

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1478**of 6 September 2022****extending the definitive countervailing duty imposed by Implementing Regulation (EU) 2020/776, on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt to imports of certain woven and/or stitched glass fibre fabrics consigned from Turkey, whether declared as originating in Turkey or not**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation') and in particular Article 23 thereof,

Whereas:

1. PROCEDURE**1.1. Existing measures**

- (1) In June 2020, the European Commission ('the Commission') imposed a definitive countervailing duty on imports of certain woven and/or stitched glass fibre fabrics ('GFF') originating in the People's Republic of China ('the PRC' or 'China') and Egypt by Commission Implementing Regulation (EU) 2020/776 ⁽²⁾. The anti-subsidy measures took the form of an *ad valorem* duty ranging between 17 % and 30,7 % for imports originating in the PRC and an *ad valorem* duty of 10,9 % for imports originating in Egypt ('the initial measures'). The investigation that led to these duties was initiated on 16 May 2019 ('the initial investigation') ⁽³⁾.

1.2. Request

- (2) The Commission received a request pursuant to Articles 23(4) and 24(5) of the basic Regulation to investigate the possible circumvention of the countervailing measures imposed on imports of GFF originating in China and Egypt by imports of GFF consigned from Turkey, whether declared as originating in Turkey or not, and to make such imports subject to registration.
- (3) The request was lodged on 3 November 2021 by TECH-FAB Europe e.V, an association of Union producers of GFF ('the applicant').
- (4) The request contained sufficient evidence of a change in the pattern of trade involving exports from China, Egypt and Turkey to the Union that had taken place following the imposition of measures on GFF originating in China and Egypt. The change in the pattern of trade appeared to stem from a practice, process or work for which there is insufficient due cause or economic justification, other than the imposition of the duty, namely the consignment of the GFF from Turkey to the Union with or without having undergone some assembly or completion operation in Turkey, in particular by a company named Turkiz Composite Materials Technology Üretim Sanayi ve Ticaret Anonim Şirketi (hereafter 'Turkiz Composite' ⁽⁴⁾), a company located in the ASB European free zone in Marmara, Turkey.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 1).

⁽³⁾ OJ C 167, 16.5.2019, p. 11.

⁽⁴⁾ This company was previously named Hengshi Turkey, which is the name referred to in the request.

- (5) Furthermore, the request contained sufficient evidence showing that the practice, process or work were undermining the remedial effects of the existing anti-subsidy measures in terms of quantity and prices. Significant volumes of imports of the product under investigation appeared to have entered the EU market. In addition, there was sufficient evidence that imports of GFF were made at injurious prices.
- (6) Finally, the request contained sufficient evidence that GFF consigned from Turkey continued to benefit from subsidies for the production and sale of GFF under the existing measures. Indeed, GFF and the parts thereof are produced by and exported to Turkey by companies in China and Egypt that were found to receive countervailable subsidies for the production and sale of GFF under the existing measures.

1.3. Product concerned and product under investigation

- (7) The product concerned 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, classified on the date of entry into force of Implementing Regulation (EU) 2020/776 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) and originating in the People's Republic of China and Egypt ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (8) The product under investigation is the same as that defined in the previous recital, but consigned from Turkey, whether declared as originating in Turkey or not (classified on the date of entry into force of Commission Implementing Regulation (EU) 2021/2230 ⁽⁵⁾ under TARIC codes 7019 39 00 83, 7019 40 00 83, 7019 59 00 83 and 7019 90 00 83) ('the product under investigation').
- (9) The investigation showed that GFF exported from China and Egypt to the Union and GFF consigned from Turkey, whether originating in Turkey or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore considered as like products within the meaning of Article 2(c) of the basic Regulation.

1.4. Initiation

- (10) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 23 of the basic Regulation, the Commission initiated the investigation and made imports of GFF consigned from Turkey, whether declared as originating in Turkey or not, subject to registration, by Commission Implementing Regulation (EU) 2021/2229 ⁽⁶⁾ ('the initiating Regulation').

1.5. Comments on initiation

- (11) LM Wind Power, a wind blade manufacturer established in the Union, argued that the initiation of the investigation was not justified due to a lack of sufficient evidence, and the investigation should therefore be immediately terminated.

⁽⁵⁾ Commission Implementing Regulation (EU) 2021/2230 of 14 December 2021 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Commission Implementing Regulation (EU) 2020/492 on imports of certain woven and/or stitched glass fibre fabrics originating in People's Republic of China and Egypt by imports of certain woven and/or stitched glass fibre fabrics consigned from Turkey, whether declared as originating in Turkey or not, and making such imports subject to registration (OJ L 448, 15.12.2021, p. 58).

⁽⁶⁾ Commission Implementing Regulation (EU) 2021/2229 of 14 December 2021 initiating an investigation concerning possible circumvention of the countervailing measures imposed by Implementing Regulation (EU) 2020/776 on imports of certain woven and/or stitched glass fibre fabrics originating in People's Republic of China and Egypt by imports of certain woven and/or stitched glass fibre fabrics consigned from Turkey, whether declared as originating in Turkey or not, and making such imports subject to registration (OJ L 448, 15.12.2021, p. 52).

