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

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 7(4) thereof,

After consulting the Member States,

Whereas:

1. **PROCEDURE**

1.1. **Initiation**

(1) On 30 June 2017, the coalition against unfair tyres imports ('the complainant') lodged a complaint on behalf of producers representing more than 45 % of the total Union production of new and retreaded tyres for buses or lorries. The complaint contained sufficient evidence of dumping and of resulting injury.

(2) On 11 August 2017, the European Commission ('the Commission') initiated an anti-dumping investigation 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 ('new and retreaded tyres' or 'the product concerned') originating in the People's Republic of China ('the country concerned' or 'the PRC') on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal of the European Union* ([2]) ('the Notice of Initiation').

(3) On 21 October, the Commission issued a corrigendum to the Notice of Initiation in which it clarified the scope of the definition of the product concerned ([3]).

(4) On 14 October 2017, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of new and retreaded tyres for buses and lorries originating in the PRC and started a separate investigation. It published a Notice of Initiation in the *Official Journal of the European Union* ([4]).

1.2. **Registration of imports**

(5) On 30 August 2016, the complainant submitted a request for registration of imports of the product concerned originating in the PRC under Article 14(5) of the basic Regulation.

(6) On 4 October 2017, China Rubber Industry Association ('CRIA') and the China Chamber of Commerce of Metals, Minerals & Chemicals Importers and Exporters ('CCCMC') submitted comments on the request for registration.

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) Notice of initiation of an anti-dumping proceeding concerning imports of new and retreaded tyres for buses or lorries originating in the People's Republic of China (OJ C 264, 11.8.2017, p. 14).
([3]) OJ C 356, 21.10.2017, p. 24.
([4]) Notice of initiation of an anti-subsidy proceeding concerning imports of new and retreaded tyres for buses or lorries originating in the People's Republic of China (OJ C 346, 14.10.2017, p. 9).

They claimed that the request had failed to satisfy the applicable evidentiary standard as there was no evidence of a history of dumping, a substantial rise in imports and that the imports are likely to seriously undermine the remedial effects of the duty. On 19 October 2017, the Commission held a hearing at the request of CRIA during which it reiterated its earlier comments.

(7) On 2 February 2018, the Commission published Implementing Regulation (EU) 2018/163 ('the registration regulation') ([1]) making imports of the product concerned originating in the PRC subject to registration as of 3 February 2018 onwards. In that Regulation, the Commission assessed the comments made by interested parties.

(8) After the registration entered into force Hankook Group ([2]) claimed that its rights of defence were violated as no information regarding the Commission's intention to make imports of the product concerned subject to registration had been communicated to it before the entry into force of the registration regulation. For that reason the Hankook Group claimed that there was a breach of Article 41 of the Charter of Fundamental Rights of the European Union.

(9) The Commission observed that prior disclosure is mandatory under Article 20(2) of the basic Regulation before the imposition of definitive measures. The same does not apply to a registration decision under Article 14(5) of the basic Regulation. That Article only provides for the prior information to Member States in due time. Moreover, the right to be heard under Article 41(2)(a) of the Charter of Fundamental Rights of the European Union only applies to individual adverse measures. In this case, the Commission directed the Union customs authorities to register imports. The registration regulation is not an individual measure affecting the Hankook Group adversely. It was neither addressed to the Hankook Group nor did it produce individual negative effects for that group. Therefore, neither the rights of defence of the Hankook Group nor Article 41 of the Charter of Fundamental Rights of the European Union were violated.

1.3. **Investigation period and period considered**

(10) The investigation of dumping and injury covered the period from 1 July 2016 to 30 June 2017 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2014 to the end of the investigation period ('the period considered').

1.4. **Interested parties**

(11) In the Notice of Initiation, the Commission invited interested parties to contact it to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers, the authorities of the People's Republic of China, known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

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

(13) Two Union producers, represented by the complainant, took this opportunity to request the Commission to keep their names confidential for fear that they could face retaliation by customers or competitors concerned by this investigation, in accordance with Article 19(1) of the basic Regulation. Moreover, two cooperating Union producers requested the same status subsequently.

(14) The Commission individually examined the merits of each confidentiality request. It established that there was indeed evidence of a significant possibility of retaliation in each case and accepted that the names of those companies should not be disclosed.

([1]) Commission Implementing Regulation (EU) 2018/163 of 1 February 2018 making imports of new and retreaded tyres for buses or lorries originating in the People's Republic of China subject to registration (OJ L 30, 2.2.2018, p. 12).

([2]) Hankook Group is composed of the following related companies: Shanghai Hankook Tire Sales Co., Ltd; Chongqing Hankook Tire Co., Ltd; and Jiangsu Hankook Tire Co., Ltd.

(15) Two exporting producers, the Giti Group ([1]) and the Aeolus Group ([2]), claimed that the anonymity of two Union producers represented by the complainant could seriously affect the parties' right of defence as it is not possible to verify that the complainant effectively represents more than 25 % of total Union production. In addition, the anonymity does not allow interested parties to know in which tier ([3]) the complainant is active and thus, to meaningfully comment on the material injury that it could suffer due to Chinese exports of the product concerned to the Union. Moreover, the Giti Group claimed that, according to the complainant, tier 3 Union production represented only 16 % of total Union production. Therefore, it argued that the initiation of the proceedings constituted an infringement of Article 5(4) of the basic Regulation. Finally, the Giti Group and the Aeolus Group argued that confidentiality hinders interested parties from knowing whether sampled Union producers are related to Chinese exporting producers.

(16) Article 19 of the basic Regulation stipulates that the Commission must not reveal any information which is confidential without specific permission from the supplier of such information. The Commission considered that the open version of the complaint permitted interested parties to assess the standing requirements. Moreover, the representativity of the complainant needs to be assessed on the overall basis of the alleged injured industry and not per market tier. Finally, the Commission was not convinced by the argument that the lack of knowledge of potential links between anonymous complainants and Chinese exporting producers should impede the rights of defence of interested parties. The claims levied against granting of confidentiality were therefore rejected.

(17) The Commission also informed producers in the Republic of Korea ('Korea'), Japan, the Republic of India ('India'), the Republic of South Africa ('South Africa'), the Republic of Turkey ('Turkey'), the Kingdom of Thailand ('Thailand') and the Federative Republic of Brazil ('Brazil') of the initiation and invited them to participate. In the Notice of Initiation, the Commission informed interested parties that it envisaged the United States of America ('USA') as a third market economy country (analogue country) within the meaning of Article 2(7)(a) of the basic Regulation. Interested parties had an opportunity to comment and provided submissions in this regard (see below Section 3.1.2).

1.5. **Sampling**

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

(a) *Sampling of Union producers*

(19) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected a sample on the basis of the highest representative production and sales volumes whilst ensuring a geographical spread. The Commission invited interested parties to comment on the provisional sample.

(20) Four interested parties submitted comments on the provisional sample (the Aeolus Group; the Giti Group; CRIA and CCCMC). In particular, they considered that the market segmentation into three tiers was not duly reflected in the provisional sample and that the sample should mirror as close as possible the percentage of tier 1, tier 2 and tier 3 production and sales out of the total Union production and sales.

(21) Further to that comment, on 25 September 2017, the Commission requested Union producers to provide additional information on the tiers with a view of establishing a revised sample of Union producers.

(22) Cooperating Union producers that responded to the sample questionnaire include large, and small and medium-sized enterprises ('SMEs') ([4]) and represent more than 50 % of the total estimated Union production and sales.

([1]) Giti Tire (China) Investment Co., Ltd and its subsidiaries: Giti Tire (Anhui) Co., Ltd; Giti Tire (Fujian) Co., Ltd; Giti Tire (Hualin) Co., Ltd; Giti Tire (Yinchuan) Co., Ltd.

([2]) Aeolus Tyre Group Co., Ltd, including Chonche Auto Double Happiness Tyre Corp., Ltd and Pirelli Tyre Co., Ltd.

([3]) Information collected and received by the Commission indicates that the Union market for bus and lorry tyres is segmented in three tiers. Tier 1 tyres cover premium new tyres with the flagship brand of main manufacturers. Tier 2 tyres cover most non-premium tyres, both new and retreaded tyres, with prices and mileage performances ranging between approximately 65 % and 80 % of the price of tier 1 tyres. Tier 3 tyres cover both new and retreaded tyres with lower mileage performances and very limited retreadability.

([4]) See Commission Recommendation of 6 May 2003 concerning the definition of Micro, Small and Medium Sized Enterprises (2003/361/EC).

(23) In order to establish the definitive sample, the Commission took into consideration the fragmentation of the tyres sector among different tiers, ensuring that all three tiers were covered by the sampled companies. In addition, to ensure that the situation of the SMEs was properly reflected in the injury analysis given that they represent around 15 % of the total Union sales volumes of Union producers, the Commission considered that SMEs should also be represented in the sample.

(24) Eleven Union producers were sampled on the basis of:

— the overall representativity in terms of size of the production and sales volume of the product concerned in the year 2016,

— the representativity of tiers in terms of size of the production volume of the product concerned in the year 2016,

— the geographical spread, and

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

(25) The sampled Union producers comprise both large companies and SMEs. The selected Union producers are based in six Member States (Italy, Spain, Poland, Portugal, Germany and France) which together accounted for more than 36 % of Union production and sales reported by the cooperating Union producers.

(26) On 22 December 2017, one of the sampled Union producers, the Polish producer, Geyer&Hosaja, informed the Commission that it had decided to stop cooperating with the investigation. The percentages mentioned in recital (25) above are not impacted by the withdrawal of this producer as its production represents less than 0,1 % of the total Union production. The Commission therefore concluded that the final sample is representative of the Union industry.

(27) Finally, the Giti Group submitted that the Commission should have terminated this investigation immediately because of the procedurally erroneous pre-selection of the sample of Union producers. The Commission recalled that the provisional selection of a sample of Union producers is legally possible and conducive to an effective investigation within tight deadlines. As demonstrated in recitals (21) to (25), the provisional sample was changed further to comments from interested parties. Consequently, the claim was rejected.

(b) *Sampling of importers*

(28) In order 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. Five importers came forward importing around 430 000 units of imports from the PRC. Two companies were sampled accounting for [70 % - 90 %] of the importers that submitted a sampling form.

(c) *Sampling of exporting producers in the PRC*

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

(30) 49 exporting producers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of the following four producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available:

— Aeolus Tyre Co., Ltd; Chonche Auto Double Happiness Tyre Corp., Ltd; Qingdao Yellow Sea Rubber Co., Ltd and Pirelli Tyre Co, Ltd ('Aeolus Group'),

— Xingyuan Tire Group Ltd, Co. and Guangrao Xinhongyuan Tyre Co., Ltd ('Xingyuan Group'),

— Giti Tire (China) Investment Co., Ltd; Giti Tire (Anhui) Co., Ltd; Giti Tire (Fujian) Co., Ltd; Giti Tire (Hualin) Co., Ltd; Giti Tire (Yinchuan) Co., Ltd ('Giti Group'),

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

(31) 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. The Commission received comments from: (1) the complainant; (2) CRIA and CCCMC; and (3) an exporting producer — the Giti Group.

