

**Report No. 748**

**INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE ANTI-DUMPING DUTIES ON NEW PNEUMATIC TYRES OF RUBBER OF A KIND USED ON MOTOR CARS (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, AND HS 4011.10.09) AND ON BUSES OR LORRIES (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.20.16, HS 4011.20.18, AND HS 4011.20.26) THROUGH COUNTRY HOPPING FROM THE PEOPLE'S REPUBLIC OF CHINA VIA THE KINGDOM OF CAMBODIA, THE KINGDOM OF THAILAND, AND THE SOCIALIST REPUBLIC OF VIETNAM: PRELIMINARY DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents its Report No. 748: **INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE ANTI-DUMPING DUTIES IN NEW PNEUMATIC TYRES OF RUBBER OF A KIND USED ON MOTOR CARS (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, AND HS 4011.10.09) AND ON BUSES OR LORRIES (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.20.16, HS 4011.20.18, AND HS 4011.20.26) THROUGH COUNTRY HOPPING FROM THE PEOPLE'S REPUBLIC OF CHINA VIA THE KINGDOM OF CAMBODIA, THE KINGDOM OF THAILAND, AND THE SOCIALIST REPUBLIC OF VIETNAM: PRELIMINARY DETERMINATION**



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**MR AYABONGA CAWE  
CHIEF COMMISSIONER**

**PRETORIA**

**Date: 14/ 05/ 2025**

## **INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA**

**INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE ANTI-DUMPING DUTIES ON NEW PNEUMATIC TYRES OF RUBBER OF A KIND USED ON MOTOR CARS (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, AND HS 4011.10.09) AND ON BUSES OR LORRIES (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.20.16, HS 4011.20.18, AND HS 4011.20.26) THROUGH COUNTRY HOPPING FROM THE PEOPLE’S REPUBLIC OF CHINA VIA THE KINGDOM OF CAMBODIA, THE KINGDOM OF THAILAND, AND THE SOCIALIST REPUBLIC OF VIETNAM: PRELIMINARY DETERMINATION**

### **SYNOPSIS**

On 20 September 2024, the International Trade Commission of South Africa (the Commission) initiated an investigation into the alleged circumvention of the anti-dumping duties on new pneumatic tyres of rubber of a kind used on motor cars (classifiable under tariff subheadings HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, and HS 4011.10.09) and on buses or lorries (classifiable under tariff subheadings HS 4011.20.16, HS 4011.20.18, and HS 4011.20.26) [“the subject products”] through country hopping from the People’s Republic of China (“PRC”) via the Kingdom of Cambodia (“Cambodia”), the Kingdom of Thailand (“Thailand”), and the Socialist Republic of Vietnam (“Vietnam”), through Notice No. 2731 of 2024 of *Government Gazette No. 51271*.

The South African Tyre Manufacturing Conference (“SATMC” or “the Applicant”), an industry body of the SACU industry, lodged the application on behalf of its members. The members of the SATMC are Bridgestone South Africa (Pty) Ltd., Continental Tyre South Africa (Pty) Ltd., Goodyear South Africa (Pty) Ltd., and Sumitomo Rubber South Africa (Pty) Ltd., that together constitute 100% of the domestic production of the subject products in the SACU.

The investigation was initiated after the Commission considered that there was *prima facie* evidence to show that subsequent to the imposition of provisional payments (“PPs”) and the imposition of anti-dumping duties (“the final duties”) on the subject products originating in or imported from the PRC, Chinese exporters have shifted exporting of the subject products from the PRC to some of their related companies in Cambodia, Thailand, and Vietnam, undermining the effectiveness of the final duties to provide full protection to the SACU industry.

Upon initiation of the investigation, the diplomatic representatives and all known foreign producers/exporters of the subject products in Cambodia, Thailand, and Vietnam were sent a non-confidential copy of the application, initiation notice and foreign manufacturer’s/exporter’s questionnaires to complete. Importers of the subject products in the SACU were also sent a non-confidential copy of the application, initiation notice and the importer’s questionnaires to complete.

Questionnaire responses were received from foreign producers/exporters in Cambodia, Thailand, and Vietnam and importers in SACU. Written comments were received from the Applicant, Sailun Group of companies, Tyrelife Solutions (Pty) Ltd and Sentury Tire (Thailand) Co. Ltd amongst others.

After considering all properly documented responses and written comments received from interested parties, the Commission made a preliminary determination that the final duties are being circumvented through country hopping.

The Commission decided to request the Commissioner of the South African Revenue Service (“SARS”) to impose provisional payments for a period of six months in order to protect the domestic industry while the investigation continues.

The period of investigation is from 01 August 2022 to 31 July 2024. The dumping margins were calculated for the period 01 August 2023 - 31 July 2024, which is the period after the imposition of the duties. For some other responding exporters, the information was available from 01 November 2022 up to 31 May 2024, which is still within the period after the imposition of the duties. The period is referred to as “the reporting period” in this report.

## 1. APPLICATION AND PROCEDURE

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- 1.1 This investigation is conducted in accordance with the International Trade Administration Act, 2002, the International Trade Administration Commission of South Africa Anti-Dumping Regulations (“ADR”) and giving due regard to the World Trade Organisation (“WTO”) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (“the Anti-Dumping Agreement”).
- 1.2 The application was lodged by SATMC, on 25 July 2024 on behalf of its members, i.e., Bridgestone South Africa (Pty) Ltd, Continental Tyre South Africa (Pty) Ltd, Goodyear South Africa (Pty) Ltd and Sumitomo Rubber South Africa (Pty) Ltd.
- 1.3 The Applicant requested the Commission to initiate an anti-circumvention investigation into the circumvention of the duties through country hopping.
- 1.4 The Applicant alleged that after the imposition of provisional payments (“PPs”) in September 2022 and the anti-dumping duties (“duties”) in July 2023, Chinese exporters had shifted exporting the subject products heretofore directly from the PRC to from some related exporters in Thailand, Vietnam, and Cambodia. The Applicant based its application in terms of ADR 60.8 which caters for country hopping.
- 1.5 The Applicant based its allegation of country hopping on the relationship between producers/exporters that were subject to the PPs and the duties, and related companies in Thailand, Vietnam, and Cambodia. According to the Applicant, this relatedness of companies that are subject to the duties in the PRC and companies in Thailand, Vietnam, and Cambodia that are not subject to the duties is in the form of operational and/or ownership linkages. The Applicant believes that this relatedness, coupled with the imposition of the PPs and the duties are potentially activities that constituted country hopping.
- 1.6 This subsequent anti-circumvention investigation emanates from the original investigation of the subject products imported from or originating in the PRC, initiated on 31 January 2022, through Notice No. 795 of 2022, which was

published in *Government Gazette* No. 45851.

- 1.7** On 11 August 2022, the Commission made a preliminary determination and decided to impose PPs of 38.33 percent. The PPs were imposed for a period of six months, effective from 09 September 2022 to 08 March 2023.
- 1.8** In May 2023, the Commission made its final determination and decided to recommend to the Minister of Trade, Industry and Competition (“the Minister”) that duties between 7.18 percent and 43.60 percent be imposed. The final duties were imposed for a period of 5 years, effective from 28 July 2023. The Commission published its final determination and recommendation in its final Report No. 714.
- 1.9** The following Chinese exporters/manufacturers participated in the Commission’s original investigation:
1. Shouguang Firemax Tyre Co., Ltd.;
  2. Weifang Shunfuchang Rubber and Plastic Products Co., Ltd.;
  3. Weifang Yuelong Rubber Co., Ltd.;
  4. Prinx Chengshan (Shandong) Tire Company Ltd.;
  5. Double Coin Group (Jiangsu) Tyre Co., Ltd.;
  6. Double Coin Tyre Group (Shanghai) Imp & Exp Co., Ltd.;
  7. Shanghai Double Coin Tyre Sales Co., Ltd.;
  8. Wanli Tire Corporation Limited;
  9. Wanli Group Trade Limited;
  10. Shaanxi Yanchang Petroleum Group Rubber Co., Ltd.;
  11. Shandong Xinghongyuan Tyre Co., Ltd.;
  12. Anhui Jichi Tire Co., Ltd.;
  13. Shandong Yongsheng Rubber Group Co., Ltd.;
  14. Shandong Yousheng Tyre Co., Ltd.;
  15. Zhongyi Rubber Co., Ltd.;
  16. Aeolus Tyre Co., Ltd.;
  17. Aeolus Tyre (Taiyuan) Co., Ltd.;
  18. Qingdao Fullrun Tyre Corp., Ltd.;
  19. Shandong Shuangwang Rubber Co., Ltd.;
  20. Shandong Hongde Trade Co., Ltd.;

21. Giti Radial Tire (Anhui) Company., Ltd;
22. Giti Tire (Fujian) Co., Ltd.;
23. Giti Tire (Hualin) Company., Ltd.;
24. Giti Tire Global Trading PTE. Ltd.;
25. Kumho Tire (Tianjin) Co., Inc;
26. Nanjing Kumho Tire Co., Ltd.;
27. Kumho Tire(Changchun) Co., Inc;\Kumho Tire Co., Inc;
28. Qingdao Nexen Tire Corporation;
29. Shandong Wanda Boto Tyre Co., Ltd.;
30. Triangle Tyre Co., Ltd.;
31. Qingdao Sentury Tire Co., Ltd.;
32. Zhongce Rubber Group Co., Ltd.;
33. Weifang Goldshield Tire Co., Ltd.;
34. Weifang Huadong Rubber Co., Ltd.;
35. Shandong Haohua Tire Co., Ltd.;
36. Shandong New Continent Tire Co., Ltd.;
37. Shandong Fengyuan Tire Manufacturing Co., Ltd.;
38. Qingdao Doublestar Tire Industrial Co., Ltd.;
39. Shandong Habilead Rubber Co., Ltd.;
40. Shandong Hongsheng Rubber Technology Co., Ltd.;
41. Shandong Huasheng Rubber Co., Ltd.;
42. Sailun (Dongying) Tire Co., Ltd.;
43. Sailun (Shenyang) Tire Co., Ltd.;
44. Sailun Group Co., Ltd.;
45. Chongqing Hankook Tire Co., Ltd.;
46. Hankook Tire China Co., Ltd.;
47. Jiangsu Hankook Tire Co., Ltd.;
48. Shandong Cachland Tyres Co., Ltd.;
49. Shandong Yongfeng Tyres Co., Ltd.;
50. Shangdong Changfeng Tyres Co., Ltd.;
51. Shangdong Mirage Tyres Co., Ltd.;
52. Zhaoqing Junhong Co., Ltd.;
53. Shandong Jinyu Tire Co., Ltd.;
54. Zodo Tire Co., Ltd

55. Jining Shenzou Tyre Co., Ltd.;
56. Jiaozuo Aeolus Tyre Co., Ltd.;
57. Tercelo Tire (Qingzhou) Co., Ltd.;
58. Dongying Navigator Rubber Technology Co., Ltd.;
59. Shandong New Hawk Tyre Co., Ltd.;
60. Saint Tour Tyre Co., Ltd.;
61. Qingzhou Detail International Trading Co., Ltd.;
62. Shandong Gallop Rubber Co., Ltd.;
63. Wuchan Zhongda Chemical Group Co., Ltd.;
64. Navigator Rubber Co., Ltd.; and
65. Guangrao Taihua International Trade Co., Ltd.

**1.10** The following SACU importers participated on the Commission's original investigation:

1. Top Draw Tyres (Pty) Ltd t/a Tyre Life Solutions;
2. Tirepoint Tyres (Pty) Ltd.;
3. Tyremart Tyres and Accessories (Propriety) Limited;
4. eTraction (Pty) Ltd.;
5. Route Management (Pty) Ltd.;
6. Treadzone (Pty) Ltd.;
7. Auto and Truck Tyres (Pty) Ltd.;
8. Lombard Tyres (Pty) Ltd.;
9. Safety Grip (Pty) Ltd.;
10. Pirelli Tyre (Pty) Ltd.;
11. Tandem Tyres (Pty) Ltd.;
12. DG Capital Procurement (Pty) Ltd.;
13. Stamford Tyres (Africa) (Pty) Ltd.;
14. Afix Trading CC;
15. Vaal Tyre Centre Holdings (Pty) Ltd.;
16. Maxxis Tyres South Africa (Pty) Ltd.;
17. Changlong Trading (Pty) Ltd; and
18. TTR Distributors CC.

- 1.11** On 20 September 2024, the anti-circumvention investigation was initiated in the *Government Gazette* No. 51271, through Notice No. 2731 of 2024.
- 1.12** On 20 September 2024, all known interested parties were sent an initiation pack, which included the initiation notice, non-confidential version of the application, the Commission's exporter and importer questionnaires.
- 1.13** The due date for response to the investigation was on 28 October 2024. Other interested parties requested and were given 14-day extension, extending the due date to 11 November 2024.
- 1.14** The following SACU importers completed the Commission's importer questionnaire:
1. Safetygrip (Pty) Ltd;
  2. Stamford Africa Tyres (Pty) Ltd;
  3. Tiauto Investments (Pty) Ltd;
  4. Tyrelife Solutions (Pty) Ltd;
  5. Treadzone (Pty) Ltd;
  6. Maxxis Tyres South Africa (Pty) Ltd; and
  7. Sailun Africa (Pty) Ltd.
- 1.15** The following exporters and producers from Thailand, Vietnam and Cambodia completed the Commission's exporter questionnaire:
1. Prinx Chengshan Tires Co. Ltd (Thailand);
  2. Zhongce Rubber Co. Ltd (Thailand);
  3. Huayi Group Co. Ltd (Thailand);
  4. Yokohama Tire Sales Co. Ltd (Thailand);
  5. Yokohama Tire Factory Co. Ltd (Thailand);
  6. LLIT Co. Ltd (Thailand);
  7. General Rubber Co. Ltd (Thailand);
  8. Deestone Co. Ltd (Thailand);
  9. Maxxis Tyres International Co. Ltd (Thailand);
  10. Sumitomo Rubber Co. Ltd (Thailand);
  11. Sentury Tire Co. Ltd (Thailand);
  12. Sailun Vietnam Co. Ltd (Vietnam);

13. ACTR Co. Ltd (Vietnam);
14. Jinyu Tire Co. Ltd (Vietnam);
15. Vietnam Cofo tyres Co. Ltd (Vietnam);
16. Cart Tire (Cambodia) Co. Ltd;
17. Firemax Tire Co. Ltd (Cambodia);
18. Haohua Co. Ltd (Vietnam); and
19. Danang Rubber Joint Stock Co. Ltd (Vietnam).

**1.16** Other responses were received from other interested parties such as Suzhou Yokohama Tire Co., Ltd (Yakohama China) from the PRC in support of Yokohama Tire Factory Co. Ltd (Thailand), and Omnis (S) PTE Ltd (Omnis) from Singapore in support of Prinx Chengshan Tires Co. Ltd (Thailand). Yakohama China is the producer of the subject product in the PRC and Omnis is the international trader of the subject product.

**1.17** Responses from the above listed exporters, importers and Omnis were assessed and found to be deficient. Deficiency letters were sent out to all the above-mentioned importers and exporter, giving them 7 days to address deficiencies in line with ADR31.2.

**1.18** Updated responses, after addressing deficiencies, were received from exporters and importers within the due date, except for Danang Rubber Joint Stock Co. Ltd (“DRC”) and Omnis.

**1.18.1** DRC did not resubmit their questionnaire responses after receiving the deficiency letter. DRC’s questionnaire response remains deficient. The Commission, in line with ADR 31.3, made a preliminary determination not to consider DRC’s submission for the purpose of its preliminary finding.

**1.18.2** Omnis submitted an incomplete updated submission on 18 November 2024 (submitted electronic version only). The submission in a hard copy format was not submitted at all. No prior written arrangements and agreement were made between Omnis and the Commission to allow Omnis to submit an incomplete submission on the due date and not to submit hardcopies at all.

ADR 29.5 states that “All submissions shall be made in both hard copy and in electronic format unless the Commission has agreed otherwise in writing. Failure to comply with this provision may result in the submission being regarded as deficient” [own underling].

The Commission, in line with ADR 31.3, made a preliminary determination not to consider Omnis’ submission for the purpose of its preliminary finding.

**1.19** The updated questionnaire responses from importers and exporters that submitted within the due date were reassessed to ascertain that all deficiencies have been addressed and no new deficiencies have been created in the updated submissions.

**1.19.1** Only 7 exporters were found to have corrected their deficiencies and no new deficiencies were created. These exporters are:

- Sentury Tire Co. Ltd (“Sentury Thailand”);
- General Rubber Co. Ltd (“General Rubber Thailand”);
- Huayi Group Co. Ltd (Huayi Group Thailand”);
- Prinx Chengshan Tires Co. Ltd (“Prinx Chengshan Thailand”);
- LLIT Co. Ltd (“Linglong Thailand”);
- Sailun Vietnam Co. Ltd (“Sailun Vietnam”); and
- Vietnam Cofo Tyres Co. Ltd (“Vietnam Cofo”).

**1.19.2** The information of the 7 exporters above was verified on the following dates:

- 22-23 January 2025: Sentury Thailand;
- 27-28 January 2025: Huayi Group Thailand;
- 30-31 January 2025: Prinx Chengshan Thailand
- 17-18 February 2025: Sailun Vietnam
- 20-21 February 2025: Vietnam Cofo;
- 24-25 February 2024: General Rubber Thailand; and
- 27-28 February 2025: Linglong Thailand.

**1.19.3** The submissions for the following importers and exporters were found to be still deficient after the 7-day period for addressing deficiencies:

1. Tyrelife Solutions (Pty) Ltd (SACU);
2. Safetygrip (Pty) Ltd (SACU);
3. Stamford Africa Tyres (Pty) Ltd (SACU);
4. Tiauto Investments (Pty) Ltd (SACU);
5. Treadzone (Pty) Ltd (SACU);
6. Maxxis Tyres South Africa (Pty) Ltd (SACU);
7. Sailun Africa (Pty) Ltd (SACU);
8. Zhongce Rubber Co. Ltd (Thailand);
9. Yokohama Tire Sales Co. Ltd (Thailand);
10. Yokohama Tire Factory Co. Ltd (Thailand);
11. Deestone Co. Ltd (Thailand);
12. Maxxis Tyres International Co. Ltd (Thailand);
13. Sumitomo Rubber Co. Ltd (Thailand);
14. ACTR Co. Ltd (Vietnam);
15. Cart Tire (Cambodia) Co. Ltd;
16. Jinyu Tire Co. Ltd (Vietnam);

**1.19.4** The deficiency letters containing all deficient information were sent to each of the above companies.

**1.19.5** In line with ADR 31.3, the Commission made a preliminary determination not to consider deficient submissions by companies mentioned in paragraph 1.19.3 above for the purpose of its preliminary finding.

**1.19.6** The companies listed above and 2 companies mentioned in paragraph 1.18 were notified that they still have another chance to address their deficiencies and further notified that that in terms of ADR 35.5 parties that have submitted deficient responses and have subsequently addressed their deficiencies before the deadline for comments to the Commission's Preliminary Report, shall be deemed to be co-operating parties and the Commission will consider their information in its final finding.

**1.20** Questionnaire responses were also received within the due date from the following companies:

1. Haohua (Vietnam) Co., Ltd (“Haohua”); and
2. Firemax (Cambodia) Tires Co., Ltd (“Firemax”).

**1.20.1** At the time submitting exporter questionnaire responses, Haohua and Firemax were still in the process of establishing a manufacturing facility and have not yet sold the subject product either in the domestic market and/or anywhere including SACU market. Their information is discussed from section 4.6.8 to 4.6.9 in this report.

**1.21** Written comments were received from Tyrelife Solutions, Sentury Thailand, Sailun Group of companies, and the Applicant, amongst other. It should be noted that this report does not purport to present all comments received and considered by the Commission. However, some of the salient and pivotal comments received from interested parties and the Commission’s consideration of these comments are specifically included in this report. All written comments made by interested parties are contained in the Commission’s public file for this investigation and are available for perusal.

**1.21.1 Comments from Sentury Thailand:**

The comments from Sentury Thailand are summarised herein in this report. Sentury Thailand stated that:

- (i) The application does not meet the requirements needed for initiation according to ADR60. 1. Specifically, the Applicant did not provide enough proof for several conditions to show circumvention, including evidence of a trade pattern change between third countries and South Africa or SACU that is caused by practices or processes that lack economic justification other than the anti-dumping duty.

In this case, the Applicant merely inferred that there was a change in the trade pattern based on fluctuations in import volumes and concluded that circumvention occurred. This inference is overly simplistic and lacks deeper analysis or consideration of reasonable factors.

The Applicant simply suggested that trade patterns changed due to fluctuations in import volumes and claimed circumvention occurred. This reasoning is too basic and does not consider other important factors. The Applicant was expected to demonstrate that the trade pattern change was due to altered practices and that there was no reasonable economic justification for the change, except for the anti-dumping duty. However, they only looked at import volume changes without adequately meeting the criteria for circumvention as required.

Therefore, the Applicant has not established *prima facie* evidence required for initiation, and the Commission should not support this claim.

- (ii) The Commission reported in the initiation notice that imports from Cambodia, Thailand, and Vietnam increased significantly while imports from China decreased markedly. As a result, the Commission concluded that this indicated the remedial effect of the anti-dumping duties was undermined, without providing further sufficient causal proof.

The change in import volumes alone is insufficient to demonstrate that the remedial effect of anti-dumping duties was undermined. Further analysis is needed to determine whether the change in import volumes was due to market demand, global supply chain adjustments, cost changes, or other reasonable economic reasons rather than circumvention of anti-dumping duties. The Commission's assumption disregarded other reasonable explanations for changes in trade patterns and hastily concluded that the remedial effect was undermined, unduly supporting the Applicant's claim and lacking a sufficient evidentiary basis.

- (iii) The Commission reported in the initiation notice that the subject products from Cambodia, Thailand, and Vietnam had significant dumping margins of 21%, 68%, and 84%, respectively and concluded that dumping continued when compared to the normal value established in the original investigation. The Commission's "assumption" has the following issues:

- The Commission used the normal value from the original investigation, which was set for the Chinese market and may not be applicable to Cambodia, Thailand, or Vietnam. Since the market structure, production costs, and export prices in these countries could differ significantly, the basis for constructing the normal value may need reevaluation, and applying China's normal value as a benchmark may not be appropriate; and
  
- The comparison by the Commission between export prices and normal value is not fair in line with Article 2 of the WTO Anti-Dumping Agreement which states that the comparison should be at the same level of trade and, where possible, based on sales at the same time. Changes in production and export costs in Cambodia, Thailand, and Vietnam could affect product prices and dumping margins. The Commission failed to fully disclose the calculation process and standards for dumping margins, potentially ignoring market dynamics, making this conclusion unreasonable.

**(iv)** In conclusion, neither the evidence provided by the Applicant nor the Commission's findings meet the requirements for initiation or proof of "country hopping" circumvention. The Commission should terminate the circumvention investigation immediately.

#### **Commission's consideration**

According to ADR60.1, circumvention shall be deemed to take place if one or more of the three conditions listed in ADR60.1 met. The three conditions are (i) change in pattern of trade, (ii) undermining remedial effect, and (iii) existence of duty. More details and arguments are given on these three conditions later on in this report.

The Applicant provided the Commission with prima facie information to indicate that:

- Certain exporters in Thailand, Vietnam and Cambodia are related to certain companies in the PRC. The Applicant provided the list of the suspected companies in the non-confidential application which Sentury Thailand is in possession of;
- there was a change in pattern of trade between SACU, China, Thailand, Vietnam, and Cambodia. The Applicant used the official statistics from the South African Revenue Services (“SARS”) to demonstrate the change in pattern of trade. The Applicant further provided prima facie information to indicate that the change in pattern of trade took place after the imposition of provisional duties and final duties for which there was no or insufficient cause or economic justification other than the imposition of the anti-dumping duty.
- the positive change in pattern of trade stemmed from the practice of country hopping and not from any other work, practice or process that the Applicant was aware of.
- the volumes of imports from Thailand, Cambodia and Vietnam had undermining impact to the remedial effect of the final duties in place. The Applicant demonstrated the portion of imports from the three countries as a percentage of total imports.
- In addition to the prima facie information provided by the Applicant, the Commission used the Bills of Entry from SARS to analyse importers of the subject product from Cambodia, Thailand, and Vietnam. From the list of importers, the Commission chose a representative importer to calculate the export price for each country. The calculated export price was compared with the normal value that was previously established in the original investigation after certain adjustment were made to take into account inflation. Based on the comparison between the normal value previously established the original investigation in accordance with ADR 62.3 and the export price derived from the Bills of Entry (BOE) obtained from the SARS, the dumping margins were determined to be 21 percent for Cambodia, 68 percent for Thailand, and 84 percent for Vietnam. The information from the

BOE and normal value previously established are confidential by nature hence it was not revealed in the non-confidential application. The use of normal value that was previously established in the original investigation is regulated by ADR60.1(c).

