

## PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

### EUROPEAN COMMISSION

#### Notice of initiation of an interim review of the anti-dumping measures applicable to imports of bicycles originating in the People's Republic of China

(2012/C 71/07)

The European Commission (the Commission) has decided on its own initiative to initiate an interim review investigation of the anti-dumping measures applicable to imports of bicycles originating in the People's Republic of China pursuant to Articles 11(3) and 13(4) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> (the basic Regulation).

#### 1. Product

The product subject to this review investigation is bicycles and other cycles (including delivery tricycles but excluding unicycles), not motorised (the product under review). The product previously found to have been dumped <sup>(2)</sup> is the product under review originating in the People's Republic of China (the country concerned), currently falling within CN codes 8712 00 30 and ex 8712 00 70.

#### 2. Existing measures

By Regulation (EEC) No 2474/93 <sup>(3)</sup> the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China.

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 <sup>(4)</sup> to imports of certain bicycle parts originating in the People's Republic of China. In addition, it was decided that an exemption scheme should be created on the basis of Article 13(2) of the basic Regulation (the exemption scheme). The legal framework for the operation of the exemption scheme was provided for in Commission Regulation (EC) No 88/97 <sup>(5)</sup>. In order to receive an exemption from the extended duty, bicycle producers in the

Union have to respect a ratio of less than 60 % of Chinese bicycle parts in their operation or the addition of more than 25 % value to all parts brought into the operation. At present more than 250 companies benefit from an exemption.

Following an interim review investigation pursuant to Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 1095/2005 <sup>(6)</sup>, decided to increase the anti-dumping duty in force to 48,5 % (the amending interim review).

Following a review of the extension of the anti-dumping duty imposed on imports of bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China pursuant to Article 11(3) and Article 13(4) of the basic Regulation, the Council, by Regulation (EC) No 171/2008 <sup>(7)</sup>, decided to maintain the anti-circumvention measures.

Following an expiry review investigation pursuant to Article 11(2) of the basic Regulation, the Council, by Council Implementing Regulation (EU) No 990/2011 <sup>(8)</sup>, decided that the above mentioned measures should be maintained.

#### 3. Grounds for the review

The Commission has at its disposal sufficient prima facie evidence that, as far as dumping and injury are concerned, the circumstances on the basis of which the existing measures were imposed might have changed and that these changes may be of a lasting nature.

In particular, the information at the disposal of the Commission indicates that the export quota system that applied to bicycle producers in the People's Republic of China and that hindered the exporting producers in being granted market economy treatment in the amending interim review, has been abolished in January 2011.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> Dumping is the practice of selling a product for export (the product concerned) at a price below its 'normal value'. The normal value is usually taken to be a comparable price for the 'like' product on the domestic market of the country concerned. The term 'like product' is interpreted to mean a product which is alike in all respects to the product concerned or, in the absence of such a product, a product which closely resembles the product.

<sup>(3)</sup> OJ L 228, 9.9.1993, p. 1.

<sup>(4)</sup> OJ L 16, 18.1.1997, p. 55.

<sup>(5)</sup> OJ L 17, 21.1.1997, p. 17.

<sup>(6)</sup> OJ L 183, 14.7.2005, p. 1.

<sup>(7)</sup> OJ L 55, 28.2.2008, p. 1.

<sup>(8)</sup> OJ L 261, 6.10.2011, p. 2.

Furthermore, changes to the structure of the Union industry have taken place. In particular, several Union producers switched from the complete cycle of production to (partial) assembly operations using imported parts.

Moreover, due to the EU enlargements of 2004 and 2007, a significant number of producers joined the Union bicycle industry. In addition several producers which had been part of the EU industry before the two enlargement rounds moved their production facilities or set up new facilities in the new Member States. As a result, the cost level of the Union industry might have changed.

Finally, the present injury elimination level was calculated on the basis of bicycles made out of steel whereas it appears that currently the majority of bicycles are made of aluminium alloys. All these developments appear to be of a lasting nature and therefore substantiate the need to reassess the injury findings.