(32) The complainant claimed that the proposed sample was not representative enough as it did not sufficiently take into account the different price segments called tiers on the Union tyre market. According to the complainant, the intermediate segment (tier 2) was over-represented in the sample while the overwhelming majority of Chinese exporters operated in the lower segment (tier 3), which was underrepresented. Therefore, it claimed that the sampled exporting producers would not adequately reflect the average import price to the Union. The complainant requested to replace sampled exporting producers in tier 2 with exporting producers in tier 3.

(33) CRIA, CCCMC and the Giti Group accepted, in principle, the provisionally selected sample, but considered that given the large number of exporting producers the sample's representativeness could be further increased by adding more companies.

(34) The Commission considered that the proposed sample consisted of exporting producers from both the intermediate and lower tiers accounting for over 50 % of total imports from the PRC to the Union. Replacing the largest exporting producers from tier 2 with smaller exporting producers from tier 3 would make the sample unrepresentative given that a large portion of the total exports were, according to the available data, in the intermediate tier.

(35) Accordingly, the Commission decided to retain the provisionally selected sample and accordingly informed all interested parties on 19 October 2017.

(36) Subsequently, the European Retreading Association ('BIPAVER') and the European Tyre & Rubber Manufacturers Association ('ETRMA') claimed that the finally selected sample could lead to a strong imbalance in the product mix between tier 2 and tier 3 tyres. In their view, the average import prices might not accurately reflect the part of import volumes that are most harmful to the Union industry. Therefore, they urged the Commission to reassess and amend the sample and, at least, add one exporting producer with significant export volumes from the tier 3.

(37) The Commission reassessed whether it would be practically feasible to further enlarge the sample. It pointed out that the groups of exporting producers selected in the sample consisted of: (1) 13 legal entities that were involved in the production and domestic sales of the product concerned; (2) two related exporters located outside of the Union; and (3) more than ten related importers located in the Union. The data provided by each of these entities needed to be processed and verified. Therefore, the Commission considered that more exporting producers could not be reasonably investigated within the time available.

(38) The Commission therefore did not change the finally selected sample as previously communicated to the interested parties.

(39) In addition to the four sampled exporting producers, ten exporting producers declared that, in the event that they are not selected to be in the sample, they would like to receive a questionnaire and other claim forms in order to fill them in and thus claim an individual examination under Article 17(3) of the basic Regulation.

(40) The Commission sent anti-dumping questionnaires to the four sampled Chinese exporting producers; the ten exporting producers that have requested the questionnaire and other claim forms as set out above as well as the sampled Union producers.

(41) Questionnaire replies were received from the four sampled Chinese exporting producers and from ten sampled Union producers. None of the non-sampled exporting producers sent a reply to the questionnaires.

1.6. **Market economy treatment ('MET') claim forms**

(42) The Commission sent MET claim forms to the two sampled exporting producers, the Hankook Group and the Giti Group, that requested market economy treatment in accordance with Article 2(7)(b) of the basic Regulation. It also sent MET claim forms to non-sampled cooperating exporting producers had so requested. The Commission received replies to the MET claim forms only from the two sampled companies.

1.7. **Verification visits**

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

Union producers:

— Good Year Firma Oponiarska, Poland,

— Wetest, Czech Republic,

— B.R.P. Pneumatici, Italy,

— Banden plant, the Netherlands,

— Marangoni SpA Ltd Italy,

— four Union producers which requested confidentiality.

Exporting producers in the PRC:

— Aeolus Tyre Co., Ltd; (Jiaozuo); Chonche Auto Double Happiness Tyre Corp., Ltd; (Taiyuan) and Pirelli Tyre Co, Ltd (Jining),

— Xingyuan Tire Group Ltd, Co. and Guangrao Xinhongyuan Tyre Co., Ltd (Dongying),

— Giti Tire (China) Investment Co., (Shanghai); Giti Tire (Anhui) Co., Ltd; (Hefei); Giti Tire (Hualin) Co., Ltd (Hualin); and a related exporter in Singapore,

— Shanghai Hankook Tire Sales Co., Ltd (Shanghai); Chongqing Hankook Tire Co., (Chongqing) Ltd; Jiangsu Hankook Tire Co., Ltd (Jiangsu); and a related exporter in Seoul, Korea.

Producers in an analogue country:

— anonymous analogue country producer in Brazil.

Related importers in the Union:

— Giti UK, Cheshire, UK,

— Hankook UK, Northamptonshire, UK and Hankook Germany, Neu-Isenburg, Germany.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(44) The product concerned is 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 PRC, currently falling within CN codes 4011 20 90 and ex 4012 12 00 (TARIC code 4012 12 00 10). These CN and TARIC codes are given for information only.

(45) The product concerned covers both new and retreaded pneumatic tyres for buses or lorries which share the same essential physical, chemical and technical characteristics.

(46) 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.

2.1.1. *Manufacturing process*

2.1.1.1. New tyres

(47) 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.

(48) 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.

2.1.1.2. Retreaded tyres

(49) 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 of their quality — either a real 'semi-finished' product or a waste.

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

2.1.2. *Uses and types of tyres*

(51) 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.

(52) 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 multi-position tyres are designed to be used in all in all positions on a vehicle depending on its use.

(53) 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 [1].

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

(54) 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.

(55) 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

(1) 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).

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.

(56) 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.

(57) 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.

(58) 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 (at least 380 companies in the Union). This corresponds to tier 3 tyres.

(59) The Commission issued the mapping of new and retreaded tyres by brand on the basis of information provided by the complainant, which was made available to all the interested parties on 27 October 2017.

2.3. **Claims regarding the segmentation of the Union market for tyres**

(60) As noted in recital (58), interested parties generally accepted the principle of the market segmentation into three tiers.

(61) The market mapping of tyre brands as laid down in the note to the file of 27 October 2017 by tiers was generally endorsed by the interested parties, except for the following claims from interested parties to reclassify certain brands into different tiers. More specifically, Aeolus Group considered its Aeolus brand as tier 3 (instead of tier 2); two importers importing the brand Double Coin claimed it should be classified into tier 2 (instead of tier 3); the Hankook Group considered that its brand Aurora belonged to tier 2 (instead of tier 3); the Giti Group considered in its questionnaire reply that its brand Primewell and GT Radial belonged to tier 2 (instead of tier 3) and an independent importer claimed that the brand Sailun should be classified into tier 2 (instead of tier 3).

(62) The Commission reviewed the claims on the basis of evidence submitted by the interested parties and information collected *ex officio* during the investigation. In line with the characteristics identified in recital (49), it analysed in how far the tyres from the specific brands are (1) retreadable; (2) used for original equipment for buses and lorries; and (3) marketed in a certain tier according to each company's own assessment.

(63) With respect to the Hankook Group, the Commission accepted to classify the brand Aurora into tier 2 as requested. However, it also found that Hankook brand should be classified into tier 1. For its Hankook brand, there is a legal guarantee that its tyres can be retreaded at least once. Moreover, it acts as an OE1 supplier for European companies such as Scania, MAN and Mercedes-Benz. The website of the Hankook group markets its Hankook brand as 'premium', and an internal document from a related importer handed over during verification indicated that the brand has moved into tier 1.

(64) With respect to the Giti Group, the Commission accepted to classify the brands Primewell and GT Radial into tier 2 as requested. The Commission also found that Giti tyres are retreadable. However, the original equipment activities of the Giti Group do not extend to lorries and buses, but relate to passenger car tyres. In addition, the Giti Group considers its brands as tier 2. Therefore, the brands of the group were classified into tier 2.

(65) For the Aeolus Group, the Commission provisionally accepted to classify its Aeolus brand into tier 3 as requested by the company, based on the claims that its tyres are generally not retreadable and they are not sold in the OE market.

(66) The importers making the claims on the brands Double Coin and Sailun were not sampled companies, so the Commission could not verify their claims at this stage. As they were not sampled, their classification into tier 2 or 3 does not affect the outcome of the investigation. Therefore, while not calling into question the evidence submitted by the importers on their experience of their customers with the tyres from such brands, the Commission did not take any position on their claims at this stage.

(67) Several interested parties submitted that the tier mapping by brand is applicable only to the Union and in other markets the tier mapping may be very different. In particular the Union tier mapping cannot be transposed to the Chinese market. The Commission underlined that the mapping by brand was used in this investigation for the purpose of analysing the situation in the Union market and had no legal significance for other markets.

2.3.1. *Product exclusion requests*

(68) CRIA and CCCME as well as Aeolus Group claimed that either new tyres or retreaded tyres should be excluded from the definition of the product concerned, because:

— new tyres and retreaded tyres have different essential physical, technical and chemical characteristics,

— retreaded tyres have a shorter lifespan than new tyres,

— new tyres and retreaded tyres have different uses, sales channels, applications and consumer perception. In particular, retreaded tyres are not used in the original equipment market, and they are not generally fitted on the steering axle and onto lorries carrying dangerous goods,

— new and retreaded tyres have different CN codes.

(69) Those parties also observed that the Commission and the European Court of Justice ('ECJ') in several competition cases concluded that new tyres and retreaded ones constitute two different relevant markets in terms of price, structure of supply, structure of demand, supply channels and substitutability. [1] CRIA and CCCME also pointed out that other anti-dumping investigating authorities treated new and retreaded tyres separately. [2]

(70) CRIA and CCCME submitted that the Commission erred in its assessment with regard to the factors of relevance, by not treating new and retreaded tyres separately.

(71) The Giti Group claimed that retreadable or multi-life tyres should be excluded from the definition of the product concerned as retreadable tyres are more sophisticated than non-retreadable tyres with distinctive technical features.

(72) The Commission found that the retreading process preserves the main characteristics, the components, and the structure of the tyre resulting from the initial manufacturing process. In particular, the key technical specifications of the tyre, namely size, load index and speed rating of the tyre are not modified at the retreading stage. New tyres (retreadable or non-retreadable) and retreaded tyres are made of the same raw materials, of the same components, and have a similar structure.

(73) The main difference in technical characteristics between a newly produced tyre and a retreaded tyre built on its casing is that a retreaded tyre may indeed have a shorter lifespan and the retreaded tyre may be perceived as a less safe option. However, exactly the same technical, quality and safety perception differences arise between two new tyres from different tiers. In particular, lower tier tyres have also lower mileage and they will not be a preferred option for vehicles that need to comply to very high safety standards namely the ones carrying dangerous goods.

(74) Therefore, the Commission provisionally rejected the claim that new (retreadable or non-retreadable) and retreaded tyres have different basic physical, chemical and technical characteristics.

[1] European Commission, Case COMP/M.4564 — Bridgestone/Bandag; Case COMP/E-2/36.041/PO. European Court of Justice, Judgement of 9 November 1983, Case C-322/81 *Michelin* v *Commission* ECLI: EU:C:1983:313.
[2] The investigations cited concerned the US, India, Egypt and the Eurasian Commission.

