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COMMISSION REGULATION (EU) No 404/2010

of 10 May 2010

imposing a provisional anti-dumping duty on imports of certain aluminium wheels originating in the People's Republic of China

(OJ L 117, 11.5.2010, p. 64)

Corrected by:

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imposing a provisional anti-dumping duty on imports of certain aluminium wheels originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation') and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 13 August 2009, the Commission announced, by a notice published in the *Official Journal of the European Union* [2], the initiation of an anti-dumping proceeding with regard to imports into the Union of certain aluminium road wheels originating in the People's Republic of China (the 'country concerned' or 'the PRC').

(2) The proceeding was initiated as a result of a complaint lodged on 30 June 2009 by the Association of European wheel manufacturers (EUWA) ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain aluminium wheels. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, the Union producers mentioned in the complaint, other known producers in the Union, exporting producers in the PRC, importers, traders, users, suppliers and associations known to be concerned, and the representatives of the PRC of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(5) In view of the large number of exporting producers in the PRC, importers and Union producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury in

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ C 190, 13.8.2009, p. 22.

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accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers, importers and Union producers were asked to make themselves known to the Commission and to provide information specified in the notice of initiation.

(6) A total of 36 companies or groups of related companies ('groups') in the PRC came forward and provided the requested information within the given deadline. These 36 companies or groups produced and/or exported the product concerned to the European Union market during the investigation period and expressed a wish to be included in the sample. They were regarded as co-operating companies and were considered for inclusion in the sample. The level of cooperation from the PRC, i.e. the percentage of exports to the EU by the Chinese cooperating companies as compared to all Chinese exports to the EU, was more than 90 %.

(7) After consulting the parties concerned in accordance with Article 17(2) of the basic Regulation, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which can reasonably be investigated within the time available and also taking into account the geographical spread of the co-operating companies or groups. The sample selected consists of four (groups of) companies, representing 47 % of the exports to the EU of the 36 co-operating companies or groups, and around 43 % of the total exports to the EU from the PRC. The authorities of the PRC and the Chinese Chamber of Commerce agreed on the choice of sample made by the Commission but requested the inclusion of at least two additional (groups of) companies in the sample. However, given the fact that the sample initially selected consists of 20 companies belonging to 4 groups, it was decided that no more companies or groups could be added since this would not permit completion of investigations within the statutory time limits.

(8) Five exporting producers in the PRC, which were not included in the sample, requested individual examination and provided the relevant information within the given deadline, with a view to the application of Articles 9(6) and 17(3) of the basic Regulation. However, in view of the size of the sample which concerned 4 groups with many companies involved, the Commission concludes, in accordance with Article 17(3) of the basic Regulation, that no individual examination of exporting producers in the PRC not included in the sample can be granted because this would be unduly burdensome and would prevent completion of the investigation in good time.

(9) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual examination in accordance with Article 17(3) of the basic Regulation, if they so wished, the Commission sent claim forms to the Chinese exporting producers that made such request and to the Chinese authorities.

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(10) The Notice of initiation was sent to around 40 Union producers of aluminium road wheels (ARWs). 17 replies were received. 5 groups of companies were sampled as they were found to be representative of the total Union production in terms of sales volumes and production in the EU (more than 75 %) geographical coverage and type of activity, i.e. Original Equipment Manufacturer (OEM) and so-called aftermarket (AM) sales, see recital (19) *et seq* for further details. Although the majority of sales of the sampled EU producers' sales were directed to the OEM segment, 2 of the sampled producers also sold to the AM segment. Non-complaining companies were also represented in the sample.

(11) During the investigation, parties put forward further arguments concerning alleged differences between the OEM and AM segments. In order to obtain more relevant information, it was decided to extend the sample to one additional (major) producer active in the AM segment.

(12) Complainants requested that their names be kept confidential for fear that they could face retaliation by customers or competitors. The Commission took the view that there was indeed a significant possibility of retaliation and accepted that the names should not be disclosed. After initiation, all cooperating companies agreed to release their names in their capacity as co-operators but not, where applicable, in their capacity as complainants.

(13) The Notice of initiation was sent to around 80 importers and importers/users of ARWs. 40 replies were received from companies representing around one third of total imports from China. 12 of these replies were received from importers and the rest from importing users. 7 companies were sampled (5 importers and 2 importing users).

(14) The Commission sent questionnaires to the 6 Union producers selected in the sample, to the exporting producers in the sample selected for the PRC and to those who requested IT, to the 7 importers selected in the sample. In addition, questionnaires were sent to users and cooperating other producers.

(15) Questionnaire replies were received from the 4 sampled Chinese exporting producers and from 5 Chinese exporting producers requesting IT in accordance with Article 17(3) of the basic Regulation. Replies were also received from the 6 sampled Union producers, 3 importers not related to an exporting producer, from 9 other EU producers and 13 users. Submissions were also received from the Chinese Chamber of Commerce, and from two associations of users.

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(16) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of the following companies:

(a) Union producers:

— Borbet group:

Borbet Solingen GmbH — Germany

— Heyes Lemmerz group:

Heyes Lemmerz Alukola, s.r.o. — Czech Republic

Heyes Lemmerz Italy Holding s.r.l. — Italy

— Ronal group:

Ronal AG — Switzerland

Ronal Polska Sp. z o.o. — Poland

— Speedline s.r.l. — Italy

— Mapsa S. Coop. L. — Spain

— AEZ — Germany

— Française de Roues S.A.S.V. — France

(b) Exporting producer sand their related companies in the PRC:

— Baoding Lizhong Wheels manufacturing Co. Ltd. (Baoding)

— Zhejiang Wanfeng Auto Wheel Co. Ltd (Wanfeng)

— YHI Manufacturing (Shanghai) Co., Ltd (YHI)

— CITIC Dicastal Wheel Manufacturing (CITIC)

(c) Related companies in the Union:

— OZ Deutschland, Biberbach (Germany)

— OZ SpA, Bassano del Grappa (Italy)

(d) Related companies in Singapore:

— OZ Asia

— YHI Manufacturing

(e) Users:

— Renault — France

— BMW — Germany

(17) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from Turkey as analogue country took place at the premises of the following companies:

(f) Producers in Turkey:

— CMS Jant ve Makina Sanayi A.Ş.

— Hayes Lemmerz İnci Aluminyum.

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3. **Investigation period**

(18) The investigation of dumping and injury covered the period from 1 July 2008 to 30 June 2009 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the IP (the period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(19) The product concerned is defined as aluminium road wheels of the motor vehicles of CN headings 8701 to 8705, whether or not with their accessories and whether or not fitted with tyres originating in the People's Republic of China (the product concerned), currently falling within CN codes ex 8708 70 10 and ex 8708 70 50.

(20) The product concerned is sold in the Union via two distribution channels: to the Original Equipment Manufacturer (OEM) segment and to the so-called aftermarket (AM) segment. In the OEM segment, car manufacturers organize tender procedures for ARWs (around two years before the launch of a new car model) and are involved in the process of developing a new wheel which will bear their brand name. Both Union producers and Chinese exporters compete in the same tenders. In the AM sector, ARWs are designed, developed and branded by ARW producers to be then sold to wholesalers, retailers, tuning companies, car repair shops, etc.

(21) One exporter claimed that the ARWs destined for the OEM segment should be excluded from the product scope of the proceeding because they are fitted only on a new car while the ARWs destined to the AM segment are meant to replace the OEM wheel during the lifetime of a car model. The argument is self-contradictory because it confirms that 'AM ARWs' are made to fit and perform to the same degree as 'OEM ARWs'. In fact the 'AM ARWs' can be produced by means of different production processes ([1]), in all diameters and weights, with all different types of finishing, etc. The difference between the 'OEM and AM' ARWs relates solely to the different channels of distribution which result in the involvement of the car industry in the process of developing and designing the wheel. It has also been claimed that the price setting of 'OEM and AM' ARWs differs, the former being linked to the changing London Metal Exchange (LME) price. Indeed, the car manufacturers use a so called zero-base price formula. It consists of three elements: (1) aluminium price (variable, linked to LME), (2) value added, transformation costs, and (3) a fixed quality premium. This

([1]) Cast, flow-formed, forged and two- and three-part wheels.

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price setting method is adjusted to the needs of the car industry, but the cost components of both 'OEM and AM' ARW are the same.

(22) Consequently, although the 'OEM and AM' ARW have different channels of distribution they share the same physical and technical characteristics and are interchangeable. They are thus considered to constitute one single, homogenous product. In addition, ARWs are sold and imported from China in significant quantities via both sales channels. In the light of these findings, it is provisionally concluded that the exclusion of the 'OEM ARW' from the product scope of the investigation is not warranted.

(23) An interested party claimed that wheels for go-karts should be excluded because go-karts would fall out of CN headings 8701 to 8705. Nevertheless, the party failed to conclusively show that go-karts cannot be included within the above-mentioned CN headings; therefore, the claim was provisionally rejected.

(24) The same party claimed that wheels for all-terrain vehicles (ATVs) should also be excluded from the product scope, because those wheels would be fundamentally different from wheels manufactured for other motor vehicles. Nevertheless, certain ATVs could be classified in the CN headings 8701 to 8705 and therefore their wheels fall within the product scope of this investigation. As a consequence, this claim was provisionally rejected.

2. **Like product**

(25) The product concerned and the aluminium road wheels produced and sold on the domestic market of the PRC, and on the domestic market of Turkey, which served provisionally as an analogue country, as well as the aluminium road wheels produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. **DUMPING**

1. **Market Economy Treatment**

(26) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly and for ease of reference only, these criteria are set out in summarised form below:

— Business decisions are made in response to market signals, without significant State interference, and costs reflect market values;

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

— There are no significant distortions carried over from the former non-market economy system;

— Bankruptcy and Property laws guarantee stability and legal certainty; and

— Exchange rate conversions are carried out at market rates.

(27) In the present investigation, all sampled exporting groups requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.

(28) For all sampled exporting groups, the Commission sought all information deemed necessary and verified information submitted in the MET claim at the premises of the groups in question.

(29) The investigation revealed that MET could not be granted to any of the four Chinese company groups as none of them fulfilled all the criteria set out in Article 2(7)(c) of the basic Regulation, for the following reasons.

Criterion 1

(30) All sampled exporting groups failed to demonstrate that they fulfil Criterion 1 because of State interference in decisions concerning the main raw material (aluminium).

(31) Indeed, in all sampled groups, it appears that the vast majority of aluminium used for the production of aluminium road wheels is acquired in the Chinese domestic market on the basis of long term contracts. Prices are based on quotations of primary aluminium on the Chinese spot markets plus a transformation fee (and in the case of one company also on the Shanghai Futures Exchange (SHFE)). In this respect, it has to be pointed out that quotation on the spot markets run in parallel with the SHFE.

(32) In this regard, it has to be noted that the Chinese State has a primary role in the setting of prices of primary aluminium and interferes in the market continuously with a number of tools.

(33) First, primary aluminium for export is subject to a 17 % VAT (while VAT on exports of finished goods is refunded) plus a 15 % export tax.

(34) Secondly, the State interferes with the price setting mechanisms in the Shanghai Futures Exchange (SHFE) which is a closed exchange for Chinese-registered companies and Chinese citizens. This State interference with the price setting mechanisms in the SHFE is linked to its position both as a seller of primary aluminium and as a purchaser via the State Reserve Bureau and other State Bodies. In addition, the State sets daily price limits

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via the rules of the SHFE which have been approved by the State Regulator, the China Securities Regulatory Commission (the CSRC).

(35) Another example of State interference is the recent stimulus package of the Chinese Government aiming at limiting the effects of the economic crisis. End of 2008, the State Reserves Bureau started a scheme to buy aluminium from smelters to help their operations as the global financial crisis cut demand. Those State-backed purchases absorbed most of the stocks in the domestic market, driving up prices during the first half of 2009.

(36) This was considered as an underlying factor of State interference in decisions of firms regarding raw materials. Indeed, the current Chinese system of high export duties and lack of VAT reimbursement for export of primary aluminium and other raw materials, combined with no export taxes and VAT reimbursement on exports of the downstream product and State interference in the setting of prices in the SHFE, has essentially led to a situation where Chinese aluminium prices continue to be the result of State intervention. This has led to the situation that, historically, prices in the LME have diverged significantly from those in the Chinese market ([1]). Between half 2005 and the end of 2008. LME prices have been significantly higher compared to the Chinese markets, underlining the lack of any meaningful arbitrage between Chinese markets and markets in the rest of the world.

(37) Thus, the multiple State-induced distortions in the Chinese primary aluminium prices affect the decisions of Chinese producers of aluminium wheels when acquiring raw materials. In addition, these enjoy an advantage from these distortions, in the sense that they normally make their purchases in the Chinese market from local suppliers using Chinese spot markets prices (or SHFE) as a benchmark but can also buy certain quantities at LME prices when prices in the Chinese market are higher as a result of State intervention.

(38) Moreover, in addition to the general situation described above, three other groups do not fulfil other requirements of Criterion 1 because of significant State interference in relation to important business decisions. For one of the groups, a State-owned company has veto rights disproportionate to its shareholding in two of its companies on certain main decisions. For most of the companies of another group, some main decisions are subject to significant State interference either because the companies are 100 % State-owned or because the director representing the State-owned shareholder has veto rights on important company decisions. Moreover, despite the companies' assertion to the contrary, the investigation has revealed that the local State

([1]) Exceptionally, this has not been the case for some months of the investigation period of the present proceeding. This rise in prices in the Chinese aluminium markets has been the result of a stimulus package of the Chinese Government aiming at limiting the effects of the economic crisis (End of 2008, the State Reserves Bureau started a scheme to buy aluminium from smelters to help their operations as the global financial crisis cut demand. Those State-backed purchases absorbed most of the stocks in the domestic market in March and April, driving up prices during the first half of 2009).

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labour Department has veto rights concerning employment of workers in two of these companies. Finally, in the case of a third group, the family that controls the group has links with the ruling party and one of the companies belonging to the group is subject to significant State interference for certain important decisions given that the director representing a State-owned shareholder has a veto right on important company decisions.

Criterion 2

(39) For one group, there is a clear breach of the basic accounting principles in all its companies. In particular IAS 1 (Presentation of Financial Statements), IAS 12 (Income taxes) and IAS 16 (Property, Plant and Equipment) were not respected. It is therefore considered that the accounts were not prepared and audited in line with International Accounting Standards. For another group the Commission's services found non-compliance with IAS 1 and IAS 31.

Criterion 3

(40) For one group, there are clear distortions in relation to land use rights and acquisition of fixed assets for several companies and most companies belonging to the group have benefited from preferential tax regimes, tax refunds and subsidies which constitute distortions carried over from the non-market economy system. These distortions were significant, measured for example in terms of turnover.

(41) Concerning another sampled group, three of its companies have benefited from preferential tax regimes which constitute distortions carried over from the non-market economy system. These distortions can be considered as significant for example in terms of turnover.

(42) It also appears for another group that two of its companies do not comply with Criterion 3. The first one has paid the land use right with a long delay after the due date, without incurring any penalty, despite the fact that penalties were clearly stated in the contract. This meant a direct support by the State (which is the ultimate owner of the land) in the start-up phase of the company. As for the second company, it was established following a purchase of the assets of a State-owned producer of aluminium wheels at non-market conditions which translated into an undue advantage in the initial phase of the company's life.

