



COMMISSION IMPLEMENTING REGULATION (EU) 2025/500

of 13 March 2025

imposing definitive countervailing duties on imports of certain aluminium road wheels originating in Morocco

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation') and in particular Article 15 and Article 24(1) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 16 February 2024, the European Commission ('the Commission') initiated an anti-subsidy proceeding with regard to imports of certain aluminium road wheels ('ARW') originating in Morocco ('the country concerned') on the basis of Article 10 of Regulation (EU) 2016/1037 of the European Parliament and of the Council ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal* of the European Union ⁽²⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 3 January 2024 by the Association of European Wheel Manufacturers ('the complainant' or 'EUWA'). The complaint was made on behalf of the Union industry of certain aluminium road wheels in the sense of Article 10(6) of the basic Regulation. The complaint contained evidence of subsidisation and of resulting material injury that was sufficient to justify the initiation of the investigation.
- (3) Prior to the initiation of the anti-subsidy investigation, the Commission notified the Government of Morocco ('GOM') ⁽³⁾ that it had received a properly documented complaint and invited the GOM for consultations in accordance with Article 10(7) of the basic Regulation and a Memorandum on sufficiency of evidence was published by the Commission on 16 February 2024 ⁽⁴⁾. Consultations were held on 12 February 2024 with the GOM. However, no mutually agreed solution could be reached.
- (4) On 17 November 2021, the Commission initiated a separate anti-dumping investigation of the same product originating in Morocco ('the separate anti-dumping investigation') ⁽⁵⁾. The Commission concluded that there was dumping of the product concerned on the Union market and on 11 January 2023, imposed definitive anti-dumping duties ranging from 9,0 % to 17,5 %. ⁽⁶⁾

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ OJ C 1483, 16.02.2024, p. 1.

⁽³⁾ The term 'GOM' is used in this Regulation in a broad sense, including the State Council, as well as all Ministries, Departments, Agencies, and Administrations at central, regional, or local level.

⁽⁴⁾ Tron save number: t24.001626.

⁽⁵⁾ OJ C 464, 17.11.2021, p. 19.

⁽⁶⁾ Commission Implementing Regulation (EU) 2023/99 of 11 January 2023 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain aluminium road wheels originating in Morocco ELI: http://data.europa.eu/eli/reg_impl/2023/99/oj (OJ L 10, 12.1.2023, p.1).

1.2. Interested parties and request for anonymity

- (5) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, the GOM, the Government of the People's Republic of China ('GOC')⁽⁷⁾, other known Union producers, the known exporting producers, known importers and users about the initiation of the investigation and invited them to participate.
- (6) The GOC was invited to come forward and cooperate with the investigation. The GOC, however, did not request to be considered as an interested party and did not provide any cooperation.
- (7) The complainants requested that their names be kept confidential for fear that they could face retaliation by customers. The Commission took the view that there was indeed a serious risk of retaliation and accepted that the names of the complainants should not be disclosed. In order to effectively grant anonymity, the names of the other Union producers were also kept confidential, as to avoid that by deduction the names of the complainants could be identified.

1.3. Comments concerning initiation

- (8) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (9) The Commission received comments on initiation from the GOM, the European Automobile Manufacturers' Association ('ACEA') and the complainant.
- (10) Three parties requested a hearing with the Commission services and were heard: the Government of Morocco, ACEA and the Renault Group.
- (11) In the submissions of 8 April and 16 May 2024⁽⁸⁾ and at the hearing of 17 May 2024, the GOM claimed that this proceeding violates certain provisions of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part⁽⁹⁾ ('the Association Agreement') and of the Agreement between the European Union and the Kingdom of Morocco establishing a dispute settlement mechanism⁽¹⁰⁾ ('the Dispute Settlement Agreement'). According to GOM, any customs duties including countervailing duties would be prohibited under Articles 8 and 9 of the Association Agreement. The GOM claimed that exceptions to these provisions are included only in Articles 24 to 27 of the Association Agreement, allowing anti-dumping or safeguard measures if the relevant conditions are met. By contrast, the Commission cannot rely on Article 36 of the Association Agreement as an affirmative defence to justify the imposition of countervailing duties. This would be contrary to Article 2(1) of the Dispute Settlement Agreement as such measures would be outside the scope of this provision and the terms of reference of an arbitration panel, whereas only anti-dumping measures allowed under Article 24 of the Association Agreement are specifically mentioned.
- (12) The Commission disagreed. While Articles 8 and 9 of the Association Agreement contain respectively a prohibition to impose new customs duties or charges with an equivalent effect in the bilateral trade and the right for products of Moroccan origin to be imported into the EU without such duties and charges, there are exceptions to these prohibitions. Such exceptions are contained not only in Articles 24 to 27 of the Association Agreement as the GOM asserts, but also in Article 36 of this agreement.

⁽⁷⁾ The term 'GOC' is used in this Regulation in a broad sense, including the State Council, as well as all Ministries, Departments, Agencies, and Administrations at central, regional or local level.

⁽⁸⁾ Tron save numbers: t24.003099 and t24.003771.

⁽⁹⁾ OJ L 70, 18.3.2000, p. 2, as subsequently amended. The consolidated version can be found at [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000A0318\(01\)-20190719](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000A0318(01)-20190719).

⁽¹⁰⁾ OJ L 176, 5.7.2011, p. 2.

- (13) In particular, recital 3 of Article 36 of the Association Agreement states that the provisions on the interpretation and application of Article VI of the General Agreement on Tariffs and Trade ("GATT") are the applicable rules to assess the compatibility with the Association Agreement of subsidies distorting or threatening to distort competition according to Article 36(1)(c) of the Association Agreement in the absence of specific implementation rules adopted by the Association Council pursuant to Article 36(3). The Commission noted that no such implementation rules have been adopted to date. As the relevant implementing provisions of Article VI of the GATT include the WTO Agreement on Subsidies and Countervailing Measures as well as the basic Regulation (which implements such provisions into EU law), the Commission concluded that these are indeed the relevant legislative rules applicable to the ongoing proceeding against Morocco in full conformity with the Association Agreement.
- (14) The Commission further noted that the GOM's argument does not specify which substantive rules would be applicable to the subsidies in the scope of the ongoing proceeding. The GOM simply posits that any import duties or charges with equivalent effect would be contrary to Article 8 or 9 of the Association Agreement, concluding that any countervailing duty would not be in line with these provisions. This argument is logically baseless, as it would entail that subsidies covered by Article 36(1)(c) of the Association Agreement would not only escape the disciplines of the basic Regulation and the relevant WTO rules, but would simply be legally allowed even if distorting or threatening to distort competition and meeting the other substantive requirements of that provision. In other words, failure by the Association Council to adopt the implementation rules according to Article 36(3) would automatically render lawful all such distorting subsidies even if contrary to the basic Regulation and the WTO rules implementing Article VI GATT. This would be an aberrational consequence not supported by any legal provision in the Association Agreement, nor by its legislative history.
- (15) The GOM's argument based on Article 2(1) of the Dispute Settlement Agreement does not change these conclusions. The objective and scope of this agreement is to avoid and settle any dispute arising from the Title II of the Association Agreement only. Title II includes Articles 8 and 9 of the Association Agreement, but it does not include Article 36. The disputes concerning the other provisions of the Association Agreement, including Article 36, are covered by Article 86 of the Association Agreement. The Commission noted at the outset that these provisions concern the procedural rules governing possible settlement of disputes on the interpretation and application of the substantive provisions of the Association Agreement. Whether the Dispute Settlement Agreement or Article 86 of the Association Agreement applies with regard to potential disputes on the final decision concerning the ongoing countervailing proceeding does not have an impact on the underlying applicable substantive rules of this proceeding. As explained in recitals (12) to (14), the Commission concluded that the applicable rules are those of the basic Regulation and the relevant WTO Rules implementing Article VI GATT. The Commission noted that nothing in this regulation prejudices the right for the GOM to choose the most appropriate jurisdictional or alternative dispute settlement avenue, including under the Association Agreement and/or the Dispute Settlement Agreement for possible disputes on the findings in this regulation.
- (16) The GOM also argued that in general the request does not contain sufficient evidence to initiate an anti-subsidy investigation as required by the jurisprudence of the WTO. In particular, the GOM argued that the complaint does not contain specific proof that the two exporting producers operating in Morocco would have benefitted from the alleged subsidy programmes. It claimed that the alleged subsidies provided to the exporting producers are, at best, speculative and do not satisfy the criteria outlined in Articles 11.2 and 11.3 of the WTO Agreement on subsidies and countervailing measures ("WTO ASCM").
- (17) More specifically, the GOM claimed that there was insufficient evidence that the two known exporting producers received grants from the GOM, and that the complaint did not sufficiently establish that these grants were provided through public bodies. The same argument was made for tax exemptions and preferential loans provided by Moroccan banks. In this respect, the GOM argued that the complaint did not include any banking offer or payments from banks as evidence of the preferential lending to the exporting producers. On subsidies related to the provision of land, the GOM stated that the documents provided in the complaint concern outdated information from the Moroccan Court of Audit from 2016, which mentions some financing which are beyond the period considered by the investigation and not related to the exporting producers. On specificity, the GOM argued that there was no evidence in the complaint that the two exporting producers were part of the automotive sector supported by the GOM.

- (18) Finally, the GOM claimed that countervailing the alleged Chinese financial support attributed to Morocco is contrary to WTO rules and that the Commission did not obtain sufficient evidence before the initiation of the investigation to attribute the alleged Chinese financing to the GOM.
- (19) The Commission disagreed with these claims. According to Article 10(2) of the basic Regulation the complaint shall contain such information as is reasonably available to the complainant. The legal standard of evidence required for the purposes of initiating an investigation ('sufficient evidence') is different from that which is necessary for the purpose of a final determination of the existence subsidisation, injury or causal link. Therefore, evidence which is insufficient in quantity or quality to justify a final determination of subsidisation, injury or causation, may nevertheless be sufficient to justify the initiation of an investigation.
- (20) The Commission also refers to the Memorandum on sufficiency of evidence, which analysed in detail the subsidy scheme included in the complaint and concluded that there is sufficient evidence tending to show the existence of the alleged subsidisation at initiation stage. Generally speaking, as highlighted also by the complainant in its submission on initiation, the existence of a number of subsidies conferred by the GOM to the exporting producers is supported by the signature of a bilateral investment agreement with both exporting producers. However, the precise content of such agreements is not reasonably available to the complainant because it is confidential between the GOM and the exporting producers, and thus has to be further examined after initiation. Similarly, individual banking offers and payment transactions with banks are normally not part of the public domain, and were thus not reasonably available to the complainant.
- (21) On the provision of land for less than adequate remuneration, the Commission noted that the land purchases took place when the exporting producers were set up, i.e. in 2018. A report from 2016 should thus not be considered as outdated. In any event, the complaint did not rely solely on this report, but also on the Industrial Acceleration Plan, which was clearly in force at the time when the land was purchased, and on the fact that the exporting producers are located in special economic zones, which are governed by specific rules.
- (22) On the inclusion of the exporting producers in the automotive sector, it is already clear from the evidence provided in the complaint that the GOM has split up the automotive sector into eight ecosystems, which cover not only the finished car, but also its separate parts. One of these ecosystems covers the powertrain and transmission of the cars, which includes also the wheels.
- (23) Finally, on the alleged Chinese financial support attributed to the GOM, the Commission notes that the Memorandum of sufficiency of evidence clearly explained the legal basis for this subsidy scheme as endorsed by the General Court. It also set out the elements relevant for the attribution to the GOM, including the fact that the Heads of State and ministers on both sides acknowledged and welcomed Chinese investment and capital as part of the 'One Belt One Road' initiative. Both governments engaged in discussions at the highest level, issued joint statements, and formally entered into partnership agreements to implement the 'One Belt One Road' initiative and its subsidy schemes in Morocco. The CITIC Dicastal investment project has been expressly mentioned several times in that framework. The Commission thus concluded that the complaint presented sufficient evidence on subsidies provided in the context of the cooperation between the GOM and the GOC. The claims of the GOM were therefore rejected.
- (24) In addition, the GOM claimed that the complainant did not prove a genuine causal link between the imports of ARWs from Morocco and the alleged injury to the EU ARWs industry. They stated that the complainant failed to objectively examine the impact of the imports on the EU ARWs industry. Additionally, they maintained that third country imports were inadequately assessed and an analysis of the evolution of volume of sales shows that the Union producers lost market shares entirely to imports from Türkiye. The GOM also claimed that the complainant failed to take into account other factors, such as a decline in demand for ARWs and an increase in aluminium costs during the period considered.

- (25) The Commission disagreed with the claim and argued that the complainant has, in fact, established a clear causal link between the imports of ARWs from Morocco and the injury sustained by the EU ARWs industry. The complainant's analysis includes an examination of the impact of imports from third countries, taking into account the significant increase in Moroccan ARW exports to the EU market, which has led to considerable price suppression and market distortion. As shown below in section 5.2, imports from Türkiye and other third countries did not contribute to the injury suffered by the Union industry. Furthermore, the complainant did conduct an analysis, carefully considering other potential contributing factors, such as the decline in demand for ARWs and the rise in aluminium costs. However, these factors alone cannot fully account for the injury to the EU industry, which has been significantly exacerbated by the surge in Moroccan imports.
- (26) The GOM also commented on practically all injury indicators contained in the complaint by claiming that the complainants' injury conclusions did not involve an objective examination based on positive evidence and was not consistent with the requirements of Article 15 of the WTO ASCM. Moreover, they claimed that complainant failed to provide sufficient evidence of a causal link between the imports of ARW from Morocco and the alleged injury to the Union industry.
- (27) In this regard, the Commission noted that the claim of the GOM goes beyond the requirements of Article 10(3) of the basic Regulation, as the Commission's role at initiation stage is to examine the accuracy and adequacy of the evidence provided in the complainant to determine whether there was sufficient evidence to justify the initiation. As this was indeed performed by the Commission, the claim of GOM was rejected.
- (28) Based on all of the above arguments, the Commission rejected the claims by GOM.

1.3.1. *Comments following final disclosure*

- (29) Following the final disclosure, the GOM observed that the Association Agreement includes no provision on subsidies equivalent to Article 24 of the Association Agreement. Furthermore, Article 36 of the Association Agreement is not a general exception for any and all violations of the agreement, and it is part of a Title IV – Payments, Capital, Competition, and Other Economic Provisions. Consequently, Article 36 does not apply to other provisions, particularly those found in Title II concerning the Free Movement of Goods.
- (30) The GOM maintained that pursuant to the Dispute Settlement Agreement, disputes concerning Article 36 of the Association Agreement fall under Article 86 of the Association Agreement, unlike violations to Articles 8 and 9 of the Association Agreement which fall under the Dispute Settlement Agreement. The GOM noted the Commission did not address the argument that Article 36 cannot be invoked as affirmative defence concerning the obligations under Articles 8 and 9 of the Association Agreement. In support of this, it relied on the *EU-Ukraine Wood Export Ban* bilateral dispute on the relevant provisions of the EU-Ukraine Association Agreement. ⁽¹¹⁾
- (31) The GOM also claimed that it was not demonstrated that the Commission is entitled to take measures pursuant to Article 36(6) of the Association Agreement. In particular the disclosure contains no findings as to the existence of a situation foreseen by Article 36.1(c) of the Association Agreement, namely that GOM granted official aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods. According to the GOM, the Commission failed in this context to demonstrate that the GATT applies to the alleged subsidy programs concerned. Namely nothing in the GATT provides for a possibility to countervail transnational subsidies.
- (32) The GOM furthermore asserted that even assuming practices incompatible with paragraph 1(c) of Article 36 existed, Article 36(6) provides that measures can be taken under the GATT, and that this should be read in harmony with the provisions of Title II concerning the Free Movement of Goods. Since Title II concerning the Free Movement of Goods does not provide for the possibility to impose customs tariffs on bilateral trade on the account of subsidization, a reference to Article 36(3) of the Association Agreement to measures under the GATT must be interpreted as meaning recourse only to remedies envisaged in Part III of the WTO ASCM (consultation and dispute settlement) and not to Part V of that agreement (that is, unilateral countervailing duties).

⁽¹¹⁾ Final Report of the Arbitration Panel established pursuant to Article 307 of the Association Agreement between Ukraine, of the one part, and the European Union and its Member States, of the other part, "Restrictions applied by Ukraine on exports of certain wood products to the European Union," 11 December 2020.

- (33) The Commission disagreed. Contrary to GOM's assertions, the Commission based its conclusions on the specific legal reasons set out at recitals (12) to (15). The arguments relied upon by the GOM are based on selective quotations of the reasons contained therein taken out of the full legal context and reasoning.
- (34) With regard to the argument that Article 36 of the Association Agreement cannot be used as an affirmative defence also on the basis of the *EU-Ukraine Wood Export Ban* bilateral dispute, the Commission noted that the GOM did agree with its interpretation at recital (15) that disputes arising from Article 36 are governed by Article 86 of the Association Agreement, unlike Articles 8 and 9 which are covered by the Dispute Settlement Agreement. The Commission further noted that Article 36(6) second subparagraph of the Association Agreement explicitly states that practices incompatible with Article 36(1)(c), which undisputably include the subsidies object of this proceeding, may be subject to appropriate measures adopted in accordance with the GATT and its other relevant instruments. As clarified at recital (13), the relevant provisions applicable to the subsidies object of this proceeding are Article VI of the GATT and the WTO ASCM which implements them, as they have been transposed in the EU basic Regulation. The reliance by the GOM on the bilateral dispute between the EU and Ukraine is legally irrelevant not only in view of these considerations, but also because it concerns a different bilateral agreement between the EU and Ukraine which is much more recent and does not contain a provision like Article 36 as it has a separate Chapter 2 on trade remedies. This EU/Ukraine agreement contains specific bilateral dispute settlement proceeding rules applicable only between these parties. Moreover, even if the actual substantive and procedural rules between the agreements were completely identical, *quod non*, a decision by a panel of arbitrators established under the EU/Ukraine association agreement would be binding only between the parties in that context. For all these reasons the Commission rejected this claim by the GOM.
- (35) With regard to the GOM claim that the Commission did not demonstrate the existence of a situation foreseen by Article 36(1)(c) of the Association Agreement, the Commission reiterated its conclusions at recitals (13) to (15). The situation object of this proceeding falls squarely in Article 36(1)(c) because it concerns official aid as different forms of countervailable subsidies that distort competition and cause injury to the EU industry, and that are clearly governed by the relevant provisions of Article VI GATT, the WTO ASCM and the EU basic Regulation in accordance with Article 36(3) and 36(6) of the Association Agreement. Furthermore, the assertion by the GOM that what they call 'transnational subsidies' are not covered by the Association Agreement because they are not envisaged by the GATT is legally incorrect, as demonstrated by the conclusion in Section 3.5 that the basic Regulation does allow to attribute financial contributions to another WTO Member. Therefore, this claim was rejected.
- (36) As for the GOM assertion that the provisions of Article 36(6) and 36(3) of the Association Agreement should be read in conjunction with those in Title II concerning the free movement of goods, the Commission noted that these provisions are distinct and govern different underlying situations. Title II of the Association Agreement deals with free movement on goods, and contains at Articles 8 and 9 on movement of industrial goods the prohibition of imposing new customs duties or charges having equivalent effect, as also explained at recital (12). These provisions mirror the provisions in Articles I to III of the GATT on freedom of movements of goods with the corresponding prohibitions subject to certain principles and exceptions. By contrast, Article 36 of the Association Agreement is part of the different Title IV on 'Payments, capital, competition and other economic provisions', and it deals *inter alia* with distortions of competition created by official aid, including countervailable subsidies. The situations addressed are those of unfair trade and distorted economic behaviour caused by such subsidies granted by the government of one of the parties. Therefore, they are governed by Article VI GATT, the WTO ASCM, and the EU basic Regulations. These specific rules are applicable to these specific situations, which are different and an exception to the free movement of goods. As concerns the assertion that Article 36 paragraphs (3) and (6) of the Association Agreement would only allow recourse to Part V of the WTO ASCM, there is nothing in these provisions limiting explicitly or implicitly the scope of the relevant GATT rules and rules implementing the GATT provisions, including the WTO ASCM. Also, this argument is based on an erroneous interpretation and understanding of a purported interaction between the provisions in Titles II and IV of the Association Agreement, as clarified above. On this basis, the GOM arguments were rejected.

- (37) In its submission after definitive disclosure, the GOM observed that the Commission has improperly rejected in the disclosure document most of the GOM's arguments concerning the illegal initiation of the investigation in the absence of sufficient evidence of injurious subsidization, among other issues. According to the GOM, the Commission had defended its position by reiterating the statements from the initiation documents, in particular as regards the sufficiency of evidence of subsidization to initiate the case, or by simply dismissing the legal arguments on the grounds that the Commission did not have to undertake the assessments requested by the GOM at the initiation stage. The GOM points out that several of the crucial arguments were not addressed at all, for instance regarding the fact that the Commission had accepted at the stage of the initiation insufficient and inaccurate information of the complainant on the existence of subsidy in form of import duties and VAT on imported goods. This shows according to the GOM that the Commission opened an investigation without knowledge of exact scope of programs it intended to investigate.
- (38) The Commission disagrees with the GOM's assessment. As can be seen in recitals (20) to (23) above, the Commission did not only make general statements, but gave also specific examples and arguments to counter the claims of the GOM. Concerning the specific issue of subsidies in the form of import duties and VAT on imported goods, the Commission noted that the initial comments of the GOM only concerned an alleged lack of specificity. In this respect, the Commission refers back to the complaint and to the memorandum on sufficiency of evidence, which clearly highlight that this scheme was considered to be specific on the basis of (among others) the specific conditions set out in Law No. 19-94 and Dahir No. 1-95-1 of 26 January 1995 for establishment of a company in a special economic zone. Specificity was further corroborated during the investigation, as can be seen in section 3.7 below.
- (39) The GOM also indicated that the data in the complaint were outdated, as they were more than six months old.
- (40) The Commission noted that the period of investigation used for the purpose of the complaints is often different from the one used in the proceeding itself, given the time lapse between the lodging of a complaint and the initiation of an investigation. The basic Regulation does not set any legal obligation concerning the period for the data contained in the complaint but stipulates that it should contain information reasonably available to the complainant. The Commission considered that the data contained in the complaint was sufficiently recent to justify the initiation of the investigation.
- (41) Finally, the GOM indicated that the Commission did not consult with the GOM on the new subsidy programs revealed during the course of the investigation, in a violation of the Article 13.2 of the WTO ASCM. The GOM was thus neither informed of nor given the chance to discuss the Commission's intention to countervail preferential financing allegedly provided by certain entities to Dika Morocco Africa S.A ('DMA').
- (42) The alleged new subsidy schemes highlighted by the GOC concern the subsidies received by DMA in the framework of the bilateral cooperation between the GOM and the GOC. The fact that such subsidies could take the form of preferential financing was already highlighted before initiation in section D.3 of the complaint, as well as in section 4.2 of the Memorandum on sufficiency of evidence. There were thus no new schemes revealed during the course of the investigation, that needed further consultation with the GOM. In any event, subsidies received under the bilateral cooperation process between the GOM and the GOC were covered in the questionnaires, deficiency process and verification visit at the GOM. The GOM thus had ample opportunity to engage on these matters during the investigation as well. These claims were thus rejected.
- (43) Following final disclosure, DMA argued that the Commission imposed an unreasonable burden on the Dicastal group by extending the scope of the investigated subsidy programmes, the scope of related companies that were asked to submit information, as well as by providing short deadlines for questionnaire responses. According to DMA, the Commission violated Articles 12.1, 12.1.1 and 12.8 of the WTO ASCM.

- (44) The Commission rejected the claim. The questionnaire for the cooperating exporting producers clearly defined which companies related to the exporting producer were required to provide a reply to specific sections of the questionnaire. It concerned *inter alia* any related company involved in providing the exporting producer with fixed assets, inputs, capital, loans, guarantees or other types of financing, as well as involved in purchasing or leasing of land. This reply was due within 30 days after the Commission informed the parties that it abandoned the sampling of exporting producers in line with Article 11(2) of the basic Regulation which implements Article 12.1.1 of the WTO ASCM. In addition, following a duly substantiated request, the Dicastal group was granted a generous extension. The group, however, only provided partial questionnaire replies for some of the related companies involved in the above-mentioned activities. It was only following several rounds of deficiency requests that the Commission was provided with the requested information. Naturally, the Commission did not grant additional 30 days for deficiency replies as the Dicastal group companies had already been provided sufficient time to reply to the questionnaire in their initial reply. Thus, the Commission neither extended the scope of companies requested to submit a questionnaire reply, nor did it provide the group companies with short deadlines for the respective replies.
- (45) Furthermore, as addressed in recital (42), the Commission investigated subsidy schemes covered by the complaint and the Memorandum on the sufficiency of evidence. Therefore, the Commission considered that it did not impose additional burden on the Dicastal group.

1.4. Sampling

- (46) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 27 of the basic Regulation.

1.4.1. Sampling of Union producers

- (47) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the volume of production and sales of the like product in the Union during the investigation period. Account was also taken of geographical spread. This sample consisted of three Union producers. The sampled Union producers accounted for 27 % of the estimated total volume of production. The Commission invited interested parties to comment on the provisional sample.
- (48) Comments were received from the complainant in relation to the provisional sample. After analysing the comments received, the Commission found that one of the companies chosen in the provisional sample was not a producer of the like product. Consequently, the Commission decided to amend the sample.
- (49) The Commission selected a definitive sample, pursuant to Article 27 of the basic Regulation. The criteria used for the selection was representativity in terms of volume of production of the like product in the Union between 1 January 2023 and 31 December 2023. The definitive sample of Union producers accounted for over 22 % of the total production volume of the known Union producers of the like product and 24 % of estimated total EU sales value of the like product, and it also a good geographical spread. The definitive sample is representative of the Union industry.

1.4.2. Sampling of importers

- (50) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (51) None of the known unrelated importers provided the requested information and agreed to be included in the sample.

1.4.3. *Sampling of exporting producers in Morocco*

- (52) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Morocco to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Kingdom of Morocco to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (53) Two exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In view of the low number of replies, the Commission decided that sampling was not necessary.

1.5. **Individual examination**

- (54) No exporting producer in Morocco requested individual examination under Article 27(3) of the basic Regulation.

1.6. **Questionnaire replies and verification visits**

- (55) The Commission sent questionnaires to the three sampled Union producers, the complainant and three known users and two exporting producers. The same questionnaires were made available online ⁽¹³⁾ on the day of initiation.
- (56) The Commission sent a questionnaire to the GOM.
- (57) The questionnaire to GOM included specific questionnaires to (i) government funds providing support to the exporting producers under investigation, notably the Hasan II Fund and the Industrial Development and Investment Fund (ii) any financial institution that provided loans or export credits to the exporting producers under investigation, and (iii) industrial acceleration zones where the exporting producers under investigation are located.
- (58) The GOM was asked to collect the responses provided by these entities and to send them to the Commission.
- (59) The Commission received replies from the exporting producers, the three sampled Union producers, three users and the GOM.
- (60) The questionnaire replies submitted by the exporting producers and the GOM did not include all the information required in the questionnaire. The Commission requested the outstanding information through deficiency letters to the exporting producers and the GOM.
- (61) Without prejudice to the application of Article 28 of the basic Regulation, the Commission sought and crosschecked all the information deemed necessary for the determination of subsidy, resulting injury and Union interest. Verification visits pursuant to Article 26 of the basic Regulation were carried out at the premises of the following companies:

Three Union producers. The names of the producers are not disclosed for confidential reasons in accordance with recital (7) above.

Exporting producers and their related companies in Morocco and the People's Republic of China ('PRC')

- Hands 8 S.A., Tangier, Morocco ('Hands 8')
- Dika Morocco Africa S.A. ('DMA'), Kenitra, Morocco and its related companies ('Dicastal group'):
 - DIKA Morocco Castings ('DMC'), Kenitra, Morocco,
 - Changsha Dicastal Technology Co., Ltd ('Changsha Dicastal'), Changsha, Hunan Province, PRC

⁽¹³⁾ <https://tron.trade.ec.europa.eu/investigations/case-history?caseId=2716>.

- Dicastal (Asia) Investment Holdings Company Limited ('Dicastal Asia'), Qinhuangdao, Hebei Province, PRC
- CITIC Dicastal Co., Ltd ('CITIC Dicastal'), Qinhuangdao, Hebei Province, PRC
- CITIC Dicastal (Hong Kong) Investment Holdings Company Limited ('Dicastal HK'), Qinhuangdao, Hebei Province, PRC

Users

- The Renault Group, Paris, France.
- Stellantis, Paris, France.

1.7. Investigation period and period considered.

- (62) The investigation of subsidisation and injury covered the period from 1 January 2023 to 31 December 2023 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2020 to the end of the investigation period ('the period considered').

1.8. Non-imposition of provisional measures and subsequent procedure

- (63) On 18 October 2024, pursuant to Article 12 of the basic Regulation, the Commission informed interested parties that it intended not to impose provisional measures and to continue with the investigation.
- (64) The Commission continued seeking and verifying all information it deemed necessary for its definitive findings.
- (65) In response to the Commission's decision on the non-imposition of provisional measures, EUWA informed the Commission of its regret on the decision not to impose provisional countervailing measures ⁽¹³⁾. In its submission, EUWA requested the Commission to impose countervailing duties retroactively on the basis of Article 16 of the basic Regulation, of course providing the Commission's investigation would conclude that countervailing duties were warranted.
- (66) The Commission took note of the request but rebutted this claim due to the fact that the conditions set in Article 16 of the basic Regulation for retroactive imposition have not been met, in particular as registration did not occur in this case and no provisional duties were imposed.

1.9. Final disclosure

- (67) On 23 January 2025, the Commission informed all parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-subsidy duty on imports of the product concerned ('final disclosure'). All parties were granted a period within which they could make comments thereon. Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer ('HO') in trade proceedings.
- (68) On 29 January 2025, the GOM requested an intervention by the HO concerning certain allegedly confidential information originating from them but not submitted formally for the case file in documentary form, specifically the Implementation Plan of Jointly Building the Belt and Road Initiative between the Government of the Kingdom of Morocco and the Government of the People's Republic of China ('the BRI Implementation Plan'). While the document was made available to the TDI services during their on-spot verification visit, albeit in an informal way, the GOM argued that the document was shared only for on-spot consultation but not for collection and delivery to Brussels, as this would breach the confidential nature of the information in question.

⁽¹³⁾ Tron save number, t24.009219 – 23/10/2024.

- (69) On that basis, the HO recommended the following course of action: “The TDI services should remove any reference to the information in question from the General Disclosure Document (‘GDD’) available to all interested parties by means of recalling the current GDD and replacing it with a new version with due respect to the rights to confidentiality of the government of Morocco, as well as requesting all interested parties of the proceeding to delete the previous version of the GDD. The TDI services should also destroy the excerpts of the BRI Implementation Plan contained in the Exhibit 12a of the Verification Report and disregard it as a part of the file of the investigation”.
- (70) As regards the alleged confidential nature of the BRI Implementation Plan, the Commission recalled that pursuant to Article 29 of the Basic regulation, information which is provided on a confidential basis shall be treated as such if good cause is shown. The Commission noted that the HO took the view that such good cause was shown and that, therefore, the GDD should be expurgated from any information to which confidential treatment should be granted. The Commission revised the GDD accordingly.
- (71) As regards the recommendation to destroy the excerpts of the BRI Implementation Plan contained in the Exhibit 12a of the Verification Report and disregard it as a part of the file of the investigation, the Commission noted that it is not disputed that the said document was made available to the Commission services during the on-spot verification visit at the premises of GOM. It is also not disputed that in their comments to the Article 28 letter the GOM made explicit reference to the Commission services having received access to this document with a view to verifying its content and implications for the investigation at hand, as also described at recital (94) below. While Exhibit 12a of the Verification Report would fully protect the confidentiality of the information acquired on the spot and a disclosure of the underlying information only to the GOM would likewise have achieved full protection of confidentiality, the Commission nevertheless destroyed the exhibit and disregarded it as part of the file.
- (72) As a consequence, without prejudice to the above course of action, the Commission noted that the attempts by the GOM at having removed from the confidential file excerpts from a document that was made available to the Commission services on a confidential basis qualified as a refusal to access, or otherwise failure to provide necessary information, or attempts at impeding the investigation, within the meaning of Article 28 of the basic Regulation.
- (73) Following final disclosure, comments were submitted by the cooperating exporting producers in Morocco, the GOM, the European Automobile Manufacturers’ Association (‘ACEA’) and the complainant. The GOM and DMA requested also hearings with the Commission.
- (74) The GOM claimed in this regard that the Commission failed to provide interested parties with a meaningful opportunity to comment on the disclosure, pointing especially at the rejection of the GOM’s request for extension of deadline to comment, and granting only a one-day extension, which is allegedly inconsistent with Article 12.1 of the WTO ASCM, and has prevented the GOM from presenting all evidence in writing to the Commission that the GOM considered relevant with respect to the various issues covered by the disclosure document.
- (75) The Commission disagreed. The Commission recalled that the deadline for parties to provide comments was set pursuant to Article 30(5) of the basic Regulation. The Commission further noted that according to point 9 of the Notice of Initiation, extension to the deadlines may only be granted for exceptional circumstances and provided good cause is shown. In these cases the extension can be granted up to a maximum of three days. The GOM did not show that there were such exceptional circumstances. The Commission also considered that the request came at a very late stage of the proceeding, and therefore had it been granted, for the entire period requested, it would have jeopardised the timely completion of the proceeding. Nevertheless, the Commission did agree to an extension of the deadline to provide comments. Therefore, this claim was rejected.
- (76) Following final disclosure, DMA asserted that the Commission violated Article 12.4 of the WTO ASCM when it disclosed confidential data concerning the Dicastal group. In this respect, the company recalled its submission of 24 January 2025 where it requested confidentiality treatment for a series of information included in the general disclosure document.

- (77) Further to the final disclosure, DMA pointed out to the Commission that certain confidential data had been included in the general disclosure document. The Commission swiftly reviewed the claim and amended the general disclosure document so as to protect the confidential information according to Article 29 of the basic Regulation. The Commission then swiftly informed interested parties that a new general disclosure document had been circulated, and asked these parties to destroy the previous version of the document.
- (78) Furthermore, DMA argued that the Commission violated Article 22.5 of the WTO ASCM when it used the following information that had no basis in the record of the investigation: a) benchmark information for loans, b) OECD country risk rating for Morocco, c) address of Wisdom's owner, d) documents referenced in footnotes using web links, which DMA and its related companies were unable to access.
- (79) The Commission disagreed. The benchmarks for loans and OECD country risk rating were disclosed to the party concerned as part of the company specific disclosure. The address of Wisdom's owner is information available in the public domain and accessible via the Hong Kong Companies Registry⁽¹⁴⁾ for a small fee. The documents referenced in the footnotes were made available in the open file of the investigation on the day of final disclosure. Additional documents used by the Commission to address the interested parties' comments, as well as the GOM's complaint concerning the disclosure of confidential information described in recital (68) were made available in the open file following the receipt of comments on final disclosure. Indeed, the access to certain sources (web links) was geographically restricted to IP addresses from the PRC. In those cases, however, the Dicastal group companies located in the PRC were able to access those information sources. In any case, the information in question was included in the package of documents disclosed on 23 January 2025.
- (80) Finally, DMA claimed that the Commission violated Article 22.5 also by not addressing the Dicastal group's a) reply to the first Article 28 letter (see recital (110)) and b) submission on the source of financing of Changsha Dicastal.
- (81) The Commission disagreed. The Commission addressed the Dicastal's group reply to the first Article 28 letter in recitals (280) to (305) below, which had already been included in the GDD. In the submission on the sources of financing of Changsha Dicastal, the Dicastal group attempted to demonstrate that Changsha Dicastal had not received any grants from the GOC, loans from the Chinese banks or financial institutions, or from CITIC Dicastal that could have been used to finance its investment in Morocco. The Commission did not dispute those claims. Instead, the Commission addressed the question of Changsha Dicastal being financed by CITIC Dicastal in order to raise fund for the investment in Morocco in recitals (221), (257), (259) and (371).
- (82) Finally following final disclosure, ACEA, DMA and the GOM claimed that their rights of defence had not been ensured, by claiming that in certain, limited areas of the non-confidential questionnaire replies of the sampled Union producers did not provide a meaningful summary. They also claimed that the non-confidential versions of the Commission's verification reports were also not ensuring their rights of defence.
- (83) The Commission noted that these parties had not, at any early stage of the proceeding, made any comments about the quality of the non-confidential questionnaire replies of the sampled Union producers. Moreover, they did not elaborate on how and which rights of defence were not ensured by the non-confidential versions of the sampled Union producers and by the non-confidential versions of the verification reports. Moreover, they did not request to disregard any information submitted in confidence, because of the alleged missing non-confidential summaries. Therefore, these claims were rejected.

⁽¹⁴⁾ Hong Kong Companies Registry. Available at <https://www.e-services.cr.gov.hk/>.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (84) The product concerned is aluminium road wheels of the motor vehicles of HS headings 8701 to 8705 whether or not with their accessories and whether or not fitted with tyres, originating in Morocco, currently falling under CN codes ex 8708 70 10 and ex 8708 70 50 (TARIC codes: 8708 70 10 15, 8708 70 10 50, 8708 70 50 15 and 8708 70 50 50) ('the product concerned').
- (85) Aluminium road wheels are traditionally sold in the Union via two distribution channels: to the original equipment manufacturer (OEM) market, which are mainly car manufacturers, and to the aftermarket (AM), which includes for example distributors, retailers, repair shops, etcetera. The product concerned from Morocco was exclusively sold to the OEM market during the period considered. In the OEM market, car manufacturers organise tender procedures for ARW and are often involved in the process of developing a new wheel, which is associated with their brand. Both Union producers and Moroccan exporters can compete in the same tenders.

2.2. Like product

- (86) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product concerned;
 - the product produced and sold on the domestic market of Morocco; and
 - the product produced and sold in the Union by the Union industry and by third country producers.
- (87) The Commission decided at this stage that those products are therefore like products within the meaning of Article 2(c) of the basic Regulation.

3. SUBSIDISATION

3.1. Subsidies and subsidy programmes within the scope of the investigations

- (88) On the basis of the information contained in the complaint, the Notice of Initiation and the replies to the Commission's questionnaires, the alleged subsidisation through the following subsidies by the GOM were investigated:

(a) Direct transfer of funds

- (1) Grants provided under the following programmes:
 - (1) Industrial Development and Investment Fund ('IDIF')
 - (2) Hassan II Fund ('HIIF')
 - (3) Vocational training support
- (2) Preferential financing
 - (1) Provided by the GOM
 - (2) Provided in the context of cooperation between the GOC and the GOM
 - (3) Export credit insurance provided in the context of cooperation between the GOC and the GOM

(b) Government revenue foregone or not collected that is otherwise due

- (1) Exemption from import duties in Industrial Acceleration Zones ('IAZ')
- (2) Exemption from VAT in IAZ
- (3) Exemptions from other taxes, duties and administrative measures applicable in IAZ

(c) **Provision of goods or services for less than adequate remuneration**

(1) Provision of land for less than adequate remuneration

- (89) The Commission investigated whether these subsidies conferred benefits, either financial or in kind, to the exporting producers under the definition of Article 4 of the basic Regulation.

3.2. **Partial non-cooperation and use of facts available**

3.2.1. *Application of Article 28 of the basic Regulation to the GOM*

- (90) The Commission requested the GOM in its questionnaire, in the deficiency letter, and during the verification visit to provide certain information relating to the bilateral cooperation between China and Morocco. These information requests included *inter alia* questions on the legal and institutional framework, and the existence of intergovernmental agreements between China and Morocco.
- (91) Notably, the GOM was requested in the questionnaire and in the deficiency letter to provide a list of documents and agreements concerning the bilateral cooperation between the GOM and the GOC. However, the GOM did not submit these documents. Instead, the GOM only made available one of these agreements from 2022 for consultation on spot. In addition, the Commission was also missing documentation relating to the implementation of the agreements provided, and the consultation mechanisms put into place by the GOC and the GOM in this respect, including on joint projects under the BRI Implementation Plan, which include CITIC Dicastal's activities in Morocco.
- (92) Furthermore, the representatives of the Ministry of Foreign Affairs, which is the responsible government department for the negotiation, signing and monitoring of the agreements in question, were not available to discuss the content and the context of the requested documents during the verification visit of the GOM.
- (93) In addition, despite having been requested in the questionnaire, as well as in the deficiency letter to the GOM, the GOM did not provide the 2015 framework agreement to support and assist the operators in the automotive sector. This agreement was signed between the GOM and representatives of the Moroccan banking sector, including the AttijariWafa Bank, which provided a loan to one of the exporting producers.
- (94) In its reply to the Article 28 letter, the GOM provided the 2015 framework agreement with the AttijariWafa Bank. The GOM highlighted that it had also provided the "Cooperation agreement between the Chinese State Export Credit Insurance with the Moroccan Foreign Trade Bank", as well as a hard copy of the "Implementation Plan of Jointly Building the Belt and Road Initiative between the Government of the Kingdom of Morocco and the Government of the People's Republic of China" (the BRI Implementation Plan) of 5 January 2022 during the verification visit, and clarified that since this Plan was signed years after the conclusion of the investment by CITIC Dicastal, it was not relevant for the investigation. The GOM also claimed that none of these documents referred to any cooperation between the two governments with regard to aluminium road wheels production or DMA, and hence did not constitute necessary information for the Commission's investigation.
- (95) In relation to the recommendation of the HO, the Commission notes that the GOM refused to provide the BRI Implementation Plan and it is thus not part of the case file, as detailed at recital (70).
- (96) As explained in recital (72) above, the GOM attempt at having removed the excerpts from BRI Implementation Plan from the confidential file after the definitive findings of the Commission were disclosed. The latter behaviour confirms that the disputed document in the possession of the GOM, if properly submitted as requested, would support the findings reached by the Commission.

