

**The Arab Republic of Egypt**

**The Ministry of Trade and Industry**

**Commercial Remedies Sector**

**Report on fundamental facts and findings of investigations on safeguard measures against the  
increase of imports of Aluminum products**

**(Non-confidential text)**

**February 2021**

## Index

<b>1</b>	<b>Measures</b>	<b>1</b>
<b>1-1</b>	<b>Introduction</b>	<b>1</b>
1-2	Concerned parties	3
1-3	Product subject of investigation	4
1-4	Details of investigation	4
1-5	Disclosure of information	4
<b>2</b>	<b>Local industry and the similar product</b>	<b>5</b>
2-1	Local industry	5
2-2	Similar/competitive product	5
2-3	Investigation period	5
<b>3</b>	<b>Unexpected developments and the volume of imports</b>	<b>6</b>
3-1	Unexpected developments	6
3-2	volume of imports	7
<b>4</b>	<b>Substantial injury</b>	<b>8</b>
4-1	Introduction	8
4-2	Economic indexes	8
4-3	Production and capacity utilization	10
4-4-	Labour and productivity	10
4-5	Profits and losses	11
4-6	Findings on substantial injury	12
4-7	Other reasons of injury	12
<b>5</b>	<b>Causal link</b>	<b>15</b>
<b>6</b>	<b>Comments by the concerned parties</b>	<b>16</b>
<b>7</b>	<b>Common interest</b>	<b>28</b>
<b>8</b>	<b>Findings</b>	<b>29</b>

## 1- Measures

### 1-1 Introduction

- 1-1-1 This is deemed a report on fundamental facts and the findings realized by the Commercial Remedies Sector (referred to hereinafter as the Investigation Authority) post studying the data, information, and comments raised by all the concerned parties in the context of investigating the substantial increase of imports of Aluminum products.
- 1-1-2 On 29/12/2019, the Investigating Authority received a complaint from Misr Aluminum Company (its production represents 100% of the total local production of the products subject to investigation) in which it claimed that there is substantial increase of imports of aluminum products that substantially injured the local industry. Thus, the complaint secured provisions of article (14)<sup>1</sup> of law No. 161 and its amendments, referred to hereinafter as 'executive regulations' and it has been endorsed and registered after researching the accuracy and sufficiency of the evidences presented in the complaint.
- 1-1-3 According to the data presented in the complaint, it was found that there is absolute and relative substantial increase of the imports of the concerned products throughout the investigation period and there is substantial injury to the local industry.
- 1-1-4 On 25/3/2020, the Investigating Authority drafted a report on the above mentioned complaint for presentation to the advisory committee that in turn submitted its recommendations to the Minister of Trade and Industry on starting investigating the aforementioned imports in paragraph 1-1-2.
- 1-1-5 On 14/4/2020, H.E. Minister of Trade and Industry approved the start of safeguard investigations on the increase of imports of aluminum products.
- 1-1-6 On 16/4/2020, announcement No. (2) of 2020 has been published in the Official Gazette, issue 90 (continued) (b) according to article (22)<sup>2</sup> of the executive regulations on starting safeguard measures against the increase of imports of aluminum products, to be referred to hereinafter as the concerned product.
- 1-1-7 On 22/4/2020, the WTO safeguard committee has been notified about the start of investigations in accordance to the provisions of article (90)<sup>3</sup> of the executive regulations and provisions of articles (1-12)<sup>4</sup> of the Safeguard Agreement.

---

<sup>1</sup> Article 14 of the regulations stipulates that: it is conditional that the complaint is presented by the local industry, the representatives thereof, a delegate thereby, the concerned industrial chamber, industry federation, producers union, or the ministries supervising any of the production sectors.

It shall be incumbent that the complaint includes the indications or evidences on dumping, subsidy, or unjustified increase of imports, the consequent injury of such practice, and the causal link between each and the injuries to the complainant entity.

<sup>2</sup> Article 22 of the regulations sets out that "announcement of the start of investigation procedures shall be by publishing in the Official Gazette..."

<sup>3</sup> Article 90 of the regulations sets out that "the Investigating Authority shall notify the WTO concerned committees about the notices prescribed in the said agreements."

<sup>4</sup> Article (12-1) of the agreement sets out that "a safeguard committee member shall be notified immediately when:

- a- An investigation process relevant to substantial injury or a threat of substantial injury starts and the reasons thereof.

- 1-1-8 Over 24/4/2020-22/7/2020, the Investigating Authority received notes from foreign producers, exporters, importers, users of the concerned product, and governments of the exporting countries to represent themselves as concerned parties in the investigation and request attendance the said public hearing mentioned in announcement No. (2) of 2020.
- 1-1-9 Over 4/5/2020-16/6/2020, the Investigating Authority sent a copy of the non-confidential complaint, the announcement on the start of investigation, and lists of questionnaire to all the concerned parties. They have been given 36 days as of the date of reception as a grace to respond to questionnaires in accordance to provisions of article (23)<sup>5</sup> of the executive regulations.
- 1-1-10 Over 14/5/2020-15/8/2020, the Investigating Authority received the comments of some concerned parties on the complaint presented by the industry and responses to questionnaires.
- 1-1-11 On 6/10/2020, in accordance to provisions of article (25)<sup>6</sup> of the executive regulations and article (3-1) of the Safeguard Agreement, all the concerned parties were invited to attend the public hearing to present their viewpoints on whether the application of safeguard measures serves common interest or not.
- 1-1-12 On 26/10/2020, an online public hearing has been convened in the presence of the concerned parties that voiced their wish to attend. Attendees have expressed their viewpoints and defences verbally during the session provided that they would be presented to the Investigating Authority in writing no later than 2/11/2020.
- 1-1-13 Over 27/10/2020-2/11/2020, the Investigating Authority received the parties' defences and comments in writing as introduced during the hearing supported with documents. The Investigating Authority took such comments in consideration and reflected them in section 6 of this report.
- 1-1-14 Over 23/11/2020-25/11/2020, the Investigating Authority has made a field visit to Misr Aluminum Company premises in accordance to article 26 of the regulations so as to verify the data presented to it in the responses to questionnaires.
- 1-1-15 On 11/11/2020, the UAE notified about the wish of General Secretariat of the Gulf Cooperation Council (GCC) to hold a consultation session between the Investigating Authority of the Arab Republic of Egypt and the GCC member states to present viewpoints to help realize a decision that serves the common interest of all parties.

