the subsidisation schemes, at this stage it is not possible to determine the exact magnitude of subsidisation. However, on the basis of the amount of subsidisation for certain schemes already set out above, and the provisional subsidy margin found, subsidisation cannot be considered negligible.

(138) While there is no history of past subsidisation or dumping from Egypt, the sole exporting producer from Egypt is part of a company which has already been found to engage in dumping practices (as well as receive subsidies) in another country (China). In fact, Jushi Group announced that they would build a factory in Egypt to produce GFR and sell it to the EU market to avoid paying anti-dumping and countervailing duties in place against its GFR exports from China to the EU. Once the plant was operational, the data set out above shows that imports from Egypt at low prices started to enter the Union market, and increased rapidly during the period considered.

(139) Thus, it is expected that Jushi Egypt engages and will engage in the same practices of the Jushi Group in China.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

(140) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices in the Union

	2016	2017	2018	IP
Average unit sales price in the Union on the total market (EUR/tonne)	1 167	1 123	1 139	1 136
<i>Index</i>	100	96	98	97
Unit cost of production (EUR/tonne)	1 035	1 027	1 086	1 107
<i>Index</i>	100	99	105	107

Source: Sampled Union producers

(141) The weighted average unit sales price of the sampled Union producers to unrelated customers declined during the period considered by 3 %.

(142) However the unit cost of production of the sampled Union producers increased during the period considered by 7 %. It is clear therefore that prices could not be increased to match production cost increases.

4.4.3.2. Labour costs

(143) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 10

Average labour costs per employee

	2016	2017	2018	IP
Average labour costs per employee (EUR)	55 351	56 722	57 703	57 585
<i>Index</i>	100	102	104	104

Source: Sampled Union producers

(144) Average labour costs increased gradually during the period considered.

4.4.3.3. Inventories

(145) Stock levels of the sampled Union producers developed over the period considered as follows:

Table 11

Stocks

	2016	2017	2018	IP
Closing stocks (tonnes)	80 078	63 974	86 975	95 397
<i>Index</i>	100	80	109	119

Source: Sampled Union producers

(146) Stock levels of the sampled Union producers increased during the period considered, and reached their highest during the IP.

4.4.3.4. Profitability, cash flow, investments, return on investments and ability to raise capital

(147) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 12

Profitability, cash flow, investments and return on investments

	2016	2017	2018	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	12,6	10	7,4	5,2
Cash flow (EUR)	99 824 451	99 239 696	24 615 552	44 541 758
<i>Index</i>	100	99	55	45
Investments (EUR)	17 532 291	34 598 499	52 191 829	42 018 578
<i>Index</i>	100	197	298	240
Return on investments (%)	18	15	10	7

Source: Sampled Union producers

(148) The Commission established the profitability of the three sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The profitability is based on cost of goods sold.

(149) Profitability dropped considerably during the period considered by 7 percentage points, or more than half.

(150) In spite of low profit levels, the Union industry was generating a positive cash flow from its operations in the whole period considered.

(151) The Union industry continued to invest during the whole period considered. Investments increased during the period considered, which is expected as the GFR industry needs constant investment to rebuild furnaces.

(152) The return on investments is the profit in percentage of the net book value of investments. The return on investment was low but positive as the industry was profitable.

(153) The financial performance of the Union industry in terms of profits during the investigation period however limited its ability to raise capital.

4.4.4. *Conclusion on injury*

(154) The period considered shows rapidly rising quantities of GFR imported from Egypt, with volumes trebling during the period considered. This should be seen in the context of increasing Union consumption, leading to a loss of market share for the Union industry.

(155) This drop in market share in particular, while consumption in the Union rises, is a clear sign of material injury. When consumption in the Union increases, the Union industry could be expected to be able to keep their market share stable and increase sales quantities.

(156) While production quantity remained stable, sales quantity and sales prices decreased. The Union industry could not respond to cost increases with price increases, and therefore while costs increased, profits fell from 12 % in 2016 to 5 % in the IP.

(157) The Commission notes in particular the point that the Union industry suffered clear price depression during the period considered, in view of the fact that Egyptian imports were made at low prices which dramatically increased in quantity. In the absence of such imports the Commission expects that the Union industry would be able to pass their cost increases onto their customers.