- (97) In fact, the Commission found, based on publicly available information, that the BRI Implementation Plan links back to “Memorandum of Understanding between the Government of the People’s Republic of China and the Government of the Kingdom of Morocco on Jointly Promoting the Silk Road Economic Belt and the 21st Century Maritime Silk Road” (the BRI MoU) of 2017 ⁽¹⁵⁾ and to the Joint Statement of Establishing Strategic Partnership between Morocco and China, also mentioning the State visit of May 2016 between Mohammed VI, King of Morocco, and the Chinese President Xi Jinping ⁽¹⁶⁾, the documents which the GOM failed to provide. Therefore, the Commission considered, based on facts available, that the text of the BRI Implementation Plan contains relevant information for its assessment in this investigation, contrary to the GOM assertion. Therefore, and since the GOM failed to provide the BRI MoU, the BRI Implementation Plan, and several other bilateral cooperation documents, the Commission used facts available for its findings on the basis of Article 28 of the basic Regulation.
- (98) As concerns the substance of the BRI Implementation Plan, the GOM asserted that it had shown this Plan to prove that the DMA Moroccan project was not covered by this document, and that in any event this document was irrelevant as it was signed after the conclusion of the DMA Moroccan project, as explained at recital (94). Based on the provisions of Article 28 and in view of the findings at recital (96), the Commission had to reach the opposite conclusion. In particular, the Commission found from the circumstances in which the document at issue was provided and then taken away, that the BRI Implementation Plan did cover the DMA Moroccan project, and that it was relevant in the assessment of the DMA project despite having been signed afterwards, because the GOM would not have sought to withdraw from the file this document after the assessment in its disclosure if it would not have contained information confirming these elements. The additional evidence and findings at recital (97) further confirm this.
- (99) The GOM also argued that the Commission should have started its investigation by issuing a questionnaire to the GOC and by subsequently verifying it on-site in China and not only by issuing a questionnaire to the GOM. Since the Commission has not issued any questionnaire to the GOC nor invited the GOC to provide any information useful for this investigation, the GOM could not disclose unilaterally confidential agreements signed with the GOC.
- (100) The Commission disagreed with the GOM’s statements. As highlighted in recital (6) above, at the start of the investigation, the Commission did invite the GOC to come forward and cooperate with the investigation. The GOC, however, did not come forward, did not request to be considered as an interested party and did not decide to cooperate with the investigation. Hence, this claim was rejected.
- (101) Finally, the GOM claimed that it could not be demonstrated based on secondary sources that the GOM allowed DMA to benefit from third-country financial contributions resulting from the alleged bilateral cooperation between the GOC and the GOM for various reasons. This comment is linked to the assessment of the findings of the investigation by the Commission rather than to the submission of necessary information under Article 28 of the basic Regulation, and will thus be addressed by the detailed reasoning of the Commission in sections 3.4 and 3.5 below.
- (102) In its comments after the final disclosure, the GOM claimed it had provided the Commission with sufficient “necessary” information on the lack of cooperation between the GOM and the GOC with regard to ARW production in Morocco. The GOM maintained that none of the documents requested by the Commission included information that would have been relevant for this investigation. Importantly, the GOM had never cited the Belt and Road Initiative (‘BRI’) as the condition or the reason for CITIC Dicastal investment in Morocco. There was also no document prepared by the GOM which would indicate that the GOM sought Chinese subsidies provided under the BRI for the CITIC Dicastal investment in Morocco. Thus, in the absence of the consideration of the BRI by the GOM for CITIC Dicastal investment in Morocco, the GOM was not obligated to disclose to the Commission any strictly confidential information pertaining to other cooperation between the GOM and the GOC. As such information falls outside the scope of this investigation, the GOM considers that the information requested was not “necessary” for the investigation, and the failure to provide this information therefore did not result in non-availability of evidence.

⁽¹⁵⁾ Morocco, China Sign Agreement on Joint Implementation Plan for Belt and Road Initiative. Available at <https://www.moroccoworldnews.com/2022/01/346356/morocco-china-agree-on-morocco-china-belt-and-road-initiative> (last viewed 5 February 2025).

⁽¹⁶⁾ Morocco and China sign Joint Belt and Road Implementation Plan. Available at <https://diplomatie.ma/en/morocco-and-china-sign-joint-belt-and-road-implementation-plan> (last viewed 5 February 2025).

- (103) Furthermore, the GOM maintained that the Commission could not apply to the GOM Article 28 of the basic Regulation since it did not issue the questionnaire to the GOC. According to the GOM, simple invitation to cooperate on the day of initiation is not an equivalent to a request for the necessary information. The GOM considers that in case an interested party has not been informed of the information it is required to submit, it cannot be argued to have refused access to or to otherwise have withheld necessary information or to have significantly impeded the investigation. The Commission was not clear in its instructions regarding the kind of information that it sought from the GOC, and therefore the Commission is not at liberty to use facts available.⁽¹⁷⁾ The GOM observed that in all previous investigations concerning cross-border financial support and targeting the government of Egypt and Indonesia only, the Commission had issued request for information to the GOC.
- (104) The Commission disagreed with the GOM's assessment. First, as demonstrated in recitals (177) to (220), the bilateral agreements that the GOM refused to provide were necessary to properly examine the existence of cooperation between the GOM and the GOC as they created a framework in which CITIC Dicastal's investment project took place. Second, the Commission considered that the GOC was sufficiently informed about the initiation of the investigation and the Commission's request for its cooperation. In this respect, on the day of the initiation, the Commission provided the GOC with the Notice of Initiation and invited it to cooperate with the authorities of Morocco. The Commission drew the GOC's attention to section 5.3 of the Notice of Initiation, where the Commission invited the authorities of the PRC to participate in the investigation. The GOC was thus properly informed about the proceeding including the fact that its cooperation would be necessary for the investigation. The GOC however never responded to these communications, neither did it register as an interested party in the investigation. The Commission explained to the GOM the steps it took to invite the cooperation by the GOC also during the on-spot verification. In this respect, the GOM also confirmed that the GOC refused to cooperate in the proceeding as it did not give its consent to the GOM to provide the Commission with the requested bilateral agreements, including for instance the 2022 BRI Implementation Plan. Therefore, in contrast to what the GOM argues, there was no ambiguity concerning the necessity of cooperation by the GOC and its refusal to extend it to the Commission.

3.2.2. *Application of Article 28 of the basic Regulation to DMA and its related companies*

- (105) The investigation found unusual business transactions of DMA and its related companies with Wisdom Integration Investment Technology Co., Limited ('Wisdom'), a company established in Hong Kong in November 2019, which DMA claimed to be unrelated to the Dicastal group.
- (106) Notably, purchases by DMA of aluminium ingots from Wisdom made in 2023 and partially also in 2022 had not been paid by the end of the investigation period. Furthermore, these ingots were sold to DMA at a price substantially lower than the market price. Wisdom also provided a loan to Dicastal Asia, which was used to increase the company's capital contribution in DMA.
- (107) The Commission found that, although Wisdom was formally established in Hong Kong, its owner was a Chinese national with an address in Qinhuangdao, the same city as the legal seat of CITIC Dicastal. In addition, the documents collected during the on-spot verification at DMA showed that Wisdom had the same registered address in Hong Kong as the two Hong Kong-based group companies, Dicastal Asia and Dicastal HK.
- (108) During the on-spot verification at DMA, the representatives of CITIC Dicastal explained that CITIC Dicastal recommended Wisdom as aluminium ingots supplier to DMA based on the long-term cooperation with the owner of Wisdom, who was allegedly an expert in the aluminium business.

⁽¹⁷⁾ Panel Report, Mexico – Anti-Dumping Measures on Rice, paras. 7.193-7.194.

- (109) Based on the above information available on file as well as on the information provided during the on-spot verification at DMA, the Commission requested in a deficiency letter of 10 September 2024 that Wisdom provide a reply to relevant parts of the anti-subsidy questionnaire. In addition, the Commission enquired about the nature of the legal and business relationship with the owner of Wisdom and about the address from which Wisdom actually conducted its business. Finally, the Commission requested details concerning the non-collection of the outstanding debt linked to the purchases of aluminium ingots. The Commission enquired about these elements concerning Wisdom also during the on-spot verification at CITIC Dicastal.
- (110) Wisdom, however, refused to cooperate and the Dicastal group refused to divulge any additional information beyond the information mentioned in recital (108). Therefore, the Commission informed the Dicastal group of its intention to apply Article 28 of the basic Regulation with regard the matters described in recitals (105) to (107) ('first Article 28 letter').
- (111) In its reply to the first Article 28 letter, the Dicastal group maintained that (i) it was not related to Wisdom and (ii) the information on Wisdom was not necessary. The Commission dismissed these claims and confirmed its intention to apply Article 28 of the basic Regulation with regard to these issues. As these claims and the related arguments concern the substance and the findings concerning the issues covered by the first Article 28 letter and the application of facts available, they are be addressed in details in section 3.5.2.1.2.
- (112) Furthermore, the investigation found that DMA purchased its production equipment from Changsha Dicastal, which was not the manufacturer of said machinery. During the on-spot verification at Changsha Dicastal, the company refused to provide the list of the original manufacturers of the equipment. This prevented the Commission from further investigating the actual source and value of the equipment provided to DMA.
- (113) DMA also failed to report or reported incorrect commodity codes, under which the equipment was imported, for a significant number of transactions. At the same time, the company did not encode the applicable import duty rate for any of the reported transactions. Although the Commission raised this point during the on-spot verification at DMA, the company did not supplement the missing information in the revised version of the respective table of the anti-subsidy questionnaire, which the company submitted at the end of the on-spot verification. This prevented the Commission from verifying the import duties applicable to the company and thus the extent of the subsidy in the form of an exemption from import duties on capital goods.
- (114) The Commission informed the Dicastal group of its intention to apply Article 28 of the basic Regulation also with regard to the issues explained in recitals (112) and (113) ('second Article 28 letter').
- (115) In its reply to the second Article 28 letter, the Dicastal group disagreed with the Commission's assessment.
- (116) First, it argued that by having shown the list of the original manufacturers of machinery sold to DMA to the Commission during the on-spot verification, Changsha Dicastal enabled the investigation of the actual source and value of the equipment in question.
- (117) Second, the Dicastal group argued that it filled in the table of the anti-subsidy questionnaire concerning the imports of machinery to the best of its ability as it did not maintain records that would allow the company to provide information on customs duty rates and codes requested in the table. The group also argued that the GOM provided the Commission with the requested information in the reply to the government questionnaire. The Dicastal group reiterated these arguments also in its comments on final disclosure.

- (118) The Commission disagreed. The fact that the Commission could briefly see the list of machinery suppliers during the on-spot verification did not change the fact that the Commission was unable to further investigate the companies. Furthermore, the Commission considered that DMA had available all information necessary to determine the commodity codes and customs duties applicable to imported machinery. In particular, the company was in possession of the import customs declarations for all imported machinery. For certain transactions, the company's records even contained the applicable commodity codes in the description of the asset booked in the accounts. The customs duties are publicly available in the Moroccan customs legislation and were thus readily available for the company to provide a complete reply to the respective section of the anti-subsidy questionnaire.
- (119) Consequently, the Commission confirmed its intention to apply Article 28 of the basic Regulation in relation to the issues presented in the second Article 28 letter.

3.3. Background on the preferential policies for the Moroccan automotive industry

- (120) The GOM selected the automotive industrial sector, including the supply of car parts and accessory such as aluminium road wheels, as a key sector to be developed domestically in order to improve the economic situation of the country. The GOM implemented over the years a number of preferential policies for this purpose. These policies contained several incentives *inter alia* to attract foreign investment, financing, and know-how into Morocco. The economic growth was not possible to be achieved purely internally by mobilising national resources. The governmental plans and preferential policies emphasized the need to attract foreign direct investments ('FDI') and to exploit Morocco's free and/or preferential access to key markets, such as the Union and the US.
- (121) Indeed, in 2014, the automobile sector ranked third in terms of domestic industrial production, after the phosphate and the chemical industry sectors, and second in terms of exports, after the chemical industry. But thanks to the efforts of the GOM, in 2021, the automobile sector ranked first in terms of exports and inward FDI. In fact, two thirds of FDI into Morocco in 2021 concerned the automobile sector ⁽¹⁸⁾. The importance of foreign investment in the automobile sector is also illustrated by the number of trade promotion actions carried out for that sector, qualified by the Moroccan Investment and Export Development Agency ('AMDIE') as "one of the most strategic sectors of the Moroccan economy", and representing 18 % of all actions undertaken that year ⁽¹⁹⁾.

3.3.1. National Pact for Industrial Emergence 2009-2015

- (122) In 2008, King Mohamed VI called on the government to adopt a strategy for development of industrial and service sectors, and of new technologies. Such strategy was supposed to make the most of the opportunities offered by globalisation in terms of investment flows. In addition, King Mohamed VI highlighted the need to involve the banking sector in the national and social development via an established mechanism.
- (123) These ideas translated into the National Pact for Industrial Emergence 2009-2015 ('NPIE'), a social contract concluded between the GOM, on the one hand, and the General Confederation of Moroccan Enterprises and the Professional Grouping of Moroccan Banks, on the other hand. In NPIE, the GOM identified six strategic sectors of services and industry in which Morocco had a clear and exploitable competitive advantage, the automotive industry being one of those sectors.
- (124) With regard to the automotive industry, NPIE aimed at establishing a network of parts suppliers for carmakers, at attracting a second major foreign carmaker (next to Renault) to Morocco, and also at attracting manufacturers of specialty vehicles, which are labour intensive due to assembly in small series.

⁽¹⁸⁾ 2021 Annual report of AMDIE. Available at <https://www.morocconow.com/wp-content/uploads/2023/04/Rapport-dactivite-AMDIE-2021-Francais-.pdf> (last viewed 18 January 2025).

⁽¹⁹⁾ Ibid.

(125) The offer for parts suppliers revolved around three measures:

- (a) Incentives provided through establishment in free zones for export, in 2021 renamed to industrial acceleration zones (hereinafter referred to as 'free zones', 'FZEs' or 'IAZs'), and in the form of start-up grants from the Hassan II Fund of up to 10 % of the total investment value;
- (b) Developing skilled human resources, including training tailored to the needs of the automotive sector;
- (c) Real estate offer complying with the best international standards in dedicated Integrated Industrial Platforms ('P2I') benefiting from a free zone status.

(126) The NPIE foresaw two P2Is with a free zone status dedicated to the automotive industry, one in Tangier and one in Kenitra. The incentives provided to companies located in IAZs were laid down by Law No. 19-94 and Dahir No. 1-95-1 of 26 January 1995. Such incentives include, but are not limited to, an exemption and/or reduction of the corporate income tax, professional tax, and an exemption from import duties.

(127) In addition to the incentives linked to free zones, P2Is offer serviced plots for rental or sale, ready-to-use building for rental or sale, on-site services (e.g. infrastructure maintenance, security, catering, health services, banking, travel agency), a one-stop shop bringing together various government services for investors, optimal logistical connectivity etc.

(128) The implementation of the strategy commenced with a major investment commitment by Renault, which started building a factory in the free zone in Tangier in 2008, the factory being in operation since 2012 ⁽²⁰⁾. Under the NPIE, a number of parts suppliers, such as Yazaki, Leoni, Antolin, Delphi, Valeo, arrived in Morocco ⁽²¹⁾.

(129) Although, the Tangier Free Zone was established already in 1997 ⁽²²⁾, under the NPIE the Tangier Automotive City was added in 2013 ⁽²³⁾. These two zones located in Tangier comprise an area of 400 ha and 517 ha respectively. The Atlantic Free Zone in Kenitra was created in 2011 on 488 ha. ⁽²⁴⁾

(130) The implementation of the NPIE led to a creation of 110 000 jobs between 2008 and 2011, and an increase of 22 % of industrial exports. Morocco positioned itself on the radar of global industry leaders as an attractive and competitive destination thanks to the development of infrastructure under the NPIE and its favourable location on the crossroads between Europe, Africa, Middle East and America, as well as easy preferential access to numerous markets. Under the NPIE, the FDIs increased by an annual average rate of 23 % since 2009. ⁽²⁵⁾

3.3.2. Industrial Acceleration Plan 2014-2020

(131) In 2014, the NPIE was succeeded by the Industrial Acceleration Plan 2014-2020 ('IAP'), which was fully in line with the objectives of the NPIE and aimed to make the industry the major source of economic growth.

⁽²⁰⁾ Usine de Tanger. Available at <https://www.renaultgroup.com/groupe/implantations/usine-tanger> (last viewed 18 December 2024).

⁽²¹⁾ Oxford Business Group, 2018 Morocco Report, "Industry overview: New ecosystem", pp. 85-91. Available at <https://oxfordbusinessgroup.com/reports/morocco/2018-report/industry> (last viewed 18 January 2025).

⁽²²⁾ Tangier Free Zone. Available at https://industrial-estate.gov.ma/fiche-zone.php?lang=en&id=447&nature_offer=-1&area=-1&area_max=0 (last viewed 18 December 2024).

⁽²³⁾ Tangier Automotive City. Available at https://industrial-estate.gov.ma/fiche-zone.php?lang=en&id=305&nature_offer=-1&area=-1&area_max= (last viewed 18 December 2024).

⁽²⁴⁾ Atlantic Free Zone. Available at https://industrial-estate.gov.ma/fiche-zone.php?lang=en&id=500&nature_offer=-1&area=-1&area_max= (last viewed 18 December 2024).

⁽²⁵⁾ Industrial Acceleration Plan 2014-2020. Available at <https://www.mcinet.gov.ma/en/content/industrial-acceleration-plan-2014-2020> (last viewed 3 January 2025).

- (132) The IAP aimed at increasing the employment of young people, increasing industry's share on GDP, boosting exports, improving FDI's, and improving productivity through targeted support to industrial players. A half of the 500 000 new jobs envisaged by the IAP were intended to be created by FDI's. ⁽²⁶⁾ This once again shows the reliance of the GOM on resources from abroad to achieve the goals of its industrial strategy.
- (133) Under the IAP, Morocco attracted a second major foreign carmaker. In June 2015, Stellantis (then PSA Group) signed a Memorandum of Understanding with the Group CDG concerning the construction of a factory in the free zone for export of Kenitra. ⁽²⁷⁾ Stellantis invested 6 billion MAD (557 million EUR) and in 2019, it put into operation a plant with a capacity of 200 000 vehicles and 200 000 engines annually. ⁽²⁸⁾
- (134) Based on the results achieved under the NPIE, the GOM recognised the need to reduce fragmentation of the industry through the creation of industrial ecosystems. The automotive industry remained on the radar of the GOM as one of the key industries.
- (135) Under the IAP, the GOM created eight ecosystems ⁽²⁹⁾ within the automotive industry, including automotive wiring, car interiors/seats, car batteries, metal stamping, OEM sourcing, and powertrain. The GOM signed performance contracts with the individual ecosystems detailing performance objectives and GOM's commitments for each partial industrial subsector, as well as a performance contract addressing horizontal measures for the automotive industry.
- (136) The performance contract for the powertrain ecosystem was signed between the Ministry of Economy and Finance, the Ministry of Industry, Trade, Investment and Digital Economy (hereinafter referred to as 'Ministry of Industry and Trade'), and the Moroccan Association for Automotive Industry and Trade (Association Marocaine pour l'Industrie at le Commerce de l'Automobile, 'AMICA') in February 2016. As confirmed by the investment agreement signed between the GOM and CITIC Dicastal as well as the performance contract amendment of 2018, manufacturing of aluminium road wheels is part of the powertrain ecosystem.
- (137) In the performance contract, AMICA committed to the creation of 10 000 additional jobs, 6,5 billion MAD additional sales and additional investments in the same value, as well as to higher integration of the ecosystem with the Moroccan economy through increased local content. On the other hand, the GOM promised to provide the operators in the powertrain ecosystem with attractively priced land, to approach and mobilise foreign investors, including for the purpose of establishing joint ventures with local companies, to mobilise investment banks in order to support foreign investors, and to provide investment subsidies. The investment subsidy normally capped at 20 % of the investment value was increased to 30 % for the first three companies in four fields of activity (cast iron foundry, aluminium die casting, aluminium gravity casting, aluminium refining) under the pioneering offer.
- (138) In order to provide a single source of finance for the IAP, the GOM established the Industrial Development and Investment Fund as a special allocation account of the state budget in 2015 ⁽³⁰⁾. Total resources intended for the implementation of the IAP were determined at 3 billion MAD annually for the period 2014-2020. According to the performance contract, 450 million MAD were allocated to the powertrain ecosystem initially. The performance contract was however amended in October 2018. Considering the development of the aluminium road wheels manufacturing in Morocco, the budget dedicated to the powertrain ecosystem almost quadrupled to 1,71 billion MAD.

⁽²⁶⁾ Ibid.

⁽²⁷⁾ CDG: Supporting the PSA Group in the establishment of a car factory in Morocco. Available at <https://cdg.ma/en/cdg-cdg-supporting-psa-group-establishment-car-factory-morocco> (last viewed 3 January 2025).

⁽²⁸⁾ PSA Peugeot Citroën and the Kingdom of Morocco signed an agreement for the implementation of an industrial complex. Available at <https://www.mcinet.gov.ma/en/content/psa-peugeot-citro%C3%ABn-and-kingdom-morocco-signed-agreement-implementation-industrial-complex-0#> (last viewed 3 January 2025).

⁽²⁹⁾ Plan d'Accélération Industrielle, p. 2. Available at https://attijarientreprises.com/sites/default/files/2022-03/Plan_d_Acceleration_Industrielle.pdf (last viewed 3 January 2025).

⁽³⁰⁾ Decree No. 2-14-715 of 2 Rabii 11436 (25 December 2014) designating the authorising officers of the special allocation account entitled the Industrial Development and Investment Fund.

- (139) Moreover, to enable easy access to additional finance for the actors in the whole automotive industry, the GOM and AMICA signed a partnership agreement with several banks ⁽³¹⁾, including the AttijariWafa Bank Group, in July 2015. The partnership agreement mandates the bank to, *inter alia*, provide the automotive industry with credit lines in foreign currency to finance their operating requirements at a preferential interest rate.
- (140) Furthermore, on 19 February 2018 the GOM and Hands Corporation signed an investment agreement, whereby the GOM engaged to provide to Hands 8 incentives, subsidies and assistance measures aimed at the different phases of the establishment of the industrial plant for the manufacturing of the PUI. The phases of the establishment of the industrial plan comprehend various types of investments and expenditures, notably the purchase of the land, the construction of industrial buildings, acquisition of new equipment and software for their functioning, the related technical assistance for installation and testing, and professional training.

3.3.3. *New Investment Charter 2022*

- (141) During the verification visit, the GOM clarified that the original investment charter was valid from 1995 to 2022, and coexisted with the incentives provided under the IAP 2014-2020. In order to prolong the incentives provided under these programmes in a more efficient manner, a new Ministry of Investment was created with the specific objective to establish a new investment charter and to unify all previous incentive programs. In the meantime, the GOM continued to apply the old investment charter and the dispositions of the IAP 2014-2020. The new Investment Charter, combining all previous support programmes, was voted in December 2022 and is in force since 2023. Companies with investment agreements pre-dating the new Investment Charter can continue to benefit from the incentives granted under the previous rules.

3.4. **Cooperation between Morocco and China**

3.4.1. *Legal basis*

- (142) The relevant bilateral agreements and other documents signed over the years between the GOM and the GOC, as well as the statements jointly delivered, include:
- Agreement on Encouraging and Mutual Protection of Investment between the Government of the People's Republic of China and the Government of the Kingdom of Morocco (March 27, 1995);
 - Agreement on Economic and Technical Cooperation (2002);
 - Science and Technology Cooperation Agreement (2006);
 - Agreements and memoranda of understanding signed in November 2014 in the context of the China-Morocco Economic Forum held in Beijing;
 - Memorandum of Understanding on Cooperation in the Field of Infrastructure (2016);
 - Joint Statement on Establishing the Strategic Partnership between the Two Countries (signed by King Mohammed VI of Morocco and President Xi Jinping in May 2016), as well as the ensuing Declaration on establishing a strategic cooperation between the GOC and the GOM;
 - Memorandum of Understanding between the Government of the People's Republic of China and the Government of the Kingdom of Morocco on Jointly Promoting the Silk Road Economic Belt and the 21st Century Maritime Silk Road (November 2017);
 - Memorandum of Understanding to establish a Business Council for the Silk Road (*'Conseil d'affaires de la route de la soie'*), signed in March 2018;

⁽³¹⁾ A partnership agreement was also signed with the Banque Central Populaire, and the Banque Marocain du Commerce Extérieur in July 2015 and with Crédit Agricole du Maroc in June 2023. Available at <https://www.maroc.ma/en/news/automotive-industry-ministry-professional-association-sign-agreement-support-operators> (last viewed 9 January 2025).

- Framework agreement on Financing and Insurance Cooperation between the Chinese State Export Credit Insurance ('Sinosure') and the Moroccan Foreign Trade Bank ('BMCE'), 25 April 2019;
- Implementation Plan of Jointly Building the Belt and Road Initiative between the Government of the Kingdom of Morocco and the Government of the People's Republic of China, 5 January 2022;
- Memorandum of Understanding to set up an industrial project for aluminium wheel production in the Kingdom of Morocco between the Kingdom of Morocco and CITIC Dicastal, September and December 2017;
- Investment Agreement to set up an industrial project for aluminium wheel production in the Kingdom of Morocco between the Kingdom of Morocco and CITIC Dicastal, 26 July 2018.

3.4.2. *Introduction and factual context of the bilateral cooperation: legal and policy documents*

- (143) In addition to the subsidies and other preferential policies as detailed in the previous section, the GOM also sought to attract investment, preferential financing, and know-how from third countries with the necessary financial means and know-how available. A natural partner in this respect was China, given the existence of the comprehensive preferential programme named 'One Belt One Road', also known as 'Belt and Road' initiative ('BRI'). At the same time, China had a well-established producer of aluminium road wheels, CITIC Dicastal, which belongs to the CITIC group⁽³²⁾.
- (144) Morocco has been positioning itself as the Mediterranean production hub and attracting investors using its geographical location, developed infrastructure and free access to key markets via a series of free trade agreements, in particular access to the Union market based on the Euro-Mediterranean Association Agreement (see recitals (11) to (15)).⁽³³⁾
- (145) The cooperation between China and Morocco goes back to 1995, when an "Agreement on Encouraging and Mutual Protection of Investment between the Government of the People's Republic of China and the Government of the Kingdom of Morocco" was signed by the two countries on 27 March 1995. China encouraged Chinese enterprises with strength and good reputation to establish in Morocco. Morocco provided various forms of support and convenience for Chinese companies to do business on the Moroccan market.
- (146) In November 2014, the China-Morocco Economic Forum was held in Beijing and a number of agreements and memoranda of understanding covering many economic fields were successfully signed.

⁽³²⁾ For the purpose of this document, 'CITIC Group Corporation' refers to the ultimate mother company and 'CITIC group' refers to the group of companies under the umbrella of CITIC Group Corporation.

⁽³³⁾ See, for example: Why Morocco. Available at <https://www.morocconow.com/why-morocco/> and <https://www.morocconow.com/wp-content/uploads/2021/11/PitchGeneraliste.pdf> (last viewed 10 January 2025). Morocco: Hub of Africa. Available at <https://millermagazine.com/blog/morocco-hub-of-africa-2650> (last viewed 10 January 2025). Morocco. A sea of opportunity beyond the Mediterranean. Available at <https://www.roncucciandpartners.com/en/2024/05/28/morocco-a-sea-of-opportunity-beyond-the-mediterranean/> (last viewed 10 January 2025). Morocco Has Become Global Hub in Several Advanced Sectors, Says Gov't Head. Available at <https://www.maroc.ma/en/news/morocco-has-become-global-hub-several-advanced-sectors-says-govt-head> (last viewed 10 January 2025). Morocco's Manufacturing Mission. Available at <https://sponsored.bloomberg.com/article/morocco-now/morocco-s-manufacturing-mission> (last viewed 10 January 2025). Morocco emerging as key global production hub. Available at <https://www.business-sweden.com/insights/blog/morocco-emerging-as-key-global-production-hub/> (last viewed 10 January 2025). Discover Morocco. Available at <https://www.tangermedzones.com/en/discover-morocco/> (last viewed 10 January 2025). Morocco: A trade hub for Africa and Europe. Available at <https://www.meed.com/morocco-a-trade-hub-for-africa-and-europe/> (last viewed 10 January 2025). Morocco turns to hi-tech manufacturing. Available at <https://african.business/2022/04/energy-resources/morocco-turns-to-hi-tech-manufacturing> (last viewed 10 January 2025).

- (147) In January 2016, China had issued the document “Several Opinions of the State Council on Promoting the Innovative Development of Processing Trade”⁽³⁴⁾ to guide enterprises to carry out international production capacity cooperation and promote positive interaction between international cooperation and domestic industrial transformation and upgrading. At recital 17, this document foresaw the deepening of industrial cooperation with countries along the “Belt and Road”, whereas at recital 18 it called to improve the level of China-Africa industrialisation cooperation to focus on cooperation in processing trade production capacity.
- (148) In May 2016, King Mohammed VI of Morocco paid a state visit to China. The two heads of state jointly signed the “Joint Statement on Establishing the Strategic Partnership between the Two Countries”. Subsequently, in 2016, a Declaration on establishing a strategic cooperation between the GOC and the GOM further enhanced the cooperation tools between the two governments. The salient elements of that cooperation are contained in part 2 of the Declaration, titled “Economy, trade and investment” and can be summarised as follows: (i) the need to strengthen the economic and trade partnership between the two countries and make full use of the role of the China-Morocco Joint Committee on Trade, Economic and Technical Cooperation, and generally expand the scale of trade between the two countries; (ii) to develop partnerships in the field of industry; (iii) to actively implement the content of the 1995 agreement and the memorandums and agreements signed November 2014; (iv) to encourage the financial supervisory authorities of the two countries to establish a supervisory cooperation mechanism; (v) to strengthen cooperation in human resource development between the two countries; (vi) to continue to provide assistance within China’s capacities for the economic development of the Kingdom of Morocco, the GOM in turn promised to create favourable conditions for Chinese companies doing business in Morocco.
- (149) The cooperation was further facilitated when the Bank of China opened an Office in Morocco in 2016. In November 2017, the official website of the GOC’s Belt and Road database reported that GOC’s Foreign Minister Wang Yi held talks with GOM’s Minister of Foreign Affairs and International Cooperation in Beijing. After the talks, the foreign ministers of the two countries jointly signed the “Memorandum of Understanding between the Government of the People’s Republic of China and the Government of the Kingdom of Morocco on Jointly Promoting the Silk Road Economic Belt and the 21st Century Maritime Silk Road” (‘the BRI MoU’). This was also reported on the GOC’s website Belt and Road Portal. As mentioned in section 3.2.1 above, the detailed content of this agreement was not available to the Commission, as it was not provided during the course of the investigation by the GOM.
- (150) Also in 2017, a fund was established to attract Chinese companies to Morocco, according to an article published on China’s BRI’s website. The communication reports the following: *“We hope that more Chinese manufacturing will enter Morocco, and we hope that there will be more economic and trade cooperation, investment and construction of factories. Morocco has low labour costs, a large market hinterland, and preferential taxation, etc., a Moroccan economic and trade official said in an interview. At present, Morocco has signed free trade agreements with the European Union, the United States, Turkey, etc., and the free trade agreements and preferential trade arrangements cover 56 countries. It serves a market with a population of more than 1 billion. In order to attract Chinese capital, Morocco not only created a government fund of 2 billion USD specifically for Chinese companies’ investments, but also promised to provide a ‘springboard’ for Chinese companies to enter Europe and the United States. In addition, it has also launched a five-year ‘Industrial Acceleration Plan’”.*
- (151) In March 2018, the representative business associations of both countries signed a Memorandum of Understanding to establish a Business Council for the Silk Road (‘Conseil d’affaires de la route de la soie’). The President of the Chinese association, Mr Zengwei, declared the following: *“[...] I think Morocco should not be seen as a market of 35 million consumers, but rather as a crossroads between several markets which now account for 1 billion consumers [...]”* Mr Zengwei reaffirmed his country’s determination to help Morocco to ensure its economic development, in particular through increased investment in various sectors of economic activity. Under this memorandum, the two countries created the necessary mechanisms for the holding of regular meetings to examine and evaluate the cooperation between the two sides.⁽³⁵⁾ This declaration clearly states the intention of the GOC to expand the BRI in Morocco, with the aim of gaining access to the entire Union market, as well as to create an implementation mechanism to monitor and evaluate the bilateral cooperation under the BRI.

⁽³⁴⁾ 2016 Several Opinions of the State Council on Promoting the Innovative Development of Processing Trade, NDRC [2016] No. 4. Available at https://www.gov.cn/zhengce/content/2016-01/18/content_5033735.htm (last viewed 10 January 2025).

⁽³⁵⁾ Morocco, China to establish Silk Road business council. Available at <https://eng.yidaiyilu.gov.cn/p/51195.html> (last viewed 17 January 2025).

- (152) With regard to preferential financing, an agreement was signed in 2019 between the Chinese official export credit agency Sinosure and the Moroccan Bank of Foreign Trade. Under this agreement, Sinosure would actively carry out an overall cooperation with the Moroccan Bank of Foreign Trade to provide financing and insurance support for Chinese-funded enterprises to enter the Moroccan market, and to provide assistance for the economic and trade development of China and Morocco. ⁽³⁶⁾
- (153) Finally, on 5 January 2022 ⁽³⁷⁾ the GOC and the GOM further strengthened their cooperation by the signature of the “Implementation Plan of Jointly Building the Belt and Road Initiative between the Government of the Kingdom of Morocco and the Government of the People’s republic of China” (‘the BRI Implementation Plan’), which builds on the BRI MoU of 2017 and aims to further implement it. Indeed, this agreement specifically takes into consideration the BRI MoU and the Joint Statement of 2016.
- (154) Based on the consensus reached in the BRI MoU, the two sides then identify in the BRI Implementation Plan industrial sectors and activities with a shared interest and synergies between Morocco’s Industrial Strategy and China’s Belt and Road Initiative. In this context, industrial cooperation priorities are listed ⁽³⁸⁾. In fact, the Chinese Belt&Road Portal even highlights that, “*the Chinese government undertakes, under this agreement, to encourage large Chinese companies to set up and invest in Moroccan territory*”, such as the automotive industry. Interestingly, the same Portal uses the image of the CITIC Dicastal project to illustrate this ⁽³⁹⁾.
- (155) Furthermore, public information states that under the agreement, potential investors will be supported by the financial framework available under the BRI. In fact, Morocco’s Foreign Affairs Minister noted that “*this convention aims to promote access to the Chinese financing provided by the Belt and Road initiative, for the establishment of large-scale projects in Morocco, the facilitation of trade and joint ventures in different fields such as industry,...*” ⁽⁴⁰⁾
- (156) The relevant legal documents detailing the investment project by the Dicastal group confirm that this preferential legal and policy environment stemming from the domestic policies implemented by Morocco and then the bilateral cooperation with China represented the framework within which the Dicastal group invested in Morocco (see among others section 3.4.3).

3.4.3. Details of the investment project by the Dicastal group

- (157) The investment project of the Dicastal group in Morocco squarely falls under the bilateral industrial cooperation projects targeted by the BRI MoU and the BRI Implementation Plan. Indeed, the BRI MoU between the two countries as negotiated and signed in parallel with the MoU, and the investment agreement were signed respectively in December 2017 and July 2018 between CITIC Dicastal and the GOM to set up an industrial project in the automotive sector for the production of aluminium wheels.
- (158) The project involved an investment of 350 million EUR to set up two production facilities with a capacity of 6 million items a year, of which 90 % are destined for export. The implementation took place in two phases, the first plant put in operation in June 2019 was followed by a second plant in late 2019.

⁽³⁶⁾ Sinosure and Morocco’s Foreign Trade Bank Signed a Framework Cooperation Agreement. Available at https://www.sohu.com/a/311265067_264447 and <https://www.sinosure.com.cn/mobile/xbdt/195980.shtml> (last viewed 10 January 2025).

⁽³⁷⁾ China and Morocco sign a cooperation plan for jointly building the Belt and Road Initiative. Available at https://www.ndrc.gov.cn/fzggw/wld/njz/lddt/202201/t20220105_1311482.html (last viewed 10 January 2025).

⁽³⁸⁾ Ibid.

⁽³⁹⁾ China, Morocco sign joint implementation plan of BRI. Available at <https://eng.yidaiyilu.gov.cn/p/212818.html> (last viewed 6 February 2025).

⁽⁴⁰⁾ Morocco and China sign Joint Belt and Road Implementation Plan. Available at <https://diplomatie.ma/en/morocco-and-china-sign-joint-belt-and-road-implementation-plan> (last viewed 5 February 2025).

- (159) This automotive project clearly fell under the industrial cooperation priorities for both countries, i.e. the GOM's IAP, on the one hand, and the GOC's BRI and Made in China 2025, on the other hand, and on which consensus was reached in the BRI MoU, and under the BRI Implementation Plan according to the facts available. The investment agreement confirms that the GOM has initiated an active policy to develop the industrial sector through the Industrial Acceleration Plan and to attract investors in the automotive sector.
- (160) This objective is also corroborated by public statements of GOM officials. For example, during the inauguration ceremony of the second Dicastal group's plant in Kenitra, on 25 November 2019, Morocco's Minister of Trade and Industry Moulay Hafid Elalamy said this plant *"is an example of the successful Moroccan-Chinese cooperation in the industrial field and is part of the implementation of the Chinese government's initiative called 'One Road, One Belt'"* emphasising that the Chinese investor is one of the *"largest state-owned industrial groups in China"*.
- (161) The fact that CITIC Dicastal implemented GOC policies via this project, including namely the BRI and Made in China 2025, is supported by further elements on file. CITIC Dicastal belongs to the CITIC Group Corporation, a State-owned national authorised investment institution (Section 1.1. of Schedule 3 – Business plan of the investment agreement). CITIC Group Corporation, a Chinese State-Owned Enterprise ('SOE'), and its related companies have a proven record of supporting the BRI through financing and investment⁽⁴¹⁾. Furthermore, although the investment agreement is not directly signed between the GOC and the GOM, but between the company CITIC Dicastal and the GOM, it is quite clear from the text of the agreement that CITIC Dicastal was acting as a proxy of the Chinese government in this instance. This clearly shows that CITIC Dicastal is the entity chosen by the GOC to implement the GOC's BRI policies in Morocco through the signature of the investment agreement.
- (162) In this sense, on the basis of the information available, the Commission considered that CITIC Dicastal acted as a public undertaking on behalf of the GOC. Indeed, as explained at section 3.5.2.1.3, CITIC Dicastal is controlled by the GOC and the Chinese Communist Party ('CCP'), and implements policy objectives, including in the context of the overseas expansion provided for the BRI. As detailed in particular at recitals (328) and (329), the Articles of Association of CITIC Dicastal and the presence of CCP officials highlight that the CCP is not only present in the relevant decision-making bodies of the company, but is also actively involved in the company's business decisions *inter alia* to ensure compliance with the various national economic policies in China, which include the BRI and the Moroccan project. The business plan attached to the investment agreement confirms that CITIC Dicastal is guided by the "2025 Made in China" plan. The project background refers to the Morocco IAP and to the BRI together, with reference to the visit of November 2016, and to the Memorandum of Understanding detailed in section 3.4.2. It confirms that DMA was built under the Chinese Belt and Road Initiative, and is in line with the 'CITIC Dicastal "13th Five-Year Plan";' presumably the company's implementation of the GOC general policy document 13th Five-Year Plan at central, provincial and municipal level. The inauguration of CITIC Dicastal's third plant producing aluminium castings of February 2022 took place at the presence of the Moroccan Minister of Industry and Trade and of the Chinese Ambassador to Morocco, who said that *"the project is China's largest investment in Morocco, marking a major achievement of the Belt and Road cooperation"*.⁽⁴²⁾
- (163) In return, the investment agreement entitled DMA, the operating company set up to implement the project related to CITIC Dicastal, to the Moroccan investment support under IDIF and to incentives stemming from being established in an industrial acceleration zone, as reflected in section "Purpose of the investment agreement".

⁽⁴¹⁾ Belt and Road to get \$113b in CITIC financing. Available at http://english.www.gov.cn/news/top_news/2015/06/26/content_281475134729436.htm (last viewed 6 December 2024).

