Commission Implementing Regulation (EU) 2018/1012 of 17 July 2018 imposing a provisional anti-dumping duty on imports of electric bicycles originating in the People's Republic of China and amending Implementing Regulation (EU) 2018/671

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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 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 20 October 2017, the European Commission (‘the Commission’) initiated an anti-dumping investigation with regard to imports into the Union of cycles, with pedal assistance, with an auxiliary electric motor (‘electric bicycles’) originating in the People's Republic of China (‘the PRC’) on the basis of Article 5 of the basic Regulation.

(2) The Commission published a Notice of Initiation in the *Official Journal of the European Union*[(2)] (‘the Notice of Initiation’).

(3) The Commission initiated the investigation following a complaint lodged on 8 September 2017 by the European Bicycle Manufacturers Association (‘the complainant’ or ‘EBMA’). The complainant represents more than 25 % of the total Union production of electric bicycles. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

(4) On 21 December 2017, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of electric bicycles originating in the PRC and started a separate investigation. It published a Notice of Initiation in the *Official Journal of the European Union*[(3)].

1.2. Registration of imports

(5) On 31 January 2018, the complainant submitted a request for registration of imports of electric bicycles from the PRC under Article 14(5) of the basic Regulation. On 3 May 2018, the Commission published Implementing Regulation (EU) 2018/671[(4)] ('the registration Regulation') making imports of electric bicycles from the PRC subject to registration as of 4 May 2018 onwards.

(6) Responding to the request for registration, interested parties submitted comments that were addressed in the registration Regulation. The Commission confirms that the complainants submitted sufficient evidence justifying the need to register imports. Imports and market shares from the PRC had sharply increased. The comments were therefore rejected.

1.3. **Investigation period and period considered**

(7) The investigation of dumping and injury covered the period from 1 October 2016 to 30 September 2017 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2014 to the end of the investigation period ('the period considered').

1.4. **Interested parties**

(8) 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 complainants, other known Union producers, the known exporting producers and the authorities of the PRC, and known importers about the initiation of the investigation and invited them to participate.

(9) 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.

(10) In the Notice of Initiation, the Commission informed interested parties that it had provisionally chosen Switzerland as a market economy third country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation. Interested parties had an opportunity to comment and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(11) Some of the interested parties supporting the complaint requested confidential treatment of their identities in fear of retaliation, as they purchase certain parts of their electric bicycles in the PRC. The Commission granted their requests after an assessment of the arguments brought forward.

(12) The China Chamber of Commerce for Import and Export of Machinery and Electronic products ('CCCME'), and the Collective of European Importers of Electric Bicycles ('CEIEB'), both representing several interested parties, submitted comments after the initiation of the proceeding.

(13) The CCCME argued that the reasons for which the Commission granted confidential treatment to the identity of some of the interested parties supporting the

complaint were both insufficient and unfounded. According to the CCCME, some of the members of the Union Industry import complete electric bicycles from the PRC and thus, in light of Article 4(1)(a) of the basic Regulation, may be precluded from being considered as members of the Union Industry. The CCCME pointed out that confidential treatment of the identity of some of the interested parties precludes the exporting producers from properly examining the standing in this case.

(14) In a similar vein, the CEIEB argued that the complaint does neither contain a list of all known Union producers of the like product, nor the volume and value produced by these producers. The Commission rejected this claim. The complaint contained a list of known producers in the Union[(5)], as well as their total production volume[(6)]. The CEIEB was, accordingly, able to assess the list of known Union producers of the like product.

(15) This information allowed the CEIEB to identify that two companies listed as Union producers are also importing the product under investigation from the country concerned. It is therefore clear that the CEIEB could fully exercise their rights of defence in this respect. The claims were therefore rejected.

(16) The CCCME further argued that the complaint lacked the necessary level of sufficient evidence to result in the initiation of an investigation. The CCCME gave four reasons for this.

(17) First, the import data, based on Chinese export statistics obtained from Chinese customs, together with the adjustments made to it to filter out the product subject to this investigation, should not be kept confidential and its source should be duly examined by the Commission.