---

b- It is decided that there is substantial injury or there is threat of having substantial injury due to increased imports.

c- It is decided that a safeguard measure shall be applied or extended.

<sup>5</sup> Article (23) stipulates that "the Investigating Authority shall notify all the known concerned parties and representatives of the exporting countries of a copy of the non-confidential complaint, the announcement of starting investigations, and templates of the necessary questions to obtain the necessary data for investigation; the concerned parties shall adhere to responding within a duration not exceeding 37 days from the date of reception. Such duration may be extended upon a justified request endorsed by the Investigating Authority.

<sup>6</sup> Article (25) of the regulations sets out that "it shall be incumbent on the Investigating Authority to give a fair opportunity to all the concerned parties among other parties who have interests to defend the interests thereof within the determined period of investigation and shall to this end convene hearing sessions to present the opinions and cases thereof,..."

1-1-16 On 8/12/2020, a consultation session has been convened with representatives of the UAE, the KSA, the Kingdom of Bahrain, Kuwait, Sultanate of Oman, and the Bureau of Technical Secretariat for Anti Injurious Practices.

## **1-2 The concerned parties**

### **1-2-1 Local industry**

1-2-1-1 Misr Aluminum Company whose production represents 100% of the total local similar/competitive production.

### **1-2-2 Users and exporters**

1-2-2-1 Inter-Cairo for Aluminum Industry (IC), Delemar For Aluminum Profiles Production, the Canadian International Aluminium Company (Caluminium), the Egyptian Aluminum Company LTD.EGY-TAL, CANEX Aluminum, Urbansol International for Industrial Investments, Egyptian Electrical Cabels (Electro Cable Egypt), Alu Afric For Aluminum Industry and Trading, and Unital for Aluminum Extrusion.

### **1-2-3 Exporters**

1-2-3-1 Global Vietnam Aluminium Co., Ltd (Gva), United Company RUSAL-Russia, Midal Cables, Aluminium Bahrain (Alba), United Integration for Metal Extrusion and Coating (Integrated Extrusion©), Kuwait Aluminum & Brass IND Co.

### **1-2-4 Governments**

1-2-4-1 Governments of exporting countries that introduced themselves as parties concerned with the investigation are the European Union, the UAE, Indonesia, Bahrain, Mexico, Taiwan, Russia, Turkey, the KSA, Vietnam, Kuwait, and Sultanate of Oman.

## **1-3 Product subject to investigation**

1-3-1 Aluminum products (moulds, cylinders, wire) that fall under the following subheadings of the coordinated customs tariff: 760110, 760120, 760511.

1-3-2 The customs tariff number is for guidance and the decisive aspect is the description of the product.

## **1-4 Details of investigation**

1-4-1 The unit used in this report is 'ton' for amount and the value is in (EGP).

1-4-2 The currency used in analyzing the data mentioned in this report is EGP.

1-4-3 The period of analyzing substantial injury are the financial years 2016/2017, 2017/2018, 2018/2019, the first half of 2016/2017 and the first half of 2019/2020.

1-4-4 The official copy of this report is the copy drafted in Arabic.

## **1-5 Disclosure of information**

1-5-1 The Investigating Authority provides the concerned parties all the non-confidential information through the general file during the investigation period until the issuance of a final decision.

## **2 Local industry and the similar product**

### **2-1 Local industry**

2-1-1 Misr Aluminum Company whose production represents 100% of the total local production of the similar product<sup>7</sup>, therefore, the conditions enshrined in article 19 of the regulations and item (C) or the first paragraph of article (4)<sup>8</sup> of the Safeguard Agreement have been secured.

### **2-2 Similar/competitive product**

2-2-1 Aluminum products (moulds, cylinders, wire) of subheadings 760110, 760120, and 760511 of the coordinated customs tariff.

2-2-2 The local industry has presented information on the product it produces and sells in the local market and information on the concerned product. The Investigating Authority found that upon the data presented, the product that the local industry produces and the concerned product have the same physical properties, methods of production, distribution channels, and uses. They can replace each other; they are similar and competitive.

### **2-3 Investigation period**

2-3-1 The investigation period has been determined to cover the financial years 2016/2017, 2017/2018, 2018/2019, and the first half of 2019/2020.

## **3 Unexpected developments and the volume of imports**

### **3-1 Unexpected developments**

There have been unexpected developments as of 2017 to date, the period that witnessed substantial increase of the imports of the concerned products. Such unexpected developments were represented in the following points:

- 1- The USA has imposed definitive safeguard duties in the second half of 2017/2018 on some steel and aluminum products imports from all sources, an aspect that led to a drop of such exports to the US huge market over 2018-2019 in comparison to 2017, the period preceding the imposition of safeguard duties by the USA. This represented pressure to such countries and led them to search for other selling outlets that would not incur the same value of the unprecedented imposed customs duties. Therefore, in the light of such developments, Egypt became an easy target for substantial amounts of aluminum imports.
- 2- Some producing countries have increased their production capacity to a great extent, an aspect considered a main motive for serious search for other big selling outlets that would absorb such additional production capacity. For example, some companies have operated production lines

---

<sup>7</sup> Article 19 of the regulations sets out that in order to start investigations, it is conditional that the complaint is supported by local producers whose total production exceeds 50% of the total production of the similar product of supporters and opponents of the complaint. Investigations may not start unless the complaint is supported by local producers whose total production reaches at least 25% of the total local industry's production of the similar product.

<sup>8</sup> Item (C) of the first paragraph of article 4 of the Safeguard Agreement sets out that (at determining the injury or the threat of injury, the phrase 'local industry' indicates producers of similar/competitive products directly who work on the territories of a certain member at large, or those whose collective production of similar/competitive products represents a big share of the total local production of such products).

and added new smelters. Therefore, Egypt became a targeted destination to absorb big amounts of aluminum imports (the concerned products), an aspect that represented a big threat for the complainant company's existence in the local market.

