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COMMISSION IMPLEMENTING REGULATION (EU) 2025/58

of 15 January 2025

imposing a definitive anti-dumping duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1], and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) On 4 May 2018, the European Commission ('the Commission') adopted Regulation (EU) 2018/683 [2] imposing a provisional anti-dumping duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 ('tyres' or 'product concerned') originating in the People's Republic of China ('PRC').

(2) On 18 October 2018 the Commission adopted Implementing Regulation (EU) 2018/1579 [3] imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China ('the original anti-dumping Regulation').

(3) On 9 November 2018, the Commission adopted Implementing Regulation (EU) 2018/1690 [4] imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 ('the original anti-subsidy Regulation').

(1) OJ L 176, 30.6.2016, p. 21.

(2) Commission Regulation (EU) 2018/683 of 4 May 2018 imposing a provisional anti-dumping duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China, and amending Implementing Regulation (EU) 2018/163 (OJ L 116, 7.5.2018, p. 8).

(3) Commission Implementing Regulation (EU) 2018/1579 of 18 October 2018 imposing a definitive antidumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 263, 22.10.2018, p. 3).

(4) Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive antidumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 283, 12.11.2018, p. 1).

(4) Following a challenge lodged by China Rubber Industry Association ('CRIA') and China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters ('CCCMC'), the General Court of the European Union annulled on 4 May 2022, in its judgement in joined cases T-30/19 and T-72/19 [5] ('the Court judgement'), the original anti-dumping and the original anti-subsidy Regulations as regards several exporting producers.

(5) Following the Court judgment, the Commission reopened the investigations and on 4 April 2023, the Commission re-imposed a definitive anti-dumping duty by Commission Implementing Regulation (EU) 2023/737 [6] ('the second anti-dumping Regulation') and a definitive countervailing duty by Commission Implementing Regulation 2023/738 [7] ('the second anti-subsidy Regulation).

(6) On 6 September 2024, the Commission terminated two partial interim reviews of the anti-dumping and countervailing measures applicable to imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China [8] [9].

(7) The anti-dumping duties currently in force are in euros per item ranging between 0 to 35,74 euros per item.

1.2. **Request for an expiry review**

(8) Following the publication of a notice of impending expiry [10] the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of Regulation (EU) 2016/1036 ('the basic Regulation').

(9) The request for review was submitted on 19 July 2023 by the Coalition against unfair tyres imports ('the applicant') on behalf of the Union industry of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and continuation or recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

(10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 20 October 2023 the Commission initiated an expiry review with regard to imports into the Union of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China ('the country concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the Official Journal of the European Union [11] ('the Notice of Initiation').

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[5] Judgement of the General Court (Tenth Chamber, Extended Composition) of 4 May 2022, China Rubber Industry Association (CRIA) and China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) v European Commission, T-30/19 and T-72/19, EU:T:2022:226.

[6] Commission Implementing Regulation (EU) 2023/737 of 4 April 2023 re-imposing a definitive anti-dumping duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China following the judgment of the General Court in joined cases T-30/19 and T-72/19 (OJ L 96, 5.4.2023, p. 9–44).

[7] Commission Implementing Regulation (EU) 2023/738 of 4 April 2023 re-imposing a definitive countervailing duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China following the judgment of the General Court in joined cases T-30/19 and T-72/19 (OJ L 96, 5.4.2023, p.45).

[8] Commission Implementing Regulation (EU) 2024/2217 of 6 September 2024 terminating the partial interim review of the anti-subsidy measures applicable to imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China.

[9] Commission Implementing Regulation (EU) 2024/2219 of 6 September 2024 terminating the partial interim review of the anti-dumping measures applicable to imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China.

[10] OJ C 29, 26.1.2023, p. 45.

[11] Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China, OJ C 379, 20.10.2023.

1.4. **Review investigation period and period considered**

(11) The investigation of continuation or recurrence of dumping covered the period from 1 July 2022 to 30 June 2023 ('review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2020 to the end of the review investigation period ('the period considered').

1.5. **Interested parties**

(12) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, the known producers in the People's Republic of China and the authorities of the People's Republic of China, the known importers, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.

(13) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.6. **Sampling**

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

Sampling of Union producers

(15) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of:

— The overall representativity in terms of size of the production and sales volume of the like product during the review investigation period;

— the representativity of tiers ([12]) in terms of size of the production and sales volume of the like product during the review investigation period;

— the geographical spread and the representativity of the Union producers in terms of category, namely between SMEs and larger companies.

(16) This sample consisted of 6 Union producers. The sampled Union producers accounted for more than 25 % of the estimated total volume of production and sales of the like product in the Union.

(17) In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No comments were received. The sample is representative of the Union industry.

Sampling of importers

(18) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(19) One unrelated importer made itself known to the Commission but did not provide the requested information nor agreement to be included in the sample. No other unrelated importers came forward.

([12]) The segmentation between tiers is explained in section 2.4.

Sampling of exporting producers in the People's Republic of China

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

(21) Three exporting producers or group of exporting producers in the country concerned provided the requested information and agreed to be included in the sample. Two groups of exporting producers covered around 50 % of the reported volume exported to the European Union during the period July 2022-June 2023 while the volume of exports of the third exporting producer was found not significant. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made.

(22) In the original investigation, 49 exporting producers agreed to be included in the sample. In the present review investigation while more than 140 exporting producers were listed in the complaint, only 3 exporting producers or group of exporting producers provided a sampling reply.

(23) The cooperated exporting producers accounted for around 50 % of the total volume of imports of tyres from the PRC into the European Union and accounted for less than 2 % of the total production of tyres in the PRC. As the Union market share of imports from the PRC was around 5,4 % during the review investigation period, the Commission considered that half of these imports would provide sufficient information to assess the export price and the existence of continuation or recurrence of dumping during the review investigation period and can therefore be considered representative of the total imports from the PRC.

1.7. **Questionnaire replies and verification visits**

(24) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').

(25) The Commission sent questionnaires to the two sampled groups of exporters and the six sampled Union producers. The same questionnaire had also been made available online ([13]) on the day of initiation. In addition, the Commission sent a questionnaire to the applicant.

(26) Questionnaire replies were received from the two sampled groups of exporting producers and from 6 Union producers. The reply received from one Union producer, Recauchutagem São Mamede, Lda ('RSM') was deficient and the Commission requested this producer to complement its reply. No further reply was received, and the Commission informed RSM that it intends to apply Article 18 of the basic Regulation and use the facts available. No further comments were received from this Union producer.

(27) Consequently, the data provided by the remaining 5 union producers was used by the Commission. Not obtaining data from RSM had only marginal impact on the representativity of the sample. The remaining 5 Union producers continued to account for more than 25 % of the estimated total volume of production and sales of the like product in the Union. This remaining sample of 5 Union producers was therefore considered representative of the Union industry.

(28) No questionnaire replies were received from the GOC.

([13]) https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2687.

(29) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

— Lapin Kumi Oy, Finland

— RuLa-BRW GmbH, Germany

— Marangoni S.P.A, Italy

— two Union producers which requested confidentiality

Exporting producers in the People's Republic of China

— Giti Tire (China) Investment Co., (Shanghai); Giti Tire (Anhui) Co., Ltd; (Hefei); Giti Tire (Hualin) Co., Ltd (Hualin);

— Shanghai Hankook Tire Sales Co., Ltd (Shanghai); Chongqing Hankook Tire Co., (Chongqing) Ltd; Jiangsu Hankook Tire Co., Ltd (Jiangsu).

1.8. **Subsequent procedure**

(30) On 11 November 2024, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.

(31) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing. A hearing was hold at the request of Giti.

2. **PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product under review**

(32) The product subject to this review is certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 currently falling under CN codes 4011 20 90 and ex 4012 12 00 (TARIC code 4012 12 00 10). The CN and TARIC codes are given for information only without prejudice to a subsequent change in the tariff classification ('the product under review').

(33) The product under review covers both new and retreaded pneumatic tyres for buses or lorries which share the same essential physical, chemical and technical characteristics. Both types of the product concerned are made of the same input (even if the technology involved may differ) and have a similar structure. The variance in raw materials and structure impart different performance characteristics.

2.2. **Manufacturing process**

2.2.1. *New tyres*

(34) Manufacturing process of the new lorry and bus tyres involves: (1) compounding and mixing rubber; (2) tyre components preparation; (3) (green) tyre building; (4) curing (vulcanisation); and (5) final inspection. All lorry and bus tyres are made from the same basic raw materials, namely natural rubber, synthetic rubber, steel, carbon black, other chemicals and oils as well as fabric and have the same components, namely tread belt, sidewall, inner casing, bead wires, steel belts, casing cords, even if a certain variance is found between the various producers of this product.

(35) The manufacturing process of the new lorry and bus tyres was also found to involve varying technologies, which, however, did not impact on the overall findings of interchangeability.

2.2.2. *Retreaded tyres*

(36) Retreading is essentially a recycling process whereby worn tyres are refurbished through a replacement of the tread on an old casing. Casings are main elements of the retreading process, and, as such a substantial part of the retreader activity is the selection and acquisition of casings suitable for retreading. Casings are thereby the main input of the production process and constitute — depending on their quality — either a real 'semi-finished' product or a waste.

(37) Again, this process can involve varying technologies without impact on the Commission's interchangeability findings.

2.3. **Uses and types of tyres**

(38) Lorry and bus tyres are produced in a large variety of types and sizes found on a wide range of commercial vehicles, from local delivery lorries and buses in urban or regional settings to the long-haul lorries and buses according to their size and load index specifications. They are neither suitable for use on passenger vehicles or on other light commercial vehicles nor for fully off-the-road vehicles such as agricultural tractors.

(39) Tyres for lorries or buses are sold in two types and four categories. Tube type tyre is a more traditional option; it has an inner tube, which has its own valve, placed inside the tyre. In a tubeless tire, the tire and the rim of the wheel form an airtight seal, with the valve being directly mounted on the rim. An overwhelming majority of tyres for lorries or buses sold in the Union are tubeless tyres. The four categories of tyres for lorries or buses are: steer, drive, trailer and multi-position. Steer tyres are designed to be used on the front axle to aid with steering but can be used in all positions on the lorries or bus depending on the vehicle's use. Drive tyres are designed for the drive train and provide better traction. Trailer tyres are designed to be mounted on trailers, while multiposition tyres are designed to be used in all in all positions on a vehicle depending on its use.

(40) Tyres, new or retreaded, are subject to the same safety requirements in the Union market as set out in Directive 2007/46/EC of the European Parliament and of the Council ([14]).

2.4. **Segmentation into three tiers of the Union market for tyres**

(41) Information collected and received by the Commission indicates that the Union market for bus and lorry tyres is segmented in three tiers or segments. While there are no clear dividing lines among tiers, there is a general agreement among interested parties and the findings of the Commission on the following categorisation.

(42) Tier 1 tyres cover premium new tyres with the flagship brand of main manufacturers. Brand recognition is a key factor for tyres in this tier and justifies significantly higher prices for expected high performances as well particularly strong marketing investments. Original equipment for lorries or buses manufacturers ('OE1') tyres are primarily included in that tier. The quality of tier 1 tyres ensures a high level of retreadability of the tyres which are designed to be 'multi-life' tyres further increasing the significantly higher mileage of the original product (up to three retreading for a normal use). Tier 1 tyres are also associated with a higher level of safety and are often accompanied with a good level of after-sale services.

(43) Tier 2 tyres cover most non-premium tyres, both new and retreaded tyres, with prices ranging between approximately 65 % and 80 % of the price of tier 1 tyres. Original equipment for trailers manufacturers ('OE2') tyres may be included in that tier. Brand recognition remains important in this tier and brands are usually well-known from purchasers which are also able to identify the tyre manufacturers. They are generally retreadable at least once and, although more limited than tier 1 tyres, deliver good performances in terms of mileage.

([14]) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 263, 9.10.2007, p. 1).

(44) Tier 3 tyres cover both new and retreaded tyres with lower mileage performances and very limited retreadability, if any. They are typically priced at less than 65 % of the price and mileage performance of tier 1 tyres. In that tier, brand recognition is almost non-existent and price becomes the determining factor in the customer's decision to purchase. They are usually not provided with after-sale services.

(45) Retreaded tyres can be classified under tier 2 or tier 3. While some Chinese tyres are retreadable, there is very little retreading performed in China. Retreading is, however, quite widespread in the Union and in other markets, for example in Brazil. The retreading activity in the Union consists of:

— integrated retreaders acting under the name, brand or mandate of a producer of new tyres. They are seen as the continuation of the brands selling the new tyres. This corresponds to tier 2 tyres,

— independent retreaders which usually cover much smaller geographical markets and volumes. They sell tyres under their own name or brand and rely on their own expertise. Most of them are SMEs (more than 400 producers in the Union). This corresponds to tier 3 tyres.

(46) The Commission applied the same mapping of new and retreaded tyres by brand as in the original investigation. This information was also provided by the complainant and was made available to all the interested parties on initiation day.

2.5. **Product concerned**

(47) The product concerned by this investigation is the product under review originating in the People's Republic of China ('the product concerned').

2.6. **Like product**

(48) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned when exported to the Union ;

— the product under review produced and sold on the domestic market of country concerned;

— the product under review produced and sold by the exporting producers to the rest of the world; and

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

(49) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. **DUMPING**

3.1. **Preliminary remarks**

(50) During the review investigation period, imports of product under review from the People's Republic of China continued albeit at lower levels than in the investigation period of the original investigation (i.e. from 1 July 2016 to 30 June 2017). According to Eurostat imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 from the People's Republic of China accounted for about 5,4 % of the Union market in the review investigation period compared to 21,3 % market share during the original investigation. These figures are in absolute terms.

(51) As mentioned in recital (22), three group of exporting producers from PRC cooperated in the investigation, accounting for around 50 % of the total volume of imports of tyres from the PRC into the European Union.

3.2. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation for the imports of product under review originating in the PRC.

(52) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.

(53) Consequently, to collect the necessary data for the possible application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in China to provide information regarding the inputs used for producing tyres. The two sampled groups of exporting producers submitted the relevant information.

(54) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the Official Journal of the European Union.

(55) No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.

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

(57) On 23 January 2024, the Commission informed by a note ('the First Note') interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of the product under review. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified possible representative countries, namely Brazil, Indonesia, Malaysia, Thailand, Türkiye and South Africa as an appropriate representative country.

(58) The Commission received comments on the First Note from the applicant, Giti and Hankook.

(59) On 16 July 2024, and after having analysed the comments received and the additional information provided by Hankook, the Commission informed by a second note ('the Second Note') interested parties on the relevant sources it intended to use for the determination of the normal value, with Türkiye as the representative country.

(60) It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the companies Brisa Bridgestone and Goodyear Lastikleri Turk, producers in the representative country.

(61) The Commission received comments on the Second Note from the applicant, Giti and Hankook. All the comments are addressed in detail in Section 3.3.

(62) The Commission therefore concluded that normal value should be constructed using the method set out in Article 2(6a) of the basic Regulation, and that costs and prices in China should be rejected.

3.3. **Normal value**

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

(64) However, according to Article 2(6a)(a) of the basic Regulation, *"in case it is determined […] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks"*, and *"shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits"* (*"administrative, selling and general costs"* is refereed hereinafter as 'SG&A').

(65) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC, the application of Article 2(6a) of the basic Regulation was appropriate.

3.3.1. *Existence of significant distortions*

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

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

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

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

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

— *wage costs being distorted;*

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

(67) As the list in Article 2(6a)(b) of the basic Regulation is non-cumulative, not all the elements need to be given for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list.

(68) However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) of the basic Regulation must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provide the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

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

(70) Pursuant to this provision, the Commission issued a country report concerning China (‘*the Report*’) ([15]), which contains evidence of the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as selected sectors (such as chemical, ….). Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The Report concerning China was placed in the investigation file at the initiation stage. The application also contained some relevant evidence complementing the Report.

(71) The Applicant relied on the evidence contained in the Report to argue that both the Chinese tyre industry itself, as well as other upstream sectors critical to tyre production, such as rubber, energy, steel as well as the downstream automotive industry, are all severely affected by the GOC’s omnipresence, resulting in significantly distorted prices and costs. The Applicant underlines the presence and influence of the CCP over the economy relying on the 2018 ”Decision by the Communist Party of China (CCP) Central Committee on deepening reform of Party and State institutions”, speech by the Chinese President at the 20th national Congress of the Communist Party, the 2020 publication by the Central Committee of the CCP of an Order expressly declaring the intention of introducing further State presence in private companies and calling for politically and ideologically educating directors of private companies. The Applicant stated that the GOC’s interventionism takes several forms, which can essentially be categorised around three different axes: administrative, financial and regulatory.

(72) The applicant pointed out that plans are issued at different governmental levels – State, provinces, municipalities – and are completed by sectoral plans. These plans are binding in law, must be implemented at all levels and, as a result, bring very direct implications with them in terms of access to financing, taxation regimes or choices adopted in the companies. It notably referred to the 14th five years plan (‘FYP’) applicable for the years 2021-2025 on the basis of which it considered that the active role of the State in the economy is clearly apparent through the setting out, for example, of its role to ”promote,” ”strengthen” or ”build” entire segments of the Chinese economy. The applicant concludes that the FYPs further aim to build a stronger connection between the GOC and State-owned enterprises (‘SOE’) and aim to even further increase the system of supervision over State-owned assets. This can take various forms, including the effective prevention of State-owned asset losses.

(73) The applicant underlines that the Chinese financial system is dominated by the presence of State-owned banks (‘SOB’) which must align with the government’s policies, as opposed to operating according to market principles. It also stated that the regulatory intervention of the GOC is made mainly by means of public procurement regulation and investment rules.

(74) The applicant also referred to Commission findings in several recent investigations concerning the steel and petrochemical sectors in China, which confirmed the existence of significant distortions with regard to key inputs in the production of the product concerned, namely the investigations concerning stainless steel cold-rolled flat products ([16]), electrolytic chromium coated steel products ([17]), wire rods ([18]), certain graphite electrode systems ([19]), silicon ([20]), and high tenacity polyester yarns ([21]).

([15]) Commission Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.

([16]) Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and Indonesia and amending Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 88, 16.3.2022, p. 24.

([17]) Commission Implementing Regulation (EU) 2022/802 of 20 May 2022 imposing a provisional anti-dumping duty on imports of electrolytic chromium coated steel products originating in the People’s Republic of China and Brazil, OJ L 143, 23.5.2022, p. 11.

([18]) Commission Implementing Regulation (EU) 2021/1805 of 12 October 2021 imposing a definitive anti-dumping duty on imports of wire rod originating in the People’s Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 364, 13.10.2021, p. 14.

([19]) Commission Implementing Regulation (EU) 2022/558 of 6 April 2022 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain graphite electrode systems originating in the People’s Republic of China, OJ L 108, 7.4.2022, p. 20.

([20]) Commission Implementing Regulation (EU) 2022/1394 of 11 August 2022 imposing a definitive anti-dumping duty on imports of silicon originating in the People’s Republic of China, as extended to imports of silicon consigned from the Republic of Korea and from Taiwan, whether declared as originating in the Republic of Korea or Taiwan or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and the Council, OJ L 211, 12.8.2022, p. 86.

([21]) Commission Implementing Regulation (EU) 2023/934 of 11 May 2023 imposing a definitive anti-dumping duty on imports of high tenacity yarns of polyesters originating in the People’s Republic of China following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 127, 12.5.2023, p. 1.

(75) Moreover, the application recalled the following elements resulting in significant distortions.

(76) First, the tyre industry sector is being served to a significant extent by enterprises that operate under the ownership, control or policy supervision or guidance of state authorities.

(77) The applicant submitted that a substantial degree of ownership by the GOC persists in the upstream industry to the product concerned, among which the following companies and group companies:

— China Petroleum & Chemical Corporation ('Sinopec'), one of the main Chinese producers of synthetic rubber;

— Petro China one of the main Chinese producers of synthetic rubber;

— Suzhou Baohua Carbon Black Co., Ltd member of the SOE Baowu Group, active in the carbon black industry;

— Jiangxi Heimao Carbon Black Co., Ltd, active in the carbon black industry;

— Shaanxi Provincial Natural Gas Co., Ltd active in the carbon black industry controlled by Shaanxi Gas Group Co., Ltd and whose beneficial owner is the SASAC of Shaanxi Province;

— China Synthetic Rubber Corporation, active in the carbon black industry;

— Hainan Natural Rubber Industry Group Co., Ltd, China's largest natural rubber manufacturer, 61 % owned by the Hainan SASAC;

— Sinochem International, a petrochemical company which is an SOE operating in the natural rubber industry;

— China Baowu Steel Group Co. Ltd, ('Baowu') active in the steel sector;

— Shanxi Taiyuan Iron & Steel Co. Ltd (TISCO), active in the steel sector, majority-owned by Baowu;

— Anshan Iron & Steel Group Corporation ('Ansteel Group'), active in the steel sector;

— HBIS Group, active in the steel sector;

— Shandong Steel Group active in the steel sector;

— Shandong Demian Group Co., Ltd active in the textile sector;

— China Hi-Tech Group Corporation, active in the textile sector and owned by the SOE Sinomach.

(78) The applicant also submitted that a substantial degree of ownership by the GOC persists in the industry of the product concerned, among which the following companies and group companies:

— Aeolus Tyre Co. Ltd, of which the controlling shareholder is China National Chemical Corporation ('ChemChina'), an SOE subordinated to the SASAC;

— Qingdao Doublestar, directly held at 41,71 % by different SOEs, with the actual controller being the SASAC of Qingdao Municipal People's Government;

— Shuangqian Tire Group Co., Ltd, held by the Shanghai Huayi Group, an SOE detained by Shanghai Huayi Holding Group Co., Ltd Shanghai Guosheng (Group) Co., Ltd and Shanghai Guosheng Group Investment Cothree which are all three SOEs under control of the Shanghai SASAC;

— Guizhou Tyre Co., Ltd

(79) The applicant also submitted that a substantial degree of ownership by the GOC persists in the downstream industry to the product concerned, among which the following companies and group companies:

— China National Heavy Duty Truck Group Corp., Ltd Company, a heavy duty truck manufacturer which is an SOE;

— FAW Jiefang which is 80 % owned by the SASAC;

— Jiangling Motors Corporation, Ltd, partly detained by the SASAC and the Sanchong SASAC;

— BAIC Foton Motor Co., Ltd which has the Beijing SASAC as controlling entity;

— Dongfeng Motor Corporation which is an SOE.

(80) Therefore, the applicant observed that the GOC directs and controls the companies of the Chinese tyre industry under non-market principles resulting in significant distortions throughout.

(81) Second, the state presence in tyre companies also allows the authorities to interfere with prices and/or costs.

(82) According to the application, control over the Chinese economy is exercised by means of implementing CCP cells in enterprises, both private and public, with a predominant role on the functioning of the company and its personnel. The applicant also underlined that over the last years, several regulations targeting either SOEs or private companies were adopted to ensure a stronger and more effective enforcement. This includes the 2020 Regulations on the Work of Grassroots Organizations of State-owned Enterprises of the Chinese Communist Party and notably its Article 11 which bestows significant executive powers upon the CCP cell within companies. This is reflected in the Articles of Association of companies such as Aeolus. The application also mentioned that similar requirements have been issued for private companies. Since 2016, companies have been under increasing pressure to grant the CCP a bigger role in their decision making. Notably the 2018 Code of corporate governance already called listed firms to grant the CCP a role in their internal rules. The applicant also referred to the Vice Chairman of the All-China Federation of Industry and Commerce, Ye Qing, who explained the notion of a ”modern enterprise system with Chinese characteristics” to include three axes of control by the Party through (i) a human resources mechanism” (ii) a work of supervision and audit, and (iii) trade unions. It also noted that the CCP routinely uses the practice of ”double-hatting,” in accordance with which a single person holds several roles in different structures.

(83) The applicant concluded that by their allegiance to the State and Party and their ensuing obligation to advance the State’s and the Party’s policy goals, the ability of Chinese companies to freely set their prices (in turn also affecting costs) is directly affected by non-market considerations.

(84) In addition, the application provides that the CCP’s influence over company personnel is particularly extensive and notably encompasses the nomination of key executives. It also states that there is a significant crossover between the CCP and Chinese businesses and that both the key executive and human resources positions in SOEs must be held by CCP members. As for private companies, they are also advised to establish a supervision mechanism led by the Party cell with disciplinary powers.

(85) The applicant therefore concluded that through its presence at the various levels of management within companies, both public and private, the CCP and GOC are in a position to exert significant and direct decisions over the business life of the companies, away from free market principles and in accordance with political and industrial goals set out at State or Party levels. Such results in non-market forces significantly influencing costs and prices.

(86) The applicant argued that the NDRC has a direct control over the development of companies in particular as it is in charge of the drafting of strategic development plans. The planning of the economy directly affects companies that are required to implement the binding guidelines set out in the different plans. Consequently, the NDRC is not only in charge of orientating companies, but straightforwardly affect their managerial decisions. The respect of the CCP ideology is enshrined in these different plans and must consequently be followed by Chinese companies. These principles are enforced through the CCP cells present within companies.

(87) The applicant also argued that there was a state presence in the tyre industry through industry associations. In this regard, the China Rubber Industry Association ('CRIA') is the national association in charge of the whole Chinese rubber industry, including its downstream products such as tyres. As the CRIA is supervised by the SASAC of the State Council and welcomes the principles of the CCP in its functioning, the tyre industry is directly influenced by the CCP through its industry association which also has interlinked ties with managers of tyre producers. In addition to the CRIA, the application mentions the state influence through the CCCMC and the CAAM all which enable the State and Party control over the entire tyre production chain, dissociating prices and costs from free market principles.

(88) The application also states that the CCP routinely appoints Party members as key executives in companies operating in the tyre industry. It notably refers to the case of SOEs and notably Aeolus, but also apparent non-SOEs as Prinx Changshan, Zhongce Rubber Group Co., Ltd and Sailun Group Co., which also include CCP members at the management board or supervisory board.

(89) Third, the GOC pursues public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces.

(90) The applicant notably mentioned that the tyre industry is targeted by favourable policies through the allocations made to petrochemicals, rubber, as well as through policies favouring important costs components, such as steel, energy or textile. In this regard, it refers to the fact that the production and sales of natural rubber are done under guidelines of the CRIA. It also mentioned the Yunnan government three-year action plan for agricultural modernisation which qualifies natural rubber as a "key industry" and mentions it as an area of development. The plan it aims at "*expand*[ing] *the production of special rubber for tyres*". The Sanmen County's Long-Range Goals for 2035, also focuses on the rubber industry and aims at constructing a national rubber inspection and testing centre.

(91) Regarding steel, the applicant notes that the 14th FYP also addresses the promotion and upgrading of the steel industry and refers to the release in early 2022 of Guiding opinions on promoting the high-quality development of the Iron and Steel Industry, to implement the 14th FYP and the 14th Five-Year Plan for the Development of Raw Materials Industry. The control over the steel market is implemented through the China Iron and Steel Association ('CISA'), which is under supervision of the Party building agency, which is none other than the Party Committee of the SASAC of the State Council.

(92) Concerning Energy and Textile, the applicant referred to a recent Commission and US anti-dumping investigations on Chinese products which illustrates the existence of price setting in the case of electricity, where the provincial NDRC sets the electricity price. The textile industry is designated in the 14th FYP. Consequently, the Department of Industry and Information Technology released a notice on Launching the 2022 Textile and Garment "Optimizing Supply and Promoting Upgrading" Activities. According to this notice, the China National Textile and Apparel Council is responsible to plan and implements tasks, and is under "business guidance, supervision and management of the State-owned Assets Supervision and Administration Commission of the State Council".

(93) Tyres are included in the rubber industry in the Guiding Opinions on promoting the high-quality development of the petrochemical and chemical industry during the 14th Five-Year Plan which requires to "*increase the proportion of green products in industries such as tyres*" and promote a digital transformation around tyre products. The tyre industry is further guided through the CRIA's guidelines. A second area of development in the 14th FYP benefiting tyre producers is the support to research and development activities notably through the National Engineering Research Center for Advanced Tire Equipment and Key Materials. In addition, the applicant underlined that the Ministry of Industry and Information Technology ('MIIT') further also selected Sailun Group in its "first batch of 'National Intelligent Manufacturing Pilot Demonstration Enterprise' and 'National Industrial Internet Pilot Demonstration Enterprise' in the industry, and the first batch of 'Characteristic Industrial Internet Platform for Key Industries'.

(94) In addition to several provincial policies, the applicant relied on a number of other measures including:

— Environmental incentives provided in accordance with the 13th FYP and 14th FYP which require economic development to be respectful of the environment.

— The benefit of the tyre industry from other environmental policies including the Ministry of Finance's Fiscal Support for the work of Carbon Peaking and Carbon Neutrality which aims at implementing governmental financial policies.

— The MIIT nominated companies that local institutions are called to target for the implementation of industrial policies and lead to a green transformation. Twenty-nine tyre-related enterprises were labelled as such.

— China Green Product Certification which would help obtaining additional financial support from the Government and was granted to several tyre producers.

(95) Concerning the downstream industries, the application mentioned:

— The 14th FYP which aims at promoting the consumption of consumer goods, including automobiles, and addresses the transportation industry.

— The General Office of the State Council's plan targeting "the new energy automobile industry," which promotes "new energy vehicles", including new energy lorries.

— The previous green development plan based on the 13th FYP already targeted the development of the green automobile industry.

— The 14th FYP modern logistics development plan which promotes the development of the lorry industry and in particular the development of unmanned lorries.

(96) Concerning financial measures, the applicant notably noted that:

— In 2022, the General Administration of Customs of China worked with the CRIA to reduce the burden of exporting companies in the tyre industry.

— In the Shandong province, the State also subsidised 12 tyre companies for technical transformation projects. The most significant investment was awarded to Shandong Linglong Tire Co. Ltd, though other companies, including Triangle Tire Co. Ltd, are also noted to be beneficiaries of such support.

— Shandong Yongfeng Tyres Co., Ltd revealed on its website in 2018 that tyre producers received numerous state subsidies and favourable policies. Local governments answered Xi Jinping's call to reduce the costs of private enterprises by implementing burden-reducing policies related to electricity consumption, financing, fees and institutional transactions.

(97) In addition, the application states that in addition to measures taking the form of widespread financial support, the GOC, through its local entities, interfered in companies' managements by pushing for mergers and reorganizations.

(98) Finally, the applicant referred to global expansion policies benefiting the tyre industry. Including the creation of outlets through the 'belt and road initiative'; indirect shipping export support; the fact that the 'belt and road initiative' broadly discriminates and is essentially a disguised means of financing Chinese companies abroad at the expense of the participating countries.

(99) Fourth, much like in any other sector in the Chinese economy, the tyre industry sector is subject to the distortions resulting from the discriminatory application or inadequate enforcement of Chinese bankruptcy, corporate and property rules.

— The applicant referred to the systematic under-enforcement of bankruptcy rules results in the survival of large numbers of 'zombie companies' with an estimate of around 6 % of the rubber industry composed of zombie companies, and 14 % of the petroleum processing industry. Keeping companies alive artificially amounts to granting implicit State guarantees to these companies, which in turn distorts the costs of credits and access to finance.

— Several tyre producers have been granted tax credits that helped them escaping insolvency.

— In the steel sector, the combination of the numerous industrial policies applied over time.

— The applicant also referred to previous Commission investigations which found that Enterprises do not have to go through a bidding process to obtain land. Land use rights are usually re-allocated to the companies free of charge or are being allocated by local authorities at negotiated prices. Tyre producers benefit from this discriminatory allocation of land.

(100) Fifth, wage costs are distorted in the tyre industry sector as well.

(101) According to the applicant, there is evidence that senior positions in the trade union are occupied by senior Party figures in SOEs, or by managers in non-State enterprises, thus pushing its ability to efficiently represent workers in the realm of the theoretical. It also mentions that the PRC has also still not ratified several of the most important international conventions on labour and refers to the existence of institutional constraints preventing the free setting of wages. In addition, the applicant considers that the Chinese workforce is impacted by the so-called household registration system and stated that the use of forced labour in the Xinyang Region contributes to the existence of distortion over wages, as it likely benefits tyre manufacturers with facilities in the region, such as the SOE Double Coin (Xinjiang) Kunlun Engineering Tire Co., Ltd, directly and through upstream actors.

(102) Sixth, tyre producers have access to finance granted by institutions which implement public policy objectives or otherwise are not acting independently from the state.

— The applicant underlines that the existence of preferential loans based on national policies is clearly revealed by the annual report of companies such as Shanghai Huayi Group. The accounting section of the report established different accounting methods depending on the situation "for policy-based preferential loan subsidies." In addition, the company certainly benefitted from such policies as its top three long-term loans were granted by the Export-Import Bank of China. One can also notice the presence among the government grants category of a "Fixed asset loans in Xinjiang financial subsidies."

— In addition, the annual report of Prinx Chengshan Holdings displays similar findings and in particular a loan agreement with Bank of China (Hong Kong) Limited, Bank of China (Thailand) Corporation Limited and the Hongkong and Shanghai Banking Corporation Limited (HSBC), the first two of which are public banks, and the third being the first foreign lender to have its own CCP Committee in its investment banking subsidiary.

— The applicant also pointed at the existence of biased rating of Chinese agencies concerning companies active in the tyre industry.

(103) The applicant submitted that the above-mentioned distortions are systemic stating that the GOC intervenes at all levels of the supply chain of tyres, creating a situation where the input, the input of that input and so on, are all affected in one way or another by government distortions.

(104) In conclusion, the applicant argued that significant distortions pursuant to Article 2(6a) of the basic Regulation are present in the tyre sector.

(105) The Commission examined whether it was appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file. The evidence on the file included the evidence contained in the Report, as well as in its updated version ('updated Report') ([22]), which relies on publicly available sources.

(106) That analysis covered the examination of the substantial government interventions in China's economy in general, but also the specific market situation in the relevant sector including the product concerned. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in China.

3.3.2. *Significant distortions affecting the domestic prices and costs in China*

(107) The Chinese economic system is based on the concept of a "socialist market economy". That concept is enshrined in the Chinese Constitution and determines the economic governance of China. The core principle is the "*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*" ([23]).

(108) The state-owned economy is the "*leading force in the national economy*" and the state has the mandate to ensure its "*consolidation and growth*" ([24]). Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation.

(109) The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the state with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the state ownership ([25]).

(110) In addition, under Chinese law, the socialist market economy is developed under the leadership of the CCP. The structures of the Chinese state and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the state are indistinguishable.

(111) Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution.

(112) Following the already existing first sentence of the provision: "[t]*he socialist system is the basic system of the People's Republic of China*" a new second sentence was inserted which reads: "[t]*he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.*" ([26]) This illustrates the unquestioned and ever-growing control of the CCP over the economic system of China.

(113) This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.

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

([22]) Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 10 April 2024, SWD(2024) 91 final.
([23]) Updated Report – Chapter 2, p. 7.
([24]) Updated Report – Chapter 2, p. 7-8.
([25]) Updated Report – Chapter 2, p. 10, 18.
([26]) Available at: http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm (accessed on 8 April 2024).
([27]) Updated Report – Chapter 2, p. 29-30.

(115) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government.

(116) Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets.

(117) Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.).

(118) The economic operators, private and state-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans, but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans ([28]).

(119) Second, on the level of allocation of financial resources, the financial system of China is dominated by the state-owned commercial and policy banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project ([29]).

(120) The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also, these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the state and the CCP ([30]).

(121) Third, on the level of regulatory environment, the interventions by the state into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market-based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by state policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ([31]).

(122) Similarly, in the area of investment, the GOC maintains significant control and influence over destination and magnitude of both state and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining state control over key sectors or bolstering domestic industry ([32]).

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

([28]) Updated Report – Chapter 4, p. 57, 92.
([29]) Updated Report – Chapter 6, p. 149-150.
([30]) Updated Report – Chapter 6, p. 153 -171.
([31]) Updated Report – Chapter 7, p. 204-205.
([32]) Updated Report – Chapter 8, p. 207-208, 242-243.
([33]) Updated Report – Chapter 2, p. 19-24, Chapter 4, p. 69, p. 99-100, Chapter 5, p. 130-131.