Moreover, the number of companies benefiting from the exemption scheme is rapidly growing, without the scheme having been adapted since its introduction in 1997. In addition, the monitoring system of the imports of parts exempted from the anti-dumping measures has become highly complex and burdensome, which might endanger its effectiveness.

Based on the above, it appears that the continued imposition of measures at the existing level may no longer be appropriate to offset the effects of injurious dumping.

#### 4. Procedure

Having determined, after consulting the Advisory Committee, that there is sufficient evidence to justify the initiation of an interim review investigation, the Commission hereby initiates a review investigation in accordance with Articles 11(3) and 13(4) of the basic Regulation.

The review investigation will assess whether the continued imposition of the measure is no longer necessary to offset dumping and whether the injury would be unlikely to continue or recur if the measure were removed or varied or whether the existing measure is not, or is no longer, sufficient to counteract the dumping which is causing injury.

The review investigation will thus determine whether there is a need for the continuation, removal or amendment of the existing measures.

Furthermore, the review investigation will also assess the exemption scheme and its functioning and will determine whether there is a need for any change thereto.

##### 4.1. Procedure regarding dumping <sup>(9)</sup>

Exporting producers <sup>(10)</sup> of the product under review from the country concerned, including those that did not cooperate in

the investigations which led to the amendment and maintaining of the measures in force, are invited to participate in the Commission review investigation.

##### 4.1.1. Investigating exporting producers

##### 4.1.1.1. Procedure for selecting exporting producers to be investigated in the country concerned

###### (a) Sampling

In view of the potentially large number of exporting producers in the country concerned involved in this proceeding and in order to complete the review investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company or companies requested in Annex A to this Notice.

In order to obtain the information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of the country concerned and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned if appropriate, of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers, and to the authorities of the country concerned.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

<sup>(9)</sup> See footnote 2.

<sup>(10)</sup> An exporting producer is any company in the country concerned which produces and exports the product under review to the Union market, either directly or via third party, including any of its related companies involved in the production, domestic sales or exports of the product concerned.

The questionnaire will contain information on, inter alia, the structure of the exporting producer's company(ies), the activities of the company(ies) in relation to the product under review, the cost of production, the sales of the product under review on the domestic market of the country concerned and the sales of the product under review to the Union.

Companies that had agreed to their possible inclusion in the sample but were not selected to be in the sample shall be considered to be cooperating (non-sampled cooperating exporting producers). Without prejudice to paragraph (b) below, the anti-dumping duty that may be applied to imports from the non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample <sup>(11)</sup>.

(b) Individual dumping margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 17(3) of the basic Regulation, that the Commission establish their individual dumping margins (individual dumping margin). The exporting producers wishing to claim an individual dumping margin must request a questionnaire and other applicable claim forms and return them duly completed within the deadlines specified in the following sentence and in Section 4.1.2.2 below. The completed questionnaire reply must be submitted within 37 days of the date of the notification of the sample selection, unless otherwise specified. It must be underlined that, in order for the Commission to be able to establish individual dumping margins for those exporting producers in the non-market economy country, it must be proven that they fulfil the criteria for being granted market economy treatment (MET) or at least individual treatment (IT) as specified in Section 4.1.2.2. below.

However, exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the review investigation.

4.1.2. *Additional procedure with regard to exporting producers in the non-market economy country concerned*

4.1.2.1. Selection of a market economy third country

Subject to the provisions of Section 4.1.2.2 below, in accordance with Article 2(7)(a) of the basic Regulation, in the case of imports from the country concerned normal value shall be determined on the basis of the price or constructed value in

<sup>(11)</sup> Pursuant to Article 9(6) of the basic Regulation, any zero and *de minimis* margins, and margins established in accordance with the circumstances described in Article 18 of the basic Regulation shall be disregarded.