### 3-2 Volume of Imports

**Table (3-1)**  
**Absolute and relative increase of imports**

Unit: ton					
Description	2016/2017	2017/2018	2018/2019	First half 2016/2017	First half 2019/2020
Volume of imports (ton)	1452	31378	75753	6333	39335
Index	100%	216%	522%	100%	621%
Production	-	-	-	-	-
Volume of imports/volume of production%	-	-	-	-	-
Index	100%	229%	557%	100%	717%

Source: General Organisation for Export and Import Control (GOIEC)

Comparison: basic year

- 3-2-1 The previous table shows the absolutely increased volume of imports at acute percentages that reached 116% and 422% in the financial years 2017/2018 and 2018/2019 respectively in comparison to 2016/2017. Imports continued increasing acutely in the first half of financial year 2019/2020 in comparison to the same period of the financial year 2016/2017 to reach 521%.
- 3-2-2 The previous table shows also the increase of the volume of imports in comparison to local production at acute percentages that reached 129% and 457% over the financial years 2017/20218 and 2018/2019 respectively in comparison to 2016/2017. In the first half of the financial year 2019/2020, relative substantial and acute increase of imports persisted at 617% in comparison to 2016/2017.

### Findings

3-2-3 The Investigating Authority found that there is substantial, acute, and sudden increase in the volume of the imports of the concerned product, be that absolutely or in comparison to local production in accordance to provisions of article (81)<sup>9</sup> of the executive regulations, and such increase is due to the unexpected developments as mentioned in section 3 of this report.

---

<sup>9</sup> Paragraph 1 of article 81 sets out that the Investigating Authority shall determine the substantial injury to local industry based on objective indications and evidences and a causal link between the increase of imports and the substantial injury or the threat of substantial injury. To that end, the Authority may verify: 1- the existence of increase in imports of the product subject to investigations be that absolutely or in relation to production in Egypt.

#### 4 Substantial injury<sup>10</sup>

##### 4-1 Introduction

4-1-1 In the previous part of the report on the volume of imports, the Investigating Authority found absolute and relative substantial increase in the volume of imports of the concerned product.

4-1-2 In this part of the report, the Investigating Authority has analyzed the industry's economic indexes, stated in paragraph (2) of article (81)<sup>11</sup> of the regulations, over the period that marked substantial, acute, and sudden increase of imports and the extent of the substantial injury to the local industry because of such increase.

##### 4-2 Economic indexes

###### 4-2-1 Sales and market share

**Table (4-1)**

**Sales and market share**

**Volume: (in ton)**

Description	2016/2017	2017/2018	2018/2019	First half 2016/2017	First half 2019/2020
Total local sales	-	-	-	-	-
Index	100%	88%	54%	100%	16%
Imports	14521	31378	75753	6333	39335
Total market volume	-	-	-	-	-
Index	100%	101%	101%	100%	60%
Local sales share	-	-	-	-	-
Index	100%	88%	53%	100%	27%
Imports share	-	-	-	-	-
Index	100%	210%	520%	100%	1071%

Comparison: basic year

4-2-1-1 The previous table shows the drop of local industry sales substantially and acutely at percentages of 12% and 46% in the financial years 2017/2018 and 2018/2019 respectively in comparison

---

<sup>10</sup> Article 80 sets out that 'substantial injury shall mean the injury that causes considerable inclusive weakness of local industry centres...

<sup>11</sup> Article 81 sets out that the Investigating Authority shall determine the substantial injury to the local industry based on objective indications and evidences and the existence of a causal link between the increase of imports and the substantial injury or the threat of a substantial injury and to this end, the Authority may verify the following:

2- The impact of the increased imports on the status of the local industry including the level of sales, production, productivity, the capacity utilisation, profits, losses, labour, and market share.

to the year 2016/2017. This acute drop continued during the first half of 2019/2020 in comparison to the first half of 2016/2017 to reach 84%.

4-2-1-2 The previous table shows also the slight increase of the volume of the market at 1% over 2017/2018 and 2018/2019 in comparison to 2016/2017 to reach 40% over the first half of 2019/2020 in comparison to the similar period of 2016/2017.

4-2-1-3 The previous table shows also that despite the slight increase of the volume of the local market over 2017/2018-2018/2019, the market share of sales dropped at 12% and 47% in the interest of the market share of imports that increased at 110% and 420% over the same years.

4-2-1-4 In the first half of 2019/2020, the market share of the local industry sales dropped acutely at 73% in comparison to the similar period of 2016/2017 while the market share of imports increased acutely at 971% despite the contraction of the volume of the local market at the same period, an aspect that indicates that imports have overwhelmed big part of the share of local sales in the market.

**Finding:**

4-2-1-5 The Investigating Authority found that local industry sales and their market share have substantially dropped in synchronization with an increase of the volume of imports and their market share.

**4-3 Production and capacity utilization**

**Table (4-2)**

**Production and capacity utilization**

**Unite: ton**

<b>Description</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>2018/2019</b>	<b>First half 2016/2017</b>	<b>First half 2019/2020</b>
Amount of actual production	-	-	-	-	-
Index	100%	97%	96%	100%	91%
Available capacity	-	-	-	-	-
Index	100%	100%	100%	100%	100%
Percentage of capacity utilization	-	-	-	-	-
Index	100%	97%	96%	100%	91%

- Comparison: basic year

4-3-1 The previous table shows the drop of the volume of production at 3% and 4% over 2017/2018 and 2018/2019 respectively in comparison to 2016/2017. The drop continued at

9% in the first half of the financial year 2019/2020 in comparison to the similar period of 2016/2017.

4-3-2 The previous table shows also a drop of capacity utilization rate over the period of injury analysis at the same rate of production drop under steady available capacity.

**Finding:**

4-3-3 The Investigating Authority found there is drop in both production and the utilized capacity rate during the period of analyzing the injury.

