

- (⁶) Commission Implementing Regulation (EU) No 542/2013 of 13 June 2013 on the minimum customs duty for sugar to be fixed in response to the fourth partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 36/2013 (OJ 2013 L 162, p. 7)
- (⁷) Commission Implementing Regulation (EU) No 36/2013 of 18 January 2013 opening a standing invitation to tender for the 2012/2013 marketing year for imports of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty (OJ 2013 L 16, p. 7)
- (⁸) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (OJ 2007 L 299, p. 1)
- (⁹) Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector (OJ 2006 L 58, p. 1)
- (¹⁰) Commission Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2011 L 282, p. 1)

Action brought on 9 August 2013 — Chin Haur Indonesia v Council

(Case T-412/13)

(2013/C 274/43)

Language of the case: English

Parties

Applicant: Chin Haur Indonesia, PT (Tangerang, Indonesia) (represented by: T. Müller-Ibold and F.-C. Laprévotte, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- Partially annul Articles 1(1) and 1(3) of the Council Implementing Regulation (EU) No 501/2013 (¹) as far as they extend the anti-dumping duty to the applicant and deny the applicant's exemption request;
- Order the Council to pay the applicant's legal and other costs and expenses in relation to this matter; and
- Take any other measures that the Court considers appropriate.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the Commission and the Council failed to demonstrate circumvention with respect to Indonesian imports and thus committed a manifest error of assessment, as:
 - The conclusion that a change in the pattern of trade had occurred is manifestly erroneous;
 - The Council wrongly asserted that Indonesian producers, in particular the applicant, were transshipping bicycles from China to EU.
2. Second plea in law, alleging that the Council wrongly found that the applicant was non-cooperative and that such non-cooperation justified a denial of its exemption, as:
 - The applicant cooperated to the best of its ability;
 - The finding of non-cooperation is unwarranted;
 - The Council's finding of non-cooperation constitutes a failure to state reasons;
 - The Council failed to take into account additional information provided by the applicant.
3. Third plea in law, alleging that the applicant's due process rights have been violated in the investigation, as:
 - The Commission did not abide by its obligation to consider impartially the evidence before it;
 - The Commission's investigation contained procedural irregularities.
4. Fourth plea in law, alleging that the denial to grant the applicant an exemption constitutes a violation of the principle of equal treatment, as:
 - The Commission discriminated against the applicant by granting an exemption to similarly-placed exporters and by refusing the applicant's exemption request;
 - The applicant was wrongly granted the same treatment as completely non-cooperating producers.
5. Fifth plea in law, alleging that the Implementing Regulation's findings on injury and dumping are inconsistent with the basic anti-dumping regulation, as:
 - The finding of an undermining of the remedial effect of the anti-dumping duty is erroneous.

— The Commission established dumping through unreliable and unsuitable data and wrongly refused to consider data on prices submitted by the applicant.

(¹) 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 (OJ 2013 L 153, p. 1)

Action brought on 9 August 2013 — City Cycle Industries v Council

(Case T-413/13)

(2013/C 274/44)

Language of the case: English

Parties

Applicant: City Cycle Industries (Colombo, Sri Lanka) (represented by: T. Müller-Ibold and F.-C. Laprévote, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- Partially annul Articles 1(1) and 1(3) of the Council Implementing Regulation (EU) No 501/2013 (¹) as far as they extend the anti-dumping duty to the applicant and deny the applicant's exemption request;
- Order the Council to pay the applicant's legal and other costs and expenses in relation to this matter; and
- Take any other measures that the Court considers appropriate.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the Commission and the Council failed to demonstrate circumvention with respect to Sri Lanka imports and thus committed a manifest error of assessment, as:
 - The conclusion that a change in the pattern of trade had occurred is manifestly erroneous;

— The Council wrongly asserted that Sri Lanka producers, in particular the applicant, were transshipping bicycles from China to EU.

2. Second plea in law, alleging that the Council wrongly found that the applicant was non-cooperative and that such non-cooperation justified a denial of its exemption, as:
 - The applicant cooperated to the best of its ability;
 - The finding of non-cooperation is unwarranted;
 - The Council's finding of non-cooperation constitutes a failure to state reasons;
 - The Council failed to take into account additional information provided by the applicant.

3. Third plea in law, alleging that the applicant's due process rights have been violated in the investigation, as:
 - The Implementing Regulation violates the principles of diligence and sound administration;
 - The incomplete file shared with the applicant amounts to a violation of the applicant's rights of defence.

4. Fourth plea in law, alleging that the denial to grant the applicant an exemption constitutes a violation of the principle of equal treatment, as:
 - The Commission discriminated against the applicant by granting an exemption to similarly-placed exporters and by refusing the applicant's exemption request;
 - The applicant was wrongly granted the same treatment as completely non-cooperating producers.

5. Fifth plea in law, alleging that the Implementing Regulation's findings on injury and dumping are inconsistent with the basic anti-dumping regulation, as:
 - The finding of an undermining of the remedial effect of the anti-dumping duty is erroneous.
 - The finding of dumping in the implementing regulation is also erroneous.

(¹) 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 (OJ 2013 L 153, p. 1)