(75) The Commission further found that both new and retreaded tyres are used by owners of lorries or buses, mainly active in the sector of short to long haul transportation of persons or goods. Therefore, the essential end use of new and retreaded tyres is the same. The Commission also found that new and retreaded tyres have the same four main types of application namely steer, drive, trailer and all-position and are subject to the same safety requirements on the Union market as set in the relevant legislation.

(76) Therefore the claim that new and retreaded tyres have different applications was provisionally rejected.

(77) The Commission agreed that retreaded tyres differ from tier 1 new tyres to the extent that they are not sold on the original equipment market. The Commission also found that exactly the same is true for tier 3 tyres and to a large extent to tier 2 brands which are not sold on the original equipment market either.

(78) Therefore, the Commission provisionally rejected the claim that new and retreaded tyres have different sales channels.

(79) Regarding the Commission's competition decisions and the ECJ judgment ([1]) in which retreaded tyres were found to be a separate product market, this is in fact irrelevant for the product definition in trade defence investigations. The market definition in a merger case focuses on demand-side and supply-side substitution. ([2]) In an anti-dumping investigation, the market is defined by the physical, technical and chemical characteristics of the product concerned. Therefore, the Commission rejected this claim.

(80) Regarding the claim concerning the product definition in anti-dumping cases in third countries, the Commission pointed out that the product definition falls within the wide margin of discretion of the investigating authority in trade defence matters. ([3]) Therefore, the way that investigating authorities in third countries used their discretion in this respect cannot limit the margin of discretion of the Commission for the purposes of this investigation.

(81) It was also submitted that the product concerned should not be covered by several CN codes. In this regard, the Commission recalled, first, that it is very common that a single product concerned is covered by several CN codes. This arises naturally from the design of the Combined Nomenclature. Furthermore, the Notice of Initiation clearly stated that the CN codes were given for information only. Second, no factual evidence was provided, nor did the Commission find information that the product concerned was defined in such a way that imported retreated and new tyres could not provisionally be found to constitute alternatives to, and compete directly with, retreaded and new tyres produced in the Union. The same applies to producer and consumer perceptions, channels of distribution, or other factors as to the existence of a single or multiple product categories as opposed to the differentiation between new and retreaded tyres for the purposes of this investigation.

(82) Lastly, interested parties submitted that, arising from the market segmentation in the Union, retreaded tyres are perceived to be of lower quality than tier 1 new tyres, even if they are made on a tier 1 tyre-casing.

(83) The Commission accepted this claim which is in line with the tier mapping established for this investigation, and only considered retreaded tyres in tiers 2 and 3.

2.4. **Like product**

(84) The investigation showed that the following products have the same basic physical characteristics as well as the same basic uses:

— the product concerned,

— the product produced and sold on the domestic market of Brazil, which served provisionally as an analogue country,

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

([1]) European Commission, Case COMP/M. 4564 — Bridgestone/Bandag; Case COMP/E-2/36.041/PO. European Court of Justice, Judgement of 9 November 1983, Case C-322/81 *Michelin* v *Commission* ECLI: EU:C:1983:313.
([2]) European Commission, Case COMP/M. 4564 — Bridgestone/Bandag, page 4.
([3]) European Court of Justice, Judgment of 17 March 2016, Case C-232/14 *Portmeirion Group*, ECLI:EU:C:2016:180, at paragraphs 47 *et seq.*

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

3. **DUMPING**

3.1. **Normal value**

3.1.1. *Market economy treatment ('MET')*

(86) Under Article 2(7)(a) and (b) of the basic Regulation the Commission is to determine normal value on the basis of the price or constructed value in a market economy third country in the case of imports from non-market economy countries, unless the exporter can show that it operates under market-economy conditions.

(87) CCCMC and CRIA claimed that after the expiry of paragraph 15(a)(ii) of the Protocol on the Accession of the PRC to the World Trade Organisation ('WTO') on 11 December 2016 the general rules for the determination of normal value should apply to Chinese exporters. In this respect, they claimed that the use of a non-market economy methodology to reach a determination after 11 December 2016 is contrary to the Union's WTO obligations. They alleged that the normal value cannot be based on an analogue country, but should be based on Chinese sales and costs data.

(88) The Notice of Initiation was published on 11 August 2017. Consequently, the relevant legislation applicable to this proceeding is the basic Regulation in its version applicable at the time of initiation. The normal value is therefore to be established on the basis of Article 2(7)(a) and (b) of the basic Regulation as applicable at the date of initiation of this investigation in August 2017. Therefore, the claims by the CCCMC and CRIA are rejected.

(89) Briefly, and for ease of reference only, the MET criteria are as follows:

— business decisions are made in response to market conditions and without significant State interference, and costs reflect market values,

— firms have one clear set of basic accounting records, which are independently audited, in line with international accounting standards and applied for all purposes,

— there are no significant distortions carried over from the former non-market economy system,

— legal certainty and stability is provided by bankruptcy and property laws, and

— currency exchanges are carried out at the market rate.

(90) For the determination whether the criteria in Article 2(7)(c) of the basic Regulation are met, the Commission sought the necessary information by asking the exporting producers to fill in the MET claim form. Two out of the four sampled cooperating companies the Giti Group and the Hankook Group claimed MET and replied within the deadline. Therefore, a MET determination was made in respect of these two groups of companies.

(91) The Commission sought all the information deemed necessary and verified all the information submitted in the MET claims at the premises of the major legal entities of both groups.

(92) In case of related parties, the Commission examined whether the group of the related companies as a whole fulfilled the conditions for MET. Therefore, in cases where a subsidiary or any other company related to the applicant in the PRC is involved, directly or indirectly, in the production or sales of the product concerned, the MET examination was carried out in respect of each company individually as well as to the group of companies as a whole.

(93) Both groups claiming MET failed to demonstrate that they fulfilled all of the criteria laid down in Article 2(7)(c) of the basic Regulation.

(94) More specifically, both groups failed to demonstrate, either individually or as a group, that they had one set of clear set of accounts that were independently audited in line with international accounting standards and therefore did not fulfil MET criterion 2.

(95) Moreover, both groups failed to demonstrate that they were not to subject to significant distortions carried over from the former non-market economy system. Accordingly, these companies, or group of companies, did not fulfil MET criterion 3. More specifically, both groups of exporting producers benefitted from preferential tax regimes.

(96) In addition, the Hankook Group failed to demonstrate that there is no significant State interference and that costs of major inputs substantially reflect market values. Thus, this Group failed also to demonstrate that it fulfilled MET criterion 1.

(97) The Commission disclosed the findings to both exporting producers concerned, to the authorities of the country concerned and to the Union industry. Interested parties commented on the findings. The Hankook Group argued that the State interferences found under criterion 1 were not significant. Both groups considered that the shortcomings in their respective accounting systems were not material. They also maintained that the preferential tax regime under MET criterion 3 did not constitute a significant distortion.

(98) Those comments did not put into question the factual findings, but merely expressed an alternative legal qualification. However, given the magnitude and seriousness of issues found under all three criteria, those comments were not such as to alter the Commission's findings.

(99) After having informed the Member States in accordance with Article 2(7)(c) of the basic Regulation, all applicants were individually and formally informed, on 9 April 2017, of the Commission's final determination with regard to their respective MET claim.

(100) Accordingly, neither the Giti Group nor the Hankook Group could show that they fulfilled all the MET criteria set out in Article 2(7)(c) of the basic Regulation and therefore could not be granted MET.

3.1.2. *Analogue country*

(101) According to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in a market economy third country for all the exporting producers. For this purpose, a market economy third country had to be selected ('the analogue country').

(102) In the Notice of Initiation, the Commission informed interested parties that it considered the USA as an appropriate analogue country and invited interested parties to comment.

(103) The Commission received comments from three interested parties regarding the selection of the analogue country:

— CRIA/CCCMC,

— the Giti Group,

— the complainant.

(104) Both CRIA/CCCMC and the Giti Group argued against the USA as analogue country. They also considered that Japan and Korea (albeit to a lesser extent) are not appropriate countries, while Thailand would be the most appropriate analogue country. The Giti Group also argued that Turkey could not serve as an appropriate country given the presence of trade restrictions and different access to raw materials. CRIA/CCCMC invited the Commission to reach out to possible analogue country producers in Turkey, Thailand, Brazil and the Arab Republic of Egypt ('Egypt').

(105) The complainant objected to Thailand as an analogue country and reiterated its view that the USA was the most suitable analogue country.

(106) The Commission got reliable contact details for 22 producers from eight countries (the USA, Japan, Korea, Turkey, India, Thailand, South Africa and Brazil). It reached out to those 22 companies inviting them to cooperate as an analogue country producer and received questionnaire responses from four producers in the USA, Thailand, South Africa and Brazil (one producer in each of these countries).

(107) The questionnaire response from one producer in the USA did not contain information in conformity with the questionnaire and the producer was unwilling to provide the missing information. In view of this incomplete response, the Commission excluded the USA from its analysis.

(108) Similarly the Commission also excluded Thailand as a potential analogue country. Here, the questionnaire response from one producer in Thailand had indicated that its production volume was extremely small (less than 10 000 items) and that it manufactured only tube type tyres. The Commission considered that the data from this producer would not provide any meaningful comparison due to a lack of representativeness as an overwhelming majority of tyres sold in the Union market are tubeless tyres.

(109) The Commission received a full questionnaire reply from one producer in South Africa. Total domestic production in South Africa is limited to less than 200 000 units per year, which accounts for only around 2 % of the Chinese exports to the Union. The domestic consumption is 1,3 million units. The total imports account for 90 % of the domestic consumption. Although there are no trade defence duties in place, the regular customs duty is relatively high: 25 % for most of the countries in the world and 15 % for the Union. South Africa is comparable to the PRC in terms of level of economic development.

(110) Finally, the Commission received a full questionnaire reply from one producer in Brazil.

(111) Brazil has a significant production (7,1 million items), which is more than the total of Chinese exports to the Union (4,59 million items). The Brazilian domestic consumption is almost 7 million units. The total imports — around 1 million units — account for around of 15 % of the Brazilian consumption. The total exports are 900 000 units. The volumes of the cooperating producer (more than 1 million items) are sufficiently representative to establish the normal value. The producers in Brazil and the PRC have similar conditions of access to the main raw materials as the two countries are producers of natural rubber. Finally, Brazil is comparable to the PRC in terms of the level of economic development. While Brazil has trade defence duties in place against several third countries, there are still significant imports of the product concerned as set out above.

(112) The Commission considered that both South Africa and Brazil could be used as analogue country. Given that the domestic production in South Africa was considerably smaller than in Brazil both in relative and absolute terms, the Commission decided to select Brazil as the most appropriate analogue country under Article 2(7)(a) of the basic Regulation.

3.1.3. *Normal value*

(113) The information received from the cooperating producer in the analogue country was used as a basis for the determination of the normal value for the exporting producers not granted MET, pursuant to Article 2(7)(a) of the basic Regulation.

