

**UK Transition Review of Anti-dumping Duties on Certain Pneumatic Tyres  
Used for Buses or Lorries Originating in the People’s Republic of China  
(TD0035)**

**Comments on the Note to Public Files of the Trade Remedies Authority (TRA)**

**Submitted on behalf of the China Rubber Industry Association (CRIA)**

2 October 2023

Reference is made to the captioned proceeding and the UK TRA’s Note to public files, in which the TRA made an initial assessment that a Particular Market Situation (PMS) may exist in the bus and lorry tyre industry in the domestic market of China<sup>1</sup> and the TRA has started to look for an appropriate representative third country as part of the examination, and data from such country may later on be used to construct the normal values of the Chinese exporters.

**1 CRIA’s Preliminary Remarks on the alleged PMS**

First of all, it is CRIA’s principal view that the alleged PMS does not exist in China. CRIA notes that Regulation 7(4) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 specifies the scope of PMS:

A “particular market situation” includes situations where—

- (a) prices are artificially low;
- (b) there is significant barter trade;
- (c) prices reflect non-commercial factors.

As already explained in the response to the “contributor’s questionnaire”, CRIA believes that none of these scenarios exists in the Chinese bus and lorry tyre industry, or the upstream market based on that fact that:

- 1) Pricing for all bus and lorry tyres is negotiated by sellers and customers in market conditions. There is no existence of “artificially low prices”.
- 2) there is also no barter trade.
- 3) There is also no existence of “non-commercial factors”. The Chinese government is not involved in pricing processes.

At the same time, CRIA understands that there are very few state-owned enterprises in the bus and lorry tyre industry and its upstream raw material supply chain.

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<sup>1</sup> CRIA notes that in the Note to public files the TRA made explicitly that a determination on the alleged PMS has not been made.

Even if PMS were to exist, *quod non*, it is evident from the provisions that the mere presence of a PMS is not sufficient for disregarding domestic sales. The TRA must conduct an investigation to see whether the existence of PMS results in incomparability between export prices and domestic prices. In other words, after identifying a PMS, the TRA shall first determine if the PMS inhibits a proper comparison between the domestic sales and the export sales of like goods from the exporting country. In such instances, TRA shall then apply the “non-comparable price” as defined in Regulation 8(1). This involves the construction of a normal value based on either:

- (a) the company’s own costs of production plus a reasonable amount for administrative, selling and general costs and for profits; or
- (b) the price of the like goods when exported to an appropriate third country or territory provided that price is representative.

Only in very exceptional cases where the situation meets the criteria of Regulation 14, can TRA depart from a company’s own book and records and opt for an appropriate third country comparison. This refers to the situation described in Regulation 14(1), where the exporting countries or territories—

- (a) that are not members of the WTO;
- (b) that are members of the WTO but the terms of their membership contain specific provisions regarding the determination of the normal value; or
- (c) where there is a complete or substantially complete monopoly of its trade and where all or substantially all domestic prices are fixed by the government.

CRIA remains confident that China does not fall into any of these categories. Moreover, CRIA notes that this provision imposes more stringent requirements than PMS. Therefore, the mere presence of a PMS does not inherently validate the use of an analogous methodology.

As a conclusion, CRIA wishes to emphasises that:

- (1) PMS does not exist in the Chinese bus and lorry tyre market;
- (2) Even if PMS were to exist, it does not constitute a direct reason for the TRA to disregard the domestic sales;
- (3) In any case, PMS itself is not a sufficient reason for the TRA to depart from a company’s own book and records and find for an appropriate third country.

Nevertheless, in a spirit of good will and full cooperation, CRIA still submits comments on the Note to Public Files, and in particular with regard to the choice of an appropriate representative country. The submission of comments on this issue should however not be interpreted in a way that CRIA reckons that the alleged PMS exist in China with regard to the bus and lorry tyre industry.

## 2 Comments on the Choice of an Appropriate Representative Country

### 2.1 Legal Framework

Section (4) of Article 14 of the Regulation provides that:

“For the purpose of paragraph (3)(a), the TRA may determine whether a third country or territory is an appropriate third country or territory taking into account—

- a) whether and to what extent reliable information is made available to the TRA by overseas exporters in that country or territory at the time of selection;
- b) whether the country or territory has a similar level of economic development to the exporting country or territory; and
- c) any other factors it considers relevant.”

In addition to the general guidelines above, in the current case, the TRA considered the following factors to be specifically relevant when determining an appropriate representative country:

*“These countries were each compared to the PRC using a number of economic indicators, including GDP per capita, life expectancy, and the Human Development Index, in order to assess the economic similarity of each potential choice to the PRC. ... Further consideration was given to the known availability and reliability of data from each of these countries, and whether any existing trade remedy measures are in place relating to the like goods”<sup>2</sup>.*

When examine the economic similarity, CRIA believes that despite of the macro-indicators mentioned above, micro indicators in relation to the industry of the goods subject to review should also be considered, like the production level and the groups of producers. These factors are considered in EU cases when the European Commission decides which country is the appropriate representative country, pursuant to Article 2(6a) of the Basic Anti-Dumping Regulation of the EU:

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

- a) a level of economic development similar to the country;
- b) production of the product under investigation in that country;
- c) availability of relevant readily available data in the representative country
- d) where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.”<sup>3</sup>

To summarize, CRIA understands that when examining an appropriate representative country,

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<sup>2</sup> TD0035, Note to Public File – Proposed Appropriate Representative Third Country.