**4-4 Labour and productivity**

**Table (4-3)**

**Labour and productivity**

Description	2016/2017	2017/2018	2018/2019	First half 2016/2017	First half 2019/2020
Labour (worker)	-	-	-	-	-
Index	100%	94%	89%	100%	86%
production	-	-	-	-	-
Productivity (ton/worker)	-	-	-	-	-
Index	100%	103%	110%	100%	107%

- Comparison: basic year

4-4-1 The previous table shows a drop in the number of labour over the investigated period, drop rates reached 6% and 11% over 2017/2018 and 2018/2019 in comparison to 2016/2017. The drop maintained at 14% in the first half of 2019/2020 in comparison to the first half of 2016/2017.

4-4-2 The previous table further shows the increase in labour productivity over the investigated period; rates rose at 3% and 10% over 2017/2018 and 2018/2019 in comparison to 2016/2017. Such increase is attributed to the fact that the drop rate of the number of workers is bigger than production drop rate. In the first half of 2019/2020 productivity rose at 7% in comparison to a similar period in 2016/2017.

**Finding**

4-4-3 The Investigating Authority found that labour dropped over the period of analyzing injury

**4-5 Profits and losses**

**Table (4-4)**

**Profits and losses**

**EGP/ton**

Description	2016/2017	2017/2018	2018/2019	First half 2016/2017	First half 2019/2020
Profit/loss	-	-	-	-	-

Index	100%	124%	51%	100%	-189%
-------	------	------	-----	------	-------

- Comparison: basic year

4-5-1 The previous table shows that the local industry has realized increased profits at 24% in 2017/2018 in comparison to the previous year, while profits dropped at 49% in 2018/2019 in comparison to 2016/2017 and in the first half of 2019/2020 industry profits turned into losses due to the continued inflow of imports in big amounts, an aspect that ensures substantial injury to the industry.

## Finding

4-5-2 The Investigating Authority found that there is drop in industry profits in 2018/2019 that turned into losses in the first half of 2018/2019. This synchronized with the substantial increase of imports in that period, an aspect that indicates substantial injury to the local industry.

### 4-6 Findings about substantial injury

4-6-1 According to the data stated in this report, it was found that there were unexpected developments that led to substantial absolute increase of imports in relation to production. Such increase was accompanied by substantial injury to the local industry over the period of injury analysis represented in the following:

- A drop in the volume of production.
- A sharp drop in the volume of local sales and their market shares.
- A drop in labour.
- A drop in the rate of utilizing the available capacity.
- Profits of the local industry turned into losses.

### 4-7 Other reasons of injury

4-7-1 In accordance to provisions of article (4-2)<sup>12</sup>, paragraph B of the Safeguard Agreement, the Investigation Authority has reviewed the other reasons that might have caused injury to local industry than the increase of imports as follows:

#### 4-7-2 Shrinking demand

4-7-2-1 Table (4-1) shows the increase of local market volume over 2017/2018 and 2018/2019 in comparison to the years previous to each; in the first half of 2019/2020, demand shrank in synchronization with a sharp drop of the local industry sales that led to a drop in the market volume. In return, this indicates that the drop of demand was not the main effective reason as imports continued to overwhelm an increasing share of the local market at the expense of industry sales despite such drop, an aspect that reflects the negative impact of the increasing imports.

#### 4-7-3 Restrictive trade practices

<sup>12</sup> Article (4-2), paragraph B prescribes that “the said determination in the subparagraph shall not take place unless the investigation proves, based on objective evidences, the presence of a causal link between the increase of imports of the concerned product and substantial injury or the threat of a substantial injury. In case other factors than the increase of imports lead to injuring the local industry at the same time, the subsequent injury shall not be ascribed to the increased imports.

4-7-3-1 There were no restrictive trade practices over the concerned product during the period of injury analysis, therefore, it did not cause injury to the local industry.

**4-7-4 Technological developments**

4-7-4-1 During the investigation visit, the Investigating Authority realized that the local industry uses the same state-of-the-art technology used in producing the concerned product. Therefore, the Investigating Authority realized that technological development did not cause substantial injury to the local industry.

**4-7-5 Development of exportation performance**

**Table (4-5)  
Exportation sales**

**(Amount: ton)**

Description	2016/2017	2017/2018	2018/2019	First half 2016/2017	First half 2019/2020
Exportation sales	-	-	-	-	-
Index	100%	141%	142%	100%	146%

- Comparison: basic year

4-7-5-1 The table shows an increase of exportation sales over 2017/2018 and 2018/2019 at rates of 41% and 42% respectively in comparison to 2016/2017. In the first half of 2019/2020, exportation sales rose at a rate of 46% in comparison to the first half of 2016/2017, an aspect that indicates that exportation sales did not cause injury to the industry.

4-7-5-2 The Investigating Authority found that the development of exportation performance is not considered a reason of substantial injury to the local industry.

**4-7-6 Competition**

4-7-6-1 The Investigating Authority found that there is no domestic competition with any other local product that may have cause substantial injury to the local industry. The complainant company is the only producer and the competition that caused the injury was the unfair competition with imports that increased substantially.

4-7-7 One of the concerned parties claimed that the rise of energy prices is one of the main reasons of the injury to local industry. The Investigating Authority studied the impact of the rise of energy prices on the industry and found that this is not an effective factor in the substantial injury to the industry; energy prices dedicated to heavy industries, including the aluminum industry have been lowered as of the second half of 2019 while the industry kept on suffering the substantial injury, according to injury indicators, in the period subsequent to lowering prices in the first half of 2019/2020.

## **Finding**

4-7-8 The Investigating Authority found that there were no other reasons that contributed to the substantial injury of the local industry other than the increase of imports.

## **5 Causal link**

5-1 The Investigating Authority studied the causal link between the increase of imports of the concerned product and substantial injury to the industry according to article 4-2, paragraph B, or the Safeguard Agreement.

5-1-1 The Investigating Authority found that there has been substantial recent, acute, and sudden absolute increase of the imports of the concerned product over 2017/2018 and 2018/2019 accompanied by substantial injury of the local industry represented in the drop of production and local sales and their market share in addition to the drop of labour and the inability of the industry to make optimum use of its capacity, never to mention the drop of the profits of the industry and their turn into losses.

5-1-2 Furthermore, the Investigating Authority realised that shrinkage of demand may have contributed to the substantial injury, but in an ineffective manner. However, this does not deny the negative impact of the increasing imports, an aspect that points to a direct causal link between the substantial increase of imports and substantial injury to the local industry.

