II

*(Non-legislative acts)*

# REGULATIONS

## 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.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 228, 9.9.1993, p. 1.
[3] OJ L 16, 18.1.1997, p. 55.
[4] OJ L 17, 21.1.1997, p. 17.
[5] OJ L 175, 14.7.2000, p. 39.
[6] OJ L 183, 14.7.2005, p. 1.
[7] OJ L 261, 6.10.2011, p. 2.
[8] OJ C 71, 9.3.2012, p. 10.
[9] See page 17 of this Official Journal.

(7) In April 2012 the Commission announced by a notice published in the *Official Journal of the European Union* ([1]) 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 ([2]).

(8) In November 2012 the Commission announced by a notice published in the *Official Journal of the European Union* ([3]) 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 ([4]), 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 ([5]) ('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.

([1]) OJ C 122, 27.4.2012, p. 9.
([2]) OJ L 188, 18.7.2009, p. 93.
([3]) OJ C 346, 14.11.2012, p. 7.
([4]) OJ L 136, 23.5.2013, p. 15.
([5]) OJ L 258, 26.9.2012, p. 21.

(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 [1].

[1] Comext is a database on foreign trade statistics managed by Eurostat.

(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 workers that participated at the verification were not able to explain the source of the numbers stated in the exemption form nor how the numbers had been compiled. Moreover, the company confirmed that the sales manager was in parallel working for a Chinese producer of bicycles.

(32) Therefore, the information provided by the company in question had to be disregarded.

(33) Findings with regard to this company were therefore based on facts available in compliance with Article 18 of the basic Regulation. The other three companies were considered cooperating.

2.3.2. *Malaysia*

(34) The sole Malaysian company that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation represented between 20 % and 30 % of the total imports from Malaysia to the Union during the RP. Total imports of bicycles from Malaysia into the Union were established on the basis of the data from Comext. The company was considered cooperating.

2.3.3. *Sri Lanka*

(35) The six Sri Lankan companies that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation represented 69 % of the total imports from Sri Lanka to the Union during the RP. The overall import volumes from Sri Lanka were established on the basis of the data from Comext.

(36) One of the companies withdrew its request for exemption during the investigation on the grounds that it had stopped the production of bicycles in Sri Lanka. Therefore, data with regard to this company were disregarded.

(37) The cooperation of the second company was found to be insufficient. The data submitted was unverifiable as the value and volume of parts of Chinese origin purchased by the company could not be reliably determined. Moreover, the value and volume of the parts used in the manufacturing process could not be verified as they were purchased by a third party and only consigned to the company for assembly.

(38) 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. The company did not provide any comments.

(39) The cooperation of another company was also considered insufficient. The information provided could not be verified on-spot as the company withheld essential information. More specifically, it failed to prepare information explicitly requested prior to the on-spot verification, such as the working sheets or the list of its related companies, thus impeding the verification process. On the other hand, the purchase value of parts of local origin as reported by the company was found unreliable, notably as the investigation revealed at least some links between the company and its local supplier of bicycle parts that were going beyond a normal buyers and sellers relationship and which could not be clarified by the company.

(40) 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. In response, the company contested the findings and submitted further evidence and explanations. None of the newly submitted evidence could have been accepted. Firstly, because it

could not have been verified anymore since provided after the on-spot visit, In most cases the newly submitted evidence was found to be inconsistent with the explanations and evidence gathered on spot. As regards the newly submitted explanations, these were found to be insufficient as they did not address the main outstanding issues, in particular, the missing clarifications regarding related companies.

(41) Therefore the information provided by the company in question had to be disregarded.

(42) Findings with regard to this company were therefore based on facts available in compliance with Article 18 of the basic Regulation.

2.3.4. *Tunisia*

(43) The two Tunisian companies that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation represented all imports from Tunisia to the Union during the RP as reported in Comext. They were considered cooperating.

2.3.5. *The PRC*

(44) As mentioned in recital 21 above, there was no cooperation from any of the Chinese producers/exporters. Therefore, findings in respect of imports of the product concerned into the Union, on the one hand, and exports of bicycles from the PRC to Indonesia, Malaysia, Sri Lanka and Tunisia, on the other hand, were based on facts available in accordance with Article 18(1) of the basic Regulation. With regards to imports to the Union import data recorded in Comext were used. Chinese national statistics were used as regards the determination of export volumes from the PRC to Indonesia, Malaysia, Sri Lanka and Tunisia.

