Council Implementing Regulation (EU) No 501/2013 of 29 May 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 Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not

COUNCIL IMPLEMENTING REGULATION (EU) No 501/2013

of 29 May 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 Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not

THE COUNCIL OF THE EUROPEAN UNION,

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,

Having regard to the proposal submitted by the European Commission ('the Commission') after having consulted the Advisory Committee,

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 ('the PRC'). Following an anti-circumvention investigation in accordance with Article 13 of the basic Regulation, this duty was extended by Council Regulation (EC) No 71/97[(3)] to imports of certain bicycles parts originating in the PRC. In addition, it was decided to create an 'exemption scheme' on the basis of Article 13(2) of the basic Regulation. The details of the scheme were provided for in Commission Regulation (EC) No 88/97[(4)].

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1524/2000[(5)], decided that the abovementioned 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[(6)], increased the anti-dumping duty in force to 48,5 %.

(4) In October 2011 following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Implementing Regulation (EU) No 990/2011[7], decided that the abovementioned measures should be maintained ('the existing measures').

(5) In March 2012 the Commission announced by a notice published in the *Official Journal of the European Union*[8] the initiation of an interim review of the anti-dumping measures concerning imports into the Union of bicycles originating in the PRC pursuant to Articles 11(3) and 13(4) of the anti-dumping basic Regulation.

(6) In May 2013 the Council, by Regulation (EU) No 502/2013[9], amended Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the PRC following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009.

(7) In April 2012 the Commission announced by a notice published in the *Official Journal of the European Union*[10] the initiation of an anti-subsidy proceeding with regard to imports into the Union of bicycles originating in the PRC pursuant to Article 10 of Council Regulation (EC) No 597/2009 of 11 June 2009[11].

(8) In November 2012 the Commission announced by a notice published in the *Official Journal of the European Union*[12] that the findings in the present investigation may be used in the anti-subsidy investigation mentioned in recital 7 above.

(9) In May 2013 the Commission by Decision 2013/227/EU[13], terminated the anti-subsidy proceeding mentioned in recital 7 above without imposing measures.

1.2. **Request**

(10) On 14 August 2012 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 the PRC and to make imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, subject to registration.

(11) The request was lodged by the European Bicycle Manufacturers Association (EBMA) on behalf of In Cycles — Montagem e Comercio de Bicicletas Lda., S.C. EUROSPORT DHS S.A. and MAXCOM Ltd, three Union producers of bicycles.

1.3. **Initiation**

(12) Having determined, after consulting the Advisory Committee, 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 the PRC and to make imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, subject to registration.

(13) The investigation was initiated on 25 September 2012 by Commission Regulation (EU) No 875/2012[14] ('the initiating Regulation').

(14) The prima facie evidence at the Commission's disposal showed a significant change in the pattern of trade involving exports from the PRC, Indonesia, Malaysia, Sri Lanka and Tunisia to the Union following the increase of the anti-dumping duty on imports of the product concerned by Council Regulation (EC) No 1095/2005 mentioned in recital 3. The change in the pattern of trade appeared to have occurred without sufficient due cause or justification other than the increase of the duty.

(15) This change appeared to stem from the transhipment of bicycles originating in the PRC via Indonesia, Malaysia, Sri Lanka and Tunisia to the Union and from assembly operations in Indonesia, Sri Lanka and Tunisia.

(16) Furthermore, the evidence pointed to the fact that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appeared to have replaced imports of the product concerned originating in the PRC. In addition, there was sufficient evidence that imports of the product under investigation were made at prices below the non-injurious price established in the investigation that led to the existing measures.

(17) Finally, there was evidence that the prices of the product under investigation were dumped in relation to the normal value previously established for the product concerned.

1.4. **Investigation**

(18) The Commission officially advised the authorities of the PRC, Indonesia, Malaysia, Sri Lanka and Tunisia, the producers/exporters in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation.