## **Finding**

In the light of the above, the Investigating Authority found a clear causal link between the substantial and sudden increase of imports that resulted from unexpected development and substantial injury to the local industry.

## **6 Comments of the concerned parties**

7-1 The Investigating Authority has received defences and comments from some of the concerned parties in investigation be these comments on the complaint or subsequent to attending the hearing session. The concerned parties included:

**7-1-1 Governments:** (the UAE, Bahrain, Taiwan, Russia, the KSA, Kuwait, Sultanate of Oman).

**7-1-2 Local users and importers:** Inter-Cairo for Aluminum Industry (IC), Delemar For Aluminum Profiles Production, the Canadian International Aluminium Company (Caluminium), CANEX Aluminum.

**7-1-3 Exporters:** Global Vietnam Aluminium Co., Ltd (Gva), United Company RUSAL-Russia, Midal Cables, Aluminium Bahrain (Alba).

The following is a presentation of such defences and comments and the response of the Investigating Authority:

### **Claim 1:**

The devaluation of the local currency in November 2016 led to a sharp lack of US dollar in the local market and Egyptian banks, an aspect that led all factories to go to the only supplier to meet the needs of factories of production inputs. However, Misr Aluminum Company has unjustifiably raised its prices over that period and could not meet a large percentage of the local market needs while calling on the local clients to find other sources for the rest of their needs since there are contractual obligations relevant to exporting the products subject to investigation.

### **Response:**

**Devaluating the local currency in 2016 had a similar impact on the local industry just as importers; the industry imports raw alumina, which led to cost increase and in turn the industry raised prices.**

**As for the company's request that its clients find other sources to meet their needs due to contractual obligations on the part of the company to export the products subject to investigation, the Investigating Authority has investigated to substantiate the claim through a field visit to the local industry and it was found that it was not true as it obtained invoices of selling the products subject to investigation to local clients including one of those who submitted such claim.**

### **Claim 2:**

Misr Aluminum Company sets the quotation of the products its exports according the world exchange rates, while it sets the quotation of the local market upon the method of average sales (to the extent that difference between the local price and the exportation price reached more than USD 300/ton). This method does not reflect the world prices, especially when they drop, an aspect that negatively impacts the companies that export aluminum profiles.

### **Response:**

**The Investigating Authority has investigated the pricing policy of the company and found that the company follows the same pricing policy for imported and local products, however, it just shoulders local products the customs duties paid for imported raw material while it does not shoulder the imported products such cost since the paid customs duties on imported raw material are refunded at exportation.**

### **Claim 3:**

Imposing safeguard measures on aluminum ore imports impacts the prices of aluminum profiles, i.e., salient products used in national projects, public and private projects, car industry, and household appliances, among others. Therefore, there will be no place for competition in the price of profiles in the local market and traders will import fully produced aluminum profiles which are customs duty exempt.

### **Response:**

**In accordance to article (5-3) of the Safeguard Agreement which prescribes that “a member shall not apply safeguard measures unless within necessary limits to ban or treat substantial injury and facilitate adaptation...”, imposing safeguard measures should be based on an investigation conducted by the competent authorities through which it would be realized that the substantial increase of imports caused substantial injury to the industry. Worth mentioning, safeguard duties do not target banning the access of imports completely, rather target regulation their access and realizing fair competition in the Egyptian market and providing the local industry an opportunity to adapt its status and recover from the injurious impacts resulting from substantial increase of imports so as to be able to compete with such increasing imports after the duties phase comes to an end.**

**Claim 4:**

Imposing safeguard measures on aluminum products will rule out competition in exportation markets since the duties imposed on ore will lead to a rise in the cost of the final re-exported product. If, hypothetically speaking, solving the exportation problems ensuing from imposing safeguard measures is applying the drawback system on imports of raw material with the purpose of manufacturing for exportation, this system may be the available alternative for the companies that work on exporting final products. However, companies’ registration in the drawback system takes time and has special procedures. Most of the companies working in Egypt did not register in this system due to cost and administrative arrangements.

**Response:**

**The Investigating Authority is studying the impact of imports on the injury to local industry in the local market in accordance to article (2-4A) and studies the competition in the local market among other reasons of injury; it is not concerned with competition in exportation markets. As indicated in the previous response, safeguard duties do not target banning the full access of imports, rather target regulating their access and helping realize fair competition in the Egyptian market in addition to giving the local industry an opportunity to adapt their statuses and recover from the injurious impacts of substantial increase of imports so as to be capable of competing with such increasing imports after duties phase comes to an end. Furthermore, safeguard duties are obligatorily introduced or nullified with customs duties. Therefore, they may be refunded under any of the customs system at exportation.**

**Claim 5:**

The incapacity of Misr Aluminum Company to meet the needs of all the local factories and companies including the necessary monthly production inputs especially that the Company has external contractual obligations to export a significant share of its production of the items subject to complaint will lead to the instability of production and planning processes of the companies and factories working in the local market, and consequently the exit of such factories from the market.

**Response:**

The Investigating Authority, during its investigation visit, realized the invalidity of the claim on the company's furnishing its products to the external market at the expense of the local market. The local industry concludes contracts for selling in the local market and the reason behind the increase of export sales is the inability of the company to sell in the local market because of the increasing imports. Despite the drop in demand in the first half of 2019/2020, imports increasingly accessed the Egyptian market. In return, local sales dropped in comparison to a similar period in 2016/2017. Furthermore, as indicated in the previous response, safeguard duties do not target full ban of import access, rather target regulating their access and realizing fair competition in the Egyptian market.

**Claim 6:**

The refusal of Misr Aluminum Company to disclose its production capacity, a main prerequisite for the companies working in Egypt; competition entails knowing the capacity of the only supplier to meet the demands of the market for the time being based on the requirements of local producers not on what is available according to Misr Aluminum Company's plan. Furthermore, there is a need to know the expansion plan of the Company to learn the extent of its ability to meet market needs, the expected growth of production capacity, and the number of factories in the Egyptian market. In addition, the local product is not available in the same amount or the same specifications of imports i.e., the proportions of chemical components of cylinders, moulds and formations of cylinder spheres.