## 2.4. **Change in the pattern of trade**

2.4.1. *Imports into the Union from the PRC, Indonesia, Malaysia, Sri Lanka and Tunisia*

(45) Imports of the product concerned from the PRC into the Union decreased by 38,2 % since 2005, i.e. after the increase of the anti-dumping measures in July 2005, and continued decreasing in the following years. In total, imports from the PRC decreased by over 80 % in the IP.

(46) At the same time, imports of the product under investigation from Indonesia into the Union increased from 2005 onwards and more than doubled in 2006 as compared to 2004. Imports continued increasing, with the exception of 2009, albeit remaining at levels well above those of 2004. Since 2009, imports increased again continuously up to the RP. In the RP imports from Indonesia increased by 157 % as compared to 2004.

(47) As concerns the imports of the product under investigation from Malaysia into the Union, they were negligible before the increase of the anti-dumping duty in July 2005. In 2005, they increased significantly (more than two hundred fold) but decreased in 2009 by 46 %, followed by another increase of 38 % in 2010. Although imports from Malaysia decreased again in 2011 and during the RP, the import level from Malaysia during the RP still exceeded by far the import level from 2004 before the increase of the anti-dumping measures, i.e. 185 158 bicycles as compared to 10 749 pieces in 2004 or by 1 623 %.

(48) The imports of the product under investigation from Sri Lanka into the Union increased significantly after the increase of the anti-dumping duties in 2005 and continued increasing in the following years by almost 500 % reaching a peak in 2010. In 2011 and during the RP the imports from Sri Lanka of the product under investigation decreased, albeit still exceeding by far the import levels from 2004 before the increase of the anti-dumping measures, i.e. overall imports from Sri Lanka increased by 282 % between 2004 and the RP.

(49) Finally, imports of the product concerned from Tunisia into the Union increased by almost 30 % in 2005, i.e. after the increase of the anti-dumping duties, and by more than 20 % in 2006. They more than doubled between 2006 and 2007 reaching a peak in 2007. Imports during 2008 and 2010 were decreasing, increasing again in 2011 and finally decreasing slightly during the RP. During the IP imports from Tunisia increased by 200,3 %.

(50) Table 1 below shows import quantities of bicycles from the PRC, Indonesia, Malaysia, Sri Lanka and Tunisia into the Union from 1 January 2004 to 31 August 2012, i.e. during the IP.

*Table 1*

| (pieces) | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 1.9.2011-31.8.2012 (RP) |
|---|---|---|---|---|---|---|---|---|---|
| The PRC | 2 550 775 | 1 575 452 | 995 715 | 986 514 | 941 522 | 597 339 | 627 066 | 584 303 | 411 642 |
| Index (2004 = 100) | 100 | 61,8 | 39,0 | 38,7 | 36,9 | 23,4 | 24,6 | 22,9 | 16,1 |
| Indonesia | 237 648 | 282 045 | 500 623 | 593 769 | 634 623 | 437 023 | 551 847 | 614 798 | 612 448 |

| (pieces) | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 1.9.2011-31.8.2012 (RP) |
|---|---|---|---|---|---|---|---|---|---|
| Index (2004 = 100) | 100 | 118,7 | 210,7 | 249,9 | 267,0 | 183,9 | 232,2 | 258,7 | 257,7 |
| Malaysia | 10 749 | 229 354 | 497 974 | 475 463 | 360 871 | 193 102 | 266 164 | 177 306 | 185 158 |
| Index (2004 = 100) | 100 | 2 133,7 | 4 632,7 | 4 423,3 | 3 357,3 | 1 796,5 | 2 476,2 | 1 649,5 | 1 722,6 |
| Sri Lanka | 249 491 | 352 078 | 534 413 | 574 153 | 749 358 | 1 016 523 | 1 237 406 | 975 297 | 953 169 |
| Index (2004 = 100) | 100 | 141,1 | 214,2 | 230,1 | 300,4 | 407,4 | 496,0 | 390,9 | 382,0 |
| Tunisia | 167 137 | 212 257 | 251 054 | 549 848 | 527 209 | 529 734 | 414 488 | 519 217 | 501 853 |
| Index (2004 = 100) | 100 | 127,0 | 150,2 | 329,0 | 315,4 | 316,9 | 248,0 | 310,7 | 300,3 |