- (12) It argued that circumvention did not occur since there is no change in the pattern of trade between Turkey and the Union on the one hand, or between China and Egypt, and the Union on the other hand, that would be indicative of a circumvention practice. It also argued that the practice, process or work taking place in Turkey did not fall within any of the categories of the second subparagraph of Article 23(3) of the basic Regulation. In particular, there was no positive evidence in the request that consignment of GFF originating in China or Egypt from Turkey to the Union took place. Moreover, the practice, process or work cannot be qualified as a slight modification, as the product under investigation is a downstream product and, as such, a different product than its input materials (mainly glass fibre rovings), or an assembly operation, in particular since the product under investigation and glass fibre rovings are not classified under the same tariff headings.
- (13) It also claimed that there was sufficient due cause and economic justification within the meaning of Article 23(3) of the basic Regulation for the practice, process or work taking place in Turkey via the establishment of a GFF production plant in Turkey. There was a significant demand for GFF in Turkey, largely driven by the wind energy sector in Turkey, with a need of around 20 000 – 25 000 tonnes in 2020. Demand was growing, which was shown by the fact that in 2018, a Turkish company set up a new glass fibre production facility in Turkey with an additional annual production capacity of 70 000 tonnes. Finally, it claimed that there was also a growing demand for GFF in neighbouring regions, close to Turkey, such as the Middle East and Africa and that these facts also justified the establishment of a production plant in Turkey.
- (14) Similar comments were received from another European wind blade manufacturer established in the Union, i.e. Vestas Wind Systems A/S and from one Turkish exporting producer of GFF, i.e. Turkiz Composite, located in the ASB European free zone in Marmara, Turkey where it benefits from income tax and VAT exemptions.
- (15) Concerning the economic justification of its establishment in Turkey, Turkiz Composite also argued that the board of directors of its Chinese parent company took the decision to establish the company in Turkey already on 24 April 2018, i.e. before the Commission initiated the initial investigation, as referred to in recital (1).
- (16) The Egyptian authorities claimed that Egypt had been unfairly involved in the present investigation as no circumvention practice involving Egypt has taken place. They also argued, similar to the claims of LM Wind Power, that there was a lack of evidence to prove circumvention in a form of either assembly operations in Turkey involving the exports of glass fibre rovings from Egypt or transshipment between Turkey and the Union involving GFF from China and Egypt.
- (17) The Turkish authorities emphasized that there is a significant installed capacity and production of GFF in Turkey, and that it believed that Turkish domestic producers that fulfil the relevant conditions should be exempted from the extension of measures.
- (18) Finally, Amiblu Holding GmbH, a supplier of glass fibre reinforced plastic pipe systems and solutions in the Union argued that it is in the Union's interest to act against market distortive circumvention practices with regard to imports of GFF from third countries, including Turkey. In particular, it argued that as its Turkish competitors are not subject to anti-dumping and countervailing measures on imports of glass fibre rovings, the competitive position of the Union industries was affected. It also urged the Commission to examine systematically circumvention mechanisms in third countries, including Turkey.
- (19) With regard to the claims concerning the initiation of the investigation, the Commission recalled that the investigation was initiated on the basis of the evidence provided in the request. Whilst the investigation could not confirm the existence of transshipment without assembly operations, it did find evidence of assembly or completion operations. In this regard, the Commission recalled that the second subparagraph of Article 23(3) of the basic Regulation explicitly uses the wording 'inter alia', thus covering circumvention practices, such as assembly operations, which are not explicitly listed in the Article. The request provided sufficient evidence ⁽⁷⁾ of the existence of assembly operations and that these assembly operations were done using glass fibre rovings from the PRC and Egypt ⁽⁸⁾. The tariff classification of the product under investigation or its main input materials is irrelevant for determining whether an assembly operation constitutes circumvention.

⁽⁷⁾ See the request, open version, points 40 to 42, page 10.

⁽⁸⁾ See the request, open version, point 29, page 8 and point 41, page 9.

- (20) In addition, the request provided sufficient evidence regarding the lack of economic justification other than the imposition of the duties, such as its reference to the 2018 annual report of China Hengshi Foundation Company Limited ⁽⁹⁾. According to the request, the operating risks identified by the 2018 annual report with the expansion of the operations of the China National Building Materials Group to Turkey were '*risks associated with the anti-dumping duties imposed on our products by the European Union and the Sino-U.S. trade friction*' ⁽¹⁰⁾. The separate anti-dumping investigation explicitly referred to was initiated about three months before the initiation of the initial investigation, which led to the imposition of the countervailing duties. Thus, this statement shows an intention to circumvent the duties resulting from the Commission's investigation.
- (21) Therefore, the Commission rejected the claims that the request did not contain sufficient evidence to warrant the initiation of the investigation. The Commission took note of the statements by Amiblu Holding GmbH and the Turkish authorities.

1.6. Investigation period and reporting period

- (22) The investigation period covered the period from 1 January 2019 to 30 June 2021 ('the investigation period' or 'IP'). Data were collected for the IP to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures on the product concerned, and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the period from 1 July 2020 to 30 June 2021 ('the reporting period' or 'RP') in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of subsidisation.

1.7. Investigation

- (23) The Commission officially informed the authorities of China, Egypt and Turkey, the known exporting producers in those countries, the Union industry and the President of the EU-Turkey Association Council of the initiation of the investigation.
- (24) In addition, the Commission asked the Mission of Turkey to the European Union to provide it with the names and addresses of exporting producers and/or representative associations that could be interested in participating in the investigation in addition to the Turkish exporting producers, which were identified in the request by the applicant.
- (25) Exemption claim forms for the producers/exporters in Turkey, questionnaires for the producers/exporters in China and Egypt, and for importers in the Union were made available on DG TRADE's website.
- (26) Out of the six known exporting producers, four of them submitted exemption claim forms. These were:
- Saertex Turkey Tekstil Ltd. Şti.,
 - Sonmez Asf Iplik Dokuma Ve Boya San Tic A. Ş.,
 - Telateks Tekstil Ürünleri Sanayi ve Ticaret Anonim Şirketi, and Telateks Dış Ticaret ve Kompozit Sanayi Anonim Şirketi, belonging to the group 'Metyx Composites' (a division of Telateks A.S),
 - Turkiz Composite.
- (27) In addition, six Chinese and Egyptian companies, all related to Turkiz Composite, submitted questionnaire replies.
- (28) Moreover, the Hungarian company Metyx Hungary Korlátolt Felelősségű Társaság (a related importer of GFF produced by Telateks Tekstil Ürünleri Sanayi ve Ticaret Anonim Şirketi) and the German company Saertex GmbH & Co. KG (the parent company and the importer of GFF produced by Saertex Turkey Tekstil Ltd. Şti.) submitted questionnaire replies.

⁽⁹⁾ The China National Building Materials Group is the Chinese owned Group to which the Turkish exporting producer Turkiz Composite belongs and to which the company China Hengshi Foundation Company Limited belongs.

⁽¹⁰⁾ See the request, open version, point 27, page 8.

- (29) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that the non-submission of all relevant information or the submission of incomplete, false or misleading information might lead to the application of Article 28 of the basic Regulation and to findings being based on the facts available.
- (30) A hearing was held on 4 February 2022 with LM Wind Power. Following disclosure, on 12 July a hearing was held with Turkiz Composite.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (31) In accordance with Article 23(3) of the basic Regulation, the following elements should be analysed in order to assess possible circumvention:
- whether there was a change in the pattern of trade between the PRC/Egypt/Turkey and the Union,
 - if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the measures in force,
 - if there is evidence of injury or the remedial effects of the measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and
 - whether the imported like product and/or parts thereof still benefitted from the subsidy.
- (32) The request alleged transshipment, and in particular the consignment of the GFF from Turkey to the Union with or without having undergone some assembly or completion operation in Turkey (see recital (4)).
- (33) With regard to transshipment, the investigation did not reveal any evidence that either of the four co-operating exporting producers were involved in such practices. Therefore, this allegation could not be confirmed by this investigation.
- (34) With regard to assembly / completion operations, the second subparagraph of Article 23(3) of the basic Regulation does not list them specifically as a practice, process or work that constitutes circumvention. Nevertheless, the second subparagraph of Article 23(3) of the basic Regulation explicitly uses the wording 'inter alia', which means that it provides a non-exhaustive list of possible circumvention practices. As a result, it also covers other circumvention practices, which are not explicitly listed in the Article in question, such as assembly / completion operations. Therefore, since the evidence provided by the applicant in the request pointed to assembly / completion operations in Turkey, the Commission also analysed whether, by analogy, the criteria set out in Article 13(2) of the basic anti-dumping Regulation were met, in particular:
- whether the assembly / completion operation started or substantially increased since, or just prior to, the initiation of the anti-subsidy investigation and whether the parts concerned are from the country subject to measures, and
 - whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs.

