

ETRMA response to the public consultation on amending Annex I of the EU Deforestation Regulation

The European Tyre and Rubber manufacturers' Association supports the technical clarifications brought by the latest FAQ as well as by the Draft Delegated Act.

The combination of the two documents, achieves the following objectives:

1. Excludes tyres used for testing from the scope
2. Excludes used and second hand tyres from the scope
3. Excludes waste from the scope
4. Sets the basis for the exclusion of the “used part” of retreaded tyres.

However, ETRMA would like some of these useful clarifications to become more explicit and legally binding, particularly with regard to retreaded tyres.

To this end, the chapters below propose specific amendments to the published text as well as the rationale to support them.

Second-hand, used, “waste” and retreaded tyres

The text of the delegated act clearly excludes second-hand and used tyres as well as waste.

However, in the case of retreaded tyres, the delegated act does not include any prescription describing what instead is made clear in the FAQ: “...it is proposed that used tyre casings and carcasses (generally used for retreading tyres) are out of the scope of the Regulation, whereas retreaded tyres are in the scope only for the new natural rubber parts, such as the tread, applied to the carcasses and casings”.

It should be noted that the carcass used for tyre retreading is not considered waste in all EU countries. In some, this will be considered a waste, in others it will still be considered a product.

Furthermore, the text of the Delegated act, without the FAQ, does not in any way exclude the carcass of a retreaded tyre from the scope of the Regulation.

To this end, ETRMA believes that maintaining the inclusion of retreaded tyres (as a whole) will be confusing for competent authorities and will add an administrative

burden for retreaders, without significantly improving the reach and impact of the EU Deforestation Regulation.

For this reason, ETRMA would like to recommend the following approach:

Current wording	Proposed Wording
<p>“after the entry ‘ex 4012 Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber’, the following text is added:</p> <p>‘(not including waste as defined in Article 3, point (1), of Directive 2008/98/EC)</p> <p>(not including used products and second-hand products)’;”</p>	<p>“The entry ‘ex 4012’ is replaced by the following: ‘ex 4012 90 30 Tyre treads’.”</p>

This proposal is less ambiguous on the legal interpretation that would instead be present with the version of the Commission and:

- It excludes automatically used, second hand tyres and waste;
- It includes “tyre treads”, which are the only “new product” of the 4012 chapter.
- Finally, it excludes retreaded tyres, as these are the sum of the following codes:

Retreaded Tyres				=	4012 20 00	+	4012 90 30
4012 11 00 passenger cars	4012 12 00 truck&bus	4012 13 00 aircraft	4012 19 00 residual		Used tyres		New Treads
Proposed for exclusion					Excluded		Included

The objective is to keep in the scope of Annex I **the only HS code of 4012 that introduces on the market a “new product”**: tyre treads that are then used to constitute, together with the tyre carcass (under HS code for used tyre), a retreaded tyre.

This proposal would allow competent authorities to **concentrate efforts on products that could be at risk of non-compliance and “cut out the noise” of retreaded tyres**. These are one step away from the product at risk of non-compliance (tyre treads), complicating market surveillance.

Retreaded tyres are not new products. They are a practice of **life-extension** of used tyres that (according to the most recent definitions included in the Ecodesign for the

Sustainability of Products Regulation) can be assimilated under the definition of “refurbished products”.

What is more, certain tyre types and tyre casings are suitable for multiple retreading activities, i.e. several life extensions resulting in several additional hundreds of thousands of km with the same casing.

Retreaded tyres represent 20% of the current commercial vehicle tyre market and almost 50% of the global aircraft tyres and thousands of jobs, especially in the SME segment.

Questions and answers

Could the exclusion of retreaded tyres create a loophole particularly with regard to imports?

Tyre retreading is primarily a local business.

