Commission Implementing Regulation (EU) 2015/776 of 18 May 2015 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not

COMMISSION IMPLEMENTING REGULATION (EU) 2015/776

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation), and in particular Article 13 thereof,

Whereas:

1. **PROCEDURE**

1.1. **Existing measures**

(1) By Regulation (EEC) No 2474/93[(2)] the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China (China) (the original measures).

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1524/2000[(3)], decided that the above mentioned measures should be maintained.

(3) Following an interim review pursuant to Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 1095/2005[(4)], increased the anti-dumping duty in force to 48,5 %.

(4) In May 2013, following an interim review pursuant to Article 11(3) of the basic Regulation, the Council, by Regulation (EU) No 502/2013[(5)], decided to maintain the anti-dumping duty in force to 48,5 % except with regard to three companies to which individual duty rates were attributed (19,2 % for Zhejiang Baoguilai Vehicle Co. Ltd, 0 % for Oyama Bicycles (Taicang) Co. Ltd and 0 % for Ideal (Dongguan) Bike Co., Ltd) (the existing measures).

(5) In May 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, the Council, by Regulation (EU) No 501/2013[(6)],

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decided to extend the existing measures on imports of bicycles originating in China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia (the previous anti-circumvention investigation).

1.2. **Request**

(6) On 23 July 2014 the Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of bicycles originating in China and to make imports of bicycles consigned from Cambodia, Pakistan and the Philippines (countries under investigation) whether declared as originating in Cambodia, Pakistan and the Philippines or not, subject to registration.

(7) The request was lodged by the European Bicycle Manufacturers Association (EBMA) on behalf of 15 Union producers of bicycles.

1.3. **Initiation**

(8) Having determined, after having informed the Member States, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission decided to investigate the possible circumvention of the anti-dumping measures imposed on imports of bicycles originating in China and to make imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, subject to registration.

(9) The investigation was initiated by Commission Implementing Regulation (EU) No 938/2014 of 2 September 2014[7] (the initiating Regulation).

1.4. **Investigation**

(10) The Commission officially advised the authorities of China, Cambodia, Pakistan and the Philippines, the exporting producers in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation.

(11) Exemption forms were sent to the producers/exporters in Cambodia, Pakistan and the Philippines known to the Commission or through the Missions of Cambodia, Pakistan and the Philippines to the European Union. Questionnaires were sent to the producers/exporters in China known to the Commission or through the Mission of China to the European Union. Questionnaires were also sent to the known unrelated importers in the Union.

(12) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.

(13) The intervention of the Hearing Officer was requested in the investigation by the Pakistani company that cooperated in the investigation. The hearing took place on

23 March 2015. The evidentiary value of Forms A for the bicycle parts purchased from a related company in Sri Lanka via a trader as explained in recital 98 and the application, by analogy, of Article 13(2)(b) of the basic Regulation for those bicycle parts purchased from Sri Lanka were discussed during the hearing.

(14) Five producers/exporters in Cambodia, one in Pakistan and two in the Philippines submitted replies to the exemption forms. There was no cooperation from the Chinese exporting producers unrelated to the producers/exporters from the countries under investigation. Three unrelated importers in the Union submitted a questionnaire reply.

(15) The Commission carried out the verification visits at the premises of the following companies:

(a) producers in the countries concerned

— A and J (Cambodia) Co., Ltd, Sangkar Bavet, Krong Baver, Ket Svay Rieng, Cambodia,

— Asia Leader International (Cambodia) Co. Ltd, Svay Rieng Province, Cambodia,

— Opaltech (Cambodia) Co. Ltd, Khum Poek, Srok Angsnoul, Kandal Province, Cambodia,

— Smart Tech (Cambodia) Co., Ltd, Bavet City, Svay Rieng, Cambodia,

— Speedtech Industrial Co. Ltd and Bestway Industrial Co., Sangkat Bavet, Krong Bavet, Svay Rieng Province, Cambodia,

— Collie Cycle Inc., Cavite, the Philippines,

— Procycle Industrial Inc., Cavite, the Philippines;

(b) related producer of bicycle parts to the producer of bicycles in Pakistan

— Great Cycles (Pvt.) Ltd Katunayake, Sri Lanka.