(158) Price depression could also be observed on the basis of the evolution of unit cost of production of the Union industry compared to their unit sales price to unrelated customers in the EU and the import price of GFR from Egypt.

(159) The Commission noted that for example from 2016 to 2017 the costs of the Union producers dropped by 1 %, but the Union sales price dropped by 4 % to compete with the falling import price from Egypt (which dropped by 8 %).

(160) Between 2017 and 2018 the costs of the Union producers rose by 6 %, but their sales prices could only rise by 2 %, as the import price from Egypt continued to fall.

(161) The Commission provisionally concludes therefore that the Union industry suffered material injury during the investigation period.

5. CAUSATION

5.1. **Effects of the subsidised imports**

(162) The Commission provisionally concluded that the Union industry suffered material injury during the investigation period, given the sharp decrease of profits and the fall in market share. These negative developments took place in the context of sharply increasing imports from Egypt at ever decreasing prices undercutting those of the Union industry subject to additional price pressure.

(163) Moreover, the Commission notes the evidence on file that the plant in Egypt was opened by Jushi China for the express purpose of selling GFR to the Union market without payment of the duties in force against imports directly from China.

(164) Therefore, the Commission considered that the subsidised imports of Egyptian GFR caused material injury to the Union industry.

5.2. Other known factors

- (165) The Commission also examined whether other known factors, individually or collectively, are capable of attenuating the causal link established between the subsidised imports and the injury provisionally found to exist to the effect that such link would no longer be genuine and substantial.

5.2.1. Imports from third countries

- (166) Other than imports from Egypt, imports from only three other countries, Malaysia, China and Norway, had a significant market share during the period considered. The volume of imports from other third countries developed over the period considered as follows:

Table 13

Imports from third countries

Country		2016	2017	2018	IP
Malaysia	Volume (tonnes)	98 446	111 373	114 325	102 896
	<i>Index</i>	100	113	116	105
	Market share (%)	10	11	11	10
	Average price	930	941	986	976
China	Volume (tonnes)	79 374	58 456	50 177	49 034
	<i>Index</i>	100	74	63	62
	Market share (%)	8	6	5	5
	Average price	1 068	1 058	1 022	1 030
Norway	Volume (tonnes)	41 362	43 006	44 289	44 160
	<i>Index</i>	100	104	107	107
	Market share (%)	4	4	4	4
	Average price	1 156	1 126	1 101	1 094
All other countries	Volume (tonnes)	86 240	85 548	93 266	93 626
	<i>Index</i>	100	99	108	109
	Market share (%)	9	8	9	9
	Average price	1 199	1 148	1 104	1 130

Source: Surveillance 2 database

- (167) Imports from China are already subject to both anti-dumping and anti-subsidy measures, and the market share for these imports is declining, as importers move from China origin GFR to Egypt origin GFR from the same Jushi Group.

- (168) Imports from Malaysia had a stable market share during the whole period considered. There is only one plant in Malaysia, owned by the Japanese group NEG, who also own plants in the Union. This plant only exports chopped strands to the EU. The Commission compared the price of chopped strands from Malaysia to the prices of chopped strands in the Union and found that the Malaysians were not apparently undercutting the Union prices.
- (169) Imports from Norway have a low and stable market share of 4 % during the period considered, and enter the Union at a high price.
- (170) Imports from other countries combined reached a market share of 9 %, stable throughout the period considered. Therefore, none of these other countries could have had any significant influence on the performance of Union industry.
- (171) Based on the above analysis, the Commission concluded that the imports from other countries had no bearing on the situation of the Union industry during the investigation period. In particular there is no correlation between the declining performance of the Union industry and the stable market shares of other sources of supply.

5.2.2. Export performance of the Union industry

- (172) Export data was provided to the Commission by the complainant as follows:

Table 14

Export performance of the Union industry

	2016	2017	2018	IP
Export volume (tonnes)	49 370	44 660	38 704	46 119
<i>Index</i>	100	90	78	93
Export sales as a percentage of EU sales (%)	8	7	6	8

Source: Complainant

- (173) The level of exports of the Union industry was limited and remained stable during the period considered. It did not exceed 8 % of its sales in any year of the period considered, as set out in the table above.
- (174) Given the limited participation of export sales in the overall sales of the Union industry and the fact that they were virtually stable during the period considered, the export performance of the Union industry was found not to have contributed to the injury suffered by the Union industry.