Imported retreaded tyres constitute:

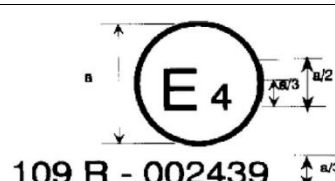
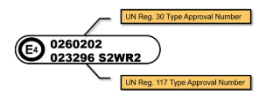
- 0.01% of the European passenger car market.
- And the 0.7% of the European truck and bus market.

In general, and regrettably, the retreading market is declining, mainly due to cheap imports of new tyres, which are often difficult to retread. In other words, the market shows that there is no interest in importing retreaded tyres, but a growing economic push towards the import of new tyres.

As result, the import of retreaded tyres remains negligible. Therefore, including them in Annex I has a very limited value in terms of coverage of products and overall compliance of the sector. On the other hand, **imports of tyre tread will continue to be checked, ensuring that the European retreading tyre market is EUDR-compliant.**

How can competent authorities distinguish between new and retreaded tyres?

Tyre retreading is performed in accordance with strict technical regulations which are UNECE Regulation 108 (passenger cars) and UNECE Regulation 109 (commercial vehicles) and all EASA applicable requirements (aircraft tyres). These markings allow competent authorities to easily tell the difference between new tyres, which are subject to different regulations, and retreaded tyres.

Retreaded tyre marking (Source: Council Decision 2006/443/EC)	New tyre marking (source)
	<p>External Rolling Noise: S1 or S2</p> <p>Wet Grip: W*</p> <p>Rolling Resistance: R1 or R2</p> <p>* not mandatory in all cases</p> 

For Aircraft tyres, the retreading production plants are maintained and controlled under FAA / EASA regulation, and it is audited by EASA every year. Also, each and every tyre sizes that can be retreaded are homologated by EASA. Those retreaded Aircraft tyres are operated exactly under the same condition with every Airlines all over the world, they cover more than 50% of tyres mounted on global Aircrafts.

As a result, **there cannot be any confusion between new and retreaded tyres, imported or present on the EU market.**

Would it be enough to transpose in the legal text the words of the FAQ in order to increase legal certainty?

Indeed, whilst the text of the FAQ is very clear regarding the exclusion of the carcass of retreaded tyres from the scope, this is not the case for the text of the delegated act, which remains ambiguous. Furthermore, with the text of the FAQ not being legally binding, issues may arise in time.

As a result, transposing the text of the FAQ in the legal text would be an improvement in terms of legal certainty. However, it would not help with the burden that retreaders will have to face.

Retreaders are mostly SMEs. However, many of these may be part of a wider legal entity that might have several shops (for example also selling new tyres) which would not fall in the definition of SME.

As a result, this solution, whilst helping from the “legal certainty” point of view, does not help supporting the business of tyre retreading, which is crucial from a circular economy and sustainability point of view.

It still holds an element of complication for both the competent authorities and the retreaders:

- The competent authorities need to go from the retreaded tyres to the origin of the tread to ascertain their compliance, instead of concentrating their effort on the tyre tread – where effective non-compliance might occur.
- The retreaders would still have to:
 - o File a DDS in case they are not an SME when selling to a company client (such as fleet managers/owners) or a trader;
 - o If they are an SME, send on to their nonSME clients the original DDS of the tread used for retreaded tyres, in case they might make the retreaded tyre available on the market.

This adds a level of complication for which it is difficult to see a justification.

As a result, ETRMA recommends the first solution described in this paper.

This second option, whilst resolving the issue of the used part of a retreaded tyre and giving legal certainty, holds an unjustified level of complication for both industry and competent authorities.

Samples and products used for examination, analysis or testing purposes

ETRMA supports the wording proposed in the FAQ and in the Delegated Act as it is.

It would be useful if the FAQ could further clarify the following elements:

- How can a company indicate that certain products are for testing and therefore exempted from EUDR when transferring the tyres within the EU? Is there a need for any such indication?
- For test tyres being imported, can the commission confirm which TARIC Code should be used?