⁽⁴²⁾ Chinese auto parts manufacturer CITIC to set up 3rd plant in Morocco, 17 February 2022. Available at <https://eng.yidaiyilu.gov.cn/p/222859.html> (last viewed 17 January 2025). Dicastal Morocco Africa renforce sa présence au Maroc. Available at <https://www.mcinet.gov.ma/fr/actualites/discatal-morocco-africa-renforce-sa-presence-au-maroc> (last viewed 17 January 2025). Chinese auto parts manufacturer CITIC to set up 3rd plant in Morocco. Available at <https://english.news.cn/africa/20220217/fbad9addfab64c918ad17863e55c0b13/c.html> (last viewed 17 January 2025).

- (164) These elements are also confirmed in the Memorandum of Understanding signed by GOM and CITIC Dicastal on 11 December 2017. This document in its introduction refers to the preferential policy environment implemented by Morocco as underlying the investment project. In addition, it lists the specific investment incentives granted by the GOM.

3.5. Subsidies provided in the context of the bilateral cooperation between the GOM and the GOC

3.5.1. Legal assessment

- (165) In the GFF,⁽⁴³⁾ GFR⁽⁴⁴⁾ and SSCR⁽⁴⁵⁾ investigations, the Commission found that the basic Regulation also covers situations where the financial contribution is not directly provided by the government of the country of origin or export but by a third country government. A demonstrable link must be established between the actions taken by the government of the country of origin or export and the conduct and the actions of the third country government (such as providing financial support to certain enterprises which is ultimately allocated to the production activities in the country of origin or export). For instance, when a government seeks or induces a third country government to provide a financial contribution on its behalf for the benefit of products produced in such a government, the financial contribution should be attributed to the government of the country of origin or export under Article 3(1)(a) of the basic Regulation.
- (166) In joined cases C-269/23 P and C-272/23 P,⁽⁴⁶⁾ the Court of Justice confirmed that the notion of “financial contribution” includes situations where it is shown that the financial contribution coming from, in whole or in part, the government of a third country other than the country of origin or export of a given product may be considered to have been granted by the government of that country of origin or export, having regard to its own conduct.
- (167) In these situations, it must be demonstrated, in the light of the conduct of the government of the country of origin or export, that that government can be regarded as having granted that financial contribution. The Court of Justice confirmed that a subsidy may take the form of a foreign investment, made by the government of a given third country, in one or more undertakings established in another third country, provided that the conduct of that government permits the inference that they granted that financial contribution to that undertaking or those undertakings, by formally granting it to them or by allowing them in practice to benefit from it.⁽⁴⁷⁾ That may be the case, in particular, where the establishment of legislation, the adoption of a decision, the grant of an authorisation or the use of any other measure by a WTO member is necessary in order to enable that undertaking or those undertakings to obtain, in its territory, a financial contribution from that other member, whether that need is legal or arises from the fact that that other member has, in practice, made entitlement to that financial contribution subject to such legislation, decision, authorisation or other measure.

⁽⁴³⁾ Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt, OJ L 189, 15.6.2020, p. 1.

⁽⁴⁴⁾ Commission Implementing Regulation (EU) 2020/870 of 24 June 2020 imposing definitive countervailing duties on imports of continuous filament glass fiber products originating in Egypt, and levying the definitive countervailing duty on the registered imports of continuous filament glass fiber products originating in Egypt, OJ L 201, 25.6.2020, p. 10.

⁽⁴⁵⁾ Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and Indonesia and amending Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 88, 16.3.2022, p. 24.

⁽⁴⁶⁾ Judgment of 28 November 2024, *Hengshi Egypt Fiberglass Fabrics SAE and Jushi Egypt for Fiberglass Industry SAE*, joined cases C-269/23P and C-272/23P, ECLI:EU:C:2024:984, paras. 74 – 110.

⁽⁴⁷⁾ The General Court in T-480/20 came to the same conclusion: “The Government of China and the Government of Egypt therefore worked closely together to establish the SETC-Zone as a zone with special legal and economic features which *enabled* the government authorities of China to confer directly all the facilities inherent in China's ‘Belt and Road’ initiative on the Chinese undertakings established in that zone” (para. 91) (emphasis added).

- (168) Once the financial contribution of a third country government is attributed to the government of the country of origin or export, the government of the country of origin or export becomes the “granting authority” for the purpose of Article 4(1) of the basic Regulation, since it is responsible for the conduct in question.
- (169) Therefore, in the present investigation the Commission will examine whether, on the basis of the specific evidence available, the financial contributions provided by the GOC to CITIC Dicastal's activities in Morocco should be attributed to the GOM in light of Article 3(1)(a) of the basic Regulation.
- (170) All the documents, including the evidence concerning the GOM's industrial strategy detailed in section 3.3 above, as well as the agreements concerning the bilateral cooperation between GOM and GOC as detailed in section 3.4.2 above, show that the GOM has actively pursued a favourable domestic policy, legislative, and preferential financing environment to develop a number of specific sectors, including namely the automotive sector. Aluminium wheels, as part of the powertrain sub-sector covered by the GOM's IAP, clearly falls in this sector and is thus beneficiary of this preferential environment.
- (171) As part of these policies, the GOM has set up a close cooperation framework with the GOC in order to enable companies established in Morocco to benefit from the preferential financing available under the Chinese BRI, and in particular to finance the specific Sino-Moroccan project leading to the creation and development of the CITIC Dicastal's activities in Morocco, via its related company DMA.
- (172) The BRI is a strategic government programme, a large infrastructure and investment programme with an international outreach. While the BRI Implementation Plan leaves no doubt that the initiative is closely linked to China's strategy of internationalisation and becoming a global industrial leader.
- (173) The GOC's focus is on supporting the Chinese industry in expanding abroad, in line with the policy of creating a set of internationally competitive national champions and ‘going global’. The language of the central Five-Years-Plans (which contains a dedicated section on the BRI) confirms this: “We will encourage more of China's equipment, technology, standards, and services to go global by engaging in international cooperation on production capacity and equipment manufacturing through overseas investment, project contracting, technology cooperation, equipment exporting, and other means, with a focus on industries such as steel, nonferrous metals, building materials, railways, electric power, chemical engineering, textiles, **automobiles**, communications, engineering machinery, aviation and aerospace, shipbuilding, and ocean engineering”.
- (174) The business reputation and know-how of the Dicastal group in China, coupled with the need for expansion overseas of the group *inter alia* to avoid the anti-dumping duties imposed on this product by the Union as well as the need of organic growth⁽⁴⁸⁾ clearly matched the GOM policy objectives in the automotive sector. These objectives, as well as the objective to implement the “Made in China” policy by CITIC Dicastal by exporting the layout design, construction plan, core equipment, manufacturing process and management mode from China to Morocco are confirmed by other press sources.⁽⁴⁹⁾ At the same time, as mentioned above, the automotive sector is also one of the priority areas for China's going global strategy under the BRI. As a result, the BRI Implementation Plan, based on the BRI MoU, mentions the automotive sector as a priority for bilateral industrial cooperation projects under the BRI.
- (175) Therefore, further to the visit by the highest representative of Morocco in 2016 as detailed in recital (148), and further to the signature of the BRI MoU, the GOM implemented its domestic policy objectives with the help of the bilateral agreements' framework. This was accomplished via the investment agreement signed between CITIC Dicastal and the GOM, which led to an entitlement by CITIC Dicastal to receive domestic support from the GOM for its project in Morocco in return for preferential support under the BRI from the GOC.

⁽⁴⁸⁾ Economic Herald. CITIC Dicastal, A new force for Chinese manufacturing to take off overseas, 15 July 2019. Available at <https://www.jingjidaokan.com> (last viewed 18 January 2025).

⁽⁴⁹⁾ Economic Herald. CITIC Dicastal, A new force for Chinese manufacturing to take off overseas, 15 July 2019. Available at <https://www.jingjidaokan.com> (last viewed 18 January 2025). China Nonferrous Metals News. Building a New Bridge of China-Africa Practical Cooperation – Citic Dicastal's North Africa Factory, 2023. Available at <https://www.chinania.org.cn/html/hangyexinwen/guoneixinwen/2023/0602/53398.html> and <http://world.people.com.cn/n1/2023/0522/c1002-32691419.html> (last viewed 10 January 2025).

- (176) In particular, the GOM requested Letters of Intent (LOI) from Chinese banks confirming the Chinese financing as a pre-condition for the investment in Morocco, in the context of Article 7.4(c) of the investment agreement. This was part of CITIC Dicastal's guarantees and commitments according to Article 7.6(b) of the investment agreement. Non-compliance with these commitments by CITIC Dicastal would lead to termination of the agreement by default pursuant to Article 22.1 of that agreement. Given the importance of this pre-condition, the GOM specifically verified that this condition was met, as shown in the evaluation report. In this respect, the GOM requested additional information on the LOIs originally provided for the assessment in order to confirm that the necessary financing to the investment project by the GOC was committed. The fact that the project was eventually implemented confirms that CITIC Dicastal complied with its obligations to provide the Chinese financing as detailed in the investment agreement and its annexes. Thus, there is a demonstrable link between the GOM's actions and the financial support provided by the GOC to the investment in Morocco: unless the GOC provided the financial support the GOM would not have authorised the investment in Morocco. Those GOM actions unequivocally show that the GOM only allowed the investment project to take place and provided the necessary authorisation to CITIC Dicastal's investment project with the required financial support provided by the GOC's financial institutions. Without such an authorisation by the GOM, CITIC Dicastal's investment project with the GOC's financial support would not have been possible.
- (177) As highlighted in recital (97), since the GOM failed to provide the MoU of 2017, the BRI Implementation Plan and several other bilateral cooperation documents, the Commission used a number of relevant publicly available elements in support of its assessment on the basis of Article 28 of the basic Regulation. Indeed, the Commission noted that the BRI Implementation Plan links back to the BRI MoU of 2017 as well as to the 2016 Joint Statement of Establishing Strategic Partnership between Morocco and China.
- (178) First, the facts available on the BRI Implementation Plan confirm that the BRI MoU and the bilateral relationship between the countries were *inter alia* set up in the context of the Economic Take-off Plan and the Industrial Strategy on the Moroccan side, and in the context of the BRI on the Chinese side, as highlighted above in recital (154). This shows that the GOM objective was to entice Chinese investment into the country in exchange for support.
- (179) Second, the facts available show that the BRI Implementation Plan also refers specifically to the automobile industry ⁽⁵⁰⁾.
- (180) Third, as concerns financial support, the BRI Implementation Plan aims to provide access to the Chinese financing framework under the BRI, as already stated in recital (155). This framework includes the *Guiding Principles on Financing the Development of Belt and Road Initiative* ⁽⁵¹⁾. According to publicly available information, countries signing up to these Guiding Principles should “jointly send a positive signal of supporting and financing the development of the Belt and Road”. They “support channelling of financial resources to serve the real economy of countries and regions involved, with priority given to such areas as [...] industrial capacity cooperation, [...]”, and they are encouraged to “coordinate their supporting policies and financing arrangements”. They “value the guiding role of public funds in planning and building major projects” and they “encourage policy financial institutions and export credit agencies of countries involved to continue offering policy financial support for the development of the Belt and Road.” Finally, they envisage “commercial banks, equity funds as well as insurance, leasing, guarantee companies to provide funds and other financial services for the development of the Belt and Road”. This shows that the GOM endorsed the preferential financial support provided by the GOC to the Sino-Moroccan project under the BRI framework.
- (181) Finally, as explained in recitals (91) and (92) above, whilst the Commission asked the GOM for more information about the specific monitoring mechanisms in place, the GOM failed to provide any information in this respect.

⁽⁵⁰⁾ MOROCCO: First North African Belt and Road Agreement Signed with China. Available at <https://research.hktdc.com/en/article/OTYyNTgwNjYx> (last viewed 5 February 2025).

⁽⁵¹⁾ Guiding Principles on Financing the Development of the Belt and Road. Available at <https://eng.yidaiyilu.gov.cn/p/13757.html> (last viewed 10 January 2025).

- (182) The Commission considered that the facts available on the file, on the basis of Article 28 of the basic Regulation, confirm that the bilateral cooperation between Morocco and China, in particular sanctioned through the BRI MoU of 2017, the BRI Implementation Plan and the Joint Statement signed by the two countries' leaders in that occasion, was set up to implement the preferential industrial and development policies of Morocco and the corresponding Chinese preferential policies namely implemented under the BRI and the Made in China strategy. The automotive sector, including the manufacturing of aluminium wheels, was a specific beneficiary of these preferential policies. The facts available further confirm that GOM had the intention to attract Chinese manufacturers for large industrial projects in the automotive sector, and that preferential financing from both the Moroccan and Chinese side would be used for its successful implementation of the joint projects. In line with the evidence collected in the GFF and the SSCR investigations, the Commission inferred that the GOM and the GOC had also set up an administrative apparatus to facilitate the successful implementation of the projects falling within the bilateral cooperation via the disbursements of subsidies and trade facilitation, including the investment by CITIC Dicastal. The GOM and the GOC therefore worked closely together to establish special legal and economic features which enabled the government authorities of China to confer directly all the facilities inherent in China's BRI to the CITIC Dicastal's activities in free zones created to attract those investment projects.
- (183) The bilateral cooperation framework was then put into practice by the GOM via the signature of the investment agreement between CITIC Dicastal, acting on behalf of the GOC, and the GOM. As already mentioned above in recital (161), CITIC Dicastal entered into this agreement with the GOM on behalf of the Chinese Government. In return for the provision of capital by CITIC Dicastal under the BRI, the GOM entitled CITIC Dicastal's related entity DMA to the Moroccan investment support under IDIF as well as to further incentives. In this context, the Commission also noted that CITIC Dicastal's business plan, annexed to the investment agreement and thus endorsed by the GOM, clearly refers to the bilateral cooperation framework and to the complementary nature of the Moroccan and Chinese support policies. The chapter on the project background states that the project agrees with the national policy of the Morocco government under the IAP to attract foreign investment in the automobile industry, and that at the same time the project is made in accordance with the Chinese Belt and Road Initiative national strategy and with Made in China 2025. Specific reference is also made to the 2016 Joint Statement and to the 2017 BRI MoU.
- (184) The Commission then focused on the specific financing arrangements of CITIC Dicastal's investment project, in addition to the elements at recital (176). Article 7.4 of the investment agreement provides for a detailed capitalization plan of the new Moroccan subsidiary, including conditions for payment, a timeline for increasing the share capital within a certain timeframe, and the possibility to finance the remainder of the investment needs via other financing methods, such as bank debts. Article 7.6 clarifies that CITIC Dicastal is bound by the article relating to the capitalization of the operating company and the conditions for increasing and reducing the operating company's share capital. Under the same provisions, reductions of the share capital are possible only if the GOM does not express an objection, given its power to monitor 'compliance' with the conditions set out in the investment agreement (in particular under Article 7.4, letter b) thereof). CITIC Dicastal also undertook to provide the GOM with the deeds and documents justifying the increase and payment of the share capital. Article 25 provides for a Steering Committee set up by the GOM to supervise the implementation of the project. At the date of industrial commissioning, CITIC Dicastal had to provide a report to this Committee certified by an External Auditor and summarizing the financial elements attesting to the completion of the corresponding Capacity Investment. Further reporting obligations are also set out in the Agreement.
- (185) In addition, the investment plan annexed to the agreement clarifies that CITIC Dicastal will finance the project through a combination of bank loans and self-financing. These financial aspects were also analysed and evaluated by the GOM, as evidenced by the project evaluation and approval reports provided by the GOM in order to endorse the investment project. The GOM was thus fully involved in all steps of the capital investment and approved the financial aspects of the investment submitted by CITIC Dicastal.

- (186) In this context, the GOM thus enticed the GOC and CITIC Dicastal to invest into Morocco by *inter alia* offering domestic subsidies. In exchange, the GOM expected the GOC to provide technical know-how and preferential financing in the form of capital investments falling under the financing under the BRI, and it entered into a close bilateral cooperation with the GOC. As a result, the GOM was successful in securing the specific project in the automotive sector for the production of aluminium wheels through the investment in CITIC Dicastal's related entity DMA, thereby benefiting from the GOC preferential financing, as well as the know-how brought by this company. The GOM was successful in attracting this investment also due to the stated objective by CITIC Dicastal to avoid the anti-dumping measures imposed by the EU on the export of aluminium road wheels ⁽³²⁾, as well as by the need of CITIC Dicastal to achieve organic growth in overseas market (see also recital (174).
- (187) All of the above elements show a demonstrable link between the need for GOM to attract investment and capital from China in order to achieve its domestic policies to develop the automotive sector, with the provision of the financial contribution by the GOC in the form of preferential financing in exchange for having access to the advantages in these special economic zones created by GOM and ultimately being able to export to the Union market by avoiding the anti-dumping duties already in place on aluminium road wheels originating in the PRC since January 2023, while at the same time achieve growth overseas.
- (188) On the basis of all these elements as well as on the basis of Article 28 of the basic Regulation, the Commission thus concluded that through its actions the GOM allowed CITIC Dicastal to benefit from the GOC's preferential financing in the context of the BRI. As noted by the Court of Justice, "a subsidy may take the form of a foreign investment, made by the government of a given third country, in one or more undertakings established in another third country, provided that the conduct of that government permits the inference that they granted that financial contribution to that undertaking or those undertakings, by formally granting it to them or by allowing them in practice to benefit from it". ⁽³³⁾ Through the established cooperation framework between the GOM and the GOC, through the adoption of the required authorisations to undertake the investment project in Morocco, in particular as to the granting access to the specific economic zones created by the GOM for that purpose, through the mechanisms in place to ensure the provision of the financial support by the GOC, through the power to monitor compliance with the investment agreement as to variations in the share capital of CITIC Dicastal, the provision of such a financial support to the CITIC Dicastal's activities in Morocco should be attributed to the GOM.
- (189) As explained notably in recital (176), the GOM carefully assessed that CITIC Dicastal's commitments and obligations were complied with, including the financing aspect. The approval of the GOM's Joint Evaluation Committee in charge of the final approval of the project in July 2018 acknowledges this, as the evaluation report mentioned in recital (176) was presented and constituted integral part of the approval decision. Among the conclusions, the minutes specifically confirm that the project would capitalise on the industrial know-how of the Dicastal group, and that there would be a "proven contribution to the national strategy adopted in the automotive sector and, more specifically, to the Powertrain ecosystem." The conclusion thus confirmed that CITIC Dicastal's project was eligible for State support, also from GOC's sources, with the explicit acknowledgement of the GOM. The GOM has reserved further rights to monitor constantly that the project is correctly implemented to achieve its national objectives. Notably, Article 25 of the investment agreement provides the creation of a 'Steering Committee' composed of GOM representatives to monitor the industrial project and the execution of the terms of the investment agreement. These concrete actions by GOM and/or these rights to undertake concrete actions by the GOM to ensure that the investment project is correctly implemented, including that the Chinese preferential financing is provided to fund the development and the project, clearly support the attribution of these financial contributions received by CITIC Dicastal and/or DMA for this project to the GOM.

⁽³²⁾ Commission Implementing Regulation (EU) 2023/99 of 11 January 2023 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain aluminium road wheels originating in Morocco. ELI: http://data.europa.eu/eli/reg_impl/2023/99/oj (OJ L 10, 12.1.2023, p. 1).

⁽³³⁾ Judgment of 28 November 2024, *Hengshi Egypt Fiberglass Fabrics SAE and Jushi Egypt for Fiberglass Industry SAE*, joined cases C-269/23P and C-272/23P, ECLI:EU:C:2024:984, para. 84.

3.5.1.1. Comments following final disclosure

- (190) Following final disclosure, the GOM claimed that the WTO ASCM does not provide for a possibility to countervail transnational subsidies as it implements Article VI:3 of the GATT, which refers to subsidies granted “in the country of origin or exportation.” The GOM pointed also at the 1959 Report of the Group of Experts on Anti-dumping and Countervailing Duties also mentions “the provision of Article VI which permits the imposition of countervailing duties to offset the effects of subsidies, whether granted in the producing or exporting country.” ⁽⁵⁴⁾
- (191) The GOM also asserted that Article 1.1(a)(1) of the WTO ASCM states that a subsidy exists if there is a financial contribution by a government or any public body within the territory of a Member. In addition to the terms “government” and “public body,” Article 1.1(a)(1)(iv) provides that subsidies may also be granted by private bodies entrusted or directed by the government of a Member. The GOM concluded that Article 1.1(a)(1) provides an exhaustive list as only these three types of entities may provide financial contributions constituting a subsidy.
- (192) In support of this theory, the GOM claimed that Articles 2.1 and 2.2 of the WTO ASCM also indicate that a subsidy may be deemed to be “specific” when it is granted to enterprises “within the jurisdiction of the granting authority”. Under international law, “jurisdiction” is understood, as a rule, to be territorial, meaning that it can in principle not be exercised by a State outside its territory except by virtue of an express permissive rule to the contrary. Therefore, the WTO ASCM does not cover subsidies granted by a Member outside of its territory to companies outside its jurisdiction, and this is any event not a specific subsidy.
- (193) The Commission noted that the interpretation suggested by the GOM was dismissed by the Court of Justice in joined cases C-269/23P and C-272/23P. Therefore, the Commission dismissed these claims.
- (194) The Commission further noted that the GOM referred consistently to ‘transnational subsidies.’ The Commission recalled that there exists no such concept of transnational subsidies as the GOM repeatedly alludes to. The subsidies at stake are those whereby financial contributions are provided by a foreign government, that is the GOC, to entities established in another country where the production and export of the product concerned takes place, that is Morocco. The financial support provided by the GOC are attributed to the GOM as the government of the country of exports. Such a support becomes a financial contribution by the GOM in the present case. In line with recital (167), once attributed to the GOM, these financial contributions are then assessed in light of the other relevant elements to establish whether there is a countervailable subsidy in this country of export conferring a benefit to the company producing in its territory. This misnomer of ‘transnational subsidies’ captiously used by the GOM mischaracterises the legal qualification and assessment of the financial contributions carried out by the Commission in the context of the cooperation between GOM and GOC. This term and concept are incorrect and do not exist, and they do not reflect what the Commission has countervailed in the investigation. Therefore, any argument by the GOM based on this mischaracterisation of the relevant legal concept is legally flawed and could be dismissed on this basis only. In any event, these claims are dismissed on the basis of the conclusion at recital (193).
- (195) The GOM further argued that the Commission had established a discriminatory presumption that countries involved in the BRI cannot overlook the distinctive features of the BRI, such as its preferential financial support and other forms of assistance. In GOM’s view, the Commission believes that any country participating in the BRI is aware that this cooperation with China will entail financing from Chinese institutions under non-market conditions. Therefore, the Commission is systematically considering Chinese overseas projects as falling within the scope of its transitional theory, even if there is no specific cooperation related to the project in question, as is the case with regard to DMA. This essentially grants the Commission the authority to counteract any Chinese financing in an exporting country, provided it can be shown that the exporting country is involved in the BRI.

⁽⁵⁴⁾ Document L/978, adopted 13 May 1959 (Annex A.4), paragraph 11.

- (196) DMA claimed that the Commission applied adverse inferences when it concluded on the existence of cooperation between the GOM and the GOC in relation to DMA.
- (197) The GOM also underlined that it did not entice Chinese investment into the country in exchange for support. In this sense, according to GOM, the situation is very different from the previous Commission's investigations dealing with transnational subsidies.
- (198) In the GFR Egypt case, the Commission identified a specific cooperation agreement between Egypt and China ('Agreement on the Suez Economic and Trade Cooperation Zone') explicitly providing for Chinese preferential financing for the investment project at hand in Egypt. In the SSCR Indonesia case, the Commission found that Indonesia endorsed an investment and financing agreement with the China-ASEAN Investment Cooperation Fund (CAF) to develop the investment project at hand in Indonesia. In the case at hand, there was no arrangement of direct transfer of funds from Chinese banks or other financial institutions, neither there is indication that the GOM participated in or agreed to any transfer of funds to DMA. The GOM has never cited the BRI as a condition or reason for CITIC Dicastal's investment in Morocco. Furthermore, the GOM has not indicated any desire for Chinese subsidies under the BRI to support CITIC Dicastal's investment in the country.
- (199) As for the claims that the imposition of anti-subsidy measures in relation to financing provided under the BRI is discriminatory because the relevant evidentiary standard is not met, the Commission disagreed. The requirements and the standard of evidence to justify the attribution of a financial contribution from a foreign government to the government of the country of origin or export have been laid down by the Court of Justice in joined cases C-269/23P and C-272/23P, as detailed at recitals (166) to (167). To this end, the Court considered that a demonstration that a financial contribution provided by a foreign government (in this case the PRC) can be attributed to the government of the country of origin or export (in this case Morocco) can be based on the conduct of this latter country.⁽⁵⁵⁾ The Court further confirmed that a subsidy may take the form of a foreign investment by the government of a third country in undertakings located in another third country. This is the situation of this proceeding where the GOC has channelled funds under the BRI directly or indirectly for a foreign investment in Morocco undertaken by CITIC Dicastal via DMA. With regard to the evidentiary standard, the Court held that the conduct of the government of the third country, that is China, permits the inference that, pursuant to its agreed cooperation with the GOM, they granted financial contributions to the undertaking making the investment in the foreign jurisdiction, that is CITIC Dicastal and DMA.⁽⁵⁶⁾ This standard is clearly met on the basis of all arguments and evidence detailed at sections 3.4 and 3.5. In this respect, contrary to DMA claim the Commission did not take 'adverse inferences', but relied on all the evidence on file, and filled the remaining gaps also on the basis of inferences pursuant to Article 28 of the basic Regulation given the widespread non-cooperation by the GOM on these points.
- (200) The reference of the GOM to the cases on GFR from Egypt and SSCR from Indonesia is not decisive, because the respective facts are different and the terms of the cooperation between the GOC and the respective country of exports are also different. The findings of the Commission in each case are based on the specific facts and circumstances in each case. As demonstrated by the Commission, the facts and evidence in this case clearly show that the terms and the bilateral framework between the GOM and GOC as well as the respective domestic preferential policies of these countries supported the attribution of the financial support from the GOC to CITIC Dicastal's project in Morocco to the GOM, fully in line with the standard laid down by the Court of Justice in joined cases C-269/23P and C-272/23P.
- (201) The GOM and DMA further argued that the Commission failed to prove that the DMA project was a result of the bilateral cooperation between the GOM and the GOC. The GOM pointed to the fact that, at the time of DMA's establishment and capitalization, there was no bilateral cooperation between Morocco and China in the automobile industry or BRI, nor did the GOC extend any preferential financing to DMA, while the bilateral agreements referred to in recital (142) are general in nature and do not specifically mandate the establishment of DMA. DMA argued that no reference to the company itself or aluminium road wheels projects in general was made in the BRI MoU, which was signed in November 2017, i.e. after the signature of the memorandum establishing the company in September 2017, and which the company submitted as an annex to its comments on final disclosure.

⁽⁵⁵⁾ See C-269/23P, paragraph 77.

⁽⁵⁶⁾ See C-269/23P, paragraph 84.

- (202) The GOM further argued, by comparing the respective investment agreements concluded with CITIC Dicastal and Hands 8, that they were substantially identical, and that in fact while Hands8 had benefited from the investment grant provided by GOM whereas CITIC Dicastal did not receive this grant foreseen in the investment agreement. DMA added in this respect that the following statement from the investment agreement: *“The People’s Republic of China, through the CITIC Dicastal Group, wishes to give a new impetus to its global presence by implementing an industrial project in the Kingdom of Morocco”* was misinterpreted. The company claimed that the decisions of CITIC Dicastal to invest in Morocco were driven by commercial considerations and strategic business objectives.
- (203) GOM and DMA further argued that the investigation showed that there are absolutely no Chinese banks, other financial institutions, or Chinese State administration bodies that supported the establishment of DMA in Morocco. This finding underscores that DMA is a strictly private investment by CITIC Dicastal, with no involvement or backing from any public sector entities.
- (204) The investment agreement did not refer to any financial commitments of the GOC. In this respect, DMA claimed that the letters of intent referred to in recital (175) did not contain any financing commitments by the GOC or the Chinese banks or financial institutions. It submitted an affidavit in this sense by the general manager of DMA, who was allegedly familiar with the content of these documents.
- (205) The specific financing arrangements laid down by the investment agreement as referred to in recital (183) did not either witness any support provided by the GOC. In this respect, DMA reiterated that CITIC Dicastal only took over the ownership of DMA at the end of 2023.
- (206) The financing of the investment by CITIC Dicastal via a combination of bank loans and self-financing explained in the investment plan attached to the investment agreement allegedly referred to Moroccan, not Chinese banks.
- (207) The GOM and DMA also asserted that the statements by officials, such as those made during the inauguration of DMA, are ceremonial and aimed at promoting bilateral relations, and they do not constitute concrete evidence of direct governmental cooperation in the establishment of the plant.
- (208) Furthermore, the GOM noted that the Commission applied facts available in a manner that is inconsistent with Article 12.7 of the WTO ASCM. According to the GOM the Commission arbitrarily selected facts that are punitive in nature and based its findings on nothing but non-factual assumptions and speculation.
- (209) Finally, DMA claimed that the fact that the GOM had not extended the investment grant under IDIF to DMA was contrary to any allegations of the existence of cooperation between the GOM and the GOC, and that the fact that CITIC Dicastal only became the owner of DMA at the end of 2023 means that it could not have implemented any BRI policies in Morocco.
- (210) With regard to the GOM’s and DMA’s assertions that there was no evidence that GOM was specifically targeting the BRI financing for this project and that the investment agreement was misinterpreted and virtually identical with the agreement signed with the other exporting producer Hands 8, the Commission disagreed. Once again, the evidence detailed at sections 3.4 and 3.5 shows that CITIC Dicastal had an entitlement from the GOC to receive financial contributions under the BRI and other Chinese policies for its foreign investment in Morocco in the context of the bilateral cooperation between the two governments, thus fully meeting the standard set by the Court of Justice in joined cases C-269/23P and C-272/23P. The GOM’s claim could thus already be dismissed on this basis.

- (211) It is further noted that the extensive lack of cooperation by the GOM, which refused to submit virtually all the documents showing the details of the bilateral cooperation led the Commission to infer that this cooperation, clearly impeded the investigation on this point. Nevertheless, all the evidence and inferences contained at sections 3.4 and 3.5 also show that this claim is baseless, as the GOM was fully aware of the preferential financing under the BRI as an instrumental means to finance the GOM preferential policies including in the automotive sector, in which the CITIC Dicastal project was the largest Chinese investment undertaken in Morocco. In any event, the Commission noted that among the documentary evidence relied on for the cooperation between GOC and GOM the BRI MoU and the BRI implementation plan have the BRI in their title, showing that this was their main object and BRI financing was instrumental for GOM to achieve the sectoral and development policies. All these findings have been further confirmed *ex post* by the text of the actual BRI MoU, which was submitted by DMA in the context of its comments following final disclosure (see also recitals (212) and (215)). The fact that access to Chinese financing was fully part of the deal and that this was known by the GOM is confirmed by two different Moroccan Ministers for Trade and for Foreign Affairs, as detailed a recitals (155) and (160), the latter with specific regard to the DMA project, as well as by the Chinese BRI portal as specified at recital (154).
- (212) Moreover, the Commission found it quite telling that it was DMA itself and not the GOM that eventually submitted the BRI MoU to the file of the investigation as new evidence in the context of its comments on the final disclosure. The BRI MoU is a government-to-government agreement detailing the cooperation between GOM and GOC *inter alia* to implement the BRI in Morocco. GOM specifically refused to submit it to the Commission on the grounds that it contained confidential governmental information and that it needed the GOC consent to submit it, which was allegedly lacking. The fact that DMA was in possession of the BRI MoU and eventually submitted it proves once more that it must have obtained it because its project occurred in the context of the close cooperation between GOM and GOC under the BRI, as also shown by the cross-reference in the business plan of the investment agreement (see also recital (215)). Another conclusion from the fact that DMA was in possession of the BRI MoU is that CITIC Dicastal was indeed acting as a public body in the implementation of the BRI for the Moroccan project, as it also signed it on behalf of the GOC. Would CITIC Dicastal, a related company of DMA, not have been a public body and direct expression of the GOC, it would not have had possession and access to such a confidential government-to-government agreement as the BRI MoU. All these elements confirm, contrary to the GOM and DMA assertions, that DMA Moroccan project squarely fell within the cooperation between GOC and GOM and in the context of the BRI as well as the GOM policies, and that CITIC Dicastal acted as a public body for the implementation of the project via its related entity DMA.
- (213) As for the comparison between the DMA and the Hands 8 investment agreements, there are two crucial differences that the GOM and DMA fail to mention when arguing that their wording is substantially the same or misinterpreted. First, as explained at recital (161), CITIC Dicastal signed the investment agreement as a proxy of the GOC, which was clearly behind the agreement. The specific wording of the agreement with CITIC Dicastal, i.e. “*The People’s Republic of China, through the CITIC Dicastal Group...*” can be found nowhere in the agreement with Hands 8, which signed the agreement in its own capacity and not on behalf of its government.
- (214) Second, while it is true that CITIC Dicastal investment agreement does not refer to the BRI in its main body, the business plan which is annexed to it and thus forms integral part of the agreement has a specific section on the implementation of the BRI and the Made in China 2025 policy, unlike Hands 8 investment agreement and its annexes. This annex also refers specifically to the BRI MoU of November 2017 and to the 2016 State Visit of the Moroccan King and the ensuing Declaration on establishing a strategic cooperation between the GOC and the GOM. The Commission also noted that, contrary to DMA’s allegations, two versions of the MoU between the GOM and CITIC Dicastal exist, the first one signed in September 2017, and the second (final) one in November 2017, i.e. exactly at the same time as the BRI MoU. There is thus no disconnection in terms of timing between the BRI MoU and the documentary evidence concerning the investment in DMA.

- (215) Third, the fact that the BRI MoU is indeed a catalyst for financial support, and not only a general statement on bilateral cooperation, can now also be corroborated by the actual content of the document. The BRI MoU was finally submitted to the file by DMA in its comments on final disclosure. Indeed, the Bri MoU highlights that one of the objectives of the MoU is to support projects relating to the investment in additional Chinese production capacity in the context of the BRI, and that financial institutions in the cooperating countries are encouraged to provide financial support for such projects. For confidentiality reasons, the specific quotes of the text used as an underlying basis for this recital are provided to DMA and the GOM in a specific disclosure.
- (216) Fourth, the more detailed findings and evidence showing how the Chinese banks acting as public bodies and the GOC provided financing in the context of the BRI specifically for the DMA project are described extensively in sections 3.4 and 3.5., and have been further developed in this section. Concerning specifically the letters of intent mentioned in recital (176) above, the Commission notes that the company did not submit any of the original letters and that the information provided by the GOM referred explicitly to financing by Chinese banks (not Moroccan banks), whereas the affidavit provided by DMA refers to certain companies involved in DMA's capital increase, and is hence not relevant. The Commission also wishes to highlight that the only loan provided by a Moroccan bank was only granted in 2023, i.e. 5 years after the initial establishment of DMA.
- (217) Fifth, with regard to the statements by public officials, also contained in the same sections and in this section, they are not simply ceremonial and are considered relevant evidence of the position of GOM officials in their capacity. Therefore, together with the other body of evidence considered by the Commission, they are relevant for the findings on these issues, all the more so on the basis of Article 28 of the basic Regulation in a context of full non-cooperation by the GOM on this aspect of the investigation.
- (218) Lastly, with regard to the claim that the GOM actually disbursed the investment grant foreseen in the investment agreement only to Hands 8 and not to CITIC Dicastal, the only reason for this is that the latter did not fulfil certain conditions attached to obtaining such grant. If anything, this circumstance tends to show that CITIC Dicastal was not really in need of the GOM investment grant, presumably because the substantial preferential financing received in China under the BRI was already sufficient to cover the investment needs. These elements also show that the GOC was a complementary partner for the successful implementation of the GOM's domestic industrial policies because of the financing available under the BRI, unlike South Korea, that did not offer such similar preferential financing. Therefore, these claims were rejected.
- (219) The GOM challenged also the Commission conclusions as to GOM and GOC joint supervision of the establishment and development of DMA, for example through the Steering Committee set up by the GOM to supervise the implementation of the project, as well as to CITIC Dicastal role as a proxy for the GOC and the consideration of the company as a public body.
- (220) In the absence of cooperation by the GOM, the Commission relied on the relevant evidence on the file on the basis of Article 28 of the basic Regulation. The Steering Committee cited in the investment agreement is one of such joint bodies set up to supervise the correct implementation of the investment project, showing that the bilateral cooperation was proactively followed and implemented under the government supervision. In addition, the BRI MoU also refers to bilateral cooperation mechanisms to monitor and coordinate the implementation of the joint programmes falling under the MoU. This, together with the other facts available relied upon by the Commission, constituted a relevant element for the findings in the absence of further cooperation. Therefore, this argument was rejected.

3.5.2. *Preferential financing provided by a government or a public body in the context of cooperation between the GOM and the GOC*

3.5.2.1. Preferential financing provided to DMA for the Morocco investment project

(221) The Commission found that CITIC Dicastal's project in Morocco benefited from the GOC's support. The evidence showed that between 2017 and 2023 CITIC Dicastal obtained grants provided by the GOC as well as preferential loans provided by Chinese financial institutions (including related banks) acting as public bodies. Those funds were (at least partially) allocated to CITIC Dicastal's project in Morocco. Rather than providing the funds directly to DMA, the agreed developer of the Moroccan project for CITIC Dicastal, the Commission found conclusive evidence that CITIC Dicastal, acting as a public body, channelled the funds received by the GOC via several related entities. In particular, CITIC Dicastal provided loans to Dicastal HK, which subsequently provided loans amounting to EUR 100 million to DMA. CITIC Dicastal also increased the cash flow in 2018-2020 ⁽⁵⁷⁾ of Changsha Dicastal, a partner in business and thus related to CITIC Dicastal which directly supported the activities of DMA through the provision of equipment or indirectly via another entity related to CITIC Dicastal (Dicastal Asia) and owner of DMA, which provided DMA with several loans and capital injections. Moreover, CITIC Dicastal used Wisdom to provide further loans and cheap inputs to DMA. In January 2024, once the Moroccan project was running successfully, CITIC Dicastal took over the ownership of Dicastal Asia thus effectively becoming the sole shareholder of DMA. Therefore, the Commission concluded that DMA benefited from financial contributions provided by CITIC Dicastal via its related entities.

3.5.2.1.1. Grants and preferential financing provided by the GOC and by Chinese banks and financial institutions to CITIC Dicastal

(a) **Sources of external funds**

(222) As explained in section 3.5.1, the relevant documents concerning the investment project clearly showed that CITIC Dicastal received the necessary funding to implement the Morocco project under the BRI umbrella and the other preferential policies implemented by the GOC. In particular, the evidence on file showed that CITIC Dicastal received in the period of 2017 to 2023 a number of grants from different GOC entities, including for investments and foreign trade. ⁽⁵⁸⁾ The evidence further showed in the period 2017 to 2023 CITIC Dicastal received directly or indirectly substantial amounts of preferential loans at very low rates from external Chinese banks and other financial institutions, as well as from the related companies CITIC Bank and CITIC Finance. ⁽⁵⁹⁾

(223) CITIC Dicastal received directly or indirectly preferential loans from the following unrelated banks:

- Agricultural Bank of China,
- Bank of China,
- Bank of China (Hong Kong) Limited,
- Bank of Communications,
- China Construction Bank,
- China Development Bank,
- Industrial Bank (CIB),

⁽⁵⁷⁾ 2018-2023 Audited reports of Changsha Dicastal submitted in response to deficiency letter No. 1 and collected as an exhibit during the on-spot verification; listings of Accounts Payable and Accounts Receivable submitted by Changsha Dicastal in response to deficiency letter No. 4.

⁽⁵⁸⁾ Table E-2.2.1.c Loans provided in response to deficiency letter No.3 and revised during the on-spot verification, and a list of all loans received in the period of 2017 to 2022 provided in response to deficiency letter No. 4.

⁽⁵⁹⁾ Ibid.

- China Merchants Bank,
- Export-Import Bank of China,
- Industrial and Commercial Bank of China,
- China Minsheng Bank,
- Mizuho Bank,
- Oversea-Chinese Banking Corporation Bank (OCBC Bank),
- Standard Chartered Bank (Hong Kong) Limited,
- Westpac Bank.

(224) In addition, CITIC Dicastal received loans from related banks/financial institutions within the CITIC group:

- CITIC Bank,
- CITIC Finance Co., Ltd.

(225) These banks and financial institutions provided ample funds to cover manifold times the value of the investment in Morocco as committed in the investment agreement. The approximate total of these loans, which were denominated in several currencies, amount to several billion euro over the period 2017-2023. Approximately one third of those loans was denominated in Euro. This currency was used as the reference currency in the investment agreement for the investment project in Morocco. As demonstrated in sections 3.4.3 and 3.5.1, by investing in Morocco CITIC Dicastal implemented the BRI. It is therefore reasonable to conclude in the circumstances of the present case that CITIC Dicastal channelled at least part of such significant external funds, received from the GOC and Chinese banks, to DMA via its related entities to finance the construction of the plants and other outlays covered in the investment project, as well as working capital for the Moroccan operations.

(226) With regard to these preferential loans received by CITIC Dicastal, the Commission assessed whether the above Chinese banks and financial institutions provided a financial contribution to CITIC Dicastal acting as a 'public body' within the meaning of Articles 3(1)(a) and 2(b) of the basic Regulation, interpreted in light of the relevant WTO jurisprudence.