5.3. Conclusion

- (175) The Commission therefore provisionally concluded that the subsidised imports of GFR from Egypt caused material injury to the Union industry.
- (176) The Commission identified and assessed other factors which could potentially have contributed to the injury suffered by the Union industry, such as imports from other third countries and export performance of the Union industry. However, these other factors were found not to have had any effect on the situation of the Union industry, either individually or collectively.

6. UNION INTEREST

- (177) In accordance with Article 31 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt countervailing measures corresponding to the total amount of countervailable subsidies in this case, despite the determination of injurious subsidisation. The Commission based the determination of the Union interest on an analysis of all the various interests involved, including those of the Union industry, importers and consumers.

- (178) GFR is an important material in many user applications in the European Union.
- (179) It is mainly used as a raw material to reinforce thermoplastic and thermoset resins in the composites industry. GFR represents from 10 % to 60 % of the cost of manufacturing thermoplastic and thermoset resins, depending on the final product concerned. These are then used in a wide variety of applications by the Union downstream industry. The Union industry provided market intelligence showing that roughly half their sales go into the manufacture of thermoplastics.
- (180) GFR is also used as the main raw material to make glass fibre fabric ('GFF'). It represents a significant input cost for manufacturing GFF, up to 70 %. The Commission notes that there are ongoing anti-dumping and anti-subsidy investigations concerning imports from GFF originating in the People's Republic of China and Egypt ⁽¹⁴⁾. To date no measures have been imposed yet in these proceedings.
- (181) Market intelligence from the Union industry showed that currently up to 20 % of GFR made by the Union industry goes into making GFF. However their market intelligence also showed that a higher percentage of all Chinese imports, and also imports from other countries, are used to make GFF.
- (182) To assess Union interest the Commission analysed the position of the Union industry, who are running at very high capacity utilisation and so in the short term would not be able to respond to large market signals, and possible other sources of supply not affected by measures in force. This analysis is developed in recitals (154), (170), and (176).

6.1. Interest of the Union industry

- (183) The Commission has found that the Union industry is suffering material injury, and that this injury is caused by the imports of GFR from Egypt.
- (184) The Commission notes that the industry is running at very high capacity utilisation rates, which limits the possibility of further supply increases, however with the imposition of measures on Egypt this should allow the industry to install the further capacity that it needs to supply the Union market.
- (185) As the Commission found in the previous investigation against imports of GFR from China, the imposition of measures on unfair imports allows the industry to invest in capacity increases ⁽¹⁵⁾.
- (186) Given the finding of material injury being suffered by the Union industry, and that this material injury is caused by subsidised imports from Egypt, the Commission therefore provisionally concluded that the imposition of measures would be in the interest of the Union industry.

6.2. Interest of unrelated importers

- (187) Importers who cooperated with the investigation opposed the imposition of measures as it would restrict the sources of GFR coming into the market. They also raised the issue of certifying new sources of GFR and the complexity of this, even to the point where some of their clients still insist on imports from China – with the duty paid – as the company concerned is certified for use by their customers.

⁽¹⁴⁾ Anti-dumping proceeding published (OJ C 68, 21.2.2019, p. 29); anti-subsidy proceeding published (OJ C 167, 16.5.2019, p. 11).

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/724 (OJ L 107, 25.4.2017, p. 4), recital (149).