2.2. Cooperation

- (35) As stated in recital (26), four exporting producers in Turkey requested to be exempted from the measures, if extended to Turkey. They cooperated during the entire proceeding by submitting exemption claim forms and by providing replies to deficiency letters. The level of cooperation from the Turkish exporting producers was high, as their aggregated reported export volumes of GFF to the Union in their submitted exemption claim forms accounted for the entirety of the total Turkish import volumes during the reporting period, as reported in the Eurostat import statistics.

- (36) The Commission carried out a verification visit at the premises of Turkiz Composite, pursuant to Article 26 of the basic Regulation. Contrary to the other three producers that came forward, this company imported almost all its input materials and in particular 100 % of its main input material (glass fibre rovings) from its related companies in China and Egypt. Also, this company was by far the largest Turkish exporting producer of GFF during the reporting period. It exported more GFF to the Union than the three other co-operating Turkish exporting producers combined during the reporting period.

2.3. Change in the pattern of trade

2.3.1. Imports of GFF

- (37) Table 1 below shows the development of imports of GFF from China, Egypt and Turkey in the investigation period.

Table 1

Imports of GFF to the Union in the investigation period (in tonnes)

	2019	2020	Reporting period
PRC	43 460	38 440	33 263
<i>index (base = 2019)</i>	100	88	77
Egypt	11 349	6 935	3 608
<i>index (base = 2019)</i>	100	61	32
Turkey	2 334	4 152	8 367
<i>index (base = 2019)</i>	100	178	358

Source: Eurostat.

- (38) Table 1 shows that the imports of GFF from Turkey increased from 2 334 tonnes in 2019 to 8 367 tonnes in the reporting period. The significant increase in the reporting period compared to 2019 coincided in time with the increase in production by Turkiz Composite, which started to produce from March 2019 onwards.
- (39) The imports of GFF from China decreased from 43 460 tonnes in 2019 to 33 263 tonnes in the reporting period, whereas the imports of GFF from Egypt decreased from 11 349 tonnes in 2019 to 3 608 tonnes.

2.3.2. Export volumes of glass fibre rovings from China and Egypt to Turkey

- (40) Table 2 below shows the development of imports of glass fibre rovings from China and Egypt by Turkey based on the Turkish import statistics from the GTA database.

Table 2

Imports of glass fibre rovings from China and Egypt by Turkey in the investigation period (in tonnes)

	2019	2020	RP
PRC			
7019 12 Glass fibre rovings	6 996	15 970	19 201

Egypt

7019 12 Glass fibre rovings	9 142	20 565	30 149
-----------------------------	-------	--------	--------

Source: GTA.

- (41) The main input material for the production of GFF are glass fibre rovings. This input material is then further processed to produce GFF. The evidence available to the Commission showed that the GFF exported to the Union from Turkey was produced from mainly glass fibre rovings.
- (42) Table 2 shows that the imports of glass fibre rovings from China to Turkey substantially increased from 6 996 tonnes in 2019 to 19 201 tonnes in the reporting period. The imports of glass fibre rovings from Egypt into Turkey also significantly increased from 9 142 tonnes in 2019 to 30 149 tonnes in the reporting period. The imports from both China and Egypt represent around 70 % of the total imports of glass fibre rovings to Turkey for both the year 2020 and the reporting period. Moreover, the significant increase of imports of glass fibre rovings from China and Egypt to Turkey also coincided with the fact that Turkiz Composite only started to supply its largest European customer from May 2020 onwards, leading to an increased consumption of glass fibre rovings for the production of GFF.
- (43) Turkiz Composite submitted that the glass fibre rovings that it used to produce GFF were all purchased from China and from Egypt, in particular from its related companies in China and Egypt. It imported these rovings under HS code 7019 12. Imports under this code showed the most significant increase in imports from China and Egypt to Turkey.
- (44) The significant increase in import volumes of glass fibre rovings from China and Egypt to Turkey indicated an increasing demand for such input materials in Turkey, which could, at least in part, be explained by the increase in the production and exports of GFF from Turkey during the reporting period. This was also corroborated by the information provided by Turkiz Composite.

2.3.3. Conclusion on the change in the pattern of trade

- (45) The increase of exports of GFF from Turkey to the Union on the one hand, and the decrease of exports of GFF from China and Egypt to the Union on the other hand, constitutes a change in the pattern of trade between Turkey and the Union within the meaning of Article 23 of the basic Regulation, together with the significant increase during the reporting period compared to 2019 of Chinese and Egyptian exports of glass fibre rovings into Turkey as shown in Table 2.

2.4. Insufficient due cause or economic justification other than the imposition of the countervailing duty

- (46) Article 23(3) of the basic Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty.
- (47) The Commission recalled that the practice, process or work includes the assembly of parts/completion operations in a third country, as explained in recital (19).
- (48) Turkiz Composite claimed that there was due cause and an economic justification for its establishment. It claimed that its set-up in Turkey was due to the significant demand for GFF in Turkey and the increased demand for GFF in the neighbouring countries of Turkey, other than the EU (mainly Egypt, Jordan, Iran and to a certain extent Saudi Arabia), as well as due to the significant and growing demand for glass fibre rovings in Turkey.