(b) Legal standard

(227) According to the relevant WTO case-law⁽⁶⁰⁾, a public body is an entity that 'possesses, exercises or is vested with governmental authority'. A public body inquiry must be conducted on a case-by-case basis, having due regard to 'the core characteristics and functions of the relevant entity', that entity's 'relationship with the government', and 'the legal and economic environment prevailing in the country in which the investigated entity operates'. Depending on the specific circumstances of each case, relevant evidence may include: (i) evidence that 'an entity is, in fact, exercising governmental functions', especially where such evidence 'points to a sustained and systematic practice'; (ii) evidence regarding 'the scope and content of government policies relating to the sector in which the investigated entity operates'; and (iii) evidence that a government exercises 'meaningful control over an entity and its conduct'. When conducting a public body inquiry, an investigating authority must 'evaluate and give due consideration to all relevant characteristics of the entity' and examine all types of evidence that may be pertinent to that evaluation; in doing so, it should avoid 'focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant'.

⁽⁶⁰⁾ WT/DS379/AB/R (US – Anti-dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, para. 318. See also WT/DS436/AB/R (US — Carbon Steel (India)), Appellate Body Report of 8 December 2014, para. 4.9 - 4.10, 4.17 - 4.20 and WT/DS437/AB/R (US – Countervailing Duty Measures on Certain Products from China) Appellate Body Report of 18 December 2014, para. 4.92.

- (228) In order to properly characterize an entity as a public body in a particular case, it may be relevant to consider ‘*whether the functions or conduct [of the entity] are of a kind that are ordinarily classified as governmental in the legal order of the relevant Member*’, and the classification and functions of entities within WTO Members generally. Thus, whether the functions or conduct are of a kind that are ordinarily classified as governmental in the legal order of the relevant Member may be a relevant consideration for determining whether or not a specific entity is a public body.
- (229) There are many different ways in which government in the narrow sense could provide entities with authority. Accordingly, different types of evidence may be relevant to showing that such authority has been bestowed on a particular entity. Evidence that an entity is, in fact, exercising governmental functions may serve as evidence that it possesses or has been vested with governmental authority, particularly where such evidence points to a sustained and systematic practice.
- (230) Evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions. Indeed, government ownership of an entity, while not a decisive criterion, may serve, in conjunction with other elements, as evidence. However, as the WTO case law also acknowledged, ⁽⁶¹⁾ the existence of mere formal links between an entity and government in the narrow sense is “*unlikely to suffice*” to establish governmental authority. Thus, for example, the mere fact that a government is the majority shareholder of an entity in itself does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority. In some instances, however, where the evidence shows that the formal indicia of government control are manifold, and there is also evidence that such control has been exercised in a meaningful way, then such evidence may permit an inference that the entity concerned is exercising governmental authority.
- (231) The central focus of a public body inquiry is not whether the conduct that is alleged to give rise to a financial contribution is logically connected to an identified ‘government function’. In this respect, the legal standard for public body determinations under Article 1.1(a)(1) of the WTO ASCM does not prescribe a connection of a particular degree or nature that must necessarily be established between an identified government function and the particular financial contribution at issue. Rather, the relevant inquiry hinges on the entity engaging in that conduct, its core characteristics, and its relationship with government. This focus on the entity, as opposed to the conduct alleged to give rise to a financial contribution, comports with the fact that a ‘government’ (in the narrow sense) and a ‘public body’ share a ‘degree of commonality or overlap in their essential characteristics’ – i.e. they are both ‘governmental’ in nature.
- (232) The nature of an entity’s conduct or practice may certainly constitute evidence relevant to a public body inquiry. Indeed, the conduct of an entity – particularly when it points to a ‘sustained and systematic practice’ – is one of the various types of evidence that, depending on the circumstances of each investigation, may shed light on the core characteristics of an entity and its relationship with government in the narrow sense. However, the assessment of such evidence is aimed at answering the central question of whether the entity itself possesses the core characteristics and functions that would qualify it as a public body. For instance, relevant for the assessment as to whether an entity is a public body in the context of Chinese State-owned commercial banks (SOCBs) in DS379 included information showing that: (i) ‘[t]he chief executives of the head offices of the SOCBs are government appointed and the [CCP] retains significant influence in their choice’; and (ii) SOCBs ‘still lack adequate risk management and analytical skills’. This evidence was not limited to SOCBs’ lending activity per se, but rather spoke to their organizational features, chains of decision making authority, and overall relationship with the GOC. Thus, the Appellate Body (‘AB’) in DS379 noted that, while the USDOC did take into account evidence relating to the conduct of SOCBs [‘making loans’], it did so within the framework of its inquiry into the core characteristics of those entities and their relationship with the GOC. These SOCBs exercised governmental functions on behalf of the Chinese Government.

⁽⁶¹⁾ WT/DS379/AB/R (US – Anti-dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, para. 318.

- (233) Moreover, the AB has also given importance to the fact that the government in question failed to cooperate during the investigation. Indeed, in DS379, the AB confirmed the USDOC's determination that the SOCBs in the CFS Paper investigation constituted 'public bodies' on the following considerations: (i) near complete state-ownership of the banking sector in China; (ii) Article 34 of the Commercial Banking Law, which states that banks are required to 'carry out their loan business upon the needs of [the] national economy and the social development and under the guidance of State industrial policies'; (iii) record evidence indicating that SOCBs still lack adequate risk management and analytical skills; and (iv) the fact that 'during [that] investigation the [USDOC] did not receive the evidence necessary to document in a comprehensive manner the process by which loans were requested, granted and evaluated to the paper industry' ⁽⁶²⁾.
- (234) Finally, in order to be considered public bodies, the SOEs at issue would not necessarily have to be controlled by the GOC in every sale of input to downstream producers.

(c) **Chinese State-owned banks and financial institutions acting as public body**

- (235) The Commission assessed whether the Chinese banks and financial institutions providing directly or indirectly financing to the CITIC Dicastal were acting as 'public body' on the basis of the relevant rules and jurisprudence summarised above. Specifically, the Commission sought information about State ownership as well as formal indicia of government control in these banks. It then focused on the core characteristics and functions of these banks and their relationship with the GOC, including by analysing evidence of indirect control by the State, GOC's intervention in the market to achieve certain policy objectives, whether the GOC exercised meaningful control with respect to their lending policies and assessment of risk, and whether these companies exercised governmental functions on behalf of the GOC.
- (236) As stated above, the GOC refused to cooperate in the investigation. Therefore, the Commission assessed on the basis of the information available whether the relevant Chinese financial institutions acted as public bodies by relying on facts available. For this purpose, the Commission based its findings on the previous investigations and other relevant elements.
- (237) As mentioned in sections 3.4.1.2 to 3.4.1.5 of the GFF anti-subsidy investigation, as well as sections 3.3.1.2 to 3.3.1.4 of the GFR investigation, the Commission specifically listed the State-owned banks and other financial institutions that were found to be public bodies. This list contains most of the banks and financial institutions listed in recitals (223) and (224) that provided directly or indirectly financing to the Dicastal group, as they are Chinese State-owned banks and/or there are formal indicia of control of the GOC over these banks. Furthermore, in the same sections of the GFF and GFR anti-subsidy investigations, the Commission concluded that the GOC has created a normative framework for all banks and financial institutions active in China that had to be adhered to by the managers and supervisors, appointed by the GOC and accountable to the GOC. Therefore, the GOC relied on the normative framework in order to exercise control in a meaningful way over the conduct of all the State-owned banks and other banks and financial institutions active in China.
- (238) In addition to the general legal framework set out in the GFF and GFR anti-subsidy investigations, the entire legal context stated in the framework of the bilateral cooperation set out in section 3.4, as well as the specific legal, policy, and economic context of the preferential policies enacted by China in the aluminium wheel sector as described in 3.5.2.1.3 applied to the preferential financing provided by these financial institutions to CITIC Dicastal.
- (239) On the basis of all the above facts and evidence, the Commission established that all the Chinese policy and State-owned banks at issue, as well as all other Chinese banks and financial institutions providing financing to CITIC Dicastal implemented the legal framework set out above in the exercise of governmental functions with respect to the aluminium wheels sector. Therefore, they were 'public bodies' in the sense of Article 2(b) of the basic Regulation read in conjunction with Article 3(1)(a) of the basic Regulation.

⁽⁶²⁾ WT/DS379/AB/R (US – Anti-dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, para. 349.

- (240) Further details of this external financing are explained at sections 3.4.3, 3.5.1 and 3.5.2.1.3. As CITIC Dicastal and more in general the CITIC group were implementing the Morocco investment project in the context of the BRI, and given the substantial investment requirements of this project and the particular situation of CITIC Dicastal as explained namely at section 3.5.2.1.2, it is reasonable to conclude that at least part of this external financing was used to finance the Morocco project. CITIC Dicastal implemented the financing requirements under the investment agreement in several steps. Specifically, the financing was not provided directly to DMA, but indirectly through a number of intermediate companies controlled by CITIC Dicastal as further specified below at section 3.5.2.1.2.

3.5.2.1.2. Provision of preferential financing to DMA by CITIC Dicastal acting as a public body

(a) **Provision of preferential financing by CITIC Dicastal through its related entities**

- (241) When implementing the investment agreement with GOM, CITIC Dicastal decided to channel the preferential funding for DMA, the operating company set up for the implementation of the Moroccan project, via the following four related entities:

- Changsha Dicastal,
- Dicastal Asia,
- Dicastal HK,
- Wisdom.

- (242) Because of the specific situation at the time of the implementation of the investment agreement as specified in the following recitals, CITIC Dicastal did not provide directly the funds required for the Moroccan project to DMA. Instead, it chose a more complex arrangement for this purpose via the conduit of these related entities. At the same time, CITIC Dicastal ensured a close control on the flow of these funds over these entities, as also specified below.

- (243) Further to the signature of the investment agreement in July 2018, CITIC Dicastal went through a major overhaul of its shareholders' structure in 2019. While it was initially a wholly owned (indirect) subsidiary of the CITIC Group Corporation, almost 60 % of its shares were transferred to other shareholders in 2019. The transfer of shares was only finalised by the end of 2020 as confirmed by the most recent capital evaluation report of CITIC Dicastal. The company remained a non-wholly owned subsidiary of CITIC Group Corporation and its financial results continue being consolidated into the financial statement of CITIC Group Corporation.

- (244) Considering the changes in its ownership, CITIC Dicastal did not carry out the investment project in Morocco directly. Instead, it engaged with several business partners to launch the project in line with the timetable laid down by the investment agreement.

- (245) DMA, the exporting producer in Morocco, was initially established by Kerry Invest Pty Ltd, the company contributing 99 % of the initial equity. The sole shareholder of Kerry Invest is a former director/secretary of CITIC Dicastal Australia Pty Ltd (dissolved in 2018).

- (246) At the same time, CITIC Dicastal approached Changsha Dicastal, its business partner as further explained in section 3.5.2.1.2(b), with a proposal to cooperate on the investment project in Morocco. This became the business understanding with Changsha Dicastal, as confirmed by CITIC Dicastal's representative during the verification visit at DMA premises. On this basis, DMA became an indirect subsidiary of Changsha Dicastal via its Hong Kong subsidiary Dicastal Asia, which was established in November 2018 to serve as a vehicle for the implementation of the Moroccan investment project.

- (247) At the end of 2023, and as a formal conclusion of its original investment project in Morocco, CITIC Dicastal formally took over the ownership of Dicastal Asia (via the Hong Kong subsidiary Dicastal HK), thus effectively becoming the sole shareholder of DMA ⁽⁶³⁾. On this basis, CITIC Dicastal “acquired” also outstanding debts of DMA toward Changsha Dicastal for delivered capital goods as explained in section 3.5.2.1.2(b). The change of the ownership was registered on 30 January 2024.
- (248) The evidence on file shows that CITIC Dicastal was related to DMA and was considered the investor and project owner of the investment in Morocco even before it eventually became the owner of DMA formally, as explained in the recitals below.
- (249) First, as explained in section 3.4.3, DMA was established as a result of an investment agreement signed by CITIC Dicastal, on behalf of the GOC, with the GOM. The investment agreement identifies CITIC Dicastal as the investor and lead partner in the investment project. As also explained in sections 3.4.3 and 3.5.1, the capital requirement in Article 7 of the investment agreement specifies that the investor (CITIC Dicastal) commits to provide all capital and voting rights of the operating company, and that the share capital and voting rights will be held directly by CITIC Dicastal, and that there is a retention period of 15 years of the shares, with a special procedure subject to GOM agreement for possible early divestment.
- (250) Second, CITIC Dicastal was always perceived by external parties and/or presented itself as the real project owner. This was shown *inter alia* by the evaluation of the DMA loan application to Attijari International Bank in 2021, as well as by the analysis of the financial statements of CITIC Limited, which referred to the opening in July 2019 of the first phase of a new production plant in Morocco. ⁽⁶⁴⁾
- (251) Third, the actual shareholder of DMA in the period 2018-2023, Changsha Dicastal, had an understanding with CITIC Dicastal concerning the investment in Morocco as explained in recital (246). In addition, Changsha Dicastal signed an exclusive manufacturing agreement with CITIC Dicastal as further explained in recitals (256) and (259), making it fully dependant on CITIC Dicastal as its sole customer.
- (252) Last, DMA signed an exclusive manufacturing agreement with CITIC Dicastal, in which it committed to reserve its full production capacity for CITIC Dicastal's products. It further received the rights to use and display CITIC Dicastal's logo on the products and at its premises. On this basis, CITIC Dicastal became the sole direct customer of DMA. At the same time, as the only owner of the aluminium wheels produced by DMA, CITIC Dicastal was in charge of the tendering process to sell the wheels to the car manufacturers.
- (253) Based on these elements, the Commission found that DMA had been related to CITIC Dicastal since its establishment, at least under Article 127(1)(b) or 127(2) of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 (Union Customs Code's Implementing Act, 'UCC IA') ⁽⁶⁵⁾. After the formal takeover in November 2023 as described above, DMA became also formally related to CITIC Dicastal under Article 127(1)(e) of UCC IA.
- (254) Following final disclosure, DMA argued that it was not related to CITIC Dicastal and that the Commission used adverse inference when it concluded that CITIC Dicastal provided financial contributions to DMA.

⁽⁶³⁾ CITIC Dicastal Co., Ltd.'s acquisition of Dicastal (Asia) Investment Holding Co., Ltd. Available at https://scjgj.beijing.gov.cn/ztzl/jyzjzajgs/jyzjzjyajgs/202311/t20231103_3294853.html (last viewed 9 January 2025).

⁽⁶⁴⁾ CITIC Limited. 2019 Annual report. Available at <https://www.citic.com/uploadfile/2020/0421/20200421062822309.pdf> (last viewed 9 January 2025).

⁽⁶⁵⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code. ELI: http://data.europa.eu/eli/reg_impl/2015/2447/oj (OJ L 343, 29.12.2015, p. 558).

- (255) The Commission noted that this claim by DMA was a simple statement not backed by any evidence. As shown in this section, the findings of the Commission were not based on adverse inferences, but on a number of objective facts and evidence available in the file according to Article 28 of the basic Regulation. Therefore, the Commission dismissed this claim.

(b) **Preferential financing provided to DMA via Changsha Dicastal**

- (256) Changsha Dicastal does not have a shareholding relationship with CITIC Dicastal. It has however signed an exclusive manufacturing agreement with CITIC Dicastal, based on which Changsha Dicastal uses its full production capacity to produce aluminium road wheels under the Dicastal brand. CITIC Dicastal, on the other hand, undertakes to buy Changsha Dicastal's production for sales to its final customers.
- (257) In addition, as mentioned in recital (246), Changsha Dicastal had a business understanding on the investment in Morocco with CITIC Dicastal. In return for collaborating in the timely implementation of the investment agreement with GOM, CITIC Dicastal committed to "increase its support for Changsha Dicastal" on the domestic Chinese market. This translated into an increase in Changsha Dicastal's cash flow. The company's sales margin substantially increased in 2018-2020 in comparison to margins reached before in 2017 and after 2020. Changsha Dicastal was thus provided with additional funds to finance the investment activities in Morocco. In 2018, Changsha Dicastal booked a receivable towards CITIC Dicastal at a level that approximately corresponds to the capital contribution transferred via Dicastal Asia to DMA in 2019. ⁽⁶⁶⁾
- (258) Therefore, although not related by shareholding, the Commission found that the companies were related at least being recognised partners in business under Article 127(1)(b) or 127(2) of UCC IA.
- (259) Being its sole customer under the manufacturing agreement, CITIC Dicastal was Changsha Dicastal's only source of income. In conjunction with the business understanding on the investment project described above, CITIC Dicastal was able to control the cash flow of Changsha Dicastal and influence its direction and use.
- (260) Changsha Dicastal supplied DMA with a majority of the equipment used in the manufacturing of the aluminium road wheels. Although those purchases occurred in the period of 2018 to 2022, with a majority of the equipment delivered in 2020, at the beginning of the IP more than 90 % of the acquisition value was not settled. Thus, Changsha Dicastal provided DMA with preferential, interest-free financing through a delayed payment of invoices for the supply of equipment.
- (261) In addition, Changsha Dicastal transferred via its Hong Kong subsidiary Dicastal Asia additional funds to DMA, as further described below.

(c) **Preferential financing provided to DMA via Dicastal Asia**

- (262) Dicastal Asia is a direct, wholly owned subsidiary of Changsha Dicastal that was established purely for the purpose of carrying out the investment in Morocco. Although registered in Hong Kong, it does not have any staff in Hong Kong, neither are its records stored in that location. Instead, its staff and records are located in the headquarters of CITIC Dicastal in Qinhuaogdao (PRC), as established by the verification visit, which was carried out in 2024, i.e. after CITIC Dicastal took over DMA (via Dicastal HK and Dicastal Asia). Dicastal Asia did not do any other business besides being the vehicle for the investment project in Morocco, the ultimate investor of which was CITIC Dicastal. Therefore, the activities of Dicastal Asia were found to be controlled by the CITIC Dicastal's business goals in Morocco.
- (263) Thus, the Commission found that Dicastal Asia was related to CITIC Dicastal as its recognised partner in business under Article 127(1)(b) of the UCC IA and directed by CITIC Dicastal to provide preferential financing to DMA.

⁽⁶⁶⁾ 2018-2023 Audited reports of Changsha Dicastal submitted in response to deficiency letter No. 1 and collected as an exhibit during the on-spot verification; listings of Accounts Payable and Accounts Receivable submitted by Changsha Dicastal in response to deficiency letter No. 4.

- (264) Dicastal Asia provided DMA with various forms of preferential financing that were eventually converted into shareholder's equity.
- (265) DMA was from its establishment financed through borrowings from six venture companies. DMA recorded these debts as payables in its accounting records. In 2021, Dicastal Asia took over these debts. Dicastal Asia used a series of loans from Wisdom to settle the receivables of the initial investors.
- (266) In addition to the funds received from the venture companies, DMA was also financed from its establishment from in total six loans from Dicastal Asia. Dicastal Asia financed those loans from an increase of Changsha Dicastal's capital contribution and from a loan provided by Changsha Dicastal.
- (267) When in 2021 Dicastal Asia became the sole owner of the DMA's debt stemming from transactions described in the previous recitals, it transformed the debt into an increase of its capital contribution in DMA.
- (268) Furthermore, in 2021 Dicastal Asia provided a financial loan to DMA. The loan was interest-free and DMA repaid the loan principal only at the end of 2023. As explained above, this loan was backed by the series of loans Dicastal Asia received from Wisdom.

(d) **Preferential financing provided to DMA via Dicastal HK**

- (269) Dicastal HK is a wholly owned subsidiary of CITIC Dicastal registered in Hong Kong. Similarly to Dicastal Asia, the on-spot verification confirmed that the company did not have any staff or records in Hong Kong, but in Qinhuangdao, at the premises of CITIC Dicastal. Dicastal HK was established before CITIC Dicastal decided to invest in Morocco. It was previously used by the company to invest in subsidiaries in Europe. After the Moroccan project was launched, it served to provide preferential financing to DMA as the main supplier of aluminium road wheels to the European carmakers.
- (270) Therefore, the Commission found that Dicastal HK was related to CITIC Dicastal under Article 127(1)(e) of the UCC IA, it was controlled by CITIC Dicastal and directed by it to provide preferential financing to DMA.
- (271) In 2020, Dicastal HK provided DMA with a financial loan denominated in Euro. The principal was fully repaid in several instalments throughout the investigation period. Dicastal HK, in turn, received several loans from CITIC Dicastal that covered the funds lent to DMA.

(e) **Preferential financing provided to DMA via Wisdom**

- (272) DMA sourced the majority of aluminium ingots, the main raw material used in the manufacturing of aluminium road wheels, from Wisdom. As explained in section 3.2.2, the investigation revealed unusual business transactions between Wisdom and the Dicastal group. The Commission therefore analysed the potential relationship between Wisdom and the group. As concluded below, the Commission found that Wisdom was related to the Dicastal group based on fact available.
- (273) With regard to the provision of aluminium of ingots, Wisdom charged DMA a price that was significantly lower than the price of ingots purchased from an unrelated supplier. In addition, despite an agreed payment term of 90 days, DMA did not pay for supplies of aluminium ingots received throughout 2023. Thus, Wisdom provided financing to DMA via preferential prices of aluminium ingots and delayed collection of payments for the respective supplies.
- (274) In addition, Wisdom provided a series of loans to Dicastal Asia in total value of tens of millions of euro, which were eventually used to increase the equity of DMA and to provide it with a financial loan as explained above in subsection (c).
- (275) Based on these transactions, the documents on file and the evidence collected during the verification visits of the Dicastal group, as also explained in section 3.2.2, the Commission had reason to believe that Wisdom is a related entity to the Dicastal group. In its assessment, the Commission considered the following elements.

- (276) Wisdom was established in Hong Kong in November 2019 with a registered capital of 100 HKD (approximately 12,50 EUR). The company was established by a sole shareholder, a Chinese national.
- (277) As set out in section 3.2.2, the Commission found that the Chinese national acting as sole shareholder of Wisdom was registered in Qinhuangdao, the same city as the legal seat of CITIC Dicastal. In addition, it turned out that Wisdom had the same registered legal address in Hong Kong as the two Hong Kong-based companies of the Dicastal group, that is Dicastal Asia and Dicastal HK.
- (278) Despite the repeated attempts by the Commission to obtain more information on the activities of Wisdom and its legal and economic relationship with the DMA and the Dicastal group both from Wisdom itself and from the Dicastal group, Wisdom refused to cooperate with the investigation and the Dicastal group did not submit all the information requested by the Commission.
- (279) No arguments put forward by CITIC Dicastal explained how and why an allegedly unrelated company with a meagre equity capital of 12,50 EUR would finance through delayed payments of invoices for aluminium ingots and non-collection of interest on loans in total value in millions of Euro an allegedly unrelated group, as well as how such a large company as CITIC Dicastal could trust this supplier for such significant supplies of ingots. As for the question of why CITIC Dicastal recommended Wisdom as DMA's supplier of ingots, it simply asserted that CITIC Dicastal had a long-term cooperation with the owner of Wisdom as an expert in the aluminium business.
- (280) In the context of the procedure concerning the application of Article 28 of the basic Regulation covered in section 3.2.2, CITIC Dicastal asserted that it was not related to Wisdom, and that the information requested by the Commission with regard to Wisdom was not necessary.
- (281) As for the relationship, CITIC Dicastal argued that the circumstances invoked by the Commission did not establish a relationship between the Dicastal group and Wisdom based on the applicable Union law, that is Article 127 of UCC IA. According to CITIC Dicastal, the audited reports and the accounting records of the group companies confirmed that Wisdom was not listed in the group's records as a related company.
- (282) The Commission rejected these claims. First, as CITIC Dicastal rightly pointed out, the legal basis to establish a relationship for the purpose of this proceeding is Article 127 of the UCC IA. The fact that a certain company is not indicated as a related entity in the audited reports and financial records of the Dicastal group is irrelevant, because the legal basis for such reporting and for the consolidation for accounting purpose are the respective accounting and auditing rules in the Hong Kong or the Chinese legal systems, rather than Article 127 of the UCC IA. Furthermore, whether and how these auditing and accounting rules are actually implemented and enforced in Hong Kong or China, if a company fails to report an entity as related, may also play a role in practice with regard to this argument.
- (283) The Commission further noted that it had established a relationship between the two legs of the Dicastal group (one leg connected through a shareholding relationship to CITIC Dicastal, the other one to Changsha Dicastal) based on the existence of the manufacturing agreement between CITIC Dicastal and Changsha Dicastal. The transactions of Changsha Dicastal with its subsidiaries on the one hand, and with the companies connected to CITIC Dicastal on the other hand, were neither reported in the companies' audited reports or accounting records as related party transactions.
- (284) Moreover, the Commission only has information available on the transactions between Wisdom and the Changsha Dicastal leg of the Dicastal group. Therefore, it could not be excluded that it was related to the CITIC Dicastal leg of the Dicastal group via a relationship based on a common shareholder, common management or family ties between the managers and/or owners of Wisdom and the CITIC Dicastal leg of the Dicastal group. On the basis of the above, the Commission dismissed these claims.

- (285) With regard to the factual points as to the basis relied upon by the Commission to assume the existence of a relationship, the Dicastal group provided additional information to rebut the allegations on the free provision of raw materials and loans by Wisdom to the Dicastal group. In particular, it showed that purchases of aluminium from Wisdom by DMA were partially paid after the investigation period in 2024, and that the loan provided to Dicastal Asia was also repaid after the investigation period in 2024. It further argued that it was a common practice for multiple companies registered in Hong Kong to share a common address and thus this did not support the theory of an existing relationship between the Dicastal group and Wisdom.
- (286) The Commission considered the existence of the transactions described above and a common registered address with other companies as constituting sufficient elements pointing to the existence of a relationship between Wisdom and the Dicastal group. Such elements fully justified the Commission request for additional information to the Dicastal group and Wisdom in order to ascertain if such elements would be confirmed by further information, as without the cooperation by Wisdom they could not be investigated. On this basis, these claims were rejected. The substance of these claims is addressed further below in this section.
- (287) The Dicastal group also alleged that it undertook its best efforts to forward the anti-subsidy questionnaire to Wisdom. This company however did not respond to such efforts. Similarly, any communication between the Dicastal group and Wisdom could not be disclosed for reasons of commercial confidentiality and personal privacy.
- (288) The Commission considered that it had sufficient indications on file supporting that the companies were related. Concerns of commercial confidentiality and personal privacy do not constitute valid reasons to refuse showing to the Commission documents and information relevant for the investigation, as they are fully protected by the protection of confidential information pursuant to Article 29 of the basic Regulation. Therefore, this argument was dismissed.
- (289) With regard to the question whether the information requested by the Commission was necessary, the Dicastal group argued that considering the country in which Wisdom was registered, as well as the country of origin of the raw material supplied to DMA, the information concerning Wisdom requested by the Commission was not necessary as the investigation was limited to the alleged cooperation between the GOM and the GOC. Therefore, any potential financial contributions falling beyond the territory of Morocco or the cooperation between the GOM and the GOC were out of the scope of this investigation.
- (290) The Commission disagreed. It is a common practice for Chinese enterprises to establish subsidiaries in Hong Kong, which has a favourable business climate for trading or investing abroad, such as more favourable corporate tax rates, access to capital markets, freely convertible currency. In many cases, the companies registered in Hong Kong actually carry out their operations from the premises of their mother companies in China. This practice could be observed also within the Dicastal group where both CITIC Dicastal and Changsha Dicastal established investment companies in Hong Kong. As confirmed by the on-spot verifications, the records and staff of those subsidiaries were located in CITIC Dicastal's headquarters in Qinhuangdao. In addition, CITIC Group Corporation (the ultimate owner of CITIC Dicastal) itself established a company, CITIC Limited, in Hong Kong and injected its majority assets into the Hong Kong registered company⁽⁶⁷⁾. Furthermore, although the origin of the raw material supplied was neither Chinese nor Moroccan, it was Wisdom that financed DMA via a significantly delayed collection of payments for the supplies of aluminium ingots and a significantly low price compared to the market. Wisdom was established in China and was implementing the Chinese preferential policies in favour of aluminium road wheel producers as further clarified below. Therefore, the Commission considered that the origin of the ingots was irrelevant in this respect. On this basis, the Commission dismissed these claims.

⁽⁶⁷⁾ About CITIC. Brief introduction. Available at https://www.group.citic/en/About_CITIC/Brief_Introduction/ (last viewed 8 January 2025).

- (291) While continuously denying the existence of cooperation between the GOM and the GOC with regard to DMA, the GOM supported the Dicastal group's views on the necessity to obtain the requested information in its own submission. In this respect, referring to Article 12.7 of the WTO ASCM and Article 28(1) of the basic Regulation, the GOM argued that facts available can only be applied to information that has been identified by the investigating authority as necessary. Furthermore, the GOM maintained that in line with the report of the panel in *US – Supercalendered paper* ⁽⁶⁸⁾, and the judgment of the Court of Justice in *European Bicycle Manufacturers Association (EBMA) v Giant (China) Co. Ltd* ⁽⁶⁹⁾, the burden to prove that certain information was necessary, before resorting to facts available, lies with the Commission. The GOM further recalled that according to recital 7 of Annex II to the WTO Antidumping Agreement ('AD Agreement') applied by analogy in the context of anti-subsidy investigations, the Commission should act with special circumspection when selecting the sources of facts available. In this context, the GOM pointed out that the investigating authority should, where practicable, use as facts available information from other independent sources or information obtained from other interested parties. The GOM also emphasised that the Dicastal group provided a number of questionnaire replies, accepted verification visits and cooperated also at the stage following the verification visits. Finally, the GOM warned the Commission against using adverse facts available in the context of the alleged non-cooperation and reminded the Commission that any new subsidy schemes identified by the Commission must be consulted with the GOM prior to expanding the investigation to such programmes.
- (292) The Commission took fully into account these arguments by the GOM. In the light of the arguments in recitals (286) to (290), the Commission dismissed these claims as the information requested from Wisdom and the Dicastal group was necessary for the investigation in accordance with the legislation and WTO jurisprudence referenced by GOM. As further specified below, the Commission did not rely on "adverse" facts available in its findings, but it made a very prudent use of the facts available on file. Therefore, these arguments by the GOM were dismissed.
- (293) Based on all the above considerations and evidence, the Commission confirmed its intention to apply Article 28 of the basic Regulation to establish whether Wisdom was related to the Dicastal group, and as such to the CITIC group in accordance with Article 127 of the UCC IA. For this purpose, the Commission relied on a number of facts available in its assessment and had to draw some inferences to fill the remaining gaps, where necessary.
- (294) First, the Commission observed that Wisdom and the two Hong-Kong based companies of the Dicastal group involved in the Moroccan project, that is Dicastal Asia and Dicastal HK, were registered at the same address in Hong Kong.
- (295) In addition to the arguments and rebuttals detailed at section 3.2.2 and in the previous recitals, CITIC Dicastal argued that the reason why Wisdom, Dicastal Asia and Dicastal HK had the same registered address in Hong Kong was that all three companies used the same registration agent. The address registered for the three companies was the address of the registration agent in Hong Kong.
- (296) This argument did not prove that the companies were not related. If anything, the fact of having the same registration agent and the same registered address may also be seen as an indication of a relationship in the context of Article 28 of the basic Regulation, as it is common between related parties to use the same agent and legal address to maximise the efficiency in the administrative procedures and at the same time minimise the underlying costs.
- (297) Furthermore, the investigation showed that Dicastal Asia and Dicastal HK did not have any staff in Hong Kong, as their staff and records were rather located at the premises of CITIC Dicastal in Qinhuangdao, Hebei Province, PRC. Therefore, the Commission had reasons to infer that Wisdom did not conduct its business from Hong Kong either. Taking into account that the address of Wisdom's owner and director was also in Qinhuangdao, the Commission considered that Wisdom's place of conducting business was also based in Qinhuangdao in the absence of cooperation by Wisdom or CITIC Dicastal on this point.

⁽⁶⁸⁾ Panel Report, *US – Supercalendered Paper*, para. 7.174 and 7.175.

⁽⁶⁹⁾ Judgment of the Court of 14 December 2017, *European Bicycle Manufacturers Association (EBMA) v Giant (China) Co. Ltd*, Case C-61/16 P, para. 65.

- (298) An additional crucial element showing the relationship as also explained above is the fact that despite the insignificant capitalisation of Wisdom, CITIC Dicastal relied on it for the supply of significant quantities of aluminium ingots crucial for its business continuity in Morocco. The Commission considered that it is highly unlikely that unrelated parties would have entered into such an important agreement without further guarantees. The aluminium ingot supply agreement between Wisdom and DMA contains no such guarantees or penalties for instance for failure to supply the specified agreed quantities, which are significant. Therefore, also this element clearly shows the relationship between these entities.
- (299) Moreover, as mentioned above and at section 3.2.2 and as detailed further below, Wisdom did not receive any payments from DMA for the significant supplies of aluminium ingots until the end of the investigation period, and it charged a price substantially lower than the market price for these ingots. In addition, it provided significant financing to Dicastal Asia that was not repaid by the end of the investigation period.
- (300) The Commission considered that these elements strongly indicated a relationship between Wisdom and CITIC Dicastal at least as legally recognised partners in business or persons associated in business, in accordance with Article 127 of the UCC IA. If the relationship between Wisdom and CITIC Dicastal had been at arm's length, CITIC Dicastal would have pushed for an agreement with detailed guarantees for ensuring supply of the input, whereas Wisdom would have actively sought to receive payments of the ingot supplies, penalties for late payments, and additional damages for breach of contract. According to the aluminium supply contract between Wisdom and DMA, there is a clear payment term. The contract also provides a dispute settlement clause. In addition, the contract provides for a contract termination. Wisdom did not take any of these actions allowed under the supply agreement with DMA as a result of the non-compliance with the payments for the supplies for such a long period of time. If the parties had been unrelated, especially considering the huge quantities supplied and corresponding amounts at stake, Wisdom would have taken the appropriate remedies to enforce the agreement by trying to recover its payments, possibly terminating the contract and acting for damages against DMA.
- (301) CITIC Dicastal argued that the purchases of aluminium from Wisdom by DMA were partially paid in 2024 after the investigation period, and that the loan provided to Dicastal Asia was also repaid in 2024. However, the Commission considered that these circumstances did not change the fact that Wisdom and the Dicastal group did not behave like independent entities dealing at arm's length under normal market conditions. A simple repayment after the investigation period, without any other penalties and compensations sought and paid, after years of breach of contract does in no way change the factual situation described in the previous recital clearly supporting the relationship between the parties.
- (302) Moreover, as seen in further detail below the price for the aluminium ingots charged by Wisdom to the DMA was substantially lower than the price charged by the unrelated suppliers for direct supplies of aluminium ingots. In the absence of cooperation, the Commission inferred that there were no other reasons for this behaviour by Wisdom than the fact that it was related to CITIC Dicastal. An unrelated supplier would have sought to maximise the price and corresponding profits from the sales of aluminium ingots. As the price of this raw material is linked to the international price of the London Metal Exchange and is traded worldwide as a commodity, there is no other plausible explanation on file than the relationship between these entities for such price differences.
- (303) An additional element supporting the finding of relationship is that the aluminium ingot supply contract between Wisdom and DMA is exactly the same as that between CITIC Dicastal and DMA. Both agreements have exactly the same articles and almost identical terms and conditions (except the pricing mechanism), and even the same formatting. The Commission compared these agreements with the aluminium ingot agreement from a truly unrelated supplier to DMA, and this was completely different in terms of terms and conditions, as well as of formatting. Therefore, also this element confirmed the relationship between Wisdom and CITIC Dicastal.

- (304) Based on all of these facts available on file, the Commission concluded that Wisdom is a related entity to CITIC Dicastal according to Article 127 of the UCC IA. Wisdom is related at the very least as a legally recognised business partner pursuant to Article 127 (1)(b) of the UCC IA and/or as associated in business pursuant to Article 127(2) of the UCC IA. The Commission also drew inferences on the basis of the above facts that a legal relationship also exists according to Article 127(1)(d), (e), (f) or (g) of the UCC IA.
- (305) In view of the above elements, the Commission concluded that, as a related entity to CITIC Dicastal with a very close involvement in the successful completion of the Moroccan project, Wisdom was acting as a vehicle for the indirect provision of a financial contribution similarly to the other three related entities used by CITIC Dicastal to channel preferential financing to DMA.
- (306) Following final disclosure, DMA argued that the Commission applied adverse inference when it made conclusions concerning the relationship between CITIC Dicastal and Wisdom. It further reiterated its claims concerning the relationship between CITIC Dicastal and Wisdom described in recitals (281), (285), (287) and (289). The company further argued that the Commission's conclusions regarding the existence of unusual business transaction, the relationship between CITIC Dicastal and Wisdom and the use of facts available in this respect were unfounded and unjustified.
- (307) According to DMA, the establishment of Wisdom in November 2019 and the conclusion of a sales contract in March 2020 that made Wisdom the main supplier of aluminium ingots to DMA were in line with standard business practices.
- (308) With regard to the unpaid invoices for the supply of aluminium ingots, DMA claimed that it had demonstrated that this occurred due to a dispute concerning the price of the ingots. Allegedly, the dispute was settled at the end of 2023. Following the signing of a new contract based on the settled dispute, DMA eliminated essentially all debt in 2024. With regard to the below-the-market pricing of the ingots, DMA claimed that its supplier took a bet concerning the pricing formula. After realising that the formula did not work, Wisdom requested the above-mentioned renegotiation of the sales contract. DMA claimed that the Commission ignored the facts described in this recital.
- (309) DMA reiterated that the common registered address with two other companies of the Dicastal group do not necessarily indicate a relationship as many companies share the same registered address. Similarly, DMA argued that the fact that the owner of Wisdom has an address in the same city as is the seat of CITIC Dicastal does not imply a direct connection between the two companies. In addition, the party claimed that it was not aware of the owner's address and the Commission's claim was not supported by any information on the file of the investigation. DMA did not dispute the fact that the actual address from which Wisdom conducts its business was different from the registered address.
- (310) DMA argued that the recommendation of Wisdom by CITIC Dicastal as a supplier of aluminium ingots to DMA based on Wisdom's owner's expertise in the aluminium business and their history of long-term cooperation were common in business. According to DMA, such behaviour did not undermine the companies' independence.
- (311) Finally, the refusal by the Dicastal group to divulge additional information on Wisdom and its relationship with the company and/or its owner, should not be understood as the admission of any wrongdoings. According to DMA, the refusal to cooperate with regard to the group's dealings with Wisdom stems from the companies' rights to protect sensitive business information and financial details.
- (312) The Commission rejected the claims set out in recitals (306) to (311). First, the Commission disagreed with the allegation of having used adverse inference. In the absence of cooperation by Wisdom and by the Dicastal group regarding its dealings with Wisdom, the Commission simply analysed the available facts and made conclusions on their basis. While the individual findings may not serve as evidence of an existing relationship between CITIC Dicastal and Wisdom when considered separately, together they led to conclusions described in recital (304). In addition, the Commission had already addressed most of the individual claims in recitals (275) to (303).

- (313) In more detail, the unsubstantiated explanations concerning the unpaid invoices for aluminium ingots presented in recital (308) do not hold ground against the evidence on the file. The supplementary contract allegedly signed to resolve the pricing dispute only concerned orders made in October to December 2023, which corresponded to invoices issued in November and December 2023. Therefore, it did not explain why invoices issued as early as September 2022 had not been paid either. In addition, the claims that signing a contract for a majority of ingots needed with a company that had been established only a few months prior represent a common business practice and that the contract followed recommendations by CITIC Dicastal based on long-term cooperation with the owner of Wisdom could not be supported by any substantial evidence on the file, as Wisdom did not cooperate at all and the Dicastal group refused to divulge any information on the nature and duration of their dealings with Wisdom's owner. In any case, if it can be assumed that the statement in recital (310) above was factually correct, it only corroborates further the findings of close relationship between Wisdom and Dicastal group. Finally, as explained in recital (79), the address of Wisdom's owner was in public domain and accessible via the Hong Kong Companies Registry.