- In this case all the three conditions of circumvention listed in ADR60.1 were met for purposes of initiation. Therefore, the Applicant has established prima facie evidence required for initiation, and the Commission accepted the information.

#### **1.21.2 Comments from Tyrelife Solutions:**

The comments from Tyrelife Solutions are voluminous, covering other aspects that are not related to the anti-circumvention investigation. While the essence of Tyrelife comments has been summarised and addressed below. All comments from Tyrelife Solutions are available on the public file.

##### **1.21.2.1 Tyrelife raised the following aspects that are not related to the anti-circumvention investigation but relates largely to the past original investigation against the PRC and challenges between SATMC and Tyre Importers' Association of South Africa ("TIASA"):**

- The lack of transparency concerning the manufacturing information of SATMC that was used in the original investigation.
- The investigation of Competition Commission to the allegations of collusion amongst SATMC members.
- the investigation process of and information used in the original investigation against the PRC;
- the unintended consequences and/or the ineffectiveness of the current anti-dumping duties against the PRC;
- the promotion fair competition to creating a more balanced and competitive tyre market in South Africa;

- the formation and representativeness of SATMC and TIASA as industry bodies in SACU and the need to overhaul the two industry bodies to form a new, unified industry association that would ensure that policies are reformed and/or developed based on accurate data;
- a formation of an Inter-Departmental Task Force comprising representatives from various relevant departments and tyre experts, to investigate enforcement gaps, accountability for local manufacturers regarding job retention, skills development, and plant modernization;
- distortionary effects of the anti-dumping duties in order to prevent blanket tariffs that unfairly inflate prices for tyres not manufactured in South Africa.
- introduction of measures to protect Small Medium Enterprises, independent retailers, and low-income consumers from the adverse effects of anti-dumping duties;
- development of guidelines to ensure fair pricing and access to affordable tyres;
- a temporary moratorium on further duty enforcement to temporarily halt any enforcement or expansion of final duties, until a thorough investigation into local manufacturing capacity, cost structures, and potential collusive practices is completed;
- the conflicts of interest within TIASA and SATMC (caused by some of TIASA members having ties to SATMC members), which distort stakeholder input and prevent independent importers' perspectives from being properly considered;
- full access to confidential SATMC's offshore manufacturing contracts and inter-company transfer pricing mechanisms, which Tyrelife Solutions believes to obscure product costs, and potentially misleading anti-dumping calculations; and
- trade remedies should balance local manufacturing with the public interest that will consider higher operational costs for transport operators and Small-Medium Enterprises ("SMEs") and consider raising inflation for consumers.

Anti-dumping duties have resulted to SMEs closing down their businesses and have undermining effect on public-interest objectives of fair-trade measures.

### **Commission's consideration**

- The avalanche of correspondence from Tyrelife is without substantiated evidence. Tyrelife has promised throughout the process to provide the Commission with substantiated evidence; however, that did not happen. Tyrelife Solutions has shown a lack of insight of the investigation process that is governed by the ITA Act, ADR and WTO jurisprudence. Tyrelife Solutions has provided repeated correspondences on issues that are not relevant to the current investigation and repeatedly inferred, without merit, that the Commission's investigation process is procedurally unfair and non-compliant with the provisions of Promotion of Administrative Justice Act ("PAJA"). This investigation is compliant with all the applicable domestic laws that govern the investigation procedure at ITAC. In particular, it should be noted that investigators engaged Tyrelife repeatedly on its comments and even offered to meet with Tyrelife to discuss the investigation. However, Tyrelife did not avail itself of the opportunity to meet with investigators.
- Commercial information such as manufacturing data is considered to be confidential by nature, hence it is not fully disclosed for public. In this regard, the Applicant submitted properly documented non-confidential version in accordance with the provisions of section 33(1) of the ITA Act and the ADR. Non-confidential summaries were provided and where information could not be summarized, the Applicant provided reasons in the sworn affidavit statement on why information is not susceptible to summarization.
- The original investigation against the PRC was conducted in full compliance with the ITA Act, the ADR and WTO Anti-Dumping Agreement. The Commission followed due process, ensuring that all interested parties, including Tyrelife Solutions and SACU industry bodies, had opportunities to submit information and present their views for the Commission's consideration.

- While all trade remedy measures have economic implications, the Commission's role is to ensure that duties are targeted, proportional, and effective in addressing injurious dumping. The effectiveness of these duties is subject to ongoing monitoring and review, in line with the regulatory framework. Where ineffectiveness of duties has been identified, the Commission acts on such in accordance with the ADR. Other allegations of ineffectiveness must be supported by credible data and submitted through the proper channels.
- SATMC and TIASA operate as recognised industry bodies within the SACU. The Commission does not regulate industry associations but considers their submissions alongside those of other stakeholders that are not part of either SATMC or TIASA during investigations. Industry associations operate independently and are formed based on the voluntary participation of industry players. The restructuring or unification of industry bodies is a matter for the private sector. The Commission remains impartial and considers all submissions, regardless of the affiliation of the submitting party, provided they are relevant to the investigation.
- The proposal for stakeholder engagement in enforcement matters is welcome, however the establishment of an Inter-Departmental Task Force falls outside the scope of this investigation. The enforcement of anti-dumping duties is coordinated within the existing regulatory framework involving the South African Revenue Service (SARS) and relevant government departments.
- The anti-dumping duties imposed were determined based on detailed investigations and targeted specifically at products proven to be dumped and causing material injury. They also involved more than 60 foreign producers that meaningfully participated and voiced no objections to the duties applicable to them. There are no "blanket tariffs" applied beyond what was substantiated by the investigation. Any claims of distortionary effects should be supported by verifiable evidence and submitted as part of a formal review process.
- Fair pricing mechanisms fall within the purview of competition policy rather than trade remedies. Anti-dumping duties are imposed to counteract injurious pricing distortions caused by dumped imports, ensuring that fair competition prevails in the domestic

market. The formulation of additional pricing guidelines would require policy considerations beyond the scope of this investigation.

- The industries are well within their legal right to approach the Commission with allegations of unfair trade and the Commission is obliged to investigate the complaint. The imposition of anti-dumping duties follows a rigorous and evidence-based investigation. A “temporary moratorium” on the Commission’s work on protecting the industry through trade remedies instruments would be against its legislated mandate. Any proposal for a moratorium would need to be legally justified based on the ITA Act and the ADRs and supported by compelling new evidence indicating that the existing duties are unjustified or improperly applied. The Commission remains open to reviewing such evidence through the appropriate legal mechanisms should it be provided by interested parties.
- Industry associations represent different stakeholder groups, and their members are free to participate in various industry bodies. The Commission ensures a fair and transparent process by considering submissions from all interested parties, including independent importers. Allegations of conflicts of interest should be substantiated and addressed through appropriate channels.
- While anti-dumping duties may impact pricing, they are implemented to correct distortions caused by unfair trade practices rather than to regulate domestic pricing structures. Any claims regarding the broader economic impact should be supported by empirical evidence and would best be referred to the Minister.
- Offshore manufacturing contracts and inter-company transfer pricing mechanisms are confidential by nature. Confidential business information submitted to the Commission is protected under the ITA Act, the ADRs and the WTO Anti-Dumping Agreement. Disclosure of sensitive commercial data is subject to strict legal provisions. If Tyrelife Solutions believes that such information has been withheld or misrepresented, it may follow the prescribed procedures to request non-confidential summaries or challenge confidentiality claims in accordance with the applicable legislation. Nevertheless, the dumping calculation against the 7 properly documented exporter/producers from Thailand and Vietnam were not affected by any manufacturing contracts and inter-company transfer pricing mechanisms. The

SATMC members are not related to any of the 7 properly documented exporter/producers from Thailand and Vietnam.

- The role of SMEs and independent retailers in the tyre industry is acknowledged. The potential impact of anti-dumping duties on small retailers is also acknowledged. However, trade remedies are primarily designed to address unfair trade practices rather than regulate domestic market dynamics. It should further be noted that “public interest” is not a consideration by the Commission in an anti-dumping or a circumvention investigation, as it is the case in a safeguard investigation. However, the Commission evaluates the impact of such measures on all stakeholders, including consumers and downstream industries.

**1.21.2.2** Tyrelife raised the following aspects that are related to the anti-circumvention investigation:

- (i) the current anti-circumvention investigation into anti-dumping duties on Chinese tyres, does not adequately address the root causes of persistent job losses, inefficiencies, and alleged "dumping" in the tyre sector.
- (ii) the following points are overarching concerns with SATMC's anti-circumvention application:
  - the use of unverified, or outdated data that lacks accuracy and completeness, and use of consolidated data that inflates domestic manufacturing data and distorts the accurate picture of domestic production.
  - the legacy protectionist approaches have not led to growth in local manufacturing or reversed job losses since 2006;
  - the macro tyre industry dynamics where many “local” brands are imported or partially imported, contradicting the Applicant's claim that imports are solely responsible for market harm;
  - the anti-dumping duties undermine job creation goals and have resulted to inflated prices for customers and caused SMEs to close;
  - SATMC's injury allegations have not been rigorously tested, particularly at the SKU level. Certain tyre sizes and SKUs are not manufactured locally by SATMC members and therefore imposing duties on these tyres goes against

the objective of protecting local industry and places an unnecessary burden on downstream users and importers.

- (iii)** The Commission must provide Tyrelife Solutions with a clearer notification timeline for Commission meetings where provisional duties could be decided.
- (iv)** In order for the Commission to comply with PAJA, the Commission must provide Tyrelife with an additional notice period of ten (10) working days, before any preliminary determination is made and provisional measures are imposed.
- (v)** In addition to ten (10) days' notice, the Commission must provide Tyrelife Solutions with key facts that will contain a clear outline of the summary of essential facts or conclusions under consideration, before imposing provisional measures, with an opportunity to respond or correct inaccuracies.
- (vi)** The additional ten (10) working days and essential facts or a pre-decisional disclosure are needed for the following reasons:
  - to provide Tyrelife Solutions with greater transparency and predictability in the process, in particular around the timing of provisional duties;
  - to prevent Tyrelife Solutions being blindsided or caught off guard by the Commission's decisions without Tyrelife Solution's final input;
  - to provide Tyrelife Solutions with the adequate opportunity to update data or challenge disputed facts essential to their defence.
  - to provide Tyrelife Solutions an opportunity to challenge the Commission's interpretation of evidence before any decision is made.
- (vii)** The ten (10) working days and essential facts will address concerns about the uncertainty surrounding the timing of provisional duties and the potential impact on legitimate importers. Failure to provide the ten (10) working days will result in risks of uncertainty, liquidity crises, and job losses due to retroactive or unforeseen duty increases.

- (viii)** The local manufacturers' footprint has significantly declined in the past 15 years, with factories closing, staff retrenched, and reliance on imports from related foreign plants increasing, and therefore Tyrelife Solutions urges the Commission to properly investigate the local producers' global supply chains and subsidies, questioning whether the final duties genuinely address competitive harm.
- (ix)** SATMC's offshore manufacturing contracts and transfer pricing can obscure product costs, potentially misleading anti-dumping calculations, and therefore Tyrelife Solutions requests a full disclosure of SATMC's contract manufacturing arrangements and inter-company pricing mechanisms.
- (x)** The following corrective actions must be implemented:
- The Commission should review the dutiable tariff lines and suspend or adjust final duties on tyres not manufactured locally by SATMC.
  - Tyrelife should be given access to non-confidential production data from SATMC, detailed by SKU/HS code, to validate claims of local manufacturing.
  - The Commission should ensure full transparency in SATMC's offshore manufacturing and pricing practices to guarantee accurate anti-dumping determinations.
  - The Commission should review employment data from SATMC's local plants over the past 15 years to confirm claims regarding job preservation and investment.
  - The Commission must reconsider whether the final duties accurately apply to products that have genuine domestic manufacturing capacity.
- (xi)** Failure to rigorously test SATMC's claims against its evidence, the anti-circumvention investigation risks producing a flawed recommendation, open to legal challenges under Section 195 of the Constitution (ensuring transparency and accountability); PAJA (requiring fairness and rational decision-making) and WTO Anti-Dumping Provisions (demanding thorough investigations).

### **Commission's consideration**

- The demand by Tyrelife Solutions that an extended period of time be granted to lodge additional comments before the Commission makes a preliminary determination, shows a complete lack of insight into the investigative process on the part of Tyrelife. The schedule of Commission's meetings and the agenda of such meetings are not shared with interested parties. There are not "essential facts" in the preliminary stage of an investigation. For transparency, the Commission keeps a public file for all interested parties to see and know all the developments of the investigation. The investigation team constantly interact with interested parties to provide clarity and guidance on the investigation process. For predictability, the ADR provides complete list of the stages of the investigation and the line-up of decisions to be made by the Commission in each stage of the investigation. Tyrelife Solutions has been engaged numerous times by the investigation team to provide guidance and clarify queries. Tyrelife Solutions has been invited by the investigation team for a meeting to discuss and clarify any outstanding issues in real time. Tyrelife Solutions did not take make use of the opportunity. Tyrelife Solutions and any other interested party are at liberty to submit written comments for the Commission to consider when making its preliminary determination on this circumvention investigation. The Commission allows for ample opportunity for interested parties to participate in the investigation and to submit comments for consideration by the Commission in making its decisions.
- The Commission agreed with the Applicant that it appears that there is a real risk that the importers, such as Tyrelife Solutions, plan to stockpile the products before the imposition of provisional measures and final anti-dumping duties. Therefore, to advise Tyrelife Solutions when such provisional measures will be imposed, will allow Tyrelife Solutions an opportunity to stockpile the products before the imposition of provisional and/or final anti-dumping duties. Such as demand by Tyrelife Solutions, for whatever reason, is opportunistic and should be disregarded by the Commission.
- All information submitted by the SATMC on behalf of its members for purposes of the original anti-dumping investigation, was verified by the Commission prior

to initiation of the investigation and was found to be complete and accurate. As indicated in the initiation notice of this investigation, according to ADR62.2 the SACU industry was not required to update its injury information and therefore the finding by the Commission that the industry experienced material injury in the original investigation, still stands.

- The allegation of legacy protectionist approaches is incorrect. There have been no anti-dumping duties on tires prior to 2023 when anti-dumping duties were imposed on tires imported from China. This anti-circumvention investigation is not a new investigation of dumping but an investigation to address any practice, work or processes of circumvention of current anti-dumping duties. In addition, action against unfair trade practices, such as dumping, is precisely to assist the domestic industry to prevent further job losses and to foster economic growth in the industry.
- The arguments that the injury information has not been rigorously tested and that there are other dynamics in the domestic industry causing material injury to the Applicant are not relevant at all in the current circumvention investigation. According to ADR62.2 the SACU industry shall not be required to update its injury information, provided that an anti-circumvention application is lodged with the Commission prior or within one year of the publication of the Commission's final determination. In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Based on that, the Commission is not required by law to test injury information of the domestic industry again and may rely on the material injury information previously established in the original investigation where the Commission made a final determination that the SACU industry is experiencing material injury and threat of material injury. This anti-circumvention investigation is not investigating issues of material injury and causal link where other known factors such as macro tyre industry dynamics are considered to determine whether they contribute to material injury or not as this was already decided in the original investigation.

- The potential pricing impact of anti-dumping duties on SMEs, transport operators, and consumers is acknowledged. However, to claim that the closure of small businesses was only because of the imposition of provisional measures in the anti-dumping investigation, is an oversimplification of the situation. The anti-dumping duties imposed were determined based on a detailed investigation and targeted specifically at products proven to be dumped and causing material injury to the local producers of tyres. The allegation of business closures as a results of dumping duties must be supported by credible data and Tyrelife Solution did not submission any.
- The Commission considered comments from Tyrelife Solutions and made a preliminary determination to dismiss Tyrelife Solutions' allegations that are irrelevant to the current investigation and generally unsubstantiated, and unverifiable.

### **1.21.3 Comments from Sailun:**

The comments from Sailun are voluminous, covering various aspects of the anti-circumvention investigation. While the essence of Sailun's comments has been summarised and addressed below and in other sections of this report, all of Sailun's submissions are available on the public file. Sailun stated that:

- (i) Sailun is not practicing a predatory pricing to seek to destroy the domestic industry in SACU so as to charge high (monopolistic) prices once it has dispensed with competition from the domestic industry in SACU. Sailun has expanded its operations by investing in new production plants in different countries, such as Vietnam, Cambodia and has commenced the process to set up tyre manufacturing and recycling plants in South Africa. Sailun will offer OTR tyre from its local operations, a tyre segment which currently dominated by imports owing to the fact that SACU producers have largely exited that market segment.
- (ii) Sailun Africa has completed the pre-feasibility study of establishing local tyre manufacturing and recycling plants to service the South African and broader sub-Saharan African tyre markets with full range of Sailun brands. Sailun is

currently working with the Department of Trade Industry and Competition ("DTIC") to assist with the full feasibility study and funding. Sailun is not viewing SACU as a mere export market, rather as an investment destination to establish a globally competitive production plant from which to service not only the SACU market but also the broader Sub-Saharan market. The Sailun's planned investment is intended to leverage the benefits of the trade and investment protocols of the Agreement establishing the African Continental Free Trade Area ("AfCFTA") and other Regional Trade Agreements to which South Africa is a party.

- (iii)** Sailun Africa has secured a site with Tshwane Automotive Special Economic Zone ("TASEZ") Phase II to locate its planned South African tyre manufacturing plants, which are anticipated to commence with the construction in 2025 and tyre production to start in 2026.
- (iv)** South African tyre manufacturing plants will have an annual production of 300 000 units for TBR which should make it one of the larger, if not the largest, producer of TBR tyres in the SACU region, and annual production units of 1 000 000 tyres for PCR. The South African tyre manufacturing plants will create 200 direct employment in the initial development phase and increase direct employment to 800 in the longer term, while indirect employment is expected to exceed 1 200 people in the development phase which should positively impact the local community of Mamelodi. The South African tyre manufacturing plants will introduce cutting-edge technology to the SACU tyre manufacturing base to enable SACU to build resilience against foreign competition and local producers (of which Sailun will be one) to claw back SACU market share from imports whilst growing market share in the rest of Sub-Saharan Africa.
- (v)** In the context of South Africa, Sailun has embraced the policy of the Department of Trade, Industry and Competition to grow Black Industrialists through the Broad Based Black Economic Empowerment ("BBBEE") by partnering with Falusi Investments (Pty) Ltd. The same cannot be said of the SACU producers, which are mostly owned by multinational company groups from the United States of America, Europe and Japan, with no ownership component of B-BBEE in respect of their shareholding structure.

- (vi) Sailun's planned investment is consistent with the fact that industrialisation and employment creation are beneficial for South Africa and Trade Policy is used to support these goals. Sailun submits that trade policy in the present case should be applied to keep Sailun product in the SACU market by exempting the subject products supplied from the Vietnam and Cambodia from any anti-dumping duty. What is clear ultimately is that there is due cause and sound economic justification for the supply of these products from these countries and it is only a matter of time before these products are made in South Africa.
- (vii) Sailun Vietnam, ACTR and Cart Tire should therefore not be treated as typical foreign monopolist exporters seeking to undermine SACU's productive base. In any event, alleged injury (if any) caused to the SACU Industry allegedly attributable to them is not material.
- (viii) The application is primarily intended to keep out competition from a prospective new producer in SACU, to the detriment of the consumer and the economy. Sailun Africa's entry into the SACU market as a new producer will bring much needed competition and relief to the SACU consumer, aside from cutting edge technology which the SATMC members currently do not have.
- (ix) Sailun's investment plans for SACU are advanced and anti-dumping duties are likely to derail such plans. Should anti-dumping duties be imposed against Vietnam and Cambodia there is a very real risk that Sailun's investment plans in relation to South Africa will be undermined, resulting in a decision for Sailun to explore other countries in which to set up the planned tyre manufacturing facilities.

#### **1.21.4 Comments from the Applicant:**

The comments from Applicant are voluminous, covering various aspects of the anti-circumvention investigation, in particular responding to comments from Sentury Thailand, Tyrelife Solutions, exporters' non-confidential submissions and non-confidential verification reports. While the essence of the Applicant's comments has been summarised and addressed below and in other sections of this report, all the Applicant's submissions are contained in the public file.

The Applicant stated that:

- The Applicant acknowledges the ongoing matter with the Competition Commission and remains fully cooperative with the relevant authorities in this regard. Nowhere in the ADR is there a requirement that competition issues must be declared, especially as it has nothing to do with an unfair trade investigation. However, the matter does not detract from the case of country hopping, and it is entirely separate and cannot be considered grounds for dismissing the anti-circumvention application, which remains a necessary measure to ensure fair trade and protect local manufacturing.
- The Applicant stressed out that Sailun Africa was established in South Africa in May 2021 but has not yet started production as it has only completed the prefeasibility study and is currently working with the DTIC to assist with the full feasibility study and funding. The Applicant believes that the reason for the objection to the anti-circumvention review is because Sailun Africa would be importing tyres from its companies not subject to anti-dumping duty (reason for engaging in country hopping), to compete with the tyres manufactured in the SACU at present and in the future. This is confirmed by the statement that Sailun Africa took over the distribution of Sailun brands in South Africa in August 2022 following the termination of the distribution agreement between Sailun Group Co. Ltd and Tubestone (Pty) Ltd in July 2022.
- The purpose of an anti-circumvention review is to establish whether the remedial effects of the anti-dumping measure are being undermined, not to investigate material injury and causality issues. The issues of injury and negligibility, amongst other, were addressed in the original investigation and there is no need to do it again in a circumvention investigation. It is astonishing that an argument can be made that the SACU industry has to wait for “sufficient” volume of imports before an anti-circumvention application can be lodged. Further, there is no such requirement as alleged by Sailun in ADR60 which deals with anti-circumvention reviews.
- The Applicant provided *prima facie* information to indicate that "country hopping", referred to in ADR60.2(e) read in conjunction with ADR60.8 is taking

place. The Commission accepted the *prima facie* information and initiated the investigation. If an exporter from Cambodia, Thailand and/or Vietnam responds to the Commission's investigation, the Commission should determine the following:

- (i) the relatedness of the responding producer/exporter with Chinese producer/exporter in line with ADR1. The Applicant believes that this relatedness has been proven, and thus country hopping has been proven; and
  - (ii) whether the responding exporter/producer exported the subject product to SACU at dumped prices, which the Applicant also believes took place.
- The Applicant acknowledges the proposed intention by Sailun Group to establish production operations within the country. However, the Applicant finds it difficult to understand how assistance and protection to SACU manufacturers would not also be to the benefit of the "new producer" in the SACU market.
  - The Applicant cautioned the Commission that Sailun is attempting to cloud the issue at hand by "putting red herrings out". It is a clear fact Sailun engaged in country hopping, undermining the remedial effect of the dumping duties. It is reiterated that there is a clear change in the trade pattern, indicating a shift in the exports from China to Vietnam following the imposition of the anti-dumping duty.
  - The Applicant stated that this development should not influence the merits of the pending application for the circumvention of anti-dumping duties. The circumvention application must be assessed on its legal and economic merits, independently of any speculative or conditional investment plans that do not directly address the pressing concerns of the sector. The Applicant emphasized that effective trade enforcement mechanisms must not be compromised by unverified future investment intentions. The Applicant urged policymakers to ensure that the integrity of the anti-dumping framework is upheld and that protective measures are implemented to prevent further injury to local manufacturers which will enable fair trade, job creation and retaining, and economic growth.

- According to the Applicant, experience has shown that while many Chinese companies engage with the South African government, offer assurances of investment, and provide undertakings related to local production, these commitments often do not translate into sustained industrial activity or long-term benefits for the South African economy. In many instances, initial engagements lead to limited or short-lived operations that fail to achieve meaningful job creation, skills transfer, or competitive local supply chains. Instead, such announcements can serve as a strategic tool to delay or divert legitimate trade enforcement actions.
- The Applicant provided an example of the announcement of the establishment of a Chinese Manufacturing Plant in Port Elizabeth, South Africa. Despite several announcements of investment, commitments by government and allocation of land for the construction of a Plant, this project has failed to commence production.
- Furthermore, Applicant stated that the mere prospect of future investment does not remedy the ongoing and demonstrable harm that South African manufacturers continue to endure due to unfairly priced imports. The local industry remains vulnerable to dumping practices that have already resulted in significant financial strain, job losses, and reduced industrial capacity. These challenges necessitate immediate and effective remedial measures to ensure the sustainability and competitiveness of domestic manufacturers.
- The Applicant pointed out that a company need not to be a monopolist to practice predatory pricing to destroy the SACU domestic industry. Any company that wants to gain a competitive edge over domestic producers in the importing country, with the backing in China, such as Sailun, can practice predatory pricing to gain market dominance, while the South African Government supports it, derailing Sailun intentions only temporary when the dumped exports from China were addressed, but then continues with its strategy by engaging in country hopping.
- The Applicant stated that it appears that Sailun believes that as it will be the *“first tyre manufacturing plant in South Africa with the majority shares held by*

*black people*” which as Sailun states “*is consistent with the policy of the DTIC to grow Black Industrialists*” Sailun has carte blanche to dump and when addressed, practice country hopping, not taking into account the thousands of black people employed by the current SATMC members whose jobs are threatened in economically sensitive areas.