- (49) The investigation revealed that Turkiz Composite had decided before the initiation of the initial investigation to establish a company in Turkey. It was set up on 1 June 2018, but only started producing in March 2019, as it still had to find premises, and to buy, move, install and test all its GFF-machines. The date of the start of the production coincided with the date of the initiation ⁽¹¹⁾ of the initial anti-dumping investigation on imports of GFF from China and Egypt, which preceded the initiation of the initial investigation by about three months.
- (50) Moreover, Article 23(3) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It is therefore the practice, process or work leading to the change of the pattern of trade, which needs to have a sufficient due cause or economic justification other than the imposition of the duty, in order not to be considered a circumvention within the meaning of Article 23(3) of the basic Regulation.
- (51) In the light of the foregoing, the argument that the company was set up to serve the domestic, African and Middle Eastern markets is immaterial, as it is not the setting up of the company that is the practice, process or work leading to the change of the pattern of trade. The practice from which that change stems is the assembly/completion operations in Turkey that leads to a significant increase of exports of GFF (the assembled product) to the Union. Turkiz Composite's export sales of GFF to the Union substantially increased when it started to gradually increase its supply to its largest European customer from May 2020 onwards (see recital (42)), which coincided with the date of the imposition of the initial measures (see recital (1)).
- (52) Furthermore, the fact that a company that was allegedly set up to serve the domestic and African and Middle Eastern markets, following the initiation of the anti-dumping case actually serves the domestic and the Union market instead ⁽¹²⁾ further suggests that its assembly activities were developed in response to the investigation and then further increased in response to the imposition of the duties.
- (53) Following disclosure, Turkiz Composite and LM Wind Power claimed that the Commission's reasoning missed a step in its legal analysis on economic justification since it failed to assess whether there was economic justification or sufficient due cause for the practice, process or work. They also stated that the Commission applied the wrong temporal test, since it failed to recognise that the 'imposition of the duties' – and not the opening of an investigation – must be the reason for the practice, process or work. Finally, they claimed that, if the Commission had applied the correct legal tests, it would have concluded that there was sufficient due cause and an economic justification for the establishment of Turkiz Composite. They claimed that the main reason for the set-up of the Turkish plant was to serve the Turkish domestic market.
- (54) The Commission rejected these claims. First, the Commission did not fail to assess whether there was economic justification or sufficient due cause for the practice, process or work. This assessment was made, as explicitly explained in recitals (49) and (50) above. The Commission clearly identified the practice, process or work which led to the change of the pattern of trade and then analysed potential justifications for that practice. Contrary to what the interested parties claimed, and as explained in recital (51), it is not the establishment of Turkiz Composite, or its domestic sales, that are the practice, process or work in question, as the change the pattern of trade, discussed under point 2.3. above, does not stem from them.
- (55) Second, the Commission did not apply the wrong temporal test. It referred in recital (49) to the fact that the date of the start of the production coincided with the date of the initiation of the original investigation. This finding, which was based on verified information provided by Turkiz Composite, was legally relevant, as one of the conditions of Article 13(2) of the basic anti-dumping Regulation ⁽¹³⁾ is that '... the operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation ...'. Article 23(3) of the basic Regulation defines circumvention and thus focuses on the imposition of the duty, since without a duty being imposed there cannot be

⁽¹¹⁾ OJ C 68, 21.2.2019, p. 29.

⁽¹²⁾ The investigation showed that Turkiz Composite's exports to other third countries (possibly including African and Middle Eastern markets) were only a minor fraction of its total sales during the investigation period.

⁽¹³⁾ As referred to in recital (19), the legal standards contained in Article 13(2) of basic anti-dumping Regulation can by analogy be used in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation.

circumvention. This does not preclude the commencement of a practice, process or work after the initiation of an investigation being considered as evidence that the duty subsequently imposed (and reasonably expected) was the justification for the practice in question. The reading of Article 23(3) proposed by the interested party would not only be incompatible with the language of Article 13(2) of the basic anti-dumping Regulation, quoted above, but would effectively remove circumvention practices that commence between the initiation of an investigation and the imposition of the duties from the scope of Article 23(3). This would go against the very purpose of Article 13 of the basic anti-dumping Regulation (and by analogy Article 23 of the basic Regulation), as defined by the Court. ⁽¹⁴⁾

(56) With respect to the claim that the main reason for setting up the Turkish plant was to serve the Turkish domestic market, the Commission noted that Turkiz Composite slightly changed its reasoning during the course of this proceeding, as the company claimed before disclosure that the reason was to serve the domestic, African and Middle Eastern markets. As mentioned in recital (52), Turkiz Composite served the domestic and the Union market during the investigation period. In any event, the operations of Turkiz Composite substantially increased during the investigation period as evidenced by the following findings:

- One manufacturing site was rented in 2018, another one in 2019, and the remaining ones in 2020;
- Of all GFF machines which were in use during the reporting period, less than seven were in first use in 2019, whereas more than seven were additionally put in first use in 2020 and the first half of 2021;
- These GFF machines were mainly purchased by Turkiz Composite from its related companies in China and Egypt. The significant increase of the production capacity of Turkiz Composite during the investigation period clearly showed a change in strategy by the China National Building Materials Group, of which Turkiz Composite was part, in response to the initiation of the original investigation;
- Not only the production capacity significantly increased during the investigation period, its actual production also increased, and so did the number of staff. The production capacity was three times higher in the reporting period compared to the year 2019, whereas the actual production was 60 times higher in the reporting period compared to the year 2019. Moreover, the number of staff was about six times higher in the reporting period compared to the year 2019;
- Finally, the export sales to the Union during the investigation period (see recital (60)) by Turkiz Composite grew exponentially following to the initiation of the original investigation.

(57) In view of the above, the investigation did not reveal sufficient due cause or economic justification for the significant increase of exports by Turkiz Composite of the assembled product to the Union other than to avoid the payment of the anti-dumping duties currently in force.

2.5. Start or substantial increase of operations

(58) Article 13(2) of the basic anti-dumping Regulation requires the assembly operation to have started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation, and the parts concerned to be from the country subject to anti-dumping measures. As referred to in recital (19), the legal standards contained in Article 13(2) of basic anti-dumping Regulation can by analogy be used in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation.

⁽¹⁴⁾ Judgment of 8 June 2022, *Guangxi Xin Fu Yuan Co. Ltd v European Commission*, T-144/20, ECLI:EU:T:2022:346, para. 59 and the case-law cited.

- (59) The initial investigation was initiated on 16 May 2019 and definitive countervailing duties were imposed on 15 June 2020. Turkiz Composite was officially established on 1 June 2018 and started production from March 2019 onwards. Therefore, the date of the start of the production coincides with the date of the initiation of the initial anti-dumping investigation on imports of GFF from China and Egypt, which preceded the initiation of the initial investigation by about three months.
- (60) Moreover, Turkiz Composite substantially increased its export sales in 2020 and during the investigation period compared to 2019. This substantial increase of the assembly or completion operation coincides with the date of the imposition of the definitive countervailing duties, i.e. on 15 June 2020 (see previous recital). Moreover, almost all its input materials and in particular 100 % of its main input material (glass fibre rovings) were purchased from its related companies in China and Egypt.
- (61) Therefore, the Commission concluded that the assembly or completion operation started or substantially increased since the initiation of the initial investigation.