(43) A group claimed that the purchase of assets from a State-owned producer was carried out under market conditions. Nevertheless, the party failed to demonstrate that the whole of the operation could be considered as free from distortions carried over from the former non-market economy system.

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(44) Finally companies belonging to another group enjoyed significant tax exemptions and financial support which had significant impact on their financial situation, measured for example in terms of turnover.

(45) The Commission officially disclosed the results of the MET findings to the exporting groups concerned in the PRC, the authorities of the PRC, the Chinese Chamber of Commerce and the complainant. They were also given an opportunity to make their views known in writing and to request a hearing if there were particular reasons to be heard.

(46) One group challenged the fact that the Commission had failed to decide on MET within the three-months deadline established in the basic Regulation, claiming that the exporters had taken all the necessary steps before this deadline to make it possible for the Commission to know what effect its decision concerning that status might have on the calculation of the dumping margin. In other words, it is claimed MET should be assessed within the three months deadline whenever answers to the anti-dumping questionnaires have been provided within that deadline. Otherwise, there is a risk that the information provided in the anti-dumping questionnaire can have an impact on the decision to grant MET.

(47) However, in the circumstances of the present case, it should be stressed that a decision on MET could not be taken within the 3 months deadline because most of the information regarding MET was collected during the verification visits which finished beyond the three month deadline. In any event, as explained above, the decision to refuse MET to the sample exporting groups was exclusively based on a thorough assessment of the relevant 5 MET criteria laid out in Article 2(7)(c) of the basic Regulation.

(48) In relation to Criterion 1 it has been claimed that there is indeed arbitrage between the Chinese markets and the LME because there have been some minor exports of aluminium to/from China during the Investigation Period. This argument cannot be accepted in view of divergences of price levels between the Chinese markets and the LME.

(49) As for Criterion 2 a number of issues were raised regarding some of the incompatibilities with different IAS found by the Commission in the accounts of two companies. However, nothing in the arguments put forward allow concluding that any of these two companies has a clear set of accounting records independently audited in line with International Accounting Standards.

(50) In relation to Criterion 3 several arguments have been put forward. First it has been claimed that the impact of financial support, land rights and other advantages such as tax exemptions did not cause significant distortions on the financial situation of the companies. This argument cannot be accepted since the impact of those schemes is significant if measured in terms of turnover.

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(51) It has also been pointed out that a number of support schemes and fiscal advantages were not company specific and therefore, it cannot be considered that they are the result of a carry-over effect of the non-market economy system. In this respect, it has to be underlined that the analysis in MET pertains to whether there is State interference whether or not it is specific to any company. In any event, the factual basis of the allegation is incorrect. Indeed, advantages enjoyed by the companies in the present case can be considered as company-specific because they are all targeted to a certain type of companies: e.g.: being a foreign company, being established in a given area and having carried out *ad hoc* negotiations with the local authorities to receive subsidies, purchasing domestic equipment, technology upgrading, participation on fairs, R&D investments etc.

(52) Finally, it has been put forward that income tax exemptions and deductions for foreign companies that entered into force in 2005 do not constitute a distortion carried over from the non-market economy system. This interpretation cannot be accepted. Indeed, Criterion 3 does not refer to actions limited in time (up to 1998 when China started to apply Market Economy rules) or in their scope, but to actions that imply the involvement of the State in shaping the business environment through measures that are typical of a non-market economy, such as discriminatory tax rates.

(53) On the basis of the above, none of the PRC companies that had requested MET could show that they fulfilled the criteria set out in Article 2(7)(c) of the basic Regulation. It was therefore considered that MET should be rejected for all these companies. The Advisory Committee was consulted and did not object to these conclusions.

2. **Individual Treatment**

(54) Pursuant to Article 2(7)(a) of the basic Regulation a country-wide duty, if any, is established for countries falling under Article 2(7) of the basic Regulation, except in those cases where companies are able to demonstrate, in accordance with Article 9(5) of the basic Regulation, that their export prices and quantities as well as the conditions and terms of the sales are freely determined, that exchange rates are carried out at market rates, and that any State interference is not such as to permit circumvention of measures if exporters are given different rates of duty.

(55) All exporting groups which requested MET also claimed individual treatment in the event they would not be granted MET. On the basis of the information available, it is provisionally established that two of the four sampled groups in the PRC meet all the requirements for individual, treatment. Two sampled groups are denied individual treatment. Indeed, State interference in CITIC Dicastal and Baoding is such that it permits circumvention of measures if individual exporters are given different rates of duty in particular having regard to the

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fact that these two groups have two common joint ventures producing the product concerned.

(56) ►C1 Of the four sampled exporting groups in the PRC, individual treatment should be granted to the following groups: ◄

— Zhejiang Wanfeng Auto Wheel Co. Ltd.

— YHI Manufacturing (Shanghai) Co., Ltd.

3. **Normal value**

3.1. *Choice of analogue country*

(57) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET has to be established on the basis of the domestic prices or constructed normal value in an analogue country.

(58) In the notice of initiation, the Commission indicated its intention to use Turkey as an appropriate analogue country for the purpose of establishing normal value and interested parties were invited to comment on this.

(59) Only one exporter has objected to this choice and has proposed Malaysia as an alternative country but stated at a later stage that Malaysian companies were not willing to co-operate with the Commission.

(60) The Commission examined whether Turkey was a reasonable choice of analogue country. It was concluded that Turkey, with five national producers and significant imports from third countries is a market with a high degree of competition. Furthermore, there were no significant differences in the production process between producers in Turkey and in the People's Republic of China. Having regard to the above, the investigation showed no reason, to consider that Turkey was not adequate for the purpose of establishing normal value. Moreover, Turkish producers sell product types comparable to those exported by the PRC.

(61) Two producers in Turkey responded to the questionnaire sent to all producers of aluminium wheels in Turkey.

(62) The data submitted in the cooperating Turkish producers' replies were verified *in situ* and were found to be reliable information on which a normal value could be based.

(63) It is therefore provisionally concluded that Turkey is an appropriate and reasonable analogue country in accordance with Article 2(7)(a) of the basic Regulation.

3.2. *Determination of normal value*

(64) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the producer in the analogue country as set out below:

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(65) The product concerned was sold in representative quantities on the Turkish domestic market.

(66) It was analysed whether it could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period.

(67) Where sales volume of a product type, sold at net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether the sales were profitable or not.

(68) Where the volume of profitable sales of a product type represent 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only.

(69) For one product type where no profitable sales were made, normal value was based on the manufacturing costs of the product type sold in the domestic market, plus selling, general and administrative costs ('SG&A costs') and a reasonable value for profit on the domestic market.

(70) Finally, for a limited number of product types, normal value was calculated on the basis of normal value for comparable types of products making adjustments for physical differences.

3.3. *Export prices*

(71) In all cases where the product concerned was exported to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation, namely, on the basis of export prices actually paid or payable.

(72) In cases where sales were made via a related importer or trader, the export prices were constructed in accordance with Article 2(9) of the basic Regulation on the basis of the resale prices of that related importer/importer to first independent customers in the Union. Adjustments were made for all costs incurred between importation and resale including sales, general and administrative expenses and profit. With respect to profit margin, the profit realised by an unrelated importer/trader of the product concerned was used since the actual profit of the related importer/trader was not considered reliable because of the relationship between the exporting producers and the related importer/trader.

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3.4. *Comparison*

(73) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(74) The price comparison between the wheels exported from the PRC and those sold on the Turkish market by the Turkish cooperating producers was made by distinguishing sales to OEMs and sales in the After-market.