- The Applicant believes that the statement by Sailun that “*there is due cause and sound economic justification for the supply of these products from these countries and it is only a matter of time before these products are made in South Africa*” is a clear sign that Sailun wants carte blanche to continue to dump the subject products in the SACU market killing the existing SACU manufacturers, and only then will they consider manufacturing their products in SACU – as it appears that Sailun investment plans are still very dodgy.

### **Commission’s consideration**

In response to the comments made by Sailun and the Applicant, the Commission considered the following:

- The current application is in accordance with the WTO Anti-Dumping Agreement, ITA Act and the ADR, which empower the Commission to investigate and address cases where circumvention undermines the effectiveness of anti-dumping duties.
- The current investigation does not pertain to allegations of predatory pricing but rather concerns circumvention of anti-dumping duties previously imposed on tyres originating in or imported from the PRC. The allegations by the Applicant and preliminary evidence gathered in this investigation suggest that Sailun has shifted its exports from the PRC to the SACU market through Vietnam, following the imposition of anti-dumping duties on imports of tyres from the PRC. This is discussed in more detail in section 4.6.6 of this report.
- During the original investigation, Sailun Africa acknowledged that Chinese producers, including Sailun’s operations in the PRC, were engaging in dumping practices. Sailun Africa accepted the imposition of high anti-dumping duties on exports of tyres manufactured by Sailun Group in the PRC. It appears, however, that Sailun Group anticipated the anti-dumping duties and deliberately structured its global operations to maintain its presence in the SACU market by shifting

production and supply to alternative jurisdictions, such as Vietnam and Cambodia, thereby circumventing the anti-dumping duties imposed on tyres from the PRC. This is discussed in more detail in section 4.6.6 of this report.

- The proposed investment by Sailun in establishing local tyre manufacturing and recycling facilities in South Africa is welcomed. Indeed, such investment aligns with South Africa's industrialisation objectives, employment creation, and regional integration goals under frameworks such as the AfCFTA. However, such investments do not exempt any party or related foreign producer from compliance with trade remedy measures. The existence or prospect of investment in SACU does not provide a legal justification for circumventing anti-dumping duties or for engaging in the injurious dumping of goods in the SACU market.
- South Africa's trade policy indeed supports industrial development, but it does so within the bounds of the rules-based multilateral trading system, including the WTO Anti-Dumping Agreement and South Africa's Anti-Dumping Regulations. These instruments are designed to ensure that trade is fair and that domestic industries are protected from the injurious effects of dumping and the circumvention of duties lawfully imposed.
- It is important to note that various members of the SACU domestic industry are themselves part of multinational groups with operations in countries such as the PRC, and those operations are similarly subject to trade remedy measures. To exempt Sailun solely on the basis of its planned investments in South Africa would be inconsistent with South Africa's obligations under both domestic law and international trade agreements and would undermine the integrity and effectiveness of the trade remedies regime.
- The anti-dumping duties imposed following the previous investigation, as well as the current anti-circumvention investigation, are not directed at any specific company or aimed at restricting Sailun's access to the SACU market. Rather, they are measures intended to address the injurious effects of unfair trade practices, namely, dumping and the circumvention of duties to ensure a level playing field for all producers operating within the SACU territory.
- It is important to note that once Sailun Africa establishes a local manufacturing

presence within SACU, it will become part of the domestic industry and may accordingly benefit from the protections afforded under South Africa's trade remedies regime. These include protection against injurious dumping and circumvention of anti-dumping duties by third-country exporters, which undermine the effectiveness of measures in place to protect the SACU industry. These protections would serve to ensure that Sailun Africa can compete on a level playing field, free from the distortions caused by dumped or unfairly traded imports.

- Should Sailun proceed with its investment, it would be entitled, like any other SACU producer, to approach the Commission for relief or review under the appropriate provisions of the ITA Act, the ADR, or the relevant WTO Agreements, including seeking the initiation of investigations, reviews, or adjustments to existing measures.
- Therefore, Sailun's planned investment, aimed at leveraging regional trade agreements such as AfCFTA, not only positions Sailun Africa to access broader African markets but also entitles Sailun Africa to the protections and remedies available to all SACU-based producers under the prevailing trade remedies framework.
- The Commission, in its original investigation, made a definitive finding that the SACU industry suffered material injury as a result of dumped imports originating in the PRC. The imposition of anti-dumping duties was based on a rigorous analysis of the causal link between the dumped imports and the injury experienced by the SACU industry, in accordance with the ADR and WTO Anti-Dumping Agreement. In this anti-circumvention investigation, assertions that the injury to the SACU industry is not material are mute and/or not relevant at all in the current circumvention investigation. According to ADR62.2 the SACU industry shall not be required to update its injury information, provided that an anti-circumvention application is lodged with the Commission prior or within one year of the publication of the Commission's final determination. In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Based on that, the Commission is not required by law to test injury information of the domestic industry again and may rely on the material injury information previously established in the original investigation where the Commission made a

final determination that the SACU industry is experiencing material injury and threat of material injury. This anti-circumvention investigation is not investigating issues of material injury and causal link.

- The assertion that the current application is intended to keep out competition from a prospective new producer in SACU is unfounded. The purpose of this anti-circumvention investigation is to assess whether existing anti-dumping duties are being undermined through country hopping via Thailand, Vietnam and Cambodia. The investigation targets alleged unfair trade practices by foreign producers and exporters, not the entry of a new domestic producer.
- It is not understood how the SACU industry's request for enforcement of existing trade remedies could be interpreted as an effort to block fair competition. On the contrary, the trade remedies framework is specifically designed to promote fair competition by addressing the injurious effects of dumped or circumvented imports.
- It is important to recall that in the original anti-dumping investigation, Sailun Group was found to be engaging in dumping, and the duties imposed on its exports from the PRC were among the highest. Despite this, Sailun Group has since advanced its investment plans in South Africa, which demonstrates that the existence of anti-dumping duties does not, in itself, deter legitimate investment.
- Therefore, any suggestion that duties, should they be imposed on exports from Thailand, Vietnam or Cambodia, would derail Sailun's investment plans lacks credibility.
- Sailun's reference to its planned investment in SACU as a basis for discouraging the imposition of anti-dumping duties is concerning and could be interpreted as an attempt to exert undue pressure on the Commission. The Commission is mandated to conduct investigations in a fair, objective, and evidence-based manner in accordance with the International Trade Administration Act, the Anti-Dumping Regulations, and South Africa's obligations under the WTO Anti-Dumping Agreement.
- The Commission must be allowed to carry out its duties independently and without external pressure. Investment decisions should be based on sound business

rationale and long-term strategy, not on the expectation of exemption from trade remedy enforcement.

## 1.22 PRELIMINARY DETERMINATION

The Commission, after considering all properly documented responses and written comments from interested parties, made a preliminary determination that;

- circumvention of the final duties is taking place in the form of country hopping via the Kingdom of Cambodia, the Kingdom of Thailand, and the Socialist Republic of Vietnam.
- the Kingdom of Cambodia, the Kingdom of Thailand, and the Socialist Republic of Vietnam are dumping the subject products to SACU during the reporting period.
- Sentury Thailand; Huayi Group Thailand; Prinx Chengshan Thailand; Linglong Thailand; General Rubber Thailand; and Sailun Vietnam, are circumventing the final duties through country hopping.
- Sentury Thailand; Huayi Group Thailand; Prinx Chengshan Thailand; Linglong Thailand; General Rubber Thailand; and Sailun Vietnam are dumping the subject products to SACU during the reporting period.
- Vietnam Cofo; Firemax; and Haohua are not circumventing the final duties through country hopping nor dumping the subject products to SACU during the reporting period.
- the SACU industry is experiencing material injury and a threat of material injury.

The Commission decided that provisional measures be imposed for 6 months pending the finalisation of the anti-circumvention investigation as per Table 7.1 on page 142 of this report. Written comments submitted by interested parties (within a specified time period) on the preliminary determination will be considered by the Commission prior to making its final determination and recommendation to the Minister.

## 2. SUBJECT PRODUCTS AND TARIFF CLASSIFICATION AND DUTIES

### 2.1 IMPORTED PRODUCTS

#### 2.1.1 Description

The imported subject products are described as new pneumatic tyres of rubber of a kind used on motor cars and on buses or lorries.

#### 2.1.2 Country of origin/export

The subject products originate in or are imported from Thailand, Vietnam, and Cambodia.

#### 2.1.3 Tariff Classification

The imported products are classifiable under the following tariff-subheadings:

Table 2.1.3 (a): Subject products tariff classification

Tariff heading / subheading	Description	Statistical unit	Rate of duty					
			General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
40.11	New pneumatic tyres. of rubber:							
4011.10	- Of a kind used on motor cars (including station wagons and racing cars):							
4011.10.01	-- Having a rim size not exceeding 33 cm (13 inches)	unit	30%	15%	15%	free	30%	30%
4011.10.03	-- Having a rim size of 35 cm (14 inches)	unit	30%	15%	15%	free	30%	30%
4011.10.05	-- Having a rim size of 38 cm (15 inches)	unit	30%	15%	15%	free	30%	30%
4011.10.07	-- Having a rim size of 41 cm (16 inches)	unit	30%	15%	15%	free	30%	30%
4011.10.09	-- Having a rim size of 43 cm (17	unit	30%	15%	15%	free	30%	30%

NON-CONFIDENTIAL

	inches) or more							
<b>4011.20</b>	<b>- Of a kind used on buses or Lorries:</b>							
<b>4011.20.1</b>	<b>-- Having a load percentage not exceeding 121:</b>							
<b>4011.20.16</b>	--- Having a rim size not exceeding 35 cm (14 inches)	<b>unit</b>	<b>25%</b>	<b>15%</b>	<b>15%</b>	<b>free</b>	<b>25%</b>	<b>25%</b>
<b>4011.20.18</b>	--- Having a rim size of 38 cm (15 inches) or more	<b>unit</b>	<b>25%</b>	<b>15%</b>	<b>15%</b>	<b>free</b>	<b>25%</b>	<b>25%</b>
<b>4011.20.2</b>	<b>-- Having a load percentage exceeding 121:</b>							
<b>4011.20.26</b>	--- Having a rim size exceeding 51 cm (20 inches)	<b>unit</b>	<b>25%</b>	<b>15%</b>	<b>15%</b>	<b>free</b>	<b>25%</b>	<b>25%</b>

Source: SARS

**Table 2.1.3 (b): Rebate provisions**

<b>Rebate Item</b>	<b>Tariff Heading</b>	<b>Rebate Code</b>	<b>Description</b>	<b>Extent of Rebate</b>
316.01	INDUSTRY: MACHINERY AND MECHANICAL APPLIANCES AND IMPLEMENTS			
317.06	4011.10	01.06	New pneumatic tyres. of rubber, for the manufacture of motor vehicles of a vehicle mass not exceeding 600 kg	Full duty

Source: SARS

### 2.1.4 Other applicable duties in place

The following anti-dumping duties are currently applicable:

**Table 2.1.4: Final anti-dumping duties**

<b>Name of Company</b>	<b>Final Duty</b>
Shouguang Firemax Tyre Co., Ltd.	7.18% <i>ad valorem</i>
Shandong Haohua Tire Co., Ltd.	9.79% <i>ad valorem</i>
Shandong Hablead Rubber Co., Ltd.	8.12% <i>ad valorem</i>
Shandong Changfeng Tyres Co., Ltd.	18.69% <i>ad valorem</i>
Shandong Yongfeng Tyres Co., Ltd.	
Shandong Mirage Tyres Co., Ltd.	
Shandong Shuangwang Rubber Co., Ltd	12.09% <i>ad valorem</i>
Sailun Group Co., Ltd.	43.60% <i>ad valorem</i> .
Sailun (Dongying) Tire Co., Ltd.	
Sailun (Shenyang) Tire Co., Ltd	

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Name of Company	Final Duty
Weifang Shunfuchang Rubber and Plastic Products Co., Ltd.	14.56% <i>ad valorem</i>
Weifang Yuelong Rubber Co., Ltd.	
Prinx Chengshan (Shandong) Tire Company Ltd.	
Double Coin Group (Jiangsu) Tyre Co., Ltd.	
Double Coin Tyre Group (Shanghai) Imp & Exp Co., Ltd.	
Shanghai Double Coin Tyre Sales Co., Ltd.	
Wanli Tire Corporation Limited	
Wanli Group Trade Limited	
Shaanxi Yanchang Petroleum Group Rubber Co., Ltd	
Anhui Jichi Tire Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shandong Yousheng Tyre Co., Ltd.	
Zhongyi Rubber Co., Ltd.	
Aeolus Tyre Co., Ltd.	
Aeolus Tyre (Taiyuan) Co., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Nanjing Kumho Tire Co., Ltd	
Qingdao Nexen Tire Corporation	
Shandong Wanda Boto Tyre Co., Ltd.	
Triangle Tyre Co. Ltd.	
Qingdao Sentury Tire Co. Ltd.	
Kumho Tire(Tianjin) Co., Inc	
Zhongce Rubber Group Co., Ltd.	
Qingzhou Detail International Trading Co., Ltd.	
Shandong Gallop Rubber Co., Ltd.	
Wuchan Zhongda Chemical Group Co., Ltd.	
Navigator Rubber Co., Ltd.	
Guangrao Taihua International Trade Co., Ltd.	
Weifang Goldshield Tire Co. Ltd.	
Weifang Huadong Rubber Co. Ltd.	
Shandong New Continent Tire Co., Ltd	
Shandong Fengyuan Tire Manufacturing co., Ltd.	
Qingdao Doublestar Tire Industrial Co., Ltd.	
Shandong Hongsheng Rubber Technology Co Ltd.	
Shandong Huasheng Rubber Co Ltd.	
Chongqing Hankook Tire Co., Ltd.	
Hankook Tire China Co., Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Shandong Jinyu Tire Co., Ltd. And	
Zodo Tire Co., Ltd.	
Giti Radial Tire (Anhui) Company., Ltd.	

Name of Company	Final Duty
Giti Tire (Hualin) Company Ltd	
Giti Tire (Fujian) Co., Ltd.	
Kumho Tire (Changchun) Co., Inc.	
<b>ALL OTHERS (Residual dumping duty)</b>	41.47% <i>ad valorem</i>

### 2.1.5 Raw materials used

The raw materials used include rubber (natural and synthetic), carbon black, sulphur and other chemicals, textiles (rayon, nylon, polyester, and aramid fibres) and steel cord.

### 2.1.6 Production process

The general production process can be described as follows:

#### Introduction:

Pneumatic tyres are manufactured according to relatively standardized processes and machinery. A tyre is manufactured by wrapping multiple layers of specially formulated rubber around a metal drum in a tyre-forming machine. The different components of the tyre are carried to the forming machine, where a skilled assembler cuts and positions the strips to form the different parts of the tyre, called a "green tyre" at this point. When a green tyre is finished, the metal drum collapses, allowing the tyre assembler to remove the tyre. The green tyre is then taken to a mould for curing.

#### Manufacturing Process:

1. The first step in the tyre manufacturing process is the mixing of raw materials to form the rubber compound. Railcars deliver large quantities of natural and synthetic rubber, carbon black, sulphur, and other chemicals and oils, all of which are stored until needed. Computer control systems contain various recipes and can automatically measure out specific batches of rubber and chemicals for mixing. Gigantic mixers, hanging like vertical cement mixers, stir the rubber and chemicals together in batches weighing up to 1,100 pounds.
2. Each mix is then re-milled with additional heating to soften the batch and mix the chemicals. In a third step, the batch goes through a mixer again, where additional chemicals are added to form what is known as the final mix. During all three steps of mixing, heat and friction are applied to the batch to soften the rubber and evenly distribute the chemicals. The chemical composition of each batch depends on the tyre part—certain rubber formulations are used for the

body, other formulas for the beads, and others for the tread.

3. Once a batch of rubber has been mixed, it goes through powerful rolling mills that squeeze the batch into thick sheets. These sheets are then used to make the specific parts of the tyre. The tyre body, for instance, consists of strips of cloth-like fabric that are covered with rubber. Each strip of rubberized fabric is used to form a layer called a ply in the tyre body. A passenger car tyre may have as many as four plies in the body.
4. For the beads of a tyre, wire bundles are formed on a wire wrapping machine. The bundles are then formed into rings, and the rings are covered with rubber.
5. The rubber for the tyre tread and sidewalls travels from the batch mixer to another type of processing machine called an extruder. In the extruder, the batch is further mixed and heated and is then forced out through a die—a shaped orifice—to form a layer of rubber. Sidewall rubber is covered with a protective plastic sheet and rolled. Tread rubber is sliced into strips and loaded into large, flat metal cases called books.
6. The rolls of sidewall rubber, the books containing tread rubber, and the racks of After the green tyre is made, it is put in a mould for curing. Shaped like a clam, the mould contains a large, flexible balloon. The tyre is placed over the balloon (bladder), and the mould closes. Next, steam is pumped into the balloon, expanding it to shape the tyre against the sides of the mould. After cooling, the tyre is inflated and tested.
7. A green tyre is placed inside a large mould for the curing process. A tyre mould is shaped like a monstrous metal clam which opens to reveal a large, flexible balloon called a bladder. The green tyre is placed over the bladder and, as the clamshell mould closes, the bladder fills with steam and expands to shape the tyre and force the blank tread rubber against the raised interior of the mould. During this curing process, the steam heats the green tyre up to 280 degrees. Time in the mould depends on the characteristics desired in the tyre.
8. After curing is complete, the tyre is removed from the mould for cooling and then testing. Each tyre is thoroughly inspected for flaws such as bubbles or voids in the rubber of the tread, sidewall, and interior of the tyre. Then, the tyre is placed on a test wheel, inflated, and spun. Sensors in the test wheel measure the balance of the tyre and determine if the tyre runs in a straight line. Because of the design and assembly of a modern tyre, rarely is one rejected. Once the

tyre has been inspected and run on the test wheel, it is moved to a warehouse for distribution.

Quality Control:

1. Quality control begins with the suppliers of the raw materials. Today, a tyre manufacturer seeks suppliers who test the raw materials before they are delivered to the tyre plant. A manufacturer will often enter into special purchasing agreements with a few suppliers who provide detailed certification of the properties and composition of the raw materials. To ensure the certification of suppliers, tyre company chemists make random tests of the raw materials as they are delivered.
2. Throughout the batch mixing process, samples of the rubber are drawn and tested to confirm different properties such as tensile strength and density. Each tyre assembler is responsible for the tyre components used. Code numbers and a comprehensive computer record-keeping system allow plant managers to trace batches of rubber and specific tyre components.
3. When a new tyre design is being manufactured for the first time, hundreds of tyres are taken from the end of the assembly line for destructive testing. Some of the tyres, for example, are sliced open to check for air pockets between body plies, while others are pressed down on metal studs to determine puncture resistance. Still other tyres are spun rapidly and forced down onto metal drums to test mileage and other performance characteristics.
4. A variety of non-destructive evaluation techniques are also used in tyre quality control. X-ray videography provides a quick and revealing view through a tyre. In an X-ray tyre test, a tyre is selected at random and taken to a radiation booth where it is bombarded with X-rays. A test technician views the X-ray image on a video screen, where tyre defects are easily spotted. If a defect shows up, manufacturing engineers review the specific steps of tyre component assembly to determine how the flaw was formed.
5. In addition to internal testing, feedback from consumers and tyre dealers is also correlated with the manufacturing process to identify process improvements.

**2.1.7 Technical characteristics and appearance**

The technical characteristics and appearance are as follows: The materials of pneumatic tyres are synthetic rubber, natural rubber, fabric, and wire, along with carbon black and other chemical compounds that also goes through a vulcanization process. The mixed materials are cured, moulded, and further processed according to product specifications. Tyres consist of a tread and a body, with the tread provides traction, while the body provides containment for a quantity of compressed air.

### **2.1.8 Application or end use**

The subject products are used in the commercial original equipment manufacturing, commercial aftermarket industry by being fitted to automotive vehicles such as motor cars, buses, Lorries and can also be used on trailers.

### **2.1.9 Substitutability**

The SACU products are fully substitutable with the imported product.

## **2.2 SACU PRODUCT**

### **2.2.1 Description**

The SACU produced products are new pneumatic tyres of rubber of a kind used on motor cars and on buses or lorries.

### **2.2.2 Raw materials**

The raw materials used include rubber (natural and synthetic), carbon black, sulphur and other chemicals, textiles (rayon, nylon, polyester, and aramid fibres) and steel cord.

### **2.2.3 Production process**

The production process can be generally described as follows:

#### Introduction:

Pneumatic tyres are manufactured according to relatively standardized processes and machinery. A tyre is manufactured by wrapping multiple layers of specially formulated rubber around a metal drum in a tyre-forming machine. The different components of the tyre are carried to the forming machine, where a skilled assembler cuts and positions the strips to form the different parts of the tyre, called a "green tyre" at this point. When a green tyre is finished, the metal drum collapses, allowing the tyre assembler to remove the tyre. The green tyre is then taken to a mould for curing.

Manufacturing Process:

1. The first step in the tyre manufacturing process is the mixing of raw materials to form the rubber compound. Railcars deliver large quantities of natural and synthetic rubber, carbon black, sulphur, and other chemicals and oils, all of which are stored until needed. Computer control systems contain various recipes and can automatically measure out specific batches of rubber and chemicals for mixing. Gigantic mixers, hanging like vertical cement mixers, stir the rubber and chemicals together in batches weighing up to 1,100 pounds.
2. Each mix is then re-milled with additional heating to soften the batch and mix the chemicals. In a third step, the batch goes through a mixer again, where additional chemicals are added to form what is known as the final mix. During all three steps of mixing, heat and friction are applied to the batch to soften the rubber and evenly distribute the chemicals. The chemical composition of each batch depends on the tyre part—certain rubber formulations are used for the body, other formulas for the beads, and others for the tread.
3. Once a batch of rubber has been mixed, it goes through powerful rolling mills that squeeze the batch into thick sheets. These sheets are then used to make the specific parts of the tyre. The tyre body, for instance, consists of strips of cloth-like fabric that are covered with rubber. Each strip of rubberized fabric is used to form a layer called a ply in the tyre body. A passenger car tyre may have as many as four plies in the body.
4. For the beads of a tyre, wire bundles are formed on a wire wrapping machine. The bundles are then formed into rings, and the rings are covered with rubber.
5. The rubber for the tyre tread and sidewalls travels from the batch mixer to another type of processing machine called an extruder. In the extruder, the batch is further mixed and heated and is then forced out through a die—a shaped orifice—to form a layer of rubber. Sidewall rubber is covered with a protective plastic sheet and rolled. Tread rubber is sliced into strips and loaded into large, flat metal cases called books.
6. The rolls of sidewall rubber, the books containing tread rubber, and the racks of After the green tyre is made, it is put in a mould for curing. Shaped like a clam, the mould contains a large, flexible balloon. The tyre is placed over the balloon (bladder), and the mould closes. Next, steam is pumped into the

balloon, expanding it to shape the tyre against the sides of the mould. After cooling, the tyre is inflated and tested.

7. A green tyre is placed inside a large mould for the curing process. A tyre mould is shaped like a monstrous metal clam which opens to reveal a large, flexible balloon called a bladder. The green tyre is placed over the bladder and, as the clamshell mould closes, the bladder fills with steam and expands to shape the tyre and force the blank tread rubber against the raised interior of the mould. During this curing process, the steam heats the green tyre up to 280 degrees. Time in the mould depends on the characteristics desired in the tyre.
8. After curing is complete, the tyre is removed from the mould for cooling and then testing. Each tyre is thoroughly inspected for flaws such as bubbles or voids in the rubber of the tread, sidewall, and interior of the tyre. Then, the tyre is placed on a test wheel, inflated, and spun. Sensors in the test wheel measure the balance of the tyre and determine if the tyre runs in a straight line. Because of the design and assembly of a modern tyre, rarely is one rejected. Once the tyre has been inspected and run on the test wheel, it is moved to a warehouse for distribution.