a market economy third country. For this purpose, the Commission shall select an appropriate market economy third country. The Commission has provisionally chosen Mexico, which was also chosen in the investigations which led to the amendment and maintaining of the measures in force on imports of the product under review from the country concerned. Interested parties are hereby invited to comment on the appropriateness of this choice within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

4.1.2.2. Treatment of exporting producers in the non-market economy country concerned

In accordance with Article 2(7)(b) of the basic Regulation, individual exporting producers in the country concerned, which consider that market economy conditions prevail for them in respect of the manufacture and sale of the product under review, may submit a properly substantiated claim to this effect (MET claim). Market economy treatment (MET) will be granted if the assessment of the MET claim shows that the criteria laid down in Article 2(7)(c) of the basic Regulation <sup>(12)</sup> are fulfilled. The dumping margin of the exporting producers granted MET will be calculated, to the extent possible and without prejudice to the use of facts available pursuant to Article 18 of the basic Regulation, by using their own normal value and export prices in accordance with Article 2(7)(b) of the basic Regulation.

Individual exporting producers in the country concerned may also, or as an alternative, claim individual treatment (IT). To be granted IT these exporting producers must provide evidence that they fulfil the criteria set out in Article 9(5) of the basic Regulation <sup>(13)</sup>. The dumping margin of the exporting producers granted IT will be calculated on the basis of their own export prices. The normal value for exporting producers granted IT will be based on the values established for the market economy third country selected as outlined above.

Additional important information can be found in Section 9 of this notice.

<sup>(12)</sup> The exporting producers have to demonstrate in particular that: (i) business decisions and costs are made in response to market conditions and without significant State interference; (ii) firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes; (iii) there are no significant distortions carried over from the former non-market economy system; (iv) bankruptcy and property laws guarantee legal certainty and stability; and (v) exchange rate conversions are carried out at market rates.

<sup>(13)</sup> The exporting producers have to demonstrate in particular that: (i) in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits; (ii) export prices and quantities and conditions and terms of sale are freely determined; (iii) the majority of the shares belong to private persons — State officials appearing on the Board of Directors or holding key management positions shall either be in a minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference; (iv) exchange rate conversions are carried out at the market rate; and (v) State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

## (a) Market economy treatment (MET)

The Commission will send MET claim forms to all the exporting producers in the country concerned selected to be in the sample and to non-sampled cooperating exporting producers that wish to apply for an individual dumping margin, to any known association of exporting producers, as well as to the authorities of the country concerned.

All exporting producers claiming MET must submit a completed MET claim form within 21 days of the date of the notification of the sample selection or of the decision not to select a sample, unless otherwise specified.

## (b) Individual treatment (IT)

To apply for IT, exporting producers in the country concerned selected to be in the sample and non-sampled cooperating exporting producers that wish to apply for an individual dumping margin must submit the MET claim form with the sections relevant for IT duly completed within 21 days of the date of the notification of sample selection, unless otherwise specified.

4.1.3. Investigating unrelated importers<sup>(14)</sup> <sup>(15)</sup>

Unrelated importers of the product under review from the country concerned to the Union, including those that did not cooperate in the investigations which led to the amendment and maintaining of the measures in force, are invited to participate in the Commission review investigation.

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the review investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

<sup>(14)</sup> Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex I to the questionnaire for these exporting producers. In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

<sup>(15)</sup> The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company or companies requested in Annex B to this Notice.

In order to obtain the information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under review in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified. The completed questionnaire will contain information on, inter alia, the structure of their company(ies), the activities of the company(ies) in relation to the product under review and on the sales of the product under review.

4.2. Procedure regarding injury<sup>(16)</sup> and investigating Union producers

Union producers of the product under review, including those that did not cooperate in the investigations which led to the amendment and maintaining of the measures in force, are invited to participate in the Commission review investigation.