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

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

(125) The sector of the product concerned is mainly served by SOE companies, such as: China National Tyre & Rubber Co. Ltd (CNRC) held by SINOCHEM (SOE under the control of the SASAC) ([34]), Aeolus Tyres 57,5 % held by SOE CNRC ([35]), and Shuangqian (Double Coin) Tire Group Co., Ltd which is 58,57 % state owned ([36]).

(126) In addition, other companies have a significant degree of state ownership including Qingdao Doublestar which is 42,4 % state-owned ([37]), and Guizhou Tyre Co., Ltd which is 26,47 % state owned ([38]).

(127) However, CCP interventions into operational decision making have become the norm not only in State owned enterprises (‘*SOEs*’), but also in private companies ([39]), with CCP claiming leadership over virtually every aspect of the country’s economy. Indeed, the State’s influence by means of CCP structures within companies effectively results in economic operators being under the government’s control and policy supervision, given how far the State and Party structures have grown together in China.

(128) Moreover, the sector of the product concerned is subject to several government policies, such as the MIIT Guiding Opinion on promoting the high-quality development of the Chemical and Petrochemical industries during the 14th FYP which provides in its Section II.3 for the implementation of “*actions to improve the quality of chemical products supply. Focus on strategic emerging industries* […] *and accelerate the development of* […] *high-performance rubber and plastic materials,* […]. *Increase the proportion of green products in industries such as* […] *tires,* […]. *Encourage enterprises to improve product quality and to create and foster brands*”. In addition, Section V of this Guiding Opinion provides for the building of “*an internet-based industrial chain monitoring applicable to bulk products such as fertilizers and tyres*”. ([40])

(129) The tyre industry is also covered by policies at provincial levels such as the Shandong Province 14th FYP on the development of the chemical industry which provides the following specifically for the “*tyre industry: Strictly implement industry policies and industry standards, integrate and withdraw enterprises with an annual production capacity of less than 1.2 million all-steel radial tires (except engineering tires, aviation tires, and wide-section tubeless tires) and less than 5 million semi-steel radial tires (except run-flat tires, high-end racing tires, and ultra-low-section tires).* […]*Following the course of high-end and segmented markets, develop high-end products such as ultra-low section, flattening, low rolling resistance, low noise, and run-flat, expand R&D and production of high-performance radial tires such as smart tires, safety tires, low rolling resistance tires, and super wear-resistant so as to increase the products’ added value and market shares. Strengthen the tire industry clusters in the Shandong peninsula as well as in Northern Shandong, strengthen connections with industry support facilities, develop the rubber additive industry cluster in western Shandong, and expand the rubber processing equipment industry cluster in eastern Shandong. Comprehensively improve digitalization, network development and smart development of the tire industry, promote the construction of smart factories in the tire industry across the province, and create an a tire manufacturing industry internet cloud platform. Actively promote green tire production processes such as chemical rubber refining and radiation pre-vulcanization technology, encourage the secondary use of tires, promote the green pyrolysis and carbon black regeneration technology of waste tires, and promote the green circular development of the industry.* […] *By 2025, the output value of the tire industry will reach RMB 200 billion; there will be 8 tire companies with sales revenue exceeding RMB 10 billion, of which more than 2 will exceed RMB 20 billion, and 1-2 companies will enter the top 10 in the global tire industry*” ([41]).

([34]) https://www.sinochem.com/en/17197.html (consulted on 10 July 2024).
([35]) https://q.stock.sohu.com/newpdf/202457883741.pdf (consulted on 10 July 2024).
([36]) http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2024/2024-4/2024-04-30/10153300.PDF (consulted on 10 July 2024).
([37]) https://q.stock.sohu.com/newpdf/202457251875.pdf (consulted on 10 July 2024).
([38]) https://pdf.dfcfw.com/pdf/H2_AN202404151630237833_1.pdf?1713215477000.pdf (consulted on 10 July 2024).
([39]) Art. 33 of the CCP Constitution, Article 19 of the Chinese Company Law. See updated Report – Chapter 3, p. 47-50.
([40]) https://www.gov.cn/zhengce/zhengceku/2022-04/08/content_5683972.htm (accessed on 10 July 2024).
([41]) https://huanbao.bjx.com.cn/news/20211201/1191133.shtml (accessed on 10 July 2024).

(130) Government control and policy supervision can be also observed at the level of the relevant industry associations [42].

(131) For instance, the China Rubber Industry Association ('CRIA'), of which the CNRC, Aeolus Tyres, Qingdao Doublestar, Shuangqian (double coin) Tire Group Co., Ltd, and Guizhou Tyre Co., Ltd are members [43], states in Art. 3 of its Articles of Association that it *"adheres to the overall leadership of the Communist Party of China. In accordance with the provisions of the Constitution of the Communist Party of China, the Association establishes an organization of the Communist Party of China, carries out the activities of the Party, and provides the necessary conditions for the activities of the Party organization. The authority in charge of registration and management of the Association is the Ministry of Civil Affairs, and the authority in charge of Party building is the Party Committee of the State-owned Assets Supervision and Administration Commission of the State Council. The Association accepts the business guidance, supervision and management of the authority in charge of registration and management, and of the authority in charge of Party building as well as of the relevant administration department in charge of industry management."* [44]. Art. 36 further states that the persons in charge of the Association must meet conditions such as "*Adhere to the leadership of the Communist Party of China, support socialism with Chinese characteristics, resolutely implement the Party's line, principles, and policies, and have good political qualities*" [45].

(132) In addition, the CRIA has 15 branches and professional committees, of which the Tire Branch is its largest branch. There are more than 270 member units, mainly tire manufacturers, and the rest are research institutes, rubber machinery manufacturers, raw and auxiliary materials production and distribution companies related to tire production. The CRIA tyre branch follows the provisions of the Articles of Association of the China Rubber Industry Association, takes serving members as its purpose, plays the role of a bridge between the government and enterprises, and carries out various tasks under the leadership of the General Association. [46]

(133) The tire production of member companies accounts for about 80 % of the Chinese domestic tire production. The Association has 62 governing units, the chairman unit is Zhongce Rubber Group Co., Ltd, and the vice chairman units are Sailun Group Co., Ltd, Linglong Tire Co., Ltd, SHUANGQIAN Tire Group Co., Ltd, Triangle Tire Co., Ltd, Michelin (China) Investment Co., Ltd and other well-known domestic and foreign tire companies. [47]

(134) The Association itself underlines t*he impact of its policies on the market*, stating notably that "[In 2023,]t*he prices of major raw materials were in a downward trend in the first half of the year, and continued to rise in the third quarter, leading to a wave of price increases in the tire industry. Despite this, in the first 10 months, the profits of carbon black, rubber additives, and steel cord still showed a significant year-on-year decline, among which carbon black fell by 14,99 %, additives fell by 7,45 %, and skeleton materials fell by 2,90 %*". The Association also highlights the impact of policies on the export performance of the tyre industry mentioning that "*the overseas export market is particularly favorable, making up for the gap in domestic consumption and becoming an important driving force to support the increase in sales. According to statistics from the China Rubber Association, from January to October, the industry's export rate was 37,5 % (in value). During this period of time, tire exports maintained a high growth trend, and the export rate (value) remained above 50 % for several consecutive months. (…). Statistical data from the General Administration of Customs show that from January to November, my country's new pneumatic rubber tire exports were about 564 million, an increase of 11,4 %; the export volume was about 7,86 million tons, an increase of 16,8 %; the export trade value was RMB 137,51 billion, an increase of 20,3 %.*" [48].

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[42] Updated Report – Chapter 2, p. 24-27.
[43] https://www.cria.org.cn/c/member (accessed on 10 July 2024).
[44] https://ccb.cria.org.cn/;https://tyre.cria.org.cn/c/id/1772857864279343106; https://www.cria.org.cn/c/id/1760859134713970690 (accessed on 25 September 2024).
[45] *Ibid.*
[46] https://tyre.cria.org.cn/c/id/1772857864279343106 (consulted on 25 September 2024).
[47] *Ibid.*
[48] https://www.ty-tyre.com/news/industry/2024/0124/739.html (accessed on 25 September 2024).

(135) Tyre companies also explicitly mention the influence of the CCP over their conduct. For instance, Qingdao Doublestar states in its 2023 annual report that: "[i]*n 2023, the company continued to take Party building as the guide, high-quality development as the goal, actively implemented the "new four modernizations" strategy of ecology, high-tech, localization, and digitalization, focussed on the two main lines of business improvement and innovation breakthrough*" and underlined "[n]*ew achievements in Party building leadership: Adhere to party building leadership, focus on the main responsibilities and main business, develop and deepen education on the theme of Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era, strengthen political construction, consolidate grassroots Party building, and give full play to the role of branch committees in work groups and the role of Party members in the front line*" ([49]). Similarly, Shuangqian (double coin) Tire Group Co., Ltd mentions that "[u]*nder the strong leadership of the company's Party Committee and the Board of Directors, all cadres and employees have strengthened their confidence, faced challenges head-on, overcome the impact of the industry cycle downturn, and made steady progress in the production and operation of the company, continuously improving its core competitiveness and accelerating the pace of building a world-class enterprise*." ([50]) Finally, Guizhou Tyre Co., Ltd considers that "[a]*s a state-owned holding company, the company always adheres to the "unwavering leadership of the Party over state-owned enterprises"*. The Articles of Association confirm the legal status of the Party organization in corporate governance and integrate the Party's leadership into all aspects of corporate governance." ([51])

(136) Consequently, privately owned producers in the sector of the product concerned are prevented from operating under market conditions. Indeed, both public and privately owned enterprises in the sector are subject to policy supervision and guidance.

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

(137) The GOC is in position to interfere with prices and costs through state presence in firms. Indeed, CCP cells in enterprises, state-owned and private alike, represent an important channel through which the state can interfere with business decisions.

(138) According to China's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ([52])) and the company shall provide the necessary conditions for the activities of the Party organisation.

(139) In the past, this requirement appeared not to have always been followed or strictly enforced. However, since at least 2016 the CCP has been reinforcing its claims to control business decisions in companies as a matter of political principle ([53]), including exercising pressure on private companies to put "patriotism" first and to follow Party discipline ([54]).

(140) Already in 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ([55]). Similar estimates were reported in 2022 ([56]). These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product concerned and the suppliers of their inputs.

([49]) https://q.stock.sohu.com/newpdf/202457251875.pdf, page 14 (accessed on 25 September 2024).
([50]) http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2024/2024-4/2024-04-30/10153300.PDF, page 9 (accessed on 25 September 2024).
([51]) https://pdf.dfcfw.com/pdf/H2_AN202404151630237833_1.pdf?1713215477000.pdf, page 41 (accessed on 25 September 2024).
([52]) Updated Report – Chapter 3, p. 40.
([53]) See for example: Blanchette, J. - Xi's Gamble: *The Race to Consolidate Power and Stave off Disaster*; Foreign Affairs, vol. 100, no. 4, July/August 2021, pp. 10-19.
([54]) Updated Report – Chapter 3, p. 41.
([55]) Available at: https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU (accessed on 26 September 2024).
([56]) https://asia.nikkei.com/Business/Companies/China-s-companies-rewrite-rules-to-declare-Communist-Party-ties#:~:text=HONG%20KONG%20--%20China's%20Communist%20Party%20congress%20underlined%20fears%20that (accessed on 26 September 2024).

(141) In addition, on 15 September 2020 a document titled General Office of CCP Central Committee's Guidelines on stepping up the United Front work in the private sector for the new era ('*the Guidelines*') ([57]) was released, which further expanded the role of the Party committees in private enterprises.

(142) Section II.4 of the Guidelines states: "[w]*e must raise the Party's overall capacity to lead private-sector United Front work and effectively step up the work in this area*"; and section III.6 states: "[w]*e must further step up Party building in private enterprises and enable the Party cells to play their role effectively as a fortress and enable Party members to play their parts as vanguards and pioneers*". The Guidelines thus emphasise and seek to increase the role of the CCP in companies and other private sector entities ([58]).

(143) The investigation confirmed that overlaps between managerial positions and CCP membership / Party functions exist also in the tyre sector. To provide an example, the several managers and/or board members of China National Tyre & Rubber Co. Ltd, Qingdao Doublestar, Shuangqian (double coin) Tire Group Co., Ltd, and Guizhou Tyre Co., Ltd are CCP members and hold positions in the secretariat of the Party Committee. ([59]) This is also the case for the Chairman of the Board of Directors, General Manager, and members of the board of Aeolus, noting that one board member also serves as the financial director of China National Chemical Rubber Co., Ltd ([60])

(144) The state's presence and intervention in the financial markets as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ([61]). Thus, the state presence in firms, in the tyre and other sectors (such as the financial and input sectors) allows the GOC to interfere with respect to prices and costs.

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

(145) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central, provincial and local governments must focus on. Relevant plans exist at all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of a binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government.

(146) Overall, the system of planning in China results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ([62]).

(147) The Chinese authorities have enacted a number of policies guiding the functioning of the sector of the product concerned.

(148) The 14th FYP on developing raw materials industry ([63]) aims to achieve a breakthrough in key categories of raw materials "[f]*ocusing on key application areas such as […] bionic synthetic rubber*" ([64]). Further provisions specific to the tyre industry are also included in the MIIT Guiding Opinion on promoting the high quality development of the Chemical and Petrochemical industries during the 14th FYP, Shandong Province 14th FYP on the development of the chemical industry as mentioned in recitals (128) and (129) above.

([57]) General Office of CCP Central Committee's Guidelines on stepping up the United Front work in the private sector for the new era: www.gov.cn/zhengce/2020-09/15/content_5543685.htm (accessed on 10 July 2024).
([58]) Financial Times (2020) - Chinese Communist Party asserts greater control over private enterprise: https://on.ft.com/3mYxP4j (accessed on 10 July 2024).
([59]) https://www.gov.cn/zhengce/zhengceku/2021-12/29/5665166/files/90c1c79a00b44c67b59c29392476c862.pdf (accessed on 10 July 2024).
([60]) https://www.cria.org.cn/c/member (accessed on 10 July 2024).
([61]) Updated Report – Chapter 14, Sections 14.1 to 14.3.
([62]) Updated Report – Chapter 4, p. 56-57, 99-100-, .
([63]) https://www.gov.cn/zhengce/zhengceku/2021-12/29/5665166/files/90c1c79a00b44c67b59c29392476c862.pdf (accessed on 26 September 2024).
([64]) https://www.gov.cn/zhengce/zhengceku/2021-12/29/5665166/files/90c1c79a00b44c67b59c29392476c862.pdf (accessed on 10 July 2024).

(149) On the province level, similarly, according to the Anhui Province 14th FYP on developing new materials industry ([65]) the government authorities are set to shape the sector's industrial layout as follows: "[f]*ocusing on the automobile, electronics, high-speed railways, aerospace, and nuclear power sectors, andrelying on the industrial bases of Anqing, Huainan and other places, increase the intensity of research and development and of innovation, and vigorously develop rubber material products with special properties and processes such as high and low temperature resistance, aging resistance, ablation resistance, chemical medium resistance, weather resistance, ozone resistance, arc resistance, etc.*". It also mentions in the list of key products "*hydrogenated nitrile rubber, brominated nitrile rubber, solution-polymerized styrene-butadiene rubber, isoprene rubber and its monomers, acrylate rubber, special fluorine-containing rubber, fluorosilicone rubber, electricity insulating silicone rubber*" and in the list of breakthrough technologies "*Nitrile rubber hydrogenation technology, carboxyl nitrile rubber preparation technology, functionalized SSBR production technology, synthetic rubber drying process energy-saving technology, emulsion polymerization concentration technology, environmentally friendly additive replacement technology, etc.*" ([66]).

(150) Similarly, the Gansu province 14th FYP on developing raw materials industry ([67]) includes a section on "fine chemical industry" which provides that "[b]y 2025, the total industrial output value of the industry will strive to reach 50 billion yuan" and that in the Synthetic rubber field, the objective is "[r]*elying on backbone enterprises,* [to] *vigorously develop environmentally friendly rubber additives, rubber accelerator series CBS/MBS, carbon disulfide, insoluble sulfur, high-quality carbon black and other products*" and for advanced petrochemical new materials "[r]*elying on backbone enterprises,[to] improve the level and capacity of Gansu Province's in special engineering plastics, special synthetic rubber,* [etc.]" and to "[v]*igorously develop key strategic new materials*". In the field of petrochemicals, "*develop engineering plastics, special synthetic rubber, special fibers, biodegradable high-performance materials and high-performance composite materials*".

(151) The Gansu province 14th FYP also mentions in its list of key projects the PetroChina Lanzhou Petrochemical Company and the building of a new 35 000 tonnes/year special nitrile rubber unit, mainly including chemical preparation unit, polymerization unit, monomer recovery unit, slurry storage, mixing unit and coagulation drying and packaging unit, etc, for a total investment of more than 84 million CNY ([68]).

(152) In the Jiangxi's province 14th FYP on the high-quality development of petrochemical industry ([69]) states that "[*We will…*] *expand the application scope of* […] *organosilicon products such as silicone oil, silicone rubber, (…) and white carbon black. We will strengthen the research and development and production of new chemical materials, and vigorously develop cutting-edge new materials such as special rubber(…)*". Concerning special rubber, it also provides that the government will "*focus on the development of solution styrene butadiene rubber (SSBR), hydrogenated nitrile rubber, halogenated butyl rubber, hydrogenated styrene thermoplastic elastomers (HSBCs), isoprene rubber (IR), thermoplastic vulcanizate, ethylene propylene rubber (EPR), etc.*".