(75) In addition to the above, appropriate adjustments concerning transport, insurance, handling and ancillary costs, packing, credit, indirect taxation and bank charges were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

4. **Dumping margins**

4.1. *For the sampled cooperating exporting producers granted IT*

(76) For the two sampled companies granted IT, dumping margins were established by comparing the weighted average normal value established for the Turkish producers who cooperated fully with each company's weighted average export price to the Union, as provided for in Article 2(11) of the basic Regulation.

(77) The dumping margins expressed as a percentage of the import price at the European Union border, duty unpaid, are the following:

Company	Dumping Margin
YHI Manufacturing (Shanghai) Co. Ltd	36,7 %
Zhejiang Wanfeng Auto Wheel Co. Ltd	61,8 %

4.2. *For all other cooperating exporting producers*

(78) The dumping margin for sampled companies not granted MET or IT and for the non-sampled cooperating companies was calculated as a weighted average of the results of all sampled companies. For the two companies not granted MET nor IT the calculations were made in the same manner as described in paragraph 76. The dumping margin expressed as a percentage of the import price at the European Union border, duty unpaid is 48,7 %.

4.3. *For all other exporting producers*

(79) Given that cooperation from the PRC was very high, the country-wide dumping margin applicable to all other exporters in the PRC was calculated using the highest dumping margin established on the basis of transactions made by one cooperating exporting producer. Therefore, the residual dumping margin expressed as

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a percentage of the import price at the European Union border, duty unpaid amounts to 69,3 %.

D. **INJURY**

1. **Union production**

(80) ARWs are produced by around 30 companies, located in many EU countries. The companies that supported the complaint and co-operated in the investigation represented more than 85 % of the total Union production in the IP.

(81) The total Union production and the support for the investigation has been established on the basis of all available information, including information provided in the complaint, data collected from Union producers before and after the initiation of the investigation, information obtained from the sampled producers, and other co-operating producers. This information allowed confirming the existence and the level of production also of those producers which did not cooperate in the investigation.

(82) One sampled producer was found to import and resell the product concerned on the Union market from the PRC. However, by comparison to its overall sales, the imports remain marginal and do not affect its qualification as Union producer.

2. **Union Consumption**

(83) During the period considered the Union consumption developed as follows.

Union Consumption	2006	2007	2008	IP
Units (in 000)	58 607	62 442	58 313	49 508
Index 2006 = 100	*100*	*107*	*99*	*84*

(84) Union consumption ([1]) has been established by adding imports based on Eurostat data to the EU sales from Union producers. Imports of ARWs are covered by 2 ex CN codes which include also other products. In order to assess the part of ARWs under each CN code, their share imported under CN codes 8708 70 10 and 8708 70 50 was established country by country on the basis of the methodology suggested in the complaint. As imports were reported in weight, the conversion into units was also made with reference to the methodology suggested in the complaint (using an average weight per unit). These data were cross-checked with and confirmed by data supplied by the sampled Chinese exporters. EU deliveries were calculated by adding those made by the sampled Union producers with those made by the other

([1]) Two calculations of consumption were compared and yielded similar results. As most production is 'on order', stocks do not play a major role in terms of volumes as compared to total consumption. In the first calculation EU production was added to imports and exports were deducted. In the second calculation imports and EU sales (data from sampled producers, mini questionnaires, and assumption for the rest of producers) were summed up. The second option was preferred as it allows a higher level of precision in this case.

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producers (data collected at the pre-initiation stage, obtained from the complaint, certain estimates made on the basis of data of sampled producers).

(85) Overall, consumption decreased by 15,5 % over the period considered but it followed an uneven trend, with a major decrease of 15,1 % between 2008 and the IP. It increased from 58,6 million units in 2006, to 62,4 million units in 2007 to then drop to 58,3 million units in 2008 and to 49,5 million units in the IP.

3. **Imports from the PRC**

3.1. *Volume and market share of imports of the product concerned*

(86) The evolution of imports from the PRC, in volume and market share, has been the following:

Import volumes in 000 units	2006	2007	2008	IP
PRC	3 703	5 144	5 809	6 137
Index 2006 = 100	*100*	*139*	*157*	*166*
Market share (%)	6,3	8,2	10	12,4

Source: Eurostat and data on Union sales of Union producers.

(87) The volume of Chinese imports increased from 3,7 million units in 2006, to 5,1 million units in 2007, 5,8 million units in 2008 and to 6,1 million units in the IP. It thus increased more than 66 % between 2006 and the IP.

(88) The market share of Chinese imports doubled. It increased from 6,3 % in 2006, to 8,2 % in 2007, to 10 % in 2008 and 12,4 % in the IP. Overall, the Chinese imports gained 6,1 percentage points of market share over the period considered.

3.2. *Prices of imports*

(89) The table below compares the average Chinese import prices (based on Eurostat as exporter questionnaires only relate to the IP but not to the preceding years) with the average sales prices of the sampled Union producers.

Euros/unit	2006	2007	2008	IP
China	34,7	33,5	31,4	31,9
Sampled EU producers	49,7	49,7	48	46,5
Differential	15	16,2	16,6	14,6

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(90) The average import prices from the PRC fell continuously between 2006 and 2008 by 9,5 % to then increase slightly in the IP by 0,5 %. Over the period considered prices fell by 8 %.

(91) Based on this price comparison, it can be concluded that the Chinese import prices, in overall terms, were continuously and significantly below the sampled producers' prices over the period considered, forcing the latter to important reductions of their own prices.

3.3. *Price undercutting*

3.3.1. General remarks

(92) The current case is characterised by the segmental split into two distribution channels, i.e. the OEM and the AM segment. In addition, the majority of Union producers' sales concentrate on the OEM segment, whereas Chinese imports are directed mainly to the AM segment (around 70 % of imports from the PRC). Thus, there is an asymmetry in the segmental channelling of sales from the Union industry on the one hand and Chinese imports on the other hand.

3.3.2. Undercutting

(93) A comparison of sales prices on the Union market was made between the prices of the sampled Union industry and imports from the country concerned. The relevant sales prices of the sampled Union industry were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Union and after deduction of discounts and rebates.

(94) These prices were compared with prices charged by the Chinese exporting producers net of discounts and adjusted where necessary to CIF Union frontier with an appropriate adjustment for the customs clearance costs and post-importation costs.

(95) The comparison showed that during the IP, imports of the product concerned were sold in the Union at prices which undercut the Union industry's prices, when expressed as a percentage of the latter by between 22 and 37 %, based on the data submitted by the cooperating exporting producers. From this level of undercutting and the negative price development of the Union industry, it is clear that substantial price depression had taken place.

(96) Some parties claimed that the level of undercutting should be calculated by reference to the 'value added' component of the price only (excluding aluminium cost). Indeed, using this methodology would lead to an even higher level of undercutting. However, given that the levels of undercutting calculated with reference to the full price were already substantial, this method was not further explored.

(97) The high level of undercutting coupled with the price depression (see recital (89) *et seq*) on the part of the Union industry demonstrates the pronounced effect of dumping in this case.

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(98) In order to pre-empt any possible questions as to differences between the two segments a separate analysis based on the same methodology as described above has been made for both segments. Undercutting remains substantial both those segments (between 13 and 30 % for OEM sales and between 56 and 63 % for AM sales).

4. **Imports from third countries other than PRC**

(99) The following table demonstrates the developments of imports from third countries other than the PRC.

