Commission Implementing Regulation (EU) 2018/49 of 11 January 2018 amending Council Implementing Regulation (EU) No 501/2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from, inter alia, Tunisia, whether declared as originating in, inter alia, Tunisia or not, following a 'new exporter' review pursuant to Article 11(4) and 13(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

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amending Council Implementing Regulation (EU) No 501/2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from, inter alia, Tunisia, whether declared as originating in, inter alia, Tunisia or not, following a 'new exporter' review pursuant to Article 11(4) and 13(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**]**

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 Articles 11(4), 13(4) and 14(5) thereof,

Whereas:

A. MEASURES IN FORCE

(1) On 29 May 2013, by Regulation (EU) No 502/2013[(2)], the Council, following an interim review pursuant to Article 11(3) of the basic Regulation, amended Council Implementing Regulation (EU) No 990/2011[(3)] imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China ('the existing measures').

(2) On the same date, the Council, by Implementing Regulation (EU) No 501/2013[(4)] extended the measures to imports of bicycles originating in the People's Republic of China ('PRC') to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not ('the extended measures').

(3) On 18 May 2015 the Commission, by Implementing Regulation (EU) 2015/776[(5)], extended the measures to imports of bicycles originating in the PRC to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not.

B. CURRENT PROCEDURE

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/49. (See end of Document for details)*

1. **Request for a review**

(4) The Commission received a request for an exemption from the anti-dumping measures applicable to imports of bicycles originating in the PRC extended to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, pursuant to Articles 11(4) and 13(4) of the basic Regulation.

(5) The request was lodged on 13 September 2016 by Look Design System SA ('the applicant'), an exporting producer of bicycles in Tunisia ('the country concerned').

(6) The applicant alleged that it is not related to any of the exporters or producers in the country concerned which are subject to the extended measures on bicycles.

(7) Also, the applicant alleged that it did not export bicycles to the Union during the reporting period used in the investigation that led to the extended measures, namely the period from 1 September 2011 to 31 August 2012 ('original reporting period').

(8) In addition, the applicant alleged that it has not circumvented the existing measures.

(9) Finally, the applicant provided evidence that it has exported the product under review to the Union in August 2016.

2. **Initiation of a new exporter review**

(10) Having determined that sufficient evidence existed to justify the initiation of an investigation pursuant to Articles 11(4) and 13(4) of the basic Regulation for the purposes of determining the possibility of granting the applicant an exemption from the extended measures, and that the Union industry concerned had been given the opportunity to comment, the Commission initiated, by Implementing Regulation (EU) 2017/777[(6)], a review of Implementing Regulation (EU) No 501/2013 with regard to the applicant.

(11) Implementing Regulation (EU) 2017/777 repealed the anti-dumping duty on bicycles imposed by Implementing Regulation (EU) No 501/2013 with regard to imports of the product under review produced and sold for export to the Union by the applicant. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. **Product under review**

(12) The product under review is bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, currently falling within CN codes ex 8712 00 30 and ex 8712 00 70 (TARIC code 8712 00 30 10 and 8712 00 70 91).

4. **Parties concerned**

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/49. (See end of Document for details)*

(13) The Commission officially advised the Union industry, the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.

(14) The Commission sent an exemption form to the applicant and received a reply within the deadline set for that purpose.

(15) The Commission sought to verify all the information it deemed necessary for the determination of the new exporter status and the exemption request of the applicant from the extended measures. A verification visit was carried out at the premises of the applicant in Tunisia.

5. Reporting period and investigation period

(16) The reporting period extended from 1 April 2016 to 31 March 2017 and the investigation period covered the period from 1 January 2011 to 31 March 2017 relevant to assess the remedial effects of the measures.

C. RESULTS OF THE INVESTIGATION

1. ‘New exporter’ qualification

(17) The Commission examined whether the three conditions contained in Article 11(4) of the basic Regulation for granting new exporter status have been met.

(18) The investigation confirmed that the company had not exported the product under review during the original reporting period, which satisfies the first condition. The applicant also demonstrated that it did not have any links, direct or indirect, with any of the Tunisian exporting producers subject to the extended measure with regard to the product under review, which satisfies the second condition. Finally, the investigation showed that the applicant had started to export the product under review to the Union only after the original reporting period, thus satisfying the third condition.

(19) Accordingly, the Commission established that the company should be considered a ‘new exporter’ in accordance with Article 11(4) of the basic Regulation and thus the exemption request should be assessed accordingly.

2. Exemption request

(20) The sources of raw materials (bicycle parts) and the cost of production of the applicant were analysed to establish whether it was engaged in assembly operations in accordance with Article 13(2) of the basic Regulation.

(21) The investigation revealed that the bicycles exported to the Union during the reporting period did not include bicycle parts from the PRC. The parts mainly originated from other countries and the raw materials (bicycle parts) from the PRC constituted thus less than 60 % the total value of the parts of the assembled product (60/40 test).

(22) Consequently, as the applicant complied with the 60/40 test, it was not required to assess whether the value added to the parts brought in, during the assembly