<sup>3</sup> Section 3.1.4.1, COMMISSION IMPLEMENTING REGULATION (EU) 2022/802 of 20 May 2022 imposing a provisional anti-dumping duty on imports of electrolytic chromium coated steel products originating in the People’s Republic of China and Brazil

TRA would usually compare the possible representative countries with China with regards to:

- a) Economic developments, including GDP per capita, life expectancy, and the Human Development Index;
- b) Production of goods subject to reviews;
- c) Trade remedy measures;
- d) availability and reliability of information and data.

## 2.2 Thailand Should be the Most Appropriate Representative Country

In the Note to Public File, TRA has provisionally chosen Brazil as the representative third country for China among all other countries including Türkiye, Brazil, Thailand, India, the Republic of Korea, and the United States of America, because “*Brazil is found to be suitably comparable to the PRC based on economic development*” and “*the TRA has confirmed access to the required data, and Brazil was deemed most suitable on the basis of lack of known market distortions relevant to bus and lorry tyres*”.

However, CRIA believes that Thailand should be considered the most appropriate representative country rather than Brazil.

### 2.2.1 Economic Development

Even though China, Brazil and Thailand are all classified as upper-middle income’ countries by World Bank<sup>4</sup>, there are slight difference with regards to life expectancy, literacy rate and poverty ratio:

- a) from the newest data of 2021 from the World Bank, Thailand’s life expectancy at birth (79) is closer to which of the PRC (78) than which of Brazil (73)<sup>5</sup>.
- b) the literacy rate of Brazil and Thailand remains the same (94% in 2021)<sup>6</sup>.
- c) the newest poverty ratio (per cent of the population) at \$2.15/day from the World Bank shows that Thailand (0.0%) is closer to China (0.1%) than Brazil (5.8%)<sup>7</sup>.

Considering the above, the preference would be given to Thailand as a more appropriate representative country because it has a closer level of social development to China.

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<sup>4</sup> World Bank Open Data – Upper Middel Income, <https://data.worldbank.org/income-level/upper-middle-income>

<sup>5</sup> Life expectancy at birth in 2021, [Brazil | Data \(worldbank.org\)](#); [China | Data \(worldbank.org\)](#); [Thailand | Data \(worldbank.org\)](#).

<sup>6</sup> Literacy rate, adult total, The World Bank. [https://data.worldbank.org/indicator/SE.ADT.LITR.ZS?name\\_desc=false](https://data.worldbank.org/indicator/SE.ADT.LITR.ZS?name_desc=false).

<sup>7</sup> Poverty headcount ratio at \$2.15 a day (% of population) in 2020/1, [Brazil | Data \(worldbank.org\)](#); [China | Data \(worldbank.org\)](#); [Thailand | Data \(worldbank.org\)](#).

### 2.2.2 Production of the Goods Subject to Review

The similarity of the production industry and market competitiveness of truck and lorries tires make Thailand more similar to China than Brazil.

Domestic producers in Brazil are mainly domestic factories of internationally renowned enterprises, including Sumitomo Rubber do Brasil Ltda., Pirelli Pneus Ltda., Sociedade Michelin de Participacoes, Indústria e Comércio Ltda., Bridgestone do Brasil Indústria e Comércio Ltda., and Continental do Brasil Produtos Automotivos Ltda. Brazil rarely has its own brands on Truck and lorries tires.

However, both Thailand and the PRC have their own brands for truck and lorries tires, which lets the production and industry in these two countries become more similar. In Thailand, domestic factories of internationally renowned enterprises, such as Bridgestone or Michelin, did exit. Thailand also has its own brands, including but not limited to Deestone Company Limited, Vee Rubber Performance Tires, Svizz-one Corporation Ltd., Finixx Global Industry Co., Ltd. and Hihero Co., Ltd. Similarly, the PRC not only has its brands, including but not limited to Double Star Tyres, Double Coin Tire Group Ltd, and Triangle Tyre Co., Ltd., but also has domestic factories of internationally renowned enterprises such as Bridgestone, Michelin or Continentals. Such industrial component structure makes Thailand's production industry more similar to which of China than Brazil.

### 2.2.3 Trade Remedy Measures

Thailand is the most appropriate representative country for China from the perspective of similarity of trade remedy measures history. This history further reflects and influences the level of economic development and production of the truck and lorries tires industry.

China has not implemented any trade remedy measures to foreign truck and lorries tires products, even to foreign rubber-related products.<sup>8</sup> On the other hand, Thailand also has not implemented any trade remedy measures to foreign truck and lorries tires products.

Brazil, however, has initiated trade remedy investigation into foreign truck and lorries tires products from several countries or areas, including China, and imposed anti-dumping duties ranging from 1.12 to 2.59 USD per kilogram on truck and bus tires from China since 2009. The measure keeps continuing up until now.<sup>9</sup> Brazil also initiated a serial of trade remedy investigation against truck and bus tires from South Africa, Korea, Japan, Russia, Thailand and Chinese Taipei and imposed massive antidumping duties.

In light of the above, the Brazilian industry is highly protected by trade measures, and should not be an appropriate representative country of China.

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<sup>8</sup> Refer to the data of China Trade Remedies Information, <http://cacs.mofcom.gov.cn/cacscms/view/searchList>.

<sup>9</sup> See [Intervention 18086: Brazil: Extension of definitive antidumping duty on imports of truck tires from China \(globaltradealert.org\)](http://globaltradealert.org).

#### **2.2.4 Information Accessibility**

In terms of information accessibility, CRIA believes that Thailand is no less appropriate, even more appropriate than Brazil. For detailed comments, CRIA would like to refer to the data and information provided by the Chinese cooperating exporter's comments.

### **3 Conclusion**

CRIA reiterates that the alleged PMS does not exist in the Chinese bus or lorry tyre industry. In any event, CRIA believes that Thailand would be a more appropriate representative country than Brazil, provided that TRA insists on the existence of PMS and decides to use representative country methodology.

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