(114) Some product types produced in the analogue country could not be matched with the product types exported from the country concerned to the Union because the analogue country producer did not manufactures all the tyres dimensions and tyre types exported to the Union. Therefore, the normal value for the non-matching product types had to be constructed pursuant to Article 2(3) of the basic Regulation on the basis of the analogue country's producer's manufacturing costs plus a reasonable amount for selling, general and administrative costs ('SG&A') and for profit.

(115) The Commission calculated the average Cost of Manufacturing ('COM') per kg for each position of the tyre — front, drive, multi-position or trailer for each respective tier (1, 2 or 3) and for each type of tyre (tubeless or tube type, based on the verified production cost data from the Brazilian producer. Such average COM was within the range of CNY 20,03/kg and CNY 21,29/kg. The Commission constructed the value of each non-matching Product Code Number exported by the Chinese producers by multiplying its weight by the average COM for each tyre position, type and tier. The Commission then added a reasonable amount for SG&A (35 – 45 % of COM) based on actual data pertaining to production and sales, as provided for in Article 2(6) of the basic Regulation. It finally added a reasonable amount of profit (23 – 28 % of COM) by using the average profit margin of sales of the profitable products.

3.2. **Export price**

(116) The sampled exporting producers exported to the Union directly to independent customers or through related or unrelated companies acting as an importer.

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

(118) If the exporting producers export the product concerned 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 those cases, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses and profits.

(119) With respect to one subsidiary of the Aeolus Group, (Pirelli Tyre Co., Ltd), the Commission did not receive within the set deadline the necessary data to establish the export price. On 23 March 2018 the Commission informed the company that questionnaires provided by its related importers were incomplete and it was requested to revise

and re-submit the questionnaires replies. The company was informed that failing to provide complete and accurate information within the given deadline, the Commission could revert to the use of facts available in accordance with Article 18 of the basic Regulation. On 4 April 2018 the company in question provided revised replies. However, the Commission considered them still to be incomplete and could not therefore be processed for the purpose of the dumping and injury analysis. As a result, the Commission has established the dumping margin based on the information verified from the other verified companies of the Aeolus Group, namely Aeolus Tyre and Chonche Auto Double Happiness Tyre. The Aeolus Group was invited to update the data concerning Pirelli for the remainder of the proceeding.

3.3. **Comparison**

(120) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis. The dumping margins were established by comparing the individual ex-works prices of the sampled exporting producers to the domestic sales prices of the analogue country producer or to the constructed normal value as appropriate.

(121) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. The Commission made the following adjustments to the export price and the normal value using the data provided by the sampled exporters and the analogue country producer in their questionnaire reply and during the verification visit: costs related to the shipping of the product concerned such as road and maritime freight, insurance, handling, loading and ancillary costs (8-18 %); bank charges and credit costs (0-1 %); warranty and discounts (2-3 %); indirect taxation (4 %). Finally for one exporting producer the adjustments were made for the commissions that it paid to its mother company (2-5 %).

3.4. **Dumping margin**

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

(123) The dumping margin for the cooperating exporting producers not included in the sample was established in accordance with the provisions of Article 9(6) of the basic Regulation. This margin was calculated as a weighted average on the basis of the margins established for the sampled exporting producers.

(124) With regard to all other exporting producers in the PRC, the Commission determined the level of cooperation in the PRC. It was measured by assessing the proportion of the volume of exports of the cooperating producers to the Union out of the total export volume from the country concerned to the Union.

(125) The level of cooperation was high. Therefore, the residual dumping margin applicable to all other exporting producers in the PRC was provisionally set at a level corresponding to the highest dumping margin found for the cooperating exporting producers in the sample.

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

Company	Provisional dumping margin (%)
Xingyuan Group	166,7
Giti Group	98,7
Aeolus Group	151,2
Hankook Group	80,4
Other cooperating companies	110,3
All other companies	166,7

4. **INJURY**

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

(127) The like product was manufactured by more than 380 producers in the Union during the period considered. Those producers constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(128) The total Union production during the investigation period was established at around 20,9 million tyres. The Commission established the total Union production figure on the basis of the data obtained during the investigation. As indicated in recital (24), ten Union producers in the final sample represent more than 36 % of Union production and sales reported by the cooperating Union producers of the like product. Therefore, the microeconomic indicators were examined on the basis of data obtained from the replies of those ten Union producers.

(129) The Union production is fragmented between large groups of companies and more than 380 SMEs throughout the Union. Large companies make up around 90 % of the total Union production and 85 % of the Union sales of the Union producers. SMEs are involved in the production of retreaded tyres and cover the remaining 10 % of the Union production and 15 % of the Union sales of the Union producers.

(130) 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 and do not affect their qualification as Union producers.

4.2. **Union consumption**

(131) Union consumption was established on the basis of the information provided by the ETRMA, import data from Eurostat reported under CN codes 4011 20 90 and 4012 12 00 and information received from tread suppliers.

(132) During the period considered the Union consumption developed as follows:

Table 1

Union consumption (in items)

	2014	2015	2016	Investigation period
Total Union consumption	20 248 578	20 782 365	21 452 278	21 590 193
Index 2014 = 100	*100*	*102,6*	*105,9*	*106,6*

Source: ETRMA, Eurostat Comext and tread suppliers.

(133) Union consumption increased over the period considered. Overall over the period considered the consumption increased by 6,6 % from around 20,2 million tyres to around 21,6 million tyres in the investigation period.

4.3. **Background regarding the Union market**

4.3.1. *General description*

(134) The Union market for lorry and bus tyres is a very competitive market, with multiple producers and brands.

(135) The Union market is divided between the original equipment sales to lorry or bus manufacturers and the replacement market. Market demand for lorry and bus tyres in the original equipment sector is driven by lorry and bus production while the aftermarket sector is influenced by many factors, including economic activity, sales, size, composition and use of the lorries or buses and fleets in service. Chinese imports' sales are concentrated mainly in the replacement market.

(136) Around 17 % of the total Union consumption is original equipment sold to lorries and buses manufacturers. The remainder of lorries and bus tyres sales in the Union are sold as replacement tyres directly or indirectly to the lorries or bus owners. The replacement tyres cover a broader range of tyres and are sold through a wider variety of channels with different marketing strategies. Replacement tyres may be sold directly to end-users or through related or unrelated distributors which will then resell to the end-users.

(137) Main sales channels are sales to distributors who resell them to fleet owners or direct sales to fleet owners sometimes alongside services (control, maintenance, services).

(138) Branding also influences the price customers are willing to pay for lorry and bus tyres. Brands are often linked with perceived quality and service, and more for higher quality tyres.

4.3.2. *Interconnection between new and retreaded tyres*

(139) The Commission determined that the main Union producers concentrated in tiers 1 and 2, where tyres were/are designed to have a long life cycle and to be retreadable. That justified significantly higher prices (and profit margins) for expected high performances for tiers 1 and 2 tyres.

(140) In fact, the investigation showed that the larger Union producers actively market retreadability of their tyres as a way to create brand loyalty and distinguish themselves from lower-priced imports of tier 3 tyres. As such, the investigation has shown that a large part of the value attributed to tiers 1 and 2 tyres originate, in fact, from the existence of the retreading industry in tier 3.

(141) The high interchangeability of retreaded and new tyres, however, makes tier 3 also the most vulnerable to low-priced Chinese imports of the product concerned. This is true in particular when considering that the users are aware that, performance-wise, retreaded and low-quality new tyres are not significantly distinguishable. That interchangeability in turn, establishes price as the determining factor in the customer's decision to purchase a retreaded or tier 3 new tyres.

(142) The Commission invites interested parties to comment on the preliminary assessment and to provide information supporting or contradicting that analysis so as to arrive at as complete a picture as possible at the final stage of this investigation.

4.4. **Imports from the country concerned**

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

(143) 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.

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

Table 2

Import volume (in items) and market share

	2014	2015	2016	Investigation period
Volume of imports from PRC (in items)	3 471 997	3 840 290	4 420 368	4 596 098
Index 2014 = 100	*100*	*110,6*	*127,3*	*132,4*
Market share (%)	17,1	18,5	20,6	21,3
Index 2014 = 100	*100*	*107,8*	*120,2*	*124,1*

Source: Eurostat Comext

(145) On the basis of Eurostat, the import volumes from the PRC increased by 32 % during the period considered, from around 3,5 million tyres in 2014 to around 4,6 million tyres in the investigation period. This resulted in an increase of the market share of Chinese imports, in a growing market, from 17,1 % to 21,3 %.

4.4.2. *Prices of the imports from the country concerned*

(146) The Commission established the prices of imports on the basis of Eurostat. Price undercutting of the imports was established on the basis of the sampled Chinese exporting producers.

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

Table 3

Import prices (EUR/item)

	2014	2015	2016	Investigation period
PRC	144,4	144,3	127,7	128,8
Index 2014 = 100	*100*	*99,9*	*88,4*	*89,1*
Source: Eurostat Comext				

(148) Over the period considered the Chinese imports prices into the Union decreased by 11 %.

4.4.3. *Price undercutting*

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

(1) the weighted average sales prices per product type and segment of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(2) the corresponding weighted average prices per product type and segment of the imports from the sampled Chinese exporting producers to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs.

(150) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed a weighted average undercutting margin of between 21 % and 31 % by the imports of the product concerned from the country concerned on the Union market. Moreover, the weighted average undercutting margin in the three tiers was found to be significant: 24 % for tiers 1 and 2 and between 21 % and 31 % for tier 3. The substantial level of undercutting demonstrates the pronounced effect of dumping in this case.

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

4.5.1. *General remarks*

(151) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(152) As mentioned in recitals (19) to (27), sampling was used for the determination of possible injury suffered by the Union industry.

(153) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the complaint, Eurostat statistics, submissions from ETRMA, as appropriate, to ensure that 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 and the submission of ETRMA. 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.

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

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

(156) There are two remarks concerning the methodology for the analysis of the injury indicators.

(157) As mentioned in recital (23), the Union producers are composed of two categories of companies in terms of size: large companies and SMEs (highly fragmented), representing 85 % and 15 % respectively of the total Union sales of the Union producers in 2016. However, as a result of the sampling of the Union producers, the sales data of the sampled SMEs represented around 4 % of the total Union sales of sampled Union producers. Therefore, the Commission decided to weight the results of the sampled Union producers in accordance with the market share of each category of companies. 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.

(158) Moreover, the total Union sales of the Union producers were split between the three tiers in the following proportion: tier 1: 51 %, tier 2: 23 % and tier 3: 26 %. However, the Union sales data of the sampled Union producers, even after the adjustment described in recital (161), did not reflect the real proportion of Union sales per tier. Therefore, the Commission decided to weight the results of the sampled Union producers in accordance with the share of each tier in the total Union sales of the Union producers to ensure that the three tiers were represented according to their share in the total Union sales in all micro-indicators.

