II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/492

of 1 April 2020

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

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic Regulation), and in particular Article 9(4) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 21 February 2019, the European Commission initiated an anti-dumping 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') pursuant to Article 5 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 8 January 2019 by Tech-Fab Europe ('the complainant') on behalf of producers representing more than 25 % of the total Union production of GFF. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

(3) On 16 May 2019, the Commission initiated a separate anti-subsidy investigation with regard to imports into the Union of GFF originating in the PRC and Egypt and commenced a separate investigation. It published a Notice of Initiation in the *Official Journal of the European Union* [3].

1.2. Registration of imports

(4) On 31 July 2019, the complainant submitted a request for registration of imports of GFF originating in the countries concerned under Article 14(5) of the basic Regulation. The complainant argued that after the investigation period, imports of GFF increased substantially and there is stockpiling in the Union at a scale that threatens to undermine the remedial effect of potential anti-dumping measures.

[1] OJ L 176, 30.6.2016, p. 21.
[2] Notice of initiation of an anti-dumping proceeding concerning imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ C 68, 21.2.2019, p. 29).
[3] Notice of initiation of an anti-subsidy proceeding concerning imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ C 167, 16.5.2019, p. 11).

(5) One exporting producer, one user and the China Chamber Of Commerce for Import & Export of Light Industrial Products & Arts-Crafts ('CCCLA') opposed the request for registration. Those parties argued that the request did not provide sufficient evidence as required by Article 14(5) of the basic Regulation. They further argued that import data from the PRC and Egypt should be analysed separately and that, in any event, the imports in question are not likely to seriously undermine the remedial effect of the definitive anti-dumping duty as the average unit price of imports had increased from 2018 to 2019.

(6) As explained in recitals (48) and (50), the Commission decided not to impose provisional measures in this case. Therefore, the request for registration became redundant and thus its further analysis, together with the analysis of the comments summarised in recital (5), became unnecessary.

1.3. **Interested parties**

(7) In the Notice of Initiation, the Commission invited interested parties to contact it 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 Chinese and Egyptian authorities, known importers and users about the initiation of the investigation and invited them to participate.

(8) Interested parties had the 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.

(9) The intervention of the Hearing Officer was requested by Zhejiang Hengshi Fiberglass Fabrics Co. Ltd. The hearing took place on 28 October 2019. The agenda of the hearing was the proposed application of Article 18 of the basic Regulation to that company. The Commission analysed the points raised and addressed them in the final disclosure. There were no specific follow up actions recommended by the Hearing Officer.

(10) As mentioned in recital (48), the Commission clarified the product scope during the investigation and gave interested parties concerned by the clarification, or who might not have made themselves known because they believed they were not concerned by the proceeding, the opportunity to make themselves known and request a questionnaire within a time limit. No additional parties came forward.

1.4. **Sampling**

(11) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.4.1. *Sampling of Union producers*

(12) In the Notice of Initiation, the Commission stated that it had decided to limit the investigation to a reasonable number of Union producers by applying sampling. It added that it had provisionally selected a sample of Union producers based on the reported production volume of the like product in the Union between October 2017 and September 2018 and also taking into consideration the geographical spread. This sample consisted of three Union producers accounting for more than 40 % of the estimated total Union production of GFF. The Commission invited interested parties to comment on the provisional sample.

(13) Only one Union producer commented, suggesting the inclusion of a fourth company into the sample to enlarge the geographical representativeness, the production volume and product types covered.

(14) Striving to sample the largest representative production volume the Commission decided to enlarge the sample to four companies. The final sampled Union producers accounted for more than 40 % of the estimated total Union production of GFF. The sample is representative of the Union industry.

1.4.2. *Sampling of importers*

(15) 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.

(16) Only one unrelated importer (Euroresins UK Ltd.) provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

1.4.3. *Sampling of exporting producers in the PRC*

(17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(18) Nine exporting producers or groups of exporting producers in the PRC provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of exporting producers based on the largest representative volume of exports to the Union, which could reasonably be investigated within the time available. The sampled groups of exporting producers represented 79 % of the reported exports of GFF from the PRC to the Union during the investigation period.

(19) The sample of exporting producers or groups of exporting producers is the following:

— China National Building Materials Group ('CNBM group'), including

  — Jushi Group Co. Ltd ('Jushi');

  — Zhejiang Hengshi Fiberglass Fabrics Co. Ltd ('Hengshi');

  — Taishan Fiberglass Inc ('Taishan').

— Yuntianhua Group ('Yuntianhua group'), including:

  — PGTEX China Co. Ltd ('PGTEX'),

  — Chongqing Tenways Material Corp. ('CTM').

(20) In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the PRC were consulted on the selection of the sample.

(21) Comments on the selection of the sample were received from one non-sampled exporting producer, one sampled exporting producer and the CCCLA.

(22) The non-sampled exporting producer claimed that both sampled groups of exporting producers have a vertically integrated production process, which was different from its own manufacturing process (not integrated) and, therefore, it considered that the sampled groups of exporting producers would not be representative for its own situation. Likewise, the CCCLA claimed that the two sampled groups of exporting producers were vertically integrated and, therefore, the sample was not representative of the Chinese glass fibre fabric industry that also included non-integrated producers.

(23) Pursuant Article 17(1) of the basic Regulation the selection of the sample should be based on the largest representative volume of production, sales or exports which can reasonably be investigated within the time available. As stated in recital (18), the sampled groups of exporting producers represented 79 % of the reported exports from the PRC to the Union during the investigation period and that was considered representative. In any event, the two sampled groups of exporting producers included both vertically integrated and non-integrated entities and the Commission's analysis properly takes into account this element. In fact, the majority of the exports to the EU were made by non-integrated entities. Therefore, the claim was rejected.

(24) In addition, all non-sampled exporting producers had the opportunity to request individual examination under Article 17(3) of the basic Regulation. As stated in recital (39), none of the exporting producers requested individual examination.

(25) The CCCLA also claimed that by selecting only two groups of exporting producers, this risked materially affecting the outcome of the investigation in the sense of Article 17(4) of the basic Regulation, should one of the selected groups stop cooperating or decide to withdraw from the investigation.

(26) The CCCLA argued that under such scenario, the duty rate for the non-sampled cooperating Chinese exporting producers, if any, would be based on the duty established for the remaining sampled group and that the sample would no longer be representative. Therefore, the CCCLA asked the Commission to extend the sample by including one more exporting producer.

(27) As stated in recital (19), the sampled groups of exporting producers included five exporting producing entities. Furthermore, as stated in recital (18) the sample covered 79 % of the reported exports from the PRC to the Union and it was considered representative. Therefore, the Commission decided not to extend the sample as it would have prevented it to investigate all the entities within the time limits of the investigation. Nevertheless, as mentioned in recital (24) the cooperating non-sampled companies had the opportunity to request individual examination under Article 17(3) of the basic Regulation, but none of the exporting producers requested individual examination.

(28) Regarding CNBM group, while Jushi and Hengshi did not dispute the fact that they were related companies, they claimed that they were not related to Taishan. Jushi claimed that the Commission could not mechanically rely on Article 127(1)(d) or (f) of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 ([4]) (the 'Customs Code Implementing Act') to treat Hengshi, Jushi and Taishan as a single entity. In support of that claim, Jushi referred to the WTO Panel in Korea – Certain Paper ([5]) and the Guidelines for related transactions of listed companies of Shanghai Stock Exchange.

([4]) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

([5]) WT/DS312/R of 28 October 2005.

(29) Taishan also disputed the fact that it was related to Jushi and Hengshi arguing that (i) they did not directly own each other's shares; (ii) they had no common direct shareholding; (iii) they had different decision-making processes and management institutions; (iv) there was no overlap in the members of their boards; (v) there were no related transactions between Hengshi/Jushi and Taishan; (vi) they were competitors on the market; and (vii) that they were geographically located far away from Jushi and Hengshi. Finally, Taishan claimed that in a similar situation in a previous anti-dumping investigation concerning imports of crystalline silicon photovoltaic modules and key components originating in the PRC ([6]), companies had not been treated as related.

(30) The investigation revealed that China National Building Materials ('CNBM') is a Chinese state-owned enterprise owned directly and indirectly as to 41,27 % by CNBM Parent, which is in turn wholly-owned by the State-owned Assets Supervision and Administration Commission of the State Council ('SASAC'). CNBM owns 26,97 % stake in China Jushi Co., Ltd. ('China Jushi'), which is the sole shareholder of Jushi Group ([7]).

(31) In September 2017, CNBM entered into a Merger Agreement ([8]) with Sinoma that was finalised in May 2018. Sinoma, through its subsidiary Sinoma Science & Technology Co., was the owner of Taishan. After the merger, Sinoma was merged into and absorbed by CNBM. As a consequence, CNBM holds 26,97 % stake in China Jushi (the sole shareholder of Jushi) and 60,24 % in Sinoma Science & Technology Co., Ltd. (sole shareholder of Taishan).

(32) Article 127(d) of the Customs Code Implementing Act establishes that two persons shall be deemed to be related if: a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them. CNBM holds 26,97 % stake in China Jushi (the sole shareholder of Jushi) and 60,24 % in Sinoma Science & Technology Co., Ltd. (sole shareholder of Taishan). Therefore, the companies were found to be related.

(33) Furthermore, according to a company report by the Chinese brokerage company Guotai Junan Securities from 2019 ([9]), CNBM has been reorganising its operating entities in order to enhance regional coordination and eliminate horizontal competition among listed subsidiaries since 2017. Furthermore, CNBM intends to resolve horizontal competition issues by 2020. According to the publicly available information in the report, CNBM planned to start this process by consolidating its glass fibre business by asset injections between China Jushi and Sinoma Science & Technology (Taishan's sole shareholder). Thus, the evidence collected during the investigation does not support the companies' argument that the common shareholding has no practical implication and that the companies operate independently. To the contrary, that evidence suggests that beyond the mere shareholding (which alone is determinant for the conclusion that the companies are related), the three companies are also able to significantly influence each other's business decisions, and that their controlling company (CNBM) aims to at least coordinate, if not to integrate, their operations ('resolve the horizontal competition issues'). Therefore, the Commission rejected the claim that its conclusion to consider the three companies as related disregarded factual and economic realities.

([6]) Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 1.

([7]) http://cnbm.wsfg.hk/index.php?SectionID=FinancialReports&PageID=2019&Language=eng *(last viewed on 20 November 2019)*.

([8]) https://www1.hkexnews.hk/listedco/listconews/sehk/2017/0908/ltn20170908865.pdf (last viewed on 20 November 2019).

([9]) https://img3.gelonghui.com/pdf/3a1a2-2862061c-769f-43a8-823e-ebbf7ac6de94.pdf (page 4, *last viewed on 20 November 2019*).

(34) In relation to the argument that the Commission could not treat Hengshi, Jushi and Taishan as a single group, Article 9(5) of the basic Regulation allows the Commission to establish a sole individual anti-dumping duty when corporate links between suppliers exist. This is to ensure that customs authorities can effectively enforce measures, avoiding that related companies channel their exports through the company with the lowest duty. In addition, Article 2(1) of the basic Regulation dealing with normal value states that, when determining whether two parties are related, the Commission may take account of Article 127 of the Customs Code Implementing Act. There is no reason why the Commission would apply different standards to exporting producers in the context of normal value and when establishing whether or not they are related for the purpose of Article 9(5) of the basic Regulation. Thus, the Commission consistently makes use of the criteria laid down in Article 127 of the Customs Code Implementing Act when applying Article 9(5) of the basic Regulation. This consistent practice was in addition communicated to all parties in the Notice of Initiation at the start of the proceeding. The WTO case ([10]) referred to by Jushi in recital (28) does not support the company's claim. In fact, contrary to what Jushi and Hengshi try to infer, the WTO Panel in that case confirmed that, for the purpose of dumping determinations in anti-dumping investigations, the rule in Article 6.10 of the WTO Anti-Dumping Agreement (where a dumping margin should be calculated per exporting producer) did not necessarily preclude treating distinct legal entities as a single exporter or producer. The Panel noted that this treatment would be permitted '*where the structural and commercial relationship between the companies in question is sufficiently close to be considered as a single exporter*' ([11]). Applying this consideration, the Panel did not establish the criteria that investigating authorities must apply to assess whether companies are related. The Panel merely looked into the specific elements (such as shareholding, board of directors, sales channels) which where before the investigating authority in that case. The Appellate Body in *EC – Fasteners* confirmed the possibility of treating a number of exporters as a single entity, listing also elements which may be relevant, such as (i) the existence of corporate and structural links between the exporters, such as common control, shareholding and management; (ii) the existence of corporate and structural links between the State and the exporters, such as common control, shareholding and management; and (iii) control or material influence by the State in respect of pricing and output ([12]). In that respect, from the legal and factual elements of this case, the existence of corporate links between Jushi, Hengshi and Taishan cannot be disputed. Therefore, the Commission can treat them as a *single entity* within the meaning of Article 9(5) of the basic Regulation.

(35) Regarding the claim made by Taishan that in a similar situation in a previous anti-dumping investigation ([13]) certain companies had not been treated as related, the Commission noted that there was no issues relating to relationship in the investigation indicated by Taishan. Thus, the Commission failed to see how that case would assist Taishan in its claim regarding its relationship to Jushi and Hengshi. In any event, the situation in this case was assessed based on its own merits, in light of the applicable legal framework.

(36) Based on the above, the Commission concluded that they were related companies for the purpose of this investigation and all claims in this regard were thus rejected.

(37) After receiving the General Disclosure Document on 19 December 2019 ('the final disclosure'), Taishan claimed that the CNBM had only very limited control on the business and operation decisions of Jushi or Hengshi. They reiterated that Taishan and Hengshi/Jushi were competitors in the market and noted that they had previously submitted evidence in support of these claims as stated in recital (29). Furthermore, Taishan claimed that although it was related to Hengshi/Jushi through common state ownership, it had little interest to coordinate its exports activities with Hengshi/Jushi after the imposition of measures. Taishan offered a commitment that would effectively cut any commercial link between Taishan and Hengshi/Jushi and thus it would not allow the channelling of any exports of GFF to the Union from Hengshi/Jushi via Taishan. Therefore, there would be no need to impose a single anti-dumping duty on the whole group.

([10]) WT/DS312/R of 28 October 2005.
([11]) WT/DS312/R of 28 October 2005, para. 7.162.
([12]) WT/DS397AB/R of 15 July 2011, para. 376. The same language is now reproduced in Article 9(5), second paragraph, of the Basic Anti-Dumping Regulation.
([13]) Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 1).

(38) As described in recital (33), the investigation revealed that through their common shareholders the three companies are able to significantly influence each other's business decisions. The evidence on file showed that the companies are in the process of consolidating and coordinating glass fiber operations. No new information or evidence was provided that could invalidate these findings. In fact, Taishan did not contest the plans of its main shareholder to consolidate its glass fibre business. Such plans are in clear contradiction with any commitment to cut commercial links between Taishan and Hengshi/Jushi. Besides, and without taking a position on whether the Commission could accept such a commitment, the company is clearly not in the position to enter into any kind of commitment without the endorsement of its ultimate controllers. Therefore, Taishan's claims and commitment request were rejected.

1.5. **Individual examination**

(39) Seven of the Chinese exporting producers that returned the sampling form informed the Commission of their intention to request individual examination under Article 17(3) of the basic Regulation. The Commission made the questionnaire available online on the day of the initiation. Moreover, the Commission informed the non-sampled exporting producers that they were required to provide a questionnaire reply if they wished to be examined individually. However, none of the companies provided a questionnaire reply.

1.6. **Questionnaire replies and verification visits**

(40) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC'). The questionnaires for the Union producers, importers, users, and exporting producers in the PRC and in Egypt were made available online ([14]) on the day of initiation.

(41) The Commission received questionnaire replies from the four sampled Union producers, five users, one unrelated importer, all sampled exporting producers in the PRC and two exporting producers in Egypt belonging to the same group (CNBM). The GOC did not reply to the questionnaire concerning the existence of significant distortions in the PRC.

(42) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following parties:

Union producers

— European Owens Corning Fiberglas, Sprl, Belgium ('OC');

— Chomarat Textiles Industries S.A.S., France ('Chomarat');

— Saertex GmbH & Co. KG, Germany ('Saertex');

— Ahlstrom-Munksjö Glassfibre Oy, Finland ('Ahlstrom');

Exporting producers in the PRC

— China National Building Materials Group ('CNBM group');

— Jushi Group Co. Ltd, Tongxiang;

([14]) Available at http://trade.ec.europa.eu/tdi/case_details.cfm?id=2385

— Zhejiang Hengshi Fiberglass Fabrics Co. Ltd, Tongxiang;

— Taishan Fiberglass Inc., Taian;

— Yuntianhua Group ('Yuntianhua group'):

— PGTEX China Co. Ltd, Changzhou;

— Chongqing Tenways Material Corp., Chongqing;

Exporting producers in Egypt

— Jushi Egypt for Fiberglass Industry S.A.E, Suez;

— Hengshi Egypt Fiberglass Fabrics S.A.E., Suez;

Traders related to the Chinese and Egyptian exporting producers located in Hong Kong

— Huajin Capital Limited;

— Jushi Group (HK) Sinosia Composite Materials Co., Ltd.;

Traders related to the Chinese and Egyptian exporting producers located in the PRC

— Jushi Group Hong Kong Co. Limited, Tongxiang;

Traders/importers related to the exporting producers located in the Union

— Jushi France SAS, St. Priest, France;

— Jushi Italia SRL, Milano, Italy;

— Jushi Spain, Madrid, S.A., Spain;

Users

— Siemens Gamesa Renewable Energy GmbH&Co KG, Denmark ('SGRE');

— Vestas Wind Systems A/S, Denmark ('Vestas').

1.7. **Non-cooperation**

(43) Two Chinese sampled exporting producers (Jushi and Hengshi), part of the CNBM group, failed to cooperate with the investigation. For this reason, the Commission decided to base findings on facts available in accordance with Article 18(1) of the basic Regulation, as explained in details in Section 3.1. In addition, the Commission accepted information from a related trade part of the CNBM group (CNBM International Corporation ('CNBM International')), which partially provided the required information at a late stage, in accordance with Article 18(3) of the basic Regulation (see recitals (85)–(87)).

1.8. **Request for confidentiality under Article 19 of the basic Regulation**

(44) The exporting producers Jushi and Hengshi requested confidential treatment of one of their submissions. Despite several requests to do so, the companies could not justify why the specific information should be treated as confidential. In particular, it should be noted that virtually the same information had already been submitted by another interested party on a non-confidential basis and was available to other interested parties in the open file. Hence, the request for confidential treatment could not be granted. Given that the companies were still unwilling to provide the submission on a non-confidential basis, the Commission decided not to disclose those comments in this Regulation.

(45) In any event, given that the other interested party had provided virtually the same comments/information on a non-confidential basis, the substance of Jushi and Hengshi's arguments are fully addressed in this Regulation.

1.9. **Investigation period and period considered**

(46) The investigation of dumping and injury covered the period from 1 January 2018 to 31 December 2018 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2015 to the end of the investigation period ('the period considered').

(47) Both the current anti-dumping and anti-subsidy investigation mentioned in recital (3) have the same investigation period and the same period considered

1.10. **Non-imposition of provisional measures and subsequent procedure**

(48) During the investigation, it became apparent that some economic operators might not have come forward based on an incorrect understanding of the definition of the product under investigation. For that reason, on 18 September 2019, the Commission clarified the wording of the product scope description included in the Notice of Initiation by publishing a Notice ('Clarification Notice') ([15]). The Clarification Notice also gave the possibility for parties to come forward within a prescribed time limit to make themselves known and to request a questionnaire, if they wished so. No interested party submitted any comment on the Clarification Notice nor requested a questionnaire.

(49) Due to the prospect of new parties coming forward and the consequent need to fully respect their procedural rights of defence, the Commission decided to continue the investigation without imposing provisional measures.

(50) On 26 September 2019, in accordance with Article 19a(2) of the basic Regulation, the Commission informed the interested parties of its intention not to impose provisional measures and to continue the investigation.

(51) After publication of the Clarification Notice and in the subsequent investigation, it was confirmed that no economic operators had failed to come forward due to the possible misunderstanding in the definition of the product concerned contained in the Notice of Initiation.

([15]) Notice clarifying the notices of initiation of anti-dumping and anti-subsidy proceedings concerning imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ C 314, 18.9.2019, p. 6).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(52) The product concerned ([16]) is *fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m²* ('GFF'), originating in the PRC and Egypt, currently falling under CN codes ex 7019 39 00, ex 7019 40 00, ex 7019 59 00 and ex 7019 90 00 (TARIC codes 7019 39 00 80, 7019 40 00 80, 7019 59 00 80 and 7019 90 00 80) ('the product concerned').

(53) GFF is used in a wide range of applications, for example, for the production of blades for wind turbines, in the boat, truck and sport equipment production, as well as in pipe rehabilitation system.

(54) Following the final disclosure, the CCCLA claimed that the product scope was unclear and that it should be clarified whether products falling under CN codes 7019 59 00 and 7019 90 00 were included in the scope of the investigation.

(55) The Commission recalls that, as stated in the Notice of Initiation, the product under investigation is defined by the product definition and not by the CN or TARIC codes (which are given for information only). The Commission clearly defined the product concerned in the Notice of Initiation. This was confirmed by the fact that after the Commission issued the Clarification Notice concerning the product scope mentioned in recital (48), none of the interested parties came forward. The claim that the product scope would be unclear was therefore rejected.

2.2. Like product

(56) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned;

— the product produced and sold on the domestic market of the countries concerned;

— the product produced and sold on the domestic market of Turkey, which served as representative country within the meaning of Article 2(6a) of the basic Regulation; and

— the product produced and sold in the Union by the Union industry.

(57) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

(58) One exporting producer and the Ministry of Trade of the Arab Republic of Egypt claimed that pre-cut GFF kits should not be covered by the scope of the investigation. They argued that pre-cut GFF kits would be a downstream product requiring additional production steps and with differences in physical characteristics, having a much smaller size. It would come in a different forms and packaging, consisting of several smaller pieces of fabrics quilted together. It was further argued that there would be no circumvention risk by excluding kits as the process of cutting would be irreversible and that the product is not interchangeable with the uncut GFF.

([16]) As clarified in the Notice of Clarification.

(59) The complainant argued that pre-cut GFF kits and non-cut GFF have the same basic characteristics and end uses. As GFF are reinforcement materials, the cutting to shape is necessary to fit the form of the product that needs to be reinforced, but does not change its basic characteristics as such. The cutting process can be carried out by the GFF producer, an independent industrial cutter or the customer itself. It is a very simple and low-cost operation. The complainant further argued that users do not perceive pre-cut GFF differently from other GFF as GFF are generally produced to user specifications. If the cutting process would change the characteristics of the GFF, that would render them unusable for the specific customer.

(60) The investigation showed that pre-cutting and kitting processes do not change the basic physical, technical or chemical characteristics of GFF or their basic end uses. Customers of both products are largely the same and both are sold via the same distribution channels.

(61) The investigation also confirmed that for most applications GFF are produced to order according to customers' specifications. Pre-cut GFF kits constitute merely an additional specification in the customer order. That pre-cut GFF kits receive a different packaging does also not change the characteristics. Since GFF is ordered increasingly in the form of pre-cut GFF kits and the services of external kitters are used increasingly, there would be a high circumvention risk, if pre-cut GFF would be excluded from the scope of the investigation. Therefore, the Commission concluded that it would not be appropriate to exclude pre-cut GFF from the scope of the investigation.

(62) Following the final disclosure, the CCCLA and the Egyptian Government ('EG Government') claimed that pre-cut GFF kits should be excluded from the product scope as they would be downstream products requiring additional production steps and with different physical characteristics having an appreciable impact on costs and prices. Both parties argued that there would also not be any risk of circumvention should pre-cut GFF kits be excluded from the scope of the measures, in particular because of the additional cost involved and the fact that the process of cutting would be irreversible.

(63) The Commission cannot accept this claim. As explained in recital (61) cutting and kitting does not create a downstream product, but an additional specification in the customer order. The claim was therefore rejected.

(64) Another exporting producer argued that glass fibre yarns should be deemed to be excluded from the scope of the investigation. This exporting producer argued that glass fibre yarn was not be mentioned explicitly in the questionnaire, the complaint or in the Notice of Initiation, which would indicate that they are not covered by the product scope. It further argued that GFF from yarn could not be classified under the characteristics of the product control number ('PCN'), that GFF from yarn would be imported under different CN-codes than the ones mentioned in the complaint and that glass fibre yarns would also not be covered by the measures against glass fibre rovings in other proceedings.

(65) The complainant and another Union producer (not party to the complaint) argued that only GFF from non-twisted (also called zero-twisted) glass fibre yarns should be covered by the investigation, whereas twisted yarns could be excluded from the scope of the investigation. The complainant argued that non-twisted glass fibre yarns share the characteristics of glass fibre rovings to consist of a bundle of untwisted filaments or strands and are also used for the same purposes as rovings and are typically 13–24 micrometres in diameter and are 300–4 800 tex.

(66) Regarding the inclusion of GFF from glass fibre yarns, the Notice of Initiation defined the product under investigation as *'fabrics of woven, and/or stitched continuous filament glass fibre rovings and/or yarn, […]'* ([17]). The investigation has shown that non-twisted glass fibre yarns share the same basic characteristics as glass fibre rovings, i.e. to consist of a bundle of non-twisted filaments or strands, and are also used for the same purposes. Both are typically 13–24 micrometres in diameter and are 300–4 800 tex. Thus, it would not be appropriate to exclude these product types from the scope of the investigation.

([17]) Notice of Initiation as clarified by Clarification Notice.

(67) In relation to GFF made mainly from twisted glass fibre yarn, the Commission notes that this product, which has different basic characteristics and is also subject to different end uses, e.g. printed circuit boards, was never part of the product concerned. The Commission explicitly clarified this point in the Clarification Note.

3. **DUMPING**

THE PRC

3.1. **Preliminary remarks**

(68) As mentioned in recital (43), Jushi and Hengshi failed to cooperate with the investigation. The Commission accepted information from a third related company, which provided the required information at a late stage. The situation of the three companies and their comments are addressed in this section.

(69) Jushi, a vertically integrated exporting producer, failed to provide essential information reflecting its manufacturing process in the questionnaire reply and the following deficiency letter. The missing information was essential to the determination of the company's normal value under Article 2(6a) of the basic Regulation, which should reflect the manufacturing process of a vertically integrated company. The Commission required information as to the manufacturing costs per PCN. This comprised the volume and the value of all factors of production used to manufacture GFF by Jushi per PCN. However, Jushi refused to provide the required information for certain factors of production such as the details of the sizing mixture used to manufacture the glass fibre rovings (GFR), the main raw materials to produce GFF, per PCN. Despite several requests by the Commission for that information, supported by explanations as to why the information was required, Jushi refused to provide the information. As a result, the Commission informed Jushi of its intention to apply facts available under Article 18 of the basic Regulation in relation to the determination of the normal value.

