

**Mr. Parks Tau, MP**

Minister of Trade, Industry and Competition

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**PRETORIA**

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Dear Minister

**MINUTE M10/2024: AMENDMENT OF REPORT NO.714: REPLACING THE WORDS “PRODUCER/EXPORTER” WITH THE WORD “PRODUCER” IN THE COMMISSION’S FINAL DETERMINATION REPORT, WHEN MAKING REFERENCE TO THE FOREIGN PRODUCERS THAT ARE EITHER SUBJECT TO INDIVIDUAL DUMPING DUTIES OR EXCLUDED FROM PAYMENT OF DUMPING DUTIES, AND USING THE WORDS “ALL OTHER PRODUCERS AND EXPORTERS” FOR THOSE COMPANIES THAT ARE SUBJECT TO THE “ALL OTHERS RATE” OR RESIDUAL DUMPING DUTY, IN THE INVESTIGATION ON NEW PNEUMATIC TYRES OF RUBBER OF A KIND USED ON MOTOR CARS AND ON BUSES OR LORRIES ORIGINATING IN OR IMPORTED FROM THE PEOPLE’S REPUBLIC OF CHINA.**

## **1. PURPOSE**

To request the approval of the Minister of Trade, Industry and Competition (“the Minister”) for the International Trade Administration Commission of South Africa (the Commission) to amend its Report No. 714 in order to give effect to the following proposed changes: (i) to replace the words “produce or exporter” in the Report with the word “producer” when referring to the participating Chinese producers that are subject to individual anti-dumping duties or a *de minimis* margin of dumping and therefore not subject to anti-dumping duties, and (ii) to use the words “all other producers and exporters” for those Chinese producers that are subject to the “all others rate”, meaning the residual anti-dumping duty

## 2. BACKGROUND

On 30 May 2023, the Commission made a final determination to recommend to the then Minister of Trade, Industry and Competition that definitive anti-dumping duties on imports of 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), originating in or imported from the People's Republic of China, be imposed through Report No. 714. The Minister approved the Commission's recommendations, and the recommendations were implemented by the South African Revenue Service (SARS) on 28 July 2023.

## 3. DISCUSSION

3.1 Following the implementation of Report No. 714 by SARS, it was discovered that there were several inaccuracies and omissions in the Report, which lead to it being amended through Minute M08/2023. The Minute was implemented on 02 February 2024 to correct the following inaccuracies and omissions among the 64 Chinese producers listed in Report No. 714:

- Correct the names of two companies, Double Coin Group (Jiang Su) Tyre Co., Ltd., and Qingdao Fullrun Tyre Tech Corp., Ltd., which had been captured incorrectly in Report No.714 and the initial the *Government Gazette* notice;
- Include Cooper (Kunshan) Tire Co., Ltd., which had been omitted in the list of companies meant to receive a weighted average dumping duty.
- Correct the references to Zhaoqing Junhong Co., Ltd., which had been listed twice in the *Government Gazette*.
- Remove Qingzhou Detail International Trading Co., Ltd., Shandong Gallop Rubber Co., Ltd., Wuchan Zhongda Chemical Group Co., Ltd., Navigator Rubber Co., Ltd., and Guangrao Taihua International Trade Co., Ltd., companies that had been erroneously included in the list of exporters entitled to receive the weighted average anti-dumping duty of 14.56% *ad valorem*. These exporters should have been excluded from the list of companies receiving an individual anti-dumping duty as they were found by the Commission to be non-cooperating parties due to them having submitted their responses after the deadline date and therefore should have received the residual anti-dumping duty.



3.2 Following the implementation of Minute 08/2023, the Commission was alerted by the Southern African Customs Union (SACU) industry that it had reason to believe that the applicable anti-dumping duties were not being paid by the SACU importers of the subject products. In subsequent discussions between ITAC and SARS, SARS explained that this situation stemmed from certain wording in Report No. 714, which created a loophole for importers to claim lower duty rates or avoid paying anti-dumping duties all together.

3.3 SARS pointed to the use of the words “producer or exporter” in Report No. 714, which wording is used in ITAC’s reports to identify foreign manufacturers entitled to individual (or no) anti-dumping duties, as providing leeway for various traders to claim, first, that they are “exporters” and, second, that their exports of the subject products were on behalf of either Chinese producer entitled to paying no anti-dumping duty, or paying low(er) individual anti-dumping duties. The effect of this conduct is that importers who are sourcing tyres from these “exporters” are paying lower or no anti-dumping duties than would otherwise be the case.

In this regard, it should be noted that exporters and producers that did not participate in the investigation are subject to the “all others” rate, or residual dumping duty, of 41.47% *ad valorem*, which means that imports of tyres from these parties would pay the highest dumping margin resulting from ITAC’s investigation.

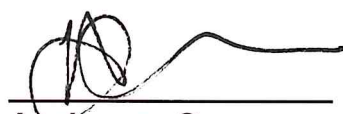
3.4 The aforementioned situation has arisen because the Commission in its investigations utilises the words “producer” or “exporter” (and foreign producer) interchangeably when referring to foreign manufacturers that are subject to its investigations. Therefore, to address this loophole going forward, the Commission will only refer to “producer”, specifically when it relates to the implementation and administration of trade remedy measures by SARS, when listing foreign producers entitled to an individual anti-dumping duty.

3.5 Furthermore, in light of the change in the wording related to individual anti-dumping duties, it proposed that the wording for imports subject to the “all others” rate (residual dumping margin) be amended as well to provide additional clarification. Therefore, the current wording, “producers/exporters” will be replaced with the wording, “all other producers and exporters” to highlight that these parties are different from the “producers” subject to individual anti-dumping duties.

3.6 Finally, it should be noted that the individual dumping duties listed in the Commission's Report No.714 and Minute M08/2023 are only applicable to those participating foreign producers listed, and no dumping duty is applied to the participating foreign producer that had a *de minimis* dumping margin. Therefore, any other non-participating foreign producer and exporter that is not listed will be subject to the "all others" rate or residual dumping duty.

#### 4. RECOMMENDATION

It is recommended that the Minister approves the amendment to the Commission's Report No. 714 and Minute M08/2023, the purpose of which is to replace the words "produce or exporter" with the word "producer" when referring to the participating producers subject to individual dumping duties and the participating producer with a *de minimis* dumping margin, and therefore not subject to anti-dumping duties. It is also recommended that the words "producer/exporters" which relates to all producers and exporters that did not participate in the investigation and are subject to the residual anti-dumping duty of 41.47% *ad valorem* be replaced with the words "all other producers and exporters".



**Ayabonga Cawe**  
**Chief Commissioner**

Date: 04/11/2024