(19) Exemption forms were sent to the producers/exporters in Indonesia, Malaysia, Sri Lanka and Tunisia known to the Commission or through the Missions of Indonesia, Malaysia, Sri Lanka and Tunisia to the European Union. Questionnaires were sent to the producers/exporters in the PRC known to the Commission or through the Mission of the PRC to the European Union. Questionnaires were also sent to the known unrelated importers in the Union.

(20) 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.

(21) Four producers/exporters in Indonesia, one in Malaysia, six in Sri Lanka and two in Tunisia submitted replies to the exemption forms. There was no cooperation from

the Chinese producers/exporters. Three unrelated importers in the Union submitted a questionnaire reply.

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

— P.T. Insera Sena, Buduran, Sidoarjo, Indonesia,

— Wijaya Indonesia Makmur Bicycles Industries, Driyorejo, Gresik, Jawa Timur, Indonesia,

— P.T. Terang Dunia Internusa, Slipi, Jakarta Barat, Indonesia,

— P.T. Chin Haur, Tangerang, Indonesia,

— Tan Lan Venture Corporation Sdn Bhd, Kampar, Perak, Malaysia,

— Asiabike Industrial Limited, Henamulla, Panadura, Sri Lanka,

— BSH Ventures Limited, Colombo, Sri Lanka,

— City Cycle Industries, Colombo, Sri Lanka,

— Firefox Lanka (Pvt) Ltd, Weliketiya Pamunugama, Sri Lanka,

— Kelani Cycles Pvt Ltd, Katunayake, Sri Lanka,

— Samson Bikes (Pvt) Ltd, Colombo, Sri Lanka,

— Mediterranean United Industries, Bouhajar Monastir, Tunisia,

— euro Cycles, Sousse, Tunisia.

1.5. Reporting period and investigation period

(23) The investigation period covered the period from 1 January 2004 to 31 August 2012 (‘the IP’). Data were collected for the IP to investigate, inter alia, the alleged change in the pattern of trade following the increase of the anti-dumping duty in 2005. More detailed data were collected for the reporting period from 1 September 2011 to 31 August 2012 (‘the RP’) in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

(24) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether there was a change in the pattern of trade between the PRC, the four countries concerned 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

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

(26) The product under investigation is the same as that defined above but consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, currently falling within the same CN codes as the product concerned ('the product under investigation').

(27) The investigation showed that bicycles, as defined above, exported from the PRC to the Union and those consigned from Indonesia, Malaysia, Sri Lanka and Tunisia 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 and determination of the trade volumes**

2.3.1. *Indonesia*

(28) The four Indonesian companies that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation represented 91 % of the total imports from Indonesia to the Union during the RP. The overall import volumes from Indonesia were established on the basis of the data from Comext[(15)].

(29) The data submitted by one company was unverifiable as the company claimed that it kept no working sheets used to fill in the exemption form. Therefore, the company was unable to explain and demonstrate how the reported figures were obtained. Moreover, the data submitted by the company proved to be unreliable as the reported figures that were tested and recalculated on the basis of the bookkeeping available at the company's premises were found inaccurate (e.g. purchases, production volume). The investigation revealed furthermore that the sales manager of the company was in fact in the same time employed by a Chinese producer of bicycles which was the main supplier of the raw material (bicycle parts) of the Indonesian company.

(30) Therefore, in accordance with Article 18(4) of the basic Regulation, the company was informed of the intention to disregard the information submitted by it and was granted a time limit to provide its comments.

(31) The company stated that it was very cooperative by providing all the documents requested apart from the working sheets which allegedly were not requested before. However, the working sheets were requested in the pre-verification letter sent to the company prior to the on-spot verification. Moreover, the company claimed that the calculation of the production and purchases values was affected by wrong explanations from a worker and that the checking of the export transactions was accurate. In this regards, it should be pointed out that in spite of several explanations from the workers, in the end it was not possible to reconcile the numbers provided on-spot with the numbers submitted in the exemption form. As concerns the value of the export sales, the reconciliation was indeed accurate. Furthermore, during the verification visit the