- (188) The Commission noted that importers were continuing to import from China even with duties in force which are higher than the ones to be imposed on Egyptian sources. Therefore, any duty on imports of GFR from Egypt would not necessarily stop imports coming into the Union.
- (189) Certification of sources of GFR is clearly a concern for some users of GFR, but in many sectors certification is not an issue, and where it is necessary, we can see that imports continue with the payment of the duties. The imposition of duties on certified imports will of course increase their costs, but there is no evidence on file showing that this increase cannot be passed on to the final customer, who has himself requested this particular GFR from this particular supplier.
- (190) The Commission visited two importers of GFR who imported from various sources worldwide and then resold the product without processing. For one importer GFR was an extremely small part of their business (less than 1 %) and so the effect of duties on imports from Egypt would be negligible on the importer's performance.
- (191) For the other importer GFR was a more significant part of their business with very low profit margins. For this importer, given their very low margins, any increase in price would therefore lead to possible losses if the price increase could not be passed on to their customers. However this importer faced this issue before when the Commission imposed duties on imports of GFR from China at a higher level.
- (192) The Commission therefore concluded that the imposition of duties would not be in the interest of importers on the grounds that it would increase their costs.

6.3. Interest of users

- (193) Several interested parties came forward and expressed their views on the user interest in imposing measures in this investigation, mainly through sending standard letters with no evidence of their assertions.
- (194) Some interested parties sent a standard letter supporting the measures, in order to keep the Union industry as a supplier, while other parties sent a standard letter opposing the measures, in order to keep their costs down. On analysis of these standard letters, they came from distributors of GFR in the EU or from suppliers of the Union industry.
- (195) However the Commission did receive submissions from users of GFR in the Union expressing their views on the investigation.
- (196) One group of users, who wished to remain anonymous in order to protect against a risk of negative consequences in their commercial relationships, held a hearing with the Commission and made a submission that measures would not be in the Union interest.
- (197) The Commission noted the issue of certification of certain GFR made in certain factories while inspecting the users, who noted that some users are obliged to use a particular GFR from a particular factory, regardless of whether a duty is in force or not.
- (198) If measures are imposed on GFR from Egypt, and the user is obliged to use GFR from Egypt in their further processing, then they will see a cost increase which they may not be able to pass on to their customers.
- (199) The group of anonymous users noted that glass fibres are an important critical-to-quality ingredient and current quality systems, for example thermoplastics for the automotive industry, would require a re-approval process if the user changed supplier.
- (200) The same group also noted that even if a user has diverse suppliers, they would still use a specific supplier for a specific compound.

- (201) For those users that make other thermoplastics, their customers are less sensitive to the source of the raw material, as the GFR is mixed with resin and provides reinforcement to the thermoplastic, rather than remaining relatively unchanged as it does in the production of GFF.
- (202) Although GFR represents up to 60 % of the cost of manufacturing, other sources of GFR without measures imposed are readily available, namely Malaysia and Norway. However given the price increase that measures would cause, the user inspected was against the imposition of measures. All thermoplastic users who expressed an opinion were against the imposition of measures.
- (203) For those users that make glass fibre fabrics (GFF) they are in a completely different position, as GFR is the raw material for the production of GFF. The Commission visited one producer of GFF and user of GFR, who asked to remain anonymous for the purposes of this investigation. They opposed measures because when duties were imposed on GFR from China, prices of raw materials increased by 10 % but they were unable to pass this price increase on to their customers.
- (204) Four manufacturers of GFF who expressed an opinion were against the imposition of measures. However the Commission notes that one of the sampled Union producers of GFR, Owens Corning, is an integrated producer who also manufactures GFF in the Union. This group is in favour of measures on both GFR and GFF imports from Egypt.
- (205) The Commission however also received submissions from two further GFF manufacturers in favour of measures on GFR from Egypt, in order to protect the whole value chain in Europe, and also encourage R & D.
- (206) The conclusion for users is that given that GFR is the main raw material in their finished product, measures would not be in their interest as the measures would increase the costs of the users. However measures would be in the interest of integrated groups using their own produced GFR.
- (207) On balance, given the alternative sources of available supply not subject to measures, given that one integrated user was in favour of measures and since there is no evidence clearly showing that the additional costs from measures imposed on imports from Egypt could not be absorbed by the users, the Commission concluded the negative effects on the users did not clearly show that it is not in the Union's interest to apply the measures.

6.4. Trade-distorting effects of subsidies/restoring effective competition

- (208) Under Article 31(1) of the basic Regulation, special consideration shall be given to the need to eliminate the trade-distorting effects of injurious subsidisation and to restore effective competition.
- (209) The investigation has established that Jushi Egypt sells significant quantities of subsidised GFR at artificially low prices to the Union market. If this situation continues, Jushi Egypt will maintain their unfair competitive advantage, further weakening the already vulnerable situation of the Union industry. As a result, the subsidised Egyptian imports will increase their trade-distorting effects over time, and continue to deny a level playing field to the Union industry.