(159) Several parties submitted that if the Commission follows the segmentation by the three tiers the determination of injury needs to be carried out also at the level of tiers. In particular, the status of the Union industry as well as the impact of imports needed to be evaluated on a tier basis, for example the impact of tier 2 imports (both Chinese and from other countries) need to be assessed on tier 2 Union producers.

(160) The Commission considered that despite the segmentation of the Union market, the tyres as defined in recital (78) share the same basic physical, chemical and technical characteristics and are interchangeable. Consequently, the determination of injury was done for the product concerned in compliance with the WTO Anti-Dumping Agreement. In particular, the Appellate Body's found that 'where investigating authorities undertake an examination of one part of a domestic industry, they should, in principle, examine, in like manner, all of the other parts that make up that industry, as well as examine the industry as a whole' [1]. Therefore, a segmental analysis is possible under WTO law, but it has to be accompanied by an analysis of the whole industry. Similarly, the General Court accepted that the injury analysis may focus on the tier most affected by dumped imports [2].

(161) The Commission conducted hence the analysis of certain indicators at the tier level. As shown in recitals (212) to (216), this analysis confirms that overall the Union industry suffered injury and that the trends for the product concerned considered as a whole in general correspond to those for the tiers considered separately.

(162) The economic situation of the Union industry is analysed on an aggregated basis and, in certain microeconomic indicators, also at the level of tiers given the Union market segmentation.

4.5.2. *Macroeconomic indicators*

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2014	2015	2016	Investigation period
Production volume (in items)	20 722 065	20 199 411	20 496 669	20 863 087
Index 2014 = 100	*100*	*98*	*99*	*101*

[1] WT/DS184/AB/R, 23.8.2001, *United States — Anti-dumping Measures on Certain Hot-Rolled Steel Products from Japan*, paragraph 204.
[2] General Court, Judgment of 28 October 2004, Case T-35/01 *Shanghai Teraoka Electronic Co.Ltd* v *Council*, paragraphs 129 and 258.

	2014	2015	2016	Investigation period
Production capacity (in items)	27 978 885	27 443 671	25 609 977	25 178 389
Index 2014 = 100	*100*	*98*	*92*	*90*
Capacity utilisation (%)	74	74	80	83
Index 2014 = 100	*100*	*99*	*108*	*112*
Source: ETRMA, Eurostat Comext for import and export data and information submitted by the complainant				

(164) As shown in the Table 4, production remained relatively stable, with 20,9 million units in the investigation period, while the capacity utilisation rate increased 9 percentage points over the same period.

(165) The main cause of the increase in capacity utilisation can only be attributed to the significant decrease in production capacity by 10 %. That concerned mainly the retreading activity as during the period considered, at least 85 SMEs located in virtually all Member States stopped producing retreading tyres but also the closure of subsidiaries of large companies ([1]).

(166) The flat trend of the Union production and the closure of companies are in contrast with the post-crisis growing consumption in the Union from which the Union industry could have benefited.

4.5.2.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2014	2015	2016	Investigation period
Total sales volume on the Union market (in items)	14 584 057	14 558 260	14 385 254	14 426 297
Index 2014 = 100	*100*	*99,8*	*98,6*	*99,0*
Market share (%)	72,0	70,1	67,1	66,8
Index 2014 = 100	*100*	*97,3*	*93,1*	*92,8*
Source: ETRMA and Eurostat Comext for import data				

(168) In a growing market, sales in the Union remained stable over the period considered. This results in a decrease by 5,2 percentage points of market share (from 72,0 % to 66,8 %) while sales volume of Chinese dumped tyres increased by 1,1 million of tyres.

4.5.2.3. Growth

(169) The Union consumption increased by 6,6 % during the period considered. The sales volumes of the Union industry decreased by 1 % in spite of the growing consumption, which resulted in the Union industry losing market share. The market share of the imports of the country concerned increased during the period considered.

([1]) In 2017, Goodyear Group closed its UK plant (around 330 jobs); Michelin Group closed several plants in the Union: in France two plants (in 2014 700 employees and in 2017 330 employees), in Germany (2016 200 employees), in Hungary (2015 500 employees) and in Italy; Continental Group closed one plant in Germany.

4.5.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2014	2015	2016	Investigation period
Number of employees	38 445	36 478	34 959	34 188
Index 2014 = 100	*100*	*95*	*91*	*89*
Productivity (unit/employee)	539	554	586	610
Index 2014 = 100	*100*	*103*	*109*	*113*

Source: Verified questionnaire replies of the sampled Union producers and submissions from tread suppliers and ETRMA.

(171) There were over 4 200 direct jobs lost over the period considered and affecting both SMEs where at least 85 producers located throughout the Union have stopped production and the large companies which have shut down several plants.

(172) Moreover, the Italian association of retreaders ('AIRP') claimed that the retreading sector in the Union accounts for around 13 000 jobs for production and distribution. Retreading activity is a rather labour intensive activity and a retreaded tyre supports 3 to 4 times the number of jobs of a new tyre. According to AIRP, several companies associated are currently reducing personnel or making a massive use of unemployment insurance funds.

(173) In parallel, productivity developed from 539 units per employee in 2014 to 610 units per employee in the investigation period.

4.5.2.5. Magnitude of the dumping margin

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

(175) This is the first anti-dumping investigation regarding the product concerned in the Union. Therefore, no data were available to assess the effects of possible past dumping.

4.5.3. *Microeconomic indicators*

4.5.3.1. Prices and factors affecting prices

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

Table 7

Sales prices in the Union and cost of production

	2014	2015	2016	Investigation period
Average unit sales price in the Union (EUR/item)	237	225	216	218
Index 2014 = 100	*100*	*95*	*91*	*92*

	2014	2015	2016	Investigation period
Average cost of production (EUR/item)	200	188	183	188
Index 2014 = 100	*100*	*94*	*91*	*94*
Source: Verified questionnaire replies of sampled Union producers				

(177) Average unit selling price decreased by 19 EUR while unit costs decreased by 12 EUR over the same period. This corresponds to a decrease of prices by 8 % over the period considered while the costs decreased by 6 %.

(178) During the investigation period, the cost of production increased as compared to 2016 which could not be fully reflected on the selling price.

(179) A separate analysis based on the same methodology as described was made for the three tiers.

(180) In tier 1, the average unit selling price decreased by 25 EUR while unit costs decreased by 19 EUR over the same period. Both decreased by 9 % over the period considered.

Table 8

Sales prices in the Union and cost of production — Tier 1

	2014	2015	2016	Investigation period
Average unit sales price in the Union (EUR/item)	270,8	255,3	245,3	245,7
Index 2014 = 100	*100*	*94*	*91*	*91*
Average cost of production (EUR/item)	222	200	199	203
Index 2014 = 100	*100*	*90*	*89*	*91*
Source: Verified questionnaire replies of sampled Union producers				

(181) In tier 2, the average unit selling price decreased by 27 EUR while unit costs decreased by 17 EUR over the same period. This corresponds to a decrease of the average price by 12 % over the period considered while the costs decreased by 9 %.

Table 9

Sales prices in the Union and cost of production — Tier 2

	2014	2015	2016	Investigation period
Average unit sales price in the Union on the total market (EUR/item)	228	212	193	201
Index 2014 = 100	*100*	*93*	*85*	*88*
Average cost of production (EUR/item)	187	176	162	170
Index 2014 = 100	*100*	*94*	*87*	*91*
Source: Verified questionnaire replies of sampled Union producers				

(182) In tier 3, the average unit selling price decreased by 9 EUR while unit costs increased by 2 EUR over the same period. This corresponds to a decrease of the average price by 5 % over the period considered while the costs increased by 1 %.

Table 10

Sales prices in the Union and cost of production — Tier 3

	2014	2015	2016	Investigation period
Average unit sales price in the Union on the total market (EUR/item)	181	176	172	172
Index 2014 = 100	*100*	*97*	*95*	*95*
Average cost of production (EUR/item)	170	175	167	172
Index 2014 = 100	*100*	*103*	*98*	*101*
Source: Verified questionnaire replies of sampled Union producers				

4.5.3.2. Labour costs

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

Table 11

Average labour costs per employee

	2014	2015	2016	Investigation period
Average labour costs per employee (EUR)	43 875	44 961	46 432	46 785
Index 2014 = 100	*100*	*102*	*105*	*106*
Source: Verified questionnaire replies of sampled Union producers.				

(184) The average labour cost increased over the period considered by 6 %.

4.5.3.3. Inventories

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

Table 12

Inventories

	2014	2015	2016	Investigation period
Closing stocks (Index 2014 = 100)	*100*	*81*	*100*	*144*
Closing stocks as a percentage of production	7 %	6 %	7 %	9 %
Index 2014 = 100	*100*	*81*	*97*	*134*
Source: Verified questionnaire replies of sampled Union producers.				

(186) Stocks have increased by 44 % over the period considered and reached around 9 % of the yearly production. This situation has a negative impact on the financial situation of the sampled Union producers.

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

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

Table 13

Profitability, cash flow, investments and return on investments

	2014	2015	2016	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	15,6	16,7	15,2	13,7
Index 2014 = 100	*100*	*107*	*98*	*88*
Cash flow (in million EUR)	309	312	292	272
Index 2014 = 100	*100*	*101*	*94*	*88*
Investments (in million EUR)	86	63	59	65
Index 2014 = 100	*100*	*73*	*69*	*76*
Return on investments (%)	21,0	21,7	19,3	17,6
Index 2014 = 100	*100*	*103*	*92*	*84*

Source: Verified questionnaire replies of sampled Union producers

(188) 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.

(189) The overall profitability decreased from 15,6 % in 2014 to 13,7 % in the investigation period. This was calculated on the basis of the weight of each of the tiers in the sales, as explained in recitals (161) and (162). The decreasing profitability by 1,9 percentage points is the result of a sharper decrease in prices (– 8 %) than the decrease in costs (– 6 %).

(190) The overall profitability is influenced by the profitability in the tier 1, whereas the tier 3 alone became loss-making during the investigation period. Moreover, the relative trend in profitability for the entire Union industry is also decreasing.

(191) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow shows a decrease by 12 %.

(192) The return on investments is the profit in percentage of the net book value of investments. It developed negatively from 21,0 % to 17,6 % over the period considered.

(193) A separate analysis based on the same methodology as described was made for the three tiers.

(194) The profitability in tier 1 fluctuated during the period considered. It increased from 2014 (17,9 %) to 2015 (21,8 %) and then decreased in the investigation period to a level slightly below 2014 (17,5 %). This is partly explained by the evolution of the cost of production and the prices, since in 2015 the cost of production decreased more than the selling prices.

(195) In tier 1, the net cash flow remained stable while the return on investments decreased from 26,0 % to 24,3 % during the period considered.