(153) Finally, the Jilin province 14th FYP on petrochemical industry development ([70]) provides that the government will "*fully promote the development of the new chemical materials industry such as engineering plastics, special synthetic rubber, and high-performance fibers, expand the application scope of new chemical materials in the fields of automobiles, rail transportation, aerospace, etc., and realize the high-quality development of the petrochemical industry system in our province*" and "[s]*trengthen the ten pillar products, iepolyethylene, ABS, acrylonitrile, methyl methacrylate, phenol/acetone, benzene, butyl octanol, ethylene oxide, ethylene propylene rubber, and fuel ethanol, refine special carbon fiber, highly active polyisobutylene, special rubber and plastic materials and other specialty products, (…) and form three major competitive sectors of "synthetic resin, synthetic rubber and basic organic chemical raw materials", enhance the competitiveness and endogenous development momentum of the petrochemical industry, and help cultivate competitive product clusters and specific product chains*".

([65]) Anhui province 14 FYP on developing new materials industry, published 28 February 2022, SECTION III, Table 6.
([66]) *Ibid.*
([67]) https://gxt.gansu.gov.cn/gxt/c106992/202201/1959993/files/bc8a41db8b904e55b5bd7017eb42d119.pdf (accessed on 26 September 2024).
([68]) *Ibid.*
([69]) https://huanbao.bjx.com.cn/news/20211115/1187880.shtml (accessed on 26 September 2024).
([70]) http://gxt.jl.gov.cn/xxgk/zcwj/sgxtwj/202109/t20210914_8217060.html (accessed on 26 September 2024).

(154) The annual report of the main tyre companies also mentions the existence of governmental subsidies or support. For instance, the annual report of Aeolus tyres states that the company benefited CNY 9,4 million in governmental subsidies in 2023, and 11 million in 2022 ([71]). Qingdao benefited from governmental subsidies of CNY 105,6 million in 2023, and 625 million in 2022 ([72]). Shuangqian (Double Coin) Tire Group Co., Ltd reported CNY 163 million in 2023 and CNY 760,8 million in 2022 ([73]). Finally, Guizhou Tyre Co., Ltd's annual report shows that the company received Government subsidies related to business operations of CNY 25,2 million in 2023 and 19,8 million in 2022 ([74]).

(155) Through these and other means, the GOC therefore directs and controls virtually every aspect in the development and functioning of the sector, as well as the upstream inputs.

(156) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives concerning the sector. Such measures impede market forces from operating freely.

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

(157) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than China, the Chinese system is characterised by systematic under-enforcement.

(158) The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the state in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ([75]).

(159) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in China. ([76]) All land is owned by the state (collectively owned rural land and State-owned urban land) and its allocation remains solely dependent on the state. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ([77]). Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ([78]).

(160) Much like other sectors in the Chinese economy, the producers of the product concerned are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies, too, are subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the tyre industry sector. The present investigation revealed nothing that would call those findings into question.

(161) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the sector of the product concerned.

([71]) https://q.stock.sohu.com/newpdf/202457883741.pdf, page 146 (accessed on 10 July 2024).
([72]) https://q.stock.sohu.com/newpdf/202457251875.pdf, page 145 (accessed on 10 July 2024).
([73]) http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2024/2024-4/2024-04-30/10153300.PDF, page 190 (accessed on 10 July 2024).
([74]) https://pdf.dfcfw.com/pdf/H2_AN202404151630237833_1.pdf?1713215477000.pdf, page 193 (accessed on 10 July 2024).
([75]) Updated Report – Chapter 6, p. 171-179.
([76]) Updated Report – Chapter 9, p. 260-261.
([77]) Updated Report – Chapter 9, p. 257-260.
([78]) Updated Report – Chapter 9, p. 252-254.

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

(162) A system of market-based wages cannot fully develop in China as workers and employers are impeded in their rights to collective organisation. China has not ratified a number of essential conventions of the International Labour Organisation, in particular those on freedom of association and on collective bargaining ([79]).

(163) Under national law, only one trade union organisation is active. However, this organisation lacks independence from the state authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ([80]). Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area.

(164) This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ([81]). Those findings lead to the distortion of wage costs in China.

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

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

(166) Access to capital for corporate actors in China is subject to various distortions.

(167) First, the Chinese financial system is characterised by the strong position of state-owned banks ([82]), which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similar to non-financial SOEs, the banks remain connected to the state not only through ownership but also via personal relations (the top executives of large state-owned financial institutions are ultimately appointed by the CCP) ([83]) and they regularly implement public policies designed by the GOC.

(168) In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the state ([84]). While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.

([79]) Updated Report – Chapter 13, p. 360-361, 364-370.
([80]) Updated Report – Chapter 13, p. 366.
([81]) Updated Report – Chapter 13, p. 370-373.
([82]) Updated Report – Chapter 6, p. 137-140.
([83]) Updated Report – Chapter 6, p. 146-149.
([84]) Updated Report – Chapter 6, p. 149.

(169) For example, the GOC has clarified that even private commercial banking decisions must be overseen by the CCP and remain in line with national policies. One of the state's three overarching goals in relation to banking governance is now to strengthen the Party's leadership in the banking and insurance sector, including in relation to operational and management issues [85]. Also, the performance evaluation criteria of commercial banks have now to, notably, take into account how entities "*serve the national development objectives and the real economy*", and in particular how they "*serve strategic and emerging industries*". [86]

(170) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government [87]. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important [88]. This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.

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

(172) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces but are influenced by government-induced distortions. The share of lending at or below the benchmark rate still represented at least one-third of all lending as of the end of 2018 [89]. Official media in China have recently reported that the CCP called for "*guiding the loan market interest rate downwards*" [90]. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.

(173) Overall credit growth in the China indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly, with the GOC a number of times opting to either avoid defaults, thus creating so called "zombie" companies, or to transfer the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.

(174) In essence, despite the steps that have been taken to liberalize the market, the corporate credit system in China is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

(175) No evidence was submitted in the present investigation demonstrating that the sector of the product concerned is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

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[85] See official policy document of the China Banking and Insurance Regulatory Commission of 28 August 2020: *Three-year action plan for improving corporate governance of the banking and insurance sectors (2020-2022)*: http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=925393&itemId=928 (accessed on 8 April 2024). The Plan instructs to "*further implement the spirit embodied in General Secretary Xi Jinping's keynote speech on advancing the reform of corporate governance of the financial sector*'. Moreover, the Plan's section II aims at promoting the organic integration of the Party's leadership into corporate governance: "*we shall make the integration of the Party's leadership into corporate governance more systematic, standardised and procedure-based* […] *Major operational and management issues must have been discussed by the Party Committee before being decided upon by the Board of Directors or the senior management*".

[86] See CBIRC's *Notice on the Commercial banks performance evaluation method*, issued on 15 December 2020: http://jrs.mof.gov.cn/gongzuotongzhi/202101/t20210104_3638904.htm (accessed on 10 July 2024).

[87] Updated Report – Chapter 6, p. 157-158.

[88] Updated Report – Chapter 6, p. 150-152, 156-160, 165-171.

[89] OECD (2019), OECD Economic Surveys: China 2019, OECD Publishing, Paris. p. 29, available at: https://doi.org/10.1787/eco_surveys-chn-2019-en (accessed on 10 July 2024).

[90] http://www.gov.cn/xinwen/2020-04/20/content_5504241.htm (accessed on 10 July 2024).

(176) In fact, the annual report and publicly available sources show that the main companies active in the tyre industry sector received support from policy banks. For instance, public sources mentioned that "*Henan Branch of the Export-Import Bank of China has actively implemented the new development concept, adhered to the responsibility and mission of financial services for the real economy, and provided a credit of 1 billion yuan and a loan of RMB 300 million to Aeolus Tire Co., Ltd (hereinafter referred to as "Aeolus Tire") to help the company develop its export-oriented business and further improve its international market competitiveness*". ([91]) Similarly, media reported that "[o]*n August 12, Doublestar Group and Industrial and Commercial Bank of China Qingdao Branch held a strategic cooperation signing ceremony at the Doublestar Global Model and Market Innovation Center, taking the bank-enterprise cooperation model of "co-development and co-growth" to a new level. Chai Yongsen, Secretary of the Party Committee and Chairman of Doublestar Group, Zhang Junhua, Deputy Secretary of the Party Committee and President, Cai Qian, Secretary of the Party Committee and President of Industrial and Commercial Bank of China Qingdao Branch, Li Xia, Member of the Party Committee and Deputy President, and other leaders attended the ceremony*" and that "*ICBC Qingdao Branch will continue to provide good financial services, increase credit and loan scale for Doublestar Group, and fully support the rapid development of Doublestar Group*", or that "[t]*he development of Doublestar is inseparable from the strong support of ICBC*" ([92]). Strong links with the Bank of Communications and the Bank of China have also been reported with articles stating that "*Bank of Communications Qingdao Branch will take Doublestar Group as a key core customer, and around the future development of Doublestar Group, provide strong support in investment and financing credit lines, overseas Kumho Tire advanced manufacturing capacity upgrade projects and other aspects, to help Doublestar's "third entrepreneurship" and support Doublestar to become a world-class enterprise with high-tech, digitalization and social responsibility as soon as possible*" and that "*Yu Qun, secretary of the Party Committee and president of Bank of China Qingdao Branch, said that he would fully support the development of the real economy in Qingdao and increase the credit and credit scale of Doublestar Group to support its rapid development. After the signing, both parties will continue to expand their business cooperation, starting from the overall needs of Doublestar's future development, to achieve common development and growth, jointly foster new breakthroughs in their respective business scope, and achieve a "win-win" situation of mutual promotion between banks and enterprises*". ([93])

3.3.9. *Systemic nature of the distortions described*

(177) The Commission noted that the distortions described in the updated Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above as well as in Part I of the updated Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above and in Part II of the updated Report.

(178) The Commission recalls that in order to produce the product concerned, certain inputs are needed. When the producers of the product concerned purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors. These distortions were described in detail above, in particular in recitals (66) and (106). The Commission pointed out that the regulatory setup underpinning those distortions is generally applicable, tyre producers being subject to those rules as any other economic operator in China. The distortions have therefore a direct bearing on the cost structure of the product concerned.

(179) As a consequence, not only the domestic sales prices of the product concerned are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the updated Report.

(180) Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout China. This means, for instance, that an input that in itself was produced in China by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.

([91]) https://business.sohu.com/a/709659690_121375869 (accessed on 26 September 2024).
([92]) https://baijiahao.baidu.com/s?id=1707938919540030050&wfr=spider&for=pc (accessed on 26 September 2024).
([93]) http://www.doublestar.com.cn/news/3966.html (accessed on 26 September 2024); http://www.doublestar.com.cn/news/3816.html (accessed on 26 September 2024).

(181) No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

3.3.10. *Representative country*

3.3.10.1. General remarks

(182) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:

— a level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ([94]);

— production of the product under review in that country;

— existence of relevant readily available data in the representative country.

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

(183) As explained in recitals (57) and (59), the Commission issued two notes for the file on the sources for the determination of the normal value: the First Note of 14 January 2024 and the Second Note of 16 July 2024.

(184) These notes described the facts and evidence underlying the relevant criteria, and addressed the comments received by the parties on these elements and on the relevant sources.

(185) In the Second Note, the Commission informed interested parties of its intention to consider Türkiye as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

(186) Based on the initial submissions received from the sampled exporting producers, the Commission decided to group the raw materials based on their weight in terms of production costs. Three categories were defined: the main raw materials representing in total more than 35 % of the total costs, the secondary raw materials representing in total more than 10 % and the last category with the other raw materials in terms of costs of production. These categories were then examined based on Global Trade Atlas ([95]) import database to make sure that those are representative.

(187) Moreover, the Commission examined if the raw materials were subject to restrictions (based on the OECD Inventory) on export restrictions on Industrial Raw Materials ([96]), Global Trade Alert ([97]) database and the Market Access Map ([98]). No restrictions were identified for Türkiye.

3.3.10.2. First Note

(188) In the First Note, the Commission identified Brazil, Indonesia, Malaysia, Thailand, Türkiye and South Africa as countries with a similar level of economic development as the PRC according to the World Bank (i.e. “upper-middle income” countries on a gross national income basis) where production of the product under investigation was known to take place.

(189) Based on the initial submissions from the sampled exporting producers, the Commission considered that Brazil and Türkiye had sufficient imports for most of the raw materials, and the overall imports were not significantly impacted by imports originating from China.

([94]) World Bank Open Data – Upper Middle Income, https://data.worldbank.org/income-level/upper-middle-income.
([95]) https://www.globaltradealert.org/data_extraction.
([96]) http://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials.
([97]) https://www.globaltradealert.org/data_extraction.
([98]) https://www.macmap.org/

(190) For the second criterion, the Commission identified readily available detailed financial statements in Brazil and in Türkiye: Vipal Borrachas S.A. ([99]) in Brazil, and Brisa Bridgestone Sabancı Lastik Sanayi and Ticaret AŞ ([100]) in Türkiye. Vipal Borrachas is a producer of tread materials while Bridgestone produces new tyres.

(191) The Commission considered that the choice of Brazil more suitable as there was also production of new truck tyres.

(192) The Commission invited comments on the reasoning used to find a representative country in the First Note.

3.3.10.3. Claims made for each potential representative country following the issuance of the First Note

(193) The Commission received comments from the Giti group, the Hankook group and from the Coalition against unfair tyres imports.

(194) Giti claimed that the Commission did not present any proof for the assumption that the level of Chinese imports may affect the average import prices from non-China sources.

(195) The Commission assessed the claim and considered that the level of Chinese imports in Malaysia is such that the volume of imports could not be considered as representative as it is likely to be affected by distortions, if the significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation are confirmed in the final disclosure. Given this risk and the fact that the Chinese imports into Türkiye were significantly lower, the Commission rejected the claim and confirmed the selection of Türkiye.

Brazil

(196) Giti claimed as the Brazilian producer proposed to source the financial data (SG&A and profit) did not produce new tyres, it cannot be used for the purpose of the normal value calculation. Moreover, the Brazilian producer proposed, once removed the equity equivalence result from the Profit & Loss statement, reported an operational loss for the year 2022.

(197) The Commission assessed the claim and confirmed that the proposed producer reported losses for the year 2022. Therefore, in addition to the analysis above, showing the absence of imports in Brazil for four products in the second category, when considering the fact there was no alternative financial data available, the Commission concluded that Brazil was not an appropriate representative country.

Indonesia

(198) Giti claimed that Indonesia should not be disregarded because of insufficient or no imports for HS codes 4001 21, 4001 22 and 4002 80 as an international benchmark could be used for replacing the values (i.e. the Singapore Commodities exchange). Giti did not explain why Indonesia could be an appropriate potential representative country and why Singapore Commodities exchange is a reliable source of data. Therefore, the Commission considered that this claim was not substantiated.

(199) The Commission considered that in a situation where there was no reliable import value for a certain raw material (i.e. HS code 4001 22), it may refer to values obtained from other sources. However, in that particular case imports for the above raw materials were found for other potential representative countries.

(200) Giti also claimed that considering a certain HS code was irrelevant in its case as it did not consume such raw material.

(201) The Commission reminds that it established the list of factors of production based on the submissions made by all the sampled groups of exporting producers as the analysis had to be valid for all of them.

([99]) Demonstracoes-Financeiras-Anuais-Completas-Vipal-Borrachas-2022-12-31-FhFCcWCt.pdf.
([100]) brisa.com.tr/yatirimci-iliskileri/sunumlar-ve-raporlar/finansal-tablolar-ve-bagimsiz-denetci-raporu/

(202) Therefore, in absence of imports data for Indonesia for the relevant codes and the availability of such data in other potential representative countries, the Commission cannot consider Indonesia as an appropriate representative country.

Malaysia

(203) Giti claimed that Malaysia was used as the primary surrogate country by the US DoC ([101]) for the same type of products. Moreover, Malaysia is the only country for which there are significant imports at representative prices for all raw materials of the main category. In addition, the import prices of raw materials for the second category are also representative as they are in line with import prices in other countries for which the Commission has not raised any issues regarding representativeness or reliability. Furthermore, Malaysia does not suffer from high inflation, devaluation rates and high interest rates as compared with Türkiye. The party proposed the use of the financial data of Toyo Tyre Malaysia which was also used by the USDOC.

(204) Regarding the producer proposed by the party, the Commission noted that, based on the corporate web site, Toyo Tyre Malaysia is not producing truck tyres ([102]) but light truck tyres (i.e. for SUVs and 4x4 vehicles) as the US proceeding mentioned did not concern truck tyres.

(205) The Commission considered that given the significant volume of imports from China of the main inputs in Malaysia, the imports could not be considered representative since they are likely to be affected by distortions, if the significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation are confirmed in the final disclosure.

(206) Given this risk, the Commission rejected the claim.

(207) Following the final disclosure, Giti reiterated that Malaysia had stable economic conditions with a low inflation rate of 3,3 % in 2022 and a modest 10 % devaluation of its currency, making Malaysia a more suitable representative country.

(208) As explained in recital (222), the Commission considered that the economic situation of a potential representative country should not be considered as a decisive negative factor. This is because the establishment of benchmarks is not directly affected by the economic situation of the country. The Commission's approach to setting benchmarks is based on import prices for raw materials, as well as the use of percentages for selling, general and administrative (SG&A) expenses and profit, which help to offset internal fluctuations. Additionally, energy costs are converted into Chinese yuan (CNY) using an exchange rate that reflects the evolution of the local currency against CNY. In light of this, the Commission considered Türkiye to be a suitable representative country. The claim was disregarded.

(209) Following the final disclosure, Giti claimed that both Brisa Bridgestone and Goodyear Lastikleri primarily produced tyres for cars and light trucks, similar to the product under investigation. Therefore, the SG&A and profit benchmarks proposed were largely based on car and light truck tyres, making Toyo Tyre Malaysia a suitable reference.

(210) The Commission's search for a representative country revealed that no country had a company that exclusively produced truck tyres. As mentioned in recital (204), Toyo Tyre Malaysia did not produce truck tyres, while Brisa Bridgestone and Goodyear Lastikleri manufactured truck tyres in their Turkish facilities. In light of this, the Commission decided to prioritize companies that produce truck tyres when establishing benchmarks for SG&A and profit. This approach ensures that the benchmarks are more relevant and representative of the industry.

([101]) United States Department of Commerce, Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China; 2021-2022, p. 15.