**Response:**

The Company has submitted a description on production capacity in the complaint as one of the factors of confidential data. In addition, as regards the claim of the lack of the local products in the same amounts imported and that it differs in specifications from the imported product, this claim is invalid. During its field visit, the Investigating Authority found that the local industry, though it could not utilize its full production capacity (see table 4-2), it has had an increasing stock over the investigated period that it could not sell though it is not producing in the full available capacity. This indicates the invalidity of the claim relevant to the incapacity of the complainant to meet market needs or its preference to export at the expense of local sale. Rather, it indicates the preference of some parties to import at the expense of purchasing from the local industry. Furthermore, in accordance to the international agreement, imposing duties is not conditional to the ability of the industry to cover the local market fully. Safeguard duties do not target banning the full access of imports, rather regulating their access and realizing fair competition in the Egyptian market. Therefore, the local market may meet its needs through importing in fair shares as well. Further to the above, the industry has presented a structural modification plan that indicates the orientation of the industry to increase its production capacity. In addition, the Investigating Authority has concluded that the product of the local industry and the concerned product (imported) have the same physical properties, method of manufacturing, channels of distribution, and uses; there is a possibility of replacing each other as they are similar and competitive products.

**Claim 7:**

The local product may be similar to some amounts of the imported product, but not all the imported amounts of cylinders and aluminum moulds that are imported with specifications different from the local product and in diameters/sizes different from the local product, taking into consideration the flexibility of global suppliers to produce formations of moulds and cylinders of aluminum ore in big amounts with different specifications according to the needs of producers, a main reason that leads Egyptian producers to import.

**Response:**

**Nothing has been submitted to prove the validity of the claim; the Investigating Authority concluded that the product of the local industry and the concerned product (imported) have the same physical properties, methods of manufacturing, channels of distribution, and uses and that there is a possibility of replacing each other; they are similar and competitive products. In addition, in its field visit to the industry, the Investigating Authority verified that the local industry has the capacity of producing all the sizes and diameters of the products subject to investigation.**

**Claim 8:**

Misr Aluminum Company determines additional price differences, (for example the price of supplying 5-inch aluminum cylinders is 3% above the price of supplying 7-inch aluminum cylinders while the final product is the same and the price is the same which is aluminum profiles) incurred by the factory in case of purchasing from Misr Aluminum Company according to specifications, diameters and sizes, unlike world suppliers. This aspect disrupts the determination of the cost and price of the final product.

**Response:**

**The Investigating Authority, during its investigation visit, has researched all cost factors of the concerned products, and there was not any disruption in cost. In addition, logical wise, the difference of prices of supplying Aluminum cylinders is based on the cost of production that increases when the size of diameter decreases, since it needs additional industrial processes more than that of bigger diameters. This leads to an increased cost, consequently increased sale price more than that of bigger diameters.**

**Claim 9:**

The import of ore and the export process of a final product takes no less than 8 weeks/cycle and with the lack of a definite timetable of decisions and the possibility of sudden safeguard measures, even if temporarily, kind of shakes the local market. This is why announced timetables should be set for the investigation procedures with a grace no less than 10 weeks between the decision of imposing safeguard measures, in case of endorsement, and its application on imports of the product subject to investigation.

**Response:**

Issuing the decision of imposing safeguard measures is the authority of the Minister of Trade and Industry and the decree takes effect as of publication in the Official Gazette. Issuing such decree is preceded by drafting a final report post drafting a report on fundamental facts and the findings realized by the Investigating Authority to be sent to all the concerned parties for comments. In addition, the WTO gets notified before imposing such duties in accordance to article 12 of the International Agreement.

**Claim 10:**

In accordance to the statistics received, there were two waves of increase of imports: the first was in 2015 and the second was in 2018. Imports stabilized in 2019, but Misr Aluminum submitted the complaint in 2020. Therefore, the conditions of starting safeguard investigations are not available. In addition, the imports of aluminum products show a different trend for each product separately. Therefore, they cannot be all gathered in the investigation, they must be separated in determining the injury of each product. It is necessary also to determine the volume of imports of each product separately as distributed on countries in order to be able to know the excluded developing countries whose share of the total amount of imports is less than 3%.

**Response:**

The Investigating Authority relied on the period 2016/2017 and 2018/2019 and the first half of 2019/2020 to search the increase of imports, the injury to industry, and the causal link between them. Furthermore, the Investigating Authority has determined the product subject to investigation in the second part of this report to include moulds, wires, and cylinders. It searched each product separately, however, it saw a possibility of gathering such products based on the following:

- It was not mentioned in any of the regulations or the WTO Safeguard Measures a definition of the product subject to investigation and the Investigating Authority has an evaluative authority in determining the product subject to investigation. In this case, the Investigating Authority may gather these products in one product subject to investigation or investigate them as separate products.
- Furthermore, the Appellate Body and the WTO arbitration teams recommended that the Investigating Authority would have a vast evaluative authority to determine the product subject to investigation, which may include various products based on the fact that the Safeguard Agreement does not impose determined obligations as regards the definition of the product subject to investigation or its scope.
- Furthermore, having several products falling under one product subject to investigation is still a common practice in many countries, including the European Union. In the context of the current safeguard measures imposed by the EU on iron and steel, the European Commission considered that the product subject to investigation is composed of 28 products explaining that there are strong links between all categories of the product subject to investigation.

**Claim 11:**

The increase of imports since 2018 is due to the increase of the imports of main traditional exporters (Bahrain, the KSA, Oman, and the UAE). The share of such countries represented 71% in 2017, 96% in 2018, and 88% in 2019, bearing in mind that the imports of the member states of the Great Arab Free Trade Agreement (GAFTA) are exempt from customs, while the tariff imposed under the most-favoured-nation context represents 20%. Therefore, the imports coming from Gulf countries are the reason behind the increase of imports to Egypt. Misr Aluminum Company has mentioned that Arab Gulf companies pose a grave danger to the local industry by providing Egyptian consumers more competitive circumstances such as lowered prices and deferred payments. This is why investigations on dumped imports from these sources should start if there is suspicion that dumping is practiced from certain sources, not investigating safeguard measures against all the countries that fairly practice trade.