(70) In addition, the company was informed that, given the refusal to cooperate, no information regarding the normal value would be accepted during the verification visit. The analysis of that information prior to the verification visit was essential to ensure an effective and meaningful on-spot verification visit, as far as the determination of the normal value under Article 2(6a) of the basic Regulation was concerned. In addition, given the statutory deadlines applicable to the investigation and the ample time and opportunities given to the exporting producer to provide the necessary information, the Commission was no longer in a position to accept any new information regarding normal value.

(71) Jushi argued that the Commission could still arrive at a reasonable finding by treating it as a non-vertically integrated producer, that is, by establishing its factors of production and production costs based on GFR, the main raw material for producing GFF. It argued that the relevant information was submitted within the deadlines and was verifiable. The exporting producer claimed that it acted to the best of its ability by disclosing to the Commission all the information that it did not consider business confidential. The exporting producer claimed that it could not provide its production cost of GFR in particular regarding the sizing mixture, which was a mix of several chemicals unique to the company and, therefore, business confidential.

(72) The missing information (the details of the sizing mixture per PCN for manufacturing costs of GFR), however, was essential for the determination of the normal value in case of the application of Article 2(6a) of the basic Regulation, as it should reflect the manufacturing process of the exporting producer. Furthermore, the exporting producer did not demonstrate how the Commission could arrive at a reasonable finding despite the fact that it did not disclose the necessary information concerning its full manufacturing cost.

(73) The Commission also clarified that all business confidential information provided in anti-dumping proceeding are treated as strictly confidential under Article 19 of the basic Regulation and that none of the other interested parties would have access to such information.

(74) Therefore, the Commission rejected the arguments brought forward by the exporting producer and decided to base findings on facts available in accordance with Article 18(1) of the basic Regulation.

(75) Hengshi, another non-integrated company of the CNBM group, provided false and misleading information during the verification visit, as well as seriously impeded the verification process by withholding important information and delaying the verification process unnecessarily and repeatedly. In particular, the information provided regarding the PCN, the allocation keys used to calculate the consumption volume of electricity, labour and overheads in the cost of production per PCN, its trial balance for 2018 and the shareholders' structure was considered unreliable and could not be used to determine the dumping margin of that exporting producer.

(76) Therefore, the Commission informed the company concerned of its intention to apply facts available in accordance with Article 18(1) of the basic Regulation as far as the calculation of the normal value is concerned in case the investigation concluded that Article 2(6a) of the basic Regulation should apply. In accordance with Article 18(4) of the basic Regulation, the interested party was informed of the reasons for disregarding the information provided and was granted the opportunity to provide further explanations.

(77) Hengshi commented on the Commission's intention to base findings on facts available in accordance with Article 18 of the basic Regulation and requested a hearing with the Hearing Officer in trade proceedings, which took place on 28 October 2019. The company claimed that it did not willingly delay or stop the progress of the investigation and that it had acted to the best of its abilities. In particular, the company claimed that the information submitted was not false or misleading and that, during the verification visit, it submitted an almost entirely correct version of the PCN table. It provided an entirely correct PCN table in the parallel on-going anti-subsidy investigation that was verified in the context of that anti-subsidy investigation and that it should be used in this proceeding as facts available. In addition, the company claimed that the submitted allocation keys for the cost of production per PCN were coefficients employed historically for managerial and cost accounting purposes and used by the company on a daily basis. The company insisted that these allocation keys objectively reflected the actual production costs. In relation to trial balance for 2018, the company explained that when providing supporting documents during the verification visit, it did not realise that these adjustments were not apparent in those documents because of technical limitations in its system. It was explained that this was due to a transition to a new accounting system on 1 January 2019, a fact that had not been previously disclosed to the Commission. The company challenged that the non-disclosure of the existence of this new system had unnecessarily delayed the verification. The exporting producer further claimed that the wrong reporting of the percentage of one of the shareholders was due to a typographical error that was corrected during the on-spot verification visit. Such an error should therefore not be qualified as 'misleading' information giving rise to the application of Article 18 of the basic Regulation. Finally, the exporting producer challenged that it impeded the verification process in several occasions, in particular by failing to provide (i) explanations regarding a certain (confidential) document provided in its questionnaire; and (ii) revised working sheets.

(78) First, the PCN that Hengshi submitted in this investigation was incorrect despite the multiple opportunities given to the exporting producer to revise the PCNs during the 6-day verification visit. Based on the information provided, the Commission was not able to determine reliable average sales prices per PCN and, therefore, the information provided had to be disregarded.

(79) Second, the investigation revealed that the allocation key used by the exporting producer did not reflect correctly the volume of electricity, labour and overheads costs per PCN. This was because when establishing the allocation keys, the company did not take into account the idle time of the production machines. This lead to an over-allocation of the volume of electricity and overheads consumed in the manufacturing process for products manufactured in small volume and under-allocation of the same items for products manufactured in large volumes. The allocation keys used by the exporting producer also lead to an erratic allocation of the number of labour hours per PCN. The exporting producer acknowledged this mistake in its letter to the Commission's services on 22 July 2019. Furthermore, during the verification visit, the team repeatedly highlighted the inconsistent results when using the allocation keys suggested by the company, but the company refused to look into it. Even if the exporting producer previously used these allocation keys, they do not correctly reflect the volume of electricity, labour and overheads per PCN. On that basis, the Commission found that the allocations keys used did not reliably establish the company's manufacturing costs per PCN. As a result, that information also had to be disregarded.

(80) Third, the Commission disagrees that this exporting producer did not impede the verification process by not disclosing the existence of the new accounting system. The assessment of the impact of this new system on the information provided by the company was more time consuming than necessary. The fact that the company's financial manager, present during the verification visit, did not promptly disclose this information to the team is also surprising. Had this fact not been kept from the investigating team, it would not have been necessary to check whether the new system had an impact on the data reported for 2018. The additional time could have been used for the verification of more essential parts of the questionnaire. The Commission notes that even though the team extended the verification visit for an additional day, it was still not able to satisfactorily conclude the verification of the data provided by the company within the (extra) time available.

(81) Forth, the mistake in the reporting of the shareholder had a substantial impact and was decisive in the determination whether this exporting producer was related to other exporting producer (and therefore part of the same group, receiving one anti-dumping duty). Therefore, this mistake was considered serious and misleading, whether the incorrect information was provided intentionally or not.

(82) Finally, the Commission maintains that the company impeded the verification process on several occasions. In relation to the lack of explanations for the confidential document provided with the questionnaire reply, the Commission notes that during the on-spot verification, crucial information was withheld from the team and only provided after long delays, as recorded in the mission report provided to the company ([18]). Furthermore, during the verification visit, the Commission required information to verify whether the PCN structure of the product concerned was correct. Hengshi however provided information detailing the PCN structure only after the PCN was found to be incorrect. In addition, during the verification visit, the company withheld a revised file regarding the PCN until the case team spotted further mistakes in the file provided. At that point, the case team had already spent considerable time trying to verify the PCNs and had given the company the opportunity to provide working files and re-start the verification of the PCNs. This behaviour certainly impeded the investigation because it prevented the Commission officials to finalise the verification of the PCN provided. Thus, the Commission cannot agree that the company did not seriously impede the verification process.

(83) Given the significant shortcomings of the information provided by this exporting producer as described, the Commission decided to disregard this information (all PCNs and the cost of production per PCN) and based its findings on facts available in accordance with Article 18(1) of the basic Regulation ([19]).

(84) As the comments made by the company and in the hearing with the Hearing Officer did not alter the facts and conclusions established, the Commission confirmed the use of facts available under Article 18(1) of the basic Regulation with regard to this exporting producer as concerns export price and normal value.

(85) Finally, CNBM International, a related trader part of the CNBM group, did not submit as required a reply to Annex I of the questionnaire. However, the investigation revealed that necessary information about sales of GFF was missing and the Commission requested CNMB International to report these sales and to clarify why they had not been reported before.

(86) CNBM International submitted the requested sales information and argued that it became aware of these sales only when preparing the response to the Commission's deficiency letter in the parallel anti-subsidy investigation mentioned in recital (3).

(87) However, the information submitted at such a late stage could only be partially verified. Given the small volume involved, as an exception, the Commission decided to accept the information related to these sales transactions and use facts available for certain information such as the selling, general and administrative expenses of the related trader in accordance with Article 18(3) of the basic Regulation.

([18]) Company Limited version of mission report sent on 4 October 2019.
([19]) See section 3.1.

3.2. **Procedure for the determination of the normal value for exporting producer in the PRC under Article 2(6a) of the basic Regulation**

(88) In view of the sufficient evidence available at the initiation of the investigation pointing to the existence of significant distortions on the domestic market in the PRC within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation concerning the PRC pursuant to Article 2(6a) of the basic Regulation.

(89) Consequently, in order to collect the necessary data for the possible application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in the PRC to provide the information requested in Annex III to the Notice of the Initiation regarding the inputs used to produce GFF. Nine exporting producers in the PRC covering the totality of the exports of GFF to the Union during the IP submitted the relevant information.

(90) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions on the domestic market in the PRC within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission also sent a questionnaire to the GOC. No reply was received from the GOC. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC. The GOC did not respond.

(91) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation vis-à-vis China within 37 days of the date of publication of the Notice in the *Official Journal of the European Union*. Hengshi, Jushi and CCCLA made a comment on the existence of significant distortions in China which is addressed in recitals (106) and (107).

(92) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it might need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value for exporting producer in the PRC based on undistorted prices or benchmarks.

(93) On 27 March 2019, the Commission made available to the interested parties the first note to the file ('the Note of March 2019') seeking their views on the relevant sources that the Commission may use for the determination of the normal value for exporting producers in the PRC, in accordance with Article 2(6a)(e) second indent of the basic Regulation. In that note, the Commission provided a list of all factors of production such as materials, energy, labour and waste used in the production of the product concerned by the exporting producers. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified a number of possible representative countries, namely, Brazil, Mexico, the Russian Federation, and Turkey.

(94) The Commission gave all interested parties the opportunity to comment. The Commission received comments from Taishan, Jushi, Hengshi and the complainant. The GOC did not provide any comments.

(95) The Commission addressed the comments received on the Note of March 2019 in the second note to the file on the sources for the determination of the normal value of 4 September 2019 ('the Note of September 2019'). The Commission also provided the revised list of factors of production and concluded that, at that stage, Turkey was considered a representative country under Article 2(6a)(a), first indent of the basic Regulation. The Commission also determined the list of codes used by Turkey and made available the relevant Turkish customs statistics in the open file. The Commission invited interested parties to comment. The Commission received comments from two Chinese exporting producers part of CNBM group. This Regulation addresses those comments in recitals (106), (177), (207) to (211).

3.3. **Normal value for the cooperating exporting producers**

(96) According to Article 2(1) of the basic Regulation, '*the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country*'.

(97) However, according to Article 2(6a)(a) of the basic Regulation, *'(i)n case it is determined […] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits'*. As further explained below, the Commission concluded in this investigation that, based on the evidence available and in view of the lack of cooperation of the GOC, Article 2(6a) of the basic Regulation was applicable.

3.3.1. *Existence of significant distortions*

3.3.1.1. Introduction

(98) Article 2(6a)(b) of the basic Regulation defines '*significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:*

— *the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;*

— *state presence in firms allowing the state to interfere with respect to prices or costs;*

— *public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;*

— *the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;*

— *wage costs being distorted;*

— *access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'*.

(99) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) is to take into account, amongst others, the non-exhaustive list of elements. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard is to be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product concerned. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

(100) Article 2(6a)(c) of the basic Regulation provides that *'[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'*.

(101) Pursuant to this provision, the Commission has issued a country report concerning the PRC ('the Report') ([20]), showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals). The Report was placed on the investigation file at the initiation stage. Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The complaint also contained some relevant evidence complementing the Report.

(102) In particular, the complaint contained information that the Chinese GFF and GFR industries are heavily promoted by the GOC. According to the complainant, China's 12th 5-Year Plan highlighted the importance of the new materials industry, which includes GFF, as a 'strategic emerging industry' and stipulates that it should be developed into a 'leading pillar industry' through comprehensive policy support and guidance. Furthermore, the 13th 5-Year Plan aims to develop further new materials industries by strengthening research and development and enhancing the innovation capability of the manufacturing industry ([21]).

(103) The complaint further states that the new materials industry is also an encouraged industry under the Made in China 2025 initiative, and thereby eligible to benefit from considerable state funding. The complaint lists a number of funds created to support the Made in China 2025 initiative and hence indirectly the GFF industry ([22]).

(104) Lastly, the complaint notes that the 13th Five-Year Plan for the Building Materials Industry calls for optimizing industrial structure by, inter alia, expanding emerging industries such as glass-based materials, industrial ceramics, intraocular lens, high-performance fibres and composites, and graphene and modified materials. This shall be achieved through government funding, taxation, financial, pricing, energy, and environmental protection policies, and support for capital to participate in the mergers, acquisitions and restructuring of building materials enterprises through various means including lending ([23]).

(105) As indicated in recital (41), the GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation to the case at hand.

(106) Comments regarding distortions were received from Hengshi, Jushi and CCCLA, which claimed that the Union is bound under WTO law to establish costs for the construction of the normal value in order to reflect conditions prevailing in the PRC in accordance with Article 2 of the Anti-Dumping Agreement and referred to WTO Appellate Body Report DS 473 EU – Biodiesel (Argentina).

([20]) Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.
([21]) See the 13th Five-Year Plan, pages 23 and 24.
([22]) See US – China Economic and Security Review Commission: The 13th Five-Year Plan, page 12.
([23]) See the 13th Five-Year Plan for the Building Materials Industry.

(107) For the purpose of this investigation, the Commission concluded in recital (161) that it is appropriate to apply Article 2(6a) of the basic Regulation. The Commission considers that Article 2(6a) is thus applicable. In addition, the Commission considers that this provision is consistent with the European Union's WTO obligations. It is the Commission's view that, as clarified in DS473 EU-Biodiesel (Argentina), the provisions of the basic Regulation that apply generally with respect to all WTO Members, in particular Article 2(5), second subparagraph of the basic Regulation, permit the use of data from a third country, duly adjusted when such adjustment is necessary and substantiated. The Commission finally recalled that the dispute DS473 EU-Biodiesel (Argentina) did not concern the application of Article 2(6a) of the basic Regulation, which is the relevant legal basis for the determination of normal value in this investigation. Therefore, the Commission rejected this claim.

(108) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so based on the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product concerned.

3.3.1.2. Significant distortions affecting the domestic prices and costs in the PRC

(109) The Chinese economic system is based on the concept of '*socialist market economy*'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*' ([24]). Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private ownership permeates the entire legal system and is emphasised as a general principle in all central pieces of legislation. Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop alongside State ownership ([25]).

(110) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing first sentence of the provision: '[t]*he socialist system is the basic system of the People's Republic of China*' a new second sentence was inserted which reads: '[t]*he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China*' ([26]). This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.

(111) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ([27]). The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.

([24]) Report – Chapter 2, p. 6–7.
([25]) Report – Chapter 2, p. 10.
([26]) Available at http://www.fdi.gov.cn/1800000121_39_4866_0_7.html (*last viewed 15 July 2019*).
([27]) Report – Chapter 2, p. 20–21.

(112) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets while this was a regular feature in previous planning cycles. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.3.1.5) ([28]).

(113) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.3.1.8) ([29]). The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector other than the banking sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ([30]).

(114) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement is to be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ([31]). Similarly, in the area of investment, the GOC maintains significant control and influence over the destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ([32]).

(115) In sum, the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ([33]).

3.3.1.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country

(116) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.

([28]) Report – Chapter 3, p. 41, 73–74.
([29]) Report – Chapter 6, p. 120–121.
([30]) Report – Chapter 6. p. 122–135.
([31]) Report – Chapter 7, p. 167–168.
([32]) Report – Chapter 8, p. 169–170, 200–201.
([33]) Report – Chapter 2, p. 15–16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108–109.

(117) The GOC and the CCP maintain structures that ensure their continued influence over enterprises, and in particular State-owned enterprises (SOEs). The State (and in many aspects also the CCP) not only actively formulates and oversees the implementation of general economic policies by individual SOEs, but it also claims its rights to participate in operational decision making in SOEs. This is typically done through rotation of cadres between government authorities and SOEs, through presence of party members on SOEs executive bodies and of party cells in companies (see also section 3.3.1.4), as well as through shaping the corporate structure of the SOE sector ([34]). In exchange, SOEs enjoy a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finance ([35]).

(118) Specifically in the GFF and GFR sectors, a substantial degree of ownership by the GOC persists. The State has significant shares in both of the sampled groups of producers, CNBM Group and Yuntianhua Group, which are the largest producers of GFF and GFR in China. These companies cover about 68 % of the total production capacity in China of the glass fiber industry covering both GFF and GFR ([36]).

(119) With the high level of government intervention in the GFF industry and a high share of SOEs in the sector, even privately owned producers are prevented from operating under market conditions. Indeed, both public and privately owned enterprises in the GFF sector are also subject to policy supervision and guidance as set out in section 3.3.1.5. The same is true for the GFR sector, producing the main raw material for GFF.

3.3.1.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the State to interfere with respect to prices or costs

(120) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights ([37]), CCP cells in enterprises, state-owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ([38])) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline ([39]). In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ([40]). These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of GFF and the suppliers of their inputs.

(121) Specifically in the GFF sector, as already pointed out, many of the GFF producers are owned by the State. There is also evidence on the confidential file that there is the State presence in the sampled exporting producers that is able to exert influence on the company decisions and ultimately interfere with prices or costs. Since specific substantiating elements are present in the Articles of Association of the company or other documents which are of a confidential nature, they were disclosed separately to the party concerned.

(122) The State's presence and intervention in the financial markets (see also section 3.3.1.8 below) as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ([41]). Thus, the State presence in firms, including SOEs, in the GFF and other sectors (such as the financial and input sectors) allow the GOC to interfere with respect to prices and costs.

([34]) Report – Chapter 3, p. 22–-24 and Chapter 5, p. 97–108.
([35]) Report – Chapter 5, p. 104–109.
([36]) Document dated 25 April 2019 written by Essence Securities This document is not available on internet anymore. However a copy is available in the non-confidential file of the investigation (see graph 23, p. 16).
([37]) Report – Chapter 5, p. 100–101.
([38]) Report – Chapter 2, p. 26
([39]) Report – Chapter 2, p. 31–32.
([40]) Available at https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU (*last viewed on 15 July 2019*).
([41]) Report – Chapters 14.1 to 14.3.

3.3.1.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces

(123) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ([42]).

(124) The GFF industry is regarded as an important industry supported by the GOC. This is confirmed in a number of industry developments plans, such as the 13th Five-Year Plan for Economic and Social Development of the PRC or the Made in China 2025 initiative ([43]).

(125) Furthermore, GFF is often referred to under the umbrella of 'new materials'. The Made in China 2025 Roadmap ([44]) describes sector 9 'new materials' and its subcategories, including advanced fundamental materials (point 9.1), key strategic materials (point 9.2) including high performance fibres and composite materials, new energy materials ([45]).

(126) Additionally, further to the Made in China 2025 Roadmap, in November 2016, the list of 10 strategic sectors was refined into a Catalogue of Four Essentials published by the National Manufacturing Strategy Advisory Committee (NMSAC), an advisory group to the National Leading Small Group on Building a National Manufacturing Power. In this catalogue, each of the 10 strategic sectors is split into four chapters: (i) core essential spare parts; (ii) key essential materials; (iii) advanced essential processes/technologies; and (iv) industry technology platforms. Glass fibre can be found in sector 7: electrical equipment, point II key essential material: subpoint 16 glass fibre insulation boards and sector 9: new materials, point II key essential materials, subpoints 10. High-performance fibre, monomer and composite materials and 24. Glass-based materials.

(127) The 13th Five-Year Plan for Economic and Social Development of the PRC mentions the new materials in a couple of instances: *'We will move faster to make breakthroughs in core technologies in fields such as next generation information and communications, new energy, new materials […]'* ([46]). The plan furthermore envisages that there will be projects carried out related to key new materials research, development and application ([47]).

(128) Made in China 2025 Roadmap lists 10 strategic sectors which are the key industries for the GOC. New materials, being one of the 10 strategic sectors, benefits from the advantages stemming from the support mechanisms listed in the document, including, among others, Financial Support Policies, Fiscal & Taxation Policy, State Council Oversight and Support ([48]).

(129) Fibre products are also explicitly mentioned in the Guidance Catalogue for Industrial Structure Adjustment (NDRC) 2011 edition, a document listing industries eligible for preferential funding in the building materials and textile chapters, as follows:

([42]) Report – Chapter 4, p. 41–42, 83.
([43]) https://urldefense.com/v3/__http://english.www.gov.cn/policies/latest_releases/2015/05/19/content_281475110703534.htm__;!!DOxrgLBm!Qx1Y6Etr7MfxDwEJQzueGBrq8htyy6lrbQbZQQR0llcNIGCyZoVG9l2erto3XU0UWMag-g$; and http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm
([44]) https://www.cae.cn/cae/html/files/2015-10/29/20151029105822561730637.pdf
([45]) See Made in China 2025 Roadmap. pp. 142, 152.
([46]) See the 13th Five-Year Plan for Economic and Social Development of the People's Republic of China, part II, Chapter 6, Section 1.
([47]) *Ibid.*, part II, Chapter 6, section 4.
([48]) See Made in China 2025, Chapter 4: Strategic Support and Safeguards.

'Building materials:

[…]

6. Tank furnace drawing technology for alkali free glass as well as technology development and production of high-performance glass fiber and products up to 50,000 tonnes/year

Textile:

[…]

4. Development and production of organic and inorganic high-performance fibers and products … and high-strength glass fiber (HT-AR), among others)

[…]

6. Use high-speed and new types of spinning technologies such as compact spinning, low-torque spinning, siro spinning, embedded spinning, to produce multi-type fiber mixed yarns and use automation equipment such as automatic winding, fine winder, integrated doffing, to produce high-quality yarns

[…]

9. Production of industry textiles which meet the demand of national economy in various fields by using woven, nonwoven composite, multi-layer direct composite, long-lasting multi-functional finishing, and other high-tech technologies.'

(130) In addition, 'Guidance Catalogue for Industrial Structure Adjustment 2011' (Decision No 9) explicitly mentions as an encouraged industry: '*Drawing of E-glass fibres in furnaces […], development and production of high-performance fibre glass and its product.*'

(131) GFF and GFR are furthermore covered by the Construction Material Industry Development Plan 2016-2020, which envisages, among others, the transition of the construction material industry 'from a large industry to a strong industry' and optimisation of the construction sector's structures, improvement of the security of supply of key materials, increase in the level of concentration in the industry as well as enhancement of the international competitiveness ([49]). The plan provides for quantitative development targets, governmental control over production capacity, detailed production targets, geographical distribution of industries among provinces in the PRC, security of supply, development of specific industries, government control and influence over enterprises and industry support measures ([50]). This demonstrate the strong presence and intervention of the State in the fibre glass industry.

(132) 13th Five-Year Plan for Fibre and Composite Materials Industry ([51]) is a plan targeting specifically the fibre material industry. It clearly guides the development of the sector, for example Section III.3 sets the goal to:

([49]) The 13th Five-Year Plan for the Building Materials, Sections III-1 and III-3.
([50]) Report, Chapter 12.3.1.4, p. 283–286.
([51]) The 13th Five-Year Plan for Fibre and Composite Materials Industry published by the China Glass fiber industry association and the China composite materials association on 2 June 2015.

'*Actively integrate and upgrade the upstream and downstream ends of the industry chain to maintain the healthy and stable development of the fibre and composite materials industry: Encourage large-scale tank furnance enterprises to steadily implement the "go global" development strategy, implement global production capacity patterns. On this basis: – maintain a low level of control over the domestic glass fibre production volume growth rate; – at the same time, reduce the export ratio of domestic glass fibre and products; – actively adjust product structures; […] – actively adjust product structure and guide enterprises to implement differentiated development, vigorously develop highly processing of glass fibre products, expand the market size of fibre and composite materials products in mid-to-high-end application fields, and improve product quality and added value. Ensure that the annual growth rate of the main business revenue of the fibre and composite materials industry is higher than the national GDP growth rate by about 5 to 6 percentage points, that is, as of 2020, the total revenue of enterprises above designated size will reach 500 billion yuan, i.e. doubling compared to the situation prevailing at the end of the 12th Five-Year Plan.*' ([52]).

(133) Furthermore, section IV.3.4 of that plan sets basis for governmental guidance of the enterprises and the entire industry:

'Guide various types of enterprises to get involved in differentiated operations taking into account their individual advantages and specific market segments. In particular, it is necessary to guide small and medium-sized enterprises to follow the growth path consisting in filling up specific gaps, in having small enterprises being complementary to big ones, in considering specialisation as the way to success. Thanks to differentiated operations, scale-competition between large enterprises is avoided, and the competition between similar enterprises is avoided, thus eliminating the low-cost competition market. At the same time, with specialized production, small and medium-sized enterprises can also win the respect and attention of large enterprises, establish close cooperative relationships with large enterprises, and effectively support and promote the development of large enterprises.'

(134) As explained in the Report, the industry associations are closely interlinked with the State, mostly through the importance of CCP building in those associations ([53]). Therefore, the provisions of section IV.3.6 of the same plan also point to a State intervention into the fibre production, including the GFF sector:

'*[The Association shall]*

— *assist the government in duly designing and implementing industry policy, to ensure the sound development of the sector;*

— *ensure the effective implementation of the glass fiber sector entry and management system and at the same time explore and implement the entry and management system applicable to the composite material sector;*

— *set out and implement sector entry and management systems in order to*

  — *effectively curb low level duplications,*

  — *strengthen enterprises' self-discipline awareness as well as the sector's perspectives,*

  — *foster the elimination of obsolete production capacities and the transformation and upgrade of the sector,*

  — *maintain a sound and orderly competition and orderly development of the sector;*

([52]) *Ibid.* section III.3.
([53]) See Report, p. 33–34.

— *take account of the sector's development needs, strive to set out incentive policies and measures, guide the sector's sound development;*

— *actively strive to obtain export tax refund on glass fiber highly processed products and guide the sound development of the glass fiber highly processing industry;*

— *actively strive to obtain the introduction and improvement of import and export tax rates for fibers and composite materials so as to offer incentives to the growth of high value-added composite material products exports;'.*

(135) The PRC has actively promoted the GFF and GFR industries on different government levels, an example of a local initiative covering one of the sampled companies can be found in the Jiujiang City 13th Five-Year Plan for the economic and social development:

Section III 2.2 Effectively implement a development plan for strategic and emerging industries

— *New materials:*

[…]

— *Extend and support the new materials industry chain, foster the development of new materials industry clusters;*

— *Rely on Jiujiang economic development zone, Jiujiang Chihu district industry park, Yongxiu Xinghuo Industry park and the Lushan fiber production base, and focus on the development of organic silicone new materials, glass fiber composite materials, bio-fiber new materials, metal new materials, and graphene new materials;*

[…]

— *Actively foster the JUSHI GROUP, Shengxiang Electronics, Cabot Chemical Industry and other leading enterprises' innovation-driven development, active connexion to the market, exploration and development of new fields of application for glass fiber and composite new materials so as to speed up the transformation and upgrade of the glass fiber industry* ([54]).