*Source: Comext statistics*

2.4.2. *Exports from the PRC to Indonesia, Malaysia, Sri Lanka and Tunisia*

(51) Exports of bicycles from the PRC to Indonesia increased first in 2008 (by 56,2 %). Between 2008 and the RP, imports continued increasing with the exception of 2009. During the IP exports from the PRC to Indonesia increased in total by 83,8 %.

(52) Exports of bicycles from the PRC to Malaysia increased in 2005, after the increase of the anti-dumping measures, by almost 30 % and continued increasing until they reached a peak in 2011, i.e. an increase of 110,8 % as compared to 2004. In the RP the exports from the PRC to Malaysia, decreased slightly, but remained at levels largely exceeding those of 2004. Overall, Chinese exports to Malaysia increased by 99,6 % during the IP.

(53) Exports of bicycles from the PRC to Sri Lanka also increased following the increase of the anti-dumping duties in July 2005. They slightly decreased in 2007 but more than doubled in 2010 and 2011 as compared to 2004. Overall, Chinese exports to Sri Lanka increased by 132,5 % during the IP.

(54) Finally exports from the PRC to Tunisia were negligible before the increase of the anti-dumping duties. From 2005 on exports to Tunisia increased significantly reaching a peak in 2008 (from 2 534 pieces in 2004 to 389 445 pieces in 2008). Although exports from the PRC to Tunisia decreased and remained at lower levels after 2008 they still remained at much higher levels than during 2004. Overall, Chinese exports to Tunisia increased from 2 534 bicycles in 2004 to 170 772 bicycles in the RP.

(55) Table 2 shows exports of bicycles from the PRC to Indonesia, Malaysia, Sri Lanka and Tunisia from 1 January 2004 to 31 August 2012, i.e. during the IP.

*Table 2*

| (pieces) | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 1.9.2011-31.8.2012 (RP) |
|---|---|---|---|---|---|---|---|---|---|
| Indonesia | 2 128 804 | 1 731 224 | 2 121 019 | 1 906 364 | 3 325 531 | 2 287 374 | 3 644 836 | 3 773 852 | 3 912 882 |
| Index (2004 = 100) | 100 | 81,3 | 99,6 | 89,6 | 156,2 | 107,4 | 171,2 | 177,3 | 183,8 |
| Malaysia | 721 335 | 933 943 | 890 241 | 974 860 | 1 515 886 | 1 111 251 | 1 291 766 | 1 520 276 | 1 440 132 |
| Index (2004 = 100) | 100 | 129,5 | 123,4 | 135,1 | 210,2 | 154,1 | 179,1 | 210,8 | 199,6 |
| Sri Lanka | 267 371 | 315 233 | 345 953 | 254 774 | 425 405 | 383 377 | 699 328 | 685 744 | 621 620 |
| Index (2004 = 100) | 100 | 117,9 | 129,4 | 95,3 | 159,1 | 143,4 | 261,6 | 256,5 | 232,5 |
| Tunisia | 2 534 | 7 188 | 37 042 | 175 761 | 389 445 | 171 332 | 225 369 | 204 465 | 170 772 |
| Index (2004 = 100) | 100 | 283,7 | 1 461,8 | 6 936,1 | 15 368,8 | 6 761,3 | 8 893,8 | 8 068,9 | 6 739,2 |

*Source: Chinese statistics*

2.4.3. *Production volumes*

(56) The companies in Indonesia and Tunisia increased their production between 2009 and the RP, by 54 % and 24 % respectively. The Sri Lankan companies however have slightly decreased their output during the same period.

(57) Concerning Malaysia, the sole Malaysian company that cooperated started to produce and export bicycles in 2010. As no other company cooperated, no information could be obtained on the possible levels of the genuine production of the product under investigation in this country.

*Table 3*

**Production of bicycles of the cooperating companies in Indonesia, Sri Lanka and Tunisia**

| Production volumes in units | 2009 | 2010 | 2011 | RP |
|---|---|---|---|---|
| Indonesia | 1 217 664 | 1 631 459 | 1 877 067 | 1 877 381 |
| Index | 100 | 134 | 154 | 154 |
| Sri Lanka | 737 632 | 886 191 | 688 059 | 692 454 |
| Index | 100 | 120 | 93 | 94 |
| Tunisia | 430 022 | 483 135 | 575 393 | 532 425 |
| Index | 100 | 112 | 134 | 124 |

## 2.5. **Conclusion on the change in the pattern of trade**

(58) The overall decrease of the exports from the PRC to the Union and the parallel increase of exports from Indonesia, Malaysia, Sri Lanka and Tunisia to the Union and the increase of exports from the PRC to Indonesia, Malaysia, Sri Lanka and Tunisia after the increase of the anti-dumping measures in July 2005 constitutes a change in the pattern of trade between the countries concerned, on the one hand, and the Union, on the other hand, within the meaning of Article 13(1) of the basic Regulation.

## 2.6. **Nature of the circumvention practices**

(59) Article 13(1) of the basic Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, inter alia, the consignment of the product subject to the existing measures via third countries and the assembly of parts by an assembly operation in the Union or a third country. The existence of assembly operations is determined in accordance with Article 13(2) of the basic Regulation.

2.6.1. *Indonesia*

Transhipment

(60) The exports of the four initially cooperating Indonesian companies amounted to 91 % of the total Indonesian exports to the Union in the RP.

(61) For three out of the four initially cooperating companies, the investigation did not reveal any transhipment practices.

(62) As concerns the fourth company, as stated in recitals 29 to 33 above, application of Article 18 of the basic Regulation was warranted. The investigation revealed that the company did not own sufficient equipment to justify the volumes of exports into the Union in the RP and, in the absence of any other justification, it can be concluded that the company was involved in circumvention practices via transhipment.

(63) For the remaining exports to the Union there was no cooperation as described in recitals 29 to 33 above.

(64) Therefore, in light of the change of the pattern of trade concluded in recital 58 above between Indonesia and the Union within the meaning of Article 13(1) of the basic Regulation, the findings of one Indonesian company as stated in recital 61 above, and the fact that not all Indonesian producers/exporters came forward and cooperated the existence of transhipment of Chinese-origin products via Indonesia is confirmed.

Assembly operation

(65) The sources of raw materials (bicycle parts) and the cost of production were analysed for each cooperating company to establish whether any assembly operation in Indonesia is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation. For three out of the four companies that initially cooperated the Chinese-origin raw materials (bicycle parts) did not constitute 60 % or more of the total value of the parts of the assembled product. It was not necessary, therefore, to examine whether or not the value added to the parts brought in, during the assembly operation, was greater than 25 % of the manufacturing cost. Consequently, assembly operations were not established with regard to these three companies.

(66) For the fourth company, Article 18(1) of the basic Regulation was applied as mentioned in recitals 29 to 33 above. Since the company could not provide reliable data, it could not be established whether it was involved in assembly operations.

(67) Therefore, the existence of assembly operations within the meaning of Article 13(2) of the basic Regulation was not established.

2.6.2. *Malaysia*

Transhipment

(68) The exports of the sole cooperating Malaysian company amounted to between 20 % and 30 % of the total Malaysian exports to the Union in the RP. This company started to produce and export to the Union the product concerned only at the end of 2011. No transhipment practices were found with regard to this company. For the remaining exports to the Union there was no cooperation as made clear in recital 34 above.

(69) Therefore, in light of the change of the pattern of trade concluded in recital 58 between Malaysia and the Union within the meaning of Article 13(1) of the basic Regulation and the fact that not all Malaysian producers/exporters came forward and cooperated it can be concluded that the remaining volumes of exports which are not coming from this company can be attributed to transhipment practices.

(70) The existence of transhipment of Chinese-origin products via Malaysia is therefore confirmed.

Assembly operation

(71) In case of Malaysia the scope of the investigation was extended to cover other circumvention practices that were