1.5. Reporting period and investigation period

(16) The investigation period covered the period from 1 January 2011 to 31 August 2014. Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures and their extension to Indonesia, Malaysia, Sri Lanka and Tunisia in 2013 and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the reporting period from 1 September 2013 to 31 August 2014 in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

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(17) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of possible circumvention was made by analysing successively whether there was a change in the pattern of trade between China, the countries concerned, the countries subject to the previous anti-circumvention investigation and the Union; if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty; if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the product under investigation; and whether there was evidence of dumping in relation to the normal values previously established, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Product concerned and product under investigation**

(18) The product concerned is bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, currently falling within CN codes ex 8712 00 30 and ex 8712 00 70 and originating in China (the product concerned).

(19) The product under investigation is the same as that defined above but consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, currently falling within the same CN codes as the product concerned (the product under investigation).

(20) The investigation showed that bicycles, as defined above, exported from China to the Union and those consigned from Cambodia, Pakistan and the Philippines to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Degree of cooperation**

2.3.1. *Cambodia*

(21) During the reporting period six companies produced bicycles in Cambodia. Five cooperated and submitted a request for exemption in accordance with Article 13(4) of the basic Regulation. These five companies covered slightly more than 100 % of the total imports from Cambodia to the Union as reported in Comext[8]. However, the investigation showed that certain imports (namely to the Netherlands) could not be attributed to any of the cooperating companies as explained below in recitals 66 and 67. As a result, it was established that the cooperating companies covered 94 % of the total imports from Cambodia to the Union. One of the cooperating companies is related to a Tunisian company that was found circumventing the measures in the previous anti-circumvention investigation. The sixth company is related to a company in Sri Lanka subject to the measures extended under Regulation (EU) No 501/2013 and to the cooperating company in Pakistan mentioned in recital 22. It did not cooperate with the investigation.

2.3.2. *Pakistan*

(22) During the reporting period one company produced bicycles in Pakistan. That sole Pakistani company submitted a request for exemption in accordance with Article 13(4) of the basic Regulation and covered slightly more than 100 % of the total imports from Pakistan to the Union as reported in Comext. The company was considered to be cooperating. In agreement with the company, the verification visit took place in Sri Lanka, at the seat of its related supplier of parts.

2.3.3. *The Philippines*

(23) During the reporting period there were two companies producing bicycles in the Philippines. As explained in recitals 39 and 40, one of these companies was found to export to the Union market via two unrelated traders. One of the trading companies was also found to carry out similar operations with another company located in Sri Lanka during the previous anti-circumvention investigation.

(24) The two Filipino companies that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation covered slightly more than 100 % of the total imports from the Philippines to the Union as reported in Comext. Only one of these companies was considered fully cooperating.

(25) The cooperation of the second company was found to be insufficient for the following reasons.

(a) The company did not provide the information required in the exemption form within the time limits set; in particular it did not provide a detailed breakdown of the type of bicycle parts it purchased from China. Its related company in China did not submit any reply to the exporters' questionnaire.

(b) It has significantly impeded the investigation as it did not provide the relevant working sheets and other supporting documents necessary for the verification of the information provided in the exemption form during the on-spot verification; or such documents were only provided with significant time delays.

(c) It has supplied false or misleading information: First, the volume and the quality of the painting and of the chemical treatment of the frames identified at various stages of the verification visit was not compatible with the quantity of finished bicycles allegedly produced in the reporting period. Second, the absence of the raw materials for the production of frames available for inspection during the verification visit puts in question the company's claim of being a producer of frames. Third, in reply to the deficiency letter on 13 October 2014 the company provided information in the form of invoices in a large number of excel files that could not be reconciled with the previous information submitted concerning the purchase price of parts. Fourth, it submitted during the verification visit a second set of documents only on paper format for the purchases of parts which contained new information on alleged supplier of parts. Fifth, the investigation revealed that the export invoices and the corresponding certificates of origin did not mention the same