(136) As for the raw materials, for the cooperated non-vertically integrated producer, the main raw materials is GFR, which accounts for above 70 % of the total cost of production. It was already established in the previous anti-subsidy investigation into GFR that this industry is significantly subsidised by the GOC and thus distorted. It was established that the GFR industry benefits from preferential loans, tax reductions within the 'High and New Technology Enterprise' scheme, Indirect Tax and Import Tariff Programmes and provision of land use rights ([55]).

([54]) Jiujiang City The 13th Five-Year Plan for the Economic and Social Development.

([55]) Commission Implementing Regulation (EU) No 1379/2014 of 16 December 2014 imposing a definitive countervailing duty on imports of certain filament glass fibre products originating in the People's Republic of China and amending Council Implementing Regulation (EU) No 248/2011 imposing a definitive anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China.

(137) Vertically integrated producers use a large number of factors of production, which are also distorted. As an example, gas, one of the important factors of production is produced mainly by SOEs (96 % of the natural gas is controlled by China National Petroleum Corporation ('CNPC'), China Petroleum & Chemical Corporation ('Sinopec') and China National Offshore Oil Corporation ('CNOOC')) and its gas prices are regulated by the National Development and Reform Commission ('NDRC') ([56]). Quartz, kaolin and fluorite, other important raw material in the GFF production, are covered by the 13th Five-Year Plan for Mineral resources and quartz and kaolin are furthermore included in the 13th Five-year Plan for the Building Materials Industry. Those two plans set out governmental control over industry in general, set mining volume standards applicable among others specifically for quartz, encourages SOE reform, envisages a number of support measures and governmental intervention into private initiatives. Aluminium oxide was found to be subject to governmental intervention in the province of Hebei, where it was part of the list of key investment projects and of the Hebei 2016 New Material Industry Development Plan which set out state support to achieve a set production output ([57]). Sodium carbonate is covered by the 13th Five-year Plan for the Petrochemical and Chemical Industry, where it is set out that the State should keep control over production capacity: '*strictly control new capacity increases in overcapacity sectors such as […], sodium carbonate,* […].' ([58]). Dolomite is another factor of production subject to State support in the PRC, for example it is one of the encouraged industries for the Inner Mongolia Autonomous Region in the Central and Western China Foreign Investment Catalogue. Polypropylene also receives governmental support, and is mentioned in the NDRC's Guidance Catalogue for Industrial Structure Adjustment: '*new construction of production units of polypropylene with an annual output of less than 70 000 tonnes (by continuous process and batch process*' ([59]) and in the Hebei province Petrochemical 13th Five-year Plan: '*Industry optimization: By 2020, [Hebei shall] […] ensure the emergence of synthetic material industry clusters focussing on PVC, caprolactam (nylon), TDI, MDI (polyurethane), polypropylene, […]*' ([60]).

(138) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of GFR as the main raw material used in the manufacturing of the product concerned for the non-vertically integrated manufacturers as well as a number of raw materials used to manufacture GFF by the vertically integrated producers. Such measures impede market forces from operating normally.

3.3.1.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

(139) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ([61]).

(140) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC ([62]). All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ([63]). Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ([64]).

([56]) See Report, p. 219, footnote 757 and p. 221.
([57]) See Report, p. 64 and 294.
([58]) 13th Five-Year Plan for the Petrochemical and Chemical Industry, section III.2.
([59]) Guidance Catalogue for Industrial Structure Adjustment (Revised in 2013), Order No 21 of the National Development and Reform Commission, Category II Restriction Projects, Section IV.
([60]) Hebei Petrochemical 13th Five-Year Plan, Section II-3.
([61]) Report – Chapter 6, p. 138–149.
([62]) Report – Chapter 9, p. 216.
([63]) Report – Chapter 9, p. 213–215.
([64]) Report – Chapter 9, p. 209–211.

(141) Much like other sectors in the Chinese economy, the producers of GFF are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies, too, are subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. The present investigation revealed nothing that would call those findings into question. As such, the Commission preliminarily concluded that the Chinese bankruptcy and property laws do not work properly, thus generating distortions when maintaining insolvent firms afloat and when allocating land use rights in the PRC. Those considerations, based on the evidence available, appear to be fully applicable also in the GFF sector.

(142) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the GFF sector, including with respect to the product concerned.

3.3.1.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

(143) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining ([65]). Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ([66]). Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ([67]). Those findings lead to the distortion of wage costs in the PRC.

(144) Labour constitutes an important factor of production in the GFF. It was established during the investigation that labour accounts between 5 % and 25 % of the total cost of production.

(145) No evidence was submitted to the effect that the GFF sector, would not be subject to the Chinese labour law system described. GFF sector is thus affected by the distortions of wage costs both directly (when making the product concerned or the main raw material for its production) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

3.3.1.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

(146) Access to capital for corporate actors in the PRC is subject to various distortions.

(147) Firstly, the Chinese financial system is characterised by the strong position of State-owned banks ([68]), which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP) ([69]) and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ([70]). This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ([71]).

([65]) Report – Chapter 13, p. 332–337.
([66]) Report – Chapter 13, p. 336.
([67]) Report – Chapter 13, p. 337–341.
([68]) Report – Chapter 6, p. 114–117.
([69]) Report – Chapter 6, p. 119.
([70]) Report – Chapter 6, p. 120.
([71]) Report – Chapter 6, p. 121–122, 126–128, 133–135.

(148) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.

(149) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ([72]).

(150) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ([73]). This results in a bias for lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.

(151) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.

(152) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.

(153) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the GOC has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so-called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.

(154) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets.

(155) No evidence was submitted to the effect that the GFF sector, would be exempted from the above-described government intervention in the financial system. In fact, the findings from the anti-subsidy investigation into GFR, which to a large extent covers also the producers of GFF who are vertically integrated, showed that the GFR producers in the PRC benefitted from preferential loans, both from State-owned banks and from private banks ([74]). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels. The sampled exporting producers borrow significant amounts from banks and thus potentially benefit from the preferential policies and this distortion.

([72]) See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan Yu and Longmei Zhang, October 2016, WP/16/203.

([73]) Report – Chapter 6, p. 121–122, 126–128, 133–135.

([74]) Commission Implementing Regulation (EU) No 1379/2014 of 16 December 2014 imposing a definitive countervailing duty on imports of certain filament glass fibre products originating in the People's Republic of China and amending Council Implementing Regulation (EU) No 248/2011 imposing a definitive anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China (OJ L 367, 23.12.2014, p. 22), para. 138.

3.3.1.9. Systemic nature of the distortions described

(156) The Commission noted that the distortions described in the Report were characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in sections 3.3.1.1 to 3.3.1.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in sections 3.3.1.6–3.3.1.8 above and in Part B of the Report.

(157) The Commission recalls that in order to produce GFF, a broad range of inputs is needed. According to evidence on the file, the sampled exporting producers sourced their more than 96 % of their inputs in the PRC. When the producers of GFF purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.

(158) As a consequence, not only the domestic sales prices of GFF are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also tainted because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in this investigation.

(159) One sampled exporting producer claimed that the material purchases and energy purchases for the production of GFF as well as other products were not distorted in China, because their prices were determined by market forces. The same exporting producer asked the Commission to either use the actual purchase costs of the materials and energy to construct normal value or base normal value on the actual domestic sales prices of GFF in China.

(160) The exporting producer did not submit any evidence to demonstrate that its material and energy purchases for the production of GFF were not distorted. Therefore, in view of findings of the investigation stated in recital (98) to (162), this claim was rejected.

3.3.1.10. Conclusion

(161) The analysis set out in sections 3.3.1.2 to 3.3.1.9, which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the GFF sector showed that prices or costs of the product concerned, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.

(162) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as set out in the following section.

(163) After the final disclosure, Taishan submitted that no significant market distortions had been established with regard to the product under investigation since there was no separate chapter describing the glass fibre fabrics and glass fibre sectors in the Report. This party also claimed that the evidence in the Report dated back to December 2017 and in the meantime there had been no update of the Report.

(164) The Commission noted that the existence of the significant distortions giving rise to the application of Article 2(6a) of the basic Regulation is not linked to the existence of a specific sectoral chapter covering the product under investigation. The Report describes different types of distortions present in the PRC which are cross-cutting and applicable throughout the Chinese economy and affect the prices and/or the raw materials and costs of production of the product under investigation. As explained in section 3.3.1.5 above, the glass fibre industry is subject to a number of governmental interventions described in the Report (coverage by the Five-Year Plans and other documents, raw material distortions, financial distortions etc.), which are explicitly listed and referenced in this Regulation. In addition, recitals (124) to (138) of this Regulation have also detailed a number of distortions applicable to the glass fibre sector and/or to its raw materials and its inputs beyond the significant distortions already contained in the Report. The market circumstances and the underlying policies and plans giving rise to the significant distortions are still applicable to the glass fibre sector and its costs of production, despite the Report being released in December 2017. No party submitted any evidence to the contrary. Also, the additional evidence of significant distortions contained in recitals (98) to (160) are still applicable and no party submitted any evidence to the contrary. Therefore, these claims were rejected.

(165) During a hearing that took place after the final disclosure, Yuntianhua group claimed that there was no evidence of significant distortions in its regard. The company submitted that Article 2(6a) of the basic Regulation required the Commission to make a separate assessment of the existence of significant distortions per company. It also argued that as a vertically integrated producer their production process did not start with GFR, but with the raw materials to produce GFR. Thus, the Commission should have taken into consideration these raw materials when constructing the normal value.

(166) The exporting producer did not submit any evidence to demonstrate that its prices or costs of GFF, including the costs of raw materials, energy and labour were not distorted. Moreover, the Commission notes that the existence of significant distortions giving rise to the application of Article 2(6a) of the basic Regulation is established on a country-wide level. If the existence of significant distortions is established, then the provisions of Article 2(6a) apply to all exporting producers in the PRC. In any event, the same provision of the basic Regulation allows exporting producers to demonstrate that their own domestic costs are not affected by significant distortions, in which cases they are used for the calculation of normal value. Therefore, in view of the findings of the investigation stated in recital (98) to (162), and in the absence of any evidence that these findings do not apply to the domestic costs of this exporting producer, this claim was rejected. In any event, the investigation established the existence of significant cross-cutting distortions affecting the production of the product concerned and/or its inputs, and therefore they are in any event affected by these significant distortions regardless of whether producers start production from GFR or they have a fully integrated production.

(167) Thus, the conclusions drawn in recital (162) were confirmed.

3.3.2. *Representative country*

3.3.2.1. General remarks

(168) The choice of the representative country was based on the following criteria:

— A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income similar to the PRC on the basis of the database of the World Bank ([75]);

([75]) World Bank Open Data – Upper Middle Income, available at https://data.worldbank.org/income-level/upper-middle-income (*last viewed on 15 July 2019*).

— Production of the product under investigation in that country ([76]);

— Availability of relevant public data in that country;

— Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(169) As explained in recitals (93) to (95), the Commission made available to the interested parties two notes for the file ([77]) on the sources for the determination of the normal value.

(170) In its submission of 8 April 2019, one sampled exporting producer claimed that the Commission should not start seeking the alternative sources to determine the normal value of Chinese exporting producers as significant distortions of the costs and prices for the production and sale of GFF were not yet demonstrated to exist in the PRC.

(171) The complaint contained sufficient evidence tending to show the existence of significant distortions in the PRC pursuant to Article 5(9) in conjunction with Article 2(6a)(a), (b) and (e) of the basic Regulation. Therefore, in accordance with Article 2(6a)(e), the Commission is required to collect its sources concerning possible appropriate representative countries, should the significant distortions be confirmed to exist as a result of the investigation. This claim was, therefore, rejected.

3.3.2.2. A level of economic development similar to the PRC

(172) In the Note of March 2019, the Commission identified the following four countries: Brazil, Mexico, the Russian Federation and Turkey, which are regarded by the World Bank as countries with a similar level of economic development as the PRC, i.e. they are all classified as 'upper-middle income' countries on a gross national income ('GNI') basis.

(173) In its submission of 8 April 2019, one sampled exporting producer noted that according to the World Bank GNI database, both Brazil and Mexico were closer to the PRC in terms of GNI (gross national income) per capita. Moreover, it noted that Turkey's GNI is far above the other four countries (the PRC included) and the Russian Federation has a higher GNI per capita than the PRC but a lower one than Turkey. Therefore, according to this sampled exporting producer, Brazil and Mexico appeared to be better choices for this criterion than the Russian Federation and Turkey.

(174) When constructing the normal value in case of countries with significant distortions, Article 2(6a)(a) of the basic Regulation establishes that the Commission may use a representative country with a similar level of economic development as the exporting country. The Commission may also use undistorted international prices, costs or benchmarks or other appropriate information. In order to define which countries are at similar level of economic development as the exporting country in each case, the Commission uses countries classified in the same income category by the World Bank. This database allows the Commission to have a sufficient number of potentially suitable countries with a similar level of development to choose an appropriate representative country according to Article 2(6a)(a) of the basic Regulation.

(175) The basic Regulation does not require that the representative country be the closest to the actual GNI of the exporting country. Therefore, the fact that a country may have a closer GNI per capita to the PRC than another one is not a decisive factor in the selection of the appropriate representative country. In this case, the relevant World Bank category was that of the upper-middle income countries, where the PRC is classified. While it is true that Turkey has the highest GNI, all four countries have similar level of economic development to the PRC and were considered to meet the criterion laid down in Article 2(6a)(a) first indent of the basic Regulation. Therefore, this claim was rejected.

([76]) If there is no production of the product under investigation in any country with a similar level of development, production of a product in the same general category and/or sector of the product under investigation may be considered.
([77]) Note of March 2019 and Note of September 2019.

(176) The Commission therefore considered that all four possible representative countries identified were equally comparable in terms of economic development with the PRC, as stated in the Note of September 2019.

(177) In its submission of 16 September 2019, the same sampled exporting producer reiterated its arguments described in recital (173) and, in addition, referred to two previous anti-dumping investigations concerning imports of hot-rolled steel sheet piles from the PRC and imports of certain organic coated steel products from the PRC ([78]) in which the Commission intended to choose countries with a GNI per capital at a similar level as the one of the PRC.

(178) There is no difference in the methodology used between the current investigation and the two previous investigations to which the exporting producer refers. In all cases, the standard applied was the one described in Article 2(6a)(a) of the basic Regulation, i.e. that the Commission may use a representative country with a similar level of economic development as the exporting country. As mentioned in recital (175), the basic Regulation does not require that the representative country have similar GNI to the exporting country but rather that it has a similar level of economic development. Thus, the fact that a country may have a closer GNI that another cannot be a decisive factor in the selection of the appropriate representative country if they are in the same category of countries with a similar level of economic development as the PRC. Therefore, the claim was rejected.

3.3.2.3. Production of the product under investigation in the representative country and availability of the relevant public data in the representative country

(179) In the Note of March 2019, the Commission indicated that production of GFF was known to take place in Brazil, Mexico, the Russian Federation, and Turkey. The Commission further investigated what publicly available financial data could be found for those four countries. The Commission also invited interested parties to identify other producers of the product under investigation.

(180) Regarding Brazil, following the Note of March 2019, where the Commission indicated that it had found no publically available financial information for Brazilian companies, the complainant submitted the audited annual report of Owens Corning Fiberglas A.S. Ltda. for 2017 and an income statement of Saertex Tecidos Brasil Ltda allegedly extracted from its annual report. These documents were made available in the non-confidential file of the investigation. On that basis, the complainant asked the Commission to reconsider Brazil as an appropriate representative country.

(181) The Commission considered the extent of the information provided by the complainant and carried out additional research with regard to Brazil. However, no additional publicly available financial information was found in the Orbis database, Bloomberg or other public sources regarding Brazilian producers of GFF or GFF related products. Having identified certain issues concerning the factors of production as specified at recitals (196) to (198), and considering Turkey to be an appropriate representative country based on all relevant factors as specified in recital (211), the Commission considered it was unnecessary to take a position on the possibility of using information not available to the wide public but made available to all interested parties in the non-confidential file.

(182) The Commission indicated in the Note of March 2019 that it would also not consider Mexico as a potential representative country because of the lack of sufficient financial information for the two companies identified (Oscar Alberto Torres Aguilar and Plásticos Reforzados de México, S.A).

([78]) Commission Implementing Decision (EU) 2019/1146 of 4 July 2019 terminating the anti-dumping proceeding concerning imports of hot-rolled steel sheet piles originating in the People's Republic of China (OJ L 181, 5.7.2019, p. 89) and Commission Implementing Regulation (EU) 2019/687 of 2 May 2019 imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 5).

(183) Nevertheless, further research conducted after that note was issued revealed the existence of two additional producers of GFF and/or its main raw material GFR in Mexico, that is, Saint-Gobain Mexico S.A de C.V and Owens Corning Mexico S.A de C.V. However, the Commission was not able to find publicly available information on the relevant financial indicators for either of these producers. The Commission was also unable to find any additional financial information on Oscar Alberto Torres Aguilar and Plásticos Reforzados de México, S.A.

(184) Concerning the Russian Federation, the Commission indicated in the Note of March 2019 that it identified three producers of GFF (P-D Tatneft-Alabuga Steklovolokno LLC (P-D Tatneft), OCV Steklovolokno OJSC (OC Russia), and Steklonit JSC (Steklonit)), for which 2017 data was available in the Orbis database. In the meantime, the Orbis database made available 2018 data for Steklonit, while the financial data for 2018 for P-D Tatneft and OC Russia was still not available (in the Orbis database or any other publicly available source). However, as explained in recital (199), the Commission has identified certain issues concerning the factors of production.

(185) Finally, as concerns Turkey, in the Note of March 2019, the Commission indicated that it had identified eight producers of GFF. Additional research carried out by the Commission showed that, out of these eight producers, only Metyx was a producer of GFF and that Cam Elyaf was a producer of GFR. Further research also revealed that the financial information referred to in the Note of March 2019 for Metyx was in fact of a related company, which did not manufacture GFF. The financial data of Metyx was not available in the Orbis database, Bloomberg or any other publicly available source for any financial year. In the case of Cam Elyaf, the financial data for 2018 was available on the company's website in a consolidated form for the Sisecam Group, of which Cam Elyaf is part ([79]). The financial data covers the 'Chemical operating' segment of the group, which includes GFR. Furthermore, according to a financial prospectus ([80]) published by the Sisecam Group, Cam Elyaf sold 28 985 tonnes of GFR in 2018. Sales volumes in and outside of Turkey totalled 21 033 tonnes and 7 952 tonnes, respectively, in 2018. In 2018, Cam Elyaf generated sales of TRY 190 million and EBITDA of TRY 39 million. Therefore, in the Note of September 2019, the Commission also informed the interested parties that, to establish the undistorted SG&A and profit, it would use the financial data of the Chemical operation segment of the Turkish group Sisecam for 2018, which includes GFR.

(186) Following the Note of September 2019, one sampled exporting producer argued that as Cam Elyaf, the GFR producer part of Sisecam group, does not produce nor sell GFF, but GFR, the financial information of this company cannot be considered reliable with regards to GFF. Furthermore, in their submission of 13 September 2019, the CCCLA and another sampled exporting producer claimed that the Commission should not use the financial data of Chemical operating segment of Sisecam group as the production of GFR represents only a minor part of their activity and it was uncertain whether the GFR business was profitable. It was further stated that in 2017 Cam Elyaf submitted an anti-dumping complaint to the Turkish authorities indicating that it was suffering injury caused by dumped imports of GFR from Egypt and therefore it may be less profitable than the whole Chemical sector of Sisecam group. CCCLA and the exporting producer suggested that the Commission should use the financial data of other Turkish producers of GFF such as Setex, Kivanc Group, Dost Kimya and Aytu Teknik. It was further argued that the Commission did not explain in the Note of September 2019 why it decided to exclude Istanbul Teknik and Sonmez Holding as possible sources for establishing undistorted SG&A and profit as they produce glass fibre related products as well.

(187) As stated in recital (205), none of the GFF producers' financial information in Turkey was readily available. Furthermore, neither the CCCLA nor the exporting producer submitted any financial information for any of the producers of GFF in Turkey as requested in Annex I of the Note of March 2019 to identify producers of the product under investigation. Moreover, the Commission was unable to find any publicly available financial information in the Orbis database, Bloomberg or other public sources for the GFF producers specified by the CCCLA and the exporting producer in recital (186). Furthermore, as concerns Istanbul Teknik ([81]) and Sonmez Holding ([82]), according to the information on their company website, they are not manufacturing GFR or GFF related products but polyester fibre products. Therefore, all the claims made in this regard were rejected. In line with Article 2(6a)(a) of the basic Regulation, the Commission considered that financial data for GFR producers, representing more than 70 % in the total cost of producing for GFF, could be considered representative also for GFF producers.

([79]) http://www.sisecam.com.tr/en/investor-relations/presentations-and-bulletins/annual-reports
([80]) https://www.ise.ie/debt_documents/Prospectus%20-%20Standalone_c5b7db48-30e0-4939-8773-1d0e744aa7cc.pdf
([81]) https://www.istanbulteknik.com/en/
([82]) https://www.sonmezholding.com.tr/en/

(188) Finally, the Commission also rejected Jushi/Hengshi's claim that Cam Elyaf would be less profitable than the whole Chemical operations sector of Sisecam group because Cam Elyaf had submitted in 2017 an anti-dumping complaint against imports from Egypt claiming it was materially injured. The evidence presented by Jushi/Hengshi in fact contradicted the assertion that Egyptian imports would have eroded Cam Elyaf's profits. According to this evidence, the Turkish authorities found that Cam Elyaf was not materially injured and terminated the investigation. Thus, Jushi/Hengshi submission was factually incorrect and must be dismissed.

(189) Based on the information submitted by the interested parties and other relevant information available in the file, the Commission established an initial list of factors of production and sources relating to GFF it intended to use for all factors of production such as materials, energy and labour used in the production of the product under investigation by the exporting producers. Further to the information and evidence received from the cooperating sampled exporting producers, some of the Harmonised System codes ('HS codes') published in the Note of March 2019 were revised (in some instances the original HS code was kept and completed with additional HS codes while in other instances it was replaced by a new HS code, also new factors of production were identified). The updated list of the factors of production and HS codes was provided in the Note of September 2019.

(190) In its submission of 8 April 2019, one cooperating sampled exporting producer noted that the Commission listed each raw material in the Note of March 2019 at 6-digit HS code level only, which was likely to cover a wide range of products other than the specific raw material for which a value needs to be established. Therefore, in order to improve the accuracy of the data, this exporting producer suggested that the Commission should use 8-digit goods codes instead. The Commission noted that it is only once the representative country is selected, that is able to determine goods codes going beyond 6-digits using the specific country codes. This was done in the Note of September 2019, when Turkish goods codes including up to 12 digits were provided where available.

(191) The same exporting producer claimed in its submission of 8 April 2019 that the import data of the factors of production would be meaningless, as import prices in a third country reflect neither the actual domestic prices nor the purchase prices in that country. The exporting producer in question claimed that the level of import prices is affected by factors such as the quantity of the imported product, the type of product, and the availability of such product in the importing as well as the exporting country. Thus, for certain products the import price from the PRC was lower than from the rest of the world, while for other products this was the opposite. Regarding the Russian Federation, import prices from the PRC were systematically higher than from the rest of the world. Moreover, the same exporting producer claimed that silica sands were naturally available in most countries and therefore import prices should be similar to all countries. It would follow that any differences between prices from the PRC and those from the rest of the world would be explained by differences in quality and grade of the product. Therefore, the exporting producer suggested that the Commission should use the domestic price of each factor of production in each potential representative country and that, in case there is no sufficient information on domestic prices, the Commission should in any event ignore 'abnormally high' import prices.

(192) Article 2(6a)(a) of the basic Regulation prescribes the use of corresponding data in an appropriate representative country *'provided the relevant data are readily available.'* The Commission does not have at its disposal data on domestic prices in the possible representative countries, and such data are not readily available. By contrast, data on import prices are readily available and the Commission uses the Global Trade Atlas (GTA) as the source of this data. If the evidence collected confirms the basis to apply the methodology set out in Article 2(6a)(a) of the basic Regulation, the Commission adjusts import prices (e.g. by adding the relevant customs duties) to arrive at a reasonable proxy representing an undistorted domestic price in the selected representative country. The Commission also checked that there are sufficient representative undistorted quantities of these imports so that the average price used reduces the impact of any potentially abnormal prices at the lower and higher end of the range. Thus, the adjusted prices of a certain input reflects a mix of different qualities and its availability on the markets concerned. Finally, the Commission also excluded data on imports from countries which are not members of the WTO listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council ('Regulation (EU) 2015/755') ([83]). As long as the import quantities of the factors of production are sufficiently representative and there are no other specific circumstances rendering them unrepresentative or unsuitable, there is no objective reason to exclude such data from the analysis. Furthermore, this exporting producer did not indicate any source for domestic prices for any of the potential representative countries. Therefore, in the absence of any evidence showing that the data used would not be representative, the Commission rejected this claim.

([83]) Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

(193) In its submission of 4 April 2019, another sampled exporting producer argued that Turkish electricity prices were available on the website of the Turkish Statistical Institute, while the prices for Russian electricity published by the Russian Federal Service of State Statistics had not been updated for several years.

(194) The Commission carried out additional research on electricity prices in the Russian Federation. This research confirmed that the data publicly available regarding electricity prices in the Russian Federation were outdated. As a result, there was better availability of public data for electricity prices in Turkey than in the Russian Federation, as Turkish electricity prices are more recent.

(195) The same sampled exporting producer and the complainant highlighted that the price of natural gas, a source of energy used in the production of GFR and GFF, was distorted in the Russian Federation. In this regard, the complainant, arguing that Russia was not a suitable representative country, referred to a previous anti-dumping investigation concerning imports of ammonium nitrate originating in the Russian Federation ([84]) and an anti-dumping investigation concerning imports of silicon originating in the PRC ([85]). Natural gas is an important source of energy used in the production of GFF, representing between 6 % to 10 % of the cost of production of the sampled cooperating vertically integrated exporting producer. On this basis, and considering that natural gas prices appear to be distorted in the Russian Federation, data on natural gas prices in the Russian Federation would therefore be unsuitable for establishing any benchmark.

(196) Since the Commission did not find any available information on financial data for Mexican producers, as indicated in the Note of September 2019, the Commission conducted an analysis of the import data for the all factors of production for Brazil, the Russian Federation and Turkey only. The import data was extracted at the most detailed product codification available in each respective country. Data on imports in the representative country from the PRC and from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 were also excluded.