**Response:**

**The local industry has submitted a complaint that includes the conditions set out in the Safeguard Agreement including unexpected developments that lead to substantial increase of the concerned products, regardless their source, that caused substantial injury to the industry.**

**Claim 12:**

Egyptian exports of the products subject to investigation have led to demands for covering the market needs; Misr Aluminum Company has exploited the opportunity of penalties on Russia and channeled more of its products to European and North American markets with the purpose of benefiting from selling for prices higher than those of the local market. Statistics indicated that the volume of Egyptian exports of aluminum products exceed the imported amounts. Local market needs, due to government national projects, have promoted the need for imports of gulf products.

**Response:**

**Table No. 4-5 of the fourth section of this report shows that exports of the local industry have increased at rates of 41% and 42% in 2017/2018 and 2018/2019 respectively in synchronization with the substantial increase of the volume of imports that reached 116% and 422% over the same years (table 3-1) at the time when the market share of imports increased at huge rates that reached 110% and 420% during the same years that witnessed in return a drop in the market share of local industry shares at 12% and 47%(table 4-1). The same was repeated in the first half of 2019/2020, an aspect that points to the fact that the industry had to export due to its inability to sell in the local market under overwhelmingly increased substantial imports that took an increasing share of the market at the expense of the industry sales whose exports increase at rates much less than the share it lost in the local market.**

**The above stresses the steady drop of capacity utilization rate as indicated in table 4-2 of section four of this report. In addition, the Investigating Authority found in its investigating visit that there is surplus stock of the product subject to investigation with the local industry, an aspect that indicates that the local industry could have covered a bigger part of the local market had it not been for the impact of increased imports.**

**Claim 13:**

The safeguard measures, in case applied, will replace the GAFTA, thus lead to instability of the market in the region never to mention the prospects of COVID-19 impacts on future sales and the resulting instability between production capacity and demand in the Middle East and North African markets.

**Response:**

**The Safeguard Agreement upon which safeguard measures are imposed is different in nature and target from the GAFTA. Safeguard Measures, as previously indicated, target regulating the fair access of imports, an aspect that leads to the stability of the market and helps realize fair competition between local and imported products while observing the common interest of all the concerned parties, while the GAFTA targets eliminating all customs and non-customs restrictions among the member states. This does not touch upon any unfair trade practices by one country towards another. In addition, article 5 of the executive programme of the Agreement to Facilitate and Develop Trade among Arab States to establish a great Arab free trade zone prescribes that “International rules and provisions shall be observed in respect to the technical bases for safeguard measures, addressing cases of subsidization, and measures to deal with the balance of payment deficits resulting from the implementation of this program.”**

**In addition, article (6) of the executive programme sets out that “international technical bases shall be followed in the definition and treatment of cases of dumping in respect to anti-dumping.”**

**As for the repercussions of COVID-19 on future sales, they are not confined to one country or region; they span worldwide.**

**Claim 14:**

Having the local industry as the only producer of aluminum ore does not serve fair competition and imports play a positive role by establishing fair competition. In addition, the lack of a competitor has kept it standing still without developing production lines or technology.

**Response:**

**Having the local industry as the only local producer does not necessarily abolish competition, and the proof is in the competition from the imports that caused injury to the local industry. Furthermore, in the case of imposing safeguard measures, the purpose is not to rule out competition and ban the access of imports, rather establishing fair competition and helping imports to have fair access without substantially injuring the local industry. In addition, the Investigating Authority, in its investigation visit to the local industry, has verified that the complainant company has the globally used technology for producing the product subject to investigation.**

**Claim 15:**

The losses incurred in 2018/2019 are ascribed to several other factors that have no relation to the increase of imports according to the local industry's statements to media. The complainant industry has determined four reasons for such losses that were represented in the rise of the cost of electricity and production tools, the drop of the basic price of the metal in London Metal Exchange (LME), the drop of the exchange rate of US dollar, and the Company's dispense with a big rate of its financial investments to meet its financial obligations, an aspect that led to a drop in the return on these investments.

**Response:**

**The industry did not experience losses in 2018/2019, rather profitability dropped; the industry incurred losses in the first half of 2019/2020. The Investigating Authority has searched in section four of this report the other reasons that might have caused substantial injury to the industry, including the rise of electricity prices and it turned out that it did not injure the industry as electricity prices and the prices of the energy furnished to some heavy industries including aluminum were lowered in 2019. In addition, the investigating Authority realized that there has been a global rise of the price of aluminum in 2019/2020 and the global exchange rate is the basis of pricing by all parties not only the local industry. Furthermore, the exchange rate is not considered a reason of injury to the industry; it has the same impact on all the concerned parties.**

**Claim 16:**

The complaint violated the provisions of article 79 of the executive regulations of law No. 161 of 1998 and announced the start of investigation in the light of the WTO Appellate Body decision that the increase of imports should be substantial, acute, recent, and sudden in amount and quality on the level of each of the products subject to investigation separately (moulds, cylinders, wire), an aspect that entailed analyzing the development of the imports of each product separately just as the review of profit indexes in the complaint, which explains the causal link between the imports of each product separately in causing the substantial injury of the complainant industry.

**Response:**

**The Investigating Authority has searched the increase of imports in the third section of this report and realized the existence of absolute, acute, recent, and sudden increase of imports in relation to production over the investigated period that caused substantial injury to the local industry. As regards gathering all products, a response to this question has already been given in comment No. 10 of this section.**

**Claim 17:**

The regression of the volume of export rate is considered one of the reasons of injury, unlike the claim of the local industry as it did not explain how such acute regression of exports did not impact the financial and economic indexes.

**Response:**

**The Investigating Authority, in paragraph 4-7-5-1 of the fourth section of this report, has searched the exportation performance of the local industry in detail and concluded that it is not considered one of the reasons of the injury to the local industry.**

**Claim 18:**

The floating of the Egyptian pound and the rise of the US dollar against the pound during the investigated period has impacted the increase of production cost and prices directly, taking into consideration that the local industry relies basically on imported alumina ore in production and pays the cost of importing in foreign currency, an aspect that led to the rise of cost to the local industry and this impacted its competitive capacity.