2.6. Value of parts and value added

2.6.1. Value of parts

- (62) As far as assembly operations are concerned, Article 13(2)(b) of the basic anti-dumping Regulation states that another condition to establish circumvention is that the parts (of Chinese and Egyptian origin, in this case) constitute 60 % or more of the total value of the parts of the assembled product and that the added value of the parts brought in, during the assembly or completion operation, is less than 25 % of the manufacturing cost. The legal standards contained in Article 13(2) of basic anti-dumping Regulation can by analogy be used in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation.
- (63) The main input material to produce GFF is glass fibre rovings. Turkiz Composite purchased 100 % of the glass fibre rovings it used from related companies in China and Egypt. Through the sewing-knitting process carried out, which is a completion operation in Turkey, these glass fibre rovings were transformed into GFF. According to the submitted and verified information by Turkiz Composite, the main input material, namely glass fibre rovings, constitute almost 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic anti-dumping Regulation.
- (64) Following disclosure, Turkiz Composite and LM Wind Power reiterated their claim that the manufacturing of GFF from the imported main raw material glass fibre rovings does not constitute an 'assembly of parts by an assembly operation' within the meaning of Article 13(2) of the basic anti-dumping Regulation, which is applied by analogy (see above recital (62)), and that glass fibre rovings are not parts but rather materials within the meaning of the Explanatory Note (VII) of the second part of General Rule 2(a) for the interpretation of the Harmonised System, providing that parts being assembled shall 'not be subjected to any further working operation for completion into the finished state'. In this context, they claimed that glass fibre rovings are not 'parts' of GFF and are not 'assembled' into GFF, but are processed into GFF by looming and stitching together various types of glass fibre rovings as well as other materials, using complex machinery. Similar comments were also received from the Egyptian authorities.
- (65) The Commission rejected these claims. The practice described in recital (63) above can be characterised as a completion operation that falls within the concept of assembly operations under Article 13(2) of the basic anti-dumping Regulation, as also referred to in recital (62) above. In addition, other elements were considered, as explained below.
- (66) First, the reference to the Explanatory Note (VII) of the second part of General Rule 2(a) for the interpretation of the Harmonised System is irrelevant as the direct legal basis is Article 23 of the basic Regulation and not customs law, as explicitly clarified by the Court of Justice ⁽¹⁵⁾.

⁽¹⁵⁾ Judgment of 12 September 2019, *Commission/Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 90 and the case-law cited.

- (67) Second, when interpreting Article 13(2) of the basic anti-dumping Regulation, which is applied by analogy in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation, the Court of Justice started by recalling that ‘pursuant to settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part’⁽¹⁶⁾. The basic anti-dumping Regulation does not define the terms ‘assembly operation’ or ‘completion operation’. However, the way Article 13(2) of the basic anti-dumping Regulation is constructed favours an interpretation of the term ‘assembly operation’ as, according to Article 13(2)(b) of the basic anti-dumping Regulation, also meant to encapsulate explicitly ‘completion operation’. It follows that ‘assembly operation’ within the meaning of Article 13(2) of the basic anti-dumping Regulation is meant to cover not only operations that consist of assembling parts of a composite article, but may also involve further processing, i.e. finishing of a product.
- (68) In addition, according to the Court⁽¹⁷⁾, the purpose of investigations conducted in accordance with Article 23 of the basic Regulation is to ensure the effectiveness of anti-dumping duties and to prevent their circumvention. Consequently, the purpose of Article 13(2) of the basic anti-dumping Regulation (which is applied by analogy in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation) is to capture the practices, processes or works that use predominantly parts from the country that is subject to the measures and assemble or finish them by adding limited value to these parts.
- (69) Following disclosure, Turkiz Composite, LM Wind Power and the Egyptian authorities disagreed with the approach of the Commission cumulating the value of the glass fibre rovings from Egypt with the value of the glass fibre rovings from China for determining whether the value of glass fibre rovings constituted 60 % or more of the total value of the alleged ‘parts’ of GFF. They pointed to the use of the wording ‘parts from the country subject to measures’ (in singular) in Article 13(2)(b) of the basic anti-dumping Regulation.
- (70) The Commission rejected this claim for the following reasons. First, as referred to in recital (1), in the original investigation the imports of GFF from China and Egypt were assessed cumulatively. It was therefore appropriate to apply the same methodology in this anti-circumvention investigation with a view to extend the original measures.
- (71) Second, Article 13 of the basic anti-dumping Regulation – which is applied by analogy in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation – does not preclude the Commission from making such cumulative analysis to check whether the 60 % criterion set out in Article 13(2)(b) of the basic anti-dumping Regulation was met. Rather the contrary, to interpret the wording of Article 13(2) of the basic anti-dumping Regulation ‘country subject to measures’ in a manner that does not allow the cumulation of the value of parts when the circumventing activities take place in more than one country, is contradicted by existing EU case-law. In *Kolachi*, the Court of Justice addressed a special practice of circumvention activities (in a case where bicycle parts were first semi-assembled in Sri-Lanka and then further assembled in Pakistan) and confirmed that this practice of circumvention activities was covered by Article 13(2) of the basic anti-dumping Regulation, despite the use of singular language in that provision. The Court of Justice⁽¹⁸⁾ also highlighted that any other interpretation would enable exporting producers to undermine the effectiveness of the anti-circumvention measures. Therefore, the same rationale applies to attempts to avoid the application of the anti-circumvention rules by sourcing raw materials from two countries that are both subject to measures.
- (72) Third, following the reasoning of Turkiz Composite, in case 50 % of the input materials would be procured from China and the other 50 % from Egypt, no circumvention would take place in a situation where 100 % of the parts is sourced from countries subject to measures. Such outcome would clearly be against the purpose of Article 13(2) of the basic anti-dumping Regulation, also taking into consideration that all GFF exported to the Union consisted of either 100 % of parts sourced in China, or of 100 % of parts sourced in Egypt.
- (73) The Commission therefore concluded that the 60 % criterion was met.

⁽¹⁶⁾ Judgment of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 82 and the case-law cited.

⁽¹⁷⁾ Judgment of 8 June 2022, *Guangxi Xin Fu Yuan Co. Ltd v European Commission*, T-144/20, ECLI:EU:T:2022:346, para. 59 and the case-law cited.

⁽¹⁸⁾ Judgment of 12 September 2019, *Commission/Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, paras 97 and 104.