6.5. Conclusion on Union interest

- (210) Measures are clearly in the interest of the Union industry. There is a limited negative impact on importers and users, in particular the GFF producers, which are the most vulnerable group, given their high proportion of GFR in their production costs.

- (211) However the Commission notes that other sources of GFR are available without measures in force. The Commission also notes the extensive innovation of the Union industry in recent years, and that the Union producers are working with their users to produce the product they require to their own individual specifications. Such innovation would be at risk if injury continues to occur.
- (212) The Commission noted these comments regarding certification and approval processes however the imposition of measures is designed to level the playing field for all operators, and therefore users can continue to import the certified or approved GFR from Egypt by paying a fair market price.
- (213) On the basis of the above, the Commission provisionally concluded that there were no compelling reasons that it was not in the Union interest to impose countervailing measures corresponding to the total amount of countervailable subsidies on imports of GFR originating in Egypt.

7. PROVISIONAL COUNTERVAILING MEASURES

- (214) Based on the conclusions reached by the Commission on subsidisation, material injury, causation and Union interest, and in accordance with Article 15(1) of the basic Regulation, a provisional countervailing duty should be imposed on imports of GFR originating in Egypt.

7.1. Provisional measures

- (215) Provisional countervailing measures should be imposed on imports of GFR originating in Egypt, in accordance with the rules in Article 12(1) of the basic Regulation which states that the provisional duty shall correspond to the total amount of countervailable subsidies as provisionally established.
- (216) On the basis of the above, the provisional countervailing duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Table 15

Provisional duty rates

Company	Provisional countervailing duty
Jushi Egypt for Fiberglass Industry S.A.E.	8,7 %
All other companies	8,7 %

- (217) The individual company countervailing duty rate specified in this Regulation was established on the basis of the findings of this investigation. Therefore, it reflected the situation found during this investigation with respect to the sole exporting producer. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entity.
- (218) Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to the individual countervailing duty rate.

- (219) The company may request the application of the individual countervailing duty rate if it subsequently changes its name. The request must be addressed to the Commission ⁽¹⁶⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.

8. REGISTRATION

- (220) As mentioned in Recital (9) above, the Commission made imports of GFR subject to registration during the period of pre-disclosure under the requirements of Article 24(5a) of the basic Regulation by publishing the registration Regulation.
- (221) The registration Regulation only registered imports for the three weeks of pre-disclosure. Registration will cease when this Regulation comes into effect.
- (222) No decision on a possible retroactive application of anti-subsidy measures has been taken at this stage of the proceeding. Such a decision will be taken at definitive stage.

9. INFORMATION AT PROVISIONAL STAGE

- (223) In accordance with Article 29a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website.
- (224) Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.
- (225) The Commission received comments from Jushi Egypt. However, the comments did not concern the accuracy of the calculation. Therefore, the provisional countervailing duty remains unchanged.

10. FINAL PROVISIONS

- (226) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (227) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional countervailing duty is imposed on imports of chopped glass fibre strands, of a length of not more than 50 mm; glass fibre rovings, excluding glass fibre rovings which are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887); and mats made of glass fibre filaments excluding mats of glass wool, currently falling under CN codes 7019 11 00, ex 7019 12 00, 7019 31 00 (TARIC codes 7019 12 00 22, 7019 12 00 25, 7019 12 00 26 and 7019 12 00 39) and originating in Egypt.

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

Company	Provisional countervailing duty	TARIC additional code
Jushi Egypt for Fiberglass Industry S.A.E.	8,7 %	C540
All other companies	8,7 %	C999

⁽¹⁶⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.
2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.
3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings shall do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer shall examine requests submitted outside this time limit and may decide whether to accept such requests if appropriate.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Implementing Regulation (EU) 2020/199.
2. Data collected regarding products which entered the Union for consumption not more than 3 weeks prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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, 5 March 2020.

For the Commission
The President
Ursula VON DER LEYEN