Table 14

Tier 1 profitability, cash flow, investments and return on investments

	2014	2015	2016	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	17,9	21,8	18,9	17,5
Index 2014 = 100	*100*	*122*	*106*	*98*
Cash flow (in million EUR)	191	218	199	192
Index 2014 = 100	*100*	*113*	*104*	*100*
Investments (in million EUR)	54	36	35	38
Index 2014 = 100	*100*	*68*	*65*	*72*
Return on investments (%)	26,0	29,3	25,0	24,3
Index 2014 = 100	*100*	*112*	*96*	*93*

Source: Verified questionnaire replies of sampled Union producers

(196) Regarding tier 2, the profitability declined by 2,6 percentage points over the period considered (from 17,9 % in 2014 to 15,3 % in the investigation period).

(197) In tier 2, the net cash flow decreased significantly by 22 % and the return on investments decreased from 20,4 % to 16,2 % over the period considered.

Table 15

Tier 2 profitability, cash flow, investments and return on investments

	2014	2015	2016	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	17,9	16,7	16,0	15,3
Index 2014 = 100	*100*	*93*	*90*	*86*
Cash flow (in million EUR)	88	76	65	69
Index 2014 = 100	*100*	*86*	*74*	*78*
Investments (in million EUR)	18	16	15	17
Index 2014 = 100	*100*	*92*	*84*	*97*
Return on investments (%)	20,4	21,4	20,1	16,2
Index 2014 = 100	*100*	*105*	*98*	*79*

Source: Verified questionnaire replies of sampled Union producers

(198) Tier 3 is loss-making in the investigation period (– 0,4 %). The losses for the SMEs were particularly pronounced (– 6,1 % in the investigation period). The profitability for the large companies in tier 3 halved from 2014 to the investigation period from 10 % to 4,8 %.

(199) In tier 3, the net cash flow decreased significantly by 62 % and the return on investments decreased from 7,6 % to 2,5 % over the period considered.

Table 16

Tier 3 profitability, cash flow, investments and return on investments

	2014	2015	2016	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	6,1	0,6	2,7	– 0,4
Index 2014 = 100	*100*	*10*	*45*	*– 7*
Cash flow (in million EUR)	28	17	26	11
Index 2014 = 100	*100*	*62*	*93*	*38*
Investments (in million EUR)	14	10	10	10
Index 2014 = 100	*100*	*69*	*66*	*66*
Return on investments (%)	7,6	0,2	4,8	2,5
Index 2014 = 100	*100*	*2*	*62*	*33*

Source: Verified questionnaire replies of sampled Union producers

4.6. **Interconnection between the tiers**

(200) The Union market for tyres for buses or lorries has been strongly affected by the economic crisis. As the consumption of tyres is intrinsically linked to the purchase of new vehicles and of kilometres travelled by the fleets, it is very dependent on the overall economic activity. Any variation in the economic activity, and notably of the volume of goods transported by road, is reflected directly in the tyre sales. In a period when lorries are used less, acquisition of new lorries or replacement of lorries' tyres becomes less necessary and therefore the tyres market declines.

(201) After the economic crisis, there has been a structural shift of demand from the higher tiers to the lower tiers, where price tends to drive the purchasing decision. In this context, the cheap offers of imported tyres and the preference of certain fleet owners to opt for cheaper tyres have played a major role in the reconfiguration of the Union market.

(202) As retreaders are under strong pressure, closure of plants and workshops have been increasingly numerous as set out in recital (175). Due to the lack of available local facilities, it becomes less possible to retread a high-quality worn out tyre. Consequently, the purchase of a high-quality tyre with the option of multiple retreadings becomes less attractive. In light of these developments and in the face of low-priced imports of tier 3 tyres, which accounted for most of the Chinese imports, Union producers of new tyres have no option but to strengthen their presence in tier 3, too.

(203) Finally, the intersegment competition is also clear from the impact of the prices in the lower tiers on the pricing in the higher tier. In the Union, prices of tier 1 tyres have felt the pressure of cheap imports. The complainant claimed that the impact was all the more obvious in regional areas where tier 3 tyres were more present (i.e. in these areas tier 1 tyres were typically priced at lower levels than in other areas of the Union which highlights the competitive impact of tier 3 tyres on tier 1 tyres).

(204) This means that economic operators appear to have shifted part of their purchase from tier 1 or tier 2 tyres to tier 3 tyres, showing that competition takes place across the different segments.

(205) The table below shows the share per tier in the Union consumption in 2012 and in 2016. In that period, Union consumption increased by around 3,8 million items, and over 90 % of such increase was in tier 3 (around 3,6 million items). This resulted in a tilt of the relative importance of tier 3, which increased from 27 % to 39 % of total Union consumption.

Table 17

Union consumption split per tier in years 2012 and 2016

	2012	2016
Union consumption	17 684 000	21 452 278
Tier 1	46 %	37 %
Tier 2	27 %	24 %
Tier 3	27 %	39 %

Source: ETRMA and Eurostat Comext.

(206) On the basis of the information collected, the Commission determined that, in the past, tier 1 tyres set the price benchmark for the others tiers. The main Union producers concentrated in tiers 1 and 2, where tyres were/are designed to have a long life cycle and to be retreadable. That justified significantly higher prices (and profit margins) for expected high performances for tiers 1 and 2 tyres. Consumers valued these physical and performance properties and were willing to pay higher prices for these properties. However, information available to the Commission showed that the above mentioned pricing trend changed and a 'reverse-cascading effect' started with tier 3 prices inversely affecting tier 1. Of note, most of the low-priced imports relate to tier 3 where the Union producers suffered losses during the investigation period.

(207) On the basis of above the Commission provisionally concluded that that there is symbiotic relationship between the different tiers, where price pressure on tier 3 also affects the prices in the other tiers.

4.7. **Conclusion on injury**

(208) Overall, the injury indicators show that the Union industry as a whole has been under intensive pressure. There was a reduction of production capacity, investment and employment over the period of investigation and a significant loss of market share despite decreasing sales prices. Market share was gained by imports of the product concerned at the expense of the Union industry, irrespective of segmentation, resulting in over 4 200 jobs lost. While still around 14 % for the industry as a whole, profitability declined by 1,9 percentage points between 2014 and the IP and by 3 percentage points between 2015 and the IP. Moreover, the relative trend in profitability for the entire Union industry is also decreasing.

(209) It was also provisionally established that Chinese imports were substantially undercutting the Union industry prices, which, in turn, pointed to a direct and significant impact on the deteriorating performance and declining capacity, production, employment and other injury indicators of the Union industry. The negative development was most felt in the tier 3 where many SMEs retreaders exited the market and could not benefit from the economic recovery in the sector, which was ultimately captured by the low-priced imports. It is recalled that the companies mostly active in tier 3 account for around 20 % of the total Union production. The losses of tier 3 are not sustainable and put the survival of the entire retreading activity in the Union at risk.

(210) Moreover, the effects of the price pressure also affected the prices of the higher tiers. The growing price pressure from tier 3 tyres resulting from low-priced imports, mostly relating to tier 3 tyres, has triggered a similar development in tier 2, where sales prices fell by 12 % in the period considered, and even the prices for tier 1 tyres had to be lowered by 9 % to remain competitive.

(211) Indeed, given the price interconnection between the tiers, even the best-performing tier 1 was suffering from the reverse-cascading price pressure across the three tiers explained in the previous chapter. This resulted in industrial depletion, loss of value throughout the supply chain of all three tiers, and degradation of the quality of the tyres available on the Union market. Moreover, the intense price competition in all three tiers has negative consequences for the capacity utilisation and leads to rising stocks of the industry (Table 12), coupled with less cash flow and investments (Table 13). Finally, the loss of the retreading industry in the Union also affects the profitability that the companies active in tier 1 and 2 can achieve.

(212) Therefore, it is provisionally concluded that the Union industry suffered injury within the meaning of Article 3(5) of the basic Regulation.

(213) In addition, the complainants alleged that there was a risk of further aggravation of injury. In their view, numerous measures have been imposed in other import export markets which could cause immediate trade diversion. Moreover, the Union producers are said to be under threat on their export markets, as some countries such as Turkey had initiated a safeguard investigation. The risk of aggravation would also be linked to massive overcapacities in the PRC, where unused capacities represent about 40 % of current Chinese exports. The complainants further feared a structural impact on the EU market of tyres as the additional cost to purchase a high-quality tyre would become less and less possible to justify when the option of multiple retreading of a high-quality tyre disappears together with the retreading industry. Finally, they foresee a continuous improvement of tyres from the PRC. If higher-quality tyres from the PRC were allowed to compete with Union tyres at dumped prices, this would reduce the Union tyre industry margins and hence its capacity to invest and innovate. This, in turn, would likely force the Union industry to rely on lower quality tyres requiring limited investment in R & D, further affecting their retreadability.

(214) The Commission observed at this stage that the 'Tire Industry Policy' [1] of the PRC encourages tyre manufacturers to improve on technical aspects and on the branding (such as to implement branding strategies, to increase the popularity and the reputation of the brand, and to continue raising brand value) and noted that a parallel anti-subsidy case is ongoing. Therefore, in view of the above, it invited parties to comment on the points brought forward by the complainants in the previous recital in order to allow it to analyse these points in detail for the definitive stage.

5. CAUSATION

(215) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry.

(216) The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. Those factors are: imports from other third countries, export sales performance of the Union producers and costs evolution.

5.1. Effects of the dumped imports

(217) Prices of dumped imports from the PRC significantly undercut Union industry prices during the investigation period with undercutting margins ranging from 21 % to 31 % leading to decreasing market share and profitability for the Union industry (respectively from 72,0 % to 66,8 % and from 15,6 % in 2014 to 13,7 % during the period considered). In effect, during the period considered the Union industry sales volume slightly decreased whilst the import volume from the PRC rose by 32 % and thus seizing the bulk of the increase in Union consumption.

(218) Overall, during the period considered, the Union industry's loss of market share (– 5,2 percentage points) was taken by the Chinese imports (+ 4,2 percentage points).

(219) The analysis of the injury indicators in recitals (155) to (203) shows that the economic situation of the Union industry, and in particular its financial situation, has worsened and this coincides with the arrival of large volumes of dumped imports from the PRC. The prices of these imports undercut those of the Union industry

(1) Announcement of the Ministry of Industry and Information Technology on printing and distributing the 'Tire Industry Policy'. Promulgating Institution: Ministry of Industry and Information Technology. Document Number: Gong Chan Ye Zheng Ce [2010] No 2. Promulgating Date: 15.9.2010. Effective Date: 15.9.2010.

and have exerted a significant downward pressure on prices in the Union market. Indeed, it is the steep increase of imports and the substantial price undercutting found that are the chief factors to be considered in this case.

(220) Chinese exporters managed to increase significantly its market share at the expense of the Union industry. During the investigation period, the majority of the total volume of dumped Chinese imports concentrates on tier 3, forcing several of Union producers in that tier, in particular SME retreaders, to exit the market. In addition, as explained in recital (137) the Commission established that such high volumes at dumped prices have affected the price setting. Previously, the price setting was driven by tier 1, i.e. tier 2 prices were established in relation to tier 1 and tier 3 in relation to tier 2. Now this was reversed: tier 2 price is established on the basis of tier 3 and tier 1 on the basis of tier 2. This resulted in a decrease of selling prices in all tiers. The Commission thus provisionally concluded that the surge of dumped imports from the PRC had a determining role in the material injury suffered by the Union industry.