#### Quality Control:

1. Quality control begins with the suppliers of the raw materials. Today, a tyre manufacturer seeks suppliers who test the raw materials before they are delivered to the tyre plant. A manufacturer will often enter into special purchasing agreements with a few suppliers who provide detailed certification of the properties and composition of the raw materials. To ensure the certification of suppliers, tyre company chemists make random tests of the raw materials as they are delivered.
2. Throughout the batch mixing process, samples of the rubber are drawn and tested to confirm different properties such as tensile strength and density. Each tyre assembler is responsible for the tyre components used. Code numbers and a comprehensive computer record-keeping system allow plant managers to trace batches of rubber and specific tyre components.
3. When a new tyre design is being manufactured for the first time, hundreds of tyres are taken from the end of the assembly line for destructive testing. Some of the tyres, for example, are sliced open to check for air pockets between body

plies, while others are pressed down on metal studs to determine puncture resistance. Still other tyres are spun rapidly and forced down onto metal drums to test mileage and other performance characteristics.

4. A variety of non-destructive evaluation techniques are also used in tyre quality control. X-ray videography provides a quick and revealing view through a tyre. In an X-ray tyre test, a tyre is selected at random and taken to a radiation booth where it is bombarded with X-rays. A test technician views the X-ray image on a video screen, where tyre defects are easily spotted. If a defect shows up, manufacturing engineers review the specific steps of tyre component assembly to determine how the flaw was formed.
5. In addition to internal testing, feedback from consumers and tyre dealers is also correlated with the manufacturing process to identify process improvements.

#### **2.2.4 Technical characteristics and appearance**

The technical characteristics and appearance are as follows: The materials of pneumatic tyres are synthetic rubber, natural rubber, fabric, and wire, along with carbon black and other chemical compounds that also goes through a vulcanization process. The mixed materials are cured, moulded, and further processed according to product specifications. Tyres consist of a tread and a body, with the tread provides traction, while the body provides containment for a quantity of compressed air.

#### **2.2.5 Application or end use**

The subject products are used in the commercial original equipment manufacturing, commercial aftermarket industry by being fitted to automotive vehicles such as motor cars, buses, Lorries and can also be used on trailers.

#### **2.2.6 Substitutability**

The SACU products are fully substitutable with the imported product.

### **2.3 LIKE PRODUCT ANALYSIS**

In determining the likeness of products, the Commission uses the following criteria:

Table 2.3: Like product determination

	Imported subject products	SACU like products
<b>Raw Materials</b>	Rubber (natural and synthetic), carbon black, sulphur and other chemicals, textiles (rayon, nylon, polyester, and aramid fibres) and steel cord.	Rubber (natural and synthetic), carbon black, sulphur and other chemicals, textiles (rayon, nylon, polyester, and aramid fibres) and steel cord.
<b>Technical characteristics/appearances</b>	The materials of pneumatic tyres are synthetic rubber, natural rubber, fabric, and wire, along with carbon black and other chemical compounds that also goes through a vulcanization process. The mixed materials are cured, moulded, and further processed according to product specifications. Tyres consists of a tread and a body, with the tread provides traction, while the body provides containment for a quantity of compressed air	The materials of pneumatic tyres are synthetic rubber, natural rubber, fabric, and wire, along with carbon black and other chemical compounds that also goes through a vulcanization process. The mixed materials are cured, moulded, and further processed according to product specifications. Tyres consists of a tread and a body, with the tread provides traction, while the body provides containment for a quantity of compressed air
<b>Tariff classification</b>	HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, HS 4011.10.09, HS 4011.20.16, HS 4011.20.18, and HS 4011.20.26	HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, HS 4011.10.09, HS 4011.20.16, HS 4011.20.18, and HS 4011.20.26
<b>Production Process</b>	Described in paragraph 2.1.6	Described in paragraph 2.2.3
<b>Application or end use</b>	The subject products are used in the commercial original equipment manufacturing, commercial aftermarket industry by being fitted to automotive vehicles such as motor cars, buses, Lorries and can also be used on trailers	The subject products are used in the commercial original equipment manufacturing, commercial aftermarket industry by being fitted to automotive vehicles such as motor cars, buses, Lorries and can also be used on trailers
<b>Substitutability</b>	The imported subject products are fully substitutable with the SACU like products	The SACU products are fully substitutable with the imported subject like products

Taking the above into consideration, the Commission made a preliminary determination that the SACU product and the imported subject products are “like products” for purposes of comparison in terms of the ADR 1.

### **3. INDUSTRY STANDING**

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The application was lodged by SATMC, an industry body of the SACU industry, on behalf of its members. The members of the SATMC are Bridgestone South Africa (Pty) Ltd., Continental Tyre South Africa (Pty) Ltd., Goodyear South Africa (Pty) Ltd., and Sumitomo Rubber South Africa (Pty) Ltd., and together constitute 100% of the domestic production of the subject products in SACU.

Based on the above, the Commission made a preliminary determination that the application can be regarded as being made by or on behalf of the domestic industry, in line with ADR 7.

## 4. ANTI-CIRCUMVENTION

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### 4.1 ANTI-CIRCUMVENTION REVIEW PROCEDURE IN TERMS OF ADR62

According to ADR62.1, an anti-circumvention review may consist of either a preliminary and a final, or only of a single, investigation phase. In this case, this review is being conducted in two investigation phases, i.e., a preliminary and a final stage. The investigation is now in its preliminary stage. Relevant provisions of the ADR, such as ADR29 (responses by interested parties), ADR30 (extensions for submissions), ADR31 (deficiencies), ADR32 (non-cooperation by exporters/producers), ADR33 (provisional payments), and ADR34 (preliminary report), are all applicable at this preliminary stage of the anti-circumvention review.

### 4.2 THE ACT OF COUNTRY HOPPING IN TERMS OF ADR60.8

Based on the allegation and *prima facie* evidence provided by the Applicant, the type of circumvention at issue is “country hopping” via Thailand, Vietnam and Cambodia. Thus, the Commission analysed whether the elements of country hopping set out in ADR60.8 are met, in particular:

- (a) whether imports of the subject product, following the imposition of anti-dumping duties or provisional payments or the initiation of an anti-dumping investigation, switched to a supplier in Thailand, Vietnam and/or Cambodia; and
- (b) whether such a supplier in Thailand, Vietnam and/or Cambodia is related to a supplier in the PRC against which an anti-dumping duty has been imposed. The relationship between the exporter in the PRC against which the duties have been imposed and the related exporter/supplier in Thailand, Vietnam, and Cambodia is tested according to the provisions of ADR1, in particular the direct or indirect ownership, control or holding of five per cent or more of the equity shares in such related exporter/suppliers.

### 4.3 THE CONDITIONS OF CIRCUMVENTION IN TERMS OF ADR60.1

Once the relationship between the exporter in the PRC against which the duties have been imposed and the related exporter/supplier in Thailand, Vietnam and Cambodia had been determined, the Commission tested the act of circumvention through country hopping using the provisions of ADR60.1. In line with ADR60.1 the Commission

analysed the following elements successively in order to assess possible circumvention:

- (a) whether there was a change in the pattern of trade between the PRC, Thailand, Vietnam, Cambodia and the SACU. If this change stemmed from a practice, process or work, for which there is no or insufficient cause or economic justification other than the imposition of the anti-dumping duties;
- (b) whether the remedial effects of the anti-dumping duties in force were being undermined in terms of the volumes or prices of the product under investigation; and
- (c) whether there was evidence of dumping.

#### **4.4 SPECIAL CONSIDERATIONS IN ANTI-CIRCUMVENTION REVIEW**

According to ADR62.2 the SACU industry shall not be required to update its injury information, provided that an anti-circumvention application is lodged with the Commission prior or within one year of the publication of the Commission's final determination. In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Therefore, the application and this report do not contain an updated set of injury information from the industry. For the preliminary determination, the Commission used the material injury information previously established in the original investigation.

According ADR62.3, the Commission may use the normal values previously established to determine the margin of dumping until such time as the exporter or foreign producer has submitted proper information (own underlining), provided country hopping application is lodged with the Commission prior to or within one year of the publication of the Commission's final finding. Provisional payments may be imposed on the basis of the margin of dumping so determined (own underling). In this case, 6 exporters/foreign producers have submitted proper normal value information for the Commission to use in determining the margin of dumping. Therefore, the margins of dumping are no longer determined based on previously established normal values as it was done for initiation purposes but are now based on verified exporter's information for purposes of the preliminary determination.

## 4.5 PRELIMINARY FINDINGS ON A COUNTRY LEVEL

### 4.5.1 Relatedness with the Chinese companies in terms of ADR1 and ADR60.8

**Thailand:** There are 5 properly documented and verified exporters/producers from Thailand (i.e., Sentury Thailand, Huayi Group Thailand, Prinx Chengshan Thailand, General Rubber Thailand, and Linglong Thailand). According to the verified information of these exporters, all five of them are subsidiaries that are directly and/or indirectly owned by the Chinese producers who are subject to the duty in place against imports of tyres into SACU. Table 4.5.3 below and section 4.6.1- 4.6.5 of this report show the list of these companies and their parent companies in the PRC. The information of other exporters/producers that has not yet been verified also shows that there are additional companies that are subsidiaries of the Chinese producers who are subject to the duty in place against imports of tyres to SACU.

**Vietnam:** There are 2 properly documented and verified exporters/producers from Vietnam (i.e., Sailun Vietnam and Vietnam Cofo). According to the verified information of these exporters, the two companies are subsidiaries that are directly and/or indirectly owned by the Chinese producers who are subject to the duty in place against imports of tyres into SACU. Table 4.5.3 below and section 4.6.6 – 4.6.8 of this report shows the list of these companies and their parent companies in the PRC. The information of other exporters/producers that has not yet been verified also shows that there are additional companies that are subsidiaries of the Chinese producers who are subject to the duty in place against imports of tyres to SACU.

**Cambodia:** There are no properly documented and verified exporters/producers from Cambodia. However, according to the unverified information, all responding exporters/producers from Cambodia are subsidiaries that are directly and/or indirectly owned by the Chinese producers who are subject to the duty in place against imports of tyres into SACU. According to the Applicant, companies such as Sailun Group Co., Cart Tire (Cambodia) Co., Ltd and Jiangsu General Science Technology Co., Ltd are subsidiaries of the Chinese producers who are subject to the duty in place against imports of tyres into SACU.

**4.5.2 Change in pattern of trade in terms of ADR60.1(a)**

ADR 60 does not define or provide an example of a change in the pattern of trade. However, in past investigations the Commission has compared import volumes for periods prior to the imposition of PPs and the final duties with periods after the imposition thereof. In this case, the Commission analyzed a change in the pattern of trade using import volumes on country level and importer level, over two periods using data that covers 7 months before imposition of the PPs and 7 months after the imposition of the final duties, and data that covers 12 months before imposition of the duties and 12 months after the imposition of the final duties.

**(i) Import analysis on Country level using 7 months intervals**

The following table shows the import volumes of the subject products from the PRC, Thailand, Vietnam, and Cambodia before the imposition of the PPs (20 September 2022) and after the imposition of the final duties (28 July 2023). The data below was sourced from SARS’s official import statistics (import stats) for the period from 01 March 2021 to 31 July 2024.

**Table 4.5.2(i): Import volumes (7 months assessment)**

<b>No. of Tyres = import volumes</b>	<b>(March- Sept) 2022</b>	<b>(Oct-April) 2022/23</b>	<b>(April-Oct) 2023</b>	<b>(Nov-May) 2023/24</b>
China	3 698 289	1 710 076	2 507 815	3 018 088
Thailand	784 977	1 089 446	822 443	581 504
Vietnam	45 127	139 864	145 900	273 767
Cambodia	0	0	6 556	21 245

Note: There is an overlap of three months (August, September, and October 2023) after the imposition of the final duties end of July 2023 to accommodate for goods that were already sold and in transit during the period when the final duties were not in place. Hence the period of report after imposition of the final duties starts from November 2023.

Table 4.5.2(i) shows that the volume of imports of the of the subject product from the PRC decreased between 2021/22 (before the PPs) and 2022/23 (during the PPs). The table shows that although the volumes picked up after the PPs in 2023 and continued to increase after the imposition of the final duties, the 3 018 088 tyres in 2023/24 remain smaller than the levels of 3 698 289 tyres before the implementation of PPs.

Table 4.5.2(i) above also shows that import volumes from Vietnam and Thailand increased sharply between 2021/22 (before the PPs) and 2022/23 (during the PPs), coinciding with the decline in imports from the PRC.

Table 4.5.2(i) above shows that imports from Cambodia increased from zero to 6 556 tyres and continued to increase to 21 245 after the imposition of the final duties against the PRC.

Although Table 4.5.2(i) shows that imports from Thailand declined after the PPs and continued to decline after the imposition of the final duties, the change in trade pattern already happened between 2021/22 (before the PPs) and 2022/23 (during the PPs),

For Vietnam, the positive change in pattern of trade continued from the implementation of the PPs in 2022/23 and beyond the implementation of the final duties in 2023/24, constituting a clear demonstration of a change in pattern of trade between the PRC, Vietnam, and SACU.

### **Commission's consideration**

It is the Commission's consideration that the decline on imports of the subject product from the PRC to SACU during the implementation of the PPs in 2022/23, which coincided with the significant increase of imports of the subject product from Thailand and Vietnam to SACU, constituted a clear demonstration of a change in pattern of trade between the PRC, Thailand, Vietnam, and SACU.

The Commission considered that although the import volumes from Thailand fluctuated downwards after the PPs, the change in pattern of trade already happened as a result of the imposition of the PPs, and volumes from Thailand continue to be high, constituting 13 percent of the total import volumes to SACU during 2023/24.

Prior to the imposition of PPs Cambodia did not export to SACU but started exporting to SACU after the imposition of the final duties, going from zero to 21 245 tyres. This also demonstrates a change in the pattern of trade for Cambodia.

**(ii) Import analysis on Country level using 12 months intervals**

The following table shows the import volumes of the subject products from the PRC, Thailand, Vietnam, and Cambodia during the imposition of the PPs, before the final duties and after the imposition of the final duties. The data below was sourced from SARS’s official import statistics (import stats) for the period from 01 August 2021 to 31 July 2024.

**Table 4.5.2(ii): Import volumes (12 months assessment)**

Unit of measurement: Tyres	(Aug-July) 2021/22	(Aug-July) 2022/23	(Aug-July) 2023/24
China	5 701 597	4 304 267	4 327 713
Thailand	1 294 331	1 429 137	1 090 994
Vietnam	46 495	199 040	439 176
Cambodia	0	7 801	29 553

Note: There is no overlap of three months (August, September, and October 2023) after the imposition of the final duties end of July 2023 to accommodate for goods that were already sold and in transit during the period when the duties were not in place. Hence the period reporting after imposition of the final duties starts immediately in August 2023

Table 4.5.2(ii) shows that the volume of imports of the of the subject product from the PRC decreased between 2021/22 and 2022/23. The table shows that although the volumes picked up in 2022/23, the 4 327 716 tyres in 2023/24 remain smaller than the levels of 5 701 597 tyres in 2021/22.

Table 4.5.2(ii) above also shows that import volumes from Vietnam increased sharply between 2021/22 and 2023/24, coinciding with the decline in imports from the PRC.

Further, Table 6.5.2(ii) above shows that imports from Cambodia increased sharply between 2021/22 and 2023/24 after the imposition of the final duties against the PRC.

Although Table 4.5.2(ii) shows that imports from Thailand declined after the after the imposition of the final duties, the change in trade pattern already happened between 2022/23 during the PPs.

**(iii) Import analysis on Importer level using 12 months intervals.**

The following information, sourced from SARS's Bills of Entry ("BOE") was used to demonstrate that even though total import volumes showed an increase after the imposition of the final duties, selected SACU importers are showing a clear picture of a change in pattern of trade during the same period. The SACU importers (Sailun Africa, Tiauto Investments, and Stanford Tyres Africa) responded to the Commission's anti-circumvention investigation. Although Arch Importers and Exporters did not respond to the Commission's anti-circumvention investigation, they also moved their imports from the PRC to Thailand, Vietnam, and Cambodia since the imposition of the final duties as indicated by the BOE.

**Table 4.5.2(iii): SACU Importers that changed sourcing from the PRC to Cambodia, Thailand, and Vietnam**

Unit of measurement = pieces	2023 (Before the final duties)	2023/24 (After the final duties)
<b>Importers</b>	<b>PRC</b>	
Arch Importer and Exporters	100	32
Sailun Africa	None existing	100
Tiauto Investments	100	91
Standford Africa	100	
	<b>Cambodia</b>	
Arch Importers and Exporters	None existing	100
Sailun Africa	None existing	100
	<b>Thailand</b>	
Arch Importers and Exporters	None existing	100
Tiauto Investments	100	136
Stanford Africa	None existing	100
	<b>Vietnam</b>	
Arch Importers and Exporters	100	2 787
Sailun Africa	100	156
Tiauto Investments	100	189

The figures were indexed due to confidentiality using 2023 as a base year and 2023/24 as the base year where there were no volumes in 2023.

**Arch Importers and Exporters:** Table 4.5.2(iii) shows that Arch Importers and Exporters reduced their import volumes from the PRC after the imposition of the final duties. During the same period, the table shows that the importer increased their import volumes from Vietnam, Thailand, and Cambodia.

**Sailun Africa:** Table 4.5.2(iii) shows that Sailun Africa did not source the subject product from the PRC since the imposition of the PPs (Sailun imported 12 692 tyres before the imposition of PPs). During the same period, the table shows that Sailun Africa increased their import volumes from Vietnam and Cambodia.

**Tiauto Investments:** Table 4.5.2(iii) shows that Tiauto Investments reduced their import volumes from the PRC after the imposition of the final duties. During the same period, the table shows that Tiauto Investments increased their import volumes from Vietnam and Thailand.

**Stanford Africa:** Table 4.5.2(iii) shows that Stanford Africa reduced their import volumes from the PRC after the imposition of the final duties and started importing from Thailand during the same period.

#### **4.5.3 Whether the change stemmed from a practice, process or work.**

ADR 60 does not define or provide an example of a practice, process, or work in the context of circumvention. However, the change in the pattern of trade must stem from the practice, process or work identified in the investigation. Additionally, the regulation provides that the change in the pattern of trade should have no reason (“economic justification”) other than the imposition of the final duties in the original investigation.

The Commission considered that the change in pattern of trade between the PRC, Thailand, Vietnam, Cambodia, and SACU, led by the four SACU importers in Table 6.5.2(iii), stemmed from the practice of country hopping that is driven by Chinese producers/exporters which have production plants in Cambodia, Thailand, and Vietnam.

This conclusion is in line with the Commission’s determination in an earlier investigation into circumvention through country hopping, namely the investigation into the *Circumvention of the Anti-Dumping Duty on Laminated Safety Glass Classifiable under Tariff Subheading 7007.29 Through Country Hopping from the People’s Republic of China via the Republic of Malaysia*.

In considering whether the reason for the change in the pattern of trade was because of the imposition of the final duties, the Commission examined the relationship between the Chinese companies subject to the duty from the original investigation and the suppliers of tyres to SACU in Thailand, Vietnam, and Cambodia. The following companies responded to the investigation and their information was verified. The questionnaire responses of these companies show that these companies are registered and producing the subject product in Thailand, Vietnam, and Cambodia, and are related to Chinese producers/exporters that are subject to anti-dumping duties in SACU:

**Table 4.5.3: Related companies**

<b>Producer/exporter in China</b>	<b>Related exporter/producer</b>
Sailun Group Co., Ltd.	Sailun (Vietnam) Co. Ltd
Jiangsu General Science Technology Co., Ltd	General Rubber (Thailand) Co., Ltd.
Qingdao Sentury Tire Co., Ltd	Sentury Tire (Thailand) Co., Ltd
Prinx Chengshan (Shandong) Tire Company Ltd.	Prinx Chengshan (Thailand) Tire Company Ltd.
Shanghai Huayi Group Co. Ltd	Huayi Group (Thailand) Co. Ltd
Shandong Linglong Tyre Co., Ltd	LLIT (Thailand) Co. Ltd

This relatedness of the companies above has given grounds to the switch of import from Chinese producers who are subject to the duty to the related companies in Thailand, Vietnam and Cambodia who are not subject to the duty, i.e., country hopping. The changes in pattern of trade demonstrated in tables 4.5.2(i); 4.5.2(ii); and 4.5.2(iii) above have no discernible economic justification or other sufficient cause other than the imposition of the PPs in 2022/23 and the implementation of the final duties in 2023.

#### **4.5.4 Undermining the remedial effects of the duties in terms of ADR60.1(b)**

##### **(i) In terms of volumes:**

The following table shows the percentage of the alleged dumped imports as sourced from the SARS for the period 01 August 2023 to 31 July 2024.

**Table 4.5.4(i): Import volumes**

No. of Tyres	Nov-May 2023/24	Aug-July 2023/24	Volumes as a % of total imports (Nov-May)	Volumes as a % of total imports (Aug-July)
Cambodia	21 245	29 553	0.42%	0.35%
Thailand	581 504	1 090 994	11.54%	13.89%
Vietnam	273 767	439 176	5.47%	5.59%
Other countries	4 160 357	6 294 109	82.60%	80.14
Total import volumes	5 036 873	7 853 832	100%	100%

**Cambodia:** Table 4.5.4(i) above shows that Cambodia export volumes constituted less than 1% when expressed as a percentage of total import volumes in both periods. The import volumes from Cambodia are not significant to have undermining impact on the remedial effects of the final duties.

**Thailand:** Table 4.5.4(i) above shows that Thailand export volumes are between 12%-14% when expressed as a percentage of total import volumes in both periods. The import volumes from Thailand are sufficiently significant to have undermining impact on the remedial effects of the final duties.

**Vietnam:** Table 4.5.4(i) above shows that Vietnam export volumes are 6% when expressed as a percentage of total import volumes in both periods. The import volumes from Vietnam are significant enough to have undermining impact on the remedial effects of the final duties.

**(ii) In terms of prices:**

The Commission used the Applicant's average ex-factory selling price (average price for tyres of motor cars, buses, and lorries) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used average FOB prices of tyres of motor cars, buses and lorries from Thailand, Vietnam, and Cambodia, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The average percentage

for ocean freight and insurance was sourced from the verified sales schedules of companies from Thailand and Vietnam.

The Commission also used average FOB prices of tyres of motor cars, buses and lorries from Thailand, Vietnam, and Cambodia, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The average percentage for ocean freight and insurance was sourced from the verified sales schedules of companies from Thailand and Vietnam.

The comparison of the Applicant's adjusted ex-factory selling price and landed costs showed that landed prices from Thailand and Vietnam do not undercut the SACU prices during the POI, however Cambodia's landed price is undercutting the SACU prices during the period of reporting by 19.75%, showing an undermining impact to the remedial effects of the final duties.

#### **4.5.5 The existence of dumping in terms of ADR60.1(c)**

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. ADR62.3 states that at preliminary stage the normal value calculation to determine margin of dumping may be based on the normal value "previously established ... until such time as the exporter or foreign producer has submitted proper information". In this case, there are 5 properly documented exporters/producers from Thailand with dumping information, 2 properly documented exporters/producers from Vietnam with dumping information, and no properly documented exporters/producers from Cambodia with dumping information.

**Thailand:** The normal value for Thailand was calculated as the average of the 5 exporters/producers from Thailand. Based on that, the dumping margin for Thailand was calculated to be 50.52 percent. Detailed calculations are presented in section 5.4.2 of this report.

**Vietnam:** The normal value for Vietnam is calculated as the average of the 1 exporter/producer from Vietnam. Based on that, the dumping margin for Vietnam was calculated to be 78.90 percent. Detailed calculations are presented in section 5.4.3 of this report.

**Cambodia:** Since there are no properly documented responses from Cambodia to provide proper information on normal value, the Commission used best available information to determine margin of dumping. Best available information in this instance is the *prima facie* information accepted and used by the Commission when it was making its merit determination. Based on that, the dumping margin for Cambodia was calculated to be 27.98 percent. Detailed calculations are presented in section 5.4.4 of this report.

#### 4.5.6 Comments from Sailun

Sailun stated that:

- (i) The construction of Cart Tire factory in Cambodia commenced in March 2021 to supply both the domestic and global markets and reached full production in December 2022. The original anti-dumping investigation initiated on 31 January 2022, provisional measures and the definitive antidumping duties were imposed on 20 September 2022 and 28 July 2023 respectively. The plans for the construction of the Cart Tire factory in Cambodia were well under way when ITAC commenced the original investigation and anti-dumping duties were imposed. In this case the establishment of a production facility in Cambodia was part of a bigger investment project and the European Commission accepted that this to be proper economic justification.
- (ii) Clearly it would not have been possible for any Sailun product to be supplied from Cambodia prior to the construction of Cart Tire. The supply of tyres from Cart Tire to SACU was a business decision. Such decision stemmed, *inter alia*, from the desire to support the expansion of Sailun business internationally by increasing its tyre production capacity. The manufacturing incentives and availability of input materials in Cambodia made it an attractive investment destination. It is clear that the anti-dumping duties against China had no bearing on the construction of Cart Tire or the supply of tyres to SACU from Cart Tire (Cambodia).
- (iii) Members of the SATMC are themselves importers of the subject products from China and countries (mainly the European Union). This may explain why SATMC chose not to pursue an anti-circumvention application in the form of duty

absorption. The five Chinese producers that have final duties between 7.18% and 14.56%, in all probability, are absorbing the anti-dumping duty and continuing their exports to SACU unabated. In light of the above, it is submitted in this regard that ITAC should investigate this form of circumvention considering the extremely large proportion which Chinese imports account for as a percentage of total import volumes.