([102]) www.toyotiresasia.com/about-us : "Currently TOYO TIRES offers a range of tires including PROXES car tires designed for mileage and performance, and OPEN COUNTRY tires for SUVs and 4x4 vehicles that caters for both on-road and off-road users in Malaysia".

Thailand

(211) Giti claimed that Thailand should be the most suitable choice among those considered by the Commission. Giti and Hankook claimed that Thailand should not be disregarded because of insufficient or no imports for HS codes 4001 21, 4001 22 and 4002 80 as an international benchmark could be used for replacing the values (i.e. the Singapore Commodities exchange or Statista) and that there were no provisions in the Basic Regulation requiring the use of import data. Moreover, Giti claimed that considering 4001 21 was useless in its case as it did not consume such raw material. The same party provided a list of three producers of truck tyres.

(212) The Commission noted that Giti did not substantiate its claim and did not explain why Thailand is the most suitable choice for representative country, neither explain why Singapore Commodities exchange or Statista ([103]) are reliable sources of information. The Commission recalls that it established the list of factors of production based on the submission made by all the sampled groups of exporting producers as the analysis had to be valid for all of them. Moreover, the Commission considered that in a situation of quasi-absence of imports for one of the main inputs from the main category mentioned above, Thailand cannot be considered as an appropriate representative country.

Türkiye

(213) The Coalition against unfair imports claimed that the Commission did not consider that Türkiye imported significant amounts of inputs from Russia. The trade flows from Russia have been severely affected by the sanctions following Ukraine’s invasion in February 2022 and large volumes of products have been redirected to non-EU markets in commercial conditions that cannot ensure that free market conditions were maintained. Therefore, according to the Coalition against unfair imports Türkiye cannot be considered as appropriate representative country.

(214) The Commission assessed the claim and found that there have been significant volumes of Russian imports in Türkiye of two HS codes of the main category (as defined in the First Note: 2803 00 and 4002 19). However, the party did not provide evidence that imports from Russia may render the imports into Türkiye unreliable. The Commission did not observe evidence of any abnormal price fluctuation for the import from Russia into Türkiye of the two HS codes that were not sold in significant discounts in comparison with average import price of that input in Türkiye. Therefore, the claim was disregarded.

(215) Giti claimed that Türkiye imposed anti-dumping measures to protect its steel industry, and thus these measures distorted import prices of steel wire (an input for the production of tyres) and that in addition local producers of tyres enjoyed significant protection, i.e. anti-dumping measures on tyres, leading to artificially elevated profits. The Commission considered that the imposition of anti-dumping measures was not aimed at shielding local producers from competition but, on the opposite, it reestablished a normal competitive situation. Therefore, the claim was rejected.

(216) Following the final disclosure, Giti claimed that the Commission did not address a claim made after the disclosure of the Second Note on FOP that the steel wire used in the product under investigation is a basic steel product typically sourced domestically while imports should reflect specialty products rather than general market trends. This distortion was evidenced by comparing Türkiye export price with import price which was roughly half the import price.

(217) Giti claimed that a specific type of steel wire was used in the production of truck tyres, but failed to provide any evidence to support this claim. In the absence of such evidence, the Commission considered the claim to be speculative and therefore did not take it into account.

([103]) Statista is a global data and business intelligence platform with an extensive collection of statistics, reports, and insights.

(218) Regarding Türkiye, Hankook claimed that Brisa Bridgestone's consolidated financial statements included Arvento subsidiaries which were involved in the development and manufacturing of mobile technologies. Therefore, Brisa Bridgestone was considered manifestly not representative for the purpose of the normal value construction. The party proposed the use of Goodyear Lastikleri Turk ([104]) which would be more appropriate than Brisa Bridgestone as there was not consolidation of other type of activities.

(219) Regarding Brisa Bridgestone and Arvento, the Commission noted that the party did not substantiate its claim, in particular regarding the impact of Arvento turn-over on the consolidated financial statements. Therefore, the Commission concluded that Brisa Bridgestone financial data remained an appropriate source for the establishment of the SG&A and profit percentages. Moreover, the Commission considered the claim concerning Goodyear Lastikleri Turk and concluded that the financial data of this producer of truck tyres could also be a source for the establishment of the SG&A and profit percentages to construct normal value in Türkiye, in addition to the data of Brisa Bridgestone. Indeed, the financial data of Goodyear Lastikleri Turk is readily available and its accounts are audited. Based on both producers, the weighted average rates for SG&A and profit, expressed as a percentage of the cost of goods sold, are 22,0 % and 10,8 % respectively may be considered as reasonable for such industry.

(220) Therefore, the claim was rejected.

(221) Giti and Hankook claimed that the economic conditions (such as high inflation, devaluation of the Turkish lira, increase of lending rates or energy price) affect the Turkish economy, and that the labour costs were impacted by political decision. In their view this could affect the reliability of indirect expenses and undermine the reliability of the normal value.

(222) The Commission considered that the import prices were not impacted by the devaluation of the Turkish lira, the Commission considered that any increase will be reflected by an increase of the total costs of goods sold and/or SG&A expenses and thus in the decrease of the profit margin of the representative producer. As SG&A and profit margins were expressed in percentage, this had no impact on the calculation of the normal value. Regarding the inflation of certain specific costs, as labour or electricity, the Commission considered that the inflation reported in Türkiye is largely attenuated by the evolution of the exchange rate between Turkish lira and the Renminbi. Therefore, the claim was rejected.

(223) Following the final disclosure, Giti argued that the Commission's approach to calculating SG&A expenses failed to account for the significant impact of currency devaluation on exports and imports, which were denominated in foreign currencies. In particular, Giti noted that the Commission's requirement to distinguish between realized and translation exchange gains/losses was not feasible, as the Turkish companies' financial data did not provide this level of detail.

(224) The Commission also examined the potential impact of exchange gains or losses on the SG&A margin, but found no evidence in the file to suggest that it was significant. In any case, it is clear that any changes to the SG&A total amount would have a corresponding impact on the total profit amount, and therefore would not affect the final determination of the dumping margins. As a result, the claim was disregarded.

South Africa

(225) For South Africa, Giti agrees with the Commission that South Africa does not appear to constitute a suitable representative country on account of the negligible imports for all factors of production.

(226) The Commission therefore intends to consider Türkiye as representative country.

([104]) Finansal Bilgiler (goodyear.eu)

3.3.11. *The Second Note*

(227) Following the disclosure of the First Note, Hankook group revised several times its initial submission on factors of production. This resulted in the Commission revising the list of HS codes of each category described in the recital (186) and its initial analysis. After revision, the main category in the Second Note represented around 64 % of the direct material costs, and the second category of products represented around 22 % of the direct material costs.

(228) Following the final disclosure, Giti claimed that the Commission failed to provide explanations on the reclassification of the HS code 4002 80 from category A to category B.

(229) As mentioned in recital (227), the list of HS codes of each category was revised following the revision of Hankook factors of production. The methodology used for establishing each category was based on the weight of each HS codes as described in recital (186). Therefore, the Commission considered that the methodology used was explicitly disclosed to interested parties. The claim was disregarded.

(230) As noted in recital (219), the Commission revised the list of HS codes for each category in response to the revision of Hankook's factors of production. This revision was made in accordance with the methodology described in recital (186), which is based on the weight of each HS code. The Commission had explicitly disclosed this methodology to interested parties, and therefore considered that the claim was unfounded. As a result, the claim was disregarded.

3.3.12. *Claims made following the issuance of the Second Note*

(231) In their comments, the Hankook group reiterated its claim that the consolidated financial statements could not be used (please refer to recital (218)) and the Commission had not provided any evidence to support the consideration of Brisa Bridgestone as a reliable source. Therefore, Hankook group considered that Brisa Bridgestone's financial data was unwarranted and unjustified.

(232) The Commission found that Hankook group did not substantiate its claim with new evidence that the absorption of Arvento impacted the profit margin of Brisa Bridgestone. When Brisa Bridgestone and Goodyear Lastikleri Turk financial statements were consolidated, it provided a reasonable profit margin of 10,8 %, and thus it should be considered as the most appropriate benchmark available.

(233) In their comments, Giti group reiterated its claim that Malaysia should not be disregarded as the country was selected in recent cases by the Commission and the US DoC. Giti group considered that Malaysia constituted a much more suitable representative country as the main inputs were imported in sufficient quantity. Furthermore, with regards to the selection of a producer in the representative country, the Giti Group considered that Toyo Tyre Malaysia could still be considered appropriate, even though it only produced SUV tyres. This was based on the fact that the Turkish producer, Goodyear Lastikleri Turk, did not exclusively produce truck tyres. Notably, in the first quarter 2023, tyres for cars accounted for 85 % of the number of tyres sold by exporting producer in the Union.

(234) The Commission rejected the claim as Toyo Tyre Malaysia did not produce at all the product under review.

(235) Regarding Türkiye, Giti group reiterated its claims on inflation and devaluation of the Turkish Lira, that electricity prices or labour costs were influenced by political factors, and tyres originating from various origins were subject to anti-dumping measures.

(236) As no additional evidence was submitted by Giti group, the claim was disregarded.

3.3.13. *Level of social and environmental protection*

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

3.3.13.1. Conclusion

(238) In view of the above analysis, and in accordance with Article 2(6a)(a), first indent of the basic Regulation, the Commission considered Türkiye as the most appropriate representative country and Brisa Bridgestone consolidated financial statements and Goodyear Lastikleri Turk financial statements as an appropriate and reasonable source for financial data.

3.3.14. *Sources used to establish undistorted costs*

(239) In the First Note, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review by the sampled exporting producers and invited the interested parties to comment and propose readily available information on undistorted values for each of the factors of production mentioned in that note.

(240) Subsequently, in the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use Global Trade Atlas ('GTA') to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use on one hand the Turkish Statistical Institute ([105]) for establishing undistorted costs of labour, natural gas, liquefied natural gas ('LNG') and steam, and on the other hand the statistics provided by the Energy Market Regulatory Authority ([106]) for establishing undistorted cost of electricity. The statistics provided by the Presidency of the Republic of Türkiye Investment Office ([107]) will be used by the Commission for establishing undistorted cost of water.

(241) The Commission informed that it would calculate the percentage of the consumables on the total cost of raw materials and apply this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks from the appropriate representative country.

3.3.14.1. Factors of production

(242) Considering all the information submitted by the interested parties and collected during the verification visits, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production

Factor of production	Commodity code in Türkiye	in CNY	Unit of measurement	Source of data
Raw materials				
soya bean oil	150790	40,977	CNY/kg	Global Trade Atlas ([108])
sulphur all kinds	250300	1,490	CNY/kg	Global Trade Atlas
kaolin	250700	1,710	CNY/kg	Global Trade Atlas
other clays	250840	1,672	CNY/kg	Global Trade Atlas
Magnesia, other magnesium oxide	251990	5,764	CNY/kg	Global Trade Atlas
other petroleum	271019	5,740	CNY/kg	Global Trade Atlas

([105]) Turkish Statistical Institute: http://www.turkstat.gov.tr.
([106]) EMRA | Energy Market Regulatory Authority: http://epdk.gov.tr.
([107]) Türkiye Investment Office : https://www.invest.gov.tr/en/investmentguide/pages/cost-of-doing-business.aspx.
([108]) www.gtis.com/gta/secure/default.cfm.

Factor of production	Commodity code in Türkiye	in CNY	Unit of measurement	Source of data
Mineral waxes	271290	9,368	CNY/kg	Global Trade Atlas
carbon blacks	280300	10,448	CNY/kg	Global Trade Atlas
Silicon dioxide	281122	19,662	CNY/kg	Global Trade Atlas
zinc oxide	281700	7,491	CNY/kg	Global Trade Atlas
calcium carbonate	283650	3,637	CNY/kg	Global Trade Atlas
other cyclic hydrocarbons	290219	18,489	CNY/kg	Global Trade Atlas
other organo-sulphur compounds	293090	25,540	CNY/kg	Global Trade Atlas
other artificial waxes and prepared waxes	340490	20,000	CNY/kg	Global Trade Atlas
prepared rubber accelerators	381210	38,299	CNY/kg	Global Trade Atlas
compound plasticisers for rubber or plastics	381220	16,826	CNY/kg	Global Trade Atlas
mixtures of oligomers of 2,2,4-trimethyl-1,2-dihydroquinoline	381231	22,786	CNY/kg	Global Trade Atlas
other anti-oxidising preparations and other compound stabilisers for rubber or plastics	381239	27,414	CNY/kg	Global Trade Atlas
stearic acid	382311	10,265	CNY/kg	Global Trade Atlas
other chemicals	382499	25,565	CNY/kg	Global Trade Atlas
polymers of styrene	390390	14,054	CNY/kg	Global Trade Atlas
melamine resins	390920	20,405	CNY/kg	Global Trade Atlas
phenolic resins	390940	20,553	CNY/kg	Global Trade Atlas
petroleum resins, coumarone, indene or coumarone-indene resins and polyterpenes	391110	18,458	CNY/kg	Global Trade Atlas
smoked sheets	400121	14,692	CNY/kg	Global Trade Atlas
technically specified natural rubber	400122	12,769	CNY/kg	Global Trade Atlas

Factor of production	Commodity code in Türkiye	in CNY	Unit of measurement	Source of data
synthetic rubber	400219	15,197	CNY/kg	Global Trade Atlas
synthetic rubber	400220	14,566	CNY/kg	Global Trade Atlas
synthetic rubber	400239	22,528	CNY/kg	Global Trade Atlas
synthetic rubber	400270	20,992	CNY/kg	Global Trade Atlas
synthetic rubber	400280	7,945	CNY/kg	Global Trade Atlas
reclaimed rubber in primary forms or in plates, sheets or strip	400300	3,477	CNY/kg	Global Trade Atlas
rubber compounded with carbon black or silica	400510	16,169	CNY/kg	Global Trade Atlas
Single cotton yarn	520523	25,243	CNY/kg	Global Trade Atlas
Single cotton yarn	520622	33,186	CNY/kg	Global Trade Atlas
tyre cord	590210	50,004	CNY/kg	Global Trade Atlas
tyre cord	590220	28,808	CNY/kg	Global Trade Atlas
tyre cord	590290	84,159	CNY/kg	Global Trade Atlas
Wire of iron Plated or coated with base metals other than zinc	721730	14,224	CNY/kg	Global Trade Atlas
stranded wire, ropes and cables	731210	24,539	CNY/kg	Global Trade Atlas
Labour				
labour cost per man-hour	N/A	69,20	man per hour	The Turkish Statistical Institute
Energy				
coal	270111	1,700	CNY/kg	Global Trade Atlas
electricity	N/A	1,180	CNY/kWh	The Turkish Statistical Institute
natural gas	N/A	5,02	CNY/M3	The Turkish Statistical Institute
steam gas	N/A	2 361	CNY/Tonne	The Turkish Statistical Institute
water	N/A	4,957	CNY/m^3	Presidency of the Republic of Türkiye Investment Office

3.3.14.2. Raw materials

(243) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA to which import duties and transport costs were added. The import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council ([109]). The Commission decided to exclude imports from the PRC into the representative country as it concluded in Section 3.2 that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(a) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC into the representative country, the volume of imports from other third countries remained representative.

(244) The Commission expressed the transport cost incurred by the cooperating exporting producers for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost. The Commission considered that, in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

(245) Following the final disclosure, Giti claimed that the Commission wrongly disregarded its purchases of natural rubber when directly imported and invoiced in foreign currencies.

(246) The Commission noted that, even if it were to use the cost of the purchases of natural rubber when directly imported and invoiced in foreign currencies, the dumping margin would only decrease by approximately 2 % while remaining well-above de minimis, thereby not changing the overall finding of continuation of dumping. Accordingly, the Commission did not further address the claim.

3.3.14.3. Labour

(247) The Turkish Statistical Institute publishes detailed information on wages in different economic sectors in Türkiye ([110]). The Commission established the benchmark based on the latest available statistics covering 2022 for average hourly labour costs for the economic activity 'Manufacture of rubber tyres and tubes products' NACE code C.22 according to NACE Rev.2 classification and a headcount category of more than 1 000 employees. The values were further adjusted for inflation using the labour cost index published by the Turkish Statistical Institute ([111]) to reflect the costs in the investigation period.

(248) Following the final disclosure, Giti claimed that the benchmark used appeared to be inflated compared with other recent cases.

(249) The Commission reviewed the claim and found no evidence of calculation errors. The party's references to other cases in different industries, such as steel ropes and cables, melamine, and tungsten carbide, did not provide a basis for challenging the Commission's calculations. The differences observed in these cases can be attributed to the distinct characteristics of each industry. The claim was disregarded.

([109]) Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

([110]) Turkish Statistical Institute - Actual weekly working hours and monthly average labour cost by economic activity and Actual weekly working hours and monthly average labour cost by status of being covered by collective agreement and size class of enterprise : https://data.tuik.gov.tr/Kategori/GetKategori?p=istihdam-issizlik-ve-ucret-108&dil=2. Last consulted on 18 July 2024. The relevant files are provided in file for interested parties under save number: t24.005240.

([111]) Turkish Statistical Institute - Labour cost indices : https://data.tuik.gov.tr/Bulten/Index?p=Labour-Input-Indices-Quarter-I:-January-March,-2024-53682. Last consulted on 18 July 2024. The relevant files are provided in the file for interested parties under save number: t24.005240.

3.3.14.4. Electricity

(250) The price of electricity for companies (industrial users) in Türkiye is published by the Energy Market Regulatory Authority (EMRA) ([112]) in Türkiye. The Commission used the data on the industrial electricity prices that EMRA mandated to be applied as of 1 January 2023, net of VAT as the Turkish producers of the product under investigation are entitled at its reimbursement.

3.3.14.5. Natural gas and steam gas

(251) The price of natural gas for industrial users in Türkiye is published by the Turkish Statistical Institute. The Commission used the price available for the second semester of 2021 and the first semester of 2022 corresponding to the consumption band of 2 610 000 – 26 100 000 m^3 ([113]). This price was further adjusted for inflation using the Producer Price Index published by the Turkish Statistical Institute ([114]) to reflect the price in the investigation period. The VAT, which is included in the published price, was deducted as the Turkish producers of the product under investigation are entitled at its reimbursement .