(f) **Conclusion**

- (314) The above evidence and elements show that as of 2017 CITIC Dicastal received support by the GOC in China in the form of grants and preferential loans received from the GOC and from Chinese banks and financial institutions acting as a public body. This external financing was provided in the context of the GOC preferential policies, including the BRI. CITIC Dicastal signed in 2018 an investment agreement with GOM on behalf of GOC to implement the project to build a plant to manufacture aluminium wheels in the context of the close cooperation between GOC and GOM. DMA was the operating entity established in Morocco to carry out the project. Because of its specific situation at the time of the implementation, it provided the funding required under the investment agreement to DMA for the implementation of the Moroccan project via the intermediate entities Changsha Dicastal, Dicastal Asia, Dicastal HK, and Wisdom, controlling that these entities would indeed channel the funds to DMA. CITIC Dicastal was since the signature of the investment agreement the project leader and guarantor for the financing, despite the fact that it did not immediately become the formal owner of DMA through the acquisition of its shares. It decided to fund the project via these intermediate entities using at least partly the funding received directly or indirectly from the Chinese banks and financial institutions. Therefore, CITIC Dicastal acted as the grantor of the financial contribution as it always controlled throughout the implementation of the project that the funds provided to the intermediate entities would be ultimately transferred to DMA for the successful completion of the project. As a last step after these funding modalities, CITIC Dicastal completed the formal share acquisition of DMA in early 2024, thereby complying with its commitments with the GOM as a project owner under the investment agreement.
- (315) While the specific transactions conferring preferential financing are detailed below at section 3.5.2.2, the investigation had to establish whether CITIC Dicastal acted as a public body within the meaning of Article 3(1)(a) and 2(b) of the basic Regulation when providing indirectly (via its related entities) the financial contributions to DMA.
- (316) Following final disclosure, DMA claimed that in the course of the investigation, the Dicastal group provided ample evidence showing that any financing provided by the GOC to the Chinese entities of the Dicastal group was not and even could not have been destined for BRI, Morocco or DMA.
- (317) In this respect, the company referred to a) a submission by Changsha Dicastal explaining that it used its own funds to carry out the investment in Morocco, b) a verification exhibit collected during the on-spot verification at DMA explaining the arrangements between CITIC Dicastal and Changsha Dicastal relating to the Moroccan project, c) loan contracts of Changsha Dicastal verified on spot proving that the borrower was not entitled to use the funds for an investment abroad.
- (318) According to DMA, the Commission was wrong to allege that CITIC Dicastal channelled funds received from the GOC via a series of related entities to DMA. The company further argued that the conclusion that CITIC Dicastal financed Changsha Dicastal via increased sales revenue has no basis in the record of the investigation. DMA also described the Commission's findings concerning the provision of preferential finance via cheap loans and inputs supplied by Wisdom a speculation.

(319) The Commission rejected the claims set out in recitals (316) to (318). As explained in recital (81), the Commission took into consideration the submission by Changsha Dicastal on the sources of funds used for the investment in Morocco. Similarly, it considered the information provided in the respective verification exhibit and the loan contracts of Changsha Dicastal. In this respect, the Commission never claimed that Changsha Dicastal used any of the loans received for the investment in Morocco directly. As explained in recitals (221), (257), (259) and (371), the investment was indirectly financed by CITIC Dicastal through increased sales revenue. Contrary to what DMA claimed, such conclusions were made based on information from audited reports of Changsha Dicastal, and accounts payable and accounts receivable listings of both Changsha Dicastal and CITIC Dicastal as explained in recital (221), which also provides references to documents used by the Commission.

3.5.2.1.3. CITIC Dicastal acting as a public body

(320) As explained at section 3.5.2.1.1, CITIC Dicastal received external preferential funding from the GOC and/or other Chinese financial institutions. It then channelled such financial support to DMA via its related legal entities Changsha Dicastal, Dicastal Asia, Dicastal HK, and Wisdom, controlling that the flow of financing would be used for the Morocco investment project. Therefore, as project proponent of the investment project with GOM, CITIC Dicastal acted as the grantor of the financial contribution to DMA. The investigation therefore assessed whether CITIC Dicastal acted as a public body within the meaning of Articles 3(1)(a) and 2(b) of the basic Regulation when providing financing to DMA for its Moroccan activities via the related legal entities. The relevant rules and jurisprudence for this assessment are summarised at Section 3.5.2.1.1(b).

(321) At first, the Commission looked at State ownership and other formal indicia of government control concerning the CITIC Dicastal, as well as its legal relationship to DMA.

(322) CITIC Dicastal forms part of the CITIC group. The upstream controlling layer of the CITIC group belongs to CITIC Group Corporation, a Chinese state-owned enterprise established upon the approval of the State Council and funded by the Ministry of Finance on behalf of the State Council.⁽⁷⁰⁾ This is the ultimate controller of a large number of related entities⁽⁷¹⁾ (hereinafter referred to as 'the CITIC group'). Its main asset is a 58,13 % interest in CITIC Limited. Since its establishment in 1979, the CITIC group has been a pioneer of China's economic reform. It makes investments in areas with long-term potential as well as those aligned with national priorities.⁽⁷²⁾

(323) CITIC Limited has a 42 % stake in CITIC Dicastal via CITIC Industrial Investment Group Corp., Ltd ('CIIG').

(324) In addition, CITIC Dicastal is for 26 % of its shares owned by Aluminum Alliances Limited, a company registered in HK. According to the records in the Hong Kong company registry, its directors are Mr LIU Erh Fei and Asia Capital Investment Limited. Mr LIU Erh Fei is the founder and CEO of Asia Investment Capital, the management institution of Asia Investment Fund. Asia Investment Fund is a private equity investment dollar fund established in Hong Kong by the Chinese Ministry of Finance with the approval of the State Council and other qualified domestic and foreign institutional investors. The fund adheres to the principles of "market-oriented, internationalized and professional operation, based in China, facing Asia and looking at the world".⁽⁷³⁾

⁽⁷⁰⁾ CITIC. Corporate Governance and Risk Management. Available at https://www.group.citic/en/About_CITIC/Governance_Risk/ (last viewed 9 January 2025).

⁽⁷¹⁾ CITIC Group Corporation had more than 2 000 subsidiaries as of September 2024. Available at <https://www.group.citic/uploadfile/2022/1121/子公司名单.pdf> (last viewed 10 January 2025).

⁽⁷²⁾ Announcement of continuing connected transactions of 20 November 2023, p. 13. Available at <https://tools.euroland.com/tools/Pressreleases/GetPressRelease/?ID=4425436&lang=en-GB&companycode=hk-cpf&v=> (last viewed 9 January 2025).

⁽⁷³⁾ Available at <http://www.cvca.org.cn/home/rwxx/rwxx.html?page=liuerfei> (last viewed 9 January 2025).

- (325) The CITIC Group Corporation's vision is to build an outstanding conglomerate with a lasting reputation while *"aligning its mission with national goals and contributing to national rejuvenation"*.⁽⁷⁴⁾
- (326) The CITIC Group Corporation and various group companies actively respond to the national policies and goals directly relevant for the production of aluminium road wheels. The group's officials warmly welcomed the new ideas and goals presented by General Secretary Xi Jinping in his report to the 20th National Congress of the CCP on behalf of the 19th Central Committee. They agreed that the group should *"contribute its strength to building a modern socialist country in an all-round way and promoting the great rejuvenation of the Chinese nation with Chinese-style modernisation"* as it had *"always been in solidarity with the Party and continues to practice the great cause of the country"*. A branch in Myanmar emphasised that *"the joint construction of the Belt and Road has become a popular international public product and international cooperation platform"*. Another representative of a Party Branch in one of the group companies declared that *"it is necessary to integrate the new requirements and arrangements of the 20th National Congress of the Communist Party of China into the enterprise development strategy, give full play to the role of the insurance industry as an economic 'shock absorber' and social 'stabilizer', and show new responsibilities and new actions to help common prosperity"*.⁽⁷⁵⁾
- (327) The investigation found that the CCP exercised control and influenced the companies' decisions via several current or former Members of the Board in various CITIC group companies, including CITIC Dicastal. The Chairman of CITIC Dicastal ZHU Zhihua served also as Party Secretary in the company.⁽⁷⁶⁾ The former Deputy General Manager, GAO Xiuying, represented the company's Standing Committee of the CCP on the board of CITIC Dicastal.⁽⁷⁷⁾ Another director of CITIC Dicastal, ZHANG Jian, which represented its shareholder CIIG, was also a Secretary of the Party Committee in CIIG.⁽⁷⁸⁾ The Party Committee Secretary of CITIC Bank, FANG He Ying, served as the Chairman and Executive Director of the bank, as well as the Deputy General Manager of the CITIC Group Corporation.⁽⁷⁹⁾
- (328) The influence of the CCP in the enterprises of the CITIC group is apparent also from their Articles of Association ('AoA') and translates into their business operations.
- (329) The AoA of CITIC Dicastal were drawn up to safeguard the company's compliance *inter alia* with the provisions of the AoA of the CCP. The AoA of CITIC Dicastal require the establishment of CCP organisation in the company in order to strengthen the overall leadership of the CCP, to steer the direction, and manage the overall situation in the company. Furthermore, the AoA provide for establishing the Party Committee in the company, the members of which may enter the Board of Directors, Board of Supervisors and the management of the company. One of the roles of the Party Committee is to study and discuss major business management matters of the company. Such research and discussion shall serve as a preparatory work for the Board of Directors and the management to make decisions on major issues. The AoA require the Board of Directors to listen to the opinions of the Party Committee with regard to the major business decisions and issues. The Directors shall exercise the rights conferred by the company with due discretion, care, and diligence to ensure that the business operations of the company comply with the national laws, regulations and various *national economic policies*.

⁽⁷⁴⁾ CITIC. Brief introduction. Available at https://www.group.citic/en/About_CITIC/Brief_Introduction/ (last viewed 9 January 2025).

⁽⁷⁵⁾ Forge ahead courageously on the new journey of great rejuvenation - the report of the 20th National Congress of the Communist Party of China has aroused warm response in CITIC Group. Available at https://www.citic.com/html/2022/News_1021/2589.html (last viewed 9 January 2025).

⁽⁷⁶⁾ CITIC Dicastal held strategic talks with BYD and was invited to attend BYD's new energy vehicle core supplier conference. Available at <https://www.dicastal.com/Index/Detail/index/cid/070213/id/338> (last viewed 19 January 2025).

⁽⁷⁷⁾ Gao Xiuying, former member of the Standing Committee of the CPC Committee of CITIC Dicastal Co., Ltd., was expelled from the Party and removed from office. Available at <https://www.chinanews.com.cn/gn/2024/12-13/10335966.shtml> (last viewed 19 January 2025).

⁽⁷⁸⁾ Zhang Jian – personal profile. Available at https://vip.stock.finance.sina.com.cn/corp/view/vCI_CorpManagerInfo.php?stockid=000998&Pcode=30383454&Name=%D5%C5%BC%E1 (last viewed 19 January 2025).

⁽⁷⁹⁾ China CITIC Bank – Directors. Available at <https://www.citicbank.com/about/survey/directorate/> (last viewed 19 January 2025). CITIC Group – Group leadership – Group Party Committee. Available at https://www.group.citic/html/About_CITIC/Directors_Senior/ (last viewed 19 January 2025). CITIC Group – Senior Management. Available at https://www.group.citic/html/About_CITIC/Directors_Senior/ (last viewed 19 January 2025).

- (330) Xi Jinping's report resonated also in CITIC Dicastal: "Liu Xinghua, propaganda committee member of the Party Branch of the 'Lighthouse Factory' and Aluminium Wheel Line 6, said that [CITIC Dicastal] should take Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era as the 'lighthouse of thought', systematically study and deepen [its] understanding, and lead the 'Lighthouse Factory' to build high-quality development. Comrade Dai Wenhui, secretary of the Party Branch of the Department Office of Aluminium Wheel Line 2, said in the exchange of views on 'manufacturing power and quality power' that manufacturing is the lifeline of the national economy. [The company] must uphold the concept of 'quality is the life of Dicastal' and help build a manufacturing power and a quality power by strengthening the key core technology research of equipment manufacturing and comprehensively promoting intelligent manufacturing." ⁽⁸⁰⁾
- (331) One of the related financial providers of funds to CITIC Dicastal was CITIC Bank. This entity is also ultimately controlled by the CITIC Group Corporation via CITIC Corporation Limited, CITIC Limited and CITIC Financial Holdings, its direct controlling shareholder, which in 2023 had a 64 % interest in CITIC Bank. ⁽⁸¹⁾
- (332) According to its AoA ⁽⁸²⁾, CITIC Bank shall establish the CCP organisation, carry out the activities of the CCP, adhere to and strengthen the overall leadership of the CCP, and give full play to the leadership role of the Party Committee in setting the direction, managing the overall situation and ensuring implementation. The Bank's Directors shall exercise the rights granted by the Bank prudently, conscientiously and diligently to ensure that the Bank's business conduct complies with the requirements of national laws, administrative regulations and various *national economic policies*, including then also those on production of aluminium road wheels.
- (333) The evidence above shows a compelling case of formal indicia of control by the GOC of CITIC Dicastal, including via the close formal indicia of control with other entities of the CITIC group involved in the investment project in Morocco. Such control is exercised via the ownership and the decision-making structure and process by the GOC and/or the presence of the CCP into the activities of these various companies to ensure that the governmental policies directly relevant for the production of aluminium road wheels are properly implemented. On this basis, it can be concluded that CITIC Dicastal is implementing the policies pursued by the GOC.
- (334) In addition to the State ownership and other formal indicia of control by the GOC, the Commission analysed whether CITIC Dicastal possesses, exercises or it is vested with governmental authority. In this respect, the investigation focused on the relationship of the CITIC Dicastal with the GOC, the legal and economic environment prevailing in China, and whether this entity is in fact exercising governmental functions, having regard to all facts and circumstances and in particular to the scope and content of the GOC policies in the aluminium wheel sector.
- (335) With regard to the prevalent Chinese legal, policy and economic environment in which CITIC Dicastal operates, the Commission has gathered evidence showing the pervasive influence of the GOC in the main legal and economic aspects of its economy ⁽⁸³⁾. More specifically with regard to the aluminium road wheel sector, the Commission found that it is subject to significant government intervention via numerous preferential policies contained in plans, guidelines, directives, and other policy documents issued at all levels of government, as well as that the GOC maintains a substantial degree of ownership and control in companies active in this sector. ⁽⁸⁴⁾

⁽⁸⁰⁾ Ibid.

⁽⁸¹⁾ China CITIC Bank. 2023 Annual Report, p. 176 and 178. Available at https://www.citicbank.com/about/investor_1011/financialaffairs/report/2023/202404/P020240429732182698660.pdf (last viewed 9 January 2025).

⁽⁸²⁾ Articles of Association of China CITIC Bank Co., Ltd. Available at <https://www.citicbank.com/about/survey/regulation/202110/P020240730610518853121.pdf> (last viewed 9 January 2025).

⁽⁸³⁾ See the Commission Staff Working document on significant distortions in the economy of the People's Republic of China, SWD(2017) 483 final/2, 20.12.2017. Available at https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf.

⁽⁸⁴⁾ See Commission Implementing Regulation (EU) 2023/99 of 11 January 2023, imposing a definitive anti-dumping duty on imports of certain aluminium road wheels originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 18, 19.1.2023, p.66, in particular section 3.3.1, recitals (41) to (70).

- (336) There are three additional elements supporting the finding that CITIC Dicastal is exercising governmental functions.
- (337) The first element is contained in the investment agreement signed with the GOM on 26 July 2018. As already seen in recitals (159) to (161) and (183), this agreement makes references to the bilateral cooperation between Morocco and China. More tellingly, in letter (D) of its preamble it refers to the “*CITIC Dicastal Group*” as a leading manufacturer of aluminium road wheels, and goes on to state that the PRC acted through the CITIC Dicastal Group. This underlines that the CITIC Dicastal and its group as a whole, given its specialisation know-how in the manufacturing of aluminium wheels, is specifically chosen by the GOC to carry out and implement the overarching government policy objectives of the BRI thorough this investment in Morocco in the specific context of the bilateral cooperation between the two countries.
- (338) The second element is that the CITIC group, which includes CITIC Dicastal and DMA, has been formally recognised by the GOC to implement the BRI and the going out policies, and that the investment agreement it signed with the GOM on 26 July 2018 the ‘Morocco project’ is considered as being ‘in accordance’ with the BRI. Already in 2017, the CITIC group highlighted ⁽⁸⁵⁾ that it had been implementing the “going out strategy” and that it had made large-scale investments along the BRI. The CITIC group declared that it would continue to actively participate in the construction of the BRI by making greater contributions to promoting the common development of China and countries and regions along the route. Among the “seven collaboration circles” described to implement the BRI, the CITIC group mentioned the synergy circle with several national ministries and commissions, with SOEs, as well as with local governments and SOEs. In this context, the CITIC Bank already in 2017 supported the BRI by investing and financing simultaneously, with significant amounts provided in the form of financing support and via a dedicated Belt and Road fund.
- (339) Furthermore, in an article of CITIC Dicastal published in July 2019 (see also in recital (174)), ⁽⁸⁶⁾ the company refers to the government policies actively promoting the adjustment and upgrading of industrial strategy, stating that CITIC Dicastal further promotes the going out strategy and builds production bases overseas. This source also shows the close links and involvement between the top management of CITIC Group Corporation (namely the Chairman and the General Manager) and the development and activities of CITIC Dicastal. With regard to the Moroccan project, the leaders of CITIC Group Corporation encouraged CITIC Dicastal to replicate their domestic business model in Morocco including “controlled market resources to drive social capital investment.” This model would be applied overseas in Morocco for the first time on the basis of its commitment to becoming a “Belt and Road” national project.
- (340) The third element showing that CITIC Dicastal is vested with government authority is based on the fact that a number of Chinese plans and policy documents specifically mention CITIC Dicastal as one of the companies chosen to implement the BRI and promote the expansion of international capacity. Among them, the 2020 Qinhuangdao Implementation Plan in Section 6 on Equipment manufacturing in the context of the BRI explicitly mentions the promotion of the CITIC Dicastal investment project in Morocco. ⁽⁸⁷⁾
- (341) On the preferential financing side, in addition to all the elements detailed in section 3.5.1, a Notice of 2018 from the Hebei Province on the implementation of the BRI and the promotion of international capacity cooperation, section 6 on the promotion of equipment manufacturing specifically mentions CITIC Dicastal and Morocco as an investment promotion beneficiary. ⁽⁸⁸⁾

⁽⁸⁵⁾ CITIC Group: Implementing national strategies and comprehensively deploying the “Belt and Road”. Available at <https://www.foundation.citic/icms/null/null/ns:LHQ6LGY6LGM6MmM5Y2Q1OGU1ZWM2ODE4YzAxNWY1MTU3YzUyMDAwY2lscDosYTosbTo=/show.vsm1> (last viewed 10 January 2025).

⁽⁸⁶⁾ CITIC Dicastal, A new force for Chinese manufacturing to take off overseas, Editorial Department of this Journal, 15.07.2019. Available at <https://www.jingjidaokan.com>, null.

⁽⁸⁷⁾ See the 2020 Qinhuangdao Implementation Plan on Actively Participating in the Construction of the “Belt and Road” and Promoting International Production Capacity Cooperation. Available at <http://fgw.qhd.gov.cn/home/details?code=MTk0MTkzNzM4Mzk2&pcode=MA%CE%B3%CE%B3&id=461926> (last viewed 10 January 2025).

⁽⁸⁸⁾ Notice of the General Office of the People's Government of Hebei Province on Issuing the Implementation Plan for Actively Participating in the Construction of the “Belt and Road” and Promoting International Production Capacity Cooperation, 2018/110. Available at <http://fgcx.bjcourt.gov.cn:4601/law?fn=lar1478s159.txt> and <https://law.esnai.com/mview/189605> (last viewed 18 January 2025).

- (342) Furthermore, in January 2020 a strategic cooperation agreement ⁽⁸⁹⁾ was signed between CITIC group and Sinosure and was attended by CITIC Bank Party Committee Secretary and Chairman, as well as by the Sinosure Party Committee Member and Deputy General Manager. CITIC Bank was the first joint-stock bank to sign such an agreement with Sinosure given their long-term relationship. The scale of financing exceeded USD 20 billion. This agreement demonstrated the determination of these companies to jointly implement the national strategy and support enterprises to “go global.” This cooperation was mirrored by the Hebei branch of Sinosure, which specifically mentioned support for the BRI to the CITIC Dicastal project. ⁽⁹⁰⁾ Also the Hebei branch of the Chinese Export-Import Bank specifically indicated its support and financing for CITIC Dicastal. ⁽⁹¹⁾
- (343) In any event, with regard to CITIC Bank and CITIC Finance, for the public body analysis the Commission relied on the findings concerning the other Chinese banks and financial institutions providing directly or indirectly financing to CITIC Dicastal as detailed in section 3.5.2.1.1., as they are equally applicable to CITIC Bank and CITIC Finance. On this basis, the Commission concluded that CITIC Bank and CITIC Finance acted as a public body within the meaning of Article 3(1)(a) and 2(b) of the basic Regulation when providing financing to CITIC Dicastal.
- (344) To sum up, based on the body of evidence described in this section, the Commission concluded that CITIC Dicastal acted as a public body within the meaning of Article 3(1)(a) read in conjunction with Article 2(b) of the basic Regulation when providing the financial contributions to DMA via the related entities. The relevant evidence showed that there were formal indicia of State ownership and control of CITIC Dicastal via the direct or indirect participation of the Chinese government and/or the CCP in the share capital and/or in the board of directors taking the relevant business decisions, and that CITIC Dicastal was implementing GOC policies in the Morocco project, including namely the BRI. The above evidence further showed that the relevant legal, policy, and economic environment in China in which CITIC Dicastal operates, both in general and specifically in the aluminium road wheels sector, features a significant governmental presence via preferential policies and plans significantly interfering with normal market forces. Moreover, the relevant evidence clearly showed that CITIC Dicastal are vested with government authorities as they are exercising governmental functions, as CITIC Dicastal and other entities within the same group have historically been implementing the preferential policies adopted by the Chinese government. With regard to CITIC Dicastal and its investment project in Morocco, it is clear that it is an implementation of the Chinese BRI, the “going out” and the Made in China policies, as well as of the other Chinese preferential policies in support of the aluminium wheels sector, including namely in the context of the cooperation between the GOM and GOC.
- (345) Following final disclosure, although the GOM stated that it was not entitled to comment on third country companies and their governance, it nevertheless submitted comments on the Commission findings. GOM simply asserted that based on its experience, the establishment of the Moroccan plant by CITIC Dicastal was conducted as a private investment not related to the GOC, once again stressing the lack of evidence for the bilateral cooperation framework via the signature of the investment agreement between CITIC Dicastal acting on behalf of GOC, and the GOM.
- (346) The Commission noted that this claim is a mere statement following the admitted inability by GOM to submit comments concerning a foreign undertaking. Therefore, the Commission did not need to address it, also in light of the substantive rebuttals on this point detailed above.
- (347) Following final disclosure, DMA argued that the Commission findings did not provide sufficient evidence of CITIC Dicastal being a public body.

⁽⁸⁹⁾ The 2020 Strategic agreement between CITIC and SINOSURE. Available at https://www.group.citic/html/2020/News_1123/2317.html (last viewed 10 January 2025).

⁽⁹⁰⁾ Policy-based export insurance credit strongly supports the “six stability” and “six guarantees” work of our province, 2021. Available at <https://dfjr.hebei.gov.cn> (last viewed 18 January 2025).

⁽⁹¹⁾ The Hebei Branch of the Export-Import Bank of China is making every effort to implement the special loan plan to help stabilize the basic foreign trade situation. Available at http://www.eximbank.gov.cn/info/jgdt/202102/t20210208_25738.html (last viewed 10 January 2025).

- (348) Similarly to recitals (345) and (346), the Commission noted that it did not need to address the comments made by DMA concerning the findings of CITIC Dicastal being a public body as it was a mere statement without any substantive arguments.

3.5.2.2. Findings of the investigation

- (349) In view of the above conclusions that, first, CITIC Dicastal received financial support from the GOC directly and via Chinese financial institutions acting as public bodies, and second, that CITIC Dicastal acted as a public body in channelling the GOC's financial support to the project in Morocco carried out by DMA, the Commission examined the following specific transactions linked to the financing of the project and provided to DMA:

- Capital increase,
- Financial loans,
- *De facto* loans linked to the acquisition of capital goods,
- *De facto* loans linked to the purchase of raw materials,
- Provision of raw materials for preferential prices.

(a) **Capital increase**

- (350) As described in recitals (264) to (266), in November 2021, the registered equity of DMA increased substantially. This increase was funded as follows:

- In 2019, DMA received six loans from its Chinese parent company Dicastal Asia. DMA never repaid these loans, neither did it pay the corresponding interest. The loans were capitalised in 2021.
- At the same time, Dicastal Asia took over payables of DMA in relation to six Chinese venture companies and added them to DMA's equity.

- (351) Dicastal Asia used funds provided by its sole shareholder Changsha Dicastal in the form of an increase in equity and a loan, and by the related company Wisdom in the form of a loan as noted in recitals (261), (265), (266) and (274). The ultimate Chinese source of this finance, channelled through Changsha Dicastal, Wisdom and Dicastal Asia, was CITIC Dicastal. At the time of the establishment of the Moroccan subsidiary and during the period thereafter, CITIC Dicastal itself received funds from its related group financial entities as well as from various other state-owned Chinese banks and financial institutions as set out in recitals (222) to (226).

(1) *Financial contribution*

- (352) On the basis of the findings in section 3.5.2.1 above, the Commission concluded that CITIC Dicastal acted as a public body within the meaning of Article 3(1)(a)(i) and 2(b) of the basic Regulation when providing the financial contributions specified above via related entities to DMA.
- (353) Consequently, this programme constitutes a financial contribution in form of a direct transfer of funds within the meaning of Article 3(1)(a)(i) from the GOC attributable to the GOM in the context of the cooperation between the GOC and the GOM.
- (354) Following final disclosure, DMA argued that there was no financial contribution by the GOC or a public body with regard to the capital increase. The company claimed that it simply moved funds from one account to another.
- (355) The company further insisted that the Commission's facts were wrong as it did not capitalise only the funds received from Dicastal Asia, but also those received from six unrelated offshore companies, and there was no evidence on the file that those six companies participated in the BRI. In addition, DMA asserted that the Commission failed to demonstrate that those loan from Dicastal Asia originated from the GOC or from CITIC Dicastal.

- (356) The Commission disagreed with the claims set out in recitals (354) and (355). The accounting treatment of those transactions (reclassification from loans/accounts payable to shareholder's equity) did not change that in substance, DMA was freed from its obligation to settle the outstanding balance of accounts payable and repay the loan. Instead, those debts were transformed into the company's equity.
- (357) In addition, whether the six offshore companies participated in the BRI or not, is not relevant in the present case. It was not them waiving DMA's debt, but DMA's direct sole shareholder Dicastal Asia. As explained in recitals (350) and (351), Dicastal Asia first settled DMA's debt towards the offshore companies using funds from CITIC Dicastal channelled through Changsha Dicastal and Wisdom. After becoming the owner of those debts, instead of claiming the funds from DMA, it used them to increase its capital contribution in the Moroccan company.

(2) *Benefit*

- (358) DMA's debts stemming from loans from Dicastal Asia and from accounts payable towards six creditors were converted into equity but were never repaid directly or indirectly via dividends. Thus, the Commission considered the capitalised debts as a debt forgiveness provided by the CITIC group to DMA.
- (359) This programme confers a benefit equal to the amount of the debt waived. However, since the debt waived took the form of a capital contribution, the benefit must be distributed over a longer period. Therefore, the Commission allocated to the investigation period a portion of the total benefit corresponding to the share of depreciation on total value of the company's main assets, i.e. its equipment, in the investigation period.
- (360) Following final disclosure, DMA complained that it was unclear in what form the financial contribution and/or the benefit were received as the Commission referred to direct transfer of funds in recital (353), debt forgiveness in recital (358), and debt waived in recital (359).
- (361) With regard to the calculation of the benefit, the company claimed that no debt was waived as it was capitalised, and therefore an allocation of the benefit to the investigation period based the depreciation of equipment is erroneous.
- (362) The Commission noted that whether the transactions were described as debt forgiveness or debt waived, they represented a direct transfer of funds as confirmed by the Panel in *Korea – Commercial Vessels*⁽⁹²⁾. As explained in recital (356), DMA's debt was definitely waived as through its capitalisation, the company was freed from the obligation to repay it. Consequently, the Commission rejected the claims set out in recitals (360) and (361).

(3) *Specificity*

- (363) These contributions are specific as they fall under the bilateral investment agreement framework of the GOC and the GOM as detailed in section 3.4. In particular, the scheme is specific under Article 4(2)(a) of the basic Regulation because it is limited to a specific enterprise part of the automotive sector according to the Moroccan preferential policies detailed in section 3.3, and it is also regionally specific as it is located in an IAZ also covered *inter alia* in section 3.3.
- (364) Following specific disclosure, DMA asserted that there was no evidence that the financial contributions were specific to DMA or the automotive sector, or made in the context of cooperation between the GOM and the GOC.
- (365) The Commission noted that this claim was unsubstantiated. As specified at recital (363), the Commission made findings based on specific evidence showing sectoral and regional specificity. Therefore, the Commission dismissed these claims.

⁽⁹²⁾ Panel Report, *Korea – Commercial Vessels*, para. 7.411-7.413.

(4) *Conclusion*

- (366) The subsidy rate established with regard to this subsidy scheme during the investigation period for the cooperating exporting producer amounts to:

Capital increase in the framework of cooperation between the GOM and the GOC

Company name	Financial support	Subsidy rate
DMA	Capitalised loans	1,29 %
DMA	Capitalised payables	1,10 %

(b) ***De facto loan linked to capital goods and loans***

- (367) DMA received two financial loans in 2020 and 2021 from related companies as detailed in recitals (268) and (271).
- (368) In 2020, Dicastal HK provided DMA with a loan, which was fully repaid at the end of the investigation period. Dicastal HK itself was financed through loans from its only shareholder, CITIC Dicastal as described in recital (271). Those loans were in a value that by far exceeded the value of the loan granted by Dicastal HK to DMA.
- (369) In 2021, Dicastal Asia granted to DMA a loan that was fully repaid at the end of the investigation period. As explained in recitals (268) and (274), to finance the loan, Dicastal Asia received a series of loans from Wisdom, which in their value covered the amount lent to DMA.
- (370) Furthermore, as described in recital (260), DMA received one *de facto* loan, as Changsha Dicastal supplied DMA with production equipment worth more than 90 % of the total value of purchased equipment. The deliveries took place between 2018 and 2022. However, DMA did not repay this equipment in due time. At the beginning of the investigation period, DMA still had an outstanding debt from those transactions equal to 70 % of their total value. It paid for part of the supplied equipment during the investigation period, thus reducing the outstanding value to 50 % of the total value of assets acquired from Changsha Dicastal at the end of the investigation period.
- (371) As described in recital (257), Changsha Dicastal was able to finance its contribution to the investment project in Morocco via the increased cash flow from its transactions with CITIC Dicastal.
- (372) Consequently, all these financial flows could be traced back to the Chinese ultimate owner, CITIC Dicastal, which itself received funds from its related group financial entities as well as from various other State-owned Chinese banks and financial institutions as found in recitals (222) to (226).

(1) *Financial contribution*

- (373) On the basis of the findings in section 3.5.2.1 above, the Commission concluded that CITIC Dicastal acted as a public body when providing the financial contribution via its related entities to DMA. The CITIC group's financial institutions and state-owned banks and financial institutions were also found to have acted as a public body when they provided loans to CITIC Dicastal.
- (374) The financial contribution took the form of direct transfer of funds via the provision of preferential financing in the form of loans and a *de facto* loan to DMA within the meaning of Article 3(1)(a)(i).
- (375) These financial contributions provided by CITIC Dicastal as a public body via its related entities can be attributed to the GOM in the context of its bilateral cooperation with the GOC according to the findings in section 3.4.

- (376) Following final disclosure, DMA argued that the notion of '*de facto* loans' existed neither in the basic Regulation nor in the WTO ASCM. In any case, the company submitted, Changsha Dicastal demonstrated during the on-spot verification that DMA had no debt before Changsha Dicastal. Instead, Changsha Dicastal acted as an agent and the outstanding balance represented a credit granted by the actual suppliers of the equipment. In this context, the company reiterated that it disagreed with the application of Article 28 of the basic Regulation, as the refusal to provide a physical list of original suppliers of the equipment as an exhibit during the on-spot verification, did not prevent the Commission from verifying the information necessary for this investigation (see also recitals (112), (116) and (118).
- (377) Furthermore, DMA claimed that there is no evidence of either the GOC or CITIC Dicastal having provided loans to Dicastal Asia and Dicastal HK. According to DMA, the accounting records and financial statements of CITIC Dicastal clearly show that it did not provide any loans to Changsha Dicastal, Dicastal Asia or Dicastal HK, and in addition, it did not make any payments of any kind to Dicastal Asia.
- (378) With regard to the notion of '*de facto* loans', the Commission noted that it used this terminology only for the purpose of differentiating those respective transactions from financial loans, where based on a loan contract the lender transfers actual financial means to the bank account of the borrower. In the present case, the *de facto* loan represents an equivalent situation where however the supplier of the equipment through non-collection or delayed collection of payments provided funds to DMA that would not be available to the company otherwise.
- (379) With regard to the credit not having been provided by Changsha Dicastal, the Commission recalled that due to Changsha Dicastal's refusal to provide the list of its alleged suppliers of the machinery delivered to DMA, the Commission was not able to examine which entities carried the burden of the outstanding debt and under what circumstances and conditions such alleged credit was extended. Contrary to the information provided by Changsha Dicastal during the on-spot verification, the equipment purchase agreements submitted by DMA clearly identify Changsha Dicastal as the seller and define its obligations to design, manufacture, deliver, install and sell the equipment to DMA, as well as provide on-site training. Changsha Dicastal as the seller also provides all warranties based on the agreements.
- (380) With regard to the GOC or CITIC Dicastal providing finance to Changsha Dicastal, Dicastal Asia or Dicastal HK, the Commission referred to the transactions identified in recitals (257), (268), (271) and (274) that demonstrated how CITIC Dicastal channelled funds with regard to the transactions described in recitals (367) to (370) via its related entities to DMA. In particular, the Commission noted that CITIC Dicastal provided loans to Dicastal HK contrary to the comments on final disclosure submitted by DMA. This information was provided by Dicastal HK itself and verified on spot.
- (381) Consequently, the Commission rejected the claims set out in recitals (376) and (377).

(2) *Benefit*

- (382) These practices confer a benefit that is equal to the difference between the interest DMA paid on the loan and the amount that would have been paid on a comparable commercial loan.
- (383) To determine a benchmark interest rate, the Commission considered the start date of the loan, its duration, currency, and the creditworthiness of the company.
- (384) The two financial loans were denominated in EUR. Although the invoices for equipment supplied by Changsha Dicastal were issued in CNY, the payments were carried out in EUR. Therefore, the Commission considered the *de facto* loan to be denominated in EUR.
- (385) To assess the creditworthiness and the long-term solvency risk of the company, the Commission used the current ratio and the debt-to-equity ratio.

- (386) The current ratio measures the company's ability to pay short-term obligations and represents the ratio between current assets and current liabilities. In 2019, 2020 and 2023, DMA's current ratio remained below 1, which means that in those years, the company would not have been able to meet its short-term obligations by liquidating its current assets. The situation was more favourable in 2021 and 2022, when the current ratio rose above 1. However, when disregarding stocks from the calculation of short-term liquidity (the acid test ratio), as they cannot be turned into cash immediately, the ratio remained under 1 also in 2021 barely exceeding 1 in 2022.
- (387) The debt-to-equity ratio measures the company's ability to meet its long-term debt obligations. This indicator painted a dire picture. The debt-to-equity ratio reached a value of more than 2 000 in 2019 and 2020, i.e. before a large portion of the company's debt was capitalised (see recitals (264) to (266), and (350)). After the capital increase, the long-term financial commitments continued to exceed the shareholder's equity. The debt-to-equity ratio remained above 5 in 2021 to 2022, and above 3 in 2023.
- (388) Considering the liquidity and solvency issues described in recitals (385) to (387), the Commission considered that the company was not in a solid financial situation and had a high-risk profile for potential lenders and investors.
- (389) On that basis, the Commission used the ICE BofA Euro High Yield Index, which tracks the performance of Euro denominated below investment grade corporate debt publicly issued in the euro domestic or Eurobond markets. Since the loans and *de facto* loan were provided by Chinese entities for a foreign project located in Morocco, the Commission considered that the country risk should also be taken into account. Therefore, the Commission adjusted the interest rate based on the ICE BofA Euro High Yield Index for the country risk as assessed by the OECD.
- (390) The start date of the two financial loans was taken into account for the determination of the benchmark interest rate as both loans had a fixed interest rate. The duration of the loans was taken into account in the calculation of the premium based on the country risk assessment.
- (391) Following final disclosure, DMA asserted that the Commission failed to adequately explain the calculation of the benefit and clearly explain the basis for the calculation of the benefit for the *de facto* loan.
- (392) DMA further claimed that the Commission failed to take into account the payment terms agreed in the contracts for the acquisition of the equipment at hand. In particular, the Commission did not take into consideration that the payments were agreed in several instalments with a major part of the acquisition value due only within 270 days after the completion of the equipment installation and commissioning. Thus, the Commission should ensure that only equipment for which the due date had already expired was included in the benefit calculation.
- (393) With regard to the benchmark, the company argued that the benchmark used by the Commission did not relate to loans and as such did not meet the requirements laid down in Article 14(b) of the WTO ASCM. In addition, the company claimed that it was not able to access the source data and thus to confirm its accuracy. DMA submitted that the Commission should use IMF money market rates for Morocco that allegedly accurately reflect Morocco's commercial institutions interest rates.
- (394) The company further asserted that the Commission's findings on DMA's debt-to-equity ratio and Morocco's country risk were unsubstantiated. The company claimed that the calculations of the debt-to-equity ratio were not disclosed and were incomprehensible. According to DMA, the OECD country risk rating is irrelevant for loans as it relates to 'Country Risk Classifications of the Participants to the Arrangement on Officially Supported Export Credits'.
- (395) Finally, the company submitted the benefit resulting from outstanding accounts payable for equipment should not be expensed in the investigation period only but allocated over the average useful life of the equipment.
- (396) The Commission rejected the claims set out in recitals (391) to (395).

- (397) First, the calculation of the benefit for the *de facto* loan was in general terms explained in recitals (382) to (384) and a detailed calculation was disclosed to DMA in Annex 2-3.3.2 to the company specific disclosure.
- (398) Second, the effect of the payment terms was immaterial in the present case. With the exception of one import transaction representing less than 0,9 % of the outstanding balance at the beginning of the investigation period, all machinery was delivered in such periods that the due date of the last instalment expired before the beginning of the investigation period.
- (399) Third, the Commission disagreed with DMA's assessment concerning the compliance of the selected benchmark with the requirements of Article 14(b) of the WTO ASCM. The benchmark represented the yield of high-risk corporate debt, i.e. how much a creditor lending money to a company with such risk profile earned, denominated in EUR thus mirroring the currency of DMA's debt and DMA's investment risk profile. The Commission confirmed that the link to source of the benchmark data provided in the company specific disclosure worked correctly. It led to the home page of the Federal Bank of St. Louis ⁽⁹³⁾ where the company could search for the specific benchmark using the code provided in Annex 2 (sheet 'Benchmark-EUR loans') to the company specific disclosure. The Commission also examined the IMF money market rates for Morocco proposed by DMA as a more appropriate benchmark. The Commission found that the money market rate corresponds to inter-bank lending rate ⁽⁹⁴⁾ and is thus not suitable as a benchmark interest rate.
- (400) Fourth, the Commission noted that the calculations of the creditworthiness indicators were disclosed to DMA in Annex 2-3.2 to the company specific disclosure. The spreadsheet contains the formulas for the calculation of each indicator, a table with data used for the calculation, the sources of that data (audited reports and tax declarations). The results for each indicator were also presented in such form that they made it possible for the company to follow each step of the calculation. With regard to the country risk premium, the Commission found it appropriate as similarly to export credits, the loans were provided for a project located abroad.
- (401) Finally, the Commission clarified that the benefit for the outstanding balance of accounts payable for equipment was not countervailed in the full acquisition value of the equipment. Instead, only the interest that should have been paid during the investigation period on such loan provided in the form of a delayed collection of payments was considered as benefit under this programme. The benefit was thus specific to the investigation period and did not require any further allocation over a longer period.

(3) *Specificity*

- (402) These contributions are also specific as they fall under the bilateral investment agreement framework of the GOC and the GOM as detailed in section 3.4. In particular, these schemes are specific under Article 4(2)(a) of the basic Regulation because the loans and *de facto* loan are limited to a specific enterprise part of the automotive sector according to the Moroccan preferential policies detailed in section 3.3, and it is also regionally specific as it is located in an IAZ also covered *inter alia* in section 3.3.
- (403) Following final disclosure, DMA argued that the Commission's analysis of specificity was not sufficient.
- (404) The Commission noted that this claim was a mere statement not substantiated by any evidence. Based on the elements showing sectoral and regional specificity as shown at recital (402), the Commission confirmed its findings.

⁽⁹³⁾ Federal Bank of St. Louis. Available at <https://fred.stlouisfed.org> (last viewed 7 February 2025).

⁽⁹⁴⁾ International Financial Statistics. Country Notes, p. 113. Available at <https://www.elibrary.imf.org/display/book/9781455217588/9781455217588.xml> (last viewed 7 February 2025).

(4) *Conclusion*

- (405) The subsidy rate established with regard to this subsidy scheme during the investigation period for the cooperating exporting producer amounts to:

***De facto* loan linked to capital goods and loans in the framework of the cooperation between the GOM and the GOC**

Company name	Financial support	Subsidy rate
DMA	<i>De facto</i> loan linked to capital goods	5,44 %
DMA	Loans from Dicastal Asia and Dicastal HK	0,51 %

- (406) Following final disclosure, the GOM supported the claims made by DMA, noting its understanding that DMA and its affiliates demonstrated that each and every financial contribution extended by the GOC to Chinese affiliates in China have not been destined for BRI, Morocco, or DMA, as also proven by the submission by Changsha Dicastal that it invested its own funds to invest into DMA capital. It then concluded that the Commission was manifestly wrong to conclude that CITIC Dicastal, acting as a public body, channelled the GOC funds via several related entities. Finally, the GOM asserted that there was no evidence on file that increased sales to Changsha Dicastal supported DMA, and that CITIC Dicastal used Wisdom to provide further loans and cheap inputs to DMA.
- (407) The Commission noted that these arguments by the GOM were mere assertions lacking any substantiation. Therefore, the Commission did not need to address them. In any event, the Commission addressed on substance all the arguments made by DMA on these issues and dismissed them.