(iv) Based on Sailun's indicative analysis, the comparison of the landed cost of imports to the estimated ex-factory prices of the SACU producers shows that the SACU market prices of imports are higher than those of the SACU producers by a significant margin in TBR and PCR categories. If this is correct, SATMC's application must fail, and the investigation will have to be terminated.

#### 4.5.7 Applicant's comments

The Applicant stated that:

- The Applicant noted with interest the comment that other Chinese companies subject to a range of duties of between 7.18% and 14.56% are, in all probability, absorbing the anti-dumping duty and continuing their exports to SACU unabated. Firstly, the Commission does not deal with "probabilities", but makes its decisions based on facts. Secondly, from the allegation it is clear that Sailun decided to use an avenue other than absorbing the duty, which has an additional cost, to circumvent the final duties, namely country hopping, which is a much easier practice.
- The Applicant indicated that the Commission already decided that the Applicant submitted *prima facie* proof that the remedial effects of the provisional payments were undermined and continue to be undermined in terms of the volumes after the imposition of the final duties.

**Commission's consideration**

- (i) The comments raised about the existence, the timing and the purpose of establishing Cart Tire in Cambodia can only be collaborated by the information that comes directly from the response of Cart Tire and that response will need to be verified if the Commission deem it necessary. At the moment the response from Cart Tire is deficient as indicated in the list in paragraph 1.19.3 of this report. The Commission made a preliminary determination to not consider these comments as they relate directly to issues that need to be proved by Cart Tire. As indicated in paragraph 1.19.6 of this report, Cart Tire will have an opportunity to address their deficiencies and be considered for the final determination. Even if the Commission decided to consider the information about Cart Tire, it is not the construction of the factory that is the relevant practice, process or work that is at the origin of the change in the pattern of trade.
  
- (ii) The request to the Commission to investigate the duty absorption is noted and welcome. However, in this case, it was the decision of the SATMC to decide the type of circumvention to lodge with the Commission as informed by their analysis and interpretation of activities, work, or process that are taking place in the market for tyers where anti-dumping duties are effective. In this case the Applicant brought a prima facie case of country hopping to enable the Commission to initiate an anti-circumvention investigation. The preliminary findings are that country hopping is taking place.
  
- (iii) Sailun did not provide any calculations to show how Sailun's indicative analysis demonstrates that the landed costs are higher than the estimated ex-factory selling prices in the SACU market by a significant margin in TBR and PCR categories. Based on section 4.5.4(ii) above Cambodia's export price for TBR and PCR categories combined undercuts the SACU ex-factory prices of the same categories during the period of reporting, showing an undermining impact to the remedial effects of the final duties.

**4.5.8 Conclusion**

The preliminary evidence above shows that:

**Thailand:** There are companies registered in Thailand that are subsidiaries of the Chinese companies (through direct and/or indirect ownership), against which there are anti-dumping duties in place. There is a positive change in pattern of trade that stems from country hopping. Export volumes from Thailand are significant to have undermining impact on the remedial effects of the final duties. Thailand is found to be dumping the subject product into the SACU market during the reporting period.

Based on that, the Commission made a preliminary determination that the Kingdom of Thailand is circumventing the final duties.

**Vietnam:** There are companies registered in Vietnam that are subsidiaries of the Chinese companies (through direct and/or indirect ownership), against which there are anti-dumping duties in place. There is a positive change in pattern of trade that stems from a practice, process or work for which there is no economic justification other than the imposition of the anti-dumping duty, i.e., country hopping. Export volumes from Vietnam are significant to have an undermining impact on the remedial effects of the final duties. Vietnam is also found to be dumping the subject product into the SACU market during the reporting period.

Based on the above, the Commission made a preliminary determination that the Socialist Republic of Vietnam is circumventing the final duties.

**Cambodia:** There are companies registered in Cambodia that are subsidiaries of the Chinese companies (through direct and/or indirect ownership), against which there are anti-dumping duties in place. There is a positive change in pattern of trade that stems from a practice, process, or work for which there is no economic justification other than the imposition of the anti-dumping duty, i.e., country hopping. Export prices from Cambodia are undercutting the domestic prices, which shows an undermining impact on the remedial effects of the final duties. Cambodia is found to be dumping the subject product into the SACU market during the reporting period.

Based on the above, the Commission made a preliminary determination that the Kingdom of Cambodia is circumventing the final duties.

#### 4.6 PRELIMINARY FINDINGS ON A COMPANY LEVEL

The 9 exporters listed below requested to be exempted from a finding of circumvention and provided properly documented information in this regard.

- Sentury Thailand;
- General Rubber Thailand;
- Huayi Group Thailand;
- Prinx Chengshan Thailand;
- Linglong Thailand;
- Sailun Vietnam;
- Vietnam Cofo;
- Haohua Vietnam; and
- Firemax Cambodia.

The Commission considered the fact that there are no exemption provisions in the ADR. This is in contrast to other investigating authorities which consider exemption requests. For example, the EU Basic (Anti-Dumping) Regulations provide in Article 13(4) that “*Requests for exemptions duly supported by evidence shall be submitted within the time limits established in the Commission regulation pursuant to which the investigation is initiated*”. Consequently, there is no legislative basis to consider the exemption requests of the exporters.

In determining whether each of the 9 exporters are circumventing the final duties through country hopping, the Commission was guided by ADR60.1 and ADR60.8 as described above.

#### **4.6.1 SENTURY THAILAND**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that Sentury Thailand is related to Qingdao Sentury Tire Co. Ltd (“Sentury China”). Sentury China participated in the original anti-dumping investigation on imports of tyres from the PRC to the SACU market and is currently subject to the average 14.56% anti-dumping duty as indicated in the Commission’s final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that export volumes from Sentury Thailand to SACU decreased by 84.07 percentage points after the imposition of the duty in July 2023. This represents a negative change in pattern of trade.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that although export volumes of Sentury Thailand to SACU during the reporting period constituted less than 1% when expressed as a percentage of total import volumes, the comparison of the Applicant’s adjusted ex-factory selling price and Sentury Thailand’s landed cost during the reporting period showed a price undercutting of 3 723%. This shows that the landed prices of Sentury Thailand have an undermining impact to the remedial effect of the anti-dumping duty.

The Commission used the Applicant’s average ex-factory selling price (average price for tyres of motor cars) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used Sentury Thailand’s average FOB prices for tyres of motor cars, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from Sentury Thailand’s verified sales schedules.

**(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that Sentury Thailand is dumping the subject product with 7.90 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. Since at preliminary stage the Commission has received proper information from Sentury Thailand, the Commission used the verified information of Sentury Thailand which is in line with ADR62.3, to determine whether there is evidence of dumping for Sentury Thailand.

**(e) Comments from Sentury Thailand:**

Sentury Thailand confirmed that they are related to the producer/exporter in the PRC against which the final duties have been imposed.

Sentury Thailand compiled the following export volumes from its parent company in the PRC and its factory in Thailand to the SACU to demonstrate change in pattern of trade:

**Table 4.6.1 (e): Change in pattern of trade**

<b>Factory</b>	<b>Aug 22 – July 2023 (Before)</b>	<b>Aug 23 – July 2024 (After)</b>	<b>Change between 1<sup>st</sup> and 2<sup>nd</sup> period</b>
No. of tyres from Sentury Qingdao	101 340	118 193	16.63%
No. of tyres from Sentury Thailand	18 035	2 873	-84.07%

Sentury Thailand stated that export sales from the Qingdao factory to SACU increased during the period of investigation, while export volumes from the Thailand factory decreased during the same period and have continued to decline.

Considering these trends, Sentury Thailand stated that there has been no shift in shipments from Sentury Qingdao to Sentury Thailand due to the imposition of the final duties. Therefore, the allegation of “country hopping” raised by the Applicant is unfounded. Sentury Thailand stated that it is not dumping the subject product in the SACU market during the reporting period.

### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- Sentury Thailand is related to Sentury China, against which 14.56% anti-dumping duty has been imposed;
- there is no positive change in pattern of trade;
- export volumes of Sentury Thailand are not significant to have undermining impact on the remedial effects of the final duties. However, export prices of Sentury Thailand are undercutting SACU prices, showing an undermining impact to the remedial effects of the final duties; and
- Sentury Thailand is dumping the subject product into the SACU market during the reporting period.

As indicated earlier in this report, circumvention shall be deemed to take place if one or more [own underling] of the three conditions are met. In this case the conditions of dumping and undermining effect based on prices are met.

Based on the above evidence, the Commission made a preliminary determination that, Sentury Thailand is circumventing the final duties through country hopping.

#### **4.6.2 GENERAL RUBBER THAILAND**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that General Rubber Thailand is related to Jiangsu General Science Technology Co. Ltd (“Jiangsu General”) as its shareholder and owner.

Jiangsu General did not participate in the original anti-dumping investigation on imports of tyres from the PRC and is currently subject to the residual anti-dumping duty of 41.47% as indicated in the Commission’s final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that export volumes from General Rubber Thailand to SACU decreased by 90.79 percentage points after the imposition of the duty in July 2023. This represents a negative change in pattern of trade.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that export volumes of General Rubber Thailand to SACU during the reporting period constituted less than 1% when expressed as a percentage of total import volumes, and General Rubber Thailand’s landed cost did not undercut the Applicant’s adjusted ex-factory selling price during the reporting period. This shows that the export volumes and prices of General Rubber Thailand have no undermining impact to the remedial effect of the anti-dumping duty.

The Commission used the Applicant’s average ex-factory selling price (average price for tyres of motor cars) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used General Rubber Thailand’s average FOB prices for tyres of motor cars, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from General Rubber Thailand’s verified sales schedules.

**(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that General Rubber Thailand is dumping the subject product with 6.18 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. However, since at preliminary stage the Commission has received proper information from General Rubber Thailand, the Commission used the verified information of General Rubber Thailand which is in line with ADR62.3, to determine whether there is evidence of dumping for General Rubber Thailand.

**(e) Comments from General Rubber Thailand:**

General Rubber Thailand confirmed that they are related to the producer/exporter in the PRC against which the final duties have been imposed.

General Rubber Thailand stated that their export volumes to SACU during the period of reporting did not increase when compared to the previous period. General Rubber further stated that their export volumes during the two comparable periods are very small and negligible to undermine the remedial effects of the final duties.

General Rubber Thailand stated that they are not engaging on any practice of circumvention such as:

- the assembling of parts/raw materials from the PRC, to create the finished subject product which is subsequently exported to the SACU market as the product of Thailand,
- purchase and resell finished tyres from Jiangsu General or transhipped finished goods from Jiangsu General via General Rubber Thailand to the SACU market;
- business arrangements with Jiangsu General to supply SACU customers on behalf of Jiangsu General;
- slight/minor modification of the subject product from the Jiangsu General and subsequently exported to SACU as a product of General Rubber Thailand.

General Rubber Thailand stated that it is not dumping the subject product in the SACU market during the reporting period.

### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- General Rubber Thailand is related to Jiangsu General, against which 41.47% anti-dumping duty has been imposed;
- there is no positive change in pattern of trade;
- export volumes of General Rubber Thailand are not significant to have undermining impact to the remedial effects of the duty. The export prices of General Rubber Thailand are not undercutting the SACU price, showing no undermining impact to the remedial effects of the final duties; and
- General Rubber Thailand is dumping the subject product into the SACU market during the reporting period.

As indicated earlier in this report, circumvention shall be deemed to take place if one or more [own underling] of the three conditions are met. In this case the condition of dumping is met.

Based on the above, the Commission made a preliminary determination that General Rubber Thailand is circumventing the final duties through country hopping.

#### **4.6.3 HUAYI GROUP THAILAND**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that Huayi Group Thailand is related to Shanghai Huayi Group Co. Ltd in China and Double Coin Tire Group Ltd in China.

Double Coin Tire Group Ltd in China participated in the original anti-dumping investigation on imports of tyres from China to the Southern African Customs Union (SACU) market and is currently subject to 14.56% anti-dumping duty as indicated in the Commission's final report No. 714.

Shanghai Huayi Group Co. Ltd did not participate in the original anti-dumping investigation on imports of tyres from the PRC and is currently subject to the residual anti-dumping duty of 41.47% as indicated in the Commission's final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that imports from Huayi Group Rubber Thailand have increased by 100 percentage points after the imposition of the duty in July 2023. This represents a positive change in pattern of trade.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that the export volumes of Huayi Group Thailand constituted less than 1% when expressed as a percentage of total import volumes, and Huayi Group Thailand's landed cost did not undercut the Applicant's adjusted ex-factory selling price during the reporting period. This shows that the export volumes and prices of Huayi Group Thailand have no undermining impact to the remedial effect of the anti-dumping duty.

The Commission used the Applicant's average ex-factory selling price (average price for tyres of motor cars) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used Huayi Group Thailand's average FOB prices for tyres of motor cars, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from Huayi Group Thailand's verified sales schedules.

**(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that Huayi Group Thailand is dumping the subject product with 7.56 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. However, since at preliminary stage the Commission has received proper information from Huayi Group Thailand, the Commission used the verified information of Huayi Group Thailand which is in line with ADR62.3, to determine whether there is evidence of dumping for Huayi Group Thailand.

**(e) Comments from Huayi Group Thailand:**

Huayi Group Thailand confirmed that they are related to the producer/exporter in the PRC against which the final duties have been imposed.

Huayi Group Thailand stated that they did not engage in the alleged country hopping to evade existing anti-dumping duty, and provided the following reasons:

- Although owned by the company in the PRC, the parent company in the PRC does not intervene in any Huayi Group Thailand's operations in terms of sales and production activities in Thailand. In normal daily practice, Huayi Group always makes its own commercial decisions independently.
- Export sales from Huayi Group Thailand to the SACU market sales only accounts for extremely tiny proportions, i.e., 0.09% of their total export sales by value. In the contrast, USA market sales, Netherlands market sales and United Kingdom sales dominate majority of Huayi Group Thailand's export market share. Therefore, the SACU market has never been deemed as Huayi Group Thailand's main target export market during the period of investigation.
- Export sales volumes and values from Huayi Group Thailand are extremely small to cause any injury to the SACU manufacturers.

- Huayi Group Thailand did not suffer any loss and Huayi Group Thailand made a profit during the entire of period of investigation.
- Huayi Group Thailand did not purchase any subject goods in the finished goods format from any un-related and related company during the period of investigation; and
- Huayi Group Thailand did not dump the subject products in the SACU market during the reporting period.

Therefore, Huayi Group Thailand encouraged the Commission to exempt Huayi Group Thailand from any anti-dumping duty that maybe imposed and also exclude Huayi Group Thailand from any country hopping findings that may be made.

#### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- Huayi Group Thailand is related to Double Coin Tire Group and Shanghai Huayi Group, against which 14.57% and 47.47% final duties have been imposed respectively;
- there is a positive change in pattern of trade stemming from the practice of country hopping;
- export volumes of Huayi Group Thailand are not significant to have undermining impact on the remedial effects of the final duties. The export prices do not undercut the SACU prices, show no undermining impact to the SACU prices; and
- Huayi Group Thailand is dumping the subject product into the SACU market during the reporting period.

As indicated earlier in this report, circumvention shall be deemed to take place if one or more [own underling] of the three conditions are met. In this case the conditions of positive change in patten of trade and evidence of dumping are met.

Based on that, the Commission made a preliminary determination that Huayi Group Thailand is circumventing the final duties through country hopping.

#### **4.6.4 PRINX CHENGSHAN THAILAND**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that Prinx Chengshan Thailand is related to Prinx Chengshan (Shandong) Tire Co., Ltd (“PC-Shandong”) as its shareholder and owner.

PC-Shandong participated in the original anti-dumping investigation on imports of tyres from the PRC and is subject to the weighted average anti-dumping duty of 14.56% as indicated in the Commission’s final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that export volumes from Prinx Chengshan Thailand to SACU decreased by 95.53 percentage points after the imposition of the duty in July 2023. This represents a negative change in pattern of trade.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that export volumes of Prinx Chengshan Thailand constituted less than 1% when expressed as a percentage of total import volumes, and landed price of Prinx Chengshan Thailand did not undercut the Applicant’s adjusted ex-factory selling price during the reporting period. This shows that the export volumes and prices of Prinx Chengshan Thailand have no undermining impact to the remedial effect of the anti-dumping duty.

The Commission used the Applicant’s average ex-factory selling price (average price for tyres of motor cars) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used Prinx Chengshan Thailand’s average FOB prices for tyres of motor cars, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from Prinx Chengshan Thailand’s verified sales schedules.

**(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that Prinx Chengshan Thailand is dumping the subject product with 6.61 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. However, since at preliminary stage the Commission has received proper information from Prinx Chengshan Thailand, the Commission used the verified information of Prinx Chengshan Thailand which is in line with ADR62.3, to determine whether there is evidence of dumping for Prinx Chengshan Thailand.

**(e) Comments from Prinx Chengshan Thailand**

Prinx Chengshan Thailand confirmed that they are related to the producer/exporter in the PRC against which the final duties have been imposed.

Prinx Chengshan Thailand stated that they did not engage in the alleged country hopping to evade existing anti-dumping duty, and provided the following reasons:

- Although owned by the company in the PRC, the parent company in the PRC does not intervene in any Prinx Chengshan Thailand's operations in terms of sales and production activities in Thailand. In normal daily practice, Prinx Chengshan Thailand always makes its own commercial decisions independently.
- During the period of investigation export prices to SACU market increased, accompanied by the decline in export volumes during the same period.
- Export sales from Prinx Chengshan Thailand to the SACU market only accounts for extremely tiny proportions, i.e., 0.01% of their total export sales by value. In the contrast, USA market sales, European market sales and Russian Federation sales dominate majority of Prinx Chengshan Thailand's export market share. Therefore, the SACU market has never been deemed as Prinx Chengshan Thailand's main target export market during the period of investigation.
- Export sales volumes and values from Prinx Chengshan Thailand are extremely small to cause any injury to the SACU manufacturers.

- Prinx Chengshan Thailand did not purchase any subject goods in the finished goods format from any un-related and related company during the period of investigation; and
- Prinx Chengshan Thailand did not dump the subject products in the SACU market during the reporting period.

Therefore, Prinx Chengshan Thailand encouraged the Commission to exempt Prinx Chengshan Thailand from any anti-dumping duty that maybe imposed and also exclude Prinx Chengshan Thailand from any country hopping findings that may be made.

### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- Prinx Chengshan is related to PC-Shandong, against which 14.57% anti-dumping duty has been imposed;
- there is no positive change in pattern of trade;
- export volumes of Prinx Chengshan Thailand are not significant to have undermining impact on the remedial effects of the final duties. The export prices do not undercut the SACU prices, showing no undermining impact to the remedial effects of the final duties; and
- Prinx Chengshan Thailand is dumping the subject product into the SACU market during the reporting period.

As indicated earlier in this report, circumvention shall be deemed to take place if one or more [own underling] of the three conditions are met. In this case the condition of evidence of dumping is met.

Based on that, the Commission made a preliminary determination that Prinx Chengshan Thailand is circumventing the final duties through country hopping.

#### **4.6.5 LINGLONG THAILAND**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that Linglong Thailand is related to Shandong Linglong Tyre Co., Ltd (Shandong Linglong) as its shareholder and owner. Shandong Linglong did not participate in the original anti-dumping investigation on imports of tyres from the PRC and is subject to the residual anti-dumping duty of 41.47% as indicated in the Commission's final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that export volumes from Linglong Thailand to SACU have increased by 6.48 percentage points after the imposition of the final duties in July 2023. This represents a positive change in pattern of trade, for which there is no or insufficient cause or economic justification other than the imposition of the anti-dumping duty.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that export volumes of Linglong Thailand constituted 18.81% when expressed as a percentage of total import volumes. The Commission also found that landed price of Linglong Thailand substantially undercuts the Applicant's adjusted ex-factory selling price by 70.55% during the period of reporting.

The Commission used the Applicant's average ex-factory selling price (average price for tyres of motor cars, buses, and lorries) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa. The Commission also used Linglong Thailand's average FOB prices for tyres of motor cars, buses, and lorries, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from Linglong Thailand's verified sales schedules.

##### **(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that Linglong Thailand is dumping the subject product with 8.25 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. However, since at preliminary stage the Commission has received proper information from Linglong Thailand, the Commission used the verified information of Linglong Thailand which is in line with ADR62.3, to determine whether there is evidence of dumping for Linglong Thailand.

**(e) Comments from Linglong Thailand:**

Linglong Thailand confirmed that they are related to the producer/exporter in the PRC against which the final duties have been imposed.

Linglong Thailand stated that their export volumes to SACU during the period of reporting did not show any change in the pattern of trade when compared to the previous period. Linglong Thailand further stated that their export volumes during the two comparable periods are very small and negligible to undermine the remedial effects of the final duties. Linglong Thailand stated that they are not engaging on any practice of circumvention such as:

- the assembling of parts/raw materials from the PRC, to create the finished subject product which is subsequently exported to the SACU market as the product of Thailand. Although Linglong Thailand imported some materials from China to create the finished subject product, there is only a negligible export volume to the SACU.
- purchase and resell finished tyres from Shandong Linglong or transhipped finished goods from Shandong Linglong via Linglong Thailand to the SACU market. Although Linglong Thailand imported some products under investigation from the Shandong Linglong during the reporting period, the imported tyres were not sold to the SACU market. All the products under investigation sold to the SACU market were produced by Linglong Thailand;
- business arrangements with Shandong Linglong to supply SACU customers on behalf of Shandong Linglong;
- slight/minor modification of the subject product from the Shandong Linglong and subsequently exported to SACU as a product of Linglong Thailand.

Linglong Thailand stated that it is not dumping the subject product in the SACU market during the reporting period.

### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- Linglong Thailand is related to Shandong Linglong, against which 41.47% anti-dumping duty has been imposed;
- there is a positive change in pattern of trade stemming from the practice of country hopping;
- export volumes of Linglong Thailand are significant to have undermining impact to the remedial effects of the final duties. The export prices undercut the SACU prices, showing an undermining impact to the remedial effects of the final duties; and
- Linglong Thailand is dumping the subject product into the SACU market during the reporting period.

Based on the evidence, the Commission made a preliminary determination that Linglong Thailand is circumventing the final duties through country hopping.

#### **4.6.6 SAILUN VIETNAM**

##### **(a) Relatedness with the Chinese companies in terms of ADR60.8 and ADR1**

The Commission found that Sailun Vietnam is related to Sailun Group Co. Ltd (Sailun Group) as its shareholder and owner.

Sailun Group participated in the original anti-dumping investigation on imports of tyres from the PRC and is subject to the individual anti-dumping duty of 43.60% as indicated in the Commission's final report No. 714.

##### **(b) Change in the pattern of trade in terms of ADR60.1(a)**

The Commission found that export volumes of Sailun Vietnam to SACU have increased by 131.95 percentage points after the imposition of the final duties in July 2023. This represents a positive change in pattern of trade, for which there is no or insufficient cause or economic justification other than the imposition of the anti-dumping duty.

##### **(c) Undermining the remedial effects of the final duties in terms of ADR60.1(b)**

The Commission found that export volumes of Sailun Vietnam constituted 47.41% when expressed as a percentage of total import volumes, and Sailun Vietnam's landed price substantially undercuts the Applicant's adjusted ex-factory selling price by 50.86% during the reporting period.

The Commission used the Applicant's average ex-factory selling price (average price for tyres of motor cars, buses, and lorries) previously established in the original investigation, adjusted the price with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from Statistical Release P0142.1: Producer Price Index of January 2025, published by the Department of Statistics South Africa.

The Commission also used Sailun Vietnam's average FOB prices for tyres of motor cars, buses, and lorries, adjusted the price with ocean and insurance costs and customs duty to arrive at landed cost. The percentage of ocean freight and insurance was sourced from Sailun Vietnam's verified sales schedules.

**(d) The existence of dumping in terms of ADR60.1(c) and ADR62.3**

The Commission found that Sailun Vietnam is dumping the subject product with 9.46 percent margin of dumping.

In accordance with ADR60.1(c) the Commission examined whether there is evidence of dumping. However, since at preliminary stage the Commission has received proper information from Sailun Vietnam, the Commission used the verified information of Sailun Vietnam which is in line with ADR62.3, to determine whether there is evidence of dumping for Sailun Vietnam.