Import volumes in 000 units	2006	2007	2008	IP
Turkey	4 140	4 522	4 021	3 426
Index 2006 = 100	*100*	*109*	*97*	*83*
Market share (%)	7,1	7,2	6,9	6,9
Norway	1 079	1 210	1 106	520
Index 2006 = 100	*100*	*112*	*102*	*48*
Market share (%)	1,8	1,9	1,9	1,1
South Africa	490	851	790	700
Index 2006 = 100	*100*	*173*	*161*	*143*
Market share (%)	0,8	1,4	1,4	1,4
Others	3 746	4 029	3 690	2 928
Index 2006 = 100	*100*	*108*	*99*	*78*
Market share (%)	6,4	6,5	6,3	5,9

(100) As seen in the above, Turkey is the second largest importer after PRC with a substantial but relatively stable market share. Imports from third countries other than the PRC and Turkey decreased their market share from 9 % in 2006 to 8,4 % in the IP. The impact of prices of those imports on the situation of the Union industry is discussed in recitals (136) *et seq*.

5. **Situation of the Union industry**

5.1. *General*

(101) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry from 2006 to the IP.

(102) As explained above, the provisions on sampling had to be used. For the purpose of the injury analysis, the injury indicators have been analysed at the following two levels.

— The macro-economic indicators (production, production capacity, capacity utilisation, sales volumes, market share, employment, productivity, wages and magnitude of

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dumping margins) were assessed at the level of the entire Union production. They are principally derived from questionnaires submitted by the six sampled companies and from the additional mini-questionnaires. These questionnaires relate to companies representing more than 80 % of the total Union production. In order to cover the entire Union production certain extrapolations have been made for the remaining production in addition to data available from various sources, most notably data from the complaint and data collected at the pre-initiation stage. All these factors were cross-checked whenever possible with overall information provided in relevant statistics.

— The analysis of micro-economic elements (stocks, sales prices, profitability, cash flow, return on investment, ability to raise capital and investments, production costs) was carried out for individual companies, i.e. at the level of those Union producers that were included in the sample.

5.2. *Macro-economic indicators*

5.2.1. Production, production capacity and capacity utilisation

(103) The table below indicates the evolution of production, production capacity and capacity utilisation on the basis of the total Union production:

	2006	2007	2008	IP
Production (units)	49 711	49 511	45 269	37 687
Indices 2006 = 100	*100*	*100*	*91*	*76*
Production capacity (units)	53 762	53 378	53 819	51 588
Indices 2006 = 100	*100*	*99*	*100*	*96*
Capacity utilisation (%)	92,5	92,8	84,1	73,1
Indices 2006 = 100	*100*	*100*	*91*	*79*

(104) As shown in the table above, production remained relatively stable at around 49,5 million units in 2006 and 2007, and then dropped to 45,2 million units in 2008 and 37,6 million units in the IP, a decrease of 24 % over the period considered. The capacity utilisation rate dropped 19,4 percentage points over the same period.

(105) The main cause of the decrease in capacity utilisation, in the presence of a decrease in capacity, can only be attributed to the significant decrease in production.

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5.2.2. Sales volumes and market share

(106) The figures below present the sales volume, market share and average unit sales prices on the basis of all Union producers.

	2006	2007	2008	IP
Sales volume entire Union industry in 000 units	45 447	46 684	42 895	35 794
Indices 2006 = 100	*100*	*103*	*94*	*79*
Market share (%)	78	75	74	72
Indices 2006 = 100	*100*	*97*	*95*	*93*

(107) EU sales increased from 45,4 million units in 2006 to 46,6 million units in 2007 and then dropped to 42,8 million units in 2008 and 35,7 million units in the IP. In total, EU sales decreased by 21 % over the period considered.

(108) All EU producers lost market share continuously, from 78 % in 2006 to 75 % in 2007, 74 % in 2008 and 72 % in the IP. It is a total loss of 6 percentage points over the period considered. At the same time Chinese imports gained around 6 percentage points of market share.

5.2.3. Employment, productivity and wages

	2006	2007	2008	IP
Number of employees	14 204	14 818	14 309	12 981
Indices 2006 = 100	*100*	*104*	*101*	*91*
Productivity (unit/employee)	3 500	3 341	3 164	2 903
Indices 2006 = 100	*100*	*95*	*90*	*83*
Yearly wages (EUR)	22 371	20 007	18 649	18 420
Indices 2006 = 100	*100*	*89*	*83*	*82*

(109) Employment increased from 14 204 employees at the end of 2006 to 14 818 employees at the end of 2007, decreased to 14 309 employees at the end of 2008 and further dropped to 12 981 employees at the end of the IP. Notably between 2008 and the IP, there is a loss of 1 328 jobs corresponding to more than one tenth of the workforce in six months.

(110) In parallel, productivity developed from 3 500 units per employee in 2006 to 3 341 units per employee in 2007, 3 164 units per employee in 2008 and 2 903 units per employee in the IP. The drop of productivity in particular between 2008 and the IP can be explained with the fact that the resizing of the workforce did not go at the same pace as the drop in production. This is explained by the limited possibility for this industry for reconversion or

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temporary shutting down of machinery and heavy costs related to personnel contributions in case of lay offs. The investigation showed that in particular between 2008 and the IP, the employment numbers declined. The cost of wages decreased in the period considered. The investments made by the Union industry during the IP are expected to further increase its efficiency and productivity in the mid and long term.

5.2.4. Magnitude of the actual margin of dumping

(111) The dumping margins are specified above in the dumping section. All margins established are significantly above the *de minimis* level. Furthermore, given the volumes and the prices of the dumped imports, the impact of the actual margin of dumping cannot be considered to be negligible.

5.2.5. Contract landscape

(112) As indicated in recital (20) *et seq* the majority of Union-produced ARWs are sold through tender procedures organized on average two years before the launch of a new car model. The Commission therefore also investigated contracts concluded in the period considered (which would be executed after the IP) in order to establish whether any conclusions can be drawn on the likely development of deliveries on the part of the Union industry post IP. The data collected does however not allow for well-founded conclusions at this stage and will be hence further investigated.

5.3. *Micro-economic indicators*

5.3.1. General remark

(113) 3 of the 6 sampled producers are large groups with production facilities in several Member States while the three others have lighter structures concentrated in one or two Member States. During the period under investigation, 3 production sites of the sampled producers were closed down, the first one in 2006, the second in 2008 slightly before the IP and the last one towards the end of the IP.

5.3.2. Stocks

(114) The figures below represent the volume of stocks of the sampled Union producers at the end of each period:

	2006	2007	2008	IP
Stocks (in 000 units)	2 204	2 444	2 359	2 173
Index 2006 = 100	*100*	*111*	*107*	*99*

(115) Stocks remained below 12 % of the production. It is recalled that this indicator is not very relevant as production of ARWs takes

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place by the Union industry to a very large extent to order; stock at a determined point in time is mostly the result of goods sold but not yet delivered.

5.3.3. Sales prices

(116) Unit selling prices of EU sampled producers were stable in 2006 and 2007 at around 49 Euros per unit but decreased to 48 Euros per unit in 2008 and 46,5 Euros per unit in the IP. This corresponds to a decrease of over 6 % over the period considered, and also shows a very substantial drop in the IP (see table at recital (89)).

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

(117) Profitability for the like product was established by expressing the pre-tax net profit of the sales of the like product, by the sampled companies, as the percentage of the turnover of such sales. Whilst the profitability for 2006 and 2007 was still over break-even, the situation drastically changed in 2008 and the IP due to a combination of decreasing sales volumes and a reduction in sales prices, with an inelastic cost structure of the industry with high fixed costs.

	2006	2007	2008	IP
Profitability (%)	3,2	0,7	– 1,5	– 5,4

(118) The trend for the investments in the product concerned of the sampled Union producers is shown in the following table.

