

COUNCIL REGULATION (EC) No 1892/2005

of 14 November 2005

terminating the partial interim review of the anti-dumping measures applicable to imports of bicycles originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (basic Regulation), and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

- (1) On 9 September 1993, the Council, by Regulation (EEC) No 2474/93 ⁽²⁾ imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China (the PRC), (the original measures). On 18 January 1997, following an anti-circumvention investigation, this duty was extended by Council Regulation (EC) No 71/97 to imports of certain bicycle parts originating in the PRC.
- (2) On 14 July 2000, 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 abovementioned measures should be maintained.
- (3) On 14 July 2005, following an interim review pursuant to Article 11(3) of the basic Regulation (the previous investigation), the Council by Regulation (EC) No 1095/2005, amended the definitive anti-dumping duty on imports of bicycles originating in the PRC. The amended rate of the duty applicable to the net, free-at-Community-frontier price, before duty, is 48,5 % for imports of bicycles originating in the PRC.

2. Current investigation

- (4) The Commission received a request lodged by Giant China Co., Ltd (the applicant) for a partial interim review pursuant to Article 11(3) of the basic Regulation.

- (5) The request was based on the *prima facie* evidence, provided by the applicant, that the circumstances on the basis of which measures were established have changed and that these changes are of lasting nature. The applicant alleged, *inter alia*, that the circumstances with regard to market economy status (MES) had changed significantly. In particular, the applicant claimed that it now fulfilled the requirements to be granted MES pursuant to Article 2(7)(b) of the basic Regulation. Furthermore, the applicant provided evidence showing that a comparison of normal value based on its own cost/domestic prices and its export prices to the enlarged European Union, would lead to a dumping margin significantly below the level of the current measure. Accordingly, the applicant alleged that the continued imposition of the measure at its current level was no longer necessary to offset dumping.

- (6) The Commission, after consulting the Advisory Committee, initiated on 19 February 2005 by a notice ⁽⁴⁾ a partial interim review limited in scope to the examination of whether the applicant operated under market economy conditions as defined in Article 2(7)(c) of the basic Regulation or alternatively whether the applicant fulfilled the requirements to have an individual duty in accordance with Article 9(5) of the basic Regulation.

- (7) The Commission sent a questionnaire and a claim form for MES pursuant to Article 2(7) of the basic Regulation to the applicant.

- (8) The investigation covered the period from 1 January 2004 to 31 December 2004 (hereinafter referred to as investigation period or IP).

3. Parties concerned by the investigation

- (9) The Commission officially advised the exporting producer, the representatives of the exporting country and the Community producers of the initiation of the review. Interested parties were given the opportunity to make their views known in writing, to submit information and to provide supporting evidence and to request a hearing within the time-limit set out in the notice of initiation. All interested parties who so requested and showed that there were reasons why they should be heard were granted a hearing.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 228, 9.9.1993, p. 1. Regulation as last amended by Regulation (EC) No 71/97 (OJ L 16, 18.1.1997, p. 55).

⁽³⁾ OJ L 175, 14.7.2000, p. 39. Regulation as last amended by Regulation (EC) No 1095/2005 (OJ L 183, 14.7.2005, p. 1).

⁽⁴⁾ OJ C 44, 19.2.2005, p. 24.

B. PRODUCT CONCERNED

- (10) The product concerned is the same as that covered by the original and previous investigations, namely bicycles and other cycles (including delivery tricycles), not motorised, currently classifiable within CN codes 8712 00 10, 8712 00 30 and 8712 00 80 (product concerned). No evidence was found suggesting that circumstances with regard to the product concerned had significantly changed since the imposition of the measures.

C. RESULT OF THE INVESTIGATION**1. Market Economy Status (MES)**

- (11) In the framework of the investigation which was concluded by Regulation (EC) No 1095/2005, it was established that all the Chinese exporting producers applying for MES did not meet the criteria set in Article 2(7)(c) of the basic Regulation, for the reasons set out in recitals 31 to 33 of the said Regulation. The applicant was amongst the companies denied MES within the framework of that investigation.
- (12) In view of the fact that findings regarding the MES claims of the previous investigation remain valid also for the year 2004, i.e. the IP of the current investigation, it was decided, after consulting the Advisory Committee, not to grant MES to the applicant, since it did not meet the criteria set in Article 2(7)(c) of the basic Regulation.

2. Individual treatment (IT)

- (13) In the framework of the previous investigation it was also concluded that the Chinese exporting producers having applied for IT did not meet the necessary requirements for individual treatment as set out in Article 9(5) of the basic Regulation for the reasons set out in recitals 45 to 47 of Regulation (EC) No 1095/2005.

- (14) The applicant was amongst the companies that did not meet the necessary requirements for individual treatment in the framework of the previous investigation and the findings of that investigation remain valid also for the IP of the current investigation. In this respect, it was established, that all PRC exporting producers were subject to significant State control with regard to determining their export prices and quantities of the product concerned as explained in recital 13. It was, therefore, concluded that the applicant does not meet the requirements for individual treatment in the framework of the current investigation.

3. Conclusion

- (15) Given the above, neither MES nor IT could be granted to the applicant. On this basis, it is considered that, in the case of the applicant, the circumstances with regard to dumping have not changed significantly compared to the situation prevailing during the investigation period used in the investigation which led to the amended measures. Therefore, it is concluded that the partial interim review of the anti-dumping measures applicable to imports into the Community of bicycles originating in the People's Republic of China should be terminated without amending the measures in force,

HAS ADOPTED THIS REGULATION:

Article 1

1. The partial interim review of the anti-dumping duty on imports of bicycles originating in the People's Republic of China is hereby terminated.
2. The definitive anti-dumping duty imposed by Regulation (EC) No 1524/2000 shall be maintained.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 November 2005.

For the Council
The President
T. JOWELL