(252) For steam gas, the benchmark was derived from the natural gas benchmark using a conversion ratio. Specifically, under standard conditions, it is estimated that approximately 0,421 tonnes of natural gas are consumed to produce 1 tonne of steam gas.

3.3.14.6. Water

(253) The Presidency of the Republic of Türkiye Investment Office ([115]) published the cost of water for industrial use. The Commission used the price valid in 2023 for the Balikesir region where Sisecam Elyaf is located, net of VAT as the Turkish producers of the product under investigation are entitled at its reimbursement.

3.3.14.7. Manufacturing overhead costs, SG&A and profits

(254) According to Article 2(6a)(a) of the basic Regulation, “the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits”. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.

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

(256) For establishing an undistorted and reasonable amount for SG&A costs and profit, the Commission used the readily available financial data, for the review investigation period of the Turkish producers Brisa Bridgestone and Goodyear Lastikleri Turk mentioned in recital (238) above.

(257) Based on the consolidated financial statements of Brisa Bridgestone and the financial statements of Goodyear Lastikleri, the weighted average rates for SG&A and profit, expressed as a percentage of the cost of goods sold, are 22,0 % and 10,8 % respectively. These rates were considered reasonable for the tyres industry.

([112]) Energy Market Regulation Authority (EMRA) : https://www.epdk.gov.tr/Detay/Icerik/3-0-39/kurul-kararlari- Last consulted on 18 July 2024. The relevant files are provided in the file for interested parties under save number: t24.005240.

([113]) Turkish Statistical Institute - Industry natural gas prices by consumption bands for period January-June, 2022: https://data.tuik.gov.tr/Bulten/Index?p=Electricity-and-Natural-Gas-Prices-Period-I:-January-June,-2022-45567. Last consulted on 18 July 2024. The relevant files are provided in the file for interested parties under save number: t24.005240.

([114]) Turkish Statistical Institute - Domestic producer price index and rate of change: https://data.tuik.gov.tr/Bulten/Index?p=Domestic-Producer-Price-Index-June-2024-53691. Last consulted on 18 July 2024. The relevant files are provided in the file for interested parties under save number: t24.005240.

([115]) Investment Office of the Presidency of the Republic of Türkiye: https://www.invest.gov.tr/en/investmentguide/pages/cost-of-doing-business.aspx – Cost of doing business section. Last consulted on 18 July 2024. A screenshot of the relevant data is available in the file for interested parties under save number: t24.005240.

(258) Following the final disclosure, Giti claimed that the Commission used as profit margin a benchmark reflecting the profit of tier 1 brand companies, and thus cannot constitute a reasonable benchmark for them.

(259) As mentioned above in recital (257), the Commission relied on the available information and set a margin of 8,1 % (expressed as a percentage of total revenue). Although a calculation based on the three tiers was not feasible, the Commission considered that this margin was close to a weighted average between tier 1 and tier 2 as Bridgestone and Goodyear do not produce only tier 1 truck tyres but also tier 2 truck tyres under different brand names. However, the Commission considered that this benchmark was reasonable for the purposes of an expiry review. This is because an exact margin is not required in such a review. As a result, the claim was disregarded.

(260) After the disclosure, Hankook reiterated that the financial statements of Brisa Bridgestone should not be used for the purpose of the dumping calculation and that Hankook presented arguments at different stages of the investigation. Hankook considered that the Commission did not address its arguments and thus hindered Hankook rights of defence given that its claim was evidently not assessed to the standard required by the fundamental principles of good and sound administration.

(261) Hankook claimed that the reasons invoked by the Commission to justify the use of Brisa Bridgestone are mere speculations unsupported by evidence and the Commission failed to substantiate its own choice and to satisfy the required standard proof to identify a representative value for the SG&A expenses and profit as mandated by Article 2(6a) of the basic Regulation.

(262) The General Court recently confirmed this principle as it reiterated the fundamental principle that the party seeking to rely on a claim bears the corresponding burden of proof. ([116]) In this specific case, since the relevant SG&A expenses and profits are not those of Hankook Group, it is the Commission that must prove that these figures are “appropriate”, as required by Article 2(6a). Thus, it is for the Commission to provide consistent evidence that the choice of Türkiye as a representative country, and the choice of – inter alia - Brisa Bridgestone as a representative local producer, is appropriate and justified pursuant to Article 2(6a) of the basic Regulation — and not for the interested parties to demonstrate the opposite.

(263) Hankook claimed that the Commission decided to exclude the Malaysian producer due to the fact it was also active in other sectors.

(264) Hankook claimed that it is for the Commission to prove its choice of representative local producer is appropriate pursuant to Article 2(6a) of the basic Regulation and not for the interested parties to prove the contrary.

(265) The consolidated figures of Brisa Bridgestone involved a variety of different products, including some which are blatantly unrelated to the investigation and therefore it makes them unrepresentative within the meaning of Article 2(6a) of the basic Regulation.

(266) Hankook claimed that the Commission failed to explain why the use of the financial statements of Brisa Bridgestone was necessary. Moreover, Hankook clarified that the use of financial statements of Goodyear Lastikleri was never questioned and therefore there was no need to add another company.

(267) These claims had to be disregarded. The Commission considered that Brisa Bridgestone was a representative producer in the representative country as (i) it produces the product concerned, (ii) it had available financial data for the period considered and (iii) its SG&A and profit did not appear disproportionately high and thus were deemed as appropriate. On the contrary, Hankook did not provide any evidence that the consolidation of other activities in the financial statement of Brisa Bridgeston resulted in abnormal SG&A and profit. Therefore, having available financial data for two producers of the product concerned in Turkey, the Commission found no elements to exclude one or the other.

(268) As regards the argument on the exclusion of the Malaysian producer, as explained above in recital (234), it did not produce at all the product concerned, as opposed to the two producers identified in Turkey.

([116]) Judgment of the General Court of 21 February 2024, Sinopec, Case T-762/20, EU:T:2024:113, para. 65.

(269) Hankook and Giti claimed that the Commission wrongly established the SG&A as certain expenses, such as transport and storage costs, were not removed from the total amount of the SG&A amounts. Moreover, Hankook and Giti claimed that other type of expenses should be also removed from the SG&A such as commission expenses or marketing expenses.

(270) The Commission reviewed the claims and determined that a revision to the SG&A percentage was necessary. Regarding the methodology applied, the Commission used its standard methodology for establishing the SG&A percentage net of transportation expenses: from the total revenue, the costs of good sold and the profit were removed, then the transportation expenses were deducted.

(271) Based on the financial statements available, the Commission removed the transportation expenses from the total SG&A amount (as established based on the methodology described above). Due to the absence of quarterly information, the Commission estimated the transportation expenses during the RIP based on the financial statements for January-June 2023. The estimated transportation expenses accounted for a percentage of the total SG&A amount. As a result of this revision, the SG&A percentage decreased from 22,0 % to 18,5 % when expressed as a percentage of the cost of goods sold (13 % when expressed as a percentage of total revenue).

3.3.15. *Calculation of the normal value*

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

(273) First, the Commission established the undistorted manufacturing costs. The Commission applied the undistorted unit costs to the actual consumption of the individual factors of production of the cooperating exporting producers. These consumption ratios provided by the cooperating exporting producers were verified during the verification visit. The Commission multiplied the consumption ratios by the undistorted costs per unit observed in the representative country, as described in Section 3.3.14.

(274) Once the undistorted manufacturing cost established, the Commission applied the manufacturing overheads, as described in recital (255).

(275) The Commission then added SG&A of 18,5 % and profit of 10,8 %, as explained in recital (271).

3.3.15.1. Export price

(276) The sampled exporting producers exported to the Union either directly to independent customers and/or through related companies acting as an importer.

(277) If the exporting producers export the product under review directly to independent customers in the Union, the export price was the price actually paid or payable for the product under review when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(278) If the exporting producers export the product under review to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for profits accruing.

(279) In absence of cooperation from an unrelated importer, the Commission relied on the profit established during the original investigation for an unrelated importer, that is 6,7 %.

3.3.15.2. Comparison

(280) The Commission compared, per product type, the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation and the export price of the sampled exporting producers on an ex-works basis as established above.

(281) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for freight costs in the Union, Customs duties, quantity discounts credit costs and bank charges.

3.3.15.3. Dumping margins

(282) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product under review covering all export transactions, in accordance with Article 2(11) and (12) of the basic Regulation.

(283) On this basis, the weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, was in the range of around 7 % to around 22 % for the sampled cooperating producers. It was therefore concluded that dumping continued during the review investigation period.

4. LIKELIHOOD OF CONTINUATION OF DUMPING

(284) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures be repealed.

(285) The following additional elements were analysed: the production capacity and spare capacity in the PRC; relation between export prices to third countries and the price level in the Union and the attractiveness of the Union market.

4.1. **Production capacity and spare capacity in the PRC**

(286) In the absence of cooperation, the Commission established production capacity and spare capacity in the PRC on the basis of information provided in the expiry review request.

(287) According to the data provided in the request by the applicant, CRIA reported a production output of 122,39 million tyres in 2021, for an estimated production capacity of 141,76 million tyres in the same year, which marks an increase in tyres produced of 2,72 million with the preceding year. Capacity utilisation rates derived from these figures would stand at around 86 %. In 2022, at least 1,5 million units of additional tyres production capacities had already been added, as reported by CRIA. This puts the total tyres production capacity at around 143,25 million units for 2022. If the same capacity utilisation rates are taken as for the year 2021, this would bring output at around 123,67 million tyres produced. The available unused capacity in China in 2022 therefore amount to almost 20 million units, almost equivalent to the total consumption on the EU market ([117]).

(288) Chinese producers, in line with the GOC's and CCP's industrial policies outlined above, have continued to increase their already overdeveloped production capacities since the original IP. Recent foreign trade defence investigations concluded to the significance of the existing production capacity in China. The Brazilian antidumping investigation published in May 2021 already highlighted the existence of significant production capacities, with evidence of several investments in production capacities by the biggest companies, which would be able to overcome the Brazilian consumption. ([118]) The South African antidumping investigation published in August 2022 equally considered the significant production capacities of Chinese producers that would be able to increase their production for export demand. ([119])

4.2. **Attractiveness of the Union market and export prices to third country markets**

(289) The Commission examined whether it was likely that PRC exporting producers would continue their export sales at dumped prices on the Union market should measures be allowed to lapse. Therefore, the Commission analysed the price level of Chinese exports to third country markets and compared them to the price level of Chinese exports to the Union market, to determine whether the Union market was attractive in terms of price levels.

([117]) Information published on various web sites including https://finance.yahoo.com/news/synthetic-rubber-market-growth-trends-133000080.html or : https://tracanada.ca/actualit%C3%A9s-industrie/china-tire-industry-still-recovering-from-covid-lockdowns/?lang=fr.

([118]) (camex.gov.br) RESOLUÇÃO GECEX Nº 198, DE 3 DE MAIO DE 2021 - RESOLUÇÃO GECEX Nº 198, DE 3 DE MAIO DE 2021 - DOU - Imprensa Nacional (in.gov.br)

([119]) 20220912111726_Report-700.pdf (itac.org.za)

(290) The Commission examined the level of prices during the RIP reported by the sampled exporting producers and found that for comparable transactions (i.e. commercial invoice set on FOB incoterms) the unit price of truck tyres exported to third countries represented around 80 % of their unit price in the EU. Moreover, the attractiveness of the Union market was demonstrated by the fact that despite the anti-dumping measures in force, Chinese export volumes to the Union remained at around 30 % of the volume of imports during the initial investigation.

(291) Based on the above, the Commission concluded that the Union market constituted an attractive market for Chinese exporting producers of truck tyres both in terms of its prices and its size.

4.3. **Possible absorption capacity of third country markets**

(292) In addition to the above, the Commission found that trade defence measures on exports of the product under review from PRC are in force in Armenia, Botswana, Brazil, Egypt, Eswatini, Kazakhstan, Kyrgyz Republic, Lesotho, Namibia, Russian Federation, South Africa, Türkiye, the United Kingdom and the United States of America ([120]). As a consequence, these third country markets, which are significant consumers of truck tyres, are less attractive for the Chinese exporting producers. This is an additional element which supports the finding that PRC's current production capacity would most likely end in the Union market, should measures be repealed.

4.3.1. *Conclusion*

(293) The investigation showed that the imports from the PRC continued to enter the Union market in high volumes (compared to the size of the market) at dumped prices during the RIP.

(294) In addition, the spare capacity in the PRC was significant in comparison with the Union consumption (recital (301)) during the RIP. Moreover, the attractiveness of the Union market in terms of size and prices pointed to the likelihood that Chinese exports would be directed towards the Union market, should the measures lapse, and spare capacity would also be used to increase production and exports to the Union.

(295) Consequently, the Commission concluded that there was a likelihood that the expiry of the anti-dumping measures would result in a significant increase of dumped imports of the product under review from the PRC to the Union due to the large spare capacity in the PRC and the price level of the Union market compared to other export destinations.

(296) In the light of the above, the Commission concluded that the expiry of the anti-dumping measures would likely to lead to a continuation of dumping.

5. **INJURY**

5.1. **Definition of the Union industry and Union production**

(297) The like product was manufactured by more than 400 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(298) The total Union production during the review investigation period was established at around 18 million tyres. The Commission established the total Union production figure on the basis of the information provided by European Tyre & Rubber Manufacturers Association ('ETRMA'), the applicant and Eurostat statistics. As indicated in recital (27), five Union producers in the final sample represent more than 25% of Union production and sales of the like product. Therefore, the microeconomic indicators were examined on the basis of data obtained from the replies of those five Union producers.

([120]) Based on the information of the WTO Trade Remedies Data Portal, available at: https://trade-remedies.wto.org/en, and of the WTO Anti-dumping Notification Portal, available at: https://ad-notification.wto.org/

(299) Some of the sampled producers were found to import and resell the product concerned on the Union market from the PRC. However, by comparison to their overall sales, the imports remain marginal (less than 1% of their overall sales) and do not affect their qualification as Union producers.

5.2. **Union consumption**

(300) The Commission established the Union consumption on the basis of information provided by the ETRMA and Eurostat.

(301) Union consumption developed as follows:

Table 2

Union consumption (in items)

	2020	2021	2022	Review Investigation period
Total Union consumption (in items)	18 264 516	21 646 928	22 568 607	20 325 009
Index	*100*	*119*	*124*	*111*

Source: ETRMA, Eurostat comext

(302) Consumption on the Union market increased by 11% over the period considered. There was a notable increase from 2020 to 2022. This is likely to be linked with the recovery from the Covid crisis and is explained by the fact that consumption of tyres is intrinsically linked to kilometres travelled by the fleets which, in turn, is very dependent on the overall economic activity and notably of the volume of goods transported by road. The increase in consumption peaked in 2022 and slowed down during the review investigation period.

5.3. **Imports from the country concerned**

5.3.1. *Volume and market share of the imports from the country concerned*

(303) The Commission established the volume of imports on the basis of Eurostat. The market share of the imports was established on the basis of the Union consumption in Table 1.

(304) Imports into the Union from the country concerned developed as follows:

Table 3

Import volume (in items) and market share

	2020	2021	2022	Review Investigation period
Volume of imports from the country concerned (in items)	900 897	966 311	1 112 883	1 095 084
Index	*100*	*107*	*124*	*122*
Market share	4,9 %	4,5 %	4,9 %	5,4 %
Index	*100*	*91*	*100*	*109*

Source: ETRMA, Eurostat Comext

(305) The Commission established the volume of imports on the basis of Eurostat. The market share of the imports on the basis of the Union consumption is found in Table 3.

(306) Import volumes from the PRC increased by 22 % during the period considered, from around 900 thousand tyres in 2020 to around 1,1 million tyres in the investigation period. The increase of Chinese imports was particularly significant in 2022 when the original measures were partially annulled by General Court of the European Union as described in the recital (4). The import volumes remained at the same level also during the review investigation period despite the decrease in demand. This resulted in an increase of the market share of Chinese imports from 4,9 % to 5,4 % during the period considered.

5.3.2. *Prices of the imports from the country concerned and price undercutting*

(307) The Commission established the prices of imports on the basis of Eurostat.

(308) The weighted average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices (EUR/item)

	2020	2021	2022	Review Investigation period
The People's Republic of China	136	156	208	218
Index	*100*	*115*	*153*	*161*

Source: Eurostat Comext, neither anti-dumping not countervailing duty included

(309) Over the period considered, the average Chinese import prices into the Union (all tiers) increased by 61 %.

(310) As the sampled exporting producers exported predominantly Tier 1 and Tier 2 tyres, the Commission lacked detailed information about Chinese exports in Tier 3, where the primary injury occurred during the original investigation, subsequently causing a reverse cascade effect into the other two tiers.

(311) For that reason, the Commission estimated the price undercutting for the totality of imports on the basis of import statistics.

(312) The Commission thus made a comparison between:

— the weighted average sales price per piece of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

— the average Chinese landed import price of the Chines imports based on import statistics, including the anti-dumping and countervailing duties, customs duties and importation costs.

(313) This comparison showed that the average Chinese landed import price (270 EUR/item) was below the Union industry's average selling price (281 EUR/item) and only slightly above the Union industry's average cost of production (260 EUR/item). Should the landed price be established without the anti-dumping duties, it would amount to 254 EUR/item, which would significantly undercut the Union industry's average selling price and would be also below the Union industry's cost of production.

(314) The Commission thus concluded that, overall, the prices of Chinese imports were lower than the average selling price of the Union industry.

(315) Following final disclosure, Hankook claimed that the Commission had incorrectly changed its undercutting calculation methodology compared to the original investigation. Hankook claimed that instead of estimating the price undercutting for the totality of imports on the basis of import statistics the Commission should have carried out an analysis on a type-by-type or tier-by-tier basis. In the sensitive version of its submission Hankook also brought forward data on its export volumes and prices and claimed that by using this data the Commission could have deduced the import prices for all tiers and carried out a tier-by-tier undercutting analysis.