EUR	2006	2007	2008	IP
Investments (in 000 Euros)	96 335	99 279	161 803	153 724
Indices 2006 = 100	*100*	*103*	*168*	*160*

(119) The table demonstrates that the Union industry has increased its investments in the product concerned, even when facing decreasing profitability. The investments were mainly made for machinery in order to improve efficiency. These increasing investments show that the industry still had the ability to raise capital.

(120) However, despite these efforts, the return on investments (ROI) of the product concerned collapsed during the period considered, reaching – 40 % in the IP. This confirms the erosion of profitability of the industry and its inability to generate profit from investments.

	2006	2007	2008	IP
Return on Investments (RoI)	50,8 %	12,2 %	– 13,5 %	– 40,8 %
Indices 2006 = 100	*100*	*24*	*– 27*	*– 80*

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	2006	2007	2008	IP
Cash Flow (as percentage of turnover)	9,3 %	4,4 %	3,6 %	1,2 %
Indices 2006 = 100	*100*	*47*	*39*	*13*

(121) The sampled producers experienced also a drop in operational cash flow of 8.1 percentage points over the period considered which reflects to a large extent the decrease in profitability. The collapse of such indicator cannot be attributed to the increase in investments but has to be derived from the operational business generating less cash. In fact, as the industry structurally requires constant injections of cash for fixed assets, the drop in cash flow reveals the increasing weakness of the Union industry and its inability to rely on self-financing.

5.3.5. Production costs and cost of raw materials

(122) The table below develops the average cost per tonne of product concerned for the sampled producers.

In Euros	2006	2007	2008	IP
Average cost of production (per unit)	49,3	49,7	50,5	49,2

(123) The average cost remained constant over the period considered at a level of around 50 Euros per unit on average.

6. **Conclusion on injury**

(124) On these grounds, it is provisionally concluded that Union industry suffered material injury. This conclusion is indeed reinforced by the number of companies or production sites that would have closed (5 in the OEM segment) or that would have gone under insolvency procedures (21 in the AM and 4 in the OEM segment) over the period considered.

E. **CAUSATION**

1. **Introduction**

(125) In accordance with Article 3(6) and (7) of the basic Regulation it was examined whether the material injury suffered by the Union industry has been caused by the dumped imports from the countries concerned. Furthermore, known factors other than dumped imports, which might have injured the Union industry, were examined to ensure that any injury caused by those factors was not attributed to dumped imports.

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2. **Impact of the imports from the PRC**

2.1. *General*

(126) There is a clear coincidence in time between the increase of dumped imports which gained 6 percentage points of market share between 2006 and the IP, and a parallel loss of market share of 6 percentage points suffered by the Union producers over the same period. The investigation has also established the existence of negative price effects of dumped imports which continuously undercut prices of Union producers.

(127) One party claimed that the market share of Chinese imports is too small to cause material injury. However, an overall market share of 12 % in a price sensitive market (and especially so on the OEM segment) cannot be considered small.

(128) It is further recalled that import volumes from the PRC increased by around 65 % and their estimated market share almost doubled during the period considered. In addition, as has been explained at recital (86) *et seq*, import prices from the PRC fell by 8 % (see recital (89) *et seq*) and substantial price undercutting was taking place (see recital (93) *et seq*). Indeed, it is the steep increase of imports and the substantial price undercutting found that are the chief factors to be considered in this case.

(129) The Union industry reacted to the injurious dumping by reducing its prices since 2007. However, due to the price pressure exerted by the Chinese imports, the Union industry was not in a position to keep its market share even at reduced prices. In the tendering processes on the OEM segment, it has been found that the low-priced Chinese offers have played a key role in the reduction of the prices offered by the Union industry. However, despite price reductions on the part of the Union industry, the average sales price of the Chinese imports remained lower than the Union industry's prices. As a result, sales by the Union industry fell significantly in the period considered. Given that Chinese prices in the IP had dropped further in comparison to 2006, the Union industry had again to decrease its prices in order to remain in business. Its profitability dropped below the break even point — which will not allow it to continue its operations over time.

(130) It is therefore evident that there is a strong link between the significant increase in import volumes at ever lower prices and the injury observed with the Union industry. It can therefore be concluded, at this stage, that there is a causal link between Chinese low-priced imports and the material injury suffered by the Union industry.

2.2. *Segmental split within the product concerned*

(131) It has been argued that OEM and AM are two separate sales channels, without any significant interaction between them. On this basis, it has notably been claimed that the injury of the Union industry, which channels most of its sales to the OEM segment (85 % for sampled producers), could not have been caused by Chinese imports which concentrate predominantly on the AM segment and have limited OEM presence.

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(132) Although the distribution channels are indeed separate, according to the Commission's findings, some interaction, although not direct, may nevertheless be taking place. However, in order to have the most complete picture possible of the situation at hand, the two segments have also been considered separately.

(133) On the AM segment, the injury found can certainly be attributed to the high volumes of low-priced Chinese imports which account for up to 34 % on this segment. In the OEM segment, which constitutes the major part of the EU consumption (35 million units out of around 50), the Chinese presence in terms of volumes is much smaller (with a maximum of 6 %). However, as already explained it has to be borne in mind that the injury suffered in relation to OEM sales is triggered by the low Chinese prices and is indeed price-related. More specifically, there are indications that the car makers use the Chinese offers as a benchmark with the effect of forcing down the prices of the EU ARWs producers in the tendering processes. In order to remain present on the market, the Union producers indeed have no choice but to give in and reduce their prices.

(134) Further, it cannot be excluded that downward price trends on the AM segment have an effect on the OEM prices. Indeed, a comparison of average AM and OEM prices showed that while the latter were on average higher than the former until 2007, this has changed in 2008 and the IP. This shows that the price pressure on the OEM segment has been much more pronounced over the last years.

(135) Therefore, it is provisionally considered that Chinese imports have caused injury to the Union industry both on the AM and the OEM segments. This will in any event be further investigated.

3. **Effects of other factors**

3.1. *Impact of imports from third countries other than the PRC*

3.1.1. Impact of imports from Turkey

(136) As shown in recital (99) *et seq*, Turkey is the second largest importer after China. Over the period considered, Turkish imports held a market share of around 7 % on the EU market. The table below compares the prices of imports from all third countries with those of the EU producers.

In Euros/unit	2006	2007	2008	IP
Turkey	40,8	42,6	52,4	40,7
Sampled EU producers	49,7	49,7	48	46,5
China	34,7	33,5	31,4	31,9
Differential Turkey/EU producers	8,9	7,1	4,4	5,8

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In Euros/unit	2006	2007	2008	IP
Differential China/EU producers	15	16,2	16,6	14,6

(137) Over the period considered, Turkish prices were continuously lower than those of the sampled EU producers, except in 2008. In the IP, the price differential between Turkish and Union producers prices amounted at EUR 5,7 (+/– 12,3 % of EU prices) while the corresponding price differential for China amounted at EUR 14,5 (+/– 31 %). On these grounds, it is reasonable to provisionally conclude that in the IP, the lower prices of imports from Turkey had some negative impact on the situation of the EU industry, but not to a significant extent susceptible of breaking the causal link between dumped imports from China and the injury suffered by the Union industry.

3.1.2. Impact of imports from third countries other than Turkey

(138) As far as imports from countries other than China and Turkey are concerned, their cumulated market share decreased from 9 % in 2006 to 8,3 % in the IP (see recital (99)). Corresponding prices remained close to those of the Union producers over the same period. On these grounds, it is considered that imports from third countries other than China and Turkey did not contribute to the injury suffered by the Union industry.

3.2. *Impact of the economic crisis*

(139) Some parties claimed that imports from China were absorbed by an increase in EU consumption in 2007 and that the decrease in consumption in 2008 coincided with the economic downturn and the parallel contraction of sales of the car industry. According to this argument, these factors were the key causes of the weak performance by the Union industry.