**(e) Comments from Sailun Vietnam**

With regard to the increase in export sales to SACU during the reporting period, Sailun Vietnam provided the following reasons as economic justifications for the change in pattern of trade for Sailun Vietnam during the reporting period:

- When a customer does not specify the production plant when placing an order, Sailun Group will decide and choose the production facility from which the customer's order will be produced. The decision to choose Thailand production capacity for SACU sales is informed by, amongst other things, (i) available capacity of the plant, (ii) applicable exporting costs and/or customs and trade tariffs (such as anti-dumping duties) associated with Thailand, (iii) location of the final destination (SACU in this case), and (vi) trade agreements between the Thailand and SACU.
- In addition to the above, the choice of Thailand production facility for export sales is in line with Sailun Group's 2021 "domestic and international dual circulation" strategy where Sailun Group positions its production facilities located in the PRC to serve the Chinese domestic demand and other facilities outside the PRC, for example Vietnam, to serve the international markets.
- The delivery lead times for Sailun Vietnam to service the SACU market are substantially shorter (on average, two months) than the lead-times of the Chinese subsidiaries of Sailun Group (on average, six months), making it the good choice for the SACU customers.

- Lastly, the change in Sailun Group's SACU distributor from Tubestone (Pty) Ltd to Sailun Africa played a role in mapping out a new strategy to supply the SACU market using foreign production facilities such as Sailun Vietnam.
- Sailun Vietnam construction of Phase 1 commenced in 2011 and ended in 2012. Phase 3, which was the last phase of construction, commenced in 2021 and was completed in the fourth quarter of 2022. The completion of Phase 3 coincided with the imposition of PPs against tyres originating from China. However, it clearly was unrelated to the Investigation and its outcome. The completion of Phase 3 significantly enhanced Sailun Vietnam's production volumes, which enabled Sailun Vietnam to expand its sales to other destinations such as SACU. Such expansion was in the ordinary course of business and the final duties imposed by the Commission against China had no bearing on the Sailun's decision to implement Phase 3. Circumvention (Country Hopping) only arises if the reason for supplying a like product from a third country is the implementation of anti-dumping duties against another country (the "Original Target Country"). This was certainly not the case in respect of the completion of Phase 3 of Sailun Vietnam and the consequent market expansion to include SACU. There is therefore a clear economic justification which is unrelated to the anti-dumping duties imposed against China.
- Sailun Vietnam was the first Chinese tyre manufacturer to establish manufacturing operations outside China and the only Sailun tyre factory outside China producing all categories of tyres. Some of these tyres are produced as brands for specific customers (private brands). Tiger Wheel & Tyre, a subsidiary of Tiauto Investments (Pty) Ltd which, working with Sailun Group in 2021, developed a tyre brand called "*Velocity*" intended for the SACU market. This culminated in a supply agreement between Sailun Group and Tiauto dated 26 June 2022 (the "Velocity Agreement").
- Production of the "*Velocity*" brand commenced in 2022 in Sailun factories in Vietnam and Cambodia, with the first shipment to SACU made in December 2022, some three months after the imposition of PPs against tyres originating in or imported from China. The conclusion of the Velocity Agreement is evidence that the supply of the Velocity tyre brand from Vietnam and Cambodia was an outcome

of a business decision which had no bearing the anti-dumping investigation and PPs imposed against Chinese tyres.

- The legal position on country hopping circumvention requires that the reason for supplying a like product from a third country be the imposition of anti-dumping duties against a certain country (the "Original Target Country"). This was certainly not the case in respect of the *Velocity* tyre brand. There is a clear economic justification which has no bears no relationship to the final duties imposed against China.
- The calculated dumping margin for Sailun Vietnam is negative. Sailun Vietnam submit that SATMC's application must fail, and the investigation should be terminated.

**(f) Applicant's comments**

In response to the statements from Sailun, the Applicant stated that:

- The argument by Sailun that the increase in import volume from Vietnam following the imposition of anti-dumping duties in SACU is "coincidental", is not only opportunistic, but difficult to believe, especially if its states that the Vietnam plant was established with the *"desire to support the expansion of Sailun business internationally"*, which desire by Sailun was negatively impacted by the imposition of dumping duties on China, and hence the country hopping by Sailun to switch to Vietnam.
- It appears therefore that Sailun is attempting to argue that country hopping can only take place if a manufacturing site is erected in another country to circumvent the dumping duty. Even if it was "economically justified" to setup a company in Vietnam, that company is used to circumvent the dumping duties imposed on China by exporting to SACU.
- Further, it is clear from the substantial imports of the subject product that the imposition of an anti-dumping duty is a significant reason to shift production to a related producer in another country. The clear business reason for the change in the pattern of trade was to circumvent the dumping duties on the subject product from China, while Sailun still benefits.

- The reference to the Private Brand Velocity is irrelevant, as it was already evident at that stage that anti-dumping duties would be imposed. The proposal at the time was based on offering the same pricing from other factories, effectively bypassing the anti-dumping duties. For the date to be relevant, it would have needed to precede the initiation of the investigation. Instead, this timing reinforces the fact that there was already an intention to shift production to another country from the onset of the anti-dumping duties.

### **Commission's consideration**

The preliminary evidence before the Commission, which is based on verified information, showed that:

- Sailun Vietnam is related to Sailun Group, against which 14.56% anti-dumping duty has been imposed;
- there is a positive change in pattern of trade stemming from the practice of country hopping;
- export volumes of Sailun Vietnam are significant to have undermining impact to the remedial effects of the final duties. The export prices undercut the SACU prices, showing an undermining impact to the anti-dumping duty; and
- Sailun Vietnam is dumping the subject product into the SACU market during the reporting period.

Therefore, based on the evidence above, the Commission made a preliminary determination that Sailun Vietnam is circumventing the final duties through country hopping.

#### **4.6.7 VIETNAM COFO**

Vietnam Cofo confirmed that they are related to Shandong Changfeng Tyres Co. Ltd (“Changfeng”), as its shareholder and co-owner.

Changfeng participated in the original anti-dumping investigation on imports of tyres from the PRC and is subject to the weighted dumping duty of 14.56% as indicated in the Commission’s final report No. 714.

Vietnam Cofo stated that they did not engage in the alleged country hopping to evade existing anti-dumping duty, and provided the following reasons:

- Although owned by the company in the PRC, Vietnam Cofo is independently operating and not affected by its shareholder Changfeng. Vietnam Cofo always makes its own commercial decisions independently.
- Vietnam Cofo did not exist during the original investigation on imports of tyres from the PRC;
- Vietnam Cofo started its production in March 2024 and sales in April 2024. Since then, Vietnam Cofo did not sell its product in the domestic market and has not exported the subject products to SACU either. However, the company may do so in the future. Vietnam Cofo only exports the products to 3<sup>rd</sup> countries.

#### **(a) Applicant’s comments**

The Applicant stated that:

- the Commission must investigate if Vietnam Cofo did not export the subject product to SACU during the period of investigation by ensuring that Vietnam Cofo can present verifiable substantiation of the allegations.
- If found to be true that Vietnam Cofo did not export to SACU during the period of investigation, Vietnam Cofo’s response should be rejected by the Commission, as Vietnam Cofo is not an interested party to this investigation.

### **Commission's consideration**

Vietnam Cofo approached the Commission seeking to participate in the investigation. At the time of the submission of Vietnam Cofo's questionnaire responses, it could not be ascertained if Vietnam Cofo had exported the subject product to SACU.

Consequently, in line with ADR18.2, the Commission deemed it necessary to conduct verifications at Vietnam Cofo in order have access to their accounting systems and production facilities and be able to verify the accuracy of their questionnaire responses for purpose of the preliminary determination. The verification confirmed the information provided by Vietnam Cofo, i.e.:

- Vietnam Cofo is related to Changfeng in the PRC against which the final duties have been imposed;
- Vietnam Cofo did not exist during the original investigation on imports of tyres from the PRC;
- Vietnam Cofo started its production in March 2024 and sales in April 2024. Since then, Vietnam Cofo did not sell its product in the domestic market and has not exported the subject products to SACU either. Vietnam Cofo only exports the products to 3<sup>rd</sup> countries.

Based on the above, the Commission made a preliminary determination Vietnam Cofo is not circumventing the final duties through country hopping.

However, Vietnam Cofo has indicated that it intends to export to SACU in the future. In this regard and given that Vietnam Cofo is related to Changfeng, which is subject to the duty in the original investigation, when Vietnam Cofo commences exporting to SACU, which will be monitored using information sharing with SARS, the Commission may self-initiate an anti-circumvention investigation in terms of ADR 3.3. The investigation may consist of a single phase pursuant to ADR 62.1 to allow the Commission to rapidly identify whether circumvention of the duty is taking place.

#### **4.6.8 HAOHUA VIETNAM**

Haohua confirmed that they are related to Shandong Haohua Tire Co., Ltd., as its shareholder and co-owner.

Shandong Haohua Tire Co., Ltd participated in the original anti-dumping investigation on imports of tyres from the PRC and is subject to a company specific dumping duty of 9.79% as indicated in the Commission's final report No. 714.

Haohua stated that they did not engage in the alleged country hopping to evade existing anti-dumping duty, and provided the following reasons:

- Haohua did not exist during the original investigation on imports of tyres from the PRC.
- Haohua was registered in Vietnam however still under construction during period of investigation of the anti-circumvention investigation.
- Haohua has not started producing and selling the subject products in the domestic market and other markets including the SACU market. However, the company may do so in the future.

#### **Commission's consideration**

Haohua fully responded to the investigation by way of completing the Commission's exporter questionnaire. The questionnaire responses from Haohua were assessed by the Commission and no deficiencies were identified.

In line with ADR18.2, the Commission did not deem it necessary to conduct verifications at Haohua in order to have physical access to their accounting systems and production facilities and be able to verify the accuracy of their questionnaire responses. However, a desktop verification was done to verify the existence and/or non-existence thereof of Haohua and their relationship with Chinese producers.

According to Vietnam online newspaper, "Shandong HaoHua Tire invested US\$500 million to build a rubber tire factory project in Minh Hung Sikico Industrial Park, Binh Phuoc province to produce semi-steel Radial tyres and all-steel Radial tyres for cars

and other vehicles. The facility officially began its first phase of operations in October 2024, with annual production capacity of 14.4 million tyres. Following the completion of the first phase in November 2024, Haohua Group will invest an additional \$280 million to expand the factory. This expansion is expected to achieve a production capacity of 10 million tyres annually. Once both phases are completed, the project will reach a total production capacity of 24.4 million tyres annually”.

(<https://vietnamnews.vn/economy/1689055/haohua-s-500-million-tyre-factory-begins-operations.html> ). Accessed on 31 March 2025.

Based on the above, the Commission made a preliminary determination that Haohua is not circumventing the final duties through country hopping.

However, Haohua has indicated that it intends to export to SACU in the future. In this regard and given that it is related to Shandong Haohua Tire Co., Ltd, which is subject to the duty in the original investigation, when Haohua commences exporting to SACU, which will be monitored using information sharing with SARS, the Commission may self-initiate an anti-circumvention investigation in terms of ADR 3.3. The investigation may consist of a single phase pursuant to ADR 62.1 to allow the Commission to rapidly identify whether circumvention of the duty is taking place.

#### **4.6.9 FIREMAX CAMBODIA**

Firemax confirmed that they are related to Shouguang Firemax Tyre Co., Ltd., as its shareholder and co-owner.

Shouguang Firemax Tyre Co., Ltd participated in the original anti-dumping investigation on imports of tyres from the PRC and is subject to a company specific dumping duty of 7.18% as indicated in the Commission's final report No. 714.

Firemax stated that they did not engage in the alleged country hopping to evade existing anti-dumping duty, and provided the following reasons:

- Firemax did not exist during the original investigation on imports of tyres from the PRC.
- Firemax was registered in Cambodia however still under construction during period of investigation of the anti-circumvention investigation.
- Firemax has not started producing and selling the subject products in the domestic market and other markets including the SACU market. However, the company may do so in the future.

#### **Commission's consideration**

Firemax fully responded to the investigation by way of completing the Commission's exporter questionnaire. The questionnaire responses from Firemax were assessed by the Commission and no deficiencies were identified.

In line with ADR18.2, the Commission did not deem it necessary to conduct verifications at Firemax in order to have physical access to their accounting systems and production facilities and be able to verify the accuracy of their questionnaire responses. However, a desktop verification was done to verify the existence and/or non-existence thereof of Firemax and their relationship with Chinese producers.

According to e-magazine for rubber industry in Asia, “Firemax presently operates a tyre production facility in China with the capability to produce 12 million units of passenger car tyres/year and 1 million truck and bus tyres/year. The US\$190 million investment in the Cambodian production facility aligns with the broader trend of Chinese tyre manufacturers venturing into Cambodia, spurred by the tightening trade barriers in western markets, particularly the US and Europe, against Chinese tyre imports” (<https://rubberjournalasia.com/firemax-to-pump-in-us190-mn-in-tyre-facility-in-cambodia/>). Accessed on 31 March 2025.

Based on the above, the Commission made a preliminary determination Firemax is not circumventing the final duties through country hopping.

However, Firemax has indicated that it intends to export to SACU in the future. In this regard and given that Firemax Cambodia is related to Shouguang Firemax Tyre Co., Ltd, which is subject to the duty in the original investigation, when Firemax commences exporting to SACU, which will be monitored using information sharing with SARS, the Commission may self-initiate an anti-circumvention investigation in terms of ADR 3.3. The investigation may consist of a single phase pursuant to ADR 62.1 to allow the Commission to rapidly identify whether circumvention of the duty is taking place.

## 5. DUMPING MARGINS

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The margin of dumping is calculated by subtracting the export price from the normal value of the product under investigation (after all the adjustments have been made). The margin is then expressed as a percentage of the Free on Board (FOB) export price. If the margin is less than two percent, it is regarded as *de minimis* in terms of the ADR and no anti-dumping duty will be imposed.

### METHODOLOGIES USED TO CALCULATE DUMPING MARGINS

#### 5.1 Product models

The verified foreign producers/exporters produced and sold various models of the subject products in the domestic markets and export markets. The Commission found that the verified foreign producers/exporters determined models of tyres based on various characteristics which are tyre rim size, width, material composition, threads, product code numbers (PCN), usage, etc. The Commission made a preliminary determination to accept the criteria of determining models as provided by each foreign producer/exporter.

#### 5.2 Normal value methodologies

##### 5.2.1 General methodology

In determining the margin of dumping, the Commission is guided by the ADRs. ADR 62.3 provides that the Commission may use “*the normal values previously established [i.e., in the original investigation] until such time as the exporter or foreign producer has submitted proper information*”. Given that the Commission was provided with verified information on normal values by the exporters discussed below, the following calculated margins of dumping are based on such normal values.

##### 5.2.2 Domestic sales method

Where sales are made in the domestic market, the Commission made a preliminary determination that the normal values be determined based on product models that are comparable to product models exported to SACU. Provided that such domestic sales are in the ordinary course of trade as provided in ADR8.2 and have sufficient volumes as provided in ADR8.3.

ADR8.2 stipulates that “*domestic sales or export sales to a third country may be considered to be not in the ordinary course of trade if the Commission determines that such sales –*

- (a) Took place at prices below total costs, including cost of production and administrative, selling, general and packaging costs, provided such sales took place;*
- (i) In substantial quantities equalling at least 20 percent by volume of the total domestic sales during the investigation period; and*
- (ii) Over an extended period of time, which the period shall normally be a year, but in no case less than 6 months.*
- (b) were made to a related party; or*
- (c) do not reflect normal commercial quantities”.*

ADR8.3 states that “*domestic sales of the like product shall normally be considered a sufficient volume to determine a normal value if such sales constitute 5 percent or more of the sales volume of the product to the SACU. Sales representing less than five percent of the export sales to the SACU may nevertheless be deemed sufficient, where such sales are of sufficient magnitude to provide a proper comparison”.*

### **5.2.3 Construction and 3<sup>rd</sup> country sales methods**

In instances where there were no domestic sales of a specific product model, the Commission made a preliminary determination to use either a construction method or sales to a 3<sup>rd</sup> country that meet the requirements of ADR8.2 and ADR8.3. The constructed normal value was determined in line with ADR 8.9, 8.10, 8.11, 8.12, and 8.13, using verified price and cost build-up (“CBU”) information of each foreign producer/exporter.

In choosing whether the normal value for a specific model will be constructed or determined based on a sale to a third country, the Commission noted that there is no requirement in the ADR, ADA or statute that prescribes the method which takes precedence over the other.

This was confirmed by The Panel in US – OCTG (Korea), which found that Article 2.2 does not contain any criteria governing the choice to be made by an investigating authority between the two alternative methods (third country vs constructed normal

value) for determining normal value, and therefore Members are free to adopt their own criteria in this regard.

The Panel found that “*Article 2.2 neither expressly limits nor directs how the Authority should reach that choice. Thus, the Authority is free to choose which method to use based on its own criteria, should it choose to have them. Therefore, we consider that Article 2.2 does not preclude an investigating Authority from establishing its own criteria for choosing which method to use*”.

**(i) Third country**

The Commission noted that when selecting the third country, there is no requirement in law that stipulates how a third country should be selected, the Regulations and the Agreement merely stipulate that the sales in the third country should be in the ordinary course of trade and in accordance with ADR8.2 and ADR8.3.

The Commission uses the following criteria to evaluate and select an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU;
- Customers exported to in that country are comparable to the customers exported to in SACU, i.e., if the company only exported to wholesalers, a country should be selected where exports were only to wholesalers, etc. and
- Country exported to, should have a domestic tyre manufacturing industry.

The Commission noted that due to the number of models each producer exports to SACU and may require third country selection, the criteria were considered in each model, but as in past investigations, the criteria would either be fully met, partially met, or subjectively met. The Commission made a preliminary determination to consider its criteria for third country investigation, however it noted that the criteria may in some instances not be met, and therefore it made a determination that when the appropriate third country is selected, the third country should meet the requirements of the ADR and ADA is adhered with. The Commission noted that some of the reasons that may result in the criteria not being met are as follows:

- The models produced are different and numerous and, in some cases, they are country or region specific; and
- Some tyres/models are exported mainly to countries with no industry.

## **(ii) Constructed normal value**

When constructing a normal value, the cost of production, plus selling, general and administrative (“SG&A”) costs, and a reasonable profit were used. The reasonable profit is determined based on the weighted average profit of each model used. In this case, the verified CBU was used to calculate cost of production, SG&A and reasonable profit.

The Commission found that some of the producers’ common trade in the CBU took into account inventory variation and other costs such as interest expenses, bank charges and foreign exchange gains and losses. The Commission made a preliminary determination not to consider inventory movements and other costs such as interest expenses, bank charges and foreign exchange gains and losses when constructing the normal values.

## **5.3 PRELIMINARY FINDINGS AT A COMPANY LEVEL**

The following dumping margins were calculated in line with ADR62.3 to satisfy the requirements of ADR60.1(c):

### **5.3.1 SENTURY THAILAND**

#### **5.3.1.1 Normal value**

Sentury Thailand produced and sold more than 1 500 models of tyres for motor cars, trucks, and buses in the domestic market during the reporting period. 32 models of tyres for motor cars, trucks, and buses were sold to SACU during the same period.

The Commission found that all the models sold in the domestic market were not comparable to those exported to SACU.

#### **5.3.1.2 Normal value based on construction:**

In instances where there were no domestic sales of a comparable models, the Commission made a preliminary determination to use a constructed price to

determine normal value. The constructed normal value was calculated using Sentury Thailand's verified costs of production, plus SG&A costs and a reasonable profit which is the actual profit for each model.

Therefore, taking the above into consideration, all 32 models had their normal values based on construction method.

#### **5.3.1.3 SACU export price**

The Commission made a preliminary determination to determine the SACU export price based on the verified information of the 32 models exported to SACU during the reporting period. All sales transactions were made on FOB basis.

#### **5.3.1.4 Adjustments claimed on SACU export price**

Sentury Thailand claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

##### **(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the SACU sales schedule. The interest rate used was 2.46% sourced from the Bank of Thailand. Substantiation documents for the average interest rate were provided in this regard.

The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by payment days as shown in the invoice, and then divided by 365 days.

The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(b) Inland freight costs**

The delivery terms were shown in sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to Sentury Thailand.

The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Port handling and clearing costs**

The port handling and clearing fees were verified in the logistics invoice and the values in the system matched the values found in the SACU sales schedule.

The Commission made a preliminary determination to allow the adjustment for port handling and clearing charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(d) Discounts/rebate cost**

Sentury Thailand explained that the rebate is the percentage discount that Sentury Thailand provides to the customers based on higher volumes ordered by the customer. A copy of rebate policy relating to a sale of 4 models was provided and inspected by the investigation team. Sentury

The total rebate value for the 4 models sold to SACU was verified in the system.

The Commission made a preliminary determination to allow the adjustment for discount as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(e) Packing cost**

The Commission found that the packing cost is the label cost for finished tyres. This is the cost of the sticker that is placed on the tyre before it is loaded into the truck for delivery. The Commission found that all tyres, regardless of the destination market are sold with a similar labelling sticker that reflects the brand name and rim size amongst other details. The costs of packing for each sampled transaction were verified from the system.

The Commission made a preliminary determination not to allow the adjustment for packing cost as it was not demonstrated to have affected price comparability at the time of setting of prices.

**5.3.1.5 Dumping margin**

After considering all the above normal and export price information, the weighted average margin of dumping for Sentury Thailand was determined to be 7.90% when expressed as a percentage of ex-factory export price.

**5.3.1.6 Conclusion**

Based on the above, the Commission made a preliminary determination that Sentury Thailand is dumping the subject products to SACU.

## **5.3.2 GENERAL RUBBER THAILAND**

### **5.3.2.1 Normal value**

General Rubber Thailand produced more than 700 models of tyres for motor cars, buses and lorries and exported 8 models to SACU during the reporting period.

#### **5.3.2.2 Normal values based on domestic sales:**

Of the 8 models sold to SACU, the Commission found that only one model had a comparable model sold in the domestic market. The Commission also found that the domestic sales of this model were made in the ordinary course of trade in line with ADR8.2 and its volumes were sufficient to determine a normal value in line with ADR8.3. The Commission made a preliminary determination to use domestic sales information of General Rubber Thailand to determine the normal value for one model. The domestic sales schedule indicated that the one model was sold at ex-works, paid for in advance and did not have discount or rebates. Therefore, General Rubber Thailand did not claim any adjustment for this model.

#### **5.3.2.3 Normal values based on constructed price**

For the remaining 7 models that that did not have comparable models in the domestic market, the Commission made a preliminary determination to use a constructed price to determine normal values for 6 models. The constructed normal values for the 6 models were calculated using General Rubber Thailand's verified costs of production, plus SG&A costs and a reasonable profit which is the actual profit for each model.

#### **5.3.2.4 Normal value based on third country sale:**

For the remaining 1 model that that did not have comparable models in the domestic market, the Commission made a preliminary determination to use verified sales to a 3<sup>rd</sup> country to determine normal value. Foreign markets were tested on the Commission's criteria explained above. One appropriated third country fully met the criteria for the 1 model. The Commission found that the export sales of this model to the selected appropriate third country were made in the ordinary course of trade in line with ADR8.2 and its volumes were sufficient to determine a normal value in line with ADR8.3.

### **5.3.2.5 Adjustments to third country sales**

General Rubber Thailand claimed that the following adjustments affected the setting of the selling price and therefore requested that the following adjustments be made:

#### **(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the 3<sup>rd</sup> country sales schedule. The interest rate used was 2.5% sourced from the Bank of Thailand. Substantiation documents for the average interest rate were provided in this regard. The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by payment days as shown in the invoice, and then divided by 360 days. The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

#### **(b) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to General Rubber Thailand. The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

#### **(c) Port handling and customs declaration charge**

The port handling and customs fees were verified in the logistics invoice and the values in the system matched the values found in the 3<sup>rd</sup> country sales schedule. The Commission made a preliminary determination to allow the adjustment for port handling and customs declaration charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(d) Discounts**

The discount adjustment relates to quality related discounts which arises when there are quality issues with the product sold, such as defects that can be attributed to production issues within General Rubber Thailand plant. General Rubber Thailand issued credit notes resulting from customer claims on defective products. In compensating the customers for product defects, General Rubber Thailand granted discounts to the customer as credit for future sales. The cost of discount adjustment was verified using the credit note for each invoice that was part of the sample. The corresponding invoice where the credit note that set-off or discount that was given was also provided as part of the supporting documents. The total amount for discounts adjustment in the 3<sup>rd</sup> country sales schedule was verified. The Commission made a preliminary determination to allow the adjustment for discounts as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**5.3.2.6 SACU export price**

The Commission made a preliminary determination to determine the SACU export price based on the verified information of the 8 models exported to SACU during the reporting period. All sales transactions were made on FOB basis.