**Response:**

**The Investigating Authority finds that the impact of floating the Egyptian pound had an equal impact on the local industry and imports represented in importers; the US dollar is the basic currency for imported products and the raw material necessary for the local industry to produce the product subject to investigation. In addition, pricing aluminum products is based on world prices.**

**Claim 19:**

The complaint did not secure the condition of unexpected circumstances as adopted by the WTO Appellate Body in the two cases of Korean dairy and Argentinean shoes and the case of steel, USA, an aspect that was not addressed by the complaint; it was confined to referring to the increase of production capacity of most of the Asian companies and Gulf countries. Furthermore, the argument that US imposition of definitive safeguard duties on some steel and aluminum products from the People's Republic of China and some countries led China to change route and channel its products to the Egyptian market is an unsupported argument for several reasons. Among these reasons is that Chinese exports have regressed during the period of evaluating the substantial injury, Gulf countries are not targeted with anti-dumping duties or safeguard measures applied by the importing countries. Therefore, the Egyptian Investigating Authority should verify the condition of the unexpected developments. Thus, the complaint presented by the local industry did not address any sufficient or logical analysis of the unexpected developments prescribed in article 19 of the General Agreement on Tariffs and Trade (GATT) 1994 or the impact of such circumstances on the increase of the volume of imports of the product subject to investigation that caused substantial injury to the local industry in accordance to the recommendations issued in several similar cases. Among these is the rebar case filed by the USA, on which the Dispute Settlement Body (DSB) recommended the necessity of having a causal link between the unexpected development and the increase of the imports of the product subject to investigation.

**Response:**

**The unexpected developments have been searched in section three of this report and the Investigation Authority realized that the increase of production capacity of the countries exporting the concerned products in addition to the USA imposition of definitive safeguard duties on some steel**

**and aluminum products have led the exporting countries to target other markets other than the USA including Egypt, an aspect that led to the rise of imports recently, acutely and suddenly, thus substantially injuring the industry.**

**Claim 20:**

Imposing any safeguard measures on the imports of the product subject to investigation may injure the common interest and will lead the local industry to monopoly, especially that it represents 100% of the total production of the local market. This, in turn, will lead to an unjustified rise in prices and shoulder consumers and the industries related to the product subject to investigation further burdens, an aspect that will impact inclusive economic development plans. Imposing measures will lead to laying off many workers especially in the industries that use the product subject to investigation as an industrial input, which will lead many investors to leave the Egyptian market and close some importing companies that serve other vital sectors. Imposing measures will damage the common interest be that of the industry or consumers due to the incapacity of the complainant local industry to meet the local demand for the time being or in the future, especially that Misr Aluminum company is the only producer of the product subject to investigation in the light of the fact that the company adopts an exportation policy and exports 50% of its production. Furthermore, the rise of other industries that use the product subject to investigation as an industrial input for other industries will injure a very big sector of vital transformational industries and will raise the price of household utensils, equipment and electric appliances among other industries that use aluminum as an industrial input.

**Response:**

**Safeguard duties do not target banning importation absolutely, and will not lead to monopoly; lowering the prices of the imported product is one form of monopoly, not the rise of prices. Companies export at very low prices temporarily until they control the market then they raise prices and harm the final consumer, and in turn the industry using the products subject to investigation as production inputs. In addition, importing companies may resort to one of two choices: either importing the product in the light of effective duties, but at fair import cost, or buying the local product. Furthermore, limiting importation will contribute to diminishing the trade balance deficit and protect the foreign currency by curbing the importation of products that have a local alternative. As for the claim that the complainant company cannot meet the local demand, that it is adopting an exportation policy, and that it exports 50% of its production, this claim is not supported by evidences on the company's inability to meet the needs of the local market. Even if the company is exporting 50% of its products, still it is incapable of selling the other half of its production due to the increased amount of imports. It further has surplus capacity even in the light of exporting a big amount of its production; however, the industry is incapable of using it because of the increasing imports.**

**7 Common interest**

8-1 paragraph two of article (3) of the Safeguard Agreement sets out that “the investigation shall notify all the concerned parties in a public and reasonable method and hold public hearings or any other means that allow importers and exporters among other concerned parties to present the viewpoints

thereof, among others, on whether the application of a safeguard measure serves the common interest or not. The competent authority shall issue a report in which the findings realized and the causal conclusions on all the relevant legal and scientific aspects shall be presented.”

8-2 the Investigating Authority finds that imposing safeguard measures on aluminum productions will serve common interest for the following reasons:

- Misr Aluminum Company has been contributing to realizing economic development in Egypt since more than four decades, since establishment, as it contributed to realizing human development through creating an integrated urban community on a big space south Egypt with a big population, an aspect that enhances its social role.
- In addition, the Company contributes to Egypt’s national income as its contributions reach more than EGP 40 billion represented in taxes, commodity fees, and fees on production components, in addition to its clear impact on creating direct and indirect job opportunities that serve the population of the region and neighbouring regions, which in the end helps realise socioeconomic development while maintaining security role, enhancing national income, absorbing a bracket of trained technical labour, and facing unemployment.
- Lowering the import rate of aluminum products and replacing them with local products with the purpose of maintaining foreign currency and diminishing trade balance deficit which a basic pillar in lowering the state budget deficit, meanwhile enabling Egyptian consumers to obtain high-quality products consistent with the state strategy of economic reform.
- Not relying on export helps maintain investments, create job opportunities, and raise the added value of national economy.
- Limiting and regulating the access of imports will help realize fair competition and will not lead to any monopolizing practices.
- Imposing such duties on companies and factories that rely on the imported metal from abroad will not ban them from importation especially that the pricing equation of aluminum products is subject to definite international standards based on the LME.
- In the light of the above, imposing safeguard duties will secure moving ahead towards realising the aforementioned in consistency with common interest.

## **8 Finding**

9-1 Having studied the responses to questionnaires sent to the Investigating Authority and the comments by all the concerned parties among other parties who have interest in the hearing session and the information received from the local industry,

9-2 The Investigating Authority has concluded that the substantial and acute increase of imports have directly caused substantial injury to the local industry.