In view of the large number of Union producers involved in this proceeding and in order to complete the review investigation within the statutory time limits, the Commission has decided to limit to a reasonable number the Union producers

<sup>(16)</sup> Injury means material injury to the Union industry, or threat of material injury to the industry, or material retardation of the establishment of such an industry.

that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling is carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all Union producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company or companies requested in Annex C to this Notice.

In order to obtain the information it deems necessary for the selection of the sample of Union producers, the Commission may also contact any known associations of Union producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the Union producers may be selected based on the largest representative volume of sales of the product under review in the Union which can reasonably be investigated within the time available. All known Union producers and/or associations of Union producers will be notified by the Commission of the companies finally selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled Union producers and to any known association of Union producers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified. The completed questionnaire will contain information on, inter alia, the structure of their company(ies), the financial situation of the company(ies), the activities of the company(ies) in relation to the product under review, the cost of production and the sales of the product under review.

#### **4.3. Procedure for the assessment of Union interest**

A decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether maintaining, amending or repealing the anti-dumping measures would be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the review investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under review.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

#### **4.4. Procedure as regards the exemption scheme**

Without prejudice to the outcome of the current review, interested parties are hereby invited to comment on the current functioning and possible future model of the exemption scheme. Such comments should in particular relate to the operation and management of the exemption scheme in its current form. In this relation, the current review will focus in particular on challenges faced by the small and medium-sized enterprises.

Interested parties may provide the Commission with comments on the exemption scheme within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

#### **4.5. Other written submissions**

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.

#### **4.6. Possibility to be heard by the Commission investigation services**

All interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the review investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard should be submitted within the specific deadlines set by the Commission in its communication with the parties.

#### **4.7. Instructions for making written submissions and sending completed questionnaires and correspondence**

Interested parties are required to make all submissions and requests in electronic format (the non-confidential submissions via e-mail, the confidential ones on CD-R/DVD), and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. However, any powers of attorney, signed certifications, and any updates thereof, accompanying MET and IT claim forms or questionnaire replies shall be submitted on paper, i.e. by post or by hand, at the address below. If an interested party cannot provide its submissions and

requests in electronic format, it must immediately contact the Commission pursuant to Article 18(2) of the basic Regulation. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade (<http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>).

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: N105 04/092  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

Fax +32 22985353

E-mail: TRADE-R546-BICYCLES-A@ec.europa.eu  
(to be used by exporters, related importers, associations and representatives of the People's Republic of China, producers in the market economy third country)

TRADE-R546-BICYCLES-B@ec.europa.eu  
(to be used by Union producers, unrelated importers, users, consumers, associations in the Union)

## 5. Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

## 6. Hearing Officer

Interested parties may request the intervention of the Hearing Officer of the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes on the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the review investigation, the request must be submitted

within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among others, to dumping, injury, causal link and Union interest.

For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website ([http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index\\_en.htm](http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm)).

## 7. Schedule of the review investigation

The review investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

## 8. Processing of personal data

Any personal data collected in this review investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(17)</sup>.

## 9. Important information for exporting producers in the People's Republic of China: implications of the WTO Appellate Body Report EC — Anti-dumping measures on fasteners (WT/DS397) on the way in which the Commission will conduct this review investigation

The Commission encourages all exporting producers from the country concerned which is considered to be a non-market economy country in view of the provisions of Article 2(7) of the basic Regulation, to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, if they are interested in cooperating and obtaining an individual anti-dumping duty, even if they consider that they do not comply with the criteria for obtaining IT. The Commission draws their attention to the following<sup>(18)</sup>.

In EC — Certain Iron or Steel fasteners from China (WT/DS397), the WTO Appellate Body found, inter alia, that Article 9(5) of the basic Regulation is inconsistent with certain provisions of the WTO Anti-Dumping Agreement and with Article XVI:4 of the WTO Agreement.

<sup>(17)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(18)</sup> Should sampling for exporting producers be deemed necessary, an individual anti-dumping duty will only be determined for those exporting producers either: (i) selected to be in the sample, or (ii) for which an individual dumping margin has been determined pursuant to Article 17(3) of the basic Regulation.