2.6.2. Added value

- (74) Turkiz Composite claimed that its value added cost would be above the threshold of 25 % of the total manufacturing cost. The main items in the calculation of the value added included the depreciation cost, the rental cost, the packaging material cost, the direct and indirect labour cost, and other manufacturing indirect costs, which were part of the financial data of the reporting period submitted by Turkiz Composite in its exemption claim form.
- (75) The Commission analysed all these cost items and assessed that some incurred expenses could not be classified as part of the manufacturing cost or had been overestimated:
- Rental cost: The total rental cost was reduced by excluding the rental cost related to the office space, based on the proportion of the square meters for the office space on the total square meters, as submitted by Turkiz Composite;
 - Packaging material cost: The full packaging material cost was excluded from the value added cost since the Commission assessed that this packaging material was secondary packaging material ⁽¹⁹⁾. Such secondary packaging material expense is part of the distribution overheads (a selling expense), and not part of the manufacturing cost;
 - Other manufacturing indirect costs: The breakdown of these costs was analysed and some items (such as travelling expenses and personnel transportation expenses) were found to be operating expenses, also called selling, general and administrative expenses ('SG&A'). As such they are not part of the manufacturing cost;
 - Salary expenses (indirect labour): Based on an analysis of the monthly payroll statements during the reporting period, the salary costs of two departments (HR and the packaging department) were included in the manufacturing labour cost. The Commission reclassified them as SG&A – costs, not part of the manufacturing cost.
- (76) In view of the above, the value added to the parts brought in, as calculated by the Commission, was significantly lower than the one calculated by Turkiz Composite.
- (77) Moreover, Turkiz Composite sourced almost all its input materials and in particular 100 % of its main input material (glass fibre rovings) from related companies in China and Egypt. No positive evidence was presented by Turkiz Composite demonstrating that these prices were at arm's length and not affected by the relationship rather than transfer prices between related companies. The Commission found, on the other hand, that these prices were significantly lower than the prices paid by the three other Turkish co-operating exporting producers to unrelated suppliers during the reporting period.
- (78) Therefore, in order to arrive at reasonably accurate finding, the prices paid by Turkiz Composite were considered to be inter-company transfer prices and they were replaced by the weighted average prices paid by the three other co-operating exporting producers.
- (79) Following disclosure, Turkiz Composite and LM Wind Power alleged that the Commission could not replace the transfer prices by the weighted average prices paid by the three other Turkish exporting producers to their unrelated suppliers during the reporting period. They alleged that such approach was not allowed, and saw no legal basis to apply Article 2(5) of the basic anti-dumping Regulation by analogy. Both parties also claimed that the Commission failed to correctly conduct the arm's length test, and that the Commission did not ensure that the prices compared were comparable in terms of quantity and that all price elements were included.

⁽¹⁹⁾ Secondary packaging serves a practical purpose. It organizes or stabilizes products to get them shelf ready. It also makes for easier and safer storage, so when it comes time for a manufacturer to ship off more units, you can trust they make it to consumers intact, such as a box holding the aspirin bottle, or the case securing the soda cans, or the plastic wrap on a two-for-one deal. All these are examples of secondary packaging, which holds together individual units of products.

- (80) The Commission rejected these claims for the following reasons. First, the Commission did not refer in its general disclosure document to Article 2(5) of the basic anti-dumping Regulation as the legal basis for this adjustment. In order to determine the value of the parts brought in from the countries subject to measures, the Commission, considered the language and the purpose of Article 13(2)(b) of the basic anti-dumping Regulation (which is applied by analogy in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation). The wording of Article 13(2)(b) of the basic anti-dumping Regulation does not prevent the Commission in any way from carrying out certain adjustments in view of determining the value of the parts, in particular in case the costs of a company do not necessarily reflect the value of the parts, which could be the case when parts are purchased from related companies. In order to determine the value of the parts, the Commission was, therefore, allowed to make the necessary adjustments, including the replacement of the transfer prices between the related companies as it was found that these prices were not at arm's length. Such approach is also in line with the purpose of Article 23 of the basic Regulation and the investigations it governs, discussed in recital (68), as it prevents circumventing companies from undervaluing the parts brought in in order to overestimate the value added to these parts.
- (81) Second, concerning the allegation that the Commission failed to correctly conduct the arm's length test, it should be recalled that Turkiz Composite is part of the China National Building Materials Group, which is a Chinese-state owned Group. Its Chinese and Egyptian related companies are subject to measures. The investigation revealed that the prices of glass fibre rovings purchased by Turkiz Composite from its related Egyptian and Chinese companies were significantly lower than the prices paid by the three other Turkish exporting producers. Therefore, it compared and subsequently replaced the intercompany prices by the weighted average prices paid by the three other Turkish exporting producers to their unrelated suppliers during the reporting period.
- (82) The Commission ensured that the prices compared were comparable in terms of quantity and that all price elements were included. First, the same period was used for making the comparison, namely the reporting period. Second, the quantity of glass fibre rovings purchased during the reporting period by the three other Turkish exporting producers from unrelated suppliers was sufficiently large (between 10 000 and 25 000 tonnes) and, accordingly, representative to be used as reliable prices for replacing the transfer prices of Turkiz Composite in order to correctly determine the value added. Third, the other three cooperating Turkish exporting producers produced GFF in the same way as Turkiz Composite, starting from glass fibre rovings. The investigation did not reveal any quality differences, as the production process is similar for the four cooperating Turkish exporting producers. Fourth, the other Turkish exporting producers purchased large quantities of glass fibre rovings domestically, whereas Turkiz Composite exclusively bought glass fibre rovings from Egypt and China. Purchasing domestically representative quantities would normally lead to lower prices rather than higher prices. Fifth, the comparison between the four Turkish exporting producers was made on a consistent basis, namely on the basis of the total cost of purchases, as submitted in their verified tables.
- (83) Following disclosure, Turkiz Composite claimed that its purchase price from its Chinese related companies was higher than its related companies' sales prices to unrelated customers in Turkey. Therefore, it claimed that Turkiz Composite's purchases should be considered at arm's length.
- (84) The Commission rejected this claim. Based on the submitted tables C.3 R and C.3.U of Jushi Group Co., Ltd.'s questionnaire reply ('Jushi Group' ⁽²⁰⁾), its average unit sales price of glass fibre rovings during the reporting period to its unrelated customers in Turkey was significantly higher than to its related customer in Turkey, i.e. to Turkiz Composite. The Commission also analysed the prices of another related Chinese company of Turkiz Composite, namely Tongxiang Hengxian Trading Company Limited ('Tongxian' ⁽²¹⁾). During the reporting period, Tongxian sold exclusively glass fibre rovings to Turkiz Composite, whereby its average unit sales price was also lower than the average unit sales price that the Jushi Group invoiced to its unrelated customers in Turkey. In addition, during the reporting period, Turkiz Composite purchased more than 90 % of its total glass fibre rovings from Jushi Group and Tongxian. In view of the above, the Commission concluded that Turkiz Composite's average unit purchase price from its related Chinese companies Jushi Group and Tongxian was consistently and significantly lower than the

⁽²⁰⁾ Jushi Group was one of the Chinese related companies of Turkiz Composite that cooperated during the investigation as referred to in recital (27).

⁽²¹⁾ Tongxian was another Chinese related company of Turkiz Composite that cooperated during the investigation as referred to in recital (27).

average unrelated unit purchase price paid to Jushi Group by other Turkish companies ⁽²²⁾ as well as consistently and significantly lower than the prices paid by the other three cooperating Turkish exporting producers, and therefore not at arm's length.