(221) Other factors which were examined in the causality analysis in accordance with Article 3(7) of the basic Regulation were: the imports from other countries, export performance of the Union industry and evolution of costs of the Union industry.

5.2. **Imports from third countries**

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

Table 18

Imports from third countries

Country	2014	2015	2016	Investigation period
Turkey				
Volume of imports from Turkey	712 497	710 504	856 110	884 241
Index (2014 = 100)	*100*	*100*	*120*	*124*
Unit import prices from Turkey	212	216	194	185
Index (2014 = 100)	*100*	*102*	*91*	*87*
Market share (%)	3,5	3,4	4,0	4,1
Share in total Union import volume (%)	12,6	11,4	12,1	12,3
Korea				
Volume of imports from Korea	431 676	463 643	477 185	381 167
Index (2014 = 100)	*100*	*107*	*111*	*88*
Unit import prices from Korea	219	191	181	186
Index (2014 = 100)	*100*	*87*	*83*	*85*
Market share (%)	2,1	2,2	2,2	1,8
Share in total Union import volume (%)	7,6	7,4	6,8	5,3

Country	2014	2015	2016	Investigation period
Japan				
Volume of imports from Japan	386 128	418 802	398 427	390 859
Index (2014 = 100)	*100*	*108,5*	*103,2*	*101,2*
Unit import prices from Japan	293	227	218	221
Index (2014 = 100)	*100*	*77,6*	*74,4*	*75,4*
Market share (%)	1,9	2,0	1,9	1,8
Share in total Union import volume (%)	6,8	6,7	5,6	5,5
Russia				
Volume of imports from Russia	181 031	237 582	270 515	279 798
Index (2014 = 100)	*100*	*131,2*	*149,4*	*154,6*
Unit import prices from Russia	145	131	130	130
Index (2014 = 100)	*100*	*90,7*	*89,6*	*89,5*
Market share (%)	0,9	1,1	1,3	1,3
Share in total Union import volume (%)	3,2	3,8	3,8	3,9
Thailand				
Volume of imports from Thailand	142 735	177 209	174 994	167 509
Index (2014 = 100)	*100*	*124,2*	*122,6*	*117,4*
Unit import prices from Thailand	310	226	233	241
Index (2014 = 100)	*100*	*72,9*	*75,3*	*77,7*
Market share (%)	0,7	0,9	0,8	0,8
Share in total Union import volume (%)	2,5	2,8	2,5	2,3
Other third countries				
Volume of imports from all other countries	338 457	376 075	469 425	464 224
Index (2014 = 100)	*100*	*111*	*139*	*137*
Unit import prices from all other countries	202	195	200	192
Index (2014 = 100)	*100*	*96*	*99*	*95*
Market share (%)	1,7	1,8	2,2	2,1
Share in total Union import volume (%)	6,0	6,0	6,6	6,5

Country	2014	2015	2016	Investigation period
Total all third countries except the PRC				
Volume of imports from all other countries	2 192 524	2 383 815	2 646 656	2 567 798
Index (2014 = 100)	*100*	*109*	*121*	*117*
Unit import prices from all other countries	227	202	192	189
Index (2014 = 100)	*100*	*89*	*85*	*83*
Market share (%)	10,8	11,5	12,3	11,9
Share in total Union import volume (%)	38,7	38,3	37,5	35,8

Source: Eurostat

(223) Imports from other third countries showed a slight increase of their market share from 10,8 % to 11,9 % in the period considered. Out of all imports from other third countries, only Russian imports had average prices similar to those of Chinese imports. The average prices of imports of the product concerned were clearly higher than the average prices of Chinese imports. The market share of imports of the product concerned from Russia increased from 0,9 % to 1,3 % in the period considered. However, the limited quantities of Russian imports do not break the causal link between the dumped imports and the injury suffered by the Union industry.

(224) Therefore, the Commission concluded that even if imports from other third countries may have had some limited impact on the situation of the Union industry, dumped imports from the PRC remained the main cause of injury.

5.2.1. *Export performance of the Union industry*

(225) The volume of exports of the Union producers developed over the period considered as follows:

Table 19

Export performance of the Union producers

	2014	2015	2016	Investigation period
Export volume (in items)	6 079 036	5 920 561	5 893 729	5 920 981
Index 2014 = 100	*100*	*97,4*	*97,0*	*97,4*
Average price (EUR/item)	188	179	169	168
Index 2014 = 100	*100*	*95,3*	*89,9*	*89,8*

Source: Eurostat Comext

(226) Based on Eurostat, export volumes decreased by 2,6 % during the period considered. Average export prices are affected by transfer values to related companies. There is no evidence that the export activity of the Union industry could break the causal link between the dumped imports and the injury found.

5.3. **Costs evolution**

(227) As mentioned in recital (181), the total costs of the Union industry decreased by EUR 12 per tyre over the period considered due to the evolution of the main raw materials (namely natural and synthetic rubber). However, the average selling price of the Union industry decreased by EUR 19 per tyre due to the price pressure of the dumped Chinese imports.

(228) It can be therefore concluded that the costs evolution could not be a cause of the injury to the Union industry.

5.4. **Conclusion on causation**

(229) A causal link was established between the injury suffered by the Union producers and the dumped imports from the country concerned.

(230) The considerable price and volume pressure exerted on the Union industry by the increasing dumped imports from the country concerned over the period considered have not allowed the Union industry to benefit from the post-crisis growing Union market. Indeed, the fiercest competition takes place in tier 3, where most of the Chinese imports take place, also affecting the higher tiers as explained in recitals (204) to (210). The analysis of the injury indicators above shows that the economic situation of the Union industry as a whole has been affected by an increase of low-priced dumped imports from PRC that undercut substantially the Union prices. Chinese exporters managed to gain significant market share at the expense of the Union industry, resulting in a decrease of employment and a reduction of production capacity. The Union industry lost 5,2 percentage points of its market share between 2014 and the investigation period, and the sales volumes stagnated, while the consumption increased in the Union market. Moreover, the trend in profitability for the entire Union industry is also decreasing, suffering loses in particular in tier 3 tyres.

(231) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of the other identified factors namely imports from other third countries, the export sales performance of the Union producers and the costs evolution on the Union industry's negative developments in terms of market share, prices and profitability were not found to break the causal link. Even when their combined effect was considered, the Commission's conclusion was not different: in the absence of the dumped imports, the Union industry would not have been negatively affected to such a significant extent. In particular, the market share would not have dropped to such levels and employment would have been maintained.

(232) Therefore, the Commission concluded at this stage that the material injury to the Union industry was caused by the dumped imports from the country concerned and that the other factors, considered individually or collectively, did not break the causal link.

6. **UNION INTEREST**

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

6.1. **Interest of the Union industry**

(234) The effect of the potential anti-dumping measures is likely to be positive for the Union producers and in particular for SMEs. They would be able to benefit from the growing consumption and a market governed by fair conditions. It is especially expected that under these conditions Union producers would be able to increase their sales and thus regain part of the market share lost. This would in turn further increase the Union production and the capacity utilisation rate. In fair conditions, the Union industry would be able to increase their prices and improve their financial situation.

(235) Given the interconnection between the retreading business and the production of retreadable tyres, the proposed measures would in particular allow the viability of the retreading industry. This would bring relief in terms of employment, in particular since the retreadable industry is labour intensive and located all throughout the Union.

6.2. **Interest of the Union users and importers**

(236) The Notice of Initiation was sent to over 40 importers and users of the product concerned, and their associations.

(237) Five unrelated importers replied to the sampling questionnaire. They represent [10 % - 15 %] of the total imports from the PRC. Out of these five companies, two were sampled on the basis of their volume of imports (representing [6 % - 10 %] of the total Chinese imports) and replied to the questionnaire.

(238) For both sampled importers, the Chinese imports of the product concerned represented a significant share of the turnover in the investigation period. Their business model is mainly based on contracts with Chinese exporting producers, although they also have alternative sources (either domestically or from other third countries). Therefore, while measures would have an impact on their activity, it is also expected that the imposition of the measures will increase the prices in the Union market to fair levels.

(239) There is another business model that relies on a 'container only trading strategy'. In this case, importers have more flexibility to change sources of supply. Three of the non-sampled importers fall under this category, representing less than 2 % of the total Chinese imports in the investigation period. Such a low level of cooperation suggests that the imposition of measures would not have any significant impact on their activity.

(240) Additional twelve importers and two associations of importers came forward, most of them after the publication of the registration regulation. Comments were made on the registration and the possible imposition of measures. However, none of the Union importers submitted substantiated claims.

(241) Hence, while the proposed measures are not in the interest of users and importers, the Commission could not quantify at this stage any potential negative effect on them.

6.3. **Interest of suppliers**

(242) Treads suppliers have made submissions supporting the imposition of anti-dumping measures alleging such measures are essential for the survival of the retreading industry. Without retreading activities, their business will be severely affected. This matter will be further looked at in the course of the investigation.

6.4. **Other interests**

(243) It is a long-standing Union policy ([1]) to reduce waste and to manage raw materials in a sustainable way. Indeed, Union policy is in fact two-fold: it concerns waste avoidance and encourages recycling ([2]). Moreover, there is a horizontal policy goal to encourage the presence of small and medium-sized enterprises in the Union market ([3]).

(244) Retreading is crucial for a virtuous circular economy. In addition to guaranteeing a high standard of reliability, performance and safety, retreads represent a great advantage also from an environmental point of view (less use of raw materials and energy, less production of CO_2, pollution and less water consumption). This would therefore also contribute to the achievement of such larger societal goals, goals recognised by specific Union policies.

(245) Several interested parties underlined that premium tyre manufacturers are producing new high quality tyres which are designed to have along life cycle and can be retreaded. Without the retreading industry, the competition in the tyre industry will end up in a race to the bottom, resulting in industrial depletion, loss of value throughout the supply chain and minimise the quality of the offer in the Union.

(246) AIRP stated that the retreading activity is an example of a circular economy as the retreading of a single tyre compared with the production of a new tire uses 70 % less raw materials, 65 % less energy and 19 % less water, produces 37 % less CO_2 and 21 % less air pollution (particles), and causes 29 % less soil erosion in countries where natural rubber is produced.

(247) Moreover, the retreading industry currently prevents the creation of around 240 000 tons of worn-out tyres yearly. Accordingly, measures that protect high quality tyres in the Union that are retreadable imposed against essentially one-use tyres would also contribute to the avoidance of waste in line with the objectives of the Waste Directive, as they would support the maintenance of a viable retreading business in the Union.