(c) **Direct transfer of funds linked to the provision of aluminium ingots**

- (408) DMA procured aluminium ingots, the main raw material used in the production of ARW, from a small number of related and unrelated suppliers. As detailed in recitals (105), (106), (272) and (273), Wisdom, a company found to be related to the Dicastal group (see section 3.5.2.1), was DMA's main supplier with approximately 75 % of all aluminium ingots purchased from the company during the investigation period. DMA signed a contract with Wisdom for such substantial quantities of aluminium ingots in March 2020, only four months after Wisdom was established.
- (409) The preferential conditions under which Wisdom supplied DMA with aluminium ingots were twofold.
- (410) First, despite a payment term of ninety days clearly defined in the contract between Wisdom and DMA, up until the end of the investigation period, DMA had not paid Wisdom for any of the ingots purchased between December 2022 and the end of the investigation period. Moreover, Wisdom never took any action under the dispute settlement provisions of the contract to obtain such payments, nor did it terminate the contract.
- (411) Second, the price charged by Wisdom to DMA was artificially and significantly lower than the price charged directly by the other foreign unrelated suppliers of aluminium ingots that were also the producers of the raw material and supplied DMA with significant quantities. The Commission considered that such price difference was clearly affected by the relationship with Wisdom, and the significant differences with the price of the other unrelated suppliers could not be explained by other elements such as the duration of the contract or the quantities involved.

(1) *Financial contribution*

- (412) In view of the findings as established in recital (305), the Commission concluded that CITIC Dicastal used Wisdom as a vehicle to channel the preferential support provided by the GOC to the Moroccan project.

- (413) CITIC Dicastal, in turn, received funds from its related group financial entities as well as from various other State-owned Chinese banks and financial institutions as found in recitals (153) to (158).
- (414) On the basis of the findings in section 3.5.2.1 above, the Commission concluded that CITIC Dicastal acted as a public body when providing the financial contribution via its related entities to DMA. The CITIC group's financial institutions and State-owned banks and financial institutions were also found to have acted as a public body when they provided loans to CITIC Dicastal.
- (415) The financial contribution took the form of direct transfer of funds via the provision of preferential financing as a *de facto* loan to DMA via Wisdom within the meaning of Article 3(1)(a)(i). The amount of the financial contribution was equal to the outstanding debt from unpaid invoices for aluminium ingots beyond their due date. In addition, Wisdom provided DMA with aluminium ingots by charging a significantly lower price for the aluminium ingots supplied.
- (416) Following final disclosure, DMA argued that it did not receive any financial contribution in the form of a direct transfer of funds, it only received aluminium ingots.
- (417) It further maintained that there was no relationship between CITIC Dicastal and Wisdom. Therefore, there was no evidence of financial contribution and specificity.
- (418) DMA also claimed that Wisdom did not extend any preferential terms to it with regard to the supplied ingots. DMA allegedly used the unpaid invoices to prevent Wisdom from increasing the price agreed in the contract. In this respect, DMA pointed out that in line with the renegotiated contract, price increased in November and December 2023. In this period, it was higher than the price paid for aluminium ingots supplied by ALBA. In addition, DMA maintained that it paid almost all outstanding invoices in the course of 2024.
- (419) Furthermore, DMA asserted that there was no evidence that CITIC Dicastal channelled the preferential support provided by the GOC to DMA. In particular, the company argued that the Commission verified all accounts payable and accounts receivable of CITIC Dicastal in the period 2017 to 2023 and thus could have confirmed that no funds were transferred to Wisdom. In addition, according to DMA, there is no evidence that Wisdom received preferential financing from the GOC.
- (420) With regard to the form of preferential financing countervailed under this subsidy scheme, DMA argued that the notion of '*de facto* loan' existed neither in the basic Regulation, nor in the WTO ASCM and thus, the Commission should have concluded that there was no financial contribution.
- (421) The Commission rejected the claims set out in recitals (416) to (420).
- (422) First, as explained in recitals (409) to (411), the financial contribution in the form of direct transfer of funds consisted of Wisdom providing preferential prices for the aluminium ingots and of Wisdom's delayed collection of payments well beyond the payment term agreed in the contract.
- (423) Second, findings and conclusions on the relationship between CITIC Dicastal and Wisdom, as well as the Dicastal group's comments on this issue were addressed in recitals (275) to (313).
- (424) Third, the Commission addressed the explanation of the lower prices charged by Wisdom in recital (313).
- (425) Fourth, the Commission already addressed the reasons for Wisdom not being listed in CITIC Dicastal's audited reports and accounting records in recitals (274) to (313), in particular in recitals (283) and (284). In addition, the Commission disagreed with the assertion that it verified all accounts payable and accounts receivable of CITIC Dicastal for the period of 2017 to 2023. In this respect, the Commission requested and received CITIC Dicastal's accounts payable and accounts receivable listings related to transactions with Changsha Dicastal.
- (426) Finally, the Commission addressed the notion of '*de facto* loan' in recital (378).

(2) *Benefit*

(427) The practices described in recitals (408) to (411) confer a benefit equal to:

- the difference between the interest DMA paid on the *de facto* loan and the amount that would have been paid on a comparable commercial loan, and
- the difference between the price DMA paid for the aluminium ingots purchased from Wisdom and the market price of a comparable raw material supplied by an unrelated supplier.

(428) With regard to the *de facto* loan, to determine a benchmark interest rate for the calculation of the benefit the Commission considered the duration of the loan, its currency, and the creditworthiness of the company.

(429) The Commission included purchase transactions carried out in 2022 with outstanding payment in the investigation period in the calculation of benefit. For these transactions, the duration of the loan was determined as one full year. For purchases invoiced in 2023, only those were taken into account, which had a due date in 2023. The duration of the loan for those transactions was calculated as the difference between the due date and the end of the year. Despite the fact that only parts of these loans were repaid after the investigation period, the Commission treated also the amounts for which no evidence of repayment after the investigation period has been provided as a *de facto* loan and not as a direct transfer of the full amount in the form of debt forgiveness.

(430) The price charged by Wisdom for the supply of aluminium ingots was in USD. Therefore, the Commission considered the *de facto* loan to be denominated in USD.

(431) As explained in recitals (385) to (388), DMA had a high-risk profile for potential lenders and investors. Therefore, the Commission used as a benchmark the interest rate expected on bonds issued by firms with a B rating (as available in Bloomberg). For reasons explained in recital (389), the benchmark interest rate was further adjusted for the country risk as assessed by the OECD.

(432) As the *de facto* loan was spread over two years, the Commission considered a two-year duration of the loan for the determination of the benchmark interest rate and the calculation of the country risk premium.

(433) With regard to the difference in purchase price to calculate the benefit, the Commission compared the average purchase price paid by DMA for aluminium ingots supplied by Wisdom in the investigation period with the average purchase price paid by DMA for aluminium ingots supplied by the other largest unrelated supplier during the investigation period.

(434) Following final disclosure, DMA submitted that the benchmark interest rate used for the *de facto* loan was contrary to Article 14.b of the WTO ASCM and referred to its arguments put forward with regard to 'de facto loan linked to capital goods and loans' as described in recital (393).

(435) With regard to the methodology of benefit calculation for the preferential price of aluminium ingots, the company claimed that the Commission should exclude supplies received in November and December 2023 as it was demonstrated that the prices charged by Wisdom were higher than the prices charged by ALBA.

(436) With regard to the benchmark price of aluminium ingots, DMA asserted that the Commission violated Article 14(d) of the WTO ASCM, which requires that "*the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service in question in the country of purchase*", when it used the import price of aluminium ingots supplied by ALBA. According to the company, the Commission failed to demonstrate that the prices of imported aluminium correspond to the Moroccan prevailing conditions.

(437) Finally, the company argued that the benefit determined for this programme should not be allocated over total company turnover in full. Since the aluminium ingots purchased from Wisdom represented only a portion of all ingots acquired during the investigation period, the Commission should have allocated only the corresponding portion of the calculated benefit.

- (438) The Commission dismissed the claims set out in recitals (434) to (437).
- (439) First, the Commission addressed the company's claims concerning the benchmark interest rate in recital (399). Also in case of the benchmark interest rate for loans denominated in USD, the Commission disclosed the source data to the company in Annex 2 (sheet 'Benchmark-USD loans') to the company specific disclosure. The interest rate expected on bonds issued by firms with a B rating is a suitable proxy for the interest rate a company with a high-risk profile would need to pay if wanted to borrow funds denominated in USD.
- (440) Second, the Commission determined the subsidisation for a specific investigation period. In that period, it examined the weighted average prices charged by Wisdom and by ALBA. The Commission considered the company's request to carry out the comparison based on a shorter period unsubstantiated.
- (441) Third, the Commission considered that the import price of aluminium ingots supplied by ALBA was an appropriate proxy for domestic, Moroccan prices of ingots as the imported ingots had to compete on price with the raw material when sourced domestically.
- (442) Finally, the Commission considered that it adopted a conservative approach when it allocated the benefit over total turnover of the company. It is undisputable that DMA enjoyed the full value of the benefit determined for this programme, not only the portion corresponding to the share of aluminium ingots supplied by Wisdom on the total quantity of ingots purchased in the investigation period. On the contrary, it could be argued that since the ingots were used to manufacture only a portion of total quantity of ARW produced during the IP, the total value should have been allocated only over the corresponding share of total turnover.

(3) *Specificity*

- (443) These contributions are also specific as they fall under the bilateral investment agreement framework of the GOC and the GOM as detailed in section 3.4. In particular, these schemes are specific under Article 4(2)(a) of the basic Regulation because the *de facto* loan and the direct transfer of funds through preferential pricing of aluminium ingots are limited to one specific enterprise part of the automotive sector according to the Moroccan preferential policies detailed in section 3.3, and it is also regionally specific as it is located in an IAZ also covered *inter alia* in section 3.3. In particular, through the entity Dicastal Asia, Wisdom provided DMA with loans in order to use them as investments in the latter.

(4) *Conclusion*

- (444) The subsidy rate established with regard to this subsidy scheme during the investigation period for the cooperating exporting producer amounts to:

Direct transfer of funds linked to the provision of aluminium ingots in the framework of the cooperation between the GOM and the GOC

Company name	Financial support	Subsidy rate
DMA	<i>De facto</i> loan linked to the provision of inputs	2,03 %
DMA	Preferential price of inputs	15,65 %

3.6. Direct transfer of funds provided by the GOM

3.6.1. Grants provided under IDIF

- (445) The complainant claimed that Moroccan exporting producers benefited from grants provided by IDIF within the framework of the investment agreements signed by the companies in question and the GOM.

(a) **Legal basis**

- (446) The IDIF is a public investment fund providing grants to its beneficiaries, originally created by the Government of Morocco under the framework law n°18-95 establishing the Investment Charter ⁽⁹⁵⁾ and named “*Fonds de promotion des investissements*” through the 1995 Finance Law and its subsequent amendments ⁽⁹⁶⁾. In 2015, the fund was renamed “*Fonds de Développement Industriel et des Investissements*” to underline its industrial focus. The objective of the IDIF is to consolidate the country’s industrial activities, modernize and develop its ability to substitute imported products.
- (447) The IDIF is directly managed by the GOM, namely by the Head of Government, Minister of Finance and the Minister of Industry, as stated in Article 1 of the Decree No. 2-14-715 implementing the 2015 Finance Law. ⁽⁹⁷⁾

(b) **Findings of the investigation**

- (448) The IDIF is a governmental instrument that provides investment support in the form of grants awarded to investors. The types of operations in IDIF’s scope are described as “financing of industrial development”, “bearing by the State of the costs of the benefits granted to investors under the investment contract regime” and “expenditures required to promote and support investments”.
- (449) To benefit from the IDIF, a project must be classified as “strategic project” or “structuring project” by the GOM under the Industrial Acceleration Plan (‘IAP’) (2014-2020). The automotive sector is one of the strategic industrial sectors supported by the IAP, as highlighted in section 3.3 above. The benefit is also conditioned by the signature of an investment agreement between the GOM and the investor in the framework of the Investment Charter law. Moreover, the eligibility criteria for investment projects must meet at least one of the following five criteria laid down by the Investment Charter: (i) be of an amount greater than or equal to 200 million MAD (i.e. 18,5 million EUR) over 3 years; (ii) be conducted in one of the provinces or prefectures mentioned in Decree No. 2-98-520 (of 30 June 1998) ⁽⁹⁸⁾; (iii) allow the creation of a minimum of 250 stable jobs over 3 years; (iv) ensure technology transfer; (v) contribute to the protection of the environment.
- (450) IDIF provides financial contributions in the form of grants awarded to selected investors, with a yearly budget of 3 billion MAD (i.e., 280 million EUR). The following benefits are available under the fund:
- Grants on tangible and intangible investments, which may cover up to 30 % of the total investment amount net of taxes (including acquisition of lease of the land within the limit of 20 % of the cost of the land; technical assistance costs; expenditure related to research and development, innovation; etc.).
 - An export growth premium of up to 10 % of the additional turnover made on export sales.
 - An annual import substitution premium: companies that are part of an ecosystem that has transferred at least 60 % of purchases of their inputs originally made abroad to industrial suppliers located in Morocco can benefit from an annual import substitution premium of up to 2 % of these purchases.

⁽⁹⁵⁾ Dahir n° 1-95-213 du 14 jourmada II 1416 (8 novembre 1995) portant promulgation de la loi-cadre n° 18-95 formant charte de l’investissement.

⁽⁹⁶⁾ Décret n° 2-00-895 du 6 kaada 1421 (31 janvier 2001) pris pour l’application des articles 17 et 19 de la loi-cadre no 18-95 formant charte de l’investissement; Décret n°2-15-625 modifiant le décret n° 2-00-895 du 6 kaada 1421 (31 janvier 2001) pris pour l’application des articles 17 et 19 de la loi-cadre n°18-95 formant charte de l’investissement ; Décret n° 2-04-847 du 8 ramadan 1425 (22 octobre 2004) complétant le décret n° 2-00-895 du 6 kaada 1421 (31 janvier 2001) pris pour l’application des articles 17 et 19 de la loi-cadre n° 18-95 formant charte de l’investissement.

⁽⁹⁷⁾ Decree n° 1-14-195 24 December 2014 promulgating the finance law n° 100-14 for the fiscal year 2015.

⁽⁹⁸⁾ Al Hociema, Berkane, Jerada, Nador, Oujda-Amgad, Taounate, taourirt, Taza, Tétouan, Chefchaouen, Larache, Tanger Assilah, Beni Makada, Tata, Smara, Boujdour, Guelmim, Oued Dahab, Tan Tan.

- (451) Both investigated exporting producers of ARW signed a bilateral investment agreement with the State of Morocco. Both projects are also labelled by the GOM as 'strategic' for the country under the IAP, and have created around 1 200 jobs for DMA and 1 300 jobs for Hands. ⁽⁹⁹⁾
- (452) The investment agreements for both companies only covered the investment grant part of the scheme. Export growth and import substitution premiums were not claimed by the exporting producers. In addition, it was established that although both companies were eligible for the grant, DMA failed to meet certain formal criteria laid down in the agreement and therefore, it had not applied for the investment support yet in the IP. Only Hands 8 already received part of the investment support in line with the conditions laid down in the investment agreement signed between the Hands Corporation (mother company) and the GOM.

(c) **Financial contribution**

- (453) This grant programme constitutes a financial contribution in form of a direct transfer of funds from the GOM in the sense of Article 3(1)(a) of the basic Regulation. The GOM disbursed to Hands 8 the financial contribution related to Phase 1 of the investment project equal to the 30 % of the total investments as provided for in the amended investment agreement; such disbursement covered the period from 2020 to 2023 included.

(d) **Benefit**

- (454) The financial contribution confers a benefit equal to the amount of the grant.
- (455) As related benefits stemming from the investment agreement refer to assets, the benefit for the IP was calculated by the allocation of the amount of grant according to the depreciation period of the assets for which the investments were made, notably 30 years for land and buildings and 7 to 10 years for machinery.

(e) **Specificity**

- (456) The scheme is specific under Article 4(2)(a) of the basic Regulation since it is limited to selected investors for the industrial activities of a final beneficiary enterprise part of the automotive sector according to the Moroccan preferential policies detailed in section 3.3. It is also regionally specific as it is located in an IAZ also covered *inter alia* in section 3.3.

(f) **Conclusion**

- (457) The subsidy rate established with regard to this subsidy during the investigation period for the cooperating exporting producers amounts to:

Grants provided under IDIF

Company name	Subsidy rate
Hands 8	1,57 %

3.6.2. *Grants provided under HIIF*

- (458) The Hassan II Fund for Economic and Social Development ('HIIF') was first established in 1999 and funded from the privatisation of state-owned enterprises. In 2002, by Law n° 36-01 the HIIF was transformed into a public body ('établissement public') as a separate legal person. The fund does not have a share capital but is fully funded from the state budget of Morocco.

⁽⁹⁹⁾ Ministry for Industry and Trade. The Chinese group CITIC Dicastal and the Moroccan State sign an investment agreement for an industrial project in the automotive sector, July 2018. Available at <https://www.mcinet.gov.ma/en/content/chinese-group-citic-dicastal-and-moroccan-state-sign-investment-agreement-industrial-project> (last viewed 17 December 2024).

- (459) Article 1 of Law n° 36-01 specifies that the State of Morocco has supervision power over the Fund's activities and its overall management. In addition, the prime minister of GOM is presiding over and has the biggest voting weight in the supreme governing body of the fund, that is the Administrative Council, which supervises all of the Fund's activities. The Administrative Council is also composed of governmental authorities and the director of the national central bank of Morocco, Bank Al-Maghrib. Pursuant to Article 6, the Administrative Council has the ultimate controlling and supervising powers over, among others, the selection criteria for eligible projects and the actual funding decisions and disbursement of funds.
- (460) The purpose of the HIF is to provide financial assistance (in the form of equity investments, advances or repayable loans, or non-repayable financial contributions) to economic and financial development programs, promotion of employment through micro-loans, and any project contributing to the promotion of investment and employment.
- (461) Under the National Pact for the Industrial Emergence, which was later succeeded by the IAP, the HIF offers support to three sectors (automotive, aeronautics and electronics). With regard to the automotive sector, the fund was involved in the provision of start-up grants, financing of vocational training and establishment of integrated industrial platform, i.e. the IAZs where the cooperating exporters were established. It was found that the HIF has capital interest in the two IAZs and also provided grants for development of infrastructure in those free zones.
- (462) Based on the fact that the HIF implements the GOM's policies for economic and social development, that its funding is ultimately provided by the GOM, and its decision-making is ultimately controlled by the GOM, the Commission concluded that HIF is a public body within the meaning of the WTO jurisprudence ⁽¹⁰⁰⁾.
- (463) The fact that through the HIF, the GOM controlled the price charged by the IAZs for land and that the HIF provided grants for the development of infrastructure translated into the preferential price paid for the land by the cooperating exporting producers. Those transactions were analysed under the subsidy scheme concerning the provision of land at less than adequate remuneration in section 3.8.

3.6.3. Preferential financing

- (464) The complainant claims that the banking sector provides an integrated and competitive financing offer under a partnership agreement concluded between the State and the banking sector, which is committed to supporting industrial companies (competitive rates, support for restructuring, support for internationalisation, etc.). The content of the partnership agreement between the State and the banking sector is not public, but the country's leading banking institution – AttijariWafa Bank – mentions its existence on its website. ⁽¹⁰¹⁾ The banking offer called "Plan Automotive" refers to "financing solutions as well as accompanying mechanisms in partnership with the 'Caisse Centrale de Garantie,' 'Maroc PME' and the Ministry of Industry and Trade." According to the complainant, the existence of this "Plan Automotive" indicates that financial resources and services such as loans or guarantees are made available to the recipient under certain conditions that are influenced by the State, as a named party to the partnership agreement.

(a) Legal basis

- (465) The legal basis for the preferential financing of one of the cooperating exporting producers is the Partnership agreement of 14 July 2015 between the Ministry of Industry and Trade, the Moroccan Association for the Automobile Industry and Trade ('AMICA') and the AttijariWafa Bank Group ('AWB Group') ('the Partnership Agreement'). The agreement was signed in the context of the IAP 2014-2020 and the corresponding Performance contracts for the automotive sector.

⁽¹⁰⁰⁾ WT/DS379/AB/R (US – Anti-dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, para. 318. See also WT/DS436/AB/R (US — Carbon Steel (India)), Appellate Body Report of 8 December 2014, para. 4.9 - 4.10, 4.17 - 4.20 and WT/DS437/AB/R (US – Countervailing Duty Measures on Certain Products from China) Appellate Body Report of 18 December 2014, para. 4.92.

⁽¹⁰¹⁾ Attijariwafa Bank, Offre dédiée. Available at <https://www.attijariwafabank.com/fr/profil/grande-entreprise-pme/plans-dedies> (last viewed 17 December 2024).

(b) **Findings of the investigation**

- (466) The Automotive Performance Contract signed under the IAP 2014-2020 refers to an agreement signed on 14 July 2015 between the Ministry of Economy and Finance, the Ministry of Industry and Trade, the AWB Group, Banque Centrale Populaire, and Banque Marocaine du Commerce Extérieur to support and assist the operators in the automotive sector. The content of the agreements is not public, neither did the GOM make the document available to the Commission in its replies and the verification process.
- (467) In the absence of the requested information the Commission considered that it did not receive crucial and necessary information relevant to this aspect of the investigation. Therefore, the Commission informed the GOM of the possible application of Article 28(1) of the basic Regulation and use of facts available with respect to these points.
- (468) In reply, the GOM submitted only the Partnership Agreement of 14 July 2015 signed with AWB Group. This Partnership Agreement refers explicitly to the GOM's IAP and the corresponding development projects for the automotive ecosystem. It also highlights the AWB Group's commitment to supporting companies operating in the automotive sector through appropriate financing offers and support initiatives, and refers to the policy objectives of the agreement, namely *"the shared ambition of the parties to act jointly to strengthen the country's industrial base and the emergence of competitive automotive ecosystems"*. Indeed, the purpose of the agreement is *"to support companies operating in the automotive ecosystems, by providing them with a comprehensive support and financing offer designed to catalyse their development and improve their competitiveness"*.
- (469) According to Article 4 of the Partnership Agreement, AWB Group commits to providing the best possible support to companies operating in the automotive sector, in the form of specific financing offers for all the needs of companies operating in the automotive industry, as well as structured support for the development of ecosystems. Preferential terms are listed in detail for each of the specific financing tools. These preferential terms include short periods of processing of the credit applications, discounts or waiver in the application fees, project-related guarantees, minimum preferential interest rates defined in the agreement specifically for the automotive industry, including preferential interest rates for loans denominated in a foreign currency, preferential rent in case of leasing arrangements.
- (470) The GOM claims that the above partnership agreement was signed in the context of the IAP 2014-2020 which had already expired at the moment of the signature of the loan agreement between the subsidiary of the AWB Group and DMA, which took place in 2023.
- (471) However, as highlighted in recital (141), the incentives set up under the IAP 2014-2020 have been taken over under the umbrella of the new Investment Charter and the GOM continues to support the automotive sector through special financing arrangements (for example, Partnership Agreements similar to the one signed with the AWB Group continue being signed with further banks⁽¹⁰²⁾). In addition, the Partnership Agreement does not mention any expiry date. The website of the AWB Group also still mentions the availability of financing under the "Plan Automotive"⁽¹⁰³⁾.
- (472) Taking into account the above, the Commission concluded that the partnership agreement with AWB Group included preferential loan conditions for the sector. In the absence of information for all other agreements signed between GOM and the other banks, the Commission inferred that they also included preferential loan conditions for the sector.
- (473) DMA received a loan from Attijari International Bank ('AIB'). AIB is a special off-shore Moroccan entity which is part of the AWB Group. As such, it operates in foreign currency, and it only lends to companies with so-called "off-shore projects", i.e. companies which are foreign-owned and located in Morocco's special economic zones or IAZ that are considered to be outside the domestic Moroccan financial market. Indeed, there are restrictions on loans in foreign currency for domestic operators on the domestic financial market.

⁽¹⁰²⁾ Ministry of Industry and Trade. Signature d'une convention de partenariat pour la mise en place d'un dispositif financier pour accompagner les opérateurs du secteur automobile, 15 juin 2023. Available at <https://www.mcinet.gov.ma/fr/actualites/signature-dune-convention-de-partenariat-pour-la-mise-en-place-dun-dispositif-financier> (last viewed 18 December 2024).

⁽¹⁰³⁾ AttijariWafa Bank, Offre dédiée. Available at <https://www.attijariwafabank.com/fr/profil/grande-entreprise-pme/plans-dedies> (last viewed 9 January 2025).

- (474) This is corroborated by the bank's website, which states that its aim is *"to support the foreign investment promotion movement that led to the creation of a free export zone in Tangier. Through its activities, the AttijariWafa bank group is extending its range of banking products and services to multinationals operating in the various free trade zones in Morocco as well as to international operators. AIB has a solid reputation as a leading bank in Tangier's offshore financial zone."*
- (475) *In 2017, the AttijariWafa bank group launched its Offshore Plan, a new offer based upon the services of the Offshore Attijari International Bank (AIB), for support from experts from the international financial market as well as the services of the bank on a daily basis offering preferential terms for accounts.*
- (476) *Through this offer, the AttijariWafa bank group participates pro-actively in supporting foreign investors in the implementation of their projects and the development of their activities. AIB is the number one offshore bank in terms of market share for both deposits (51 %) and commitments (35 %)". This Offshore Plan still exists as its financing offer is still available on the bank's website* ⁽¹⁰⁴⁾.
- (477) AIB is a wholly owned subsidiary of AWB. The majority shareholder (46,5 %) of AWB is Al Mada. Al Mada is an investment fund owned by the Moroccan royal family, the mission of which is to work for the emergence of a modern economy and the improvement of the living conditions of the territories and populations it works alongside.
- (478) Taking into account the ownership of the bank that provided a loan to DMA, the fact that its only customer base are companies located in IAZ, which are supported by the GOM through the IAP, and the existence of a contract between the GOM and the AWB Group relating to preferential support of the automotive sector, the Commission concluded that the bank in question was entrusted and directed by the GOM to grant the loan in line with state policies.
- (479) Following final disclosure, the GOM and DMA indicated that the Commission's findings that the financial institutions are entrusted/directed to provide financing to ARW producers are inconsistent with Article 3(1)(a)(iv) of the basic Regulation and Article 1.1(a)(1)(iv) of the WTO ASCM. According to them, the Commission had failed to meet the legal standard for entrustment and direction, i.e. to show that the GOM gave responsibility to private financial institutions, or exercised its authority over private financial institutions, to effectuate a financial contribution to DMA.
- (480) The GOM and DMA in particular argued that: i) there was no government control over the private banking sector in Morocco and that Morocco's financial market were fully competitive and that private banks provided loans to all enterprises, based on interest rates developed in a free and competitive market, ii) AIB was a private bank and the Partnership Agreement of 2015 did not influence its business conduct, iii) in any case, the Partnership Agreement only concerned loans in foreign currency up to 12 million MAD, while the loan received by DMA was of a much higher value, iv) the AIB's customer base was not limited to companies located in IAZ, v) the AIB did not conclude a loan contract with DMA pursuant to a contract between the GOM and the AWB Group relating to preferential support of the automotive sector, vi) the loan contract was not concluded automatically, but solely based on commercial considerations as supported by the loan application and its examination by AIB, and vii) AIB had the discretion to select their customers and determine the financing terms they offered. A prime example of this autonomy is AIB's decision to deny a loan extension to Hands 8.
- (481) The Commission rejected this claim. First, the ceiling of 12 million MAD for a loan set up in the Partnership Agreement refers to short-term loans (or rather credit lines for financing the working capital), that is why it is indicated in the Article 4.1.2 of the Agreement. The loan provided to DMA, which related to equipment, would rather fall under Article 4.1.1 of the Agreement (investment financing), which does not have such a ceiling, and which does not refer specifically to any currency. Furthermore, Article 4.1.2.6 of the Partnership Agreement provides for the possibility to grant specific (i.e. tailor-made) credits for the automotive sector, such as for e.g. specific offers to pioneering companies or companies with specific know-how or expertise. The examples provided under this article relate to funding both in dirham or foreign currency, and the article does not contain any ceilings.

⁽¹⁰⁴⁾ AttijariWafa Bank, Offre dédiée. Available at <https://www.attijariwafabank.com/fr/profil/grande-entreprise-pme/plans-dedies> (last viewed 9 January 2025).

- (482) Second, the loan received by DMA was granted with the preferential interest rate as envisaged in the Partnership Agreement despite the low creditworthiness of the company as confirmed by recitals (385) to (388) above and by the low internal credit rating given by AIB to DMA, as collected during the GOM verification ⁽¹⁰⁵⁾. Furthermore, the loan application of DMA ⁽¹⁰⁶⁾ mentioned the need to finance the project's equipment, which had already been installed, but not yet paid, as *"the current resources of the company do not allow [us] to finance"*.
- (483) Third, with regard to the bank's customer base and loans extended to other companies, the Commission noted in the additional information provided by the bank after final disclosure that 78 % of the funds provided concerned foreign companies operating in the automobile sector, which are either located in IAZ or in special economic zones (for those established before the IAZ legislation came into force), as well as an additional 6 % related to the development of IAZ (i.e. 84 % of its fund were provided to the automobile sector and companies located in the IAP zone). This shows that the funding of the bank is heavily skewed towards foreign operators with investments in the automobile sector covered by the Partnership Agreement, and linked to the IAP, as well as the development of IAZ.
- (484) Finally, the statement concerning alleged denial by the AIB of the loan extension to Hands 8 could not be verified as this information was revealed only after disclosure, was not supported by any documents or references, and contrary to the statement of the GOM in the post-disclosure submission, had not been discussed during the verification visit. However, even if the statement were correct, the fact that AIB rejected a loan extension to Hands 8 does not show as such that AIB was acting freely as a market operator with no direction from the GOM. Indeed, the fact remains that AIB provided a loan at a preferential rate to a company to which it gave a low internal rating (see recital (482) above), and AIB's decision making was skewed towards foreign companies falling under the IAP umbrella and companies located in IAZs, as explained in recital (483).
- (485) To conclude, all the above confirms that AIB acts as entrusted/directed financial institution and as such is providing financing to the encouraged automotive industry without duly taking into account commercial considerations.

(c) **Financial contribution**

- (486) The loan received by DMA from AIB (and indirectly from AWB) constituted a financial contribution in the form of direct transfer of funds because the financial institution in question has been entrusted and directed by the GOM to provide preferential financing to specifically provide financing to the automotive sector. The GOM pledged to finance the development of the automotive industry in several policy documents, such the NPIE or IAP. As explained in recitals (136) and (137), in the performance contract signed under the IAP for the powertrain ecosystem, to which the production of aluminium road wheels belongs, the GOM committed to mobilise investment banks in order to support foreign investors. It then created a specific function consisting in providing financial support to the automotive sector. The performance contract directly refers to the Partnership Agreement signed between the GOM and the AWB Group. On the other hand, also the investment agreement signed between the GOM and CITIC Dicastal describes the main policies adopted by the GOM to develop the automotive industrial sector, including the IAP and the performance contract for the powertrain ecosystem. Therefore, the Commission considered that AIB acted under the instruction of the GOM to fulfil the GOM's commitment to provide financing to the automotive sector and perform the specific task created by the GOM to this end.
- (487) The Commission also analysed whether the provision of loans under preferential conditions is a function which in no real sense differs from governmental functions. This criterion requires an affirmative finding that the provision of goods by the entrusted private bodies does not, in any real sense, differ from the hypothesis that the government had provided such goods itself. The Commission considered this to be the case. Rather than providing the preferential loans directly, in order to achieve the GOM's public policy objectives of boosting the development of the automotive industry, the GOM directed private entities to do so on its behalf. Moreover, to the extent that such provision of loans involves some revenue expenditure (such as the sacrifice of market returns by the private entities), such an action should be understood as the typical functions normally vested in the government. ⁽¹⁰⁷⁾.

⁽¹⁰⁵⁾ Exhibit 4a of the verification to the GOM.

⁽¹⁰⁶⁾ Exhibit 43 of GOM deficiency letter reply.

⁽¹⁰⁷⁾ See e.g. Commission Implementing Regulation (EU) 2019/1344 of 12 August 2019 imposing a provisional countervailing duty on imports of biodiesel originating in Indonesia (OJ L 212, 13.8.2019, p. 1), recital (117).

(d) **Benefit**

- (488) The loan in question confers a benefit that is equal to the difference between the interest the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan.
- (489) To determine a benchmark interest rate, the Commission considered the duration of the loan, its currency, and the credit worthiness of the company measured by its short-term liquidity and debt-to-equity ratio. As explained in recitals (385) to (388), the Commission found that DMA had a high-risk profile for potential lenders and investors. On that basis, the Commission used the ICE BofA Euro High Yield Index, which tracks the performance of Euro denominated, below investment grade corporate debt publicly issued in the euro domestic or Eurobond markets.
- (490) In their comments after disclosure, the GOM and DMA claimed that the Commission wrongly concluded that DMA had represented a high-risk profile for AIB. The loan posed minimal risk to AIB, as the plant construction had already been completed by the time the loan was granted. Additionally, DMA has a stable customer base, exemplified by a long-term contract with CITIC Dicastal.
- (491) The GOM also argued that the Commission used inappropriate benchmark to calculate benefit. The GOM considered that the Commission's rate determination was contrary to Article 14(b) of the WTO ASCM. According to the GOM, the ICE BofA Euro High Yield Index, sourced from Federal Reserve Bank of St. Louis, used by the Commission, does not relate to loans and has nothing to do with the commercial loans extended in Morocco.
- (492) The GOM argued that the Commission should have rather used as a benchmark IMF data on Moroccan interest rates especially since IMF data is regularly used by investigating authorities in trade defence proceedings in other countries (namely in the U.S.). Contrary to the ICE BofA Euro High Yield Index, the IMF benchmark provides interest rates on a per country basis. The GOM proposed also as possible alternative, interest rates that AIB charged on an actual basis for EUR-denominated loans extended to Moroccan off-shore companies.
- (493) The first claim on the choice of the benchmark by the Commission is of the same nature as DMA's claim with regard to the calculation of benefit from the cross-border loans which is described in recitals (393) to (394) above and subsequently addressed and rejected in recital (399) where the Commission highlighted that the benchmark represented the yield of high-risk corporate debt denominated in EUR, i.e. how much a creditor lending EUR to a company with such a risk profile earned, thus mirroring the type of DMA's debt, the currency of DMA's debt and DMA's investment risk profile. The Commission also examined the IMF money market rates for Morocco proposed by the GOM as a more appropriate benchmark. The Commission found that the proposed IMF money market rate corresponds to an inter-bank lending rate ⁽¹⁰⁸⁾ rather than a rate from a bank to a company. Therefore, it does not reflect the credit risk of the loan in this case, and is thus not suitable as a benchmark.
- (494) In addition, the Commission noted that the Excel sheet with the interest rates charged by AIB on EUR denominated loans seems to concern mostly companies in the automobile sector and/or located in special economic zones. In order to be representative as a benchmark, it would have to include information on companies not affected by the GOM's preferential policies. However, the few lines that could potentially concern such companies were only added after the final disclosure and could not be verified. The information provided is insufficient to determine with certainty that these loans do not fall under the preferential policies of the GOM, and it is also insufficient to determine the creditworthiness of the beneficiaries of the loans provided.

⁽¹⁰⁸⁾ International Financial Statistics. Country Notes, p. 113. Available at <https://www.elibrary.imf.org/display/book/9781455217588/9781455217588.xml> (last viewed 7 February 2025).

- (495) Indeed, the level of an interest rate is linked not only to the currency in which it is issued, but also the individual credit risk of the company. In this respect, the Commission had already determined in recitals (385) to (388) above that the company was not in a solid financial situation, and the benchmark used reflects this situation, as it represented the yield of high-risk corporate debt, i.e. how much a creditor lending money to a company with such risk profile earned, and denominated in EUR, thus mirroring the currency of DMA's debt and DMA's investment risk profile. Hence, the Commission used a suitable benchmark adapted to the specificities of the loan provided to DMA.

(e) **Specificity**

- (496) This scheme is specific under Article 4(2)(a) of the basic Regulation because it is limited to specific enterprise encouraged as it is part of the automotive sector according to the Moroccan preferential policies detailed in section 3.3, and it is also regionally specific as it is located in an IAZ also covered *inter alia* in section 3.3..
- (497) Following final disclosure, the GOM and DMA challenged the Commission's findings with regard to the specificity of the scheme. According to the GOM both the DMA application for the loan and results of its examination by the AIB demonstrated that the loan in question had not been issued based on any GOM policies or because of DMA's location in the IAZ. The GOM also argued that the encouraged industries, taken as a whole, do not constitute a sufficiently discrete segment of the economy as to constitute "certain industries" within the meaning of Article 4(2)(a) of the basic Regulation and Article 2(1)(a) of the WTO ASCM. DMA also underlined the fact that AIB loans were not limited to automobile industry and to the companies located in the IAZ.
- (498) The Commission rejected this claim. As explained in recital (481) the above loan is linked with the GOM policy and the Partnership Agreement, and is thus a mechanism of support of the automotive sector. It is also linked to the development of the IAZ. Post-disclosure claims of the GOM and DMA that the loan in question was not issued based on any GOM policies or because of DMA's location in the IAZ were statements unsupported by any evidence.

(f) **Conclusion**

- (499) The subsidy rate established with regard to this subsidy during the investigation period for the cooperating exporting producers amounts to:

Preferential financing provided by GOM

Company name	Subsidy rate
DMA	0,53 %

3.7. **Government revenue foregone or not collected**

- (500) The complainant claims that the companies located in IAZs benefit from subsidies in the form of exemptions from several fiscal, customs and administrative measures. To benefit from these fiscal, customs and administrative measures, companies must be authorised to be established in an IAZ.

(a) **Legal basis**

- (501) Law No. 19-94 and Dahir No. 1-95-1 of 26 January 1995 established the Free Trade Zones (FZEs) in Morocco. Pursuant to Article 21 of Law No. 19-94, goods entering FZEs are exempt from import duties.
- (502) Pursuant to Article 6 of the General Tax Code of Morocco, 2023 edition and Chapter I of the Circular note No. 733 on tax provisions of Finance Act No. 50-22 for the financial year 2023 companies operating in the Industrial Acceleration Zones are exempted in total from income tax for the first five consecutive years.

- (503) Pursuant to Article 6 of Law No. 47-06, subsequently amended with Law No. 07-20 companies settled in the Industrial Acceleration Zones are exempted from professional tax.

(b) **Findings of the investigation**

- (504) IAZs are established under Moroccan legislation by Law No. 19-94 and Dahir No. 1-95-1 of 26 January 1995 (previously called 'free zones for export'). IAZs are specific areas of the territory dedicated to industrial export activities and related service activities. IAZs are exempted from common foreign trade regulations and foreign exchange control. Each IAZ is created and delimited by a Decree that sets the nature and activities of companies that may be established in it.
- (505) To establish in a IAZ under Law No. 19-94, enterprises must submit an application and obtain the authorization from the local commission of export processing zones presided over by the Governor of the region and realize at least 70 % of their turnover on export.
- (506) Both cooperating exporting producers were established in an IAZ. The Commission found them benefited from:
- Exemption from import duties on imports of raw materials and capital goods;
 - Exemption from and/or reduction of the corporate income tax;
 - Exemption from the professional tax (the tax liability is based on the value of company's assets).
- (507) With regard to the capital goods DMA failed to report or reported incorrect commodity codes, under which the equipment was imported, for a significant number of transactions. At the same time, the company did not encode the applicable import duty rate for any of the reported transactions.
- (508) In the absence of the requested information the Commission considered that it did not receive crucial and necessary information relevant to this aspect of the investigation. Therefore, the Commission applied Article 28(1) of the basic Regulation and relied on facts available with respect to these points.

(c) **Financial contribution**

- (509) Such practices constitute a financial contribution in the form of foregone government revenue (import duties, corporate tax, professional tax) that would have been collected had the government not granted the exemption.

(d) **Benefit**

- (510) A benefit to the recipient under these exemptions equal to the amount of the import duties and tax savings (the amount normally due but not collected).
- (511) The financial benefit conferred to the companies stemming from the exemption from import duties is equal to the amount of the import duties savings. Import duties of 2,5 % to 40 % ad valorem would have been collected had the government not granted the exemption.
- (512) With regard to the issue of partial non-cooperation by DMA, as described in recitals (113) and (117), the Commission used on basis of the facts available for the wrongly reported or not reported commodity codes concerning capital goods, the import duty rates found in MacMap⁽¹⁰⁹⁾. Where no commodity codes could be determined, the most representative duty rates for imported capital goods were used.

⁽¹⁰⁹⁾ Available at <https://www.macmap.org/en/download> (last viewed on 4 December 2024).

