Commission Implementing Regulation (EU) 2020/1296 of 16 September 2020 amending Regulation (EC) No 88/97 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1296

of 16 September 2020

amending Regulation (EC) No 88/97 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Article 13(4) thereof,

Having regard to Council Regulation (EC) No 71/97 of 10 January 1997 extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered under Regulation (EC) No 703/96[(2)], and in particular Article 2 thereof,

Whereas:

(1) An anti-dumping duty ('the extended duty') currently applies on imports into the Union of essential bicycle parts originating in the People's Republic of China ('the PRC') as a result of the extension by Regulation (EC) No 71/97.

(2) Pursuant to Article 3 of Regulation (EC) No 71/97 an exemption scheme should be established in order to authorize the exemption of imports of essential bicycle parts which do not circumvent the anti-dumping duty. That exemption was set out in Article 13(4) ('the Exemption Scheme') of the basic Regulation. The Exemption Scheme exempts assemblers that are not circumventing the anti-dumping measure on bicycles to import Chinese bicycle parts free of anti-dumping duty.

(3) The legal framework for operating the Exemption Scheme was provided for in Commission Regulation (EC) No 88/97[(3)] ('the Exemption Regulation'). The Exemption Regulation was amended by Commission Regulation (EU) No 512/2013[(4)], *inter alia* to introduce 'end-use-control' provisions intended for the assembly of electrical bicycles.

(4) Following a review of the extension of the anti-dumping duty imposed on imports of bicycles originating in the PRC to imports of certain bicycle parts from the PRC

pursuant to Article 11(2) of the basic Regulation, the Commission, by Implementing Regulation (EU) 2019/1379[(5)], decided to maintain the anti-circumvention measures for another five years.

(5) As provided in recital (44) of Regulation (EC) No 71/97, the Commission keeps the exemption system constantly under review so that it can be adapted where necessary to take account of experience gained with the operation of that system.

(6) Under the Exemption Scheme, as set out in Article 14 of the Exemption Regulation, imported bicycle parts could be used for the assembly of electrical cycles under an 'end-use control' authorisation. However, that Article applies only to non-exempted bicycle assemblers. There should also be a procedure enabling exempted Union bicycle assemblers to import essential bicycle parts for the assembly of electric bicycles.

(7) In this respect, the Commission notes that the bicycle market in the Union is very dynamic, and the exempted bicycle assemblers produce both electrical and non-motorized bicycles.

(8) The parts for the assembly of electrical bicycles are not subject to the extended anti-dumping duty. Therefore, the assembly operations of electrical bicycles remain outside the scope of Regulation (EC) No 71/97. Recital (11) to Regulation (EU) No 512/2013 confirmed that the use of essential bicycle parts for the assembly of electrical bicycles was not intended to be subject to the extended anti-dumping duty on bicycles. Indeed, '[] the current scheme is unclear in respect of imports of bicycle parts used for the assembly of cycles fitted with an auxiliary motor, with or without side-cars, sometimes referred to as electrical bicycles or pedelecs. Complete electrical bicycles and consequently the parts for the assembly of electrical bicycles are subject neither to the anti-dumping duty nor to the extended anti-dumping duty i.e. the assembly operations of electrical bikes remain outside the scope of Regulation (EC) No 71/97. Therefore, it is considered appropriate to extend the existing provisions under Article 14 for 'end use control' of parts intended for the assembly of electrical bicycles. The 'end-use-control' provisions enable national customs authorities to trace the final use of imported parts, i.e. use for assembly of classical bicycles or electrical bicycles.'.

(9) Having reviewed the experience gained in operating the Exemption Scheme, the Commission considers it necessary to introduce certain amendments to facilitate the operation of the Exemption Scheme for the exempted bicycle assemblers.

(10) The Exemption Scheme should set out the relevant provisions in respect of assemblers of vehicles other than cycles, whether or not electric, for example certain scooters[(6)], where bicycle parts such as wheels, forks and handlebars can also be used in the production. Certain scooters are subject neither to the anti-dumping duty nor to the extended anti-dumping duty so that the assembly operations of scooters remain outside the scope of the extending Regulation. Therefore, it is considered appropriate to extend the existing provisions under Article 14 of the Exemption Regulation for 'end-use-control' of parts intended for the assembly of other products using bicycle parts. The 'end-use-control' provisions enable national customs authorities to trace the final use of imported parts, i.e. used to assemble cycles, whether or not electric, or vehicles other than cycles, whether or not electric.

(11) The Exemption Scheme should also set out the relevant provisions in respect of assemblers of bicycle parts such as brake systems, where bicycle parts like brake levers can also be used in the production of brake systems. It is considered necessary that assemblers of bicycle parts are made subject to the same rules as assemblers of complete bicycles, in particular the obligations of exempted parties referred to in Article 8 of the Exemption Regulation.

(12) Against this background and for reasons of legal certainty, it is considered appropriate to extend the scope of the exemption of the imports of essential bicycle parts that are used in the assembly of vehicles other than cycles fitted with an auxiliary motor. To that end, Articles 1, 4(1)(a), 8(1)(b) and 14(d) of the Exemption Regulation are to be amended accordingly.

(13) In addition, essential bicycle parts may be supplied by exempted bicycle producers to their customers for the purpose of after-sales services and warranty claims without being subject to the anti-circumvention duty. In this respect, the Commission considers that the exempted essential bicycle parts could be used for after-sales services and provision of warranty. The ceiling as defined in Article 14(c) of the Exemption Regulation does not apply to such parts supplied by exempted parties. It is however emphasized that the quantities supplied for such purpose must be reasonable and proportionate to the assembly operation of the exempted party in accordance with Article 8 of the Exemption Regulation, and must not undermine the remedial effects of the duty pursuant to Article 13(2) of the basic Regulation.

(14) In accordance with the principle of sound administration, the amendments to the Exemption Regulation provided for in this Regulation are to apply as soon as possible to all new and to all pending investigations.

(15) Regulation (EC) No 88/97 should therefore be amended accordingly.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 88/97 is amended as follows:

(1) The definition of ‘assembly operation’ in Article 1 is replaced by the following:

> ‘assembly operation’ means an operation in which essential bicycle parts are brought in for the assembly or completion of bicycles, or for the production or assembly of bicycle parts.

(2) Article 4(1)(a) is replaced by the following:

> (a) it contains evidence that the applicant is using essential bicycle parts for the production or assembly of bicycles or bicycle parts in quantities above the threshold set out in Article 14(c) or that the applicant has entered into an irrevocable contractual obligation to do so;

(3) Article 8(1)(b) is replaced by the following: