COMMISSION IMPLEMENTING REGULATION (EU) 2022/358

of 2 March 2022

initiating a 'new exporter' review of Implementing Regulation (EU) 2019/1379 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China for one Chinese exporting producer, repealing the duty with regard to imports from that exporting producer and making these imports subject to registration

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]) ('the basic Regulation') and in particular Articles 11(4) and 14(5) thereof,

After having informed the Member States,

Whereas:

1. REQUEST

(1) The Commission received a request for a 'new exporter' review under Article 11(4) of the basic Regulation.

(2) The request was lodged on 10 September 2019 and updated on 26 November 2021 by Zhejiang Feishen Vehicle Industry Co., Ltd. ('the applicant'), an exporting producer of bicycles in the People's Republic of China ('the PRC').

2. PRODUCT UNDER REVIEW

(3) The product under review is bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, currently falling under CN codes 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 70 91, 8712 00 70 92 and 8712 00 70 99) and originating in the PRC.

3. EXISTING MEASURES

(4) By Regulation (EEC) No 2474/93 ([2]) ('the original investigation'), the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the PRC. Several investigations followed since then, amending the initial measures.

(5) By Regulation (EU) No 502/2013 ([3]), the Council, following an interim review pursuant to Article 11(3) of the Council Regulation (EC) No 1225/2009 ([4]), amended the measures. In that investigation, sampling was not applied for exporting producers in the PRC and the countrywide anti-dumping duty of 48,5 %, based on the dumping margin, established by Council Regulation (EC) No 1095/2005 ([5]), was maintained.

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Council Regulation (EEC) No 2474/93 of 8 September 1993 imposing a definitive anti-dumping duty on imports into the Community of bicycles originating in the People's Republic of China and collecting definitively the provisional anti-dumping duty (OJ L 228, 9.9.1993, p. 1).

([3]) Council Regulation (EU) No 502/2013 of 29 May 2013 amending Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 153, 5.6.2013, p. 17).

([4]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

([5]) Council Regulation (EC) No 1095/2005 of 12 July 2005 imposing a definitive anti-dumping duty on imports of bicycles originating in Vietnam, and amending Regulation (EC) No 1524/2000 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China (OJ L 183, 14.7.2005, p. 1).

(6) The measures currently in force are anti-dumping measures imposed by Commission Implementing Regulation (EU) 2019/1379 ([6]), under which imports of the product under review produced by the applicant are subject to a definitive anti-dumping duty of 48,5 %.

4. GROUNDS FOR THE REVIEWS

(7) The applicant provided sufficient evidence that it did not export the product under review to the Union during the investigation period on which the anti-dumping measures were based (1 January 2011 to 31 December 2011).

(8) The applicant provided sufficient evidence that it is not related to any of the exporting producers of the product under review which are subject to the anti-dumping duties in force.

(9) Finally, the applicant provided sufficient evidence that it has begun exporting the product under review to the Union after the end of the investigation period on which the anti-dumping measures were based.

5. PROCEDURE

5.1. Initiation

(10) The Commission examined the evidence available and concluded that there was sufficient evidence to justify the initiation of a 'new exporter' review pursuant to Article 11(4) of the basic Regulation, with a view to determining individual margin of dumping for the applicant. Should dumping be found, the Commission will determine the level of the duty to which the imports of the product under review produced by the applicant should be subject.

(11) In accordance with Articles 11(3) and 11(4) of the basic Regulation, normal value for the applicant shall be determined following the methodology laid down in Article 2(1) to (6a) of the basic Regulation, as the latest expiry review of the measures was initiated after 20 December 2017.

(12) Union producers known to be concerned were informed of the request for a review on 25 November 2021 and were given an opportunity to comment until 9 December 2021.

(13) The Commission also draws the attention of the parties that further to the COVID-19 outbreak a Notice ([7]) has been published on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations that may be applicable to this proceeding.

5.2. Repeal of the existing measures and registration of imports

(14) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product under review produced by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that anti-dumping duties can be levied from the date of the registration of these imports should the review result in a finding of dumping in respect of each of the applicants. Furthermore, the Commission notes that it is not possible, at this stage, to provide a reliable estimate of the amount of possible future liability, without prejudice to Article 9(4) of the basic Regulation.

5.3. Review investigation period

(15) The investigation will cover the period from 1 January 2021 to 31 December 2021 ('review investigation period').

([6]) Commission Implementing Regulation (EU) 2019/1379 of 28 August 2019 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China as extended to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka, Tunisia, Cambodia, Pakistan and the Philippines, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (OJ L 225, 29.8.2019, p. 1).

([7]) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020XC0316%2802%29

5.4. **Investigating the applicant**

(16) In order to obtain information it deems necessary for its investigation, the Commission has made a questionnaire for the applicant available in the file for inspection by interested parties and on the website of the Directorate-General for Trade https://trade.ec.europa.eu/tdi/case_details.cfm?id=2441. The applicant must submit the completed questionnaire within the time limit specified in Article 4(2) of this Regulation.

5.5. **Other written submissions**

(17) Subject to the provisions of this Regulation, all interested parties are 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 the time-limit specified in Article 4(2) of this Regulation.

5.6. **Possibility to be heard by the Commission investigation services**

(18) All interested parties may request to be heard by the Commission investigation services within the time-limits specified in Article 4(3) of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

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

(19) Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

(20) All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' ([8]). Interested parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

(21) Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

(22) If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

(23) Interested parties are invited to make all submissions and requests via TRON.tdi (https://webgate.ec.europa.eu/tron/TDI) including scanned powers of attorney and certification sheets.

(24) In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf.

([8]) A 'Sensitive' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document 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).

(25) By using TRON.tdi or e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf.

(26) The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business e-mail which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or e-mail only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions including principles that apply to submissions via TRON.tdi and by e-mail, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË
TRON.tdi: https://webgate.ec.europa.eu/tron/tdi
E-mail: TRADE-R714-BICYCLES@ec.europa.eu

6. **NON-COOPERATION**

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

(28) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(29) 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.

7. **HEARING OFFICER**

(30) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

(31) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services 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. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

(32) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation..

(33) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/.

8. SCHEDULE OF THE INVESTIGATION

(34) The investigation will be concluded, pursuant to Article 11(5) of the basic Regulation, within nine months of the date of the entry into force of this Regulation.

9. PROCESSING OF PERSONAL DATA

(35) Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([9]).

(36) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG TRADE's website: http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/

HAS ADOPTED THIS REGULATION:

Article 1

A review of Implementing Regulation (EU) 2019/1379 is hereby initiated under Article 11(4) of Regulation (EU) 2016/1036 in order to determine if an individual anti-dumping duty should be imposed on the imports of bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, currently falling under CN codes 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 70 91, 8712 00 70 92 and 8712 00 70 99), originating in the People's Republic of China ('the product under review'), produced for export to the Union by Zhejiang Feishen Vehicle Industry Co., Ltd. (TARIC additional code C530).

Article 2

The anti-dumping duty imposed by Implementing Regulation (EU) 2019/1379 is hereby repealed with regard to the imports identified in Article 1 of this Regulation.

Article 3

The national customs authorities shall take the appropriate steps to register the imports identified in Article 1 of this Regulation, pursuant to Articles 11(4) and 14(5) of Regulation (EU) 2016/1036.

Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.

2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings on issues pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.

([9]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Article 5

This Regulation shall enter into force on the day following that of 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, 2 March 2022.

For the Commission
The President
Ursula VON DER LEYEN