Article 2 of Council Regulation (EC) No 1515/2001 of 23 July 2001 on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters <sup>(19)</sup> (the enabling Regulation) provides that the Council of the European Union may, inter alia, amend Union measures taken pursuant to the basic Regulation in order to take into account the legal interpretations made in a report adopted by the WTO Dispute Settlement Body with regard to a non-disputed measure, if it considers this appropriate.

Therefore, should the review investigation which is initiated by the present Notice of initiation result in the amendment of the anti-dumping measures in force, in the Commission's view the aforementioned Article 2 would constitute a legal basis for complying with the legal interpretations developed by the Appellate Body in the above mentioned dispute. This would

imply, in more practical terms, that if an exporting producer came forward within the deadline set out above and fully cooperated by furnishing all relevant information but did not apply for IT, or applied but was found not to fulfil the criteria, the aforementioned Article 2 of the enabling Regulation could serve, in duly justified cases, as a legal basis for determining for that exporting producer an individual duty. In examining this question, the Commission will take account of the reasoning of the Appellate Body in the above mentioned dispute, and in particular of the elements discussed in paragraphs 371-384 of its report.

Operators obtaining an individual duty on the basis of this part of this Notice of initiation should be aware that the findings may result in an increase in the duty compared to the one that would apply if no individual duty had been determined.

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<sup>(19)</sup> OJ L 201, 26.7.2001, p. 10.

## ANNEX A

<input type="checkbox"/>	Limited version <sup>(1)</sup>
<input type="checkbox"/>	Version for inspection by interested parties
(tick the appropriate box)	

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF BICYCLES ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN THE PEOPLE'S REPUBLIC OF CHINA**

This form is designed to assist exporting producers in the People's Republic of China in responding to the sampling information requested in point 4.1.1.1(a) of the Notice of initiation.

Both the 'Limited version' and the 'Version for inspection by interested parties' should be returned to the Commission as set out in the Notice of initiation.

**1. IDENTITY AND COMMUNICATION**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the turnover in the accounting currency of the company during the period from 1 January 2011 until 31 December 2011 for sales (export sales to the Union for each of the 27 Member States <sup>(2)</sup> applicable separately and in total, domestic sales and export sales to countries other than Member States of the Union for each country applicable separately and in total) of bicycles as defined in the Notice of initiation and the corresponding volume in units. State the currency used.

	Volume units		Value in accounting currency
The unit of measurement used in this table is units State the currency used in this table			
Export sales to the Union, for each of the 27 Member States <sup>(3)</sup> separately and in total, of the product under review, manufactured by your company	Total		
	Name each Member State <sup>(4)</sup>		
Domestic sales of the product under review, manufactured by your company			

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

<sup>(2)</sup> The 27 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

<sup>(3)</sup> See footnote 2.

<sup>(4)</sup> Add additional rows where necessary.

	Volume units		Value in accounting currency
	Export sales to countries other than Member States of the Union (separately and in total) of the product under review, manufactured by your company	Total	
Name each country <sup>(5)</sup>			

### 3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(6)</sup>

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include, but are not limited to, purchasing the product under review or producing it under subcontracting arrangements, as well as processing or trading product under review etc.

Company name and location	Activities	Relationship

### 4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

### 5. INDIVIDUAL EXAMINATION

The company declares that, in the event that it is not selected to be in the sample, it would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual dumping margin in accordance with Section 4.1.1.1(b) of the Notice of initiation.

Yes

No

### 6. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that party than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

<sup>(5)</sup> See footnote 4.

<sup>(6)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

## ANNEX B

<input type="checkbox"/>	Limited version <sup>(1)</sup>
<input type="checkbox"/>	Version for inspection by interested parties
(tick the appropriate box)	

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF BICYCLES ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS**

This form is designed to assist unrelated importers in responding to the sampling information requested in point 4.1.3 of the notice of initiation.