(140) The economic crisis indeed negatively affected the situation of the Union industry due to shrinking consumption levels and downward price effects. Between 2008 and the IP, consumption dropped by 14,5 %.

(141) The ARWs producers operate in symbiosis with the car industry which was seriously affected by the crisis. The table below shows the development of car production volumes in Europe in the period considered. It is true that cars incorporate either aluminium or steel ARWs, with the proportion being difficult to establish. However, there are no indications that this proportion would have significantly changed over the period considered. Therefore, it cannot be excluded that the drop in the volume of production of cars — which indeed decreased dramatically from the end of 2008 to the IP, would have an impact on the sales volume of ARWs producers. The table below show that the decrease in production volume was indeed more than 15 % between 2008 and the IP.

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In EU 27	2006	2007	2008	IP
Production in Europe (in 000 units)	16 198	17 103	15 947	13 443

(142) However, the analysis of the economic indicators of the Union industry shows that the downward trend started well before the economic crisis and coincided in time with the start of the market penetration by Chinese imports. The profitability figures for example demonstrate that the downward trend began between 2006 and 2007 (decrease by 2,5 percentage points), continued between 2007 and 2008 (another decrease by 2,2 percentage points) to reach an extreme decrease by 6,9 percentage points between 2008 and the IP.

(143) Further, the Chinese imports continued to increase their presence on the market despite the contracting consumption, reaching 12,4 % in the IP. Their volumes and market share were steadily growing and their prices continuously undercut those of the EU industry. However, one would reasonably have expected that the crisis should affect all market operators in a similar way. Yet, as explained above, Chinese imports increased at prices that substantially undercut EU prices in the situation at hand. Therefore, it is not unreasonable to conclude that if it had not been for the economic crisis, the volumes and market share of Chinese imports would have increased even more.

(144) On these grounds, it is reasonable to assume that the economic downturn, even if it contributed to the injury suffered by the Union industry, does not appear on its own to be a factor that would break the causal link between the dumped imports and the material injury. To the contrary, volumes of imports from China should normally have decreased in line with the drop of consumption as did imports from other third countries and most notably the sales by the EU industry (which, it is recalled decreased commensurately with the Chinese imports increase).

3.3. *Impact of changes in export performance of the Union industry*

(145) Export activity of the Union producers remained low over the period considered (less than 2 % of total sales of EU sampled producers). It could not therefore have any negative impact on the weak situation of the Union industry and cannot break the causal link.

3.4. *Competition between Union producers and concentration on the EU market*

(146) The number of producers of ARWs (about thirty) operating on the EU market suggests that the EU market is very competitive although it is also characterised by a high level of industrial concentration with the 3 largest companies holding a share of 60 % of total production, 2 others of around 8 % and then 4 of around 4 %. Available data on production volumes shows that the other producers are small or medium size companies.

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(147) It should be noted that a number of smaller producers closed down their production before 2008, in 2008 and in the IP. This could suggest that the competition amongst Union producers — and the apparent ongoing concentration process — have contributed to the injury suffered by the Union industry. However, the data of the investigation show that it is not only the small producers that are affected. Indeed larger and smaller producers are similarly influenced by the developments at hand. Therefore, it cannot be concluded that competition amongst Union producers has contributed in any significant manner to the material injury suffered by the Union industry.

3.5. *Consumer preferences regarding steel and ARWs*

(148) It was argued that the shrinking demand for ARWs could be an economic crisis-related change in consumer preferences which might turn to less expensive steel wheels. No element was however submitted in support of this allegation. At this stage, and in the absence of any data on file supporting the argument, no such development could be confirmed.

3.6. *Product mix*

(149) Some parties claimed that the increase of Chinese imports was due to an increased demand for specific high end technology types of wheels produced in the PRC (i.e. forged or flow-formed wheels), which would not be (in any significant quantity) produced in the EU. Therefore, the imports from the PRC could not have caused injury to the Union industry. The investigation has however established that those imports constituted only a very small fraction of total imports from the PRC. Therefore the argument had to be rejected.

4. **Conclusion on causation**

(150) It should be recalled that in this case, it has been found there has been a significant decrease of production and sales, loss of market share, as well as price depression leading to losses of the Union industry. Import volumes from the PRC, which undercut substantially the Union industry prices, as well as their market share have increased during the same period of time.

(151) The Commission has also analysed all other factors that might have contributed to the material injury suffered by the Union industry. In this respect, it was found that the economic crisis, the imports from Turkey and the competition between Union producers leading to a concentration process may have had some impact on the injury situation. However, it is provisionally concluded that their impact is not such as to break the causal link between the dumped imports and the injury found, as detailed above.

(152) Based on the above analysis of the effects of all known factors on the situation of the Union industry, it is therefore provisionally concluded that there is a causal link between the dumped imports from the PRC and the material injury suffered by the Union industry.

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F. **UNION INTEREST**

1. **Interest of the Union industry**

(153) This case found a high level of cooperation and support from the Union production (more than 70 %). This suggests that the imposition of measures is clearly in the interest of the EU producers.

(154) The investigation showed that the Union industry is suffering material injury because of the effects of dumped imports which undercut its prices as elaborated in recital (93) *et seq*.

(155) It can be expected that the Union industry will benefit from the measures which would likely prevent a further surge of dumped, low-priced imports.

(156) Should measures not be imposed, it can be expected that the increase of low-priced, dumped ARWs, in particular on the AM segment, will continue if not increase. It can further not be excluded that the increasing price pressure on and penetration of the AM segment will have at least an indirect effect on the situation on the OEM segment. In this respect, it has been found that certain producers in the country concerned are moving or have already moved to the middle and upper end of the AM segment and then further on to the OEM segment — with very low prices. This development can be expected to continue and in turn will very likely endanger also the large group of Union producers active in the OEM segment. As the financial situation and profitability of those producers is not robust enough to withstand further price pressure exerted by dumped imports that considerably undercut their prices, this would lead very likely to the progressive demise of a large number of Union producers, if not their totality.

2. **Interest of importers**

(157) In the sampling exercise (see recital (13) above), 5 unrelated importers and 2 importing users were chosen on the basis of their volume of imports.

(158) The cooperation of unrelated importers in general accounts for less than 10 % of the total volume of imports from the PRC.

(159) The investigation showed that most of the importers are traders specialized in car accessories. Amongst them, 2 categories can be distinguished. One category consists of companies that import and resell their own branded ARWs, the production of which they have outsourced to the PRC. However they are not related to the Chinese exporters. This category of importers usually has not insignificant ‘added value’ activities in the EU (e.g. design, research and development), and sometimes even their own distribution chain, with a corresponding level of employment. The second category consists of importers/distributors which are traders focussing more on volumes and less on the brand. These importers in general have lower cost structures and less added value activities in the Union.

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(160) The low level of co-operation of unrelated importers suggests that the imposition of measures would not have any significant impact on their activity. Indeed, for the cooperating importers/distributors it was found that re-sales of Chinese ARWs represent between 1 % and 6 % of their total turnover. The situation of outsourcing companies is more complex as Chinese ARW re-sales can represent almost the totality of their business. Measures, if any would certainly have an impact on their activity — even if it is difficult to evaluate the exact magnitude at this stage. This matter will be further investigated.

3. **Interest of users**

3.1. *General*

(161) Users' questionnaires were sent to around 20 identified users. 13 car manufacturers co-operated with the investigation. Two associations representing users and importers of 'OEM and AM' ARWs also co-operated.