(316) The Commission disagreed with these claims. First, due to non-cooperation of the Chinese exporting producers operating in tier 3 and as stated in the recital (310), the Commission lacked detailed information about Chinese exports especially in tier 3 and was unable to carry out a tier-by-tier undercutting analysis. Thus, there was a change in the underlying data available to the Commission. Second, the data brought forward by Hankook on its own export volumes and prices was insufficient for carrying out any further undercutting analysis. Even according to this data, it remains that there are other operators in tier 1, 2 and 3 on which there is no detailed information available and, in contrary to what Hankook claims, this data is not sufficient to bring any further information on the undercutting on tier-by-tier level or to invalidate any of the results of the undercutting analysis made by the Commission. Therefore, this claim is rejected.

5.4. **Imports from third countries other than China**

(317) The imports of tyres from third countries other than China were mainly from Thailand, Türkiye and Vietnam.

(318) The volume of imports into the Union as well as the market share and price trends for imports of tyres from other third countries developed as follows:

Table 5

Imports from third countries

Country		2020	2021	2022	Review Investigation period
Thailand	Volume (items)	960 744	984 929	1 533 961	1 816 634
	Index	*100*	*103*	*160*	*189*
	Market share	5,3 %	4,5%	6,8%	8,9%
	Average price (EUR/item)	157	175	200	163
	Index	*100*	*111*	*128*	*104*
Türkiye	Volume (items)	1 105 850	1 487 639	1 773 851	1 696 256
	Index	*100*	*135*	*160*	*153*
	Market share	6,1 %	6,9%	7,9%	8,3 %
	Average price (EUR/item)	178	176	213	239
	Index	*100*	*99*	*120*	*134*
Vietnam	Volume (items)	477 928	541 921	957 806	964 077
	Index	*100*	*113*	*200*	*202*
	Market share	2,6%	2,5%	4,2%	4,7%
	Average price (EUR/item)	155	178	207	193
	Index	*100*	*115*	*134*	*125*
Other third countries	Volume (items)	2 287 192	2 898 840	2 849 801	2 340 028
	Index	*100*	*127*	*125*	*102*
	Market share	12,5%	13,4 %	12,6%	11,5%
	Average price (EUR/item)	185	195	222	245
	Index	*100*	*105*	*120*	*132*

Country		2020	2021	2022	Review Investigation period
Total of all third countries except the country concerned	Volume (items)	4 831 594	5 913 076	7 115 419	6 816 995
	Index	*100*	*122*	*147*	*141*
	Market share	26,5%	27,3 %	31,5%	33,5%
	Average price (EUR/items)	175	185	213	214
	Index	*100*	*106*	*122*	*122*

Source: Eurostat Comext

(319) During the period considered, imports from other third countries increased by around 2 million items, i.e. by 41 %. This is faster than the progression of the Union consumption and resulted in the market share increase from 26,5% to 33,5%.

(320) The main increase took place from imports from Thailand (856 thousand items), Türkiye (590 thousand items) and Vietnam (486 thousand items). For other third countries the increase was only modest (53 thousand items).

(321) The price level of imports from other third countries, especially from Thailand and Vietnam, was markedly below the Union industry selling prices.

5.5. **Economic situation of the Union industry**

5.5.1. *General remarks*

(322) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(323) As mentioned in recitals (15) to (17), sampling was used for the assessment of the economic situation of the Union industry.

(324) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the review request, Eurostat statistics and submissions from ETRMA. The data related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. The data related to the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(325) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.

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

(327) The original investigation conducted analysis of the economic situation of the Union industry on an aggregated basis and, in certain microeconomic indicators, also at the level of tiers given the Union market segmentation. In the current investigation the Commission first analysed the economic situation of the Union industry on an aggregated basis.

(328) The Commission also conducted the analysis of certain indicators at the tier level. As shown in recitals (370) to (377), this analysis confirms that the trends for the product concerned considered as a whole in general correspond to those for the tiers considered separately.

(329) In the original investigation, the Commission weighted the results of the sampled Union producers in accordance with their share in the total Union sales of the Union producers to ensure that the SMEs were represented according to their share in the total Union sales in all micro-indicators. As SMEs are active only in tier 3 segment, this adjustment had as a direct consequence to increase the share of tier 3 sales within the set of data originating from the sampled Union producers.

(330) In the current investigation, the Commission considered that the original weighting was not needed in order to make an objective assessment of the state of the Union industry in the context of the expiry review. Indeed, the investigation found that the injury picture of the SMEs operating only in Tier 3 was even worse than the injury picture of the Tier 3 overall. Moreover, the Commission found that, even without weighting the data of the sampled Union producers, the Union industry suffered injury in all tiers (see recitals (370) to (377)). Thus, logically, any weighting would only increase the negative trends currently observed in the overall injury picture.

5.5.2. *Macroeconomic indicators*

5.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2020	2021	2022	Review Investigation period
Production volume (in items)	18 323 204	21 701 759	20 380 261	18 047 419
Index	*100*	*118*	*111*	*98*
Production capacity (in items)	22 867 574	24 008 277	24 237 586	21 907 693
Index	*100*	*105*	*106*	*96*
Capacity utilisation	80 %	90 %	84 %	82%
Index	*100*	*113*	*105*	*103*

Source: ETRMA, Eurostat Comext and information supplied by applicant

(332) Along with the growth of the market and the sales in the Union market, the production volumes increased from 2020 to 2021. After that, the production declined in 2022 and decreased even further in the review investigation period. The decrease of the production volumes was attributable to the decreased sales volumes, which in turn was linked to the decrease of Union consumption and resulted in the loss of market share of the Union industry. In the review investigation period, the Union industry's production volumes returned to the same level as in 2020. The Union industry was however able to adapt its capacity to the changes in production volumes, tempering the fluctuations of the capacity utilisation rate - which even improved slightly (by 3 %) over the whole period considered.

5.5.2.2. Sales volume and market share

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

Table 7

Sales volume and market share

	2020	2021	2022	Review Investigation period
Total Sales volume in the Union market (in items)	12 531 905	14 767 288	14 338 944	12 412 930
Index	*100*	*118*	*114*	*99*
Market share	69%	68%	64 %	61 %
Index	*100*	*99*	*93*	*89*

Source: ETRMA, Eurostat Comext

(334) In the growing market, the Union industry's sales volumes increased from 2020 to 2021. During 2022, the sales volumes of the Union industry declined despite the growth of the market and decreased further in the review investigation period. In the review investigation period, the Union industry's sales volumes had returned to the same level as 2020. Because the sales of the Union industry lagged behind the increase of the market in 2022 and deteriorated faster than the market in the review investigation period, the market share fell from 69% to 61% during the period considered.

(335) In its comments on initiation Hankook group claimed that the sales of the Union industry as well as its market share remained essentially stable across the period considered and that the slight decrease from 2022 to the review investigation period could be explained by the decrease in consumption.

(336) The findings of the investigation do not support this claim. Albeit the sales of the Union industry were on the same level in the review investigation period compared to 2020, there was an important decrease (13 %) from 2022 to the review investigation period. Also, the Union industry's market share decreased from 69% to 61% during the period considered.

(337) Therefore, this claim was rejected.

5.5.2.3. Growth

(338) The Union consumption first increased from 2020 to 2022 in line with the increase of economic activity after the Covid. The increase in consumption peaked in 2022 and slowed down during the review investigation period, resulting in an overall increase of 11% during the period considered. Only during 2021 the Union industry sales could follow the positive trend of the market. In 2022 the Union industry's sales did not increase in the same pace as the market and they deteriorated faster than the market in review investigation period. This resulted in decrease of 8 percentage points of market share (from 69% to 61%) during the period considered.

5.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

	2020	2021	2022	Review Investigation period
Number of employees	21 148	21 614	20 291	18 425
Index	*100*	*102*	*96*	*87*

	2020	2021	2022	Review Investigation period
Productivity (unit/employee)	866	1 004	1 004	979
Index	*100*	*116*	*116*	*113*

Source: ETRMA and information supplied by applicant

(340) During the period considered the Union industry lost over 2 700 direct jobs. When the Union industry's production volumes increased from 2020 to 2021 also the employment increased. However, as the Union industry was also able to improve its productivity, the employment did not increase at the same rate as the production volumes. The falling production volumes from 2021 to the review investigation period resulted in decrease of jobs and also some loss of productivity.

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

(341) During the review investigation period, the individual dumping margins found for the cooperating exporting producers were still substantial (see recital (283) above).

(342) However, despite the fact there was still dumping from China the analysis of the injury indicators shows that the measures in place had a positive impact on the Union industry at the beginning of the period considered. This positive situation however reversed in 2022 when the situation of the Union industry deteriorated again.

5.5.3. *Microeconomic indicators*

5.5.3.1. Prices and factors affecting prices

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

Table 9

Sales prices and cost of production in the Union (EUR/item)

	2020	2021	2022	Review Investigation period
Average unit sales price in the Union (all tiers)	224	241	274	281
Index	*100*	*107*	*122*	*125*
Unit cost of production	186	193	249	260
Index	*100*	*104*	*134*	*140*

Source: Verified questionnaire replies of sampled Union producers

(344) Sales prices of tyres to unrelated customers in the Union market increased by 25% during the period considered. From 2020 to 2021 the increase of prices coincided with an increase of demand. In this situation the Union industry was able to increase its sales prices more (by 7%) than the cost of production increased (by 4 %).

(345) This favourable situation changed in 2022, after which the Union industry was unable to pass-on the cost increases to its selling prices. Although the sales prices increased by 18 percentage points between 2021 and the review investigation period these price increases were not in line with the increase of cost of production.

(346) Overall, the cost of production increased by 40 % during the period considered. The most significant increase took place from 2021 to 2022 when the cost of production increased by 30 %.

(347) The key injury indicators were also analysed for the three tiers.

(348) In tier 1, the average unit selling price increased by 55 EUR while unit costs increased by 75 EUR over the same period. The average selling price increased by 24 % while the cost of production increased by 39% over the period considered.

Table 10

Sales prices and cost of production in the Union (EUR/item) – Tier 1

	2020	2021	2022	Review Investigation period
Average unit sales price in the Union on the total market	235	250	283	290
Index	*100*	*106*	*120*	*124*
Unit cost of production	191	196	256	266
Index	*100*	*102*	*134*	*139*

Source: Verified questionnaire replies of sampled Union producers

(349) In tier 2, the average unit selling price increased by 60 EUR while unit costs increased by 68 EUR over the same period. The average selling price increased by 29% while the cost of production increased by 39% over the period considered.

Table 11

Sales prices and cost of production in the Union (EUR/item) – Tier 2

	2020	2021	2022	Review Investigation period
Average unit sales price in the Union on the total market	205	224	258	265
Index	*100*	*109*	*126*	*129*
Unit cost of production	173	184	228	241
Index	*100*	*106*	*132*	*139*

Source: Verified questionnaire replies of sampled Union producers

(350) In tier 3, the average unit selling price increased by 40 EUR while unit costs increased by 58 EUR over the same period. The average selling price increased by 24 % while the cost of production increased by 34 % over the period considered.

Table 12

Sales prices and cost of production in the Union (EUR/item) – Tier 3

	2020	2021	2022	Review Investigation period
Average unit sales price in the Union on the total market	170	176	206	210
Index	*100*	*104*	*121*	*124*
Unit cost of production	171	187	223	229
Index	*100*	*109*	*130*	*134*

Source: Verified questionnaire replies of sampled Union producers

5.5.3.2. Labour costs

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

Table 13

Average labour costs per employee

	2020	2021	2022	Review Investigation period
Average labour costs per employee (EUR)	50 250	54 950	64 650	64 862
Index	*100*	*109*	*129*	*129*

Source: Verified questionnaire replies of sampled Union producers

(352) The average labour cost per employee increased by 9% from 2020 to 2021 and then by 20 % from 2021 to 2022, remaining on the same level in the review investigation period.

5.5.3.3. Inventories

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

Table 14

Inventories

	2020	2021	2022	Review Investigation period
Closing stocks (*Index 2020 = 100*)	*100*	*123*	*130*	*155*
Closing stocks as a percentage of production	14 %	15%	16%	21%
Index	*100*	*102*	*110*	*143*

Source: Verified questionnaire replies of sampled Union producers

(354) Compared to the production, the closing stock remained on the same level from 2020 to 2022 (being 14 % – 16% of the production volume). An increase (to 21% of the production volume) was observed when comparing the closing stock at the end of the investigation period (30 June 2023) with the year-end stock levels in 2020 – 2022. This increase is however largely explained by seasonality. Higher volumes of tyres are sold during the second half of the year compared to the first half, whereas the production is less seasonal. Due to this seasonality, the stock volumes are usually higher at end June compared to end December. Therefore, as such, the apparent increase of stock levels during the review investigation period is not indicative of the financial situation of the Union producers.

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

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

Table 15

Profitability, cash flow, investments and return on investments

	2020	2021	2022	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	7,9%	13,4 %	1,8%	1,3 %
Index	*100*	*170*	*23*	*16*
Cash flow (EUR)	95 814 284	29 530 055	- 57 192 051	- 94 989 994
Index	*100*	*31*	*- 60*	*- 99*
Investments (EUR)	50 269 926	48 233 290	56 308 570	66 447 814
Index	*100*	*96*	*112*	*132*
Return on investments (%)	– 2,1%	3,9%	– 15,2 %	– 16,3 %
Index	*- 100*	*182*	*- 712*	*- 763*

Source: Verified questionnaire replies of sampled Union producers

(356) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.

(357) The overall profitability first improved from 2020 to 2021 when the demand of tyres increased following the recovery of road transports from the Covid crisis and when overall imports had not yet increased to the same extent as afterwards. As explained in the recital (344), the Union industry was able to increase its sales prices in 2021 more than the increase of cost of production which contributed to increased profit margins from 7,9% to 13,4 %.

(358) The situation changed in 2022, when the Union industry was unable to increase its prices in line with the cost increases. As a consequence, the Union industry's profitability dropped to low levels (1,8% in 2022 and 1,3 % in the review investigation period).

(359) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow was declining during the whole period considered. It was influenced by two main factors. On one hand, the overall profitability of the Union industry contributed positively to the cash flow at the beginning of the period considered. This contribution was practically exhausted after the drop in profitability in 2022. On the other hand, the increase of production volumes and closing stock levels absorbed working capital and had thus a negative impact to cash flow already from 2021. Overall, the cash flow decreased from positive 96 million EUR to negative 95 million EUR during the period considered.

(360) Over the period considered, investments increased from 50 million EUR to 66 million EUR, i.e. by 32 %. Overall, their level remained below 10 % of the total turnover during the whole period considered.

(361) The return on investments is the profit in percentage of the net book value of investments. It first increased from – 2,1 % to 3,9 % from 2020 to 2021, in line with the improved profitability. Thereafter, when the overall profitability of the Union industry deteriorated, the return of investments decreased to – 15,2 % in 2022 and – 16,3 % in the review investigation period.

(362) The Union industry is fragmented between large groups of multi-national companies and over 400 SMEs throughout the Union and heterogeneous in relation to their ability to raise capital.

(363) A separate analysis on the same methodology as described was made for profitability in the three tiers.

(364) Development of the profitability in tier 1 during the period considered was similar to the fluctuation of the profitability of the Union industry considered as a whole. It first improved from 2020 to 2021 and then dropped to low levels (1,9% in 2022 and 1,3 % in the review investigation period).

(365) In tier 1, the net cash flow decreased from positive 85 million EUR to negative 56 million EUR during the period considered. The return of investment first increased from 1,1% to 7,6% and then decreased to – 14,0 % in the review investigation period.

Table 16

Profitability, cash flow, investments and return on investments – Tier 1

	2020	2021	2022	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	9,4 %	15,2 %	1,9%	1,3 %
Index	*100*	*162*	*20*	*14*
Cash flow (EUR)	85 042 290	35 716 163	- 43 640 531	- 56 302 048
Index	*100*	*42*	*- 51*	*- 66*
Investments (EUR)	38 607 861	38 181 656	45 748 927	53 222 683
Index	*100*	*99*	*118*	*138*
Return on investments (%)	1,1%	7,6%	– 13,6%	– 14,0 %
Index	*100*	*677*	*- 1 213*	*- 1 252*

Source: Verified questionnaire replies of sampled Union producers

(366) Development of the profitability in tier 2 during the period considered first improved from 2020 to 2021, then dropped to 3,5% in 2022 and further to 2,5% in the review investigation period.

(367) In tier 2, the net cash flow decreased from positive 5,5 million EUR to negative 34,5 million EUR during the period considered. The return of investment decreased from 15,8% in 2020 to – 28,0 % in the review investigation period.

Table 17

Profitability, cash flow, investments and return on investments – Tier 2

	2020	2021	2022	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	4,6%	9,3 %	3,5%	2,5%
Index	*100*	*203*	*76*	*55*
Cash flow (EUR)	5 482 431	- 2 889 233	- 13 209 945	- 34 464 853
Index	*100*	*- 53*	*- 241*	*- 629*
Investments (EUR)	9 439 555	9 080 411	9 167 506	11 950 064
Index	*100*	*96*	*97*	*127*
Return on investments (%)	– 15,8%	– 14,3 %	– 22,5%	– 28,0 %
Index	*- 100*	*- 91*	*- 143*	*- 178*

Source: Verified questionnaire replies of sampled Union producers

(368) Tier 3 was unprofitable during the whole period considered. During the period considered the situation worsened and the negative profitability of – 1,6% in 2020 decreased to – 3,5% in the review investigation period. The situation was even worse for the SMEs operating in tier 3 for which the profitability fluctuated between 4,6% and – 7,0% during the period considered. The slight "improvement" between 2022 and the review investigation period showed the limited success of the efforts of the industry to adapt to the difficult situation.

(369) In tier 3, the net cash flow decreased from positive 5,3 million EUR to negative 4,2 million EUR during the period considered. The return of investment was negative during the whole period considered, decreasing from – 5,9% to – 20,0 % during the period considered.