- (85) Following disclosure, Turkiz Composite claimed that the Commission applied the wrong formula in its sheet 'Value added test' to calculate the '% of value added cost' (row 54), as the Commission divided wrongly the total cost of manufacturing (row 50) by the 'total parts brought in (Egypt, China and other sources)' (row 49), but should have used correctly the 'total parts brought in from Egypt and China' (row 48) instead.
- (86) The Commission rejected this claim as Turkiz Composite did not provide the impact of the Commission's calculation. Even if the Commission would have used the wrong formula, quod non, and use the suggested method of Turkiz Composite to calculate the '% of value added cost', this would only have led to an insignificant difference in the 'value added', without any impact on the Commission's finding that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost.
- (87) Following disclosure, Turkiz Composite alleged that the Commission could not exclude kits from its calculations as kits are part of the product under investigation. The Commission rejected this claim for the same reasons as set out in its specific disclosure document to Turkiz Composite of 5 July 2022. First, the production and sales of the kits was a minor part of the overall total production and sales of the company during the reporting period. The quantities of GFF exported to the Union during the reporting period were more than 170 times the quantities of kits exported to the Union. Second, the company did not differentiate the costs incurred for the GFF plants and the plant for kits at the general ledger level, except that separate accounts were set up for the labour cost in the cutting workshop. Third, kits were sold mostly domestically.
- (88) Furthermore, based on the information provided by Turkiz Composite, even if the Commission would have decided not to exclude kits from its calculations, the '% of value added cost' would not have changed the Commission's finding that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost, mainly as a result of the limited production of kits.
- (89) By adjusting the reported manufacturing cost and by replacing the reported transfer prices of the glass fibre rovings, the average value added thus established during the reporting period was found to be below the 25 % threshold. The Commission therefore concluded that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost.

2.7. Undermining of the remedial effect of the duty

- (90) In accordance with Article 23(3) of the basic Regulation, the Commission examined whether the imports of the product under investigation, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (91) Regarding quantities, based on the submitted and verified tables by Turkiz Composite, it imported 0 – 300 tonnes in 2019 compared to 6 000 – 8 000 tonnes during the reporting period. At the same time, the Union consumption for the year 2020 and 2021 was estimated by the applicant to be about 150 000 tonnes, and about 170 000 tonnes, respectively. The market share of the imports from Turkey represented more than 4 % during the reporting period.
- (92) Regarding prices, the Commission compared the average non-injurious price as established in the initial investigation with the weighted average export CIF prices determined on the basis of the information provided by Turkiz Composite, duly adjusted to include post clearance costs. This price comparison showed that the imports from Turkiz Composite undersold the Union prices by more than 10 %.

⁽²²⁾ Based on its questionnaire reply, Tongxian did not sell glass fibre rovings to unrelated customers in Turkey during the reporting period.

- (93) The Commission concluded that the existing measures were undermined in terms of quantities and prices by the imports from Turkey subject to this investigation.

2.8. Evidence of subsidisation

- (94) In accordance with Article 23(3) of the basic Regulation, the Commission also examined whether the imported like product and/or parts thereof still benefitted from subsidies.
- (95) As set out in Implementing Regulation (EU) 2020/776 (see recital (1)), Chinese and Egyptian exporting producers were found to benefit from a number of subsidy schemes by the Government of the PRC and Egypt. In this respect, the related Chinese and Egyptian companies of the China National Building Materials Group were found to benefit also from a number of subsidy schemes such as grants, preferential financing and revenue foregone. Those subsidies were found to benefit the total production of the companies as they were not tied to a specific product.
- (96) No new information became available in this investigation that would put into question the conclusion from the initial investigation and would suggest that those subsidy schemes were no longer valid.
- (97) Moreover, Turkiz Composite purchased 100 % of the glass fibre rovings it used for the production of GFF from its related companies in China and Egypt. As set out in Commission Implementing Regulation (EU) 2020/870 ⁽²³⁾ of 24 June 2020 and Commission Implementing Regulation (EU) 2021/328 ⁽²⁴⁾, the related companies of Turkiz Composite benefitted from subsidies for the production of glass fiber rovings.
- (98) No evidence was presented during the investigation showing that the glass fibre rovings produced in Egypt and China by Turkiz Composite related companies have stopped benefiting from the subsidy. Hence, the Commission concluded that parts of the imported like product were still benefitting from the subsidy.
- (99) The Commission also noted that, a pass-through of subsidies between related companies not operating at arm's length can be presumed ⁽²⁵⁾, even more so when the downstream company is assembling and exporting a product to the Union. The Commission therefore concluded that the imported like product and parts thereof still benefit from the subsidy.

3. MEASURES

- (100) Based on the above findings, the Commission concluded that the definitive countervailing measures imposed on imports of GFF originating in the PRC and Egypt were being circumvented by imports of the product under investigation consigned from Turkey by Turkiz Composite.
- (101) Given that the level of cooperation was high and that the reported export sales of Turkiz Composite were higher than the reported export sales of the three other Turkish co-operating exporting producers combined, and no other company in Turkey came forward to request an exemption, the Commission concluded that the findings on circumvention practices in respect of Turkiz Composite should be extended to all imports from Turkey.
- (102) Therefore, in accordance Article 23(1) of the basic Regulation, the anti-subsidy measures in force on imports of GFF originating in China and Egypt should be extended to imports of the product under investigation.

⁽²³⁾ Commission Implementing Regulation (EU) 2020/870 of 24 June 2020 imposing a definitive countervailing duty and definitively collecting the provisional countervailing duty imposed on imports of continuous filament glass fibre products originating in Egypt, and levying the definitive countervailing duty on the registered imports of continuous filament glass fibre products originating in Egypt (OJ L 201, 25.6.2020, p. 10).

⁽²⁴⁾ Commission Implementing Regulation (EU) 2021/328 of 24 February 2021 imposing a definitive countervailing duty on imports of continuous filament glass fibre products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 65, 25.2.2021, p. 1).

⁽²⁵⁾ WTO Appellate Body Report, *United States – Final Countervailing Duty Determination with respect to Certain Softwood Lumber from Canada*, WT/DS257/AB/R, 19 January 2004, para. 143.