Both the 'Limited version' and the 'Version for inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

**1. IDENTITY AND COMMUNICATION**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the total turnover in euros (EUR) of the company, and the turnover and volume for imports into the Union <sup>(2)</sup> and resales on the Union market after importation from the People's Republic of China, during the period from 1 January 2011 until 31 December 2011, of bicycles as defined in the notice of initiation and the corresponding volume.

	Volume units	Value in euros (EUR)
The unit of measurement used in this table is units		
Total turnover of your company in euros (EUR)		
Imports of the product under review into the Union		
Resales on the Union market after importation from the People's Republic of China of the product under review		

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

<sup>(2)</sup> The 27 Member States of the European Union are: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and United Kingdom.

### 3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include, but are not limited to, purchasing the product under review or producing it under subcontracting arrangements, as well as processing or trading the product under review etc.

Company name and location	Activities	Relationship

### 4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

### 5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that party than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

\_\_\_\_\_

<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context, 'person' means any natural or legal person.

## ANNEX C

<input type="checkbox"/>	Limited version <sup>(1)</sup>
<input type="checkbox"/>	Version for inspection by interested parties
(tick the appropriate box)	

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF BICYCLES ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNION PRODUCERS**

This form is designed to assist Union producers in responding to the sampling information requested in point 4.2.1 of the notice of initiation.

Both the 'Limited version' and the 'Version for inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

**1. IDENTITY AND COMMUNICATION**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the turnover in euros (EUR) of the company for sales on the Union <sup>(2)</sup> market and the corresponding volume, and the volume of production and imports into the Union from the People's Republic of China, during the period from 1 January 2011 until 31 December 2011, of bicycles as defined in the notice of initiation. Indicate the number of employees in the Union dealing with bicycles as defined in the notice of initiation during the period from 1 January 2011 until 31 December 2011.

	Volume (units)	Value in euros (EUR)	Number of persons
The unit of measurement used in this table is units			
Sales of the product under review on the Union market			
Production in the Union of the product under review of which captive use <sup>(3)</sup>			
Imports into the Union of the product under review produced in the People's Republic of China			
Employees in the Union dealing with the product under review			

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

<sup>(2)</sup> The 27 Member States of the European Union are: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and United Kingdom.

<sup>(3)</sup> Production for captive use is either transferred or sold captively, i.e. without entering the free market. Captive transfers are internal transfers of the product, which do not enter the free market, because the product is used by an integrated producer for further processing, transformation or assembly by different units of the same legal entity. These internal transfers are characterised by the fact that no commercial invoices are issued. Captive sales are sales which do not enter the free market, because the product is used for further processing, transformation or assembly by a separate legal entity which is a related company and at least one of the following is true: (i) the sales are not made at market prices; or (ii) the buyer does not have a free choice of supplier (Please contact Mr Alain Gerzat (+32 22954570) if you have further questions on this issue).

### 3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include, but are not limited to, purchasing the product under investigation or producing it under sub-contracting arrangements, as well as processing or trading product under investigation etc.

Company name and location	Activities	Relationship

### 4. SMALL OR MEDIUM SIZED ENTERPRISES (SMES)

Is your company a small or medium-sized enterprise (SME) <sup>(2)</sup>?

Yes

No

### 5. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

### 6. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating Union producers are based on the facts available and the result may be less favourable to that party than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

\_\_\_\_\_

<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context, 'person' means any natural or legal person.

<sup>(2)</sup> According to the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36), a company qualifies as an SME if: 1. it employs less than 250 persons (including managers, etc.); and 2. it has an annual turnover not exceeding EUR 50 million and/or its annual balance sheet does not exceed EUR 43 million. Please note that the previously mentioned figures (employees, turnover and balance sheet) refer to the consolidated data of the company in question and its partners and/or linked companies proportionally aggregated to the percentage interest in the capital or voting rights, and are not limited to the product concerned. For further explanations please consult the new SME user guide in [http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)