- (513) For capital goods, the Commission allocated to the IP a portion of the total benefit corresponding to the share of depreciation on the value of the company's imported assets. For materials and spare parts, the Commission considered that the benefit consisted of the total amount of import duties foregone during the IP.
- (514) The financial benefit conferred to the companies stemming from the exemption from the corporate income tax is equal to tax not collected which would amount to 32 % for the companies located outside IAZ and not benefiting from the same exemption.
- (515) The financial benefits conferred to the companies stemming from the exemption from the professional tax consist of avoided financial disbursement of 0,25 % of total turnover during the period under investigation and 0,003 % of total assets value of the financial year preceding the period under investigation.

(e) **Specificity**

- (516) The benefits related to the exemption from import duties and taxes are specific within the meaning of Article 4.2(a) of the basic Regulation as they are expressly reserved by law to companies established in special economic zones, for which companies must first file an application and then be selected and authorised by the State.
- (517) Following final disclosure, the GOM, DMA and Hands 8 made several comments concerning the various subsidies granted in the form of government revenue foregone or not collected.
- (518) The GOM and DMA observed that the Commission was required to conduct an assessment of specificity for each alleged program or instrument it wishes to countervail, instead of contenting itself with a one sentence on specificity for four different alleged programs as it was done in the recital (516) above.
- (519) More specifically with regard to income tax reduction the GOM and DMA claimed that it was applied to a very broad and diverse range of industries and sectors and hence the alleged program was not limited to a sufficiently discrete segment of the Moroccan economy in order to qualify as "specific" within the meaning of Article 2.1(a) of the WTO ASCM. In particular, it was claimed that all companies, whether operating in the IAZ or not, benefit from a five-year exemption for industrial activities authorized. For companies outside the zone, Decree No. 2-17-743 of 19 June 2018 provides for list of sectors, which is very broad and covers virtually all industrial sector of Morocco. Therefore, the nature of conditions provided in the scheme (objective, neutral, horizontal in application) renders it non-specific.
- (520) With regard to the exemption from the professional tax, the GOM, DMA and Hands 8 indicated that any newly established professional activity benefits from a 5-year total exemption from the professional tax and this applies also to the companies outside the IAZ.
- (521) With regard to the alleged benefit resulting from the suspension of customs duties on raw materials, the GOM, DMA and Hands 8 noted that any company located outside the IAZ was also eligible for a duty drawback, under Articles 101 – 103 (Deduction and Refund) of the Moroccan General Tax Code and Article 159 (Duty Drawback) of the Moroccan Customs Code, if they had paid import duties on raw materials and subsequently exported the finished goods that incorporate those inputs.
- (522) According to GOM, the same allegedly applies to customs duty exemption for capital goods: this exemption is universally applicable across all sectors, irrespective of the location of the company in the IAZ or not. This exemption is granted under Article 164-1-p of the Code of Indirect Tax applying to equipment goods intended for investment program projects with a value of 50 million DH or more.
- (523) The Commission rejected these claims. The benefits resulting from preferential tax and custom treatment described above are linked with the location of the company in the IAZ.

- (524) The income tax and professional tax exemptions for the companies located outside the IAZ are limited to the first 5 years of operation of companies. Both DMA and Hands 8 were active in the IP for more than 5 years. In terms of benefit and specificity, a comparison should be made between companies in the same situation during the IP, i.e. between companies active for more than 5 years and located in IAZ versus companies active for more than 5 years and located outside the IAZ. If such a comparison is made, one can easily see that DMA and Hands 8 were only able to enjoy these exemptions on income tax and professional tax in the IP because they were located in IAZs. In addition, even during the first 5 years of operation of a company, exemptions are limited to a closed list of industrial sectors which are specifically enumerated one by one in Decree No. 2-17-743 of 19 June 2018, and for which no objective selection criteria were submitted by the GOM.
- (525) With regard to duty drawback scheme and subsequent exemption from import duties on raw materials, the companies outside the IAZ are potentially subject to the refund of these duties. This scheme, in order to be considered as a proper duty drawback scheme, should be subject to verification of the consumption of imported raw materials in the production of the exported goods. To the contrary, companies located in the IAZ are exempted in advance of the production and export from the payment of these import duties and this exemption is automatic. Furthermore, the Custom Code limits the duty drawback regime outside the IAZ only to certain imported products, usually linked with a specific end-use.⁽¹¹⁰⁾ The raw materials imported by the producers of ARW are not part of this list. Thus, if they were located outside the IAZ they could not benefit from a duty drawback at all.
- (526) Finally, import duty exemption for capital goods outside the IAZ is also limited to certain sectors, i.e. to the companies with signed investment agreement, and only for the period of 3 years from the establishment of the company, with a possible extension for a further 2 years.⁽¹¹¹⁾ As already explained in recital (524) above, during the IP, both DMA and Hands 8 had been operational for more than 5 years. Thus, in the situation prevailing during the IP, both companies could enjoy these import duty exemptions only because they were located in the IAZs. Furthermore, even during the first 5 years of operation of a company, Article 164(1) of the Customs Code limits the import duty exemption on capital goods to companies which have signed an investment agreement with the GOM. As highlighted in the overall background of the Moroccan industrial policies in section 3.3, in the explanation for DMA's investment project in section 3.4.3 and in the functioning of the IDIF fund under section 3.6.1 above, investment agreements are intrinsically linked to the GOM's preferential policies for encouraged industrial sectors, such as those under the umbrella of the IAP. The approval and signature of an investment agreement with the GOM is for example a pre-condition to receive grants from IDIF, or to receive cheap land in an IAZ. Hence, import duty exemptions on capital goods are limited to the sectors encouraged by the GOM under the umbrella of the IAP even during the first 5-year period of activity.

(2) *Conclusion*

- (527) The subsidy rate established with regard to this subsidy during the investigation period for the cooperating exporting producers amounts to:

Exemption from taxes and import duties applicable in IAZ

Company name	Description	Subsidy rate
DMA	Import duties on raw materials	1,33 %
DMA	Import duties on capital goods	1,74 %

⁽¹¹⁰⁾ See Articles 159(2), 173(1) and Appendix III to the Custom Code. According to Article 173 - 1° of the Customs Code "Goods eligible for the drawback scheme instituted by article 159 of the aforementioned Customs Code are those listed in appendix III to the present decree".

⁽¹¹¹⁾ Art 164.1 of the Custom Code.

Company name	Description	Subsidy rate
DMA	Corporate income tax	0,99 %
DMA	Professional tax	0,47 %
Hands 8	Import duties on raw materials	1,87 %
Hands 8	Import duties on capital goods	0,25 %
Hands 8	Corporate income tax	0,28 %
Hands 8	Professional tax	0,49 %

3.8. Provision of land for less than adequate remuneration by the GOM

(528) The complainant indicates that the Industrial Acceleration Plan committed the State of Morocco to provide 1 000 hectares for the establishment of new industrial land ready for use, on demand and at “attractive prices”. Moreover, integrated sectorial industrial platforms often benefit from the free zone status, and combine land, buildings, logistics, services and on-site training ⁽¹¹²⁾. The State of Morocco announces each year a request for expression of interest to select projects for the creation or rehabilitation of industrial lands that qualify for a financial subsidy from the GOM.

(529) Referring to the years before the investigation period, the complainant referred to the fact that in 2018 the Moroccan Court of Audit (“Cour des Comptes”) pointed out that to minimize costs, the choice of land to create new industrial land is dictated by the legal status of the land (state, collective). As a result, most of the new industrial land are state lands or collective lands. ⁽¹¹³⁾ The overall costs of work and development of new industrial parks is state-financed. In 2016, it accounted for 11,87 billion MAD (1,1 billion EUR) for integrated industrial parks and 3,86 billion MAD (360 million EUR) for industrial parks. In addition to the in-site work, public entities have also financed off-site work (water and power supply, sanitation and site access infrastructure) up to 1,12 billion MAD (100 million EUR).

(a) Legal basis

(530) Provisions of land on the preferential terms are based on:

- National Pact for Industrial Emergence 2009-2015
- Industrial Acceleration Plan 2014-2020
- Implementation Agreement on the Planning, Development, Promotion, Marketing and Management of the Kenitra Integrated Industrial Platform, signed between the Ministry of Economy and Finance, the Ministry of Industry and Trade, the Hassan II fund and MEDZ Group CDG, November 2010
- Implementation Agreement on the Planning, Development, Promotion, Marketing and Management of the Tangier-Jouamaa Integrated Industrial Platform, signed between the Ministry of Economy and Finance, the Ministry of Industry and Trade, the Hassan II fund and the Tangier Mediterranean Special Agency, August 2012
- Investment Agreement to set up an industrial project for aluminium wheel production in the Kingdom of Morocco between the Kingdom of Morocco and CITIC Dicastal, 26 July 2018

⁽¹¹²⁾ Pursuant to ‘Loi n° 19-94 Relative aux Zones Franches d’Exportation’, Bulletin Officiel, 1995-02-15, no 4294, pp. 117-121, subsequently amended by law 14.21 to change the term ‘zone franche’ to ‘zone d’accélération industrielle’. See also ‘Code des douanes et impôts indirects relevant de l’administration des douanes et impôts indirects approuvé par le dahir portant loi n° 1-77-339 du 25 chaoual 1397 (9 octobre 1977), tel. qu’il a été modifié et complété’.

⁽¹¹³⁾ Cour des Comptes. Espaces d’accueil industriels. Available at <https://www.courdescomptes.ma/wp-content/uploads/2023/01/9.-Espaces-daccueil-industriels.pdf> (last viewed 17 December 2024).

- Investment Agreement to set up an industrial project for aluminium wheel production in the Kingdom of Morocco between the Kingdom of Morocco, Hands Corporation Ltd. and Hands 8, 19 February 2018

(b) **Findings of the investigation**

(531) Both cooperating exporting producers are located in IAZs. DMA in the Atlantic Free Zone in Kénitra ('AFZ'); Hands 8 in the Tanger Automotive City/Tanger Free Zone ('TAC/TFZ'). The IAZs are owned and operated by management companies:

- MEDZ Group CDG ('MEDZ') owns and operates the AFZ;
- Tanger Med Grup ('TMG') owns and operates the TAC/TFZ.

(532) Both cooperating exporting producers purchased land from the companies managing the respective IAZ. A company must be authorised by the GOM to be established in an IAZ via its investment agreement.

(533) MEDZ is almost wholly owned by CDG Développement ('CDGD') (7 individuals own one share each as compared to 21,5 thousand shares owned by CDGD and one share owned by Caisse de Dépôt et de Gestion ('CDG')). CDGD is a fully owned subsidiary of the state owned CDG, a public body established and governed by law (DAHIR N° 1-59-074 of 10 February 1959), the mission of which is to mobilise resources to support public policies in the service of Morocco's economic development.

(534) TMG is a state-owned company. Its major shareholder is the Hassan II Fund with 87,5 % shareholding, followed by minority shareholders: the GOM (12,38 %) and CDG Group (0,12 %). As established in recital (462), HIIF is a public body.

(535) The undeveloped land acquired by the management companies was mostly state-owned, as they were tribal, collective lands administered by the Ministry of Agriculture. The price for these lands was determined by a governmental commission. The infrastructure works needed to make the land suitable for industrial investors were carried out by the management companies in line with a business plan approved by the State. Furthermore, the Hassan II fund provided grants to the management companies for part of these infrastructure works. Finally, the management companies are obliged by a contract signed with the GOM to charge a price for the developed land after completion of the infrastructure works as set by the government in the aforementioned contract. These respective preferential prices are previously set by the GOM in the annexes to the Implementation agreements recalled in recital (344) above between the HIIF, the GOM Ministries and the managing companies of the IAZs referred to under (a). As part of these agreements, the IAZ managing companies undertake to comply with this price schedule. During the verification visit, the GOM acknowledged that that price is below the normal market price as it entails a profit margin below the normal profit required by a private operator. In addition, the GOM confirmed that it provided the management companies with grants financed from the HIIF for the development of the infrastructure, which further reduces the sales price of such land. Finally, the contract signed between the management company and the GOM obliges the management company to lower the sales price set by the GOM if it incurs less cost as foreseen for the infrastructure works. The management companies were thus directed to set the price of land sold to companies established in the IAZs at a level that was below the normal market price.

(536) Following final disclosure, the GOM claimed that the Commission's "public body" findings with regard to the Hassan II Fund for Economic and Social Development ('HIIF') are inconsistent with Article 2(b) of the basic Regulation and Article 1.1(a)(1) of the WTO ASCM. The findings that the GOM exercised meaningful control over HIIF was flawed as the Commission considered merely the appointment of management to an entity as evidence of meaningful control. The GOM pointed to the fact that HIIF is required to act independently according to the decisions of the Board of Directors. It is the Board of Directors composed of three members independent from the government. Pursuant to Article 10 of Law no. 36.01, the Board of Directors has the operational control over the HIIF decisions not the management board.

(537) The Commission rejected this claim. As explained in recitals (458) to (463) HIF is fully funded from the state budget of Morocco, the State of Morocco has supervision power over the Fund's activities and its overall management and has the ultimate controlling and supervising powers over, among others, the selection criteria for eligible projects and the actual funding decisions and disbursement of funds. Furthermore, according to the questionnaire reply of the HIF, the Board of Directors of the fund is chaired by the prime minister and has several high governmental officials as its members, while the Executive Board of the fund (indeed made up of three members) was not appointed yet, except its Chairman. The Chairman of the Executive Board of HIF should have been appointed according to the Article 49 of the Constitution as required by Law No. 08-21 ⁽¹¹⁴⁾. Appendix No 1 to the latter law ("List of strategic public establishments and enterprises") clearly indicates HIF. The Article 49 of the Constitution ⁽¹¹⁵⁾ refers to the appointments *"on the proposal of the Head of Government and on the initiative of the minister concerned, toas well as heads of strategic public establishments and enterprises. An organic law specifies the list of these strategic establishments and companies"*.

(c) **Financial contribution**

(538) Such practices constitute a financial contribution in the form of provision of land owned by entities directed by the GOM for less than adequate remuneration. MEDZ and TMG, indirectly owned by State, are directed by the Implementation oagreements to provide cheap land and in so doing perform the public function of meeting the GOM objectives to develop the automotive industry.

(d) **Benefit**

(539) A benefit under this scheme is calculated as the difference between what the beneficiaries actually paid and what they would have to pay if they purchased the goods or services under market conditions.

(540) Since all prices set in similar zones are preferential and in the absence of information on the market price of developed land in Morocco during the investigation period, the Commission used the mortgage contract of DMA, where the bank independently assessed the real market value of the land provided by DMA as the collateral as a benchmark for the market price of land. As the mortgage contract was concluded in 2023, but the cooperating exporting producers purchased the land in 2018 and 2019, the Commission adjusted the benchmark according to the variation of the price for industrial real estate index for Morocco. As the land is expected to be in use over a longer period of time, the Commission allocated 1/30 of total benefit to the investigation period.

(541) Following final disclosure, the GOM and DMA argued that the Commission could not use the 2023 DMA mortgage contract, including the assessment of the value of the land as a benchmark for the market price of land purchased in 2018 and 2019. According to the GOM and DMA, although the Commission adjusted the benchmark according to the variation of the price for industrial real estate index for Morocco, this benchmark for land price was not representative of land in various parts of Morocco, which are not comparable.

(542) The Commission rejected the claim. The benchmark used for the calculation of the benefit was actually market value of the DMA's land adjusted for inflation to the investigation period.

(543) Also, Hands 8 in its post-disclosure comments argued that the benchmark used to determine the market value of land was inappropriate. The company pointed out that it was located in Tanger while the benchmark used by the Commission was related to land located in Kenitra. Hands 8 argued that there were significant differences in the price of the land depending on its location. In this respect, the party provided an independent evaluation repot estimating the market value of land owned by Hands 8 based on the prices of land located near and outside of the TAC as registered by the Tangier Property Registry (Conservation Foncière de Tanger).

⁽¹¹⁴⁾ Organic Law No. 08-21 modifying and supplementing organic law n° 02-12 relating to appointment to higher positions in application of the provisions of articles 49 and 92 of the Constitution. Available at <https://courconstitutionnelle.ma/Documents/LoisOrganique/08-21-fr.pdf> (last viewed 13 February 2025).

⁽¹¹⁵⁾ Constitution Marocaine. Available at <https://www.bladi.net/img/pdf/Constitution-maroc-2011.pdf> (last viewed 13 February 2025).

- (544) The Commission rejected the claim. First, the evaluation report is dated in January 2024, and the company only submitted it after the final disclosure. Therefore, it could not be ruled out that the company contracted the report purely for the purpose of this investigation in order to provide the Commission with an allegedly market-based value of the land. More importantly, the information provided in the evaluation report was not accompanied by the underlying documents used to determine the land value. For example, from the report, the Commission could not confirm the location of the plots, the comparability of the land with the land owned by Hands 8, as well as the accuracy of the total price and size of the plots taken into account.

(e) **Specificity**

- (545) The benefits related to the provision of land for less than adequate remuneration are specific within the meaning of Article 4.2(a) of the basic Regulation as only companies selected by the GOM and established in special economic zones, i.e. designated geographical regions within the jurisdiction of the granting authority are eligible (see recital (535)).
- (546) As mentioned in recitals (124) to (127), the NPIE that was later replaced by the IAP specifically identified the automotive industry as one of the key industries the development of which shall be supported *inter alia* by the establishment of integrated industrial platforms. The GOM dedicated two such platforms, one in Kenitra and one in Tangier, to the automotive industry and endowed them with the status of an IAZ.
- (547) The investment agreements signed between the GOM and the investors of the two cooperating exporting producers confirm that the GOM expressly provided the companies with the opportunity to be established in the respective IAZs. The agreements also refer to the fact that the respective zones where the investments are located benefit from the advantages arising from Morocco's special regimes in these zones including according to law 19/94 as further described at recitals (124) to (127). The GOM also committed to provide assistance to the companies when acquiring the land in the zones.

(f) **Conclusion**

- (548) The subsidy rate established with regard to this subsidy during the investigation period for the cooperating exporting producers amounts to:

Provisions of land for LTAR

Company name	Subsidy rate
DMA	0,38 %
Hands 8	1,14 %

3.9. Schemes which were not countervailed

- (549) No evidence of subsidisation was found for the following schemes:

- Export credit insurance provided in the context of cooperation between GOC and GOM.
- Exemption from VAT on imported capital goods.
- Vocational training support.

3.10. Conclusion on subsidisation

- (550) The Commission calculated the amount of countervailable subsidies for the cooperating companies in accordance with the provisions of the basic Regulation by examining each subsidy or subsidy programme, and added these figures together to calculate a total amount of subsidisation for each of the exporting producers for the investigation period. To calculate the overall subsidisation the Commission first calculated the percentage of subsidisation: the subsidy amount as a percentage of the company's turnover of the IP. This percentage was then used to calculate the subsidy amount allocated to exports of the product concerned to the Union during the investigation period. This subsidy amount was later expressed as a percentage of the Costs, Insurance and Freight ('CIF') value of the same export.
- (551) Since there was no sampling and thus no other cooperating exporting producers, no weighted average subsidy rate was calculated.
- (552) As the level of cooperation was high, the Commission found it appropriate to set the residual subsidy rate at a level of the cooperating company with the highest subsidy rate.
- (553) Since the situation of DMA was rather abnormal (the Commission did not find evidence of similar subsidisation by the GOM in cooperation with the GOC or other third country governments as regards Hands 8), the Commission considered appropriate to deduct the subsidy amounts linked to the GOM-GOC cooperation. The result was slightly lower than the subsidy amount found for Hands 8 (5,05 %), therefore the rate established for Hands 8 shall be applied as residual rate.
- (554) On this basis, the countervailable subsidy amounts as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company name	Overall subsidy rate
DMA	31,45 %
Hands 8	5,60 %
Residual	5,60 %

- (555) Following final disclosure, DMA argued that according to Article 19(3) of the WTO ASCM the final subsidy rate should be adjusted for such portion of subsidisation that was already addressed by anti-dumping measures imposed in parallel. It referred to situations where the countervailing duty represents the full amount of subsidisation and where anti-dumping duties, calculated at least to some extent on the basis of the same subsidisation, are imposed concurrently. This is likely where dumping margins are calculated on the basis of a non-market economy methodology according to the WTO jurisprudence relied upon by DMA. ⁽¹¹⁶⁾ In particular, DMA pointed out that in the separate anti-dumping proceeding, the dumping margin of DMA was based on the highest dumping margin found for product types sold in representative quantities by the cooperating exporting producer Hands 8. In addition, DMA claimed that based on the findings in this anti-subsidy investigation, Hands 8 did not benefit from the provision of capital goods or raw materials for less than adequate remuneration. In that context, DMA requested at the very least that the dumping margin be adjusted for the amount of de facto loan linked to capital goods and the preferential price of inputs for DMA in accordance with Article 19.3 of the WTO ASCM

⁽¹¹⁶⁾ WTO DS379/AB/R (US – Anti-Dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, para. 582.

- (556) The Commission disagreed. At the outset the Commission noted that the corresponding provision of Article 19(3) of the WTO ASCM is Article 15(2) of the basic Regulation. The argument by DMA is based on a misunderstanding of the methodology that was followed in the anti-dumping proceeding as a result of the total non-cooperation by DMA. In particular, its argument is based on the false premise that the Commission would have used Hands 8 normal value to be compared to DMA's export prices. This is incorrect. Indeed, as a result of the full non-cooperation by DMA in the anti-dumping proceeding, this company became subject to the residual duty applicable to all non-cooperating companies in Morocco. This country-wide duty was established on the basis of a subset of dumping margins for product types sold in representative quantities by the only cooperating exporting producer in the anti-dumping investigation, that is Hands 8. The dumping margins were the result of both normal value and export price calculated for Hands 8, which were equally affected by subsidisation (if any). Therefore, such a methodology cannot give rise to a potential double counting within the meaning of Article 15(2) of the basic Regulation. The methodology used to calculate normal value for Hands 8 was the standard methodology for market economies, and not the non-market economy methodology which was at stake in the WTO jurisprudence relied upon by DMA. In situations of standard methodology, double counting could only arise in the case of export subsidisation, which directly lowers the export price. This is not the situation in this case, as there was no issue of double counting arising from Article 15(2) or 24(1) as concerns Hands 8. In this respect, following DMA's claim would also lead to the paradoxical situation that while there was no double counting and no deduction for Hands 8, by contrast DMA would benefit from such a deduction based on its purported and unfounded double counting. The fact that Hands 8 did not benefit from the provision of inputs at less than adequate remuneration or from a de facto loan is irrelevant from a legal point of view and does not change this conclusion. In any event, the Commission noted that the dumping margin calculated in this way was selected as a proxy, in the context of applying facts available, to determine the residual dumping margin for the non-cooperating producers, including DMA, to substitute the margin that would have been calculated if DMA would have cooperated. Therefore, the Commission rejected this claim. .
- (557) Furthermore, following final disclosure, DMA referred to Articles 19.1, 19.4, and 21.1 of the WTO ASCM, and Article VI:3 of the GATT 1994, pointing out that in order to establish the continued need for countervailing duties, an investigating authority has to make a finding on subsidization, i.e., whether or not the subsidy continues to exist.
- (558) In this respect, the company referred to the fact that DMA changed ownership at the end of the investigation period. As explained in recitals (247) and (262), Dicastal Asia sold its participation in DMA to CITIC Dicastal. DMA argued that the Commission should have taken into account the findings by the WTO Panel in *US – Lead and Bismuth II*. According to para 6.81 of the panel report, change in ownership at fair market value, a non-recurring financial contribution bestowed on a prior company extinguishes a financial contribution and a benefit bestowed indirectly on a successor company.
- (559) In this context, DMA claimed that it provided sufficient evidence that a change in ownership occurred at a fair market value during the investigation period. The Commission, however, according to DMA, failed to analyse the continued existence of financial contribution and benefit following DMA's acquisition by CITIC Dicastal.
- (560) The Commission disagreed. These arguments are based on the false premise that CITIC Dicastal, Changsha Dicastal, Dicastal Asia, Dicastal HK, and DMA were unrelated entities, and that the underlying transactions were at fair market value. As amply demonstrated in recitals (248) to (252), (256), (258), (262), (263), (269), (270) and (293) to (313), the Commission concluded that CITIC Dicastal was related to DMA, and all these entities were related since the beginning and throughout the implementation of the Moroccan project. DMA has failed to provide evidence that the entities were unrelated, as well as that the relevant transactions were carried out at arm's length and reflected fair market value. Therefore, these claims were rejected.

4. INJURY

4.1. Definition of the Union industry and Union production

- (561) The like product was manufactured by approximately 27 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.
- (562) The total Union production during the investigation period was established at around 46,8 million items. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the reply to the macro-economic questionnaire provided by the complainant. As indicated in recital (49), the sampled Union producers represented 22 % of the estimated total Union production volume of the like product.

4.2. Union consumption

- (563) The Commission established the Union consumption on the basis of the total Union industry's sales in the Union, plus total imports from third countries to the Union. Sales of the Union industry on the Union market were obtained from the complaint and adjusted on the basis of data provided in the replies of the sampled Union producers for the investigation period. For imports, the Commission relied on Eurostat Comext database. However, as Eurostat Comext database provides only the weight of the imports and not the number of ARW items imported, it was necessary to convert the weight into items. In the complaint, the complainant applied the same conversion ratio as the one which was used in the separate anti-dumping investigation on the same product, i.e., 11,3 kg per item. No interested party provided any comment in this respect. Therefore, this ratio was confirmed and was used when establishing the Union consumption per item.
- (564) The Union market is divided between two distribution channels: OEM and AM. However, the bulk of the sales concerns the OEM market with 90 % of market share. As the Moroccan producers were exclusively selling on the OEM market and since the AM market represents a small portion of the total Union market, it was decided not to split the consumption between the two distribution channels.
- (565) Union consumption developed as follows:

Table 1

Union consumption

	2020	2021	2022	Investigation period
Total Union consumption (in 000 items)	55 987	57 346	60 076	64 592
Index	100	102	107	115

Source: Eurostat Comext database, EUWA and verified questionnaire replies

- (566) The Union consumption increased by 15 % from 2020 to the investigation period. However, 2020 was a low base to begin with because of the COVID pandemic. In 2020, car industry production had decreased significantly, and this had a direct impact on suppliers of ARW as their sales decreased due to production stoppages and plant shutdowns. The market improved slightly in 2021, but in the investigation period, the consumption was still well below the pre-pandemic levels. In particular, in 2019 consumption was around 74 million items, i.e. 14 % higher than the consumption during the investigation period.

4.3. Imports from the country concerned.

4.3.1. Volume and market share of the imports from the country concerned.

(567) The Commission established the volume of imports on the basis of Eurostat Comext database. The market share of the imports was established on the basis of the share these imports represented of the total Union consumption.

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

Table 2

Import volume (in 000 items) and market share

	2020	2021	2022	Investigation period
Volume of imports from the country concerned (in 000 items)	878	2 401	3 754	5 930
<i>Index</i>	100	273	428	675
Market share	2 %	4 %	6 %	9 %
<i>Index</i>	100	267	398	585

Source: Eurostat Comext database.

(569) In 2020, imports from Morocco accounted for approx. 878 thousand items and they had a market share of 2 %. Imports grew significantly throughout the period considered culminating in a volume of imports of 5,9 million items in the investigation period and a market share of 9 %. This growth took place even though anti-dumping duties came into force in July 2022 following the entry into force of the provisional Regulation ⁽¹¹⁷⁾. These imports concerned exclusively the OEM market.

4.3.2. Prices of the imports from the country concerned, price undercutting and price suppression

(570) The Commission established the prices of imports on the basis of Eurostat Comext database. Price undercutting of the imports was established on the basis of data from the cooperating exporting producers and the cooperating Union producers.

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

Table 3

Import prices (EUR/ item)

	2020	2021	2022	Investigation period
Morocco	41,7	45,6	57,2	54,4
<i>Index</i>	100	109	137	130

Source: Eurostat Comext database

⁽¹¹⁷⁾ COMMISSION IMPLEMENTING REGULATION (EU) 2022/1221 of 14 July 2022 imposing a provisional anti-dumping duty on imports of certain aluminium road wheels originating in Morocco. ELI: http://data.europa.eu/eli/reg_impl/2022/1221/oj (OJ L 188/144, 15.07.2022).

- (572) The average import price from Morocco has increased by 30 % during the period considered. However, this import price is approximately 16 % lower than the Union industry average price and approximately 9 % below the nearest third country import of the like product during the investigation period (see tables 7 and 11 below).
- (573) The Commission determined the price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices per product type of the imports from the sampled cooperating Moroccan producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs.
- (574) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. No adjustments were considered necessary for the OEM/AM sales, the AM channel, which accounts for around 10 % of sales, has a limited impact on the overall assessment of the Union market. Therefore, the Commission decided not to separate the consumption between the two sales channels for the purposes of this investigation. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period. It showed an undercutting margin between 17,1 % and 46,5 % from the imports from the country concerned on the Union market.
- (575) Furthermore, in the investigation period the Moroccan import prices dropped compared to 2022, while increasing their volume and market share in the Union market. This caused significant price suppression on the Union industry in the investigation period, as the Union industry had to decrease its prices below its cost of production and absorb losses in order to retain some market share, despite the high costs of production remaining a high level compared to 2022.

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

4.4.1. *General remarks*

- (576) In accordance with Article 8(4) of the basic Regulation, the examination of the impact of the subsidised imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (577) As mentioned in recital (49), sampling was used for the determination of possible injury suffered by the Union industry.
- (578) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data received from the complainant in its questionnaire reply to the macroeconomic questionnaire and adjusted on the basis of data provided in the replies of the sampled Union producers for the investigation period. Thus, the macroeconomic data related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. The data related to the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (579) The macroeconomic indicators are production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the subsidy margin, and recovery from past subsidisation.

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

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2020	2021	2022	Investigation period
Production volume (in 000 items).	44 883	44 962	43 589	46 865
<i>Index</i>	100	100	97	104
Production capacity (in 000 items).	60 867	59 878	59 529	57 736
<i>Index</i>	100	98	98	95
Capacity utilisation (%)	74 %	75 %	73 %	81 %
<i>Index</i>	100	102	99	110

Source: Questionnaire reply from Association of European Wheel Manufacturers (EUWA) and sampled Union producers

(581) The production volume of Union industry decreased by 3 % from 2020 to 2022. Production volume was already at a low point in 2020 due to the effects of the Covid pandemic. There was an increase in production during the investigation period, which is mainly due to industry rebounding following production stoppages during Covid and global supply chain disruptions. However, the production volume reached in the investigation period is still almost 18 % below the pre-pandemic volume (57 097 000 items in 2019). Moreover, production increased at a much smaller rate compared to the increase in consumption during the period concerned (4% compared to 15%, see table 1)

(582) While the production capacity of Union industry decreased by 5 % during the period considered, capacity utilisation fluctuated between 74 % and 81 % (being 81 % in the investigation period).

4.4.2.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2020	2021	2022	Investigation period
Sales volume on the Union market (in 000 items)	39 720	39 126	38 427	41 919
<i>Index</i>	100	99	97	106
Market share (%)	71 %	68 %	64 %	65 %
<i>Index</i>	100	96	90	91

Source: EUWA and sampled Union producers

- (584) The Union industry's sales volume decreased by 3 % from 2020 to 2022, indicating a decline over that period. However, during the investigation period, the industry saw a recovery as producers began to bounce back from the Covid-19 crisis and the supply chain disruptions that affected manufacturers globally. Despite this recovery, the sales volume remained significantly below pre-pandemic levels (55 502 000 items in 2019) and increased much lower (6 %) compared to consumption (15 %) during the period concerned.
- (585) Even though the Union industry gained in sales volume during the IP, overall, there was a loss of market share which decreased by six percentage points during the period considered.

4.4.2.3. Growth

- (586) As explained in section 4.4.2.1, production capacity of the Union industry decreased by 5 % while production volume increased by 4 % during the period considered.
- (587) Even though there is a slight increase in the selling price of the Union industry this is overshadowed due to higher production costs for factors such as raw materials, labour and energy prices, as can be seen in section 4.3.2.
- (588) The increase in the volume of subsidised imports and the increase in the cost of production taken together dampened the possibility of recovery, despite some positive changes seen during the investigation period. Therefore, the growth perspectives of the Union industry have been jeopardised overall and there was a loss of market share.

4.4.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2020	2021	2022	Investigation period
Number of employees	16 797	16 620	16 026	16 654
<i>Index</i>	100	99	95	99
Productivity (Items/ employee)	2 672	2 705	2 720	2 814
<i>Index</i>	100	101	102	105

Source: EUWA and sampled Union producers.

- (590) The number of employees remained stable, with a slight decrease of one percentage point during the period considered. However, productivity increased due to a utilisation of resources and increased efficiency in the Union industry.

4.4.2.5. Magnitude of the subsidy rates and recovery from past subsidisation.

- (591) All subsidy rates were significantly above the de minimis level. The impact of the magnitude of the actual amounts of subsidy on the Union industry was not negligible, given the volume and prices of imports from the country concerned.
- (592) This is the first anti-subsidy investigation regarding the product concerned. Therefore, no data was available to assess the effects of possible past subsidisation.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices.

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

Table 7

Sales prices in the Union

	2020	2021	2022	Investigation period
Average sales price in the Union market (EUR/ item)	49	53	70	65
<i>Index</i>	100	108	142	133
Unit cost of production (EUR/ item)	49	66	84	82
<i>Index</i>	100	135	171	167

Source: Sampled Union producers.

- (594) The average Union industry's sales prices increased by 42 % between 2020 and 2022 and then decreased by 9 % in the investigation period.
- (595) During the period considered, production costs increased by 67 %. This rise was primarily driven by higher raw material costs, particularly the price of aluminium, which saw significant increases during the period considered. Other production costs also increased, including energy and labour costs, but to a lesser extent. As a result of the higher production costs, the price increase implemented by the Union industry did not result in any benefit to producers. Due to low priced subsidised imports from the country concerned the Union industry could not increase prices sufficiently to offset the increased cost of production. Whilst unit costs of production decreased by 4% between 2022 and the IP, the Union industry's sales prices decreased by 9% in order to maintain market share in view of the low prices of the subsidised imports.
- (596) This increase in costs and the ongoing price pressure by subsidised imports from the country concerned led to a decrease in profitability for Union producers (see table 10).

4.4.3.2. Labour costs

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

Table 8

Average labour costs per employee

	2020	2021	2022	Investigation period
Average labour costs per employee (EUR)	33 078	35 319	38 494	43 960
<i>Index</i>	100	107	116	133

Source: Sampled Union producers.

(598) The average labour cost per employee of the Union industry increased significantly by 33 % during the period considered.

(599) Labour is a significant component of overall production costs and an increase in labour costs raises the cost of manufacturing. This means that producers will often have to raise prices to cover overall costs, meaning they are less competitive in the long run.

4.4.3.3. Inventories

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

Table 9

Inventories

	2020	2021	2022	Investigation period
Closing stocks (in 000 item)	492	686	642	718
<i>Index</i>	100	139	130	146
Closing stocks as a percentage of production (%)	1,1 %	1,5 %	1,5 %	1,5 %
<i>Index</i>	100	136	136	136

Source: Sampled Union producers.

(601) Inventories increased by 46 % over the period considered. There was a decrease of 9 % between 2021 and 2022 but rebounded again by 12 % during the investigation period. The ARW industry in the Union is characterised by multi-years framework contracts between producers and customers, the latter fixing the quantities and prices. These framework contracts are implemented through purchasing orders according to customer's needs. As a result, the Union industry can plan its production and inventories. Therefore, inventories are not a main indicator for the assessment of the Union industry's performance.

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

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

Table 10

Profitability, cash flow, investments and return on investments

	2020	2021	2022	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	1 %	- 3 %	- 1 %	- 3 %
<i>Index</i>	100	- 322	- 108	- 334

	2020	2021	2022	Investigation period
Cash flow (in 000 EUR)	39 937	11 100	19 529	- 1 041
<i>Index</i>	100	28	49	- 3
Investments (in 000 EUR)	19 848	19 807	23 104	26 751
<i>Index</i>	100	100	116	135
Return on investments (%)	4 %	- 1 %	- 1 %	- 2 %
<i>Index</i>	100	- 25	- 25	- 50

Source: Sampled Union producers.

- (603) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (604) The profitability of the Union industry decreased significantly during the period considered incurring into losses. Even though sales prices have increased during the investigation period, the Union industry was unable to match rising costs and was therefore loss making.
- (605) The net cash flow is the ability of the Union producers to self-finance their activities. Over the period considered, the trend in net cash flow declined sharply with a dramatic drop of 103 %. This significant decrease in net cash flow signals that the Union industry is under considerable financial strain, as reduced profitability is depleting its cash reserves.
- (606) The return on investments is the profit in percentage of the net book value of investments. Like profitability and net cash flow, the return on investments has had a negative trend during the period considered. Investments by the Union industry was stable between 2020 and 2021, with an increase in investment during the investigation period. But despite the increase in investments, in particular in automation and technology improvements, Union industry was unable to have a positive return on their investments. The negative trend in return on investment throughout the period considered highlights that the Union industry's financial performance deteriorated to a significant extent.
- (607) The sampled Union producers' ability to raise capital was affected by their deteriorated financial situation. The inability to raise capital has hindered the Union industry's ability to invest in growth or recovery, deepening its financial struggles and undermining its ability to respond to market pressures.
- (608) In their comments on disclosure, ACEA ⁽¹¹⁸⁾, GOM ⁽¹¹⁹⁾ and DMA ⁽¹²⁰⁾ claim that there are discrepancies with the figures established in anti-dumping investigation and the present countervailing investigation, which were based on the macro-economic questionnaire replies provided by EUWA. Both cover 2020 and although similar methodologies and figures have been used to determine macroeconomic indicators, the Commission established different figures. Both DMA and GOM claim that this evidences that no objective examination of positive evidence has been carried out, in breach of Article 15.1 of the WTO ASCM.

⁽¹¹⁸⁾ Tron save number: t25:001776.

⁽¹¹⁹⁾ Tron save number: t25:001772.

⁽¹²⁰⁾ Tron save number: t25:001778.

- (609) EUWA ⁽¹²¹⁾ disagreed with their claims and highlighted two key differences between the separate anti-dumping investigation and the current investigation. First, the number of Union producers involved in the investigation has changed. Second, EUWA does not represent 100% of Union production, so it must rely on estimates to assess part of the EU market. Due to these changes in the Union industry, EUWA had to adapt both the data it directly collected and the estimation for the remaining part of the Union industry. In the current investigation, EUWA estimated that the Union producers providing data represented a percentage of total Union production. To calculate the total Union production from the data provided by all complainants, a specific ratio was applied. The ratio factor used to estimate the data and the names of the participating companies were kept confidential to avoid revealing the level of support for the complaint and to prevent potential retaliation. EUWA also pointed out that differences in the import data stem in part from the fact that Eurostat and TARIC records are regularly monitored and corrected, which can lead to discrepancies depending on when the data is extracted.
- (610) The Commission acknowledged the points raised by EUWA and agreed that Eurostat and TARIC data are regularly monitored and corrected, which can result in changes and discrepancies in the available data. The Commission rejected the claims made.
- (611) ACEA, DMA, and GOM further claimed that, in terms of volume, the situation of the Union industry does not show injury but rather the challenges faced by EU car manufacturers. They claim that the Union industry is not suffering from injury in terms of volume but is instead affected by the difficulties experienced by car manufacturers. While ARW volumes are influenced by the Union car production, the volume analysis fails to consider the struggles of EU car manufacturers during the pandemic, with recovery only starting in 2022. Despite this, Union car production remains significantly below pre-pandemic levels. They also argue that, although capacity and market shares did not improve between 2020 and the investigation period, the just-in-time system proves there is no injury in this regard. Consumption grew, and the Union industry achieved capacity utilization levels above 80%. Therefore, they believe the conclusion that macroeconomic indicators show material injury is inconsistent with Articles 15.1 and 15.4 of the WTO ASCM.
- (612) The Commission acknowledged that while EU car production may have been affected by pandemic-related issues, it was important to highlight that the subsidised imports from Morocco continue to distort the market. These imports are often priced below cost, putting additional pressure on Union producers who are already struggling with rising production costs. While it is true that the Union industry achieved capacity utilization rates above 80%, this alone does not prove the absence of injury. Capacity utilization does not always reflect profitability or market conditions accurately. Focusing only on capacity utilization while ignoring profitability trends and market share losses misses the full picture of injury. Despite the pandemic's effects, the Union industry is still facing material injury due to the unfair competition posed by subsidized imports sold at prices that undercut and suppress the prices of the Union industry. As a result, the Commission rejected the claim.
- (613) In their final disclosure comments ACEA, DMA and GOM argue that the potential price effects of Moroccan imports and price drivers on the ARW market are mischaracterized. They state that while PCN-based and statistical comparisons relied on by the Commission are not adequate, the Commission's analysis of microeconomic indicators is flawed in several respects. Firstly, they comment that statistical prices of Moroccan imports are not the lowest on the market and that anti-dumping duties should be factored in for a correct picture. Secondly, they maintain that price pressures are not due to Moroccan imports but due to fluctuations in aluminium prices. ACEA further claim that the unit weight for Turkish imports should be set at 9,5 kg. This would automatically result in higher volumes of imports from Turkey at lower unit prices. GOM claim that the analysis of microeconomic indicators is therefore inconsistent with Articles 15.1 and 15.4 of the WTO ASCM.