Table 18

Profitability, cash flow, investments and return on investments – Tier 3

	2020	2021	2022	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	– 1,6%	– 1,5%	– 6,1%	– 3,5%

	2020	2021	2022	Review Investigation period
Index	*- 100*	*- 92*	*- 374*	*- 212*
Cash flow (EUR)	5 289 563	- 3 296 875	- 341 574	- 4 223 093
Index	*100*	*- 62*	*- 6*	*- 80*
Investments (EUR)	2 222 510	971 223	1 392 137	1 275 067
Index	*100*	*44*	*63*	*57*
Return on investments (%)	– 5,9%	– 10,8%	– 35,4 %	– 20,0 %
Index	*100*	*17*	*- 401*	*- 139*

Source: Verified questionnaire replies of sampled Union producers

5.6. **Conclusion on injury**

(370) The investigation found that the Union industry as a whole showed recovery from past dumping during 2021. Between 2022 and the review investigation period, there was a reverse of this recovery.

(371) This is particularly evident in the Union industry's decreased profitability, loss of market share and inability to increase prices in line with rising costs. In addition, indicators related with the profitability, such as cash flow and return of investment, also deteriorated. This was especially observed among tier 3 producers, who are particularly exposed to price pressure from low-priced imports, which in turn adversely affects the higher tiers through the reverse-cascading effect described in the original investigation ([121]).

(372) Based on the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(1) of the basic Regulation during the review investigation period.

6. **CAUSATION**

(373) During the period considered the Union industry lost its market share to imports from other countries, notably Thailand, Vietnam, Türkiye and also China.

(374) The deterioration of Union industry's the market share was partly attributable to the increase of Chinese imports following the partial annulment of the anti-dumping duties and more importantly due to increase of imports from other countries at low prices. The lower priced imports have made it difficult for the Union industry to increase its prices and maintain its market share in the environment of increased costs.

(375) Following the start of Russian war of aggression against Ukraine, prices of input materials and energy increased considerably resulting in rapid increase of cost of production. At the same time, import volumes increased and from 2022 the Union industry was unable to pass-on the cost increases to its selling prices. Although the sales prices increased by 18% between 2021 and the review investigation period, these price increases were insufficient to compensate the increase of cost of production.

([121]) See recital (242) of COMMISSION IMPLEMENTING REGULATION (EU) 2018/1579 of 18 October 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163. OJ L263 of 22.10.2018. p.3.

(376) As a result, the Commission also notes that the injurious situation in which the Union industry is found comes at a time when other factors such as significant cost increases and substantial increase of low-priced imports from other countries, especially Thailand, Vietnam and Türkiye took place. As shown in recitals (317) to (321) above, the imports from Thailand and Vietnam increased substantially and their price levels were markedly below the Union industry's prices.

(377) For this reason, the Commission concluded that the dumped imports from China contributed to the material injury to the Union industry during the review investigation period; however, other factors in particular the cost increase and imports from other countries, were capable of putting into question the genuine relationship between the dumped imports and the effects on the Union industry. Thus, the Commission decided to further assess whether injury caused by the dumped imports from China would likely recur if measures were allowed to lapse.

(378) Following final disclosure, Hankook claimed that injury suffered by Union industry is not caused by Chinese imports. Hankook claimed that the Chinese imports do not undercut the Union industry prices in tier 3 nor in tier 1. To support its claim, Hankook submitted sensitive data on its export prices and volumes.

(379) The Commission disagreed with this claim. As stated in recital (316) the data provided by Hankook is insufficient for carrying out any further undercutting analysis as it does not contain sufficient information on other operators active in tier 1, 2 and 3. Consequently, this data could not invalidate any of the results of the undercutting analysis made by the Commission. The Commission therefore considered that the premise of this claim, i.e. that there is no undercutting in tier 1 or tier 3, is incorrect, and therefore, this claim is rejected.

(380) Following final disclosure Hankook also claimed that the injury suffered by the Union industry is not caused by Chinese imports but by tyres imported from other third countries.

(381) As stated in the recital (377), the Commission concluded that dumped imports from China contributed to the material injury to the Union industry but also other factors, in particular the cost increase and imports from other countries, were capable of putting into question the genuine relationship between the dumped imports and the effects on the Union industry. Therefore, the Commission considers that this claim does not invalidate the conclusion above and is therefore rejected.

7. LIKELIHOOD OF RECURRENCE OF INJURY

(382) The Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from China if the measures against were allowed to lapse.

(383) In this respect the following elements were analysed by the Commission: the production capacity and spare capacity in China, attractiveness of the Union market and export prices to third country markets and relationship between prices in the Union and China, possible absorption capacity of third country markets, likely price levels of imports from China in the absence of anti-dumping measures, and their impact on the Union industry, including undercutting and injurious level and increase of Chinese imports following temporary annulment of the anti-dumping duties.

7.1. Production capacity and spare capacity in the PRC

(384) As set out in recitals (286) - (288), there is substantial production capacity and spare capacity in China to increase exports to the Union market rapidly in the event that the anti-dumping measures are allowed to expire. As established in recital (287) the available unused capacity in China in 2022 amount to almost 20 million units, almost equivalent to the total consumption on the EU market.

7.2. Attractiveness of the Union market and export prices to third country markets

(385) As set out in recitals (289) - (291), the Union market, which is the second largest market in the world after the United States, is an attractive market both in terms of its prices and its size. In 2023, the price level of Chinese exports to the Union was significantly higher compared to the Chinese average export prices to other main destinations, including the USA. Moreover, despite the anti-dumping measures in force, Chinese imports into the Union remained at around 30 % of the volume of imports during the initial investigation.

7.3. Possible absorption capacity of third country markets

(386) As set out in recital (292) trade defence measures on exports of the like product from PRC are in force in most of the third country markets which are significant consumers of truck tyres. This makes these markets less attractive for the Chinese exporting producers. This is an additional element which supports the finding that PRC's current production capacity would most likely end in the Union market, should measures be repealed.

7.4. Likely price levels of imports from China in the absence of anti-dumping measures, and their impact on the Union industry, including undercutting and injurious level.

(387) As shown Table 4, import prices into the Union from China during the review investigation period were 218 EUR/item which is materially lower than the average sales price of the Union industry 281 EUR/item shown in Table 9, and also below their cost of production 260 EUR/item.

(388) Therefore, it is likely that without anti-dumping duties, the Chinese imports would materially undercut the Union prices.

7.5. Increase of Chinese imports following partial annulment of the anti-dumping duties

(389) As shown in Table 3 and set out in recital (306), the increase of Chinese imports was particularly significant in 2022 when the original measures were partially annulled by General Court of the European Union.

(390) This indicates that the Chinese exporting producers remain interested in the Union market and imports would be likely to increase again, should the measures be repealed.

(391) In its comments upon initiation, the Hankook group claimed that import trends indicate that there is no threat of continuation or recurrence of injury. According to Hankook group the current market share of the Chinese imports could not have significant impact in the future of the Union industry. Also, the Hankook group claimed that the increased Chinese production capacity was not dedicated to the Union market but to other markets.

(392) The Commission disagreed with this view. Even if, to certain extent, the current duties somewhat shield the Union industry from the dumped imports from the PRC, Chinese imports were still able to increase their market share during the period considered. Given Chinese price levels without duties and the spare capacity available in China, it is likely that the market share of the Chinese imports would increase substantially should measures be allowed to lapse. Also, the claim that the increased Chinese capacity has been mainly directed to other markets during the period considered was not substantiated. Even if correct, the Commission considers that the Union market remains attractive to Chinese imports.

(393) Therefore, these claims were rejected.

(394) Following final disclosure Hankook claimed that there is no sufficient evidence of likelihood of recurrence of injury. In particular, Hankook claimed that the increase of imports in 2022 cannot be linked to the partial annulment of measures in 2022 and is not indicative of behaviour of the Chinese exporting producers. Hankook also claimed that there was no undercutting in tier 3, that the Chinese producers would rather increase their profits than lower their prices should the measures be allowed to lapse and, that given that Union market represented only 4% of the total Chinese export volume, the Union market cannot be considered attractive.

(395) The Commission disagreed with these claims. First, the partial annulment of the measures by the General Court did send a signal to the market on the possibility of partial cancellation and subsequent reimbursement of duties, making the imports potentially more attractive. Second, as explained in the recitals (316) and (379) above, the premise of the claim that there is no undercutting in tier 3 is incorrect. Third, Hankook did not submit any evidence to support its claim that the Chinese producers would rather increase their profits than lower their prices should the measures be allowed to lapse. Finally, the current level of Chinese exports to the Union when duties are in force, cannot invalidate the fact that Union market remains attractive for the reasons listed in the recitals (289) - (291) and (385) above. Therefore, this claim is rejected.

7.6. **Conclusion of the likelihood of recurrence of injury**

(396) In view of the above, the Commission concluded that should the measures lapse, it is likely that this will result in a significant increase of dumped imports from China at injurious price levels, and therefore further aggravating the injurious situation of the Union industry.

8. UNION INTEREST

(397) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and end users.

8.1. **Interest of the Union industry**

(398) Union producers representing more than 25% of the Union production volume cooperated with the investigation.

(399) The investigation showed that the Union industry was in a vulnerable situation where it was not able to fully pass-on the cost increases to its selling prices and its profit margins had diminished.

(400) The Commission concludes that given that the Union industry is already suffering injury and in case of lapse of the measures there is a strong likelihood of increase of dumped imports from China at injurious price levels this would lead to increasing price pressure on the Union market and would further aggravate the injury suffered by the Union industry.

(401) The continuation of the measures is therefore clearly in the interest of the Union industry.

8.2. **Interest of unrelated importers and users**

(402) No importers or users cooperated with the investigation.

(403) The original investigation concluded that while the measures were not in the interest of importers that predominantly rely on the import of very cheap tyres from China, importers with broader portfolio are unlikely to be severely affected by the restoration of fair competition.

(404) In the absence of new evidence, the Commission therefore concluded that, like in the original investigation, the continuation of measures will not affect importers or users to any significant extent.

8.3. **Other interests**

(405) The original investigation found that measures protecting the Union industry's premium tyre manufacturers producing new high-quality tyres which are designed to have along life cycle and can be retreaded, and also the retreaders active in the tier 3 market, are in the interest of the Union's policy to reduce waste and to manage raw materials in a sustainable way. Moreover, given that it is mostly SMEs which are active in the retreading business, the imposition of measures would also be in line with the important Commission objective to support SMEs ([122]).

(406) In the original investigation treads suppliers had made submissions supporting the imposition of anti-dumping measures alleging such measures are essential for the survival of the retreading industry and stating that without retreading activities, their business will be severely affected. Subsequently, the Commission concluded that measures would be in the interest of treads suppliers.

(407) In the absence of new evidence, the Commission therefore concluded that, like in the original investigation, the measures would be in the interest of treads suppliers.

8.4. **Conclusion on Union interest**

(408) On the basis of the above, the Commission concluded that there were no compelling reasons under Article 21 of the basic Regulation that it would not be in the interest of the Union to maintain the existing measures on imports of tyres originating in the People's Republic of China.

9. **ANTI-DUMPING MEASURES**

(409) On the basis of the conclusions reached by the Commission on continuation of dumping, recurrence of injury and Union interest, the anti-dumping measures on tyres from China should be maintained.

(410) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The application of individual anti-dumping is only applicable upon presentation of a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Until such invoice is presented, imports should be subject to the anti-dumping duty applicable to 'all other companies'.

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

([122]) Recital (295) of the Commission Implementing Regulation (EU) 2018/1579 of 18 October 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 263, 22.10.2018, p. 3.)

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

(413) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the People's Republic of China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(414) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([123]). The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.

(415) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure.

(416) In view of Article 109 of Regulation (EU, Euratom) 2024/2509of the European Parliament and of the Council when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first calendar day of each month.

(417) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121, currently falling under CN codes 4011 20 90 and ex 4012 12 00 (TARIC code 4012 12 00 10) and originating in the People's Republic of China.

2. The definitive anti-dumping duties applicable in euros per item of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Country of origin	Company	Anti-dumping duty	TARIC additional code
China	Xingyuan Tire Group Co. Ltd; Guangrao Xinhongyuan Tyre Co., Ltd	4,48	C331
China	GITI Radial Tire (Anhui) Company Ltd.; GITI Tire (Fujian) Company Ltd.; GITI Tire (Hualin) Company Ltd.; GITI Tire (Yinchuan) Company Ltd.	35,74	C332

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

Country of origin	Company	Anti-dumping duty	TARIC additional code
China	Chongqing Hankook Tire Co., Ltd; Jiangsu Hankook Tire Co., Ltd	17,37	C334
China	Aeolus Tyre Co., Ltd, Aeolus Tyre (Taiyuan) Co., Ltd; Qingdao Yellow Sea Rubber Co., Ltd; Pirelli Tyre Co., Ltd	0	C877
China	Zhongce Rubber Group Co., Ltd	0	C379
China	Weifang Yuelong Rubber Co., Ltd	4,48	C875
China	Hefei Wanli Tire Co., Ltd	4,48	C876
China	All other companies subject to re-imposition following Regulation (EU) 2023/737 ([124]) listed in Annex I	10,29	
China	Other cooperating companies listed in Annex II	21,62	
China	Other cooperating companies listed in Annex III	0	
	All other imports originating in People's Republic of China	4,48	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 or in Annexes I, II or III shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (number of items) of (product under review) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* Until such invoice is presented, the duty applicable to all other companies shall apply.

4. Article 1(2) may be amended to add new exporting producers from the People's Republic of China and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

(a) it did not export the goods described in Article 1(1) originating in People's Republic of China during the period between 1 July 2016 to 30 June 2017 ('original investigation period');

(b) it is not related to an exporter or producer subject to the measures imposed by this Regulation, and which have or could have cooperated in the investigation that led to the duty; and

(c) it has either actually exported the product under review originating in People's Republic of China or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

([124]) Commission implementing regulation (EU) 2023/737 of 4 April 2023 re-imposing a definitive anti-dumping duty on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China following the judgment of the General Court in joined cases T-30/19 and T-72/19, OJ L96 of 5.04.2023, p. 9.

5. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 ([125]) the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

6. Should the definitive countervailing duties imposed by Article 1 of Commission Implementing Regulation (EU) 2018/1690 ([126]) be modified or removed, the duties specified in paragraph 2 [or in Annexes I and II] will be increased by the same proportion limited to the actual dumping margin found or the injury margin found as appropriate per company and from the entry into force of this Regulation.

In cases where the countervailing duty has been subtracted from the anti-dumping duty for certain exporting producers, refund requests under Article 21 of Regulation (EU) 2016/1037 shall also trigger the assessment of the dumping margin for that exporting producer prevailing during the refund investigation period. The amount to be reimbursed to the applicant for refund cannot exceed the difference between the duty collected and the combined countervailing and anti-dumping duty established in the refund investigation.

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

Article 2

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, 15 January 2025.

For the Commission
The President
Ursula VON DER LEYEN

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

([126]) Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 283, 12.11.2018, p. 1)

ANNEX I

People's Republic of China, cooperating exporting producers subject to re-imposition following Regulation (EU) 2023/737

Country	Name	TARIC additional code
China	Chaoyang Long March Tyre Co., Ltd	C338
China	Triangle Tyre Co., Ltd	C375
China	Shandong Wanda Boto Tyre Co., Ltd	C366
China	Qingdao Doublestar Tire Industrial Co., Ltd	C347
China	Ningxia Shenzhou Tire Co., Ltd	C345
China	Guizhou Tyre Co., Ltd	C340
China	Shandong Huasheng Rubber Co., Ltd	C360
China	Prinx Chengshan (Shandong) Tire Co., Ltd	C346
China	Shandong Linglong Tyre Co., Ltd	C363
China	Shandong Jinyu Tire Co., Ltd	C362
China	Sailun Group Co., Ltd	C351
China	Shandong Kaixuan Rubber Co., Ltd	C353
China	Weifang Shunfuchang Rubber And Plastic Products Co., Ltd	C377
China	Shandong Hengyu Science & Technology Co., Ltd	C358
China	Jiangsu General Science Technology Co., Ltd	C341
China	Shanghai Huayi Group Corp. Ltd; Double Coin Group (Jiang Su) Tyre Co., Ltd	C878
China	Qingdao GRT Rubber Co., Ltd	C350
China	Chaoyang Long March Tyre Co., Ltd	C338

ANNEX II

People's Republic of China, cooperating exporting producers not sampled in the original investigation

Country	Name	TARIC additional code
China	Bayi Rubber Co., Ltd	C335
China	Bridgestone (Huizhou) Tire Co., Ltd	C336
China	Megalith Industrial Group Co., Ltd	C342
China	Michelin Shenyang Tire Co., Ltd	C343
China	Nanjing Kumho Tire Co., Ltd	C344
China	Qingdao Fudong Tyre Co., Ltd	C348
China	Qingdao Hairunsen Tyre Co., Ltd	C349
China	Shaanxi Yanchang Petroleum Group Rubber Co., Ltd	C352
China	Shandong Changfeng Tyres Co., Ltd	C354
China	Shandong Haohua Tire Co., Ltd	C355
China	Shandong Hengfeng Rubber & Plastic Co., Ltd	C357
China	Shandong Homerun Tires Co., Ltd	C359
China	Shandong Hugerubber Co., Ltd	C361
China	Shandong Mirage Tyres Co., Ltd	C364
China	Shandong Vheal Group Co., Ltd	C365
China	Shandong Wosen Rubber Co., Ltd	C367
China	Shandong Yongfeng Tyres Co., Ltd	C368
China	Shandong Yongsheng Rubber Group Co., Ltd; Shandong Santai Rubber Co., Ltd	C369
China	Shandong Yongtai Group Co., Ltd	C370
China	Shengtai Group Co., Ltd	C372
China	Toyo Tire (Zhucheng) Co., Ltd	C374
China	Weifang Goldshield Tire Co., Ltd	C376
China	Xuzhou Armour Rubber Company Ltd	C378

ANNEX III

Other non sampled Chinese exporting producers cooperating in the original anti-dumping investigation, but not in the original anti-subsidy investigation

Country	Name	TARIC additional code
China	Briway Tire Co., Ltd	C337
China	Goodyear Dalian Tire Company Limited	C339
China	Shandong Hawk International Rubber Industry Co., Ltd	C356
China	Sichuan Kalevei Technology Co., Ltd	C373
China	Zhongce Rubber Group Co., Ltd	C379