(18) Second, certain information in the complaint such as, for instance, the alleged overcapacity in the relevant sector in the PRC, would be misleading as they relate not only to the electric bicycles sector but electric bicycles and bicycles together. Similarly, the value of the Union's electric bicycles market would be overestimated as it covers all light electric vehicles and not only electric bicycles.

(19) Third, subsidisation claims made in the complaint would be unfounded and would merit their own anti-subsidy investigation.

(20) Fourth, according to the CCCME, the complaint made a series of unjustified claims that are harmful to the electric bicycles industry in the PRC, alleging that it is the Union producers who drive the innovation in this business and that the Chinese producers are merely replicating the status quo of the Union-developed electric bicycles technology.

(21) The Commission carried out an examination of the complaint in accordance with Article 5 of the basic Regulation, coming to the conclusion that the requirements for initiation of an investigation were met, *i.e.* that the adequacy and accuracy of the evidence presented by the complainant was sufficient. According to Article 5(2) of the basic Regulation, a complaint shall contain such information as is reasonably available

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1012. (See end of Document for details)*

to the complainant on the factors indicated therein. On the basis of the evidence provided, the Commission deemed that requirement satisfied.

(22) Regarding the Chinese import data argument, the Commission refers to section 3.2 of the registration Regulation and to section 4.3 of this Regulation, where that argument is sufficiently addressed.

(23) Regarding the overcapacity argument, it is indeed relevant to examine overcapacities for electric bicycles and bicycles together, since production capacity for bicycles can be converted to electric bicycles with little cost or effort (see recital 172), and there is evidence on record that this is indeed regularly done by companies producing both products.

(24) Regarding the comments on alleged subsidisation on the Chinese market, on 21 December 2017, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of electric bicycles originating in the PRC and commenced a separate investigation. That investigation is still on-going.

(25) Finally, regarding the innovation and replication arguments, the accuracy of the allegations mentioned in point four had no weight on the Commission's assessment underlying the initiation of this case, as they do not fall within the factors considered for this purpose.

(26) The Commission therefore concluded that the complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.5. **Sampling**

(27) In the Notice of Initiation, the Commission stated that it might sample exporting producers, Union producers and unrelated importers in accordance with Article 17 of the basic Regulation.

1.5.1. *Sampling of Union producers*

(28) 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 highest representative sales volumes of the like product in the investigation period whilst ensuring a spread in product types and a geographical spread.

(29) This sample consisted of four Union producers. The sampled Union producers accounted for 60 % of the total production volume and 58 % of total sales of the Union industry. The Commission invited interested parties to comment on the provisional sample.

(30) The EBMA claimed that the sample was overly focused on the Dutch market, and does not give appropriate weight to French producers.

(31) The Commission noted that the sample included the largest markets for the product under investigation and the largest producers in terms of volume and sales on the Union market which could reasonably be investigated within the time available.

(32) The Commission also noted that the production of the French producers only account for a minor part of the production of electric bicycles in the Union. It is therefore not necessary to include a French producer to ensure representativity of the sample.

(33) One interested party suggested adding a German manufacturer to the sample. However, the company in question was not cooperating and the comment had therefore to be disregarded. This did not affect the representativity of the sample, since the sample covered 60 % of the production volume, and did include a German manufacturer.

(34) In light of the above, the Commission confirmed that the sample is representative of the Union industry.

1.5.2. *Sampling of importers*

(35) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(36) Twenty-one unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of five unrelated importers on the basis of the largest volume of imports into the Union. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were consulted on the selection of the sample.

(37) One interested party commented that the sample of importers is not representative, since it does not cover importers from Denmark, Germany, Italy and the UK, and overly focused on importers buying city electric bicycles.

(38) However, the cooperating importers from Denmark, Germany and the UK were much smaller than the sampled importers, and no importers from Italy cooperated. Also, the sampled importers imported a wide range of products, including city electric bicycles, trekking electric bicycles, mountain electric bicycles and folding electric bicycles.

(39) The Commission also notes that the sample included the largest import volume which could reasonably be investigated within the time available.

(40) In light of the above, the Commission confirmed that the sample is representative of the cooperating importers.

1.5.3. *Sampling of exporting producers in the PRC*

(41) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of