(197) Based on that analysis, the Commission found that as regards Brazil, GFR (the main raw material for the production of GFF) was mainly imported from the PRC. Only 9,35 % of total GFR imports came from other sources and were undistorted. Therefore, the representativity of this input and its underlying value were significantly undermined. The Commission notes that GFR represents more than 70 % in the cost of production for GFF of non-vertically integrated producers, and therefore it is a substantial input affecting a significant share of the normal value. In addition, 50 % of the imports of glass fibre yarns, which represent around 2 % of the cost of production for GFF of non-vertically integrated producers, is also imported from the PRC, therefore the representativity of this input and its underlying value are also undermined.

(198) For all these reasons, and as stated in the Note of September 2019, the Commission concluded that Brazil did not appear to be an appropriate representative country within the meaning of Article 2 (6a)(a) of the basic Regulation.

([84]) Commission Implementing Regulation (EU) 2018/1722 of 14 November 2018 amending Implementing Regulation (EU) No 999/2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an interim review pursuant to Article 11(3) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 287, 15.11.2018, p. 3).

([85]) Commission Implementing Regulation (EU) 2016/1077 of 1 July 2016 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China following an expiry review under Article 11(2) and a partial interim review under Article 11(3) of Council Regulation (EC) No 1225/2009 (OJ L 179, 5.7.2016, p. 1).

(199) Furthermore, as concerns the Russian Federation, the share of undistorted imports in total imports for all production factors was the lowest of the three analysed countries and import values were thus deemed to be significantly influenced by distorted imports from the PRC and the countries listed in Annex 1 of Regulation (EU) 2015/755. In 2018, in volume terms, only 2,32 % of pyrophyllite (a main raw material used by vertically integrated producers, accounting for more than 5 % of cost of production), 11,23 % of GFR (the main raw material used by non-vertically integrated producers, accounting for more than 70 % of cost of production) and 39,78 % of the synthetic yarn (accounting for roughly 2 % of cost of production) were imported from countries with undistorted markets. Moreover, as explained in recital (194) there are no up-to-date statistics on Russian electricity prices, and recent investigations suggest that gas prices might be distorted in the Russian Federation.

(200) Regarding Turkey, the vast majority of imports of GFR and pyrophyllite (75,07 % and 81,96 % respectively of total imports) was undistorted. Overall, the share of undistorted imported inputs was 97,97 %. Therefore, the representativity of undistorted imports in Turkey was high.

(201) In its submission of 10 April 2019, the complainant claimed that the depreciation of the Russian rouble against the euro between 2014 and 2018 had a distortive effect on the cost of production in the Russian Federation. The evolution of the rouble against the euro indicated by the complainant is not specifically relevant to the investigation period nor was its effect on the cost of production in the Russian Federation substantiated with any form of evidence. Therefore, this claim was rejected.

(202) In addition, in its submission of 8 April 2019, one sampled exporting producer questioned the reliability of data converted into euro with regard to import prices, cost of production and profit margins for countries with strongly devaluating currencies, in particular the Turkish lira and the Russian rouble between 1 January 2017 and 1 January 2019.

(203) When establishing benchmarks on the basis of import prices for the calculation of normal value under Article 2(6a)(a) of the basic Regulation, the import values into the representative countries are ultimately converted into the currency of the exporting country. The Commission notes that the exporting producer has not demonstrated if and how the currency devaluation in the Russian Federation and/or Turkey in the years 2017–2019 have actually affected the costs of production and profit margins for these countries. Therefore, the Commission found that this claim was unsubstantiated and rejected it.

(204) Regarding the Russian Federation, based on the elements set out in recital (199), the Commission concluded that the limited amount of undistorted imports into the Russian Federation overall, and the fact that a number of key main raw materials, accounting for a significant share of the cost of production, were distorted (i.e. gas) or for which no updated information was available (i.e. electricity), rendered them insufficiently representative for the calculation of normal value. Therefore, the Russian Federation was not considered an appropriate representative country within the meaning of Article 2 (6a)(a) of the basic Regulation.

(205) Given the limited availability of representative import data in Brazil and the Russian Federation as opposed to the high quality of data on factors of production available in Turkey as explained in recital (200), the Commission further considered the availability of public financial data of companies producing products in the same general category and/or sector of the product under investigation in Turkey. As explained in recital (185) publicly available data of GFF producers was not available. Specifically, the Commission focused on producers of GFR, as the investigation showed that GFR represents more than 70 % of the total cost of producing GFF. In line with Article 2(6a)(a) of the basic Regulation it was, therefore, considered that financial data for GFR producers could be considered representative also for GFF producers.

(206) Considering all the factors above, and as stated in the Note of September 2019, the Commission decided to select Turkey as the appropriate representative country for this investigation pursuant to Article 2 (6a)(a) of the basic Regulation.

(207) One sampled exporting producer reiterated its comments as already stated in recital (191), without providing, however, any new information. Therefore, the comments provided were rejected for the same reasons as outlined in recital (192).

(208) The same exporting producer also reiterated its claim stated in recital (202). It further added that the devaluation of nearly 35 % of the Turkish Lira during the investigation period would have a major impact on a company's cost and turnover in Turkey especially since many of the imported products were paid in USD or the currency of the exporting country. Furthermore, the exporting producer argued that the exchange rate has a direct impact on the final profit margin of a company and referred to two previous anti-dumping investigations on imports of GFR from the PRC ([86]) and on imports of open mesh fabrics from the PRC ([87]) when the Commission used a target profit of 5 % and 12 % respectively.

(209) In this regard, the claim of this exporting producer is purely speculative, as it was not backed by supporting evidence neither on the purchase currency of the imported products by the company used to determine the level of selling, general administrative ('SG&A') expenses and profit, nor the alleged impact on the company's cost and turnover figures or profit. Furthermore, this exporting producer did not indicate whether the devaluation would impact the costs, turnover and profit positively or negatively. This claim was found to be unclear and unsubstantiated and was therefore rejected.

(210) As far as the reference to previous anti-dumping investigations mentioned in recital (208) is concerned, it should be noted that, the target profit and the profit in the representative country are not comparable as they refer to different concepts and to different countries. In particular, the target profit to which the party refers is the profit achieved by the Union industry for domestic sales in the Union under normal conditions of competition and it is used to calculate the injury margin. The profit in the representative country is used in the calculation of normal value by reference to the appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation. This profit must reflect the profit achieved by a company producing the product under investigation or a similar product, in a representative country. Since these two different profits are not comparable, and the claim is based on the profit used in a context different from the construction on normal value under Article 2(6a) of the basic Regulation, this claim was irrelevant and thus dismissed.

(211) Consequently, the Commission concluded that Turkey was an appropriate representative country for this investigation under Article 2(6a)(a) of the basic Regulation.

(212) After the final disclosure, Taishan claimed that the Commission failed to analyse the accuracy and commercial reality of the import data. For example, for the import data used to calculate the benchmark for pyrophylitte, it was not possible to identify what proportion of imports under the respective Turkish goods code was relevant for pyrophylitte. Furthermore, it added that for this factor of production, Turkey imported goods under the respective goods code from 33 different countries and the unit prices varied from 0,13 EUR/tonne to 207 EUR/tonne. Moreover, the benchmark used by the Commission for pyrophylitte was 3,89 CNY/kg which was almost 10 times higher than its actual unit purchase price.

([86]) Council Implementing Regulation (EU) No 248/2011 of 9 March 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain continuous filament glass fibre products originating in the People's Republic of China (OJ L 67, 15.3.2011, p. 1).

([87]) Council Implementing Regulation (EU) No 791/2011 of 3 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China (OJ L 204, 9.8.2011, p. 1).

(213) As explained in recital (192), the Commission uses GTA as a source of import data to build the benchmarks when the investigation establishes the existence of significant distortions triggering the application of the methodology set out in Article 2(6a)(a) of the basic Regulation. In these cases, the Commission checks that there are sufficient representative undistorted quantities of these imports so that the average price used is not materially affected by potentially abnormal prices at the lower and higher end of the range. This ensures that the average price of a certain input reflects the mix of different qualities and its availability on the markets concerned. As long as the import quantities of the factors of production are sufficiently representative and there are no other specific circumstances rendering them unreliable or unsuitable, there is no objective reason to exclude data from the analysis. Furthermore, the Commission extracts the data at the most detailed product codification level available in each respective country in order to obtain the closest match possible to the factors of production used by each exporting producers in their manufacturing process. This is to ensure that the benchmarks reasonably reflect the cost of the raw material/input. On the basis of the above, and in the absence of any evidence showing that the data and methodology used would not be representative of the undistorted cost for each of the inputs, the Commission rejected this claim.

(214) The same exporting producer claimed that the Commission failed to verify and consider the commercial reality of the benchmark for profit. In support of its claim, the exporting producer compared the benchmark for profit amounting to 39,26 %, with the target profit of 6 % used for the calculation of the non-injurious price for the European producers, as well as the profitability of the Union industry during the period considered, which ranged between 2,5 % and -3,4 %. Furthermore, Yuntianhua group asked the Commission to use in the construction of the normal value a profit margin of 6 % (Union industry target profit) instead of 39,26 % established on the basis of the representative country. The company argued that a 39,26 % profit margin would be unreasonable while Article 2(6a)(a) requires that the amount of profit be reasonable.

(215) As explained in recital (210), the target profit, the profit of the Union industry and the profit in the representative country are different concepts and refer to different countries and, therefore, are not comparable. The target profit is the profit achieved by the Union industry for domestic sales in the Union under normal conditions of competition. It is used to calculate the injury margin. The profit margin of the Union industry is the profit registered by the Union industry in the period considered (that is, a profit affected by dumped imports from the PRC and Egypt). It is one of the injury indicators and used in the analysis of the situation of the Union industry. Finally, the profit in the representative country is the actual profit of a company which was found to be an appropriate proxy for an undistorted profit margin for the product concerned in the country investigated. Accordingly, and to ensure the use of an appropriate benchmark, the representative country must be at the same level of development of the country investigated as provided by Article 2(6a) of the basic Regulation. More importantly, the exporting producer has failed to show how, and if so why the profit margin of the company in the appropriate representative country is not reasonable. The Commission recalled that there was nothing else in the file supporting the unreasonableness of the profit of this company. On this basis, these claims were considered unsubstantiated and rejected.

(216) In addition, Taishan claimed that the Commission should check and verify the claim regarding currency devaluation in recital (202). The company challenged the rejection of the claim on the basis that the exporting producer had not demonstrated if and how the currency devaluation in Turkey in the years 2017–2019 actually affected the costs of production and profit margins for these countries.

(217) It should be noted that a currency devaluation can affect the cost and profit of a company either positively or negatively. If the same currency is used in all transactions, when costs are negatively affected, that is increased, the cost of goods sold and SG&A will increase and, as a consequence, the profit will decrease in its financial statements. When costs are affected positively, the reverse occurs. In this case, the exporting producer has not shown how the currency devaluation has actually affected the cost and/or the profit component in its financial statements, but has simply put forward a general statement not substantiated. Thus, it is not correct to conclude in

general that any fluctuation would have a relevant and obvious effect in the reliability of a dataset. For this reason, the Commission maintained the conclusion that, in the absence of a comprehensive claim demonstrating how the currency devaluation would have affected the SG&A and profit rendering them inappropriate to the construction of the normal value on the basis of Article 2(6a) of the basic Regulation, the claim must be rejected.

3.3.2.4. Level of social and environmental protection

(218) Having established that Turkey was an appropriate representative country based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

3.3.2.5. Conclusion

(219) In view of the above analysis, Turkey met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

(220) After the final disclosure, Jushi/Hengshi claimed that the Commission should not have excluded Kivanc Group, Dost Kimya, Istanbul Teknik and Sonmez Holding from its consideration as possible sources for establishing undistorted SG&A and profit as stated in recitals (186) and (187) as they would be producers of GFF or related products and financial data would be publicly available. It was claimed that the financial statements of Kivanc Group covering the period 2010 to 2018 as well as those of Dost Kimya covering the period 2008 to 2015 were available in the Orbis database. Furthermore, it was claimed that Sonmez Holding produced glass fibre related products and Instabul Teknik used glass fibre products to manufacture other products, which would imply that the production range of the two companies should be considered as 'closely related' within the meaning of Article 2(6a) of the basic Regulation.

(221) Although the exporting producer claimed that financial data of those GFF producers was available in the Orbis database it did not submit this data, either with its comments to the final disclosure nor following the Note of March 2019, which requested parties to identify producers of the product under investigation in potential representative countries. Following the company's submission, the Commission nonetheless conducted another consultation to the Orbis database, in order to confirm whether the data referred to by Jushi/Hengshi was available in the Orbis database and therefore should have been considered. However, this additional check ([88]) showed that, contrary to Jushi/Hengshi's submission, there is no financial information for a company manufacturing GFF or similar products available in the Orbis database. On this basis, the claim was rejected.

(222) The same exporting producer claimed after the final disclosure that it was highly likely that Sisecam group's GFR business operated at a loss during 2018 as sales of soda ash accounted for 86 % of total sales and 94 % of the operating profits (value) of Sisecam's Chemical operations segment. The exporting producer did also not provide any evidence supporting this claim.

(223) Considering the information available, there is no basis for the conclusion that the GFR business segment is loss making. Even if sales of the GFR segment only represented a minor part of the sales of the Chemical operations segment and generated also a minor part of the operating profits, these sales could at the same time still be significantly profitable (in fact, even more profitable than sales of soda ash). Therefore, the claim was considered speculative and rejected.

(224) Taishan claimed that SG&A and profit of the Chemical operations segment of Sisecam group could not be used in the construction of the normal value as (i) only part of the subsidiaries of the Sisecam group had the ability to produce GFF; (ii) the glass fibre sector of the Sisecam group incurred a high cost of start-up for a new facility and therefore the Commission should re-evaluate the cost, SG&A and profit of the product under investigation; and (iii) the Chemical operations segment and the glass fibre sector is distorted due to grants from the Turkish government.

([88]) A query in the Orbis database using the key words 'Kivanc', 'Dost Kimya', 'Istanbul Teknik' and 'Sonmez' revealed 91 entities in Turkey. These companies are active in several main sectors such as manufacturing, wholesale and retail trade, accommodation and food service activities, transportation and storage, agriculture, forestry and fishing, construction, real estate activities, etc. Out of these 91 companies, 25 companies are active in the manufacturing sector, however for different products such as textile and clothing manufacturing, industrial, electric and electronic machinery, chemicals, petroleum, rubber and plastic, etc. Eight companies are active in the chemicals, petroleum, rubber & plastic sector, miscellaneous manufacturing sector and leather, stone, clay & glass products. Out of these eight companies, for three companies Orbis reports financial data for 2018. However, these three companies manufacture plastic products and cements which are not related to GFF.

(225) Regarding this exporting producer's first claim, as already explained in detail in recital (185), in the absence of any publicly available financial information for GFF producers in Turkey, the Commission concluded that the financial data of the chemical sector of Sisecam Group for 2018 was appropriate for the purpose of this investigation. This is because in the absence of financial data for the product under investigation, the Commission may consider the production of a product in the same general category and/or sector of the product under investigation for the construction of normal value under Article 2(6a)(a) of the basic Regulation.

(226) Regarding adjustments for start-up costs, while such cost may affect the SG&A and the profitability reported depending on the accounting rules applied, the exporting producer did not quantify the alleged effects nor indicate how the alleged adjustment should be made. In any event, any start-up costs booked in 2018 would decrease the actual profit margin. Therefore, even if there were any impact in the SG&A and profitability of the company, the approach taken by the Commission was a conservative one and in favour of the exporting producers. Thus, the Commission found that the costs were representative for the purpose of this investigation. Likewise, there is no evidence that the grants allegedly received by the company would render the information unreliable for the purpose of this investigation. The exporting producer provided no information on the alleged grants and in what way they would have a distorting effect. Thus, the Commission decided to reject the claims of this exporting producer.

(227) Furthermore, Yuntianhua group claimed that the calculation of the SG&A and profit of the company in the representative country should not be based on operating revenues and operating expenses only but on the entire revenue, cost of goods sold ('COGS') and the expenses. The exporting producer argued that the SG&A expenses were defined and quantified in the financial statements and do not require any additions or deductions. The exporting producer also claimed that the revenue was inclusive of sales to related parties ('intragroup'), while the SG&A and profit used for the construction of the normal value should only relate to sales to unrelated parties. Finally, the exporting producer claimed that the SG&A and profit used for the construction of normal value should only cover sales in the Turkish domestic market and not the total sales of the company in question.

(228) Considering the first point, to establish the appropriate SG&A and profits, the Commission focused on the costs directly linked to production, that is operating revenues and expenses. Then, and because the Chemical operation segments booked a positive financial result, the financial profit was deducted from the SG&A. This calculation yielded a reliable SG&A and profit for the Chemical segment of the company in so far that it does not inappropriately consider the costs that are completely unrelated to production and sales. Contrary to what the company claimed, the general expenses were available in the annual report at the level of the whole group and not at the level of the business segments. While it is correct that the sales reported include intragroup sales, to ensure transparency and the right of defence of interested parties when Article 2(6a) is called for, the basic Regulation requires the use of readily available data, which not always come in disaggregated form. In applying this provision, the Commission always ensures that the information relied on for the construction of the normal value is the best among the data publicly available. It communicates to interested parties early in the proceeding the data it intends to use and allows them ample opportunity to provide comments and to submit more detailed data. In the present investigation, while several parties criticised the information relied on by the Commission, none of them submitted better and more detailed alternative data or methodology. This supports the view that the Commission resorted to the best information publicly available in this context. In this particular case, in fact, the majority of the sales (85 %) were to unrelated parties and therefore reflect to a large extend the result of sales to these parties. Similarly, the SG&A and profitability are also representative of domestic sales in the representative country since 61 % were made in Turkey. On this basis, the Commission maintain that the data used for the construction of the normal value is in line with the requirements of Article 2(6a) of the basic Regulation and are the most reliable and representative in this particular case. Therefore, the claims putting into question the quality of this information must be rejected.

3.3.3. *Sources used to establish undistorted costs*

(229) In the Note of March 2019, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use Global Trade Atlas ('GTA') to establish the undistorted cost of most of the factors of production, while for establishing undistorted costs of labour, energy and waste the source used will depend on the selected representative country.

(230) Furthermore, based on the decision to use Turkey as the representative country as stated in the Note of September 2019, the Commission informed the interested parties that it would use GTA to establish undistorted costs of the factors of production, and the Turkish Statistical Institute for establishing undistorted costs of labour and energy.

(231) Furthermore, the same exporting producer claimed that, should the Commission determine that the purchase of materials and energy in the PRC be replaced by reference prices, it should use the actual purchase prices for five imported raw materials during the investigation period because those prices were not distorted in accordance with Article 2(6a)(a), third indent of the basic Regulation. This exporting producer also asked the Commission to use these import prices as the reference price also for the materials it purchased in the PRC.

(232) The exporting producer provided supporting evidence (i.e. purchase invoices, import documents and contracts) for the five raw materials mentioned in recital (231). The purchases were made in USD and from markets where there was no evidence of the existence of distortions. In view of the fact that the investigation did not reveal any distortions regarding the imports of these raw materials into the PRC for this particular exporting producer during the particular investigation period, the Commission accepted this claim. However, for the materials purchased in the PRC, the Commission could not accept the company's claim. As stated in recital (219), Turkey was established as the representative country in this case and, therefore, the undistorted costs of the factors of production must be based on the corresponding undistorted import prices in Turkey.

(233) The same exporting producer claimed that in case the Commission determined that the reference prices are to be used, the Commission should in any event exclude all 'abnormal' prices; such as (i) prices for a category of goods not used by the exporting producer; (ii) prices for materials which were not having the same grade/purity/physical characteristics as the materials used by the exporting producer; or (iii) prices that are based on particularly low sales/import volumes. In addition, the exporting producer claimed that for the most basic materials, such as silica sand/powder or other ores, the Commission should not use import data of the selected representative country. The exporting producer argued that these materials would typically only be imported for very specific purposes at high prices. In these cases, the domestic prices in the reference country would more accurately reflect the actual level of prices.

(234) The Commission has provided in the non-confidential file of the investigation the import volume and values from GTA for all the factors of production of Turkey. The Commission also checked that there were sufficient representative undistorted quantities of these imports so that the average price used reduces the impact of any potentially abnormal prices at the lower and higher end of the range. Thus, the adjusted prices of a certain input reflects a mix of different qualities and its availability on the markets concerned. Furthermore, no evidence was submitted showing that the prices that are based on low sales/import volumes are unsuitable and therefore the Commission does not have any objective reason to exclude such data from the analyses. Furthermore, regarding the claim referring to silica sand and ore, it is noted that these raw materials are not included in the list of factors of production established in recital (242). Therefore, the claim in recital (233) is rejected.

(235) As mentioned in recital (185) to establish the undistorted SG&A and profit, the Commission would use the financial data of the Chemical operation segment of the Turkish group Sisecam for 2018, which includes GFR.

(236) After the final disclosure, Taishan reiterated its claim described in recital (231) that the Commission should use the import prices of the five raw materials imported from undistorted sources as the reference price also for the same materials purchased in the PRC.

(237) The exporting producer failed to substantiate this claim to the required legal standard i.e. to the extent that they are positively established not to be distorted. The exporting producer did not submit any evidence that the import price (even if considered as non-distorted) could be representative as an undistorted benchmark. Therefore, the claim was rejected.

3.3.4. *Undistorted costs and benchmarks*

3.3.4.1. Factors of production

(238) As stated in recital (93), in the Note of March 2019, the Commission sought to establish an initial list of factors of production and sources concerning GFF intended to be used for all factors of production such as materials, energy and labour used in the production of the GFF by exporting producers.

(239) Furthermore, as stated in recital (95), in the Note of September 2019, the Commission provided a revised list of factors of production and established the Turkish goods codes corresponding to the factors of production used in the manufacturing of the GFF in Turkey, the representative country.

(240) The Commission did not receive any comments concerning the list of factors of production following the Note of March 2019 or the Note of September 2019.

(241) Nor did the Commission receive any comments regarding the Turkish goods codesspecified in the Note of September 2019. Nevertheless, the Commission undertook additional research in order to provide a better match of the Turkish goods codes with the factors of productions used by the cooperating exporting producers and revised the Turkish goods codes for pyrophyllite and polyester thread in this regard. Furthermore, one of the exporting producers is using liquefied natural gas in its manufacturing process. However, there were no imports of liquefied natural gas in Turkey in the investigation period. Therefore, for building a benchmark for liquefied natural gas, in the absence of import statistics on liquefied natural gas, the Commission used instead the imports of liquefied propane. Moreover, the name of the raw material reported by one of the exporting producers name silane coupling agent was changed to 'silicone products' in order to ensure conformity with the Customs Nomenclature.

(242) Considering all the information submitted by the interested parties and collected during the verification visits, the following factors of production and Turkish goods codes, where applicable, have been identified:

Table 1

Factor of Production	Turkish goods codes	Undistorted value
Raw Materials		
— Aluminium oxide, other than artificial corundum	281 820 000 000	5,92 CNY/kg
— Borocalcite (ground colemanite)	252 800 000 000	10,47 CNY/kg
— Epoxy Resin	390 730 000 000	21,07 CNY/kg
— Glass fibre roving	701 912 000 000	7,79 CNY/kg
— Glass fibre yarn or hot molten glass thread ('hot melt thread')	701 919 100 000 701 919 900 000	8,43 CNY/kg

Factor of Production	Turkish goods codes	Undistorted value
— Kaolin	250 700 200 011 250 700 200 018 250 700 800 011 250 700 800 012	0,96 CNY/kg
— Liquefied propane	271 112 910 000 271 112 940 000 271 112 190 000 271 112 110 000	3,69 CNY/kg
— Liquid oxygen	280 440 000 000	0,05 CNY/kg
— Lubricant	340 212 000 000 340 290 100 011 340 290 100 012 340 290 900 015 340 290 900 016 340 391 000 000 340 311 000 000	13,98 CNY/kg
— Platinum, unwrought or in powder form — Rhodium, unwrought or in powder form	711 011 000 000 711 031 000 000	193 936 CNY/kg 545 542 CNY/kg
— Polyester Resin	390 791 100 000 390 690 900 000 390 950 100 000 390 950 900 000	13,92 CNY/kg
— Polyester Thread (High-tenacity yarn of polyesters, impregnated or coated)	560 490 101 100 560 490 101 200 560 490 102 200	106,20 CNY/kg
— Polyisobutylene	390 230 000 011 390 230 000 019 390 210 000 011 390 210 000 019	9,52 CNY/kg
— Polypropylene fibre	550 340 000 000	13,54 CNY/kg
— Poly(vinyl acetate) or PVAC	390 512 000 000	10,28 CNY/kg

Factor of Production	Turkish goods codes	Undistorted value
— Pyrophyllite	253 090 009 039	3,89 CNY/kg
— Quartz	250 610 000 014 250 610 000 018 250 610 000 011	1,69 CNY/kg
— Quicklime	252 210 000 000	4,07 CNY/kg
— Silicone products	391 000 000 011 391 000 000 019 391 000 000 012	33,65 CNY/kg
— Sodium carbonate	283 620 000 011 283 620 000 012	1,38 CNY/kg
— Yarn Synthetic, of polyesters	540 233 001 000	29,81 CNY/kg
— Powdered zirconium silicate (Zirconite or Zircon Flour)	261 510 000 000	10,18 CNY/kg
Labour		
Labour costs in manufacturing sector	[N/A]	35,86 CNY/hour
Energy		
Electricity	[N/A]	0,40–0,45 CNY/kWh
Natural gas	[N/A]	1,46 CNY/m^3
Waste/Scrap		
Glass fibre roving waste	701 912 000 000	1,17 CNY/kg

(1) ***Raw materials and scrap***

(243) During its verification visits to GFF producers, the Commission verified the raw materials used and scrap generated in the manufacturing of GFF.

(244) For all raw materials, absent any information on the market of the representative country, the Commission relied on import prices. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and non-market economy countries as stated in recital (196). The Commission decided to exclude imports from the PRC into the representative country as it concluded as stated in recitals (98) to (162) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. Furthermore, it appears that the import price of the main raw materials exported by the PRC into Turkey are lower than other imports. After excluding the imports into Turkey from the PRC and non-market economy countries, the Commission found that imports from other third countries remained representative ranging from 43 % to 100 % of total volumes imported to Turkey.

(245) The Commission sought to establish the undistorted price of raw materials used in the production of GFF, as delivered at the gate of the exporting producer's factory as required by Article 2(6a)(a), first indent of the basic Regulation. To do so, it applied the import duty of the representative country to each respective country of origin and added domestic transport costs to the import price. The domestic transport costs for all raw materials were estimated based on the verified data provided by the cooperating exporting producers and are not included in the benchmarks mentioned in Table 1.

(246) The main waste/scrap reported by the cooperating exporting producers was the scrap generated during the manufacturing process of GFR. The scrap was sold by the exporting producers on the domestic market at a price representing about 15 % of the manufacturing cost of GFR. Therefore, the undistorted price for scrap was valued at 15 % of the undistorted price of GFR.

(2) ***Labour***

(247) The Turkish Statistical Institute publishes detailed information on wages in different economic sectors in Turkey. The Commission used the wages reported in the Turkish manufacturing sector for 2016, for the economic activity C.23 (Manufacture of other non-metallic mineral products) ([89]) according to NACE Rev.2 classification ([90]). The 2016 average monthly value was duly adjusted for inflation using the domestic producer price index ([91]) as published by the Turkish Statistical Institute.

(248) After the final disclosure, one exporting producer and the CCCLA claimed that the value of the benchmark for labour cost in Table 1 was not realistic. During a hearing held on 16 January 2020, the Commission clarified that the General Disclosure Document included a clear error concerning the unit measurement of labour, i.e. 'CNY/kg' instead of 'CNY/hour'. The Note for the file of 19 December 2019 with the calculations of all benchmarks stated in Table 1, including labour, showed the correct unit of measurement i.e. 'CNY/hour'.

(3) ***Electricity and natural gas***

(249) To establish a benchmark for electricity and natural gas the Commission used the electricity and gas price statistics published by the Turkish Statistical Institute ([92]) in its regular press releases. From this statistics, the Commission used the data of the industrial electricity and gas prices in the corresponding consumption band in Kuruș/kWh covering the investigation period.

([89]) http://www.turkstat.gov.tr/PreIstatistikTablo.do?istab_id=2090 as last accessed on 2 December 2019.
([90]) This is a statistical classification of economic activities used by Eurostat, https://ec.europa.eu/eurostat/web/nace-rev2 (*last viewed on 2 December 2019*).
([91]) http://www.turkstat.gov.tr/PreIstatistikTablo.do?istab_id=2104 (*last viewed on 2 December 2019*).
([92]) http://www.turkstat.gov.tr => Press releases => select Electricity and Natural Gas prices.

(250) The undistorted costs of electricity in Table 1 are provided as a range since different tariffs apply to individual consumers depending on their consumption.

(4) ***Consumables/negligible quantities***

(251) Due to the large number of factors of production of the sampled cooperating exporting producers, some of the raw materials that only had a negligible weight in the total cost of production of the exporting producer as well as on a PCN level were grouped under consumables.

(252) The Commission calculated the percentage of the consumables on the total cost of raw materials and applied this percentage to the recalculated cost of raw materials when using the established undistorted prices.

(253) After the final disclosure, one exporting producer and CCCLA requested the Commission to disclose the calculation methodology for the benchmarks in Table 1.

(254) During a hearing held on 16 January 2020, the Commission brought to the attention of these parties that on the disclosure day, 19 December 2019, a Note for the file was added in the non-confidential file of the investigation explaining the calculation methodology for the benchmarks in Table 1. All interested parties were notified of the new document on file automatically via TRON on the day of the final disclosure. As the information requested was already available to the parties, no additional disclosure was necessary.

3.3.4.2. Manufacturing overhead costs, SG&A and profits

(255) The manufacturing overheads incurred by the cooperating exporting producers was expressed as a share of the costs of manufacturing actually incurred by the exporting producers. This percentage was applied to the undistorted costs of manufacturing.

(256) For SG&A and profit, the Commission used the financial data of the Chemical operation segment of the Turkish group Sisecam for 2018 as announced in the Note of September 2019 and stated in recital (185).

(257) After the final disclosure, Yuntianhua group claimed that the Commission found no significant distortions for its SG&A costs and thus improperly disregarded the actual SG&A values reported by the company on the basis of Article 2(6a)(a). The company claimed that using the actual SG&A would be in line with the methodology used for the establishment of the benchmark for waste/scrap, consumables and overheads, for which the company claimed actual values in the form of ratios of its actual costs would have been used. The company further claimed that this methodology would be in line with the third indent of Article 2(6a)(a) of the basic Regulation concerning the use of the actual domestic costs positively established and not distorted.

(258) The Commission notes at the outset that, contrary to the understanding of this exporting producer, the costs concerning waste/scrap, consumables and overhead costs were not considered undistorted in accordance with the third indent of Article 2(6a)(a) of the basic Regulation. As explained in recitals (251) to (255) and in the specific disclosures provided to the exporting producers in question, the ratios calculated for consumables and overheads based on the actual costs of the exporting producer were then expressed on the undistorted costs in the representative country. This methodology was applied because the data available did not contain information on overheads and considering the limited impact of consumables in the overall cost. Regarding waste/scrap, they were grouped under consumables for the companies in which they had only a negligible weight in the total cost of production, as explained in recital (251). Otherwise the Commission used the benchmark listed in Table 1 and recital (246).

(259) The Commission further noted that once the existence of significant distortions for the exporting country is established in accordance with Article 2(6a)(b) of the basic Regulation, the normal value is constructed by reference to undistorted prices or benchmarks in an appropriate representative country for each exporting producer according to Article 2(6a)(a). The Commission underlined that this provision also specifically requires that the constructed normal value includes a reasonable amount for undistorted SG&A costs in an appropriate representative country. Once the Commission established the existence of the significant distortions affecting the product under investigation in the exporting country, it was prevented to use the actual SG&A costs of individual exporting producers as, as a result, they were found to be distorted. Finally, the exporting producer failed to substantiate this claim to the required legal standard. Therefore, this claim was rejected.

3.3.4.3. Calculation of the normal value

(260) In order to establish the constructed normal value, the Commission took the following steps.

(261) Firstly, the Commission established the undistorted costs of manufacturing of GFF. It applied the undistorted unit costs to the actual consumption of the individual factors of production of the each of the cooperating exporting producers.

(262) Secondly, the Commission added to the undistorted costs of manufacturing of GFF the manufacturing overheads determined as described in recital (255), to arrive at the undistorted costs of production.

(263) Finally, to the undistorted costs of production established as described in recital (261), the Commission applied SG&A and profit of the Chemical operation segment of the Turkish group Sisecam for 2018 as explained in recital (185).

(264) The SG&A expressed as a percentage of the Costs of Goods Sold ('COGS') and applied to the undistorted costs of production amounted to 20,57 %.

(265) The profit expressed as a percentage of the COGS and applied to the undistorted costs of production amounted to 39,26 %.

(266) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

3.4. **Normal value for the non-cooperating sampled companies**

(267) As explained in recitals (68) to (87), for the exporting producers Henghsi and Jushi, part of the CNBM group, the Commission decided to apply facts available in accordance with Article 18(1) of the basic Regulation as far as the calculation of the normal value was concerned.

(268) In particular, for Hengshi, as explained in recitals (275) and (276), the Commission decided exceptionally, to accept the PCN from the anti-subsidy investigation stated in recital (3) as facts available under Article 18(1) of the basic Regulation. However, the normal value could not be based on the company's own data as it was found to be incorrect as explained in recitals (75) to (83). Therefore, for both exporting producers, Jushi and Hengshi, the normal value per PCN or closely resembling PCNs from the sampled cooperating exporting producers with similar manufacturing processes (vertical or non-vertical integration) were used to determine their normal value. In the absence of matching PCN of the sampled cooperating exporting producer with a similar manufacturing process, the data of the other cooperating exporting producer with a different manufacturing process was used. In the absence of matching PCN of any of the two cooperating exporting producers, the most closely resembling PCN from the sampled cooperating exporting producers with a similar manufacturing process was used. The Commission received no comments from any interested parties on the approached followed.

3.5. **Export price for the cooperating sampled companies**

(269) The sampled group of exporting producers exported to the Union either directly to independent customers or through related companies acting either as an exporter or an importer.

(270) The export price for sales made directly to independent customers in the Union and through related trading companies was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(271) The export price for sales made through related importers was established based on the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and a reasonable profit.

(272) Only one unrelated trader that imported only negligible quantities of GFF during the investigation period cooperated in the investigation. Its profit margin was therefore not considered representative. In the absence of any other information, the profit margin of an independent trader active in the GFF sector was estimated at 5 %.

3.6. **Export price for the non-cooperating sampled companies**

(273) As stated in recitals (75) to (84), one of the exporting producers part of CNBM group did not cooperate in the investigation and the Commission decided to establish the export price based on facts available in accordance with Article 18(1) of the basic Regulation.

(274) In its comments to the application of Article 18 of the basic Regulation, the exporting producer asked that, as regards the export price, the Commission should use the information (namely the PCN) submitted in the parallel anti-subsidy investigation mentioned in recital (3).

(275) However, under Article 19(6) of the basic Regulation, information received is to be used only for the purpose for which it was requested. Article 29(6) of Regulation (EU) 2016/1037 of the European Parliament and of the Council ([93]) contains the same limitation. Therefore, data collected in the context of an anti-dumping or an anti-subsidy investigation must not be used for a purpose different to that for which it was requested.

(276) In this particular case, two investigations into the product concerned were being conducted in parallel, one having been initiated around three months earlier. Hengshi specifically requested that the correct information collected in the course of the anti-subsidy investigation be used as best information available in this investigation. Hengshi explicitly waived the guarantee provided for in Article 19(6) of the basic Regulation and Article 29(6) of Regulation (EU) 2016/1037 that information submitted in trade defence investigations will only be used for the purpose for which it was collected. Furthermore, in this case, the Commission did not impose provisional anti-dumping measures as stated in recitals (54) to (56), and therefore the timing of the two investigations allowed for the collection and verification of the export price information submitted in anti-subsidy investigation before the imposition of definitive anti-dumping duties. As a result, the Commission exceptionally still had sufficient time to consider this information in this investigation without affecting other interested parties' rights and without jeopardising its own internal decision-making process. Therefore, the Commission decided, exceptionally, to use the PCN data collected during the anti-subsidy investigation mentioned in recital (3) as facts available under Article 18(1) of the basic Regulation. As a result, it calculated an export price per PCN based on the exporting producer's own data using the methodology described in recitals (269) to (272).

(277) For the other two exporting producers of the CNBM group, the export price was calculated as stated in recitals (269) to (272).

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

3.7. **Comparison**

(278) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.

(279) Where justified by the need to ensure a fair comparison, the Commission adjusted the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments, based upon the actual figures of the cooperating company, were made for handling charges, freight, packing costs, credit costs, bank charges, custom duties, commissions, and import charges and indirect taxes. An adjustment under Article 2(10)(i) was also made for sales through related trading companies. It was found that the functions of the traders in Hong Kong were similar to those of an agent. Those traders were looking for customers and established contact with them. They bore the responsibility of the selling process and received a mark-up for their services. The adjustment consisted of the SG&A of the trading companies and a 5 % profit. This profit margin was considered reasonable in the absence of any other information.

(280) After the final disclosure, Yuntianhua group claimed that the comparison between its export price and the constructed normal value would be unfair. The group claimed that, while the Commission made adjustments to the export price for all direct selling expenses, such as transport costs and bank charges, the SG&A of the Turkish group Sisecam, used when constructing the normal value, presumably included some direct selling expenses incurred in the domestic market of Turkey, introducing an asymmetry in the comparison between the export price and the normal value.

(281) This exporting producer did not provide any supporting evidence indicating that any direct selling expenses would be included in the SG&A used in the construction of the normal value or that the data used would not be representative.

(282) It is recalled that Article 2(6a) of the basic Regulation requires the use of readily available data. The Commission seeks to ensure that the information relied on for the construction of the normal value is the best among the data publically available and gives parties opportunity to comment and provide alternative data they deem more representative. In this particular case, the Commission disclosed the SG&A it intended to use in the Note of September 2019, but it did not receive any comments or more detailed alternative data. Therefore, this claim was rejected

(283) The same exporting producer claimed that, although an adjustment was made to the normal value for non-refundable export value added tax ('VAT'), the Commission has not demonstrated that Turkish producers incur VAT that can be fully refunded upon sales on the domestic market. Therefore such adjustment would be illegal.

(284) The Commission made an adjustment under Article 2(10)(b) of the basic Regulation for the difference in indirect taxes between export sales from the PRC to the Union and the normal value where indirect taxes such as VAT have been excluded. The Commission does not need to demonstrate that the Turkish producers actually incur VAT that can be fully refunded upon sales on the domestic market as the exporting producer is suggesting, as this is irrelevant. The normal value that was constructed as stated in recitals (260) to (266) did not include VAT, as the undistorted values in the representative country are used for the calculation of the normal value in the exporting country net of their VAT treatment. The actual situation concerning the VAT treatment of the sales in the domestic market and upon export occurs entirely in the PRC. The investigation concluded that in the PRC the exporting producers incur a VAT liability of 17 % or 16 % at exportation while 5 % or 10 % is refunded.

(285) Therefore, in line with Article 2(10)(b) of the basic Regulation, for the difference in the indirect taxation, in this case the VAT that is partially refunded with regard to export sales, the Commission duly adjusted the normal value. The claim was therefore rejected.

3.8. **Dumping margin**

(286) For the sampled exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and 2(12) of the basic Regulation.

(287) On that basis, the definitive weighted average dumping margin expressed as a percentage of the CIF Union frontier price, duty unpaid, is as follows:

Company	Definitive dumping margin
CNBM Group	99,7 %
Yuntianhua Group	64,7 %

(288) As explained in recital (43), one of the sampled groups of exporting producers, namely CNBM group, did not cooperate. It was therefore not possible to establish a weighted average margin of dumping for the non-sampled cooperating exporting producers according to Article 9(6) of the basic Regulation. Therefore, the dumping margin for all other cooperating exporting producers not selected in the sample was set at the same level as the dumping margin of the sole cooperating sampled group of exporting producers (Yuntianhua Group).

(289) For all other potential exporting producers from the PRC, the Commission established the dumping margin based on facts available, in accordance with Article 18 of the basic Regulation. In view of the high cooperation of exporting producers, which covers the totality of the exports of GFF from the PRC to the Union based on Eurostat import statistics, the Commission considered the highest dumping margin of the sampled exporting producers/groups of exporting producers, namely the CNBM group, to be representative for establishing the level of the residual dumping margin.

(290) The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
CNBM group	99,7 %
Yuntianhua group	64,7 %
Other cooperating companies	64,7 %
All other companies	99,7 %

EGYPT

3.9. **Exporting producers**

(291) The investigation revealed that there was one group of exporting producers in Egypt representing 100 % of exports during the investigation period. It consisted of two related exporting producers: Jushi Egypt for Fiberglass Industry S.A.E ('Jushi Egypt') and Hengshi Egypt Fiberglass Fabrics S.A.E. ('Hengshi Egypt'). Both companies are part of the CNBM group and cooperated with the investigation.

3.10. **Normal value**

(292) The complainant claimed that the normal value for Egypt should be constructed based on costs of production and sales reflecting undistorted prices or benchmarks in accordance with Article 2(6a)(a) of the basic Regulation. It alleged that there were significant distortions in accordance with Article 2(6a)(b) of that Regulation for the following reasons: the exporting producers were located in a special economic zone set up under a formal agreement between the Chinese and Egyptian governments, administered and controlled by a Chinese government agency (China-Africa TEDA Investment Co. Ltd). Moreover, according to the complainant, both exporting producers in Egypt received substantial government subsidies by virtue of their establishment in this special economic zone.

(293) In reply to this claim, both exporting producers stated that the allegations of market distortions in Egypt had not been submitted in accordance with the requirements of the basic Regulation and, if accepted, would violate the rights of the defence of the exporting producers. More specifically, the exporting producers argued that the complaint made no allegations and presented no evidence suggesting that the Egyptian economy are impacted by significant distortions within the meaning of Article 2(6a). The exporting producers further submitted that, in any event, the allegations were insufficient to meet the requisite standard of proof set to establish the existence of significant distortions in the basic Regulation.

(294) As it follows from Article 2(6a)(d) and (e) of the basic Regulation, any evidence on existence of significant distortions in the exporting country should be submitted by the complainant when filing the complaint. The Commission can then assess whether the evidence submitted is indeed sufficient to justify the assessment of the allegation of significant distortions and to draw the appropriate conclusions during the investigation.

(295) The claim on existence of significant distortions in Egypt was, however, only submitted several months following the publication of the Notice of Initiation, when the deadline to reply to the questionnaires for interested parties had expired and the collection of data was at an advanced stage.

(296) In conclusion, the request to apply the methodology to construct normal value under Article 2(6a) of the basic Regulation to Egypt was rejected.

3.10.1. *Calculation of normal value*

(297) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are considered to be representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represents at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.

(298) On that basis, the Commission established that the total sales by Jushi Egypt of the like product on the domestic market were representative. The other exporting producer, Hengshi Egypt had no domestic sales.

(299) The Commission subsequently identified, for the exporting producer with overall representative domestic sales (Jushi Egypt), the product types sold domestically that were identical or closely resembling the product types sold for export to the Union.

(300) The Commission then examined whether the domestic sales of that exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.

(301) The Commission next defined the proportion of profitable sales of Jushi Egypt to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(302) The normal value was based on the actual domestic price per product type, irrespective of whether those sales were profitable or not, when:

— the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

— the weighted average sales price of that product type was equal to or higher than the unit cost of production.

(303) The normal value was the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, when:

— the volume of profitable sales of the product type represented 80 % or less of the total sales volume of this type; or

— the weighted average price of this product type was below the unit cost of production.

(304) For those product types with no sales of the like product on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

(305) Normal value was constructed by adding the following to the average cost of manufacturing of the like product of the cooperating exporting producers during the investigation period:

— the weighted average SG&A expenses incurred by the cooperating exporting producers on all domestic sales of the like product, in the ordinary course of trade, during the investigation period; and

— the weighted average profit realised by the cooperating exporting producers on all domestic sales of the like product, in the ordinary course of trade, during the investigation period.

(306) The Commission originally established that, for Jushi Egypt, in case of five product types out of eight, the exported product types were identical or closely resembling to product types sold in representative quantities on the domestic market.

(307) Following the final disclosure, Jushi Egypt challenged the way the Commission had considered different types of customers in the comparison between the normal value and the export price. After further analysis, the Commission confirmed that there was no consistent and distinct difference in functions of the seller for the different levels of trade in the Egyptian domestic market justifying a distinction in type of customer. As a result, it accepted the company's claim and recalculated its margins without distinguishing types of customers. Consequently, the Commission also revised Hengshi Egypt's constructed normal value.

(308) The analysis of Jushi Egypt's domestic sales per product type (with representative sales) further showed that more than 80 % of the domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value for these product types was calculated as a weighted average of the prices of all domestic sales during the investigation period. For the outstanding product type with no domestic sales, the normal value was constructed in accordance with Article 2(3) and (6) of the basic Regulation as described above in recitals (305).

(309) The second exporting producer, Hengshi Egypt sold its GFF production exclusively for export and hence had no domestic sales. Therefore, as there were no sales of the like product on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and Article 2(6) of the basic Regulation.

(310) During the investigation period, Hengshi Egypt purchased the main raw material (GFR) used in production of GFF from Jushi Egypt and from another related supplier.

(311) In this context, the exporting producers claimed that in view of the profit achieved by Jushi Egypt on its sales of GFR to Hengshi Egypt, the transactions should be considered as being made at market prices. The producers also referred to existing case-law ([94]), based on which the use of the data included in the records of the company under investigation constitutes the rule, and the adaptation or replacement of that data is the exception. They also referred to the absence of distortive governmental measures, to the fact that production costs were correctly reflected in the records of Hengshi Egypt and that these records should be used in order to establish the cost of production and the subsequent constructed normal value of Hengshi Egypt.

(312) Contrary to what is argued by the exporting producers, the prices at which Hengshi Egypt purchased GFR from Jushi Egypt were found not to be made at arm's length as they were consistently and substantially below the prices charged by Jushi Egypt to independent customers on the Egyptian domestic market for the same product. Given the significant difference between these prices, the Commission concluded that the prices paid by Hengshi Egypt to Jushi Egypt could not be considered to be at arm's length. Despite the fact that those prices were profitable, they did not reflect market prices in Egypt and, in the absence of corporate affiliation, Hengshi Egypt would have paid a much higher price for GFR. Furthermore, the reference to absence of distortive governmental measure in setting the prices of raw materials was found to be irrelevant as, it is the arm's length analysis that is decisive in this case.

([94]) Case T-121/14, *PT Pelita Agung Agrindustri v Council*, EU:T:2016:500, paras. 47–49.

(313) In their reply to the final disclosure, Jushi/Hengshi Egypt reiterated their claim that prices of GFR charged by Jushi Egypt to Hengshi Egypt were at arm's length, arguing that the sales between the related parties yielded profit margins comparable to the target profit determined by the complainant in the complaint as being sufficient to '*operate sustainably on the market long-term*'. The Commission noted that the target profit is the profit that the Union industry can reasonably achieve in the Union market in the absence of dumped imports and it is therefore not an appropriate benchmark in order to assess whether the price agreed between related parties is at arm's length. The relevant criteria in such assessment lies with the price level which could be achieved in in Egypt in the absence of the relationship. The investigation showed that prices (and profit) levels in the Egyptian market were indeed higher than the one charged between these related companies.

(314) Given the above and for the reasons outlined in recital (312), the claim that prices were at arm's length because of the profit level achieved was rejected.

(315) Jushi/Hengshi Egypt further claimed that the Commission's methodology as described in recitals (309) to (311) violates Article 2(5) of the basic Regulation which should be interpreted narrowly, also referring to case law of the EU Courts and WTO. According to Jushi/Hengshi Egypt, the purchase price of GFR between Hengshi Egypt and Jushi Egypt cannot be disregarded simply because it would not be at arm's length. Jushi/Hengshi Egypt submitted that the Commission needed to demonstrate, in addition, to what extend Hengshi Egypt's records did not reasonably reflect the costs associated with the production and sale of GFF.

(316) The Commission disagrees with this interpretation and considers that none of the cases quoted by Jushi/Hengshi Egypt invalidates the Commission findings in the present case. In fact, the WTO bodies ([95]) consistently ruled that records of exporting producers may be found not to reasonably reflect the costs associated with the production and sale of the product under consideration where, for example the producer is part of a group of companies (which is the case of Jushi and Hengshi Egypt) and where transactions involving inputs associated with the production and sale of the product under consideration are not at arm's length. As a consequence, this claim had to be rejected.

(317) Jushi/Hengshi Egypt further claimed, referring to the case law ([96]), that the Commission's methodology in assessing whether the purchase price of GFR was at arm's length was incorrect. Jushi/Hengshi Egypt argued that the Commission did not compare comparable prices and that the Commission should have taken into consideration all the relevant factors relating to the sales at issue, and more specifically: (i) delivery terms; (ii) import customs duties on raw materials; (iii) incomparable quantities; (iv) price setting policy of Jushi Egypt for related transactions.

(318) After reviewing the elements on the file, the Commission accepted the claim for an adjustment due to differences in delivery terms and deducted transport costs from the sales price of GFR where appropriate. Transport costs were estimated based on actual transport cost for GFF as verified by the Commission.

(319) Jushi/Hengshi Egypt claimed following the additional final disclosure that credit costs had to be deducted in addition to transport costs. With respect to the credit cost allowance requested, such cost incurred by a seller is in fact an intrinsic element of transactions carried out in an open market on arms' length basis. Therefore such claim has to be rejected by the Commission.

([95]) See Appelate Body Report, EU-Biodiesel (Argentina), WT/DS473/AB/R, para. 6.33; Panel report, EU – Biodiesel (Argentina), WT/DS473/R, footnote 400; Appelate Body Report, Ukraine – Ammonium Nitrate (Russia), WT/DS493/AB/R, paras. 6.94 and 6.96. See also T-607/15, *Yieh United Steel Corp*, ECLI:EU:T:2019:831, paras. 62–67 and 83.

([96]) Case C-393/13 P, *Council of the European Union v Alumina d.o.o.*, EU:C:2014:2245, para. 30.

(320) As far as import duties are concerned, without taking a position on whether an adjustment would be warranted in this situation, there is no evidence on the file that the duties were paid by Jushi Egypt or collected by the Egyptian authorities. The company did not present any evidence in its submission showing that it has paid those duties and, in fact, stated that customs duty would be 'normally applicable' and 'that Jushi Egypt should pay [it]'. Concerning the quantities, the companies were unable to provide any evidence of a discount policy generally applied which would support their assertion that the difference in prices found between the related and unrelated parties was due to quantity discounts. In fact, the only document supplied by the company explains that the price charged by Jushi Egypt to Hengshi Egypt is based on the average price charged by Jushi Egypt to unrelated customers in the previous year increased by a given percentage depending on the type of rovings. Market reality and considerable differences in prices to Hengshi Egypt and unrelated customers respectively demonstrate, however, that Jushi Egypt failed to implement the above mentioned price setting policy. Consequently, the price setting policy of Jushi Egypt did not reflect the actual price paid by the related party (Hengshi Egypt). Therefore, the claims that sales prices of GFR should be adjusted by these elements was rejected.

(321) In the same vein, the Government of Egypt submitted following the final disclosure that when considering whether exporters' records are at arm's length, the price is merely one of the terms and conditions of a transaction and that the final disclosure did not contain any evidence that the Commission considered those other terms and conditions of the transactions in question. The Government of Egypt also claimed that the Commission acted inconsistently with the first sentence of Article 2.2.1.1 of the WTO Anti-Dumping Agreement by disregarding cost data which met the two requirements set forth in the provision of that Article, namely, 'in accordance with generally accepted accounting principles' and 'reasonably reflect costs'.

(322) As mentioned in recitals (318) and (319), the Commission made an adjustment for transport cost. However, based on the facts of this case, it established that no adjustment was justified to other elements and, therefore, it was irrelevant to the assessment of whether prices were at arm's length. Furthermore, as set out in recital (312), the Commission found that the prices at which Hengshi Egypt purchased GFR from Jushi Egypt were consistently and substantially below the prices charged by Jushi Egypt to independent customers on the Egyptian domestic market for the same product, even after the adjustments warranted. Given the significant difference between these prices, the Commission concluded that they could not be considered to be at arm's length. As a consequence, the Commission concluded that they did not reasonably reflect the costs associated with the production and sale of the product under consideration in accordance with Article 2(5) of the basic Regulation which has the same wording as Article 2.2.1.1 of the WTO Anti-Dumping Agreement. Both claims were therefore rejected.

(323) Furthermore, Jushi/Hengshi Egypt submitted that, by taking into account their company internal product codes for GFR, the result of the comparison between the quantities sold to related and unrelated customers on the domestic market would not be representative. Jushi/Hengshi Egypt instead proposed a comparison based on the PCN (Product Control Number) structure established by the Commission in another anti-dumping investigation covering continuous filament glass fibre products originating in Bahrain and Egypt ([97]). The companies claimed that this approach would lead to a more representative result. They also argued that as PCNs were considered adequate to compare prices for the purpose of the dumping and injury margin calculations they should also be considered appropriate for the purpose of comparing prices of GFR charged by Jushi Egypt to Hengshi Egypt on the one hand and to unrelated customers on the domestic market on the other hand.