**5.3.2.7 Adjustments claimed on SACU sales**

General Rubber Thailand claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

**(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the SACU sales schedule. The interest rate used was 2.5% sourced from the Bank of Thailand. Substantiation documents for the average interest rate were provided in this regard. The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by payment days as shown in the invoice, and then divided by 360 days. The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable,

directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(b) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to General Rubber Thailand. The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Port handling and customs declaration charge**

The port handling and customs fees were verified in the logistics invoice and the values in the system matched the values found in the SACU sales schedule. The Commission made a preliminary determination to allow the adjustment for port handling charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**5.3.2.8 Dumping margin**

After considering all the above normal value and export price information, the weighted average margin of dumping for General Rubber Thailand was determined to be 6.18% when expressed as a percentage of ex-factory export price.

**5.3.2.9 Comments from the Applicant**

The Applicant stated that the discounts or quality-related claims can only happen after the sale transactions took place, and as such, the cost could not have been known at the time of setting the price. The Commission should therefore reject the claim for this adjustment by General Rubber Thailand.

### **Commission's consideration**

The Commission carefully considered the quality related discounts claimed by interested parties including General Rubber Thailand. The Commission made a preliminary determination to allow the discount adjustment by General Rubber Thailand as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

#### **5.3.2.10 Conclusion**

Based on the above, the Commission made a preliminary determination that General Rubber Thailand is dumping the subject products to SACU.

### **5.3.3 HUAYI GROUP THAILAND**

#### **5.3.3.1 Normal value**

Huayi Group Thailand produced and sold more than 50 models of tyres for trucks and buses in the domestic market and exported 6 models of tyres for trucks and buses to SACU during the reporting period.

#### **5.3.3.2 Normal values based on domestic sales:**

Of the 6 models sold to SACU, the Commission found that only 3 models had comparable models sold in the domestic market. The Commission also found that the domestic sales of the 3 models were made in the ordinary course of trade in line with ADR8.2 and their volumes were sufficient to determine a normal value in line with ADR8.3. The Commission made a preliminary determination to use verified domestic sales information of Huayi Group Thailand to determine the normal values for 3 models.

#### **5.3.3.3 Normal value based on construction:**

The Commission made a preliminary determination to use constructed price to determine normal values for the remaining 3 models that had no comparable models in the domestic market. The constructed normal values for the 3 models were calculated using Huayi Group Thailand's verified costs of production, plus SG&A costs and a reasonable profit which is the actual profit for each model.

#### **5.3.3.4 Adjustments claimed on domestic sales**

Huayi Group Thailand claimed that the following adjustment affected the setting of the selling price for domestic sales and therefore requested that the following adjustments be made on domestic sales:

##### **(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the 3<sup>rd</sup> country sales schedule. The interest rate used was 4.47% sourced from the short-term borrowing agreement between Huayi Group Thailand and Bangkok Bank. Substantiation documents for the average interest rate were provided in this regard. The cost of payment was calculated based on sales value in the invoice, multiplied by

average interest rate, multiplied by payment days as shown in the invoice, and then divided by 365 days.

The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

#### **5.3.3.5 SACU export price**

The Commission made a preliminary determination to determine the SACU export price based on the verified information of the 6 models exported to SACU during the reporting period. All sales transactions were made on FOB basis.

#### **5.3.3.6 Adjustments claimed on SACU sales**

Huayi Group Thailand claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

##### **(a) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to Huayi Group Thailand. The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

##### **(b) Port handling and clearing costs**

The port handling and clearing fees were verified in the logistics invoice and the values in the system matched the values found in the SACU sales schedule. The Commission made a preliminary determination to allow the adjustment for port handling and clearing charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Bank charges**

Bank charges for foreign payments were verified in the proof of payments for SACU invoices. The Commission made a preliminary determination to allow adjustment for bank charges as they affected price comparability at the time of setting of prices, they were verified and directly related to export sales to SACU under consideration.

**5.3.3.7 Dumping margin**

After considering all the above normal value and export price information, the weighted average margin of dumping for Huayi Group Thailand was determined to be 7.56% when expressed as a percentage of ex-factory export price.

**5.3.3.8 Conclusion**

Based on the above, the Commission made a preliminary determination that Huayi Group Thailand is dumping the subject products to SACU.

### **5.3.4 PRINX CHENGSHAN THAILAND**

#### **5.3.4.1 Normal value**

Prinx Thailand produced and sold more than 150 models of tyres for motor cars, trucks, and buses in the domestic market during the reporting period. 12 models of tyres for motor cars only were sold to SACU during the same period. The Commission found that all the models sold in the domestic market were not comparable to those exported to SACU.

#### **5.3.4.2 Normal value based on third country method**

The Commission made a preliminary determination to use verified sales to a 3<sup>rd</sup> country to determine normal values for the 12 models that did not have comparable models in the domestic market. Foreign markets were tested on the Commission's criteria explained above. Based on the criteria, third countries were selected as appropriate third countries and Prinx Chengshan Thailand's exports to those appropriate third countries were used to determine normal values. The Commission found that the export sales of each model to the selected appropriate third country were made in the ordinary course of trade in line with ADR8.2 and its volumes were sufficient to determine a normal value in line with ADR8.3.

#### **5.3.4.3 Adjustments claimed on third country sales**

Prinx Chengshan Thailand claimed that the following adjustments affected the setting of the selling price on foreign sales and therefore requested that the following adjustments be made.

##### **(a) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to Prinx Chengshan Thailand. The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

##### **(b) Port handling and clearance charge**

The port handling and customs fees were verified in the logistics invoice and the values in the system matched the values found in the 3<sup>rd</sup> country sales schedule.

The Commission made a preliminary determination to allow the adjustment for port handling and clearing charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Packing cost**

Packing costs refers to the cost of the sticker that is placed on the tyre and/or the plastic cover before the tyre is loaded into the truck for delivery. The Commission found that some tyres such as those sold in the domestic market only uses the sticker while tyres to export markets such as South Africa and the USA use the sticker and the plastic cover. Physical verification of differences in packaging was done in the plant during verification. The total packing cost was verified as the selling expense in the system.

The Commission made a preliminary determination to allow the adjustment for packing cost as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**5.3.4.4 SACU export price**

The Commission made a preliminary determination to determine the SACU export price based on the verified information of the 12 models exported to SACU during the reporting period. All sales transactions were made on FOB basis.

**5.3.4.5 Adjustments claimed on SACU sales**

Prinx Chengshan Thailand claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

**(a) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charge was verified in the logistics invoice and proof of payments provided by the logistics forwarding company to Prinx Chengshan Thailand.

The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(b) Port handling and clearance charge**

The port handling and customs fees were verified in the logistics invoice and the values in the system matched the values found in the SACI sales schedule.

The Commission made a preliminary determination to allow the adjustment for port handling and clearing charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Packing cost**

Packing costs refers to the cost of the sticker that is placed on the tyre and/or the plastic cover before the tyre is loaded into the truck for delivery. The Commission found that some tyres such as those sold in the domestic market only uses the sticker while tyres to export markets such as South Africa and the USA use the sticker and the plastic cover. Physical verification of differences in packaging was done in the plant during verification. The total packing cost was verified as the selling expense in the system.

The Commission made a preliminary determination to allow the adjustment for packing cost as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(d) Bank charges**

The Commission found that sales value in the invoice was inclusive of bank charges. The total bank charges for the SACU transactions were verified in the proof of payments for SACU invoices.

The Commission made a preliminary determination to allow adjustment for bank charges as they affected price comparability at the time of setting of prices, they were verified and directly related to export sales to SACU under consideration.

**5.3.4.6 Dumping margin**

After considering all the above normal value and export price information, the weighted average margin of dumping for Prinx Chengshan Thailand was determined to be 6.61% when expressed as a percentage of ex-factory export price.

**5.3.4.7 Comments by the Applicant**

The Applicant requested that the Commission makes the adjustment for cost of payment terms to the export price.

**Commission's consideration**

The verified sales invoices of the SACU customer showed that payment terms are at "LC AT SIGHT". This means that that a letter of credit (LC) is produced at sight as a guarantee that the buyer will pay once they receive the goods. For these terms of payment, no cost of payment terms is charged and therefore none was claimed by Prinx Chengshan Thailand.

**5.3.4.8 Conclusion**

Based on the above, the Commission made a preliminary determination that Prinx Chengshan Thailand is dumping the subject products to SACU.

### **5.3.5 LINGLONG THAILAND**

#### **5.3.5.1 Normal value**

Linglong Thailand produced and sold more than 500 models of tyres for motor cars, trucks, and buses in the domestic market during the reporting period. 165 models of tyres for motor cars, trucks, and buses were sold to SACU during the same period.

#### **5.3.5.2 Normal values based on domestic sales:**

Of the 165 models sold to SACU, the Commission found that only 68 models had comparable models sold in the domestic market. The Commission further found that the domestic sales of the 68 models were made in the ordinary course of trade in line with ADR8.2 and their volumes were sufficient to determine a normal value in line with ADR8.3.

Out of the 68 comparable models in the domestic market, the Commission found that 8 models were sold to customers of different levels of trade compared to SACU customers of the same models. For example, the 8 comparable models were sold to end-users in the domestic market and to distributors in the SACU market. Linglong did not claim any adjustment for differences in levels of trade. Linglong explained that there that the difference in the levels of trade do not affect the price comparability.

The Commission made a preliminary determination to use all the domestic sales of the 68 comparable models, without any adjustment for differences in the levels of trade.

Out of the 68 comparable models sold in the domestic market, the Commission found that 14 models had a mixture of normal sales and free sales (gift tyres). The free sales had no price (value) however incurred a transport cost which Linglong included as part of adjustments claimed for domestic sales. The Commission made a preliminary determination to exclude free sales (both volumes and values of adjustment) when determining the normal values for these 14 comparable models and use only the normal sales to determine normal values for these 14 comparable models.

### **5.3.5.3 Normal value based on construction:**

For the remaining 97 models, the Commission made a preliminary determination to use constructed price to determine the normal values for each model. The constructed normal values were calculated using Linglong's verified costs of production, plus SG&A costs and a reasonable profit which is the actual profit for each model.

### **5.3.5.4 Adjustments claimed on domestic sales**

Linglong claimed that the following adjustments affected the setting of the selling price for domestic sales and therefore requested that the following adjustments be made on domestic sales:

#### **(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the domestic sales schedule. Payment terms were calculated based on actual receipt of payment, using 2.5% interest rate sourced from the Bank of Thailand. Substantiation documents for the average interest rate were provided in this regard.

The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by the actual payment days, and then divided by 360 days.

The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

#### **(b) Discounts**

Linglong Thailand offered discounts to some of their big clients. These are percentage discounts that Linglong Thailand provides to the customers based on higher volumes ordered by the customer. The percentage and amount of the discount were indicated in the invoices of customers that were part of the sample for verification purposes and were verified in Linglong system.

The Commission made a preliminary determination to allow the adjustment for quantity discounts as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Delivery charges**

The sampled purchase orders and commercial invoices showed that Linglong was responsible for and incurred delivery charges for the sale shown in the order and invoice. This was verified by the indication of the delivery terms in the sales contracts between Linglong and its customers that were part of the sampled transactions. The value of transport cost was verified in the invoice from the logistic company and proof of payments.

The Commission made a preliminary determination to allow the adjustment for delivery charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(d) Price adjustment**

Linglong Thailand explained that price adjustment is made when there is an error or clerical error on the invoice which is either discovered by the customer or a salesperson. The error will lead to a credit note or a debit note that results in the adjustment. The credit notes to correct the error were provided in this regard to verify and substantiate the price adjustment for all transactions that were part of the sample.

The Commission made a preliminary determination to allow the adjustment for price adjustment as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(e) Other adjustments**

Linglong claimed other adjustments, i.e., cash discount, bonus points, monthly and yearly rebates, and support of dealer party.

**Cash discounts:** This discount is the mixture of advance payments and early payments. Linglong offered a 2.5% cash discount to customers that pay cash for their goods instead of credit, the discount lessens to 2% if payment is made between 1 and 10 days and 1.5% if they pay between 11 to 30 days. Substantiation documents were provided in this regard and the values of cash discounts for customers that were part of the sample for verification purposes and were verified in Linglong system.

The total values of the cash discount in the supporting documents were the sum of cash discounts and early payments within the days described above. It is the Commission's view that it is only a cash discount (where payment is made in advance) that affects the selling price at the time setting the price. The other discounts that are given for paying earlier are not effective yet at the time of setting the selling price and therefore do not affect the selling price. It is possible that the customer might not pay within 10 days or 30 days, there the price of that customer cannot be set by effecting a discount that is conditional and not yet effective. The Commission found that it was not possible to separate from the total value of the discount only a portion or percentage that relates to advanced payment discount.

**Bonus points:** Linglong Thailand explained that bonus points are part of promotions that the company runs in the domestic market, enjoyed by all customers, whereby 1 bonus point equals 10 Baht. The points are calculated based on estimations and the value of bonus points is allocated to each transaction. These are also communicated annually through a letter to their customers.

**Rebates:** Linglong Thailand claimed adjustments for monthly and yearly rebates. Linglong Thailand explained that each customer has a certain target of purchases it must make within a month and within a year for the customer to qualify for a monthly rebate and a yearly rebate. This is communicated with the client yearly and the targets to be reached monthly are set in the annual communication. Full target (for

both monthly and yearly) equals to full discount of 3%, 90%-99% target equal to reduced discount of 2.5%, and 80%-89% equals to further reduced discount of 2%.

Selling of the subject product to customers takes place on daily basis, it is the Commission's view that discounts that are given for meeting monthly and yearly targets are not effective yet at the time of setting the selling price and therefore do not affect the selling price. It is possible that the customer might not meet the monthly target and qualifies for any of the discounts indicated above, therefore the price of that customer cannot be set by effecting a discount that is conditional and not yet effective.

**Support of dealer party:** Linglong Thailand explained that this this adjustment is made when a customer hosts meetings with its clients to promote Linglong Thailand products. Linglong Thailand will support the customer by paying for such meetings. Linglong Thailand indicated that they would issue a credit note to a sale made should the client have such meetings that are supported by them. The Commission found that this adjustment is not stipulated in any document nor is it related to a sale made.

The Commission made a preliminary determination not to allow other adjustments as they are not directly related to the sale under consideration and not demonstrated to have affected price comparability at the time of setting of prices.

#### **5.3.5.5 SACU export price**

The Commission made a preliminary determination to determine the SACU export price based on the verified information of the 165 models exported to SACU during the reporting period. All sales transactions were made on FOB basis.

#### **5.3.5.6 Adjustments claimed on SACU sales**

Linglong claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

**(a) Inland freight costs**

The delivery terms were shown in on sales invoices to be at FOB level. The inland freight charges were verified in the logistics invoice and accounting vouchers.

The Commission made a preliminary determination to allow the adjustment for inland freight costs as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(b) Port handling charge**

The port handling and customs fees were verified in the logistics invoices and accounting vouchers.

The Commission made a preliminary determination to allow the adjustment for port handling and customs charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the SACU sales schedule. The interest rate used was 2.5% sourced from the Bank of Thailand. Substantiation documents for the average interest rate were provided in this regard.

The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by the days the customer took to pay, and then divided by 365 days.

The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(d) Discounts/rebate cost**

Linglong offered discounts to certain customers during the reporting period. The discounts were reported in percentage rates and were offered to customers based on higher volumes ordered by the customer. Discounts were shown in the commercial invoice as a deducted cost.

The Commission made a preliminary determination to allow the adjustment for discount as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**5.3.5.7 Dumping margin**

After considering all the above normal value and export price information, the weighted average margin of dumping for Linglong Thailand was determined to be 8.25% when expressed as a percentage of ex-factory export price.

**5.3.5.8 Comments by the Applicant**

The Applicant stated that:

- Based on the explanation provided that discounts are allocated based on sales value, it is clear that the discount adjustment is made after the time of setting the prices. The discounts could therefore not have affected price comparability at the time of setting of the price. The Applicant therefore requested the Commission to reject the claim for an adjustment for discounts by Linglong Thailand.
- It is unclear what “price adjustments” is for. The Applicant therefore requested the Commission to treat this adjustment with circumspection and not allow any adjustment that is not directly related to the sale under investigation or that could not have affected price comparability at the time of setting of the price.
- The Applicant requested the Commission to be very circumspect when considering other adjustments such as rebates, cash discounts and bonus point discounts. According to the Applicant, these adjustments are normally only given after the completion of the sale, and therefore could not have affected price comparability at the time of the setting of the price. For this reason, the

Commission's practice has been to reject these opportunistic types of adjustments.

### **Commission's consideration**

The adjustments for discount and price adjustment were interrogated and verified during verification visit of Linglong. Linglong substantiated these adjustments with sufficient documentation and demonstrated that these adjustments directly related to the sale under consideration and affected price comparability at the time of setting of prices. The Commission made a preliminary determination to allow the adjustment for discount and price adjustment.

The Commission considered other adjustments and agreed with the Applicant that such adjustments are not directly related to the sale under consideration and did not affect price comparability at the time of setting of prices. The Commission made a preliminary determination to not allow the adjustments for cash discount, bonus points, monthly and yearly rebates, and support of dealer party.

### **5.3.5.9 Conclusion**

Based on the above, the Commission made a preliminary determination that Linglong Thailand is dumping the subject products to SACU.

### 5.3.6 SAILUN VIETNAM

The domestic sales schedules of Sailun Vietnam showed that Sailun Vietnam sold the subject product in the domestic market in various product models through related customers (aka related parties) i.e., ACTR Co. Ltd (“ACTR”) and Sailun Tire Trading Co. Ltd (“Sailun Trading”). and directly to independent/unrelated customers. Sales to third country markets were made via Sailun (Hong Kong) Co., Limited (“Sailun HK”) which is also a related company.

The Commission made a preliminary determination to use domestic sales transactions between Sailun Vietnam and independent/unrelated customers, taking into account all the necessary adjustments, for purposes of determining the normal values.

According to ADR9.1(a), where a foreign producer sells the subject product on its domestic market through a related party, the normal value shall be determined as the resale price to the first independent buyer, provided that the applicable adjustments are made.

The domestic and export sales information, including the adjustments, from Sailun Trading to first independent buyers in the domestic market and from Sailun HK to first independent buyers in the third country markets were provided and verified. The Commission made a preliminary determination to use sales from Sailun Trading to the first independent customers and sales from Sailun HK to the first independent customers, taking into account all the necessary adjustments, to determine normal values.

Sailun Vietnam explained during verification that although the domestic sales schedules show sales to ACRT, those sales were not resold by ACRT in the Vietnamese domestic market but were all exported to foreign markets. Sailun Vietnam further explained during verification that ACTR is also a producer of the subject product and goods from Sailun Vietnam would go into the bonded warehouse of ACTR as inventory and will be exported later together with other goods produced and sold by ACTR. From this explanation it is clear that the subject product from Sailun Vietnam to ACRT were not for home consumption as required by ADR 8.1(a) Section 32(2)(b)(i) of the ITA Act for purposes of determining the normal value.

Therefore, sales information from ACTR to the first independent buyers in the domestic market were not provided by Sailun Vietnam due to the fact that ACRT's first independent buyers are not in the Vietnamese domestic market.

In this regard, the Commission made a preliminary determination to disregard all sales transactions from Sailun Vietnam to ACRT as they are not for home consumption in Vietnam as required by ADR8.1(a) and Section 32(2)(b)(i) of the ITA Act.

#### **5.3.6.1 Normal value**

Sailun Vietnam produced and sold more than 120 models of tyres for motor cars, trucks, and buses in the domestic market during the reporting period. 81 models of tyres for motor cars, trucks, and buses were sold to SACU during the same period.

#### **5.3.6.2 Normal values based on domestic sales:**

Of the 81 models sold to SACU, the Commission found that only 57 models had comparable models sold in the domestic market. The Commission further found that the domestic sales of the 57 models were made in the ordinary course of trade in line with ADR8.2, however, only 46 models had sufficient volumes to determine a normal value in line with ADR8.3.

The Commission made a preliminary determination to use verified domestic sales information of Sailun Vietnam to unrelated customers and verified domestic sales information of Sailun Trading to first independent customers, to determine normal values for the 46 models.

#### **5.3.6.3 Normal value based on third country sale:**

The Commission a preliminary determination to use sales to a 3<sup>rd</sup> country to determine normal values for 9 models. All foreign countries were tested against the Commission's criteria explained above. Based on the criteria, appropriate third countries were selected and Sailun HK's exports to each of the selected appropriate third countries were used to determine the normal value for each model associated to that appropriate country. The Commission found that the export sales of each model to the selected appropriate third country were made in the ordinary course of

trade in line with ADR8.2 and its volumes were sufficient to determine a normal value in line with ADR8.3.

**5.3.6.4 Normal value based on construction:**

The Commission made a preliminary determination to use constructed price to determine normal values for 26 models. The constructed normal values were calculated using Sailun Vietnam's verified costs of production, plus SG&A costs and a reasonable profit.

**5.3.6.5 Adjustments on domestic sales:**

Sailun Vietnam claimed that the following adjustments affected the setting of the selling price for domestic sales and therefore requested that the following adjustments be made on domestic sales:

**(a) Cost of payment terms**

Payment terms were verified in the commercial invoices and matched those reported in the domestic sales schedule. Payment terms were calculated based on credit days, using 9.32 percent sourced from the World Bank. Substantiation documents for the average interest rate were provided in this regard.

The cost of payment was calculated based on sales value in the invoice, multiplied by average interest rate, multiplied by the credit days, and then divided by 365 days.

The Commission made a preliminary determination to allow the adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(b) Delivery charges**

The sampled purchase orders and commercial invoices showed that Sailun Trading was responsible for and incurred delivery charges for the sale shown in the order and invoice. This was verified by the indication of the delivery terms in the sales contracts between Sailun Trading and its customers that were part of the sampled transactions.

The value of transport cost was verified in the invoice from the logistic company and proof of payments.

The Commission made a preliminary determination to allow the adjustment for delivery charges as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting of prices.

**(c) Selling, General and Administration expenses**

These are the SG&A expenses of Sailun Trading, such as selling expenses, business management expenses, non-operating expenses, incurred for selling the products on behalf of Sailun Vietnam.

The relevant SGA costs were verified from the monthly income statements of Sailun Trading.

The Commission made a preliminary determination to allow adjustments for SG&A expenses as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(d) Rebates**

Sailun Trading offered rebates/compensation based on quantity of sales, defects on quality, and other things as agreed between Sailun Trading and the first independent customer.

**Quality rebates:** It was explained that quality related rebates arise when there are quality issues with the product sold, such as defects that can be attributed to production issues within Sailun Vietnam.

**Quantity rebates:** It was explained that quantity related rebates arise when the transaction volume or value reached a certain level set previously for a given period, as agreed between Sailun Trading and the customer.

**Other rebates:** It was explained that other rebates arise when Sailun Trading grants allowance on miscellaneous and occasional aspects as claim by the customers and agreed mutually.

It was explained that the customer is made aware of the applicable quantity, quality and other rebates through the settlement list statement, which is issued monthly. The settlement list specifies the total amount of each rebate and how it will be allocated. Any outstanding rebates which are not allocated are carried over to the next month. The allocation of these rebates is subject to the confirmation by the relevant customer through the signing of the settlement list.

It was explained that after the agreement with the customers regarding the applicable amount of rebate on quantity, quality and other aspects, Sailun Trading will implement the rebate in the form of deducting the applicable rebate value, or allowances from the original value of goods of the next month sales. The invoice value will reflect the deducted value, which are the same as the revenue recognized. Sailun Trading would maintain the amount of applicable rebate values in its SAP system.

Some of the sampled domestic sales transactions contained rebate documents and Sailun Vietnam provided additional documents to explain the practice of such rebates in the questionnaire response.

Sailun Vietnam allocated rebate values to all domestic customers and all transactions irrespective of whether the customer was entitled to the discount or that particular transaction was entitled to the discount. It was stated that the discount could not be allocated to the respective transaction it applied to due to the customers having voluminous transactions. It was discovered that that many transactions that were not entitled to the rebate were allocated such discount thus distorting the prices of such transactions.

The Commission made a preliminary determination not to allow the adjustments for quality rebates as it was not properly substantiated, not directly related to the sale under consideration and it was not demonstrated to have affected price comparability at the time of setting of prices.

#### **5.3.6.6 Adjustments claimed on third country sales:**

Sailun Vietnam claimed that the following adjustments affected the setting of the selling price for each proposed country's sales and therefore requested that the following adjustments be made on each country's sales:

##### **(a) Quality Rebates**

Sailun Hong Kong offered rebates as a result of defective tyres. A customer is compensated through an offer for a new tyre or a price reduction in the next sale. It was stated that only a few instances took place where customers have opted for a new tyre.

It was stated that customers are aware that they qualify for a price reduction in the next sale through a monthly settlement statement/list which is sent to customers which details the amount of quality rebates allocated and accumulated. The company provided a statement which details the rebates. Sailun Hong Kong would maintain the amount of applicable rebate values in its SAP system.