(162) The imports of co-operating users account for 19 % of total imports from the PRC based on Eurostat data. Eurostat figures do not allow for a precise identification whether import sales were made to the OEM or the AM segment. As mentioned above in recital (133) a differentiation between the OEM and AM segments could nevertheless be made, showing that the OEM segment would account for between 20 and 30 % of the total imports from the PRC. On these grounds it is reasonable to assume that cooperation from the OEM segment was very high.

(163) Car manufacturers on average appear to rely on Chinese supplies only to a limited extent. When considered individually, the co-operating car manufacturers employ different business models. Some do not import from China at all, others import less than 5 %, but some import up to 30 % of their needs.

(164) Both importing and non-importing users oppose measures. One of their main arguments is that car manufacturers have an interest in retaining diverse sources of supply and in benefiting from competition on the wheel market. Measures would make them overly dependent on a limited number of European producers. However, this argument in itself does not appear decisive because of the existence of significant imports from other third countries.

3.2. *Cost of measures*

(165) ARWs represent about 1 % of the cost of a car. A measure of 20 % on ARWs would thus lead to a cost increase of 0,2 %. For those car makers which import at the maximum 5 % of their ARWs from China, the total cost increase in terms of overall car production would thus be 5 % of 0,2 %, i.e. 0,01 %. But even for those car makers which import up to 30 % of their

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ARWs from China, the total cost increase would be 30 % of 0,2 %, i.e. 0,06 %. Hence, measures would have a very limited cost impact. In addition, it is apparently not an uncommon feature that ARWs imported by car makers at a given price (50 Euros for arguments' sake) are sold to the final consumer at the three-to fourfold price (i.e. 200 Euros).

3.3. *Cost of switching the supplier*

(166) As explained above, OEM ARWs are usually developed 2 years before the launch of a new car model. Any change of supplier requires time (at least 6 months) and could also trigger additional costs of tooling. However, the investigation has shown that most car manufacturers diversify their sources of supply as a matter of course, i.e. they share the production of a specific ARW between 2 (or more) producers. This dual sourcing is also undertaken in relation to those models which are sourced from the PRC, in order to ensure the security of supply. It seems therefore that the risk of having to switch supplier is already factored into the decision to source from the PRC. Furthermore, contracts collected during the investigation show that car manufacturers generally may terminate the contract at any time without penalty.

3.4. *Additional arguments raised by parties*

(167) Some parties claimed that the imposition of duties on ARWs originating in the PRC would give an advantage to South Korean car manufacturers, in addition to the 0 % duty on cars under the forthcoming Free Trade Agreement (FTA). According to this argument, South Korean car manufacturers would continue to have access to low-priced Chinese ARWs, and could even claim duty drawback for cars exported to the EU (duty paid on imports of certain car parts can be claimed back upon exportation of that car). An anti-dumping measure on Chinese ARWs would put European car makers at a competitive disadvantage with respect to South Korean cars imported into the EU at 0 % duty.

(168) In this respect it has to be noted that the market share of cars originating in South Korea amounts currently to only 3 % of the EU car market. While it is difficult to foresee the import evolution for Korean cars, but having regard to the very limited direct cost impact of measures on the EU car makers, it cannot at this stage be concluded that the imposition of an anti-dumping on ARWs from China would play any meaningful role in that respect.

4. **Interest of consumers**

(169) No argument has been raised as regards the impact of measures on final consumers. This fact, as well as the low cost impact and the pricing strategies of car makers found in the investigation, indeed speak against the likelihood of any appreciable effect on consumer prices.

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5. **Interest of suppliers**

(170) 5 suppliers of raw materials/equipment to ARW producers in the Union replied to the suppliers' questionnaire. They are supplying aluminium/primary foundry ingots, paint/primer or low pressure machines. With respect to suppliers of ingots, sales to the Union industry constitute only a small fraction of their activity (below 6 % of their total turnover) which shows their relatively moderate interest in the setting of anti-dumping measures on ARWs from China. For other suppliers (of machinery or paint or low pressure machines), their sales to the Union industry range between 30 % and 50 % of their total turnover. Given that these companies are SMEs, the viability of the Union industry is essential to their operations.

6. **Conclusion on Union interest**

(171) In view of the above, it was provisionally concluded that overall, based on the information available on Union interest, there are no compelling reasons against the imposition of provisional measures on imports of ARWs originating in the PRC.

G. **PROVISIONAL MEASURES**

1. **Injury elimination level**

(172) In view of the conclusions reached with regard to dumping, resulting injury, causation and Union interest, provisional measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports from the PRC.

(173) For the purpose of determining the level of these duties, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union industry.

(174) As outlined in recital (20), the ARW market is characterised by the existence of two relatively distinct market segments. The investigation further found that sales by the Union producers were concentrated in the OEM segment, counting for 85 % of all Union industry sales.

(175) For the sake of imposing provisional measures, it was therefore found appropriate to assess an injury margin that takes into account this specific market situation.

(176) In the OEM segment, ARW purchasers (which are carmakers) typically place their orders pursuant to tender proceedings. As a result, the same wheel model, meant to be mounted on the same car model, may in a not insignificant number of cases be ordered from several sources, often from a Chinese and an EU supplier at the same time. It was provisionally considered that this tendering process offered an accurate and reliable reflection of the average price competition existing during the IP between the Chinese and Union suppliers when competing for the same tender.

(177) It was therefore found appropriate to calculate the underselling margin on the basis of the prices identified from the data submitted by EU producers and Chinese exporters when they compete for such tenders.

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(178) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs of production and achieve a reasonable profit. As to cost of production, adjustment was made for the actual loss incurred by the Union industry during the IP (– 5,4 %). Further, it was considered that a reasonable profit before tax that could be reasonably achieved by an industry of this type under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Union should be assessed by reference to the profitability achieved in 2006 which amounted to + 3,2 %. Indeed in this year volume of imports from China were still relatively low. On this basis, a non-injurious price was calculated for the Union industry for the like product.

(179) On that basis, the underselling margin is 20,6 %.

(180) This result was further confirmed by an additional calculation based on a comparison of some tender contracts provided by certain car makers in the course of the investigation. Indeed when car makers ordered the same ARW model to both a Chinese producer and a Union producer, the underselling margin found, taking into account adjustments made as explained in recital (93) *et seq* above, was in the same order of magnitude as that established in preceding recital.

(181) It is noted that this underselling margin is lower than the margins of dumping established above in recitals (76) *et seq* and should therefore serve as the basis to establish the level of the duty in accordance with the lesser-duty rule.

(182) Given the methodology applied in this case to determine the injury elimination level, it is considered impracticable to specify individual anti-dumping duty rates pursuant to the second sentence of Article 9(5) of the basic Regulation. This is due in particular to the absence of reliable data to perform the analysis on a company-specific basis. In consequence, it is provisionally decided to impose a countrywide anti-dumping duty on all imports from China at the level of the underselling margin level of 20,6 %.

2. **Provisional measures**

(183) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed on imports originating in the PRC. In this case, the duty rate should accordingly be set at the level of the injury margin found.

(184) The proposed anti-dumping duty amounts therefore to 20,6 %.

H. **DISCLOSURE**

(185) The above provisional findings will be disclosed to all interested parties which will be invited to make their views known in writing and request a hearing. Their comments will be analysed and taken into consideration where warranted before any definitive determinations are made. Furthermore, it should be stated

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that the findings concerning the imposition of anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of aluminium road wheels of the motor vehicles of CN headings 8701 to 8705, whether or not with their accessories and whether or not fitted with tyres, currently falling within CN codes ex 8708 70 10 and ex 8708 70 50 (TARIC codes 8708 70 10 10 and 8708 70 50 10) and originating in the People's Republic of China.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price before duty, of the product described in paragraph 1 shall be 20,6 %.

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

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

Article 2

Without prejudice to Article 20 of Regulation (EC) No 1225/2009 interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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