(324) The approach applied by the Commission allowed for comparing sales to Hengshi Egypt and to unrelated parties based on exact matching internal product codes, which permitted a precise comparison of the relevant product types sold to both types of customers. Jushi/Hengshi Egypt failed to demonstrate how a comparison by PCNs created for a different purpose would yield a more appropriate comparison than the one resulting from the price comparison of the exact same product. The Commission in fact concluded that the alternative approach suggested by Jushi/Hengshi Egypt would lead to a less precise result and rejected the claim.

([97]) Anti-dumping proceeding concerning imports of continuous filament glass fibre products originating in Bahrain and Egypt initiated by Notice published in the *Official Journal of the European Union* (OJ C 151, 3.5.2019, p. 4).

(325) Consequently, the Commission confirmed the finding that the costs of GFR as recorded in the company's accounts did not reasonably reflect the costs of Hengshi Egypt associated with the production of GFF. Therefore, in the construction of the normal value, these costs had to be adjusted to the level of prices charged to unrelated customers in the domestic market, as in line with Article 2(5) of the basic Regulation.

(326) As mentioned in recital (548), on 10 February 2020, the Commission issued an additional final disclosure and invited companies to comment on the content of this additional information. Jushi/Hengshi Egypt submitted comments on 13 February 2020, which however did not relate to the content of the additional final disclosure. Instead, the companies reiterated their challenge of the Commission's methodology when constructing Hengshi's normal value, specifically the claims which had not been accepted by the Commission.

(327) The Commission underlines that this submission, which referred to information provided to the company in the general disclosure document, came after the deadline for comments to the final disclosure (that is, 9 January 2020). In any event, the Commission decided to address them in this Regulation.

(328) First, Jushi/Hengshi claimed that they form a single economic entity because the products that they produce do not overlap and they are located within the same zone. Second, they submitted that the Commission is in breach of Article 2(5) of the basic Regulation because this provision does not allow the Commission to conduct an arm's length test. They referred to several panels and Appellate Body reports which allegedly would support this assertion. During a hearing, the representatives of the companies stated that profits could not be considered a cost. Finally, they reiterated their claims that by using the market price for GFR in Egypt (based on unrelated sales from Jushi in the Egyptian market), the Commission double counted the SG&A and profit for GFR.

(329) In relation to the first claim, the Commission can only consider companies as a single economic entity when the information on file shows that they operate together in all aspects. In the absence of other elements, location and production types are not indicative that companies operate as a single economic entity. Thus, the Commission maintains that, while Jushi and Hengshi are part of the same group, the evidence on file shows that the two legal entities operate independently and therefore cannot be considered to constitute a single economic entity.

(330) Concerning the second claim, Article 2(5) of the basic Regulation establishes that, when costs associated with the production and sale of the product under investigation are not reasonably reflected in the records of the part concerned, they must be adjusted. The Commission considers that a transfer price can be considered as not reflecting the cost associated with the production of the product under investigation when it is not at arm's length. This understanding was confirmed by the WTO Appellate Body ([98]). The WTO jurisprudence, which was taken out of context by Jushi/Hengshi in their submission ([99]), in fact supports the Commission's interpretation in this case. Indeed, in this context, the Appellate Body has confirmed that records that are consistent with generally accepted accounting principles may nonetheless be found not to reasonably reflect the costs associated with the production and sale of the product under consideration where, for example, the exporter or producer under investigation is part of a group of companies in which the costs of certain inputs associated with the production and sale of the product under consideration are spread across different companies' records, or where transactions involving such inputs are not at arm's length. This is precisely the case here.

([98]) Appellate Body, EU – Biodiesel (Argentina).
([99]) Appellate Body, EU – Biodiesel (Argentina), Panel Report, EU – Biodiesel (Indonesia), Panel Report, EU – Biodiesel (Argentina).

(331) These exporting producers also seem to misunderstand the concept of cost in Article 2(5) of the basic Regulation. This refers to the cost to the producer of the product under investigation (and not to the producer of the input). From the perspective of a buyer, the profit of the seller is a cost, embedded in the price paid for an input. The Commission correctly assessed whether Hengshi records reasonably reflected the costs associated with the production of GFF and found that the transfer prices for purchases of GFR were substantially deflated in relation to the market price for the same product types in Egypt, that is, they were not at arm's length. As a result, it adjusted the GFR cost on the basis of the prices charged by Jushi to unrelated companies in the Egyptian market.

(332) Finally, the claim concerning double-counting is fully addressed in recital (337) to (345) of this Regulation.

(333) With respect to the purchases of GFR from the other related supplier, this supplier did not sell the GFR to independent customers in Egypt. Hence, the Commission compared the prices for GFR purchases from this supplier with the prices of Jushi Egypt to unrelated parties on the domestic market. As a result, prices for purchases of GFR by Hengshi Egypt from the other related supplier were found to be consistent with the prevailing prices on the Egyptian domestic open market and therefore these GFR purchases were found to be made at arm's length.

(334) Regarding the amounts for SG&A and profit, since Hengshi Egypt had no domestic sales, the amounts for SG&A and profit were based on domestic sales of the like product, in the ordinary course of trade and originally at the same level of trade (i.e. for end-users only), during the investigation period made by Jushi Egypt, the other exporting producer in Egypt.

(335) Following the final disclosure, Jushi/Hengshi Egypt claimed that the Commission's approach of applying Jushi Egypt's SG&A and profit for sales to end-users only for the purpose of constructing Hengshi Egypt's normal value is not in line with Article 2(6) of the basic Regulation and is not supported by any factual consideration. As mentioned in recital (306), there was indeed no evidence of a consistent and distinct difference in functions of the seller for the different levels of trade in the Egyptian domestic market justifying a distinction in type of customer. As a result, domestic sales of Jushi Egypt to all sales channels in the ordinary course of trade constitute basis for SG&A and profit to be used when constructing normal value for Hengshi Egypt.

(336) Hengshi Egypt claimed that the profit realised by Jushi Egypt on its sales of GFR should be deducted when constructing the normal value for Hengshi Egypt. It based its claim on the fact that (i) the companies formed a single economic entity; and (ii) including the profit achieved by Jushi Egypt, when constructing normal value and when calculating the costs of production, would lead to a double-counting situation.

(337) The Commission considers that the two Egyptian exporting producers do not form a single economic entity (albeit they are part of the same corporate group, CNBM group) as they are separate entities with distinct legal personalities, independent production and sales operations.

(338) Furthermore, when constructing the normal value, the production costs of Hengshi Egypt were adjusted in accordance with Article 2(5) of the basic Regulation in order to reflect prevailing market prices that are at arm's length (hence effectively disregarding GFR sales between related parties). Moreover, in accordance with Article 2(6) of that Regulation, the profit margin used to construct normal value is based on domestic sales of the like product (that is GFF, and not GFR) to independent customers in the ordinary course of trade. That profit margin also reflects the profit level that can normally be achieved by a producer from sales of GFF on the Egyptian market. The claim described in the previous recital was therefore rejected.

(339) Following the final disclosure, Jushi/Hengshi Egypt reiterated the claim that the constructed normal value of Hengshi Egypt was artificially inflated as a result of double-counting of the SG&A and profit on Jushi Egypt's sales of GFR. The companies referred to two previous anti-dumping investigations where the Commission deducted SG&A expenses from sales of semi-finished products in one case, and SG&A expenses from sales by a supplier of raw materials in the other case ([100]) claiming that the circumstances in those cases were comparable to the ones in the present investigation. Therefore, the companies argued that the Commission, in line with these previous cases, should deduct SG&A expenses and profit of Jushi Egypt for sales of GFR from the SG&A and profit used to construct normal value of GFF of Hengshi Egypt.

(340) The circumstances of the cases to which Jushi/Henshi Egypt referred to are, however, different from those in the current investigation. In one case, the issue did not arise when constructing normal value under Article 2(6) of the basic Regulation but when determining whether domestic sales were made in the ordinary course of trade based on the full cost of the company in question. In that case the related companies concerned, both sold the product under investigation on the domestic market and therefore the SG&A of both companies related to sales of the product under investigation, which is not the case in the current investigation.

(341) In the present investigation, the price of GFR on the free market was used for the determination cost of manufacturing of GFF of Henshi Egypt. This price included SG&A and profit (of sales of GFR) and resulted in the full cost of manufacturing of GFF for Hengshi Egypt. However, it did not include any SG&A and profit for the domestic sales of GFF of Hengshi Egypt as the company did not have any sales of GFF on the domestic market. In order to determine normal value, a reasonable amount of SG&A and profit was added to the cost of manufacturing in accordance with Article 2(6) of the basic Regulation. This reasonable amount reflected the SG&A borne and profit achieved for the domestic sales of GFF on the Egyptian market.

(342) As far as the second investigation referred to by Jushi/Hengshi Egypt is concerned, the claim raised by the exporting producers concerned i.e. to deduct SG&A from the suppliers of raw materials from the cost of production of the exporting producer was rejected based on the grounds that 'every purchase of raw material includes some SG&A costs in the price paid, but these are costs of the supplier, and not the SG&A of the exporter in question.' The same applied in the present case.

(343) Considering the above, these precedents cannot be considered to support the exporting producers' claim that the current case is not in line with previous investigations.

(344) Jushi/Hengshi Egypt further argued that Jushi Egypt is an integrated producer which produces GFR for further processing into GFF and that its sales of GFF include therefore also the SG&A and profit relating the production of GFR. Therefore, Jushi/Hengshi Egypt claimed that the SG&A and profit allegedly relating to GFR should be deducted from the SG&A and profit of Jushi Egypt for sales of GFF to be added to the manufacturing cost of GFF of Hengshi Egypt when constructing normal value in accordance with Article 2(6) of the basic Regulation. Following the final disclosure, a similar argument was raised also by the Government of Egypt.

(345) The Commission noted that any allocation of profit and SG&A from GFF sales to GFR would be purely speculative since profit and SG&A are borne by the sales of the product to which they refer and cannot be connected to upstream inputs of which they are made. Thus, the SG&A and profit allocated by the company to the sales of GFF should not contain any costs related to another product. In addition, in its accounting records Jushi Egypt itself makes a clear distinction in revenues earned and expenses incurred for each operating segment within the company, i.e. GFF and other products. If the companies' claim were true, the reliability of the methodology used by Jushi Egypt to allocate costs to the product concerned for the purpose of this investigation would be in fact put in question.

([100]) Namely Commission Implmenting Regulation (EU) 2019/1295 of 1 August 2019 amending implementing Regulation (EU) 2018/1469 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following a partial interim review pursuant to Article 11(3) of Regulation (EU) 2016/1036 (OJ L 204, 2.8.2019, p. 22), recitals 32 and 33, and Council Regulation (EC) No 695/2006 of 5 May 2006 amending Regulation (EC) No 397/2004 imposing a definitive anti-dumping duty on imports of cotton-type bedlinen originating in Pakistan (OJ L 121, 6.5.2006, p. 14), recital 44.

(346) Therefore, the claim that the SG&A and profit of Jushi Egypt related to GFF included also SG&A and profit related to its sales GFR and that consequently SG&A and profit of GFR were double counted when constructing normal value in accordance with Article 2(6) of the basic Regulation was found factually incorrect and was rejected accordingly.

(347) The Government of Egypt furthermore considered that the way the normal value for Hengshi Egypt was constructed led to the inflation of the dumping margin calculated for the group. According to Government of Egypt, the Commission considered that the two producers did not form a single economic entity and, simultaneously disregarded the prices of GFR sales between the two entities on the basis that the two entities related to each other. In this regard it referred to previous practice where profits between companies forming a single economic entity had been deducted.

(348) However, the fact that Jushi Egypt and Hengshi Egypt belonged to the same company group and were related to each other did not qualify them as forming a single economic entity. As explained in recital (329), both companies were separate entities with distinct legal personalities, independent production and sales operations. These facts were never contested by the companies concerned. This claim was therefore rejected.

3.11. **Export price**

(349) The cooperating exporting producers exported to the Union either directly to independent customers, via related traders located outside the Union or through related importers located in the Union.

(350) If the exporting producers exported the product concerned directly to independent customers in the Union or through a related company acting as a trader, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(351) If the exporting producers exported the product concerned to the Union through related companies acting as an importer, the export price was established based on the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In that case, adjustments to the price were made for all costs incurred between importation and resale including SG&A expenses of the related importers located in the Union, and reasonable profit.

(352) Only one unrelated trader cooperated in the investigation. Since it imported only negligible quantities of GFF during the investigation period, its profit margin was not considered representative. In the absence of any other information, the profit margin of an independent trader active in the GFF sector was estimated at 5 %.

3.12. **Comparison**

(353) The Commission compared the normal value and the export price of the two cooperating exporting producers on an ex-works basis.

(354) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments in this case were made for transport, insurance, handling, loading and ancillary costs, credit cost and bank charges.

(355) Furthermore, during the investigation period, both cooperating producers exported GFF to the Union through related traders located outside the Union, in Hong Kong. The traders in Hong Kong were looking for customers and established contact with them. They further bore the responsibility of the selling process and received a mark-up for their services. Therefore, the Commission found that the functions of these traders were similar to those of an agent. Consequently, an adjustment under Article 2(10)(i) was also made for sales through those related trading companies. The adjustment consisted of the deduction of SG&A of those trading companies and a 5 % profit. This profit margin was considered reasonable in the absence of any other information.

3.13. **Dumping margins**

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

(357) As the two cooperating producers were related, a single dumping margin was established based on the weighted average of their individual dumping margins.

(358) Following the final disclosure, the Government of Egypt contested the way that the Commission calculated the dumping margin for the CNBM group. The Government of Egypt claimed that in accordance with Article 6.10 of the WTO Anti-Dumping Agreement individual margins should be calculated for each cooperating individual exporting producer in an investigation. In this regard, Jushi Egypt's actual domestic sales prices should have been used as a basis of normal value for the entire CNBM group and the weighted average export price of Hengshi Egypt and Jushi Egypt.

(359) As mentioned in recital (34), Article 9(5) of the basic Regulation allows the Commission to establish a sole individual anti-dumping duty when corporate links between exporting producers exist. The fact that Jushi Egypt and Hengshi Egypt are related companies was established during this investigation and has not been disputed. Therefore, the Commission calculated a sole individual dumping margin for CNBM group in accordance with Article 9(5) of the basic Regulation. The individual dumping margins of the companies concerned form the basis for the calculation of a single group margin. In this regard, normal value and export price must be established for each company individually according to Article 2 and 3 of the basic Regulation. Article 2 of the basic Regulation describes the methodology to establish normal value in case domestic sales prices are not representative, which does not foresee to merely base normal value on the domestic sales prices of another company. Likewise, Article 3 of the basic Regulation, does also not allow to calculate the dumping margin on the basis of the weighted average export prices of two or more companies. The claim made in this regard was therefore rejected.

(360) Following the additional final disclosure, the Government of Egypt observed that the Commission did not address most of the comments and arguments provided by Hengshi/Jushi Egypt after the final disclosure and submitted that they should be considered. The Commission noted that all comments provided by Hengshi/Jushi Egypt following the final disclosure and the additional final disclosure are fully addressed in this Regulation in its preceding recitals. As also mentioned in recital (548), the additional final disclosure was limited to facts and considerations on the basis of which final determinations were made, that changed in comparison to the final disclosure.

(361) The level of cooperation in this case is high since the exporting producers cooperating with the investigation essentially accounted for totality of the imports of the product concerned into the Union during the investigation period, based on import statistics recorded in Eurostat. On that basis, the Commission decided to set the residual dumping margin at the level of the individual dumping margin established for cooperating companies.

(362) The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
CNBM group	20,0 %
All other companies	20,0 %

4. INJURY

4.1. Definition of the Union industry and Union production

(363) The like product was manufactured by 16 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(364) The total Union production of GFF during the investigation period was established at almost 115 000 tonnes. The Commission established the figure based on the verified questionnaire reply of the complainant, cross-checked and, where appropriate, updated with the verified questionnaire replies of the sampled Union producers. As indicated in recital (12), the sample was made up of four Union producers representing more than 40 % of the total Union production of the like product.

4.2. Union consumption

(365) The Commission relied on adjusted Eurostat data in order establish Union consumption and the import volumes, following the uncontested methodology suggested by the complainant. Based on the TARIC data, small portion of inputs were removed from the import statistics used. The Commission checked and confirmed the estimations of the complainant regarding the proportion of the product concerned in volumes imported under the CN codes [101] mentioned in the Notice of Initiation [102] based on the information received from the cooperating exporting producers in the PRC and in Egypt.

(366) The volumes and value of imports from other third countries were established during the investigation based on direct knowledge of companies producing GFF in other third countries and importing into the Union. For all third countries, further to the figures mentioned in the complaint, the complainant provided updated market intelligence information for the investigation period.

(367) The Commission established the Union consumption on the basis of the sales volumes of the Union industry in the Union market plus imports from all third countries as recorded in the Comext database of Eurostat, adjusted as described in recitals (365) and (366) above.

(368) The Union consumption developed as follows:

Table 2

Union consumption (in tonnes)

	2015	2016	2017	Investigation Period
Total Union consumption	153 287	175 827	181 464	168 270
Index	*100*	*115*	*118*	*110*

Source: Comext, Complaint

[101] Combined Nomenclature codes.
[102] CN codes 7019 39 00, 7019 40 00, 7019 59 00 and 7019 90 00.

(369) The Union consumption increased over the period considered from roughly 153 000 tonnes in 2015 to around 168 000 tonnes in the investigation period, namely by 9,8 %.

(370) In their comments on the final disclosure, Jushi/Hengshi China and CCCLA requested additional disclosure to clarify the underlying import and consumption data and the detailed methodology used to establish it. They argued that this was necessary as the figures used in the complaint are different for the figures disclosed.

(371) The claim that relevant figures were not dislosed is wrong. The figures used in establishing the consumption of GFF in the Union were disclosed to all interested parties in the final disclosure of 19 December 2019. Differences to the figures used in the complaint are not a result of a methodology change but, on the one hand, of the different time periods between the complaint and the investigation as explained above and, on the other hand, the availability of more detailed data collected during the investigation. Whilst the complainant had to rely on market intelligence to remove imports under the relevant CN codes that were not GFF, the Commission has access to TARIC-level import data. As mentioned in recital (365), the Commission used this data to remove products that were imported under TARIC codes for other products. In addition to the difference in periods, the Commission had access to actual data of the sampled European producers, which, in certain cases, the verification of this data led to revisions of the figures reported.

4.3. **Imports from the countries concerned**

4.3.1. *Cumulative assessment of the effects of imports from the countries concerned*

(372) The Commission examined whether imports of GFF originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(373) The provision stipulates that the imports from more than one country must be cumulatively assessed only if it is determined that:

— the margin of dumping established in relation to the imports from each country is above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation and the volume of imports from each country is not negligible; and

— a cumulative assessment of the effects of the imports is appropriate in the light of the conditions of competition between the imported products and the conditions of competition between imported products and the like product in the Union.

(374) The margins of dumping established in relation to the imports from the PRC and Egypt were above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation. The volume of imports was not negligible within the meaning of Article 5(7) of the basic Regulation. Indeed, the market shares in the investigation period were 22,3 % (37 558 tonnes) for imports from the PRC and 9,1 % (15 334 tonnes) for imports from Egypt.

(375) The conditions of competition between the dumped imports from the PRC and Egypt and between those imports and the like product in the Union were similar. More specifically, the imported products competed with each other and with the GFF produced in the Union because they are sold through the same sales channels and to similar categories of customers. Regarding import prices, Table 4 shows that although the overall price levels were different for each country concerned, the trends were largely the same, namely showing an overall decrease over the period considered, with stabilisation in 2017 and the investigation period, both significantly undercutting the Union industry's sales prices on the Union market.

(376) Therefore, the criteria set out in Article 3(4) of the basic Regulation were met and imports from the PRC and Egypt were examined cumulatively for the purposes of the injury determination.

4.3.2. *Volume and market share of the imports from the countries concerned*

(377) As explained in recitals (365) and (366) above the Commission established imports volumes and prices on the basis of adjusted Eurostat data. The market share of the imports was established by comparing the volume of imports with the Union consumption.

(378) Imports into the Union from the PRC and Egypt developed as follows.

Table 3

Import volume and market share

	2015	2016	2017	Investigation Period
Imports from the PRC (in tonnes)	34 470	42 507	44 278	37 558
Index	*100*	*123*	*129*	*109*
Imports from Egypt (in tonnes)	108	417	6 092	15 334
Index	*100*	*386*	*5 641*	*14 198*
Imports from countries concerned (in tonnes)	34 578	42 924	50 370	52 892
Index	*100*	*124*	*145*	*153*
Market share the PRC (%)	22,5	24,2	24,4	22,3
Index	*100*	*108*	*109*	*99*
Market share Egypt (%)	0,1	0,2	3,4	9,1
Index	*100*	*337*	*4 765*	*12 934*
Market share countries concerned (%)	22,6	24,4	27,8	31,4
Index	*100*	*108*	*123*	*139*

Source: Comext, sampling form replies of the exporting producers from countries concerned.

(379) Imports of the countries concerned increased by 53 % during the period considered from nearly 35 000 tonnes in 2015 to almost 53 000 tonnes in the investigation period. The market share of the countries concerned increased thus from 22,6 % in 2015 to 31,4 % in the investigation period by nearly 9 percentage points. This increase was continuous throughout the period considered, both in absolute terms and in relative terms.

4.3.3. *Prices of the imports from the countries concerned and price undercutting*

(380) As explained in recital (365), the Commission established the trends of import prices based on Eurostat data.

(381) On that basis, the average price of imports into the Union from the countries concerned developed as follows:

Table 4

Import prices (EUR/kg)

	2015	2016	2017	Investigation Period
Import price PRC	1,78	1,75	1,69	1,63
Index	*100*	*99*	*95*	*91*
Import price Egypt	1,36	1,40	1,32	1,32
Index	*100*	*103*	*98*	*97*
Import price countries concerned	1,78	1,75	1,64	1,54
Index	*100*	*99*	*92*	*86*

Source: Comext

(382) Import prices of the countries concerned were always below the average sales price of the sampled Union producers, as shown in Table 8. The average import prices from the countries concerned decreased from 1,78 EUR/kg to 1,54 EUR/kg in the period considered, namely by nearly 14 %.

(383) The Commission also determined the price undercutting during the investigation period by comparing:

— the weighted average prices per product type of the imports from the sampled cooperating Chinese and Egypt producers to the first independent customer on the Union market ([103]), established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties for the PRC only and post-importation costs for both countries; and

— the corresponding weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level.

(384) The price comparison was made on a product type-by-type basis, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the hypothetical turnover during the investigation period. It is obtained by multiplying the average Union industry sales price per product type by the quantities of the comparable product type exported to the Union. It showed significant undercutting margins ranging from 15,4 % to 55,8 % for the PRC and from 30,5 % to 54,9 % for Egypt, resulting in a weighted average margin of 15,4 % for the sampled cooperating exporting producers in the PRC and of 31,5 % for the cooperating exporting producers in Egypt.

([103]) GFF is mostly produced on demand by customer specifications; therefore, the vast majority of sales were sales made directly to independent end-customers. Sales to wholesalers represented [1 to 5 %] of the total sales of the countries concerned (whereas the rest were made to end-users). [95 to 99 %] of the sales made by the Chinese exporting producers and the Egyptian exporting producers were made directly into the Union (the rest being made via related importers). The sampled Union's producers also sell predominantly directly to the same type of end-customers representing [90 to 95 %] of their sales and only [5 to 10 %] of their sales to wholesalers.

(385) In their comments on the final disclosure, Jushi/Hengshi China and CCCLA noted that the disclosed undercutting margin of cooperating producers (41,1 %) was likely wrong.

(386) The Commission took note of this comment and clarified that this is due to a clerical error. Indeed, the undercutting margin of cooperating producers was 15,4 % rather than 41,1 %.

(387) In their comments on the final disclosure, Jushi/Hengshi China noted the difference between its undercutting and underselling margins (42,4 % and 116,9 %, respectively) and compared it to the difference between these margins established for Jushi/Hengshi Egypt (30,5 % and 61,4 %, respectively). The exporting producer further noted that there is a substantial difference in the result of this comparison both in terms of the absolute percentages for both types of margins, and in terms of the magnitude of the increase in the underselling margin relative to the undercutting margin. The exporting producer noted that this is surprising, especially in the light of the weighted average unit CIF prices of Jushi/Hengshi China and Jushi/Hengshi Egypt being similar.

(388) The Commission noted that such differences are not unusual if the companies in question sell different product mixes to the Union market. If the product mix is different, as it is in this case, the similarity in average unit CIF prices does not allow for a meaningful comparison of undercutting or underselling margins of the two entities and the deltas between these margins. This comment was therefore rejected.

(389) Jushi/Hengshi China and Jushi/Hengshi Egypt noted that the CIF value for sales made by exporting producers through related importers was established based on the price at which the imported product was first resold to independent customers in the Union, adjusted for all costs incurred between importation and resale. The exporting producer argued that the use of such constructed CIF value in undercutting and underselling margins calculations violates Article 3(1) of the basic Regulation as nowhere in Article 3 of the basic Regulation is the Commission directed to use a constructed CIF export price to calculate the injury margin.

(390) The exporting producers further argued that the undercutting margins calculation based on a constructed CIF value is flawed. According to these exporting producers, by failing to assess the price effects of the allegedly dumped imports on the prices of like products sold by the Union industry by comparing the sales of the Union industry with the final sales price of the exporting producers to the first independent customer, the Commission violated Articles 3(2) and 3(3), and consequently Articles 3(5), 3(6), 3(7) and 3(8) of the Basic Regulation.

(391) Firstly, Article 3(2) of the basic Regulation refers to the effect of dumped imports that may cause injury to the Union industry and not to the resale price of a company (related importer) within the Union to another customer.

(392) Secondly, as far as undercutting margins is concerned, the basic Regulation does not provide any specific methodology of that concept. The Commission therefore enjoys a wide margin of discretion in assessing this injury factor. That discretion is limited by the need to base conclusions on positive evidence and to make an objective examination, as requested by Article 3(2) of the basic Regulation.

(393) When it comes to the elements taken into account for calculation of undercutting margins (in particular the export price), the Commission has to identify the first point at which competition takes (or may take) place with Union industry in the Union market. This point is in fact the purchasing price of the first unrelated importer because that company has in principle the choice to source either from the Union industry or from overseas customers. By contrast, resale prices of unrelated importers do not reflect the point where real competition takes place. This is only the point where the established sales structure of the exporter tries to find customers but it is already after the point where the decision to import had been taken. Indeed, once the exporting producer has established its system of related companies in the Union, they have already decided that the source of their merchandise will be from overseas. Hence, the point of comparison should be right after the good crosses the Union border, and not at a later stage in the distribution chain, e.g. when selling to the final user of the good.

(394) This approach also ensures coherence in cases where an exporting producer is selling the goods directly to an unrelated customer (whether importer or final user) because under this scenario, resale prices would not be used by definition. A different approach would lead to a discrimination between exporting producers based solely on the sales channel that they use.