Sailun Vietnam allocated rebate values to all SACU customers and all transactions irrespective of whether the customer was entitled to the discount or that particular transaction was entitled to the discount. It was stated that the discount could not be allocated to the respective transaction it applied to due to the customers having voluminous transactions. It was discovered that that many transactions that were not entitled to the rebate were allocated such discount thus distorting the prices of such transactions.

The Commission made a preliminary determination not to allow the adjustments for quality rebates as it was not properly substantiated, not directly related to the sale under consideration and it was not demonstrated to have affected price comparability at the time of setting of prices.

**(b) Selling, General and Administration expenses**

These are the SG&A expenses of Sailun Hong Kong, such as selling expenses, business management expenses, non-operating expenses, incurred for facilitating their sales to foreign markets on behalf of Sailun Vietnam.

The relevant SGA costs were verified from the monthly income statements of Sailun Hong Kong.

The Commission made a preliminary determination to allow adjustments for SG&A expenses as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(c) Inland freight costs**

All the sales invoices inspected indicated that Sailun Vietnam delivers the goods to Ho Chi Minh port in Vietnam, destined to different destinations around the world at FOB level. The inland freight charges for the selected customers in the sample were verified in the logistics invoice and proof of payments provided to Sailun Vietnam by the freight forwarding companies on monthly basis.

The Commission made a preliminary determination to allow adjustments for inland freight expenses as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(d) Handling and customs declaration charges**

Sailun Vietnam is responsible for all port, handling and brokerage charges of the goods in Ho Chi Minh port, destined to different destinations around the world at FOB level. The port and handling fees for the selected customers in the sample were verified in the logistics invoice and proof of payments. The Commission made a preliminary determination to allow adjustments for port handling and customs declaration charges as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**5.3.6.7 SACU export price**

Sales to SACU market were made via Sailun HK. Export sales information from Sailun HK to SACU were provided and verified. The SACU sales information, including the adjustments, from Sailun HK to first independent buyers in the domestic market were provided and verified. The Commission made a preliminary determination to use sales from Sailun HK to the SACU customers, taking into account all the necessary adjustments, to determine normal values.

**5.3.6.8 Adjustments claimed on SACU sales**

Sailun Vietnam claimed that the following adjustments affected the setting of the selling price for SACU sales and therefore requested that the following adjustments be made on SACU sales:

**(a) Cost of payment terms**

The payment terms were indicated in the sales contract between the Sailun Hong Kong and the customers in SACU. The cost of payment terms claimed for sales to SACU customers were all calculated based on verified sales value multiplied by the interest rate and multiplied by either 90 or 180 days, and then divided by 365 days. The interest rate used was 5.77 percent sourced from the World Bank. Substantiation document for the average interest rate was provided in this regard.

The Commission made a preliminary determination to allow adjustment for cost of payment terms as it was substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(b) Quality Rebates**

Sailun Hong Kong offered rebates as a result of defective tyres. A customer is compensated through an offer for a new tyre or a price reduction in the next sale. It was stated that only a few instances took place where customers have opted for a new tyre.

It was stated that customers are aware that they qualify for a price reduction in the next sale through a monthly settlement statement/list which is sent to customers which details the amount of quality rebates allocated and accumulated. The company provided a statement which details the rebates. Sailun Hong Kong would maintain the amount of applicable rebate values in its SAP system.

Sailun Vietnam allocated rebate values to all SACU customers and all transactions irrespective of whether the customer was entitled to the discount or that particular transaction was entitled to the discount. It was stated that the discount could not be allocated to the respective transaction it applied to due to the customers having voluminous transactions. It was discovered that that many transactions that were not entitled to the rebate were allocated such discount thus distorting the prices of such transactions.

The Commission made a preliminary determination not to allow the adjustments for quality rebates as it was not properly substantiated, not directly related to the sale under consideration and it was not demonstrated to have affected price comparability at the time of setting of prices.

**(c) Selling, General and Administration expenses**

These are the SG&A expenses of Sailun Hong Kong, such as selling expenses, business management expenses, non-operating expenses, incurred for facilitating their sales to SACU on behalf of Sailun Vietnam.

The relevant SGA costs were verified from the monthly income statements of Sailun Hong Kong.

The Commission made a preliminary determination to allow adjustments for SG&A expenses as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(d) Inland freight costs**

All the sales invoices inspected indicated that Sailun Vietnam delivers the goods to Ho Chi Minh port in Vietnam, destined to Durban at FOB level. The inland freight charges for the selected customers in the sample were verified in the logistics invoice and proof of payments provided to Sailun Vietnam by the freight forwarding companies on monthly basis.

The Commission made a preliminary determination to allow adjustments for inland freight expenses as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**(e) Handling and customs declaration charges**

Sailun Vietnam is responsible for all port, handling and brokerage charges of the goods in Ho Chi Minh port, destined to Durban at FOB level. The port and handling fees for the selected customers in the sample were verified in the logistics invoice and proof of payments.

The Commission made a preliminary determination to allow adjustments for port handling and customs declaration charges as they were substantiated, verifiable, directly related to the sale under consideration and demonstrated to have affected price comparability at the time of setting prices.

**5.3.6.9 Dumping margin**

After considering all the above normal value and export price information, the weighted average margin of dumping for Sailun Vietnam was determined to be 9.46% when expressed as a percentage of ex-factory export price.

**5.3.6.10 Applicant's comments**

The Applicant stated that:

- Quantity rebates as claimed by Sailun Vietnam can only be given after the completion of the sale and therefore could not have affected price comparability at the time of the setting of the price. For this reason, the Commission's practice has been to reject quantity rebates adjustments as claimed by Sailun Vietnam.

- Compensation on quality as claimed by Sailun Vietnam are only made after the sale based on the cost of “defective products”, clearly the cost of quality claims could not have been known at the time of setting the price, therefore this adjustment must be rejected.

### **Commission’s consideration**

The Commission considered the fact that all adjustments are considered on case by case basis. Therefore, the fact that a certain adjustment was rejected before does not guarantee that it will always be rejected. In determining whether an adjustment should be allowed, the Commission is guided by ADR11.2 which states that the adjustments should be requested by the interested party and must be substantiated; verifiable; directly related to the sale under consideration; and clearly demonstrated to have affected price comparability at the time of setting prices.

The adjustments for quality rebates and compensation on quality were interrogated during verification visit of Sailun Vietnam. The Commission assessed these adjustments and considered that such adjustments could not have been known and/or affected price comparability at the time of the setting of the price and thus are not directly related to the sale under consideration. The Commission therefore made a preliminary determination to not allow the rebate adjustments claimed by Sailun Vietnam.

### **5.3.6.11 Conclusion**

Based on the above, the Commission made a preliminary determination that Sailun Vietnam is dumping the subject products to SACU.

### **5.3.7 VIETNAM COFO**

Vietnam Cofo stated that they started production of the subject product in March 2024 and sales in April 2024. Since then, Vietnam Cofo did not sell its product in the domestic market and has not exported the subject products to SACU either. Vietnam Cofo only exports the products to 3<sup>rd</sup> countries.

#### **5.3.7.1 Applicant's comments**

The Applicant stated that the Commission must investigate if Vietnam Cofo did not export the subject product to SACU during the period of investigation by ensuring that Vietnam Cofo can present verifiable substantiation of the allegations.

#### **Commission's consideration**

The on-site verification of Vietnam Cofo confirmed that Vietnam Cofo started its production in March 2024 and sales in April 2024. Since then, Vietnam Cofo did not sell its product in the domestic market and has not exported the subject products to SACU either. Vietnam Cofo only exports the products to 3<sup>rd</sup> countries.

#### **5.3.7.2 Conclusion**

Based on the above, the Commission made a preliminary determination that Vietnam Cofo is not dumping the subject products to SACU.

### **5.3.8 HAOHUA VIETNAM**

Haohua stated that they were registered in Vietnam however were still under construction during period of investigation of the anti-circumvention investigation. Haohua has not started producing and selling the subject products in the domestic market and other markets including the SACU market.

#### **Commission's consideration**

The desktop verification on Haohua confirmed that Haohua's facility officially began its first phase of operations in October 2024, outside the period of investigation. Since then, Haohua has not exported the subject products to SACU.

#### **5.3.8.1 Conclusion**

Based on the above, the Commission made a preliminary determination that Haohua Vietnam is not dumping the subject products to SACU.

### **5.3.9 FIREMAX CAMBODIA**

Firemax stated that they were registered in Cambodia however was still under construction during period of investigation of the anti-circumvention investigation. Firemax has not started producing and selling the subject products in the domestic market and other markets including the SACU market.

#### **Commission's consideration**

The desktop verification of Firemax confirmed that Firemax has invested US\$190 million in the Cambodian production facility to align with the broader trend of Chinese tyre manufacturers venturing into Cambodia, emanating from tight trade barriers imposed by the western markets, particularly the US and Europe, against Chinese tyre imports.

#### **5.3.9.1 Conclusion**

Based on the above, the Commission made a preliminary determination that Firemax Cambodia is not dumping the subject products to SACU.

## **5.4 PRELIMINARY FINDINGS AT A COUNTRY LEVEL**

The following dumping margins were calculated in line with ADR62.3 to satisfy the requirements of ADR60.1(c):

### **5.4.1 General methodology**

Having calculated individual dumping margins for exporters which provided the Commission with proper information, the Commission must calculate the residual margin of dumping for all other exporters who did not respond to the investigation and/or those exporters that are found to be deficient as indicated in paragraph 1.19.3 above.

Specifically, because the exporters listed in paragraph 1.19.3 are deficient and no other exporters from Vietnam, Thailand and Cambodia came forward to establish that they were not related to the Chinese exporters/producers that are subject to the final duties, the dumping margins are calculated to be for all other imports of the subject products from Vietnam, Thailand, and Cambodia.

### **5.4.2 THAILAND**

#### **5.4.2.1 Normal value**

There are 5 exporters/producers from Thailand that submitted properly documented responses. The Commission made a preliminary determination to use the average normal value of the 5 companies, including all models sold in the domestic market, excluding sales made below cost, free sales, and gift sales, to determine the average normal value.

For domestic sales transactions, the exporters/producers from Thailand claimed adjustments for cost of payment terms, inland freight charges, and port handling and customs charges, amongst other adjustments. The Commission made a preliminary determination to allow adjustments cost of payment terms, inland freight charges, and port handling and customs charges as they are common adjustments in the normal trade of the subject product.

The calculated average ex-factory normal value per tyre was converted from Thai Baht to ZAR using a conversion factor of R1= ₪0.520286 sourced from Oanda.com for the reporting period.

#### **5.4.2.2 Export price**

The export price was based on the official import statistics obtained from SARS for the reporting period. To calculate the ex-factory price, the FOB export price per tyre was adjusted by cost of payment terms, inland freight cost, and port handling charges at 3.34%. The average percentage of 3.34% was calculated from the verified export sales schedules of the 5 companies from Thailand.

#### **5.4.2.3 Dumping margin**

The dumping margin was calculated to be 50.52% when expressed as the percentage of ex-factory export price.

#### **5.4.2.4 Conclusion**

Based on the above, the Commission made a preliminary determination that all other non-corporative and deficient exporters/producers from Thailand are dumping the subject products to SACU.

### **5.4.3 VIETNAM**

#### **5.4.3.1 Normal value**

There is one exporter/producer from Vietnam that submitted properly documented responses which contains dumping information, i.e., Sailun Vietnam. The export sales from Sailun Vietnam constituted major proportion of over 40% of the total import volumes from Vietnam during the reporting period. The Commission made a preliminary determination to use domestic sales of all products produced and sold by Sailun Vietnam in the domestic market, excluding sales made below cost, to determine the average normal value.

For domestic sales, Sailun Vietnam claimed adjustments for cost of payment terms, inland freight charges, amongst other adjustments. The Commission made a preliminary determination to allow adjustments for cost of payment terms and inland

freight charges as they are common adjustments in the normal trade of the subject product.

The average ex-factory normal value per tyre was converted from Vietnamese Dong to ZAR using a conversion factor of R1= 0.000757365 VND sourced from Oanda.com for the reporting period.

#### **5.4.3.2 Export price**

The export price was based on the official import statistics obtained from SARS for the reporting period. To calculate the ex-factory price, the FOB export per tyre was adjusted by inland freight and port handling charges at 7.42%. The average percentage of inland freight and port handling charges was calculated from the verified export sales schedules of Sailun Vietnam.

#### **5.4.3.3 Dumping margin**

The dumping margin was calculated to be 78.90% when expressed as a percentage of ex-factory export price.

#### **5.4.3.4 Conclusion**

Based on the above, the Commission made a preliminary determination that all other non-corporative and deficient exporters/producers from Vietnam are dumping the subject products to SACU.

### **5.4.4 CAMBODIA**

Since there are no properly documented and verified responses from Cambodia which contains specific details on dumping information, the best available information was considered for dumping, being the *prima facie* information used and accepted by the Commission when it was making the merit determination of this investigation.

#### **5.4.4.1 Methodology used for normal value**

According to ADR 62.3 the Commission may use the normal values previously established to determine the margin of dumping until such time as the exporter or foreign producer has submitted proper information.

The Commission made a preliminary determination to use the normal values previously established in the original investigation as this is the best information available for purposes of preliminary finding.

In the original investigation the Commission made a final determination to use Sailun Group Co., Ltd. information to calculate the residual anti-dumping duty of 41.47 percent. The basis for this determination was that the company exported a variety of models that cover all tariff subheadings that are subject to this investigation. Sailun Group produced and exported 234 models to SACU during that period and sold to a variety of customers such as distributors, retailers, traders OEM's and individuals who are end users.

The Commission made a preliminary determination to use Sailun Group average normal value that was calculated in the original investigation. The average normal value was adjusted with average Producer Price Index (PPI) for 2021/22, 2022/23, and 2023/24. The PPI percentages were sourced from <https://data.stats.gov.cn/english/easyquery.htm?cn=A01> (accessed on 30 March 2025).

The average normal value was converted from RBM to ZAR using a conversion factor of R0.421129 per 1RMB which was sourced from South African Reserve Bank for the reporting period.

#### **5.4.4.2 Export price**

The export price was based on BOE obtained from SARS for the reporting period. The import information of Arch Importers and Exporters CC was used to determine the export price. Arch Importers and Exporters is one of the importers that demonstrated a clear change in pattern of trade as a result of the PPs in September 2022 and as a result of imposition of final duties in July 2023. The trade pattern of Arch Importers and Exporters CC is demonstrated in table 4.5.2(iii) above. In addition to the change in pattern of trade that coincides with the PPs, and the duties, Arch Importers and Exporters CC has the highest import volumes from Cambodia which covers both motor cars and buses and lorries.

To calculate the ex-factory price, the FOB export price per tyre was adjusted by the cost of payment terms, inland freight, and port handling charges at 5.39%. The average 5.39% was calculated as the average of 3.34% and 7.43% for Thailand and Vietnam respectively.

#### **5.4.4.3 Dumping margin**

The dumping margin was calculated to be 27.98% when expressed as a percentage of ex-factory export price.

#### **5.4.4.4 Conclusion**

Based on the above, the Commission made a preliminary determination that all other non-corporative and deficient exporters/producers from Cambodia are dumping the subject products to SACU.

## 6. MATERIAL INJURY

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According to ADR62.2 the SACU industry is not required to update its injury information, provided that an anti-circumvention application was lodged with the Commission prior or within one year of the publication of the Commission's final determination.

In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Therefore, the Commission did not consider a new set of material injury information but relied on the material injury evidence previously established in the original investigation for purposes of preliminary determination.

In the previous original investigation, the Commission made a final determination that the SACU industry experienced material injury over a three-year period (01 August 2018 to 31 July 2021) in the form of:

- Price suppression;
- Declining sales volume;
- Decrease in market share;
- Decline in output;
- Declining productivity;
- Declining employment;
- Declining utilisation of production capacity; and
- Slowdown in growth

In addition, the Commission made a final determination that the SACU industry was facing a threat of material injury beyond the actual material injury that the Applicant was already experiencing at the time.

### 6.1 Comments from Sentury Thailand

The anti-circumvention application was submitted on 20 August 2024, after the publication of the Commission's final determination on 28 July 2023. This exceeded the one-year limit, and the Applicant did not provide material injury in the application, making the application non-compliant with the regulations. Sentury Thailand stated

that if the Commission insists on continuing with the investigation, the Commission should include a substantive injury analysis.

**Commission's consideration**

The anti-circumvention application from the SACU industry was initially received on 25 July 2024. The date of 20 August 2024 indicated in the application that was sent to interested parties reflects the date of the updated version of the application, after addressing deficiencies. Therefore, the application was lodged with the Commission prior or within one year of the publication of the Commission's final determination (i.e., 28 July 2023). As a result, the SACU industry was/is not required to update its injury information in line with ADR62.2.

The Commission made a preliminary determination that, based on the information considered in the original investigation, the SACU industry is experiencing material injury and a threat of material injury.

## 7. PROVISIONAL PAYMENTS

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### (i) Comments from the Applicant

The applicant stated that:

- the Commission already found that the SACU industry is suffering material injury in the original investigation as a result of the dumped imports from China. Therefore, the practice of country hopping is worsening the injury situation as the SACU industry continue to suffer material injury as a result of, amongst others, the circumvention of the anti-dumping duties on the subject products.
- it appears that there is a real risk that the importers of the subject product from Thailand, Cambodia, and Vietnam will be importing to stockpile the products before the imposition of a final anti-dumping duty. It is the nature of the tyre importers and exporters to do so if provisional duties are not imposed after the preliminary finding was published.
- In order to provide protection to the SACU tyre producers, while the investigation is being finalized, the Commission is requested to make a preliminary determination to impose provisional measures, which will address stockpiling.
- foreign exporters/producers in Cambodia, Thailand and/or Vietnam that decided not to participate in this investigation, whether they are related to the companies in China, or not related, should not be exempted by the Commission in this circumvention review and should be subject to a residual anti-dumping duty.

### (ii) Comments from Sailun

Sailun stated that:

- ITAC normally imposes provisional measures if it is concerned that the SACU Industry will suffer material injury during the course of an original anti-dumping investigation and the SACU Industry needs interim protection pending the conclusion of the investigation. The provisions of the Ant-Circumvention Review in the Anti-dumping Regulations are silent on provisional measures. They are only expressly contemplated in an original investigation, which the present investigation is not.

- The volume of imports from Cambodia to SACU over the period of investigation was *de minimis*. The proportion of imports from Vietnam and Cambodia is insufficient, contributing to less than 7% when expressed as a percentage of the total imports of the subject product to SACU during the period of investigation. Accordingly, there is no material injury attributable to the presence of imports from Vietnam and Cambodia.
- Sailun's imports into SACU are not exported at dumped prices and do not have adverse price effects on the SACU industry.
- In light of the above, Sailun submits that there is no basis in law or in fact for provisional measures to be imposed against Vietnam or Cambodia (and any of the Sailun companies located in those countries), and ITAC is requested not to impose provisional measures.

#### **Commission's consideration**

- The provisions of the ADR are clear regarding the provisional measures in an anti-circumvention review investigation. According to ADR62.3 in particular, the Commission may use the normal values based on proper information received from the exporter or foreign producer and provisional payments may be imposed on the basis of the margin of dumping so determined based on such normal value. In this case the Commission has received proper information from verified exporters/producers to determine margins of dumping that maybe be used as bases to impose provisional measures.
- As stated before, in this report, the purpose of an anti-circumvention review is to establish whether the full remedial effects of the anti-dumping measure are being undermined, not to investigate material injury and causality issues. The issues of injury and negligibility, amongst others, were addressed in the original investigation and there is no need to do it again in a circumvention investigation. There is no provision in ADR60 compelling the SACU industry and/or the Commission to wait for the sufficient volume of imports before an anti-circumvention application can be lodged and initiated.

- The evidence based on proper information in section 4.5.2 above, shows that there were changes in patterns of trade between SACU, the PRC, Thailand, Vietnam, and Cambodia, that stemmed from country hopping practice for which there was no economic justification other than the imposition of the anti-dumping duty, the export volumes from Thailand, Vietnam, and Cambodia undermine the remedial effect of the duty in place, and dumping exists in each of the three countries.
- The preliminary evidence on country level shows that Thailand, Vietnam and Cambodia are circumventing the final duty and are dumping subject product. Similarly, the preliminary evidence on company level shows that Sailun Vietnam (and other 5 companies) is circumventing the final duties through country hopping.
- The Commission agreed with the Applicant that the act of circumvention is likely to exacerbate the material injury that the domestic injury was found to be experiencing during the original investigation.
- Based on the above, the Commission is well within the ADRs to impose provisional payments. In line with ADR33 and ADR62.3, the Commission decided to impose provisional measures to protect the SACU industry against further circumvention and material injury while the investigation is ongoing.

**(iii) Lesser duty rule**

When determining the level of provisional payments and final duties, the Commission shall, in line with ADR17, consider applying the lesser duty rule if both the corresponding importer and exporter have cooperated fully. The lesser duty rule means the provisional payments are imposed at the lesser of the margin of dumping or margin of injury which is deemed to be sufficient to remove the injury. In this case all the responding importers are deficient as reported in paragraph 1.19.3 of this report. Consequently, the lesser duty rule does not apply.

**(iv) Provisional measures**

The Commission decided to impose the following provisional measures, expressed as a percentage of the FOB export price.

**Table 7.1: Provisional payments**

<b>Producers</b>	<b>Provisional measures</b>
Sentury Tire (Thailand) Co. Ltd	7.72% <i>ad valorem</i>
General Rubber (Thailand) Co. Ltd	5.37% <i>ad valorem</i>
Huayi Group (Thailand) Co. Ltd	6.88% <i>ad valorem</i>
Prinx Chengshan (Thailand) Co. Ltd	6.45% <i>ad valorem</i>
LLIT (Thailand) Co. Ltd	7.88% <i>ad valorem</i>
Sailun (Vietnam) Co. Ltd	8.78% <i>ad valorem</i>
All other producers from the Kingdom of Thailand (excluding Sentury Tire Thailand Co. Ltd; General Rubber Thailand Co. Ltd; Huayi Group Thailand Co. Ltd; Prinx Chengshan Thailand Co. Ltd; and LLIT Thailand Co. Ltd)	41.47% <i>ad valorem</i>
All other producers from the Socialist Republic of Vietnam (excluding Sailun Vietnam Co. Ltd; Vietnam Cofo Tires Co. Ltd; and Haohua Vietnam Co., Ltd)	41.47% <i>ad valorem</i>
All other producers from the Kingdom of Cambodia (excluding Firemax Cambodia Co. Ltd)	41.47% <i>ad valorem</i>

**Note:** Dumping margins are calculated in sections 5.3.1; 5.3.2; 5.3.3; 5.3.4; 5.3.5; and 5.3.6 for Sentury Thailand, General Rubber Thailand, Huayi Group Thailand, Prinx Chengshan Thailand, Linglong Thailand, and Sailun Vietnam

The Commission considered that the exporters listed in paragraph 1.19.3 are deficient and no other exporters from Vietnam, Thailand and Cambodia came forward to establish that they were not related to the Chinese exporters/producers that are subject to the final duties. The Commission further considered that although different margins of dumping are calculated for Thailand (50.52%) Vietnam (78.90%) and Cambodia (27.98%) in this anti-circumvention investigation, the residual margin of 41.47% previously established in the original investigation is the required duty rate to protect the SACU industry from suffering further material injury and threat of material injury while the anti-circumvention investigation is ongoing.

Therefore, the Commission made a preliminary determination to extend the provisional measures, at the required level, i.e., original residual level, to all non-cooperative and deficient producers/exporters from Thailand, Vietnam and Cambodia.

## **8. PRELIMINARY DETERMINATION**

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The Commission, after considering all properly documented responses and written comments from interested parties, made a preliminary determination that;

- circumvention of the final duties is taking place in the form of country hopping via the Kingdom of Cambodia, the Kingdom of Thailand, and Socialist Republic of Vietnam.
- the Kingdom of Cambodia, the Kingdom of Thailand, and the Socialist Republic of Vietnam are dumping the subject products to SACU during the reporting period.
- Sentury Thailand; Huayi Group Thailand; Prinx Chengshan Thailand; Linglong Thailand; General Rubber Thailand; and Sailun Vietnam, are circumventing the final duties through country hopping.
- Sentury Thailand; Huayi Group Thailand; Prinx Chengshan Thailand; Linglong Thailand; General Rubber Thailand; and Sailun Vietnam, are dumping the subject products to SACU during the reporting period.
- Vietnam Cofo; Firemax; and Haohua are not circumventing the final duties through country hopping nor dumping the subject products to SACU during the reporting period.
- the SACU industry is experiencing material injury and a threat of material injury.

The Commission decided that provisional measures be imposed for 6 months pending the finalisation of the anti-circumvention investigation as per Table 7.1 on page 142 of this report. Comments submitted by interested parties (within a specified time period) on the preliminary determination will be considered by the Commission prior to making its final determination and recommendation to the Minister.