⁽¹²¹⁾ Tron save number: t25:001846.

- (614) In their submission, EUWA acknowledged that aluminium prices are important, particularly in the context of multiyear contracts. However, they argued that this does not rule out other factors, such as import pressure, from negatively affecting the prices within the Union industry. As shown in the GDD, the Union industry was unable to raise prices enough to offset the increased production costs due to the low-priced subsidized imports from Morocco. The influx of these cheaper imports exerted downward pressure on prices, regardless of raw material costs, and could influence contract renegotiations or future tenders. Therefore, while aluminium prices are a factor, ignoring the impact of increased Moroccan imports on price depression oversimplifies the situation and is unconvincing. EUWA claim that the evidence suggests a clear link between the rise in Moroccan imports and price suppression, even with fluctuating aluminium prices.
- (615) The Commission noted that aluminium prices do play a role in the overall costs of ARWs. However, as evidenced in the investigation, subsidized Moroccan imports are priced below production costs, creating direct downward pressure on prices in the Union market. The relationship between Moroccan imports and price suppression remains evident regardless of aluminium price movements. With regards to ACEA's claim on unit weight on Turkish imports, the Commission acknowledges that this was dealt with in the separate anti-dumping investigation and the present investigation found that the market trend is shifting towards larger wheel diameters, which has led to an increase in weight per item. The Commission are of the opinion that the claim on the analysis of the indicators being inconsistent with the WTO ASCM is misplaced. The Commission's analysis includes a comprehensive assessment of the market dynamics, including the impact of subsidized imports on prices, market share, and profitability. The evidence supports the conclusion that the Union industry is facing material injury due to unfair competition. Therefore, the Commission rejected these claims.

4.4.4. *Conclusion on injury*

- (616) As most of the economic indicators present a negative picture, they clearly indicate that the Union industry is facing significant economic difficulties.
- (617) Import volumes from the country concerned have increased substantially during the period considered, with their market share rising from 2 % in 2020 to 9 % during the investigation period. The average price of the imported product is approximately 16 % lower than the Union price. This growth in both market share and volume of imports from the country concerned is particularly significant taken that the imports are subject to anti-dumping duties.
- (618) During the period considered, even though the average sales price in the Union increased, the average cost of production rose by 67 % which outweighed the benefits of the price increase. This led to a deterioration in profitability. Price pressure from subsidised imports at lower prices led to losses starting in 2021, which worsened throughout the investigation period. Union industry had lost market share, cash flow trends and return on investments were negative, which undermined the Union industry's ability to self-finance its operations.
- (619) As outlined above, key economic indicators such as profitability, cash flow, return on investment and market share showed significant deterioration during the period considered. This deterioration prevented Union industry from raising capital, ultimately hindering its growth and even jeopardizing its survival.
- (620) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 8(4) of the basic Regulation.

5. CAUSATION

- (621) In accordance with Article 8(5) of the basic Regulation, the Commission examined whether the subsidised imports from the country concerned caused material injury to the Union industry. In accordance with Article 8(6) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the subsidised imports from the country concerned was not attributed to the subsidised imports. These factors are: the COVID-19 pandemic, imports from third countries, the evolution of the cost of production, export performance and consumption.

5.1. Effects of the subsidised imports

- (622) As required by Article 8(1) of the basic Regulation, the Commission assessed the changes in both the volume and price of imports from the country concerned and their effect on the Union industry.
- (623) Throughout the period considered, imports from the country concerned increased significantly. While Union consumption also rose during this time, the Union industry did not benefit from this growth, as its market share declined by 9 %. In contrast, the market share of the country concerned expanded from 2 % to 9 % over the period considered. Notably, this sharp rise in imports occurred despite the imposition of anti-dumping duties on the product concerned.
- (624) The average import price of the product concerned from Morocco rose by 30 % between 2020 and the investigation period. However, it remained 16 % below the average Union price. The high volume of low-priced imports made it difficult for the Union industry to compete, in a context where, rising production costs in the Union further strained its ability to match these prices.
- (625) The higher import volumes from the country concerned combined with their low average sales prices negatively affected the economic performance of the Union industry. Although the Union industry raised its sales prices, this adjustment only enabled it to cover some costs, leaving no room for profit, and in fact incurring losses.
- (626) Based on the above, the Commission concluded that the imports from the country concerned caused material injury to the Union industry, with injury manifesting in both volume and price effects.

5.2. Effects of other factors

5.2.1. Imports from third countries

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

Table 11

Imports from third countries

Country		2020	2021	2022	Investigation period
Türkiye.	Volume (in 000 items)	7 131	8 054	10 337	10 342
	<i>Index</i>	100	113	145	145
	Market share (%)	13 %	14 %	17 %	16 %
	<i>Index</i>	100	110	135	127
	Average price (EUR/ item)	50	53	67	66
	<i>Index</i>	100	106	134	132
China	Volume (in 000 items)	2 215	2 093	1 791	1 807
	<i>Index</i>	100	94	81	82
	Market share (%)	4 %	4 %	3 %	3 %
	<i>Index</i>	100	94	75	71
	Average price (EUR/ item)	49	58	76	64
	<i>Index</i>	100	118	155	131

Country		2020	2021	2022	Investigation period
Thailand	Volume (in 000 items)	1 532	1 410	1 553	1 513
	<i>Index</i>	100	92	101	99
	Market share (%)	3 %	2 %	3 %	2 %
	<i>Index</i>	100	90	94	86
	Average price (EUR/ item)	49	53	66	60
	<i>Index</i>	100	108	135	122
Other third countries	Volume (in 000 items)	4 511	4 261	4 213	3 080
	<i>Index</i>	100	94	93	68
	Market share (%)	8 %	7 %	7 %	5 %
	<i>Index</i>	100	92	87	59
	Average price (EUR/ item)	63	75	97	95
	<i>Index</i>	100	119	154	151
Total of all third countries except Morocco	Volume (in 000 items)	15 389	15 819	17 894	16 743
	<i>Index</i>	100	103	116	109
	Market share (%)	27 %	28 %	30 %	26 %
	<i>Index</i>	100	100	108	94
	Average price (EUR/ item)	53	60	75	71
	<i>Index</i>	100	113	142	134

Source: Eurostat Comext Database

- (628) Import quantities from other third countries held a market share of 27 % in 2020 and 26 % in the investigation period, showing a slight decrease in both volume and market share over the period considered. The average import price of these imports increased by 42 % from 2020 to 2022, likely due to a rebound from the COVID-19 crisis. This was a temporary spike as the price subsequently decreased by 8 % in the investigation period. Despite this decrease, the overall import price remained 9 % higher than the Union industry's average price and about 31 % higher than the average import price from the country concerned during the investigation period. Türkiye is the only third country that increased its market share during the period considered. However, the import price from Türkiye during the investigation period was similar to that of the Union industry but still 21 % higher than the import price of the country concerned.

- (629) In their final disclosure comments ACEA, GOM and DMA claimed that any potential injury stem from factors unrelated to Moroccan imports. They state that imports from other countries, especially Türkiye, should not be overlooked. Firstly, a comprehensive evaluation of the overall trends in imports from countries other than Morocco is lacking. Turkish imports have steadily risen and consistently entered the EU market in larger volumes than Moroccan imports, thus maintaining a market share significantly higher than that of Moroccan imports. They further claim that the volume of Turkish imports is undermined, and their unit price is inflated by the use of an incorrect weight/item conversion ratio of 11,3 kg, whereas Turkish ARW weigh on average 9,5 kg. Therefore, the analysis of imports from third-countries other than Morocco and the injury they caused to the Union industry is inconsistent with Articles 15.1 and 15.5 of the WTO ASCM.
- (630) The claims made by ACEA, GOM, and DMA that any potential injury stems from factors unrelated to Moroccan imports fail to address the key issue at hand. While imports from other countries, including Türkiye, are relevant, the idea that Turkish imports should outweigh the impact of Moroccan imports is flawed. The claim that Turkish imports have entered the EU market in higher volumes does not provide sufficient grounds to disregard the specific impact of Moroccan imports, and as such, this argument was rejected. The assertion that Turkish imports have entered the EU market in larger volumes is not sufficient evidence to dismiss the specific impact of Moroccan imports. This claim was rejected. Additionally, the claim regarding the weight/item conversion ratio for Turkish ARWs was dealt with in the separate anti-dumping investigation, leading the Commission to reject this claim also. The argument that the injury caused to the Union industry by imports from countries other than Morocco is inconsistent with Articles 15.1 and 15.5 of the WTO ASCM overlooks the fact that proper evaluation of all contributing factors, including Moroccan imports, is essential for an accurate and fair assessment of the situation.
- (631) The Commission concluded that imports from other third countries did not contribute to the injury suffered by the Union industry.

5.2.2. COVID-19 pandemic

- (632) The COVID-19 pandemic had a severe negative impact on EU and international markets in 2020. From the second quarter of 2020, Union industry faced major challenges as sales and production slowed significantly, with production temporarily ceasing in some instances. Union consumption decreased by 24 % compared to previous years. The market slowly recovered in 2021 and 2022 with consumption increasing by 15 % during the investigation period. However, this increase is still well below the pre-pandemic level.
- (633) The increase in demand following COVID did not benefit the Union producers but did benefit Moroccan imports which rose to over 5 million items in the investigation period with a market share of 9 %. This combined with the fact that the market share of imports from other countries was stable, meant the loss of market share for the Union producers was entirely due to the surge of subsidised imports from the country concerned.
- (634) The Commission concluded that the COVID-19 pandemic did not contribute to the injury suffered by the Union industry.

5.2.3. Export performance of the Union industry

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

Table 12

Export performance of the sampled Union producers

	2020	2021	2022	Investigation period
Export volume (in 000 items)	3 960	4 632	4 236	4 501
Index	100	117	107	114

	2020	2021	2022	Investigation period
Average price (EUR/ item)	61	77	114	77
<i>Index</i>	100	126	187	126

Source: EUWA for export quantities and average price from verified questionnaire replies.

- (636) Export sales to unrelated customers represented 9,6 % of the total Union industry production during the investigation period. Over the period considered, the export volumes grew by 17 % from a low base in 2020 to 2021, but then declined by 3 % in the investigation period. The export sales price saw a significant increase between 2021 and 2022, largely due to the industry's recovery following the COVID-19 pandemic. However, the export price fell to 2021 levels during the investigation period, although it remained higher compared to the price on the Union market during the same period.
- (637) In view of the price levels of the Union industry exports to third countries, the Commission concluded that the export performance did not contribute to the material injury suffered by the Union industry.

5.2.4. Consumption

- (638) Union consumption increased by 15 % during the period considered, although it remained well below pre-pandemic levels. Typically, an increase in consumption would benefit the Union industry, but in this case, the opposite occurred, with the Union industry's market share declining by 9 %. Meanwhile, imports from the country concerned continued to rise, reaching over 5,9 million units during the investigation period, with their market share growing from 2 % in 2020 to 9 % in the investigation period.
- (639) Despite the growth in consumption, the injury to the Union industry was primarily caused by the price suppression resulting from the influx of subsidised imports. While consumption increased, the Union industry's market share declined, indicating that it was the competitive pressure from these low-priced imports, that caused the injury.

5.2.5. Effects of multi-year contracts and evolution of the cost of production

- (640) The Union industry's sales of the like product on the Union market were primarily based on multi-year contracts with car manufacturers, which set the prices for the duration of production of a specific car model. As a result, the Union industry has limited flexibility to raise sales prices during the term of these annual contracts, even when raw material prices are rising. It is noted that around 97% of the sampled Union producers' sales are based on annual contracts. The Union industry generally has the opportunity to adjust its prices when negotiating contracts for the following year.
- (641) Although the Union industry's sales prices increased during this period, the increase was not enough to cover rising production costs. As outlined in section 4.4.3.1 above, the average production cost of the Union industry increased by 67 % during the period considered. As imports from the country concerned continued to grow, the Union industry faced price pressure from these low-priced imports. As a result, the Union industry could no longer adjust its sales prices adequately to keep up with rising production costs, leading to profitability issues and losses starting in 2021.
- (642) In their comments following final disclosure ACEA, DMA and GOM argued that the injury is due to the evolution of Union producers' costs, rather than subsidized imports from Morocco. They contend that alleged profitability issues are not caused by price pressure from Morocco and that the injury stems from rising costs. ARW sales are based on multi-year contracts that are indexed to LME aluminium prices. However, there is no indexation for fixed costs, and the assumption is that productivity improvements justify discounts starting from the year after production begins. As a result, fixed costs are typically expected to decrease. Despite this, over the period in question, there is substantial evidence showing that the Union producers in the sample have faced rising fixed costs, particularly due to skyrocketing energy and labour costs. Consequently, while sales prices have tracked aluminium prices, costs have remained high due to electricity and labour expenses. Imports from Morocco are not responsible for either of these factors.

- (643) While, as indicated in recital (640), the sampled producers rely on annual contracts rather than on multi-annual contracts, the injury cannot be solely attributed to cost evolution, be it fixed or variable, when the impact of the subsidised and low priced imports is so significant. Although rising costs are a factor, the main cause of the injury is the unfair competitive pressure from subsidized Moroccan imports, both in quantities and low prices, which prevented the Union industry from increasing their prices thereby harming their profitability. As a result, the Commission rejected this claim.
- (644) Therefore, the Commission concluded that the practice of setting sales prices through annual contracts did not attenuate the causal link between the subsidised imports and the injury identified.

5.3. Conclusion on causation

- (645) There is a strong connection between the decline in the Union industry's economic situation and the increase in imports from the country concerned.
- (646) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the subsidised imports. None of the other factors accounted for the negative trends in the Union industry, including the loss of market share, reduced profitability or incurred losses, and declining returns on investments.
- (647) On the basis of the above, the Commission concluded that the subsidised imports from the country concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the subsidised imports and the material injury.
- (648) In their comments following disclosure, ACEA and DMA argued that there is no link between Moroccan imports and the challenges faced by the Union industry. They contend that, in terms of pricing, Moroccan imports are comparable to Union industry's prices, and any claims of price depression are unsupported by the evidence, which is notably insufficient. They point out that the difficulties experienced by the Union industry are due to factors such as the volume of imports from Türkiye, profitability issues arising from the pricing and cost structures of the sampled EU producers, and the failure to invest in adequate capacity.
- (649) The Commission disagreed. As explained in section 5.2.1, Turkish imports were at slightly higher prices than the Union industry and in any case much higher prices than the imports from Morocco. Furthermore, as illustrated by table 4 above, the Union industry increased its capacity utilisation by decreasing its capacity during the period considered. At the same time, contrary to the claims made on inadequate capacity, during the investigation period, the Union industry alone was able to cover 89% of the total Union consumption, in addition to the imports from Morocco and third countries. The claims on pricing and cost structure were already addressed in recital (615) above. Therefore, the Commission concluded that the factors pointed by the parties concerned did not contribute to or attenuate the causal link found between the subsidized Moroccan imports and the material injury suffered by the Union industry. Therefore, the Commission rejected the claim.
- (650) ACEA, GOM and DMA also claimed that there were flaws in the attribution analysis and that the Commission limited its attribution analysis from an end-point to end-point correlation. They maintained that the attribution analysis is flawed in the area of pricing by the use of statistical and PCN-based comparisons, which are meritless. They commented that comparisons are inaccurate, as the Commission failed to factor in anti-dumping duties and post-importation costs, which once added, mean that Moroccan import prices were comparable to prices of the Union industry in the IP. The attribution analysis is therefore inconsistent with Articles 15.1 and 15.5 of the WTO ASCM.
- (651) The Commission's attribution analysis was not limited to a simple end-point to end-point correlation, but rather a thorough assessment that considered the full scope of the factors affecting the Union industry. The analysis included multiple aspects such as market trends, pricing pressures, and production costs, which all point to the detrimental impact of Moroccan imports. The Commission's attribution analysis was robust, comprehensive, and in line with the WTO ASCM and the claims made do not adequately address the full scope of the analysis or the clear evidence of material injury caused by Moroccan imports. As such the Commission rejected the claim.

6. UNION INTEREST

6.1. Interest of the Union industry

- (652) There were 27 known producers of the like product producing in the Union during the investigation period. The Union industry employs over 16 500 workers directly with many more relying on it indirectly.
- (653) Even though measures are in place in the form of anti-dumping duties, these have not prevented the continued increase of subsidised imports from the country concerned.
- (654) If this situation is not rectified, Union industry will continue to experience material injury, with its financial situation, particularly in terms of profitability, return on investment and cash flow expected to deteriorate further. This is especially true given the continued increase in subsidised imports from the country concerned during the investigation period, which continued to threaten the Union industry's viability.
- (655) Consequently, the Commission concluded that the imposition of measures is in the interest of the Union industry.

6.2. Interest of unrelated importers and users.

- (656) Upon initiation, importers and users were contacted. However, no importers cooperated with the investigation.
- (657) Three users cooperated, as indicated in recital (59) but the Commission decided to verify only two users as the imports from the third user were very limited. The association of car manufacturers ('ACEA') also cooperated with the investigation.
- (658) Car manufacturers are the customers of the Union ARW industry and already source a portion of their ARW needs from Union producers. During the investigation period, imports from the country concerned accounted for a 9 % market share in the Union, while imports from other third countries held a 26 % market share, with higher price levels than those of the Union industry. As a result, car manufacturers have access to multiple sources of supply, including the Union industry, Morocco, and other third countries. This was further supported by the fact that ARW purchases from Morocco accounted for approximately 28 % of the total ARW purchases made by the two verified users during the investigation period. Additionally, based on data provided by the users in their questionnaire responses, ARW represented about 0,71 % of their production costs. As a result, the Commission concluded that the impact of the measures on ARW is limited for car manufacturers.
- (659) ACEA commented on the conditions for competition in the aluminium wheels market. Since ARWs are purchased on a made-to-order basis, significant time is required for their engineering and production. The minimum lead time between a tender award and the actual delivery of sales can be approximately two years. Therefore, volume and price competition between suppliers should be assessed based on their quotations and performance in tenders. The methodology used in the complaint, which analyses the volume of actual sales delivered and contemporaneous invoice prices based on PCN criteria, is clearly flawed. Renault, a user of ARWs in the Union market, also commented that injury analysis should be conducted at the level of tenders, as this is where price competition occurs. Tenders are negotiated more than a year before the actual sale occurs. According to Renault, the tender is the critical point where competition happens, and therefore, it is at this stage that the competitive dynamics and potential injury should be evaluated.

EUWA disagreed with this claim and stated that information from tenders only provides a partial view of the actual volumes and prices of subsequent sales in the Union.

- (660) The Commission examined actual volumes delivered and prices paid or payable in the Union during the investigation period in order to establish the volume and price impacts of subsidized imports on the EU industry producing the like product. This data, which included transaction sales listings and price comparisons on a per-type basis submitted by both the sampled Union and exporting producers, provided actual quantities sold and invoiced during the investigation period. It was established that the actual sales figures often differed from the numbers outlined in tender terms as unlike tender data, the actual sales data accounted for discounts and rebates—whether deferred or not—that were applied during the investigation period. Additionally, within each car model, several types of ARWs may be offered, and car manufacturers cannot predict the total sales of each type over the entire production life of that model. Tender contracts typically reflect an estimated number of wheels to be supplied, with the exact quantity usually determined only a few weeks before delivery. Therefore, it was considered that the analysis based on tender data would not accurately reflect the competitive conditions in the ARW market. As a result, the Commission rejected the claim.
- (661) Following final disclosure, ACEA reiterated its request to assess volume and price competition between suppliers based on their quotations and performance in tenders. As ACEA did not provide new elements in support of this request, the Commission maintained its position as developed in the previous recital.
- (662) ACEA argued that ARW sourced from Morocco do not align with the full product range of ARW offered by Union producers, and that those imported from Morocco generally correspond to smaller ARWs.
- (663) As stated in recital (53), the products produced in Morocco possess the same basic physical, chemical, and technical characteristics, as well as the same intended uses, as those produced by the Union industry. The Commission also noted that Moroccan producers supply a range of OEMs to the Union market, and these wheels must comply with EU standards. Consequently, the Commission considered that comparing product types provided a more accurate reflection of the price and volume competition between imports from Morocco and sales by the Union industry. Therefore, the Commission rejected this claim.
- (664) In their comments on final disclosure, ACEA⁽¹²²⁾, GOM⁽¹²³⁾ and DMA⁽¹²⁴⁾ argue that Moroccan and EU ARW correspond to different baskets of ARW. They comment that Moroccan imports typically correspond to smaller ARW, lower end of the market, rather than the more expensive bigger ARW, ARW with more high-end / technical finishes or forged ARW. DMA claimed that by failing to investigate and consider differences in products mixes between ARW imported from Morocco and ARW produced by the Union industry breaches Articles 15.1, 15.2 and 15.4 of the WTO ASCM.
- (665) In its comments on rebuttal, EUWA⁽¹²⁵⁾ stated that while ARW does come in various sizes, surface treatment, and types of finishes, this does not automatically make them incomparable for price analysis. They claim that the Commissions use of PCNs is a good example of how an investigating authority can account for variations in products to perform price comparisons.
- (666) The Commission reiterated its position that products produced in Morocco possess the same basic physical, chemical, and technical characteristics, as well as the same intended uses, as those produced by the Union industry. As a result, the Commission determined that comparing product types is a more accurate representation of price and volume competition between imports from Morocco and sales by the Union industry. Consequently, the Commission dismissed this claim.
- (667) ACEA argued that there is no causal link between Moroccan imports and the alleged material injury. They pointed to the fact that, despite Türkiye increased sales and market share, the complainant has not initiated a case against Türkiye. ACEA also claimed that every wheel imported from Türkiye and other third countries undercut and undersold the prices of the Union industry, which, in their view, breaks the causal link between the alleged injury and the much smaller imports from Morocco.

⁽¹²²⁾ Tron save number: t25:001776.

⁽¹²³⁾ Tron save number: t25:001772.

⁽¹²⁴⁾ Tron save number: t25:001778.

⁽¹²⁵⁾ Tron save number: t25:001846.

- (668) EUWA disagreed with ACEA's claim and noted that the evolution of EU sales of EU producers, both in absolute and in relative terms, is undeniably negative. The reason is that the Union industry is outcompeted by unfairly subsidised imports from Morocco and it lost sales volumes in the EU at a faster pace than the contraction in demand pointed out by ACEA. EUWA maintain that average import prices confirms that causation can only be attributed to Morocco. Imports from other third countries including Türkiye have average prices significantly higher than Morocco.
- (669) As explained in section 5.2.1 above, the market share of other third countries combined was 26% during the investigation period, a decrease of 4 percentage points compared to 2022. The price of imports from these third countries remained approximately 9 % higher than the Union price and significantly higher than the price of imports from Morocco. Although the market share of imports from Türkiye increased by 3 percentage points during the period considered, the import price from Türkiye was similar to the Union price and 21 % higher than that of imports from Morocco. In this context, the claim was rejected.
- (670) Both Renault and ACEA have stated that the EU automotive industry is facing a significant challenge due to limited production capacity among domestic producers, leading to a reliance on external sources to meet demand. EU manufacturers are unable to depend solely on local suppliers, as they lack the necessary capacity to fulfil the industry's needs. As a result, approximately 20% of the required ARWs must be sourced from imports. Sourcing from Morocco offers several advantages, such as lower transportation costs compared to other regions, making it a cost-effective solution. Additionally, Morocco benefits from preferential access to the European market, which can facilitate trade and reduce tariffs, further improving the competitiveness of Moroccan-sourced ARWs.
- (671) EUWA disagreed with this assertion, stating that the capacity of European plants is not fully utilized. Depending on the orders received, each plant adjusts its workforce and the number of shifts accordingly. EUWA notes that there is, therefore, significant room for ARW producers to increase their capacity utilization and accommodate additional orders.
- (672) The Commission noted that, while Morocco may indeed offer cost benefits such as lower transportation costs and preferential trade access to the EU, this view fails to fully consider the broader strategic risks associated with outsourcing key components. Sourcing ARWs from Morocco or other external suppliers introduces supply chain vulnerabilities, especially given global economic uncertainty, fluctuating transport costs, and potential geopolitical tensions. A diversified supply chain is certainly important, but an overreliance on non-EU suppliers could jeopardize the EU's resilience in the long run.
- (673) Furthermore, the Commission observed that during the investigation period, Union consumption amounted to 64,6 million items. The total capacity of the Union industry was 57,8 million items, while actual production reached 46,9 million items. This still leaves unused capacity within the Union industry. Therefore, the Union industry already had sufficient production capacity to meet almost 90 % of the domestic demand for ARWs. Capacity utilization management (such as workforce adjustments and shift numbers) differs from the theoretical nameplate capacities of EU plants, which are much higher. Many plants in the EU do not operate with three shifts, and in some cases, not even two. As a result, there is significant potential for ARW producers to increase their capacity utilization and take on more orders, provided OEMs choose to allocate those orders to European manufacturers. As a result, the claim of insufficient capacity was rejected.
- (674) In their comments following final disclosure, ACEA, DMA, and GOM argued that any injury was self-inflicted due to insufficient capacity within the EU, making imports necessary. This is tied to the Just-In-Time (JIT) policy, which requires ARW suppliers to be flexible and responsive to demand changes. In this context, sourcing from Morocco and Türkiye offers distinct advantages over alternatives like China or Thailand, such as lower transport costs and preferential access to the EU market through trade agreements. They contended that imports from third countries, including Morocco, are crucial to maintaining the JIT system, given the significant under-capacity in the Union ARW industry. Furthermore, the claim that the Union industry could increase capacity when needed is not backed by any evidence and contradicts historical data. ACEA, DMA, and GOM asserted that the Union industry's continued refusal to invest in sufficient capacity led to self-inflicted injury.

- (675) The Commission highlighted that this claim had already been addressed in recital (673) and no new evidence was presented to support it. The Commission acknowledged that, if required, the Union ARW industry could increase its capacity on short notice. However, the Commission emphasized that the injury faced by the Union industry cannot be attributed solely to insufficient capacity or Just-In-Time (JIT) policies. The root cause lies in the market distortion created by subsidized imports, which places EU producers at a competitive disadvantage and hinders their ability to invest in the necessary capacity. As a result, the claim was rejected.
- (676) Renault commented that car manufacturers are continuously confronted with challenges such as rising costs, regulations, and unfair competition from overseas. Anti-subsidy measures would hinder the EU automotive industry's energy transition and additional duties on ARWs from Morocco would undermine the Union industry's efforts to reduce manufacturing costs and scale production of battery electric vehicles ultimately harming the development of this sector. ACEA also commented that the imposition of anti-subsidy measures is not in the Union's interest and will worsen the already challenging situation for Union car manufacturers, particularly in the BEV segment.
- (677) EUWA disagreed with the statement and failed to understand the rationale behind it. As a matter of principle, the Union's external trade policy treats all economic sectors equally when it comes to trade defence and addressing unfair trade. ARWs account for a marginal portion of the car price (0,5 %). Consequently, they claimed that the impact of an anti-subsidy duty would be minimal on car manufacturers.
- (678) The Commission observed that car manufacturers face similar challenges to wheel producers, such as rising costs and competition from abroad. However, car manufacturers now benefit from duties imposed on electric vehicles from China, which helps ease some of these pressures. Despite foreign competition, car manufacturers have remained profitable, unlike ARW producers, whose profitability has significantly declined during the period considered, as detailed in section 4.4.3.4. As a result, this claim is rejected.
- (679) Renault argued that there is no material injury to the Union industry. While the complaint references 2019 in relation to injury analysis, Renault pointed out that the case focuses on the period from 2020 to 2023, during which no material injury is evident. Indicators show positive performance during this period. The considerations of Union interest indicate that there is no need for anti-subsidy measures in this case. These measures would effectively support an industry that shows no significant signs of material injury and already enjoys excessive protection from import competition.
- (680) The Commission acknowledged that the complaint referenced 2019, as it was the relevant period, covering the three years prior to the investigation period. However, the investigation itself focused on the period from 2020 to 2023, with the investigation period specifically covering the calendar year 2023. As noted in recital (606), most of the economic indicators present a negative picture and clearly indicate that the Union industry is facing significant financial difficulties. While some indicators show positive trends, the overall situation of the Union industry continues to worsen. This decline is occurring despite the existence of measures and is due to the ongoing increase in imports from the concerned country. As a result, the claim was rejected.
- (681) ACEA claimed that the Commission should calculate an appropriate injury margin and apply the lesser duty rule. They pointed out that the combined anti-dumping and countervailing duties should not exceed the injury margin, which should have been properly determined in the separate anti-dumping investigation at the level of 3,7 %, based on tender quotations.
- (682) The Commission observed that ACEA did not show that it was not in the Union interest to set the countervailing duty at the total subsidy amount. Moreover, the injury margins determined in the separate anti-dumping investigation go beyond the combined anti-dumping and countervailing duties. In addition, the price comparisons and the injury margin alleged by ACEA could not be based on the tender quotations for the reasons explained, in detail, in the separate anti-dumping investigation. Thus, this claim was rejected.

- (683) In its comments on final disclosure, ACEA, DMA and GOM stated that proper price comparisons should include the determination of an injury margin and the application of the lesser duty rule. They stated that adequate price comparisons should be performed based on WTO-consistent methodologies, allowing for an injury margin to be determined and the lesser duty rule to be applied.
- (684) The Commission noted that in June 2018, new rules on anti-dumping and anti-subsidy were introduced to modernize and strengthen the EU's trade defence measures. One of the key changes was how the EU applies the 'lesser duty rule' (LDR). Under the new rules, the LDR can no longer be used in anti-subsidy investigations, unless it can be clearly concluded that it is not in the Union interest to determine the measures on the amount of countervailable subsidies established. In this proceeding, in view of the distortive-to-trade nature of the countervailable subsidies established, the Commission cannot clearly conclude that it is in the Union interest to apply the LDR. Therefore, the Commission rejected this claim.
- (685) ACEA argued that no potential anti-subsidy measures should be applied until the conclusion of an ongoing investigation by the German Federal Cartel Office. This investigation concerns alleged anti-trust issues in the Union ARW market that may be restricting fair competition. ACEA believes that if the German anti-trust authorities confirm their concerns regarding anti-competitive behaviour, the Commission should promptly terminate the current investigation and lift the anti-dumping measures on ARW imports from China and Morocco.
- (686) The Commission acknowledge that there is reported an investigation by the German antitrust authority into potential violations of competition laws concerning manufacturers of aluminium wheels for light vehicles. However, the specifics of the investigation remain unclear, and there is very little public information available. Therefore, there is little impact on the present investigation by the Commission, so this claim is rejected.
- (687) ACEA claimed that AM and OEM wheels are distributed through separate, non-overlapping channels. Morocco exports only OEM wheels. The Union industry experiences a 35 % profitability in the AM segment, indicating that it does not face material injury or a threat of injury. ACEA requested that the Commission first conduct a separate injury analysis for the AM and OEM segments, disclosing the results accordingly. Additionally, based on uncontested evidence provided by the Complainant, the Commission should conclude that the Union industry has not suffered material injury or a threat of injury from imports of ARWs from Morocco in the AM segment.
- (688) The Commission observed that although OEM and AM aluminium wheels are distributed through different sales channels, they share the same physical and technical characteristics and are interchangeable. Therefore, OEM and AM should be regarded as distinct sales channels rather than separate segments. The majority of sales, approximately 90 %, are through the OEM channel. As a result, the AM channel, which accounts for about 10% of sales, has a limited impact on the overall assessment of the Union market. This impact is further minimized by the fact that Moroccan producers exclusively sold through the OEM channel, similar to the three sampled Union producers, who made nearly all of their sales through the OEM channel. Consequently, this had no effect on the price comparison analysis, which was conducted at the microeconomic level using data provided by the exporting producers and the sampled Union producers. Based on this, the Commission decided not to separate the consumption between the two sales channels for the purposes of the investigation.
- (689) In their comments following disclosure, ACEA reiterated their claim that the OEM and AM segments of the market should be analysed separately to assess injury and causality. This claim was supported by the GOM and DMA. They argued that the Commission failed to differentiate between the OEM and AM segments, which they see as two different segments of the market with key differences in customers, trade volumes, purchasing methods, pricing, and profit drivers. They contended that these differences affect how the Commission looks at volume, price, and cause, because Moroccan imports don't affect the AM segment. They requested the Commission to treat the OEM and AM segments separately, which, in their view, would lead to the conclusion that there is no material injury or threat to the AM segment, making countervailing duties unjustified. DMA further claimed that not distinguishing between these segments is inconsistent with Articles 15.1, 15.2, 15.4, and 15.5 of the WTO ASCM.

- (690) As stated in recital (688), the Commission noted that although OEM and AM aluminium wheels are sold through different channels, they have the same physical and technical characteristics and are interchangeable. Therefore, both segments are selling the same product with a similar end use. The Commission do not see a need to separate them and conducting the injury assessment on the entire Union ARW industry, encompassing all sales channels, is a fair and legally justified approach. Therefore, the Commission rejected the claim.

6.3. Conclusion on Union interest

- (691) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of aluminium road wheels originating in Morocco.
- (692) ACEA argued in their comments on disclosure that imposing measures is not in the interest of the Union industry. They assert that countervailing duties will not lead to increased production, as the Union industry's production capacity is already insufficient and has surpassed its buffer capacity limits. Additionally, they claim that the Commission is mistaken in downplaying the impact of the anti-dumping measures that were provisionally imposed starting in July 2022.
- (693) The Commission highlighted that the issue of insufficient capacity was addressed in recitals (673) and (675) above. The Union industry still has unused capacity that could be leveraged to increase production. Even if some plants are operating below full capacity, they have the flexibility to ramp up production without requiring new investment or major adjustments to meet demand. While ACEA suggests that imposing measures would not lead to immediate increases in production, the long-term benefits of such actions are clear. By addressing unfair competition, these duties help create a more stable and predictable market for Union producers, encouraging investment and growth within the Union industry. As a result, the Commission dismissed the claim.
- (694) ACEA argues that ARW imports are crucial due to the Union's lack of capacity and its reliance on the just-in-time system. Since EU car manufacturers operate at or above buffer capacity and show no interest in increasing production, they cannot source additional ARWs from within the Union. Furthermore, ACEA claims that the idea of replacing Moroccan imports with alternative suppliers is unrealistic. Worldwide, only 13,2 million ARWs are available, and onboarding new suppliers would require lengthy tender processes, risking shortages and production stoppages. Additionally, global supply is shared with other regions, and the available sources are distant, conflicting with the EU's just-in-time system and environmental goals. EU car manufacturers must diversify suppliers, and Morocco remains essential given its proximity, trade agreements, and supply reliability. The claim that sourcing from Morocco introduces vulnerabilities is misplaced, as diversifying through reliable, preferential trade partners like Morocco and Turkey is necessary for a secure supply chain.
- (695) The Commission recognized that the issues regarding capacity and the just-in-time (JIT) system were addressed in recital (675). It noted that while ACEA emphasizes the logistical challenges of sourcing from distant regions, this does not justify continued dependence on Moroccan imports. The Commission highlighted that promoting local production would help mitigate the risks associated with external supply chain vulnerabilities, especially in light of geopolitical uncertainties. Diversification should not simply rely on specific third countries but should focus on ensuring fair competition and investing in domestic capacity to restore a level playing field. As a result, the Commission rejected the claim.
- (696) ACEA argues that imposing countervailing duties on Moroccan ARW imports would negatively impact EU car manufacturers, harming consumers. They highlight several key factors including the fact that ARW represents a small percentage (0,7 %) of car manufacturers' costs, but the EU automotive sector is vital to the economy, contributing 6,8 % of EU employment and 171,4 billion euros in annual exports. They also stress that EU car manufacturers have faced ongoing challenges, including the semiconductor shortage, rising energy costs, and supply chain disruptions due to the war in Ukraine, all of which have strained production capacity. The EU car industry is already under pressure from existing trade defence measures, and countervailing duties would exacerbate this situation. Given these factors, ACEA stresses that imposing countervailing duties would only increase costs for EU manufacturers, particularly the BEV sector, without benefiting the ARW industry or solving the Union's challenges.

- (697) The Commission observed that while ACEA highlights several challenges faced by the EU automotive industry, their argument overlooks the broader context of market distortion caused by subsidized Moroccan imports. Countervailing duties are essential to restore fair competition and ensure the long-term sustainability of the Union ARW industry. While ARWs represent a small percentage of car manufacturers' costs, their cumulative impact, combined with other challenges, puts significant pressure on EU manufacturers. Relying on subsidized imports undermines the competitiveness of the Union industry. The proposed countervailing duties will help level the playing field, encouraging investment, increasing capacity, and benefiting both consumers and the Union automotive sector in the long run. Therefore, the Commission rejected the claim.
- (698) ACEA reiterated the claim made previously that countervailing duties should not be imposed until the ongoing investigation by the German Federal Cartel Office is concluded. They asserted that the Commission should have taken further steps to gather additional information, potentially by requesting cooperation from Germany. They comment that Union ARW producers are attempting to restrict competition, both within the EU and from imports, which ultimately goes against the Union's best interests.
- (699) The Commission acknowledged that this claim was discussed in recital (686) above. It noted that the investigation is still ongoing, and it is appropriate to await the official outcome before making any conclusions in this regard. Therefore, the Commission rejected the claim.

7. DEFINITIVE COUNTERVAILING MEASURES

- (700) In view of the conclusions reached with regard to subsidisation, injury, causation and Union interest, and in accordance with Article 15 of the basic Regulation, a definitive countervailing duty should be imposed.

7.1. Level of the definitive countervailing measures

- (701) Article 15(1), third subparagraph of the basic Regulation provides that the amount of the definitive countervailing duty shall not exceed the amount of countervailable subsidies established.
- (702) Article 15(1), fourth subparagraph states that *"where the Commission, on the basis of all the information submitted, can clearly conclude that it is not in the Union's interest to determine the amount of measures in accordance with the third subparagraph, the amount of the countervailing duty shall be less if such lesser duty would be adequate to remove the injury to the Union industry"*.
- (703) As already explained in recitals (682) and (684) above, the level of the countervailing measures will be set with reference to Article 15(1) third subparagraph.
- (704) The Commission also considered whether some of the subsidy schemes are export contingent subsidies, which have the effect to reduce export prices and thus increase accordingly the dumping margins, in order to decide whether it needs to reduce the dumping margin by the subsidy amounts found in relation to export contingent subsidies in accordance with Article 24(1) of the basic Regulation. Consequently, since the Commission did not countervail any export contingent subsidy schemes, it imposed the definitive countervailing duty at the level of the established definitive amount of subsidisation in addition to the anti-dumping duty established by Regulation (EU) 2023/99.
- (705) On the basis of the above, the definitive countervailing duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Definitive countervailing duty
DMA	31,4 %
Hands 8	5,6 %
All other imports originating in Morocco	5,6 %

- (706) The individual company countervailing duty rate specified in this Regulation was established on the basis of the findings of the present investigation. Therefore, it reflects the situation found during the investigation with respect to the company concerned. This duty rate (as opposed to the countrywide duty applicable to 'all other companies') is thus exclusively applicable to imports of products originating in the country concerned and produced by the company mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other imports originating in Morocco'.
- (707) A company may request the application of these individual duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate, which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate, which applies to it, a regulation informing about the change of name will be published in the *Official Journal of the European Union*.
- (708) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual countervailing duties. The companies with individual countervailing duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Imports not accompanied by that invoice should be subject to the countervailing duty applicable to 'all other imports originating in Morocco'.
- (709) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of countervailing duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this Regulation, the customs authorities of Member States should carry out their usual checks and should, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (710) Should the exports by the company benefiting from lower individual duty rate increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 23(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a countrywide duty.

8. FINAL PROVISIONS

- (711) In view of Article 109 of Regulation (EU, Euratom) 2024/2509 ⁽¹²⁶⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first calendar day of each month.
- (712) The measures provided for in this Regulation are in accordance with the opinion of the Committee, established by Article 25(1) of the basic Regulation.

⁽¹²⁶⁾ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L Series, 26.9.2024 ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is imposed on imports of aluminium road wheels of the motor vehicles of HS headings 8701 to 8705 whether or not with their accessories and whether or not fitted with tyres, currently falling under CN codes ex 8708 70 10 and ex 8708 70 50 (TARIC codes: 8708 70 10 15, 8708 70 10 50, 8708 70 50 15 and 8708 70 50 50) and originating in Morocco.

2. The rates of the definitive countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Definitive countervailing duty	TARIC additional code
Dika Morocco Africa S.A.	31,4 %	C897
Hands 8 S.A.	5,6 %	C873
All other imports originating in Morocco	5,6 %	C999

3. The application of the individual countervailing duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of aluminium road wheels sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in Morocco. I declare that the information provided in this invoice is complete and correct.' Until such invoice is presented, the duty applicable to all other imports originating in Morocco shall apply.

4. Where a declaration for release for free circulation is presented in respect of the product referred to in paragraph 1, irrespective of its origin, the number of items of the products imported shall be entered in the relevant field of that declaration without prejudice to the supplementary unit defined in the Combined Nomenclature.

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

Article 2

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

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

Done at Brussels, 13 March 2025

For the Commission
The President
Ursula VON DER LEYEN