(395) In this case, the import price cannot be taken at its face value because the exporting producer and the importer are related. Therefore, in order to establish a reliable import price at arm's length, such price has to be reconstructed by using the resale price of the related importer as a starting point. In order to carry out this reconstruction, the rules on the construction of the export price as contained in Article 2(9) of the basic Regulation are pertinent, just as they are pertinent for the determination of the export price for dumping purposes. The application of Article 2(9) of the basic Regulation allows arriving at a price that is fully comparable to the CIF price (Union border) that is used when examining sales made to unrelated customers.

(396) The Commission also notes that in this particular case the majority of sales on both the Union industry side and the exporting producers' side are done directly (i.e. without traders or importers). These direct sales represent more than 95 % of sales of the Union industry and more than 95 % of sales of the exporting producers.

(397) Whilst the Commission stands by the reasoning outlined above, for the sake of completeness additional undercutting margins calculations were undertaken.

(398) The first one took into consideration the end customer, thereby the product types were compared based on the end customer type, the latter being added as a characteristic to the product control number. Based on this calculation, the prices of the CNBM group in China, CNBM group in Egypt and Yuntianhua group were found to undercut Union industry's prices by 42,7 %, 32,1 % and 17,2 %, respectively.

(399) In the second undercutting margins calculations the Commission took into consideration only the direct sales made by the Union industry and the exporting producers, which, as mentioned above, represent the vast majority of sales on both sides. Based on this calculation, the prices of the CNBM group in China, CNBM group in Egypt and Yuntianhua group were found to undercut Union industry's prices by 45,4 %, 30,8 % and 14,7 %, respectively.

(400) In conclusion, undercutting margins do not differ significantly regardless of the way it is calculated. This is not surprising considering that Union industry and exporting producers sell similar types of product predominantly directly to similar types of customers. This claim was therefore rejected.

(401) Following the final disclosure, Yuntianhua group requested additional disclosure concerning the detailed undercutting and underselling margins calculations per product type, with regard to its company. It requested that the product control numbers ('PCN') sold by the Union industry should be disclosed to it as well as the average quantities sold per PCN and the average sales prices. During the hearing on 17 January 2020, Yuntianhua group added, amongst others that it is unclear from the disclosed information whether the Commission applied zeroing. Yuntianhua group also requested additional disclosure on the sales and distribution channels of the Union industry in the Union market.

(402) The Commission confirmed that zeroing was not applied in this investigation. However, in line with the general practice on protecting business secrets, the Commission could not reveal all the requested data per product type. A disclosure of such level of detail would make it possible to, either directly or with addition of market intelligence, reconstruct confidential sales or production data of individual Union producers. In accordance with its practice to protect business confidential information, the Commission decided to partially accept the company's claim and disclose the information for the product types sold by three or more sampled Union producers. These were disclosed individually together with the additional final disclosure to all exporting producers concerned.

(403) Following Yuntianhua group's request for additional disclosure on the sales and distribution channels of the Union industry, and upon request of the Commission, all sampled Union producers provided additional information regarding their sales channels. This information was made available in the file for inspection by interested parties shortly after the request and interested parties were informed accordingly. The Union producers also requested confidential treatment to more detailed information in relation to their sale channels. The Commission assessed these requests and concluded they were properly justified, warranting confidential treatment under Article 19 of the basic Regulation.

(404) In their comments on final disclosure, Yuntianhua group argued that, since, unlike Yuntianhua group, all sampled Union producers sold the product concerned through related traders in the Union, the Commission should adjust upwards CIF value of Yuntianhua group for SGA and a notional profit margin of the EU producers' sampled related trading companies, to ensure that the comparison with the Union industry sales prices is made at the same level of trade.

(405) As mentioned in recital (396), more than 95 % of sales of the Union industry were direct sales. Furthermore, as noted in recitals (397) to (400), undercutting margins calculations based on sales to end users and only on direct sales all show undercutting margins for all exporting producers including Yuntianhua group. This comment was therefore rejected.

(406) In their comments following the additional final disclosure, Yuntianhua group reiterated its claim that the disclosure of the injury margin calculation was insufficient. The company claimed that sales prices and quantities of all product types sold by the Union industry should be disclosed to them, regardless how many sampled Union producers were selling a specific PCN. They dismissed the Commission's view that if sales data related to a certain PCN pertained to only two or less Union producers, a third party would be able to track the data back to individual Union industry producer. Since Yuntianhua group would not have the relevant market knowledge to do so, they further claimed, there would be no reason to keep these data confidential. Alternatively, Yuntianhua group argued that the Commission should at least provide a meaningful non-confidential summary of the injury margin calculation by providing ranges for sales data pertaining to PCNs that were produced by two or less Union producers.

(407) The Commission reiterates that data pertaining to only one or two Union producers cannot be disclosed for confidentiality reasons. The same treatment is afforded to exporting producers, which do not have their individual information make available, even on an anonymous basis. The investigation has shown that the GFF market is relatively transparent with large quantity users sourcing from a limited number of certified producers in the Union and China. It is therefore reasonable to assume that GFF producers in the Union and in the countries concerned often know who is providing a particular product type. Thus, by disclosing a data range would bear the high risk of disclosing business confidential data that the Commission seeks to protect. In any event, the Commission disclosed detailed calculations for all product types that were produced by three or more Union producers that covered around 70 % of the volume sold by Yuntianhua group to the Union and more than 70 % of the volume of corresponding product types sold by the Union industry. Yuntianhua group raised no issues with regard to these calculations. The company has also not sought the assistance of the Hearing Officer, who offered to conduct the necessary checks to the data not disclosed on behalf of the company. This claim was therefore rejected.

(408) In their comments following the additional final disclosure, based on a hearing with the Hearing Officer, Yuntianhua group argued that sampled Union producers each specialise in the production of one or several types of a product concerned manufactured specifically for a given user. Yuntianhua group then argued that these were OEM customer-specific products, for which no price undercutting and underselling margins were established. According to Yuntianhua group, there should therefore be a segment specific analysis of dumping and injury and no measure should in fact be imposed on the OEM segment.

(409) The exporting producer's assumption is factually wrong. The investigation has shown that GFF was not produced on OEM basis. As stated in recital (61) above, the Commission found that for most applications GFF are produced to order according to customers' specifications and, as a result, the vast majority of sales (both of Union producers and exporting producers) are made directly to independent end-customers. Thus, sales according to customers' specifications is a characteristic of the GFF market and in no way suggest the existence of a separate OEM segment. This is also visible from the data disclosed to Yuntianhua group. Around 70 % of the PCNs exported by Yuntianhua group to the Union were produced by 3 or 4 of the sampled Union producers. The Commission further notes that during the investigation period there was a 92 % matching between the sales of the Union industry and Yuntianhua group. This also contradicts that there would be a particular specialisation in the market and that EU producers would produce one or several types for a given user. Furthermore, the statement that sales prices of those PCNs produced by only one or two Union producers were not undercutting or underselling the Union industry sales prices is incorrect. The Commission found undercutting for four out of the seven PCNs for which detailed calculation could not be disclosed because of confidentiality issues. That means that, out of the 18 matching PCNs, only four (accounting for a low percentage of Yuntianhua group exports volumes) were found not to undercut the sales of the Union industry. Needless to say, the establishment of price undercutting at the level of the PCN is only an intermediary and preparatory step of the price comparison required by Article 3(3) of the basic Regulation, that is, the determination of the price undercutting in relation to the product concerned as a whole. On the basis of the above, the claim that a separate analysis based on different segments should have been carried out was rejected.

(410) In their comments following the additional final disclosure, Yuntianhua group argued that the Commission included in the injury findings products that are not product concerned claiming that one of their PCNs was exported under a CN code that is not part of the investigation.

(411) As stated by the Commission in the Notice initiating this proceeding *'[t]he CN and TARIC codes are given for information only'*. They do not constitute the description of the product under investigation. Indeed, in this particular case it was already noted in the Commission Implementing Regulation (EU) 2020/44 ([104]) that imports of the product under investigation, even after the initiation of the proceeding were widely misdeclared.

([104]) OJ L 16, 21.1.2020, p. 1.

Furthermore, during the investigation the sampled exporting producers were asked to report their exports to the Union of the product matching the description given in the Notice initiating the proceeding. In this framework, Yuntianhua group reported the specific PCN in question as a product concerned. In any case, it was verified and confirmed during on-site verification that all PCNs reported in the questionnaire were falling under the scope of the investigation. The use of this PCN in the dumping, and injury calculations was also disclosed to Yuntianhua group on 19 December 2019. This was unchallenged by Yuntianhua group. This claim was therefore rejected.

4.4. **Economic situation of the Union Industry**

4.4.1. *General remarks*

(412) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped 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.

(413) As mentioned in recital (12), sampling was used for the determination of possible injury suffered by the Union industry.

(414) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the complaint and the complainants reply to a specific questionnaire. This data related to all Union producers, and was updated where necessary following the verifications at the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the verified questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(415) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margins.

(416) The microeconomic indicators are: average unit prices, unit cost, average labour costs, inventories, profitability, cash flow, investments and return on investments, and ability to raise capital.

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2015	2016	2017	Investigation Period
Production volume (kg)	124 892 518	134 134 913	130 312 563	114 509 129
Index	*100*	*107*	*104*	*92*
Production capacity (kg)	196 926 458	200 135 505	199 124 465	193 699 831

	2015	2016	2017	Investigation Period
Index	*100*	*102*	*101*	*98*
Capacity utilisation (%)	63	67	65	59
Index	*100*	*106*	*103*	*93*

Source: Complaint, verified questionnaire replies of the sampled Union producers.

(418) The total Union industry's production fluctuated but decreased by 8 % over the period considered. As the production capacity was kept almost at the same level throughout the period considered, capacity utilisation went down from 63 % to 59 %.

4.4.2.2. Sales volume and market share

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

Table 6

Sales volume and market share

	2015	2016	2017	Investigation Period
Total sales volume on the Union market (tonnes)	112 925	125 056	123 108	106 723
Index	*100*	*111*	*109*	*95*
Market share (%)	73,7	71,1	67,8	63,4
Index	100	97	92	86

Source: Complaint, verified questionnaire replies of the sampled Union producers.

(420) The sales volume of the Union industry decreased by 5 % over the period considered, while the imports from the PRC and Egypt accumulated increased by 53 %. Considering the increase in consumption, this translated in a decrease of market share from 73,7 % in 2015 to 63,4 % during the investigation period, namely a decrease of over 10 percentage points for the Union industry, while the PRC and Egypt increased their market share from 22,6 % in 2015 to 31,4 % during the investigation period, namely an increase of nearly 9 percentage points.

4.4.2.3. Growth

(421) The above figures in respect of production, sales, volume and market share demonstrate that the Union industry was not able to grow in a growing market, neither in absolute terms nor in relation to the consumption, over the period considered.

4.4.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2015	2016	2017	Investigation Period
Number of employees	1 184	1 221	1 207	1 197
Index	*100*	*103*	*102*	*101*
Productivity (kg/employee)	105 504	109 839	108 001	95 665
Index	*100*	*104*	*102*	*91*

Source: Complaint, verified questionnaire replies of the sampled Union producers.

(423) During the period considered, employment in the Union remained relatively stable with only a minor increase of 1 %. Indeed, the growth in consumption could not be matched with a similar growth in employment as sales and production volumes decreased. As production fell by 8 %, productivity of the Union industry fell by 9 % over the period considered.

4.4.2.5. Magnitude of the dumping margin and recovery from past dumping

(424) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the PRC and Egypt.

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

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

Table 8

Average sales prices in the Union (EUR/kg)

	2015	2016	2017	Investigation Period
Average ex-works sales price per kg in the Union to unrelated customers	2,20	2,11	2,10	2,05
Index	*100*	*96*	*96*	*93*
Cost of production per kg	2,18	2,15	2,15	2,25
Index	*100*	*99*	*99*	*103*

Source: Verified questionnaire replies of the sampled Union producers.

(426) Whereas the Union industry's cost of production increased by 3 % over the period considered, mainly due to the loss of high volume contracts from the wind turbine industry, the Union industry's average unit sales price to unrelated customers in the Union decreased by 7 % during the investigation period. This demonstrates the severe price suppression caused by the significantly increasing volume of imports of the product concerned. As explained in recitals (431) and (439), this had a significant impact on the financial situation of the Union industry which became loss making during the investigation period.

4.4.3.2. Labour costs

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

Table 9

Average labour costs per employee (EUR)

	2015	2016	2017	Investigation Period
Average labour costs per employee	50 005	51 591	52 483	53 092
Index	*100*	*103*	*105*	*106*

Source: Questionnaire replies of the sampled Union producers.

(428) Between 2015 and the investigation period, the average labour costs per employee of the sampled Union producers increased by 6 %.

4.4.3.3. Inventories

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

Table 10

Inventories

	2015	2016	2017	Investigation Period
Closing stocks (kg)	5 426 656	6 841 685	6 941 733	6 822 739
Index	*100*	*126*	*128*	*126*
Closing stocks as a percentage of production (%)	4,3	5,1	5,3	6,0
Index	*100*	*117*	*122*	*137*

Source: Verified questionnaire replies of the sampled Union producers.

(430) Despite the fact that under normal market conditions, GFF is produced mostly to order and not on stock, there was a sharp increase in stock over the period considered of 26 %. This is explained by the fact that the Union industry was forced to compensate for the loss of high volume orders to its competitors from the countries concerned. In an attempt to maintain average unit cost at lower levels, the Union industry kept downtimes for machines at a minimum and produced GFF that could not be sold immediately to the customers.

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

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

Table 11

Profitability, cash flow, investments and return on investments

	2015	2016	2017	Investigation Period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	2,5	2,2	2,0	–3,4
Index	*100*	*88*	*80*	*– 139*
Cash flow (EUR)	8 928 397	5 507 539	8 100 306	1 257 171
Index	*100*	*62*	*91*	*14*
Investments (EUR)	4 572 837	5 164 214	3 963 173	5 050 438
Index	*100*	*113*	*87*	*110*
Return on investments (%)	15	14	13	– 17
Index	*100*	*93*	*89*	*– 118*

Source: Verified questionnaire replies of the sampled Union producers.

(432) The Commission established the profitability of the 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. Profitability followed a decreasing trend over the period considered and became negative during the investigation period.

(433) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed negatively over the period considered. It shows a constant deterioration, in particular at the end of the investigation period.

(434) Investments increased slightly by 10 % over the period considered, but show changing trends within the period considered. Most of the investment concerned production line maintenance. There was no investment in new GFF capacity, which reflects the decreasing market share.

(435) The return on investments is the profit expressed as a percentage of the net book value of investments. It developed negatively over the period considered resulting in a negative value in the investigation period.

(436) In their comments on the final disclosure, Jushi/Hengshi China asked the Commission to explain the discrepancy between profitability and sales prices of the Union industry in the complaint and in the final disclosure.

(437) The findings of the Commission, which were disclosed to the parties, are based on precise microeconomic data of the sampled producers, verified on spot by the Commission. The complaint, on the other hand, as noted by the exporting producers in their comments on the final disclosure, indeed 'does not cover the IP nor is it subject to the same level of evidentiary and disclosure obligations'. Other elements that likely lead to the difference are revisions of the sale data following the verification visits, and the inclusion into the sample of Union producers of a company that did not participate in the preparation of the complaint.

4.5. **Conclusion on injury**

(438) All main injury indicators showed a negative trend during the period considered. Production volume and sales volume decreased by some 8 % and 5 %, respectively. Considering the increase in consumption, the loss in sales volume translated in a decrease of market share from 73,7 % in 2015 to 63,4 % during the investigation period, namely a decrease of over 10 percentage points.

(439) Likewise, the main financial indicators also showed a negative trend which reflects the significant price suppression on the Union market as reflected in Table 8. Thus, over the period considered, unit sales prices decreased by 7 %, while at the same time the unit cost of production of the Union industry increased by 3 %. The increase in the average unit cost was due to the decrease in production volume as especially high volume purchases from the wind turbine industry were lost to Chinese and Egyptian producers. As a result, the profitability of the Union industry turned from a profit of 2,5 % in 2015 to a loss of −3,4 % in the investigation period. Similar negative effects are seen in cash flow and return on investment.

(440) On that basis, we conclude that the Union industry clearly suffered material injury.

5. **CAUSATION**

(441) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the PRC and Egypt caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the PRC and Egypt was not attributed to the dumped imports. These factors were imports from other third countries, decrease in demand of GFF in the period 2017 to 2018, the development of raw material costs, a self-inflicted injury due to a lack of supply flexibility, and a decrease in installation of wind turbines between 2017 and 2018.

5.1. **Effects of the dumped imports**

(442) Volume of imports from the PRC and Egypt and their accumulated market share increased by 53 % and 39 %, respectively, over the period considered. This increase exceeds substantially the increase of consumption during the same period, which was nearly 9 %. At the same time, the Union industry lost over 5 % of their sales volume and over 10 percentage points of market share. Furthermore, the prices of imports from the PRC and Egypt fell on average by nearly 14 % during the period considered, and undercut Union industry prices, during the investigation period, by between 15,4 % and 55,8 % and by 32,3 % on average. These low prices of imports together with the increasing import volumes from the PRC and Egypt exercised significant price pressure during the investigation period, which did not allow the Union industry to increase their prices above the average cost of production. To the contrary, prices of the Union industry decreased by nearly 7 % during the period considered. Consequently, the profitability of the Union industry was constantly declining and reached -3,4 % losses during the investigation period.

(443) The analysis of the injury indicators in recitals (363) to (440) shows that the economic situation of the Union industry worsened during the period considered and this coincided with an increase of dumped imports from the PRC and Egypt, which were found to undercut Union industry prices during the investigation period.

(444) One user claimed that there is no coincidence in time between the material injury suffered by the Union industry and the increase of imports from the countries concerned. That user argued that when the situation of the Union industry worsened between 2017 and the investigation period, the volume of imports from the countries concerned and their market share had in fact decreased.

(445) However, as shown in Table 3 in recital (378), imports from the countries concerned increased from 50 370 tonnes to 52 892 tonnes and their market share from 27,8 % to 31,4 % from 2017 to the investigation period. That claim was therefore rejected.

5.2. **Effects of other factors**

5.2.1. *Imports from other third countries*

(446) The volume of imports from other third countries developed over the period considered as follows:

Table 12

Imports from third countries

Country		2015	2016	2017	Investigation Period
India	Import volume (in tonnes)	1 057	2 495	3 290	3 095
	Index	*100*	*236*	*311*	*293*
	Market share (%)	0,7	1,4	1,8	1,8
	Index	*100*	*206*	*263*	*267*
	Import price (EUR/kg)	1,45	1,46	1,42	1,34
	Index	*100*	*101*	*98*	*93*

Country		2015	2016	2017	Investigation Period
Russia	Import volume (in tonnes)	2 071	2 013	2 047	2 352
	Index	*100*	*97*	*99*	*114*
	Market share (%)	1,4	1,1	1,1	1,4
	Index	*100*	*85*	*84*	*103*
	Import price (EUR/kg)	1,47	1,41	1,39	1,31
	Index	*100*	*96*	*94*	*89*
Other third countries (excl. India and Russia)	Import volume (in tonnes)	2 657	3 339	2 649	3 208
	Index	*100*	*126*	*100*	*121*
	Market share (%)	1,7	1,9	1,5	1,9
	Index	*100*	*110*	*84*	*110*
	Import price (EUR/kg)	2,39	2,20	2,16	2,12
	Index	*100*	*92*	*90*	*89*

Source: Comext, Questionaire replies Union producers, market intelligence provided by the Complainant.

(447) Imports from other third countries were mainly from two countries, namely India and Russia. These two countries had individually a market share above 1 % during the investigation period, while the imports of the remaining third countries each represented less than 1 % market share and together accounted for 1,9 %.

(448) The Indian exporters are related to the Union industry. The market share of Indian imports gradually increased throughout the period considered from 0,7 % to 1,8 %; however, these intra-company sales did not put any pressure on Union prices as they were made at transfer price level. The imports in question are semi-finished products that are used in the manufacturing of the final product, based on a technology of a specific European producer and are not sold in the open market. Therefore, the Commission concluded that these imports have not contributed to the injury suffered by the Union industry.

(449) The market share of Russian imports stayed stable over the period considered and even decreased between 2015 and 2017, before reaching similar levels in the investigation period as in 2015. Even though the prices of the imports from Russia were undercutting the Union producers' prices, considering the overall market share and the trend, it is unlikely that they had any impact on the injury suffered. Rather, the prices were a reaction to the price pressure from the PRC and Egypt. Therefore, Russian imports have not contributed to the loss of market shares by the Union industry throughout the period considered. In addition, the investigation found that the Russian exporters are Union industry's related companies and, therefore, these imports put no pressure on Union prices as these were intra-company sales made at transfer prices.

(450) Therefore, imports from other third countries were not the source of injury described in recitals (412) to (440) above.

5.2.2. *Decrease of GFF demand in the Union between 2017 and the investigation period*

(451) One user claimed that the injury of the Union industry was caused by the decrease in consumption between 2017 and the investigation period and another user claimed that the injury was caused by the decrease by the installations of wind turbines during this same period. The decrease of consumption from 2017 to 2018 of –7,3 % does not explain the sales volume loss of the Union producers of –13,3 % in the same period, especially taking into account that imports from the countries concerned increased by 5 % from 50 370 tonnes to 52 892 tonnes and their market share went from 27,8 % to 31,4 % in the same period between 2017 and the investigation period.

(452) That the injury was not caused by a decrease of consumption in 2018 gets even clearer looking at the entire period considered and not just comparing the last two years. The consumption in the Union increased during the period considered, while the market share of the Union industry continuously decreased during the same period and market shares of the countries concerned continuously increased. The Union industry could not benefit from the overall increase in consumption because of the dumped imports from the countries concerned that were consistently and substantially undercutting the Union industry's sales prices. While the Union industry became lossmaking only in the investigation period, the other years already showed a continuous decrease in their profits over the years from 2015–2017 as shown in recital (431).

(453) Those claims were therefore rejected.

5.2.3. *Increase of raw material cost*

(454) Both cooperating users argued that the increase of the cost of the main raw material (GFR) imported from the PRC by imposing definitive countervailing duties on these products as well as the increase in energy cost was the cause for the injury. Average unit cost of the Union industry increased only slightly by 3 % over the period considered, while import prices from the countries concerned decreased by nearly 14 % and undercut the Union prices by 32,3 %. Therefore, the injury suffered cannot be attributed to the increase in cost but to the pressure exercised by the dumped imports which prevented the Union industry from increasing its prices in view of the increased costs.

(455) Those claims were therefore rejected.

5.2.4. *Lack of flexibility of the Union industry*

(456) Users argued that the Union industry has a lack of flexibility and would only provide large quantities upon long-term commitments, which bear, however, significant financial risks to the users (wind industry) that chose other suppliers instead. However, the investigation found that the wind industry has a policy of diversifying its supply and always integrates Union GFF producers in its supply chain. The investigation has also shown that it is possible for a wind energy producer to have a multi-sourcing strategy only with Union GFF producers. This demonstrates that there are Union GFF producers that provide the wind industry with the product quality under the condition the wind industry requires as further elaborated in recital (471).

(457) These arguments were therefore rejected.

5.3. **Conclusion on causation**

(458) There was a clear coincidence in time between the substantial increase of imports from the countries concerned and the deterioration of the situation of the Union industry.

(459) The Commission has also investigated other factors of injury and has not found any other factors which contributed to the material injury suffered by the Union industry. In fact, none of the other factors examined, either individually or collectively, put into question that there is a genuine and substantial relationship between the dumped imports from the PRC and Egypt and the material injury suffered by the Union industry.

(460) In their comments on final disclosure, the Government of Egypt and CCCLA claimed on a general basis, that the material injury suffered by the Union industry was caused by imports from other third countries, the decrease in consumption between 2017 and the IP, the development of raw material costs, the lack of flexibility of the Union industry regarding supply and the decrease in the installation of wind turbines between 2017 and 2018, without, however, providing any reasoning or any information or evidence in support of this claim. They did also not contest any of the specific findings as detailed above in recitals (442) to (458). Therefore, this claim was rejected.

6. **UNION INTEREST**

(461) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all various interests involved, including those of the Union industry, importers, users, suppliers and ancillary industry namely cutters/kitters.

6.1. **Interest of the Union industry**

(462) The investigation has shown that the Union industry is suffering material injury because of the effects of dumped imports which undercut Union's prices and exercise price pressure causing significant loss of market share and leading to losses during the investigation period, as elaborated in recitals (412) to (458) above.

(463) The Union industry will benefit from measures, which would likely prevent a further surge of imports from the PRC and Egypt at very low prices. Without measures, Chinese and Egyptian producers will continue to dump GFF on the Union market and exert further price pressure, preventing the Union industry from selling GFF at an adequate profit and thus causing further material injury to the Union industry.

6.2. **Interest of the users**

(464) Wind turbine producers are the biggest users of GFF accounting for around 60–70 % of the GFF demand in the Union. The other users include boat (around 11 %), truck (around 8 %) and sport equipment (around 2 %) producers, as well as pipe rehabilitation system providers (around 8 %).

(465) Upon initiation, 25 known users in the Union were contacted and invited to cooperate. Two wind turbine producers came forward opposing potential measures on GFF. Three wind turbine producers came forward but did not express their views, despite being invited to do so in the notice of initiation and in the users' questionnaires, they replied to. The two wind turbine producers opposing measures were supported by an association representing the European wind energy industry. One of its members, a French wind energy association, however, explicitly expressed to remain neutral about potential duties.

(466) Following final disclosure, the association representing the European wind energy industry expressively stated that it would as an association oppose the imposition of measures. They also clarified that they were representing the two cooperating wind turbine producers. The two wind turbine producers provided a questionnaire reply. A third wind turbine producer declared to source GFF exclusively from various Union producers. Various ski equipment producers and various kitting companies came forward in support of the potential measures.

6.2.1. *Wind turbine producers*

(467) Two main types of wind turbines are (i) off-shore, which are generally bigger and meant to operate off coastal lines; and (ii) on-shore, which are meant to operate on land.

(468) Wind park projects in the Union are traditionally carried out by project developers, who are either energy companies or investors, and not by the wind turbine producers themselves. Whereas originally Member States guaranteed a feed-in price for the produced energy from wind parks, as of 2014 the support has moved to tender-based projects, in which various project developers compete, most recently on energy-neutral basis (namely wind can compete with solar energy).

(469) The two cooperating users are among the biggest wind turbine producers in the Union, together consuming above 20 % of the entire Union demand of GFF. They together import above 30 % of all imports from the countries concerned. Both companies put forward several claims, namely (i) the loss of supply stability; (ii) the loss competitiveness of the wind energy industry; (iii) risk of relocation part of their production, and (iv) the compatibility with the Union renewable energy goals, in case measures are imposed.

(i) ***Supply stability***

(470) The wind turbine producers argued that the GFF used in turbine blades undergo a sophisticated certification process, with intense and lengthy testing phases. The users further argued that only the Chinese GFF producers can supply high volumes of homogeneous quality on short notice due to their vertical integration. They also argued that the production volume of the Union producers is insufficient as it is below total Union consumption. According to the users, for these reasons, the wind turbine industry cannot quickly switch suppliers and even if it could, there is not enough GFF being produced in the Union.

(471) Whilst the majority of Union producers are not vertically integrated, the investigation has shown that, to prevent supply difficulties, the wind turbine producers usually have a multi-sourcing strategy, regularly purchasing the same kind of GFF from a Union producer and a Chinese or Egyptian producer. However, the Commission also received data from a third wind turbine producer, which multi-sources exclusively from Union producers. The fact that the multi-sourcing of a specific GFF includes regularly Union producers, both vertically integrated and non-integrated, demonstrates that non-integrated producers can equally provide the required GFF for the wind turbine production.

(472) With regard to the production capacity in the Union, as shown in Table 5, whilst the Union production is currently lower than consumption as shown in Table 2, the total Union production capacity exceeds it. The investigation has shown that there is currently a high spare capacity available of over 40 %, which is due to the increase of dumped and low priced imports from the PRC and Egypt that have taken over market share from the Union industry. That spare capacity is spread between 16 Union producers, rendering the Union a competitive market with varied internal sources of supply. Furthermore, additional capacity can be easily built as only low investments would be required. The Union industry is already suppling the wind turbine industry and is therefore already a certified supplier, it can therefore easily increase its supply under fair market conditions.

(473) Moreover, in medium to long term, wind turbine producers would be able to certify additional GFF producers either from the Union or from other non-dumped sources. As mentioned in recital (465) one of the wind turbine producers developed a multi-sourcing strategy based on several Union producers. Furthermore, there is sufficient spare capacity in the Union to do so at a scale needed by large wind turbine producers.

(474) Following the final disclosure one of the wind turbine producers claimed that the Commission has not drawn consequences from the certification process and that it wrongly concluded that it would be possible to easily switch between suppliers of GFF. The same wind turbine producer pointed out that the spare capacity of Union producers is spread out between 16 Union producers, and that it would not be feasible to certify all 16 Union producers. The same party argued that due to the long and costly certification process and the fact that the Union industry is not able to provide large quantities of homogeneous product quality, would not be commercially viable to switch suppliers or to source only from Union producers. This wind turbine producer argued further that users could not rely on the fact that additional capacity can be easily built by the Union producers.

(475) Firstly, as described in recitals (472) and (473) and in contrast to what was claimed the Commission took the fact into account that GFF producers need to undergo a certification process in order to be able to supply the wind turbine industry in consideration in its investigation. The Commission referred to the possibility to certify additional GFF producers in medium to long term and it did not conclude that a switch of suppliers was necessarily 'easy'. To the contrary, the Commission took well into consideration the lengthy duration of the certification process and the fact that is it not feasible to certify all Union producers for all types of GFF. Nontheless, the investigation revealed, as already set out in recital (472), that it is feasible that the production capacity of a specific producer to be expanded, if a wind turbine producer wishes to purchase high volumes from one certified Union producer. Following final disclosure the interested party in question did not submit any additional information that would have devaluated these findings.

(476) Secondly, as set out in further detail in recitals (472) and (473) the investigation revealed that in the medium and long term the risk of a shortage of supply is rather low. Likewise, the interested party has not brought forward any additional information that could have reversed these findings.

(477) Finally, it is noted that anti-dumping measures aim to re-establish fair competition and a level palying field in the Union market but do not aim to prevent imports from the countries concerned. In this specific case, the investigation established that anti-dumping duties will not prevent the wind turbine producers to continue to source at a fair price from their currently certified suppliers from the countries concerned. This is supported in particular by the findings outlined in recitals (481) to (484), namely that duties would only have a very minimal impact on the cost and profitability of the wind turbine producers.

(478) Consequently, the claims related to the supply stability were therefore rejected.

(ii) ***Competitiveness of the wind energy industry***

(479) The cooperating wind turbine producers argued that any price increase of GFF would severely affect their competiveness. They claimed that the proportion of costs GFF has to be assessed at the level of the production of blade and not an entire wind park. They further argued that the increase in costs due to the potential duties could not be passed on to the wind park developers due to the long-time lap between making an offer for a wind park project and the actual implementation. According to the wind turbine producers, the cost increase due to the duties will affect the long-term technological survival of the entire wind industry in the Union, since important research and development investments are essential to staying in the lead for the most efficient technology.

(480) The investigation has shown that turbine blades are not sold separately, but as a part of a wind turbine. Further to this, the project developers for wind parks regularly purchase additional wind park infrastructure from the wind turbine producers. Therefore, regarding the competitiveness of the wind turbine producers the cost for GFF should be set in relation to either the entire wind turbine or to the full wind park technology sold by the wind turbine producers and not just in relation to the manufacturing of blades as claimed, as this would not reflect the realities of the market.

(481) GFF together with epoxy resin are the two main components used in the production of blades for wind turbines. Thus, GFF represents [10 % to 35 %] of the raw material costs of a blade depending on the proportion of GFF on the one hand and other materials on the other hand used. However, the investigation has also shown that blade manufacturing is labour intensive and therefore the proportion of GFF in the total manufacturing costs of a blade is significantly lower and represents only [4 % to 14 %]. This proportion further drops to between [0,1 % to 2 %] in the total cost of a wind turbine and in the total costs of building of an entire wind park is concerned.

(482) Given the only minor part of GFF in the cost of a wind park [0,1 % to 2 %],the impact of the definitive duties on the GFF in the total cost of a wind park is considered to be negligible, especially since a large part of the GFF is sourced in the Union. The investigation has shown that the Union wind turbine producers also have considerable bargaining power to pass on the additional cost to wind park developers since collectively they are the main wind turbine suppliers on the Union market. Taking the minor part of GFF in the cost of a wind park, the profitability should stay at a level to maintain the level of research and development investments, which are essential to staying in the lead for the most efficient technology.

(483) Even though it cannot be excluded that the competitive nature of indirectly participating in the tendering process may make such pass-on difficult, it should be taken into consideration that unlike GFF producers, the cooperating wind turbine producers are in healthy financial condition with profit margins where the small impact of the duties would be easily absorbed. Furthermore, both cooperating wind turbine producers are not only selling the wind turbines but also associated follow-up maintenance services to wind park developers. These contracts are very lucrative. The attractiveness of the service part of the business is also reflected by the recent acquisition of the service department of an insolvent competitor ([105]) by one of the cooperating users.

(484) Therefore, any cost increase due to anti-dumping duties that could not be passed on to wind park developers could be easily absorbed by the wind turbine producers. In addition, as stated in recital (473), wind turbine producers should also be able to change their suppliers to a GFF source not affected by dumping, be it in the Union or elsewhere.

(485) Following the final disclosure, two wind turbine producers reiterated their argument that the effect of duties on the competitiveness of the wind turbine industry should not be assessed in relation to a wind park or wind turbine, but only in relation to the wind blade. One of them argued that the blades would not be produced together with the other components of the wind turbines and that assessing the effect of the duties based on the entire wind park disregards the business reality.

(486) The other wind turbine manufacturer contested that the wind turbine industry would be generally in healthy financial conditions. They claimed that the wind turbine service business should not be included in the assessment as it would be a different business unit within the company.

(487) The same party re-iterated that in projects the wind industry is directly competing with producers of other energy sources, in particular solar energy. Solar panels are, however mostly produced outside of the European Union with lower labour costs. They claimed that the Commission should take this into consideration in the analysis.

(488) The same party also argued that they would have no bargaining power to pass on costs due to the price pressure.

([105]) Acquisition of selected assets of Senvion by Siemens Gamesa in October 2019.

(489) One wind turbine producer further argued that the service business would belong to a different business unit and that the competitiveness should be analysed per business unit.The association representing the wind industry also argued that the industry would not overall be in a financially healthy condition that could absorb raw material price increases as some wind turbine producers are in a loss making situation and the overall profit margins have decreased over the last years.

(490) The Commission recalls that the investigation revealed that blades are not sold separately, but together with wind turbines or even as part of a entire wind park. Therefore, the effects of duties in relation to the wind blades need to be analysed with regard to the relocation risk of the blade production, but not when analysing the competitiveness of the wind turbine producers. The Commission has analysed the financial situation of the sampled wind turbine producers, which has proven to be healthy. Despite internal organisation into different business units the servicing of wind turbines is closely connected to the sales of wind turbines. Therefore the internal business unit split has no effect on the analysis of the competitiveness that must take into account the business model as a whole.

(491) The Commission also took into consideration that wind energy is competing with other energy sources like solar energy, including in energy neutral tender processes and that solar panels are now mostly produced outside the Union. Wind energy competes with other energy sources on the basis of the cost of the entire wind park technology and the investigation has demonstrated the small impact that duties on GFF would have on the cost of the entire wind park technology. Also over the last decade newly installed wind energy capacity has become much more cost efficient. Therefore the duties should not impact the competitiveness of the wind energy towards other energy sources.

(492) The Commission has also taken account of the price pressure, which the tendering system has created for wind turbine producers. However, the strong market position of the Union wind turbine producers ensures a certain bargaining power.

(493) The fact that some wind turbine producers are in a loss making situation and the overall profit margins have decreased over the last years does not contradict the overall picture that the industry is in a financially healthy condition. The decrease of the profit margins in recent years is not linked to an increase of raw material prices, but mostly to a change in the system to award wind parks. This change has caused a market consolidation phase, in which some wind turbine producers operate at loss. It is however, not unusual that during a market consolidation phase some market players operate at a loss.

(494) In their comments on the final disclosure the CCCLA argued that, if the Commission imposes high anti-dumping duties on imported GFF from China and Egypt, the Union industry of GFF may achieve higher profit but the cost of GFF for the European wind turbine manufacturers will increase accordingly. The CCCLA further argued that, composite materials, including GFF, make up more than 90 % of the manufacturing costs of a wind turbine blade. According to the CCCLA, it makes no sense for the Commission to compare the cost of GFF with the total cost of a wind park. CCCLA emphazised that the European wind turbine manufacturers have to be competitive on cost. In this regard, the CCCLA argued that it should be borne in mind that the wind industry competes also with other types of renewable energy sources (including e.g. solar PV panels manufactured outside the European Union).

(495) The Commission notes that, as mentioned in recital (481), GFF constitutes [4 % to 14 %] of cost of manufacturing of a blade. This has not been disputed by the wind turbine manufacturers, who provided this data. Furthermore, CCCLA does not clarify why 'it makes no sense […] to compare the cost of GFF with the total cost of a wind park' when assessing the competitiveness of entities that sell the entire wind park technologies. This statement was not substantiated further. In this regard, as explained in recital (480), the investigation has shown that the turbine blades are not sold separately, but as part of a wind turbine. The comments of the CCCLA in this regard were therefore rejected.

(496) Given the above, all claims with regard to the competiveness of the wind turbine producers were rejected.

(iii) ***Relocation of the blade production***

(497) The cooperating users further claimed that any increase in the production cost of blades would lead to the relocation of this production step outside the Union with thousands of job losses in the Union.

(498) As far as on-shore blade production is concerned, the investigation has shown that the relocation of this production is already taking place without the application of measures on GFF. This is due to the market growth of wind park projects outside the Union, combined with a decline of new wind park project development in the Union, and for instance hitting a 20-year low in Germany. Another reason is the high cost of labour involved in the production of blades. The investigation has shown that the production of blades is labour intensive and that labour costs exceed the cost of GFF by [300 % to 700 %]. Lower labour costs in third countries are therefore a high incentive to relocate the blade production. The imposition of anti-dumping duties on GFF would play a minor role, if any at all.

(499) The investigation revealed further that for off-shore blades transport costs play a more important role than the raw material costs of the blades, such as GFF. Off-shore blades are longer and heavier than on-shore blades, which makes transport more complex and expensive. Relocating production of off-shore blade is therefore not likely to be caused by anti-dumping duties on the product concerned.

(500) Following the final disclosure, one wind turbine producer re-iterated that the imposition of measures will lead the relocation of the blade production and that the analysis of the Commission would be based on wrong assumptions.

(501) However, as described in the assessment outlined in recitals (498) and (499) the investigation has identified various other factors that play a major role for the decision where to locate the blade production and that an increase in GFF cost would not likely be the decisive factor for a relocation. The fact that relocation of production due to the factors mentioned in recitals (498) and (499) has already taken place underlines this assessment. Also the fact that despite lower labour cost and important production capacity, production was maintained in the Union underlines the importance of transport costs, which prevents a relocation just based on a single manufacturing cost advantage.

(502) Therefore, the claims with regard to the relocation of the blades production to other third countries was rejected.

(iv) ***Renewable energy policy***

(503) One user argued that the imposition of measures would contradict the objectives set by the Union in its renewable energy policies, as it would increase significantly the production costs of wind turbines. It referred in support to the Commission's European Industrial Initiative on wind energy which includes the objective to reduce the manufacturing costs of wind turbines and their components by 20 % by 2020.

(504) As shown in recitals (480) to (484), the investigation does not support this claim, as it found that any anti-dumping measures would only have a negligible impact on the costs of wind turbine producers. In addition, that user also failed to demonstrate how anti-dumping measures on GFF, representing only a fraction of the costs of wind park technology, would prevent the steadily growing proportion of wind energy in Europe or prevent reaching the 2020 goal. That claim was therefore rejected.

(505) One wind turbine producer reiterated that the duties would run counter to the objectives sets by the EU in its renewable energy policy and claimed that the Commission has not provided any evidence or arguments rebutting the position.

(506) As stated in recital (504), the Commission based its findings on the the analysis of the cost impact on the wind park technology, which was considered not substantial and was not likely to have a significant negative impact on the wind industry as a whole. Further the investigation has also shown that the Union producers of GFF play an important role in assuring a long term sourcing strategy for the Union renewable energy policy without creating a dependency of supply from only third countries. European GFF producers are necessary so that wind turbine producers as part of the renewable energy policy have a reliable partner to develop new raw materials and stay ahead of the competition from third country producers. Finally, it is considered that the policy of enduring a level playing field in the EU does not contradict the goals of the renewable energy policy does.

(507) The claims of the interested parties in this regard were therefore rejected.

6.2.2. *Ski producers and other users*

(508) Several users from the skiing industry argued that the existence of GFF producers in the Union was essential to their supply stability, as they required a local partner for close cooperation and tailor-made GFF in lower volumes currently not produced outside the Union. Furthermore, they emphasised that the GFF industry in the Union was an essential partner in the improvement of their products and the development of new solutions. The research and development cooperation with the GFF producers in recent years has led to several efficiency gains, improved product performances and the development of new and more environmentally friendly products. Those users argued that Union ski producers cannot enter into the same level of cooperation with Chinese or Egyptian suppliers of GFF, as they would lose the ability to stay at the forefront of (green and sustainable) innovations and would themselves become more exposed to unfairly competing imports.

(509) The Commission found the arguments put forward compelling, especially as far as research and development is concerned in an R&D driven industry. No counter arguments on the points raised were received from the exporting producers. However, the Commission also noted that ski producers are less voluminous GFF users than the wind turbine producers.

(510) Other Union users did not come forward in the investigation.

(511) Therefore, the Commission concluded that there were no compelling reasons from the users not to impose anti-dumping measures, but rather that the survival of the Union GFF industry is important for several groups of users.

6.3. **Suppliers**

(512) Two Union producers of GFR, the main input for GFF, as well as an association representing the Union GFR producers came forward and argued in favour of the imposition of anti-dumping measures. They claimed that it would be detrimental for the Union GFR producers to lose their main customers as this would threaten their own survival in the Union.

(513) Therefore, the Commission concluded that the imposition of measures is clearly in the interest of the Union GFR producers as suppliers for the GFF producers.

6.4. **Importers**

(514) As mentioned in recital (16), only one independent importer came forward, but that imported only negligible volumes below 25 tonnes of GFF from the PRC. Since most high volume users require specific GFF made to order, it is not a product that is regularly imported in high volumes by independent traders.

(515) Therefore, the Commission concluded that there were no compelling reasons from unrelated importers not to impose measures as they only import negligible volumes of GFF.

6.5. **Cutting and kitting service providers**

(516) Increasingly users, especially the wind turbine industry, demand GFF in form of kits (see recitals (58) to (66)), which are cut to shape and put together by sewing various layers of GFF, thereby enabling a faster production of the downstream industry. Over the last years, this has created a market for service providers in the Union. One cutting company came forward and argued in favour of the imposition of anti-dumping measures. Since Chinese and Egyptian exporting producers increasingly integrate these additional services, as opposed to the Union industry, the service providers would lose a substantial part of their business, if the Union producers would disappear from the market. According to estimates from cutters, the Union cutting industry employees more than 2 000 people.

(517) Therefore, the Commission concluded that the imposition of measures is clearly in the interest of the Union kitting and cutting service providers for the GFF producers.

6.6. **Conclusion on Union interest**

(518) The imposition of measures is clearly in the interest of the Union GFF industry, whose survival is threatened by the dumped imports of the product concerned. The survival of the Union GFF industry is important for the supply stability of their customers in the Union, especially for users who depend on a close local cooperation and require lower volumes of specific GFF, which cannot be purchased from the PRC or Egypt. For some users it is also essential to maintain the development of new GFF in the Union so that they themselves are not put in a disadvantageous position when competing with imports from outside the Union. Further, the survival of the Union GFF industry is also essential for the survival of their Union GFR suppliers and Union service providers for cutting and kitting.

(519) However, the imposition of measures, as shown in recitals (467) to (504) above would not have significant adverse effects for the wind turbine producers.

(520) On that basis, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose definitive measures on imports of GFF originating in the PRC and Egypt.

7. **DEFINITIVE ANTI-DUMPING MEASURES**

(521) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports of the product concerned.

7.1. **Injury elimination level (injury margin)**

(522) To determine the level of the measures, the Commission first established the amount necessary to eliminate the injury suffered by the Union industry.

(523) In this case, the injury would be eliminated if the Union industry was able to cover its cost of production, including those costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is part, and of ILO Conventions listed in Annex Ia of the basic Regulation, and obtain a reasonable profit ('target profit').

(524) Article 7(2c) of the basic Regulation sets the minimum target profit at 6 %. In accordance with that Article, to establish the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the PRC and Egypt, the level of profitability needed to cover full costs and investments, costs for research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition.

(525) As shown in Table 3, the accumulated imports from the PRC and Egypt increased consistently throughout the period considered. None of these years would therefore qualify for providing a target profit in accordance with Article 7(2c) of the basic Regulation. None of the sampled producers made a substantiated claim for investments foregone or R&D and innovation costs. In view of those facts, the Commission resorted to the use of the minimum 6 % target profit which was added to the Union industry's actual cost of production to establish the non-injurious price.

(526) As no claims were made pursuant to Article 7(2d) concerning current or future costs which result from multilateral environmental agreements and protocols thereunder or from the listed ILO Conventions, no further costs were added to the non-injurious price thus established.

(527) The Commission then determined the injury elimination level based on a comparison of the weighted average import price of the sampled cooperating exporting producer in the PRC with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value. The resulting underselling margin was 79,5 %.

(528) The injury elimination level for Chinese 'other cooperating companies' listed in the Annex to this Regulation was set at the same level as the injury elimination level of the sole cooperating sampled group of exporting producers (Yuntianhua group) as explained in recital (288), namely 37,6 %.

(529) The injury elimination level for 'all other companies' for the PRC is defined, in line with the methodology used for setting the residual dumping margin as explained under recital (289), at the level of the highest individual underselling margin found, namely 109,3 %. The Commission established the injury margin based on the facts available, in accordance with Article 18 of the basic Regulation. In view of the high cooperation of the exporting producers, which covers the totality of the exports of GFF from the PRC to the Union based on Eurostat import statistics, the Commission considered the highest injury margin found of the sampled exporting producers/groups of exporting producers, namely the CNBM group, to be representative for establishing the residual injury margin.

(530) The Commission then determined the injury elimination level based on a comparison of the weighted average import price of the sampled cooperating exporting producer in the Egypt with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value. The resulting underselling margin was 63,9 %.

(531) The injury elimination level for 'all other companies' for Egypt is defined, in line with the methodology used for setting the residual dumping margin as explained under recital (361), at the level of the individual underselling margin established for the cooperating companies, namely 63,9 %.

(532) In their comments on the final disclosure, Jushi/Hengshi China argued that their sales of kits should be excluded from the injury margin calculation to ensure fair comparison for the purposes of calculating the undercutting and underselling margins. According to the exporting producer, these kits contain a variety of fabrics of different qualities, shape, area weight and density, which are bundled together in accordance to the unique specifications. Thereby they were not comparable to kits sold by the Union producers.

(533) The Commission considered the exporting producers' argument and agreed that given the unique combination of kits a comparison would most likely result in comparing different kits. The Commission noted that both exporting producers and Union industry producers expressed their concerns in classifying kits with sufficient precision for the purpose of this investigation. While there is no question that the kits are part of the product concerned and caused injury to the Union industry, the Commission found it reasonable not to include the kits in the quantification of the undercutting and underselling margins, as requested by the exporting producers. The Commission therefore recalculated the underselling and undercutting margins accordingly. Such recalculation only slightly affected the undercutting margins calculations referred in recitals (384), since sales/imports of kits were not significant. The undercutting established for the only exporting producer affected by this recalculation went from 42,4 % to 42,1 %.

7.2. **Definitive measures**

(534) Definitive anti-dumping measures should be imposed on imports of GFF originating in the PRC and Egypt in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The amount of the duty should be set at the level of the lower of the dumping and the injury margin.

(535) Therefore, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country concerned	Company	Dumping margin (%)	Injury margin (%)	Definitive anti-dumping duty (%)
The PRC	CNBM group	99,7	108,9	99,7
The PRC	Yuntianhua group	64,7	37,6	37,6
The PRC	Other cooperating companies	64,7	37,6	37,6
The PRC	All other companies	99,7	108,9	99,7
Egypt	CNBM group	20,0	63,9	20,0
Egypt	All other companies	20,0	63,9	20,0

(536) The individual company anti-dumping duty rates specified in this Regulation were established based on the findings of this investigation. Therefore, they reflected the situation found during this investigation. These duty rates are exclusively applicable to imports of the product concerned originating in the PRC and Egypt and produced by the named legal entities. Imports of 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 any of the individual anti-dumping duty rates.

(537) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([106]). 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*.

(538) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

(539) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 ([107]), when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

(540) Following final disclosure the Government of Egypt refered to Article 15 of the WTO Anti-dumping Agreement and argued that as a developing country, under the said Article special regard must be given by the Commission to the situation in Egypt, when considering application of anti-dumping measures. The Commission notes that it explicitly invited the exporting producers in Egypt to submit an undertaking offer in accordance with Article 8 of the basic Regulation, but that none of the exporting producers submitted a proposal on this basis. Therefore the Commission considers that it acted fully in line with Article 15 of the WTO Anti-dumping Agreement to explore the 'possibilities of constructive remedies'.

7.3. **Special monitoring clause**

(541) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

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

([107]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(542) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this Regulation, the customs authorities of Member States should carry out their usual checks and should, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

(543) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

8. **DISCLOSURE**

(544) On 19 December 2019, interested parties were informed of the essential facts and considerations based on which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of GFF originating in the PRC and Egypt.

(545) Interested parties were also granted a period within which they could make representations subsequent to this disclosure. The Union producers association, the two cooperating users producing wind turbines, the European wind energy association, three exproting producers from the countries concerned (Jushi/Hengshi, Taishan and Yuntianhua group), CCCLA and the EG Government submitted comments on disclosure.

(546) Upon request, hearings were held with Jushi/Hengshi China and Jushi/Hengshi Egypt and Yuntianhua group. The intervention of the Hearing Officer was requested by Yuntianhua group. The hearing took place on 17 January 2020.

(547) The Government of Egypt submitted that, as an interested party, it was not informed of the essential facts under consideration which formed the basis for the decision to apply definitive measures. The Commission notes that on 19 December 2019 it provided the Government of Egypt all essential facts and considerations forming basis for the Commission conclusions in providing a General Disclosure Document in accordance with Article 20 of the basic Regulation. As mentioned in recital (545), the Government of Egypt submitted comments following this disclosure.

(548) On 10 February 2020, the Commission taking into account certain claims received following final disclosure that had an impact on the outcome of the investigation, disclosed those facts and considerations that lead the Commission to the modification of the final findings as disclosded previously. Interested parties were also granted a period within which they could make representations subsequent to this additional disclosure. Jushi/Hengshi Egypt, the Government of Egypt and Yuntianhua group submitted comments. Upon request, a hearing was held with Jushi/Hengshi Egypt. The intervention of the Hearing Officer was requested by Jushi/Hengshi Egypt. The hearing took place on 25 February 2020.

(549) The comments submitted by interested parties were duly considered, and, where appropriate, the findings have been modified accordingly.

(550) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m^2, originating in the People's Republic of China and Egypt, currently falling under CN codes ex 7019 39 00, ex 7019 40 00, ex 7019 59 00 and ex 7019 90 00 (TARIC codes 7019 39 00 80, 7019 40 00 80, 7019 59 00 80 and 7019 90 00 80).

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

Country	Company	Definitive anti-dumping duty	TARIC additional code
People's Republic of China	Jushi Group Co. Ltd; Zhejiang Hengshi Fiberglass Fabrics Co. Ltd; Taishan Fiberglass Inc.	99,7 %	C531
People's Republic of China	PGTEX China Co. Ltd; Chongqing Tenways Material Corp.	37,6 %	C532
People's Republic of China	Other cooperating companies not included in the sample listed in the Annex	37,6 %	
People's Republic of China	All other companies	99,7 %	C999
Egypt	Jushi Egypt For Fiberglass Industry S.A.E; Hengshi Egypt Fiberglass Fabrics S.A.E.	20,0 %	C533
Egypt	All other companies	20,0 %	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by name and function, drafted as follows: *'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Where a new exporting producer from the People's Republic of China provides sufficient evidence to the Commission, the Annex may be amended by adding that new exporting producer to the list of cooperating companies not included in the sample and thus subject to the appropriate weighted average anti-dumping duty rate, namely 37,6 %. A new exporting producer shall provide evidence that:

(a) it did not export the goods described in Article 1(1) originating in the People's Republic of China during the period of investigation (1 January 2018–31 December 2018);

(b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and

(c) it has either actually exported the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation.

Article 3

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, 1 April 2020,

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Cooperating Chinese exporting producers not sampled

Name of the Company	TARIC additional code
Changshu Dongyu Insulated Compound Materials Co., Ltd	B995
Changzhou Pro-Tech Industry Co., Ltd	C534
Jiangsu Changhai Composite Materials Holding Co., Ltd;	C535
Jiangsu Jiuding New Material Co., Ltd	C536
Neijiang Huayuan Electronic Materials Co., Ltd	C537
NMG Composites Co., Ltd	C538
Zhejiang Hongming Fiberglass Fabrics Co., Ltd	C539