([1]) Please refer to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).
([2]) See the Circular Economy Action Plan adopted in January 2018; http://ec.europa.eu/environment/circular-economy/index_en.htm
([3]) See the Commission Policy to support Small and Medium-Sized Enterprises; https://ec.europa.eu/growth/smes/business-friendly-environment/small-business-act_en

(248) According to studies carried out by AIRP, Italy saves an average of 30 million litres of crude oil annually through retreading, as well as over 20 000 tons of other strategic raw materials such as natural and synthetic rubber, black smoke, textile fibres, steel and copper, besides reducing CO_2 emission by 10 202 tons. According to the same studies, each retreaded tyre reduces CO_2 emissions by 26,5 kg.

(249) Accordingly, measures that protect high quality tyres in the Union that are retreadable imposed against essentially single-use tyres would also foster policy coherence with the Union objectives on waste reduction and circular economy, as they would support the maintenance of a viable retreading business in the Union. Moreover, given that mostly SMEs are active in this sector, they would also be in line with the important Commission objective to support these companies.

6.5. **Conclusion on Union interest**

(250) The effects of the anti-dumping measures on the Union producers would be positive. In spite of the claims of a potential negative impact on Union importers, the duty would still not be disproportionate in view of global effects on the whole Union industry. In fact, it is considered that the free available capacity in the Union industry and the imports from other countries would mitigate the risks by offering alternative sources of supply. The restoration of fair competition and of a level playing field, in the absence of dumped imports, would benefit the healthy development of the overall Union tyre market and foster policy coherence with the objectives of a circular economy, waste avoidance and the protection of SMEs in the Union. On those grounds, there are no compelling reasons against the imposition of provisional measures on imports of tyres for buses and lorries from the PRC.

(251) Therefore, the imposition of anti-dumping measures can be expected to enable the Union industry to stay in the market and following that to improve its situation. There is a high risk that should measure not be imposed, the Union industry would have to consider withdrawing from the retreaded tyre business in the medium term, resulting in inevitable job losses – as has already occurred with the closure of dozens of SMEs as set out in recital (175). From the perspective of importers or users, no compelling reasons were identified against the imposition of anti-dumping measures on imports of tyres for buses and lorries originating from the PRC at this stage of the investigation.

7. **PROVISIONAL ANTI-DUMPING MEASURES**

(252) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports of the product concerned.

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

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

(254) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports. This target profit was established on the basis of the profit reached by the Union industry in 2014. Out of the period considered, this was considered the year in the period considered that resembled most normal conditions of competition because the volume of Chinese imports was the lowest and the average import price was the highest.

(255) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by adding the profit margin of 15,6 % to the cost of production during the investigation period of the sampled Union producers subtracting from the Union sales prices the actual profit margin achieved during the investigation period and replacing it by the profit margin of 15,6 %.

(256) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the PRC, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

(257) The injury elimination level for 'other cooperating companies' and for 'all other companies' is defined in the same manner as the dumping margin for these companies (see recitals (127) and (128)).

7.2. **Provisional measures**

(258) Provisional anti-dumping measures should be imposed on imports of the product concerned originating in the People's Republic of China, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.

(259) As stated in recital (7), the Commission made imports of the product concerned originating in the PRC subject to registration by the registration regulation in view of the possible retroactive application of any anti-dumping and countervailing measures under Article 14(5) of the basic Regulation and Article 24(5) of Regulation (EU) 2016/1037 of the European Parliament and of the Council [1] ('the basic anti-subsidy Regulation').

(260) As far as the current anti-dumping investigation is concerned and in view of the above findings, the registration of imports for the purpose of the anti-dumping investigation pursuant to Article 14(5) of the basic Regulation should be discontinued.

(261) Regarding the parallel anti-subsidy investigation, the registration of imports of product concerned from the PRC pursuant to Article 24(5) of the basic anti-subsidy Regulation should continue.

(262) No decision on a possible retroactive application of anti-dumping measures can be taken at this stage of the proceeding.

(263) According to the Harmonised System Explanatory Notes (HSEN) to headings 8708 and 8716, road, trailer and semi-trailer wheels fitted with tyres are to be classified in headings 8708 and 8716. As there might be a risk that operators use the import of wheels fitted with Chinese tyres to circumvent the measures, the Commission considered it appropriate to monitor imports of such wheels in order to minimise that risk. Information collected under that monitoring scheme could also be used should an anti-circumvention investigation under Article 13 of the basic Regulation need to be triggered in the future. Therefore, separate TARIC codes should be established for imports of road, trailer and semi-trailer wheels fitted with pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121.

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

Company	Dumping margin (%)	Injury margin (%)	Provisional anti-dumping duty (%)
Xingyuan Group	166,7	68,8	68,8
Giti Group	98,7	33,2	33,2
Aeolus Group	151,2	48,1	48,1
Hankook Group	80,4	29,3	29,3
Other cooperating companies	110,3	40,2	40,2
All other companies	166,7	68,8	68,8

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

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

(266) 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. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.

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

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

8. **FORM OF THE MEASURES**

(269) The Commission found that *ad valorem* duty has two major disadvantages. First, an *ad valorem* duty creates an incentive for a company to sell its lower-end of its product mix. This would create additional pressure in tier 3, although it is precisely that tier of the market which needs the most protection against fierce unfair competition. Therefore, the Commission considered it more appropriate to fix a duty for tier 3 tyres at a certain absolute level.

(270) Second, an *ad valorem* duty could also lead to fairly high amounts in the high price tier of tier 1 and tier 2 tyres. Here, the risk is that such high-quality tyres could become too expensive, although it is exactly those tyres which may be beneficial to the Union retreading business. The Union retreaders need suitable casings, which could be either provided by Union tier 1 or tier 2 producers, or by some Chinese exporters in that tier. If the measures over-sanction tier 1 and tier 2 imports into the Union, the Union policy goals of a circular economy may be negatively impacted.

(271) Accordingly, the Commission provisionally considered that Union interest grounds speak in favour of imposing fixed duties per item, calculated on the basis of the individual injury margin for each exporter. Such fixed duties would remedy the risk of insufficiently addressing the dumping in tier 3, as tier 3 tyres are imported into the Union in large quantities and would pay a relatively high fixed duty when compared to their actual value. At the same time, such duties respond to the risk of over penalising tier 1 and tier 2 imports into the Union, which are retreadable and can be retreaded by the Union retreaders.

(272) In conclusion the Commission found it appropriate to impose provisional duties in the form of fixed duties.

9. **FINAL PROVISION**

(273) In the interests of sound administration, the Commission will invite interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(274) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional 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 within 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 provisional anti-dumping duties applicable in EUR per item of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Provisional anti-dumping duty (in EUR/item)	TARIC additional code
Xingyuan Tire Group Ltd, Co.; Guangrao Xinhongyuan Tyre Co., Ltd	82,17	C331
Giti Tire (Anhui) Company Ltd; Giti Tire (Fujian) Company, Ltd; Giti Tire (Hualin) Company Ltd; Giti Tire (Yinchuan) Company, Ltd	57,42	C332
Aeolus Tyre Co., Ltd; Chonche Auto Double Happiness Tyre Corp., Ltd; Qingdao Yellow Sea Rubber Co., Ltd; Pirelli Tyre Co, Ltd	64,13	C333
Chongqing Hankook Tire Co., Ltd; Jiangsu Hankook Tire Co., Ltd;	52,85	C334
Other cooperating companies listed in the Annex	62,79	
All other companies	82,17	C999

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

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

5. Road, trailer and semi-trailer wheels fitted with pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121, shall fall under TARIC codes 8708 70 10 15, 8708 70 10 80, 8708 70 50 15, 8708 70 50 80, 8708 70 91 15, 8708 70 99 15, 8716 90 90 15 and 8716 90 90 80.

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

Article 2

1. Within 25 calendar days of the date of entry into force of this Regulation, interested parties may:

(a) request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;

(b) submit their written comments to the Commission, including comments on the classification of the brands into the tiers; and

(c) request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council may comment on the application of the provisional measures.

Article 3

In Article 1 of Implementing Regulation (EU) 2018/163, paragraph 1 is replaced by the following:

'1. The customs authorities are hereby directed, pursuant to Article 24(5) of Regulation (EU) 2016/1037, to take the appropriate steps to register imports into the Union of new and retreaded tyres for buses or lorries with a load index exceeding 121, currently falling within 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.'

Article 4

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 1 shall apply for a period of six months.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 May 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Cooperating Chinese exporting producers not sampled:

Name of the Company	TARIC additional code
Bayi Rubber Co., Ltd	C335
Bridgestone (Huizhou) Tire Co. Ltd	C336
Briway Tire Co., Ltd	C337
Chaoyang Long March Tyre Co., Ltd	C338
Goodyear Dalian Tire Co. Limited	C339
Guizhou Tyre Co., Ltd	C340
Jiangsu General Science Technology Co., Ltd	C341
Megalith Industrial Group Co., Ltd	C342
Michelin Shenyang Tire Co., Ltd	C343
Nanjing Kumho Tire Co., Ltd	C344
Ningxia Shenzhou Tire Co., Ltd	C345
Prinx Chengshan (Shandong) Tire Co., Ltd	C346
Qingdao Doublestar Tire Industrial Co., Ltd	C347
Qingdao Fudong Tyre Co., Ltd	C348
Qingdao Hairunsen Tyre Co., Ltd	C349
Quindao GRT Rubber Co. Ltd	C350
Sailun Jinyu Group Co., Ltd	C351
Shaanxi Yanchang Petroleum Group Rubber Co., Ltd	C352
Shandong Kaixuan Rubber Co., Ltd	C353
Shandong Changfeng Tyres Co., Ltd	C354
Shandong Haohua Tire Co., Ltd	C355
Shandong Hawk International Rubber Industry Co., Ltd	C356
Shandong Hengfeng Rubber & Plastic Co., Ltd	C357
Shandong Hengyu Science & Technology Co., Ltd	C358
Shandong Homerun Tires Co., Ltd	C359
Shandong Huasheng Rubber Co., Ltd	C360
Shandong Hugerubber Co., Ltd	C361
Shandong Jinyu Tire Co., Ltd	C362
Shandong Linglong Tyre Co., Ltd	C363
Shandong Mirage Tyres Co., Ltd	C364
Shandong Vheal Group Co., Ltd	C365

Name of the Company	TARIC additional code
Shandong Wanda Boto Tyre Co., Ltd	C366
Shandong Wosen Rubber Co., Ltd	C367
Shandong Yongfeng Tyres Co., Ltd	C368
Shandong Yongsheng Rubber Group Co., Ltd; Shandong Santai Rubber Co., Ltd	C369
Shandong Yongtai Group Co., Ltd	C370
Shanghai Huayi Group Corp. Ltd; Double Coin Group (Jiang Su) Tyre Co., Ltd	C371
Shengtai Group Co., Ltd	C372
Sichuan Kalevei Technology Co., Ltd	C373
Toyo Tire (Zhucheng) Co., Ltd	C374
Triangle Tyre Co., Ltd	C375
Weifang Goldshield Tire Co., Ltd	C376
Weifang Shunfuchang Rubber And Plastic Products Co., Ltd	C377
Xuzhou Armour Rubber Company Ltd	C378
Zhongce Rubber Group Co., Ltd	C379