- (103) Pursuant to Article 23(2) of the basic Regulation, the measure to be extended should be the one established in Article 1(2) of Implementing Regulation (EU) 2020/776 for 'all other companies', which is a definitive countervailing duty of 30,7 % applicable to the net, free-at-Union-frontier price, before customs duty.
- (104) Turkiz Composite imported its glass fibre rovings partially from Egypt and partially from the PRC during the reporting period. Glass fibre rovings from its related companies in Egypt and the PRC were assembled by Turkiz Composite into GFF that was exported to the Union, in circumvention of both duties imposed on imports of GFF from Egypt (10,9 %) and imports of GFF from the PRC (30,7 %). Thus, in order to preserve the effectiveness of the measures in place, the extension of the higher of the two duties i.e. the duty for all 'other companies' in the PRC (30,7 %), as established in Article 1(2) of Implementing Regulation (EU) 2020/776, is justified.
- (105) Following disclosure, Turkiz Composite alleged that the Commission could not extend the duties on imports of GFF from China, as the value of imports of glass fibre rovings account for a lesser proportion of the total value of the glass fibre rovings used by Turkiz Composite to produce GFF, and, hence, did not meet the 60 % test of Article 13(2)(b) of the basic anti-dumping Regulation which is applied by analogy in assessing the anti-subsidy case in the context of Article 23(3) of the basic Regulation. Otherwise, such an extension of measures on imports of GFF from China would contravene the principle of proportionality, as mentioned in para. 127 of Case T-278/20, *Zhejiang Hantong v Commission*.
- (106) The Commission rejected the claim that it could not extend the duties on imports of GFF from China on the basis of its arguments with regard to cumulation of imports as described in recital (71). Also, the Commission recalled that the objective of the basic Regulation is to protect the EU industry from unfair imports, and of Article 23 of the basic Regulation in particular to prevent the circumvention of trade defence measures. Extending the duties only up to the level of the duties against imports from Egypt (10,9 %) would disregard that the measures against China were also circumvented, and would undermine the effectiveness of the measures in place.
- (107) The Commission also rejected the claim that such an extension of measures on imports of GFF from China would contravene the principle of proportionality. In view of the findings that the original countervailing measures, which were imposed against imports from both China and Egypt, were found to be circumvented, the Commission failed to see why an extension of the higher of the two duties, which was being circumvented, would be disproportionate. Therefore, as mentioned in recital (104) above, in order to preserve the effectiveness of the measures in place, the extension of the higher of the two duties i.e. the duty for all 'other companies' in the PRC (30,7 %), as established in Article 1(2) of Implementing Regulation (EU) 2020/776, is justified.
- (108) Following disclosure, LM Wind Power stated that the extension of the duties on imports of GFF from Turkey would have a severe impact on the businesses of importers of GFF, which could in turn impact the Union's ability to reach its environmental goals as a result of the increased prices of GFF that Union wind turbine producers would have to pay.
- (109) The Commission took note of the statements by LM Wind Power, but reiterated that the primary purpose of investigations conducted in accordance with Article 23 of the basic Regulation is to ensure the effectiveness of the original countervailing duty and to prevent its circumvention. In this investigation, the Commission found that the criteria set out in Article 23 of the basic Regulation were met, and therefore it decided to extend the countervailing measures to Turkey. However, three of the four cooperating exporting producers were found to be genuine Turkish producers and therefore exempted from the extended measures. Users of GFF can therefore source from the exempted producers, as well as from Union producers and/or other third country producers.
- (110) Finally, following disclosure, the applicant stated that it welcomed the intention of the Commission to extend the measures to imports of GFF from Turkey, and that it did not have comments on the Commission's disclosure.
- (111) Pursuant to Articles 23(3) and 24(5) of the basic Regulation, which provide that any extended measure should apply to imports that entered the Union under registration imposed by the initiating Regulation, duties are to be collected on those registered imports of the product under investigation.

4. REQUEST FOR EXEMPTION

- (112) As described above, Turkiz Composite was found to be involved in circumvention practices. Therefore, an exemption cannot be granted to this company pursuant to Article 23(6) of the basic Regulation.
- (113) According to the request, two other co-operating exporting producers were major genuine producers of GFF in Turkey, namely the companies of the group 'Metyx Composites' (see recital (26)) and Saertex Turkey Tekstil Ltd. Şirketi, and not engaging in circumvention practices⁽²⁶⁾. Indeed the investigation confirmed that these two exporting producers did not, or hardly, import glass fibre rovings from China and/or Egypt.
- (114) The third co-operating producer (Sonmez Asf Iplik Dokuma Ve Boya San Tic A. Ş) was a small producer of GFF. It employed less than ten people, had less than five GFF machines, and made only two export sales concerning relatively insignificant quantities to the Union during the reporting period. It was established in 1975, started producing GFF in 2011, and did not import any glass fibre rovings from China or Egypt during the reporting period.
- (115) Therefore, given that the three above-mentioned Turkish exporting producers are genuine producers not engaging in either transshipment or other circumvention practices, such as assembly operations, they will be exempted from the extension of measures.

5. DISCLOSURE

- (116) On 5 July 2022, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment.
- (117) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 25(3) of Regulation (EU) 2016/1037,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive countervailing duty imposed by Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt is hereby extended to 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/m², currently classified under CN codes ex 7019 61 00, ex 7019 62 00, ex 7019 63 00, ex 7019 64 00, ex 7019 65 00, ex 7019 66 00, ex 7019 69 10, ex 7019 69 90 and ex 7019 90 00 (TARIC codes 7019 61 00 81, 7019 61 00 84, 7019 62 00 81, 7019 62 00 84, 7019 63 00 81, 7019 63 00 84, 7019 64 00 81, 7019 64 00 84, 7019 65 00 81, 7019 65 00 84, 7019 66 00 81, 7019 66 00 84, 7019 69 10 81, 7019 69 10 84, 7019 69 90 81, 7019 69 90 84, 7019 90 00 81 and 7019 90 00 84) consigned from Turkey, whether declared as originating in Turkey or not (TARIC codes 7019 61 00 83, 7019 62 00 83, 7019 63 00 83, 7019 64 00 83, 7019 65 00 83, 7019 66 00 83, 7019 69 10 83, 7019 69 90 83 and 7019 90 00 83), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Turkey	Saertex Turkey Tekstil Ltd. Şti.	C115
Turkey	Sonmez Asf Iplik Dokuma Ve Boya San Tic A. Ş.	C116
Turkey	Telateks Tekstil Ürünleri Sanayi ve Ticaret Anonim Şirketi Telateks Dış Ticaret ve Kompozit Sanayi Anonim Şirketi	C117

⁽²⁶⁾ See the request, open version, point 23, page 7.

2. The extended duty is the countervailing duty of 30,7 % applicable to 'all other companies' in the PRC.
3. The duty extended by paragraphs 1 and 2 of this Article shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) 2021/2229 and Articles 23(4) and 24(5) of Regulation (EU) 2016/1037.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2021/2229, which is hereby repealed.

Article 3

The exemption request submitted by Turkiz Composite Materials Technology Üretim Sanayi ve Ticaret Anonim Şirketi is rejected.

Article 4

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G Office:
CHAR 04/39
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

2. In accordance with Article 23(6) of Regulation (EU) 2016/1037, the Commission may authorise, by decision, the exemption of imports from companies which do not circumvent countervailing measures imposed by Implementing Regulation (EU) 2020/776, from the duty extended by Article 1.

Article 5

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, 6 September 2022.

For the Commission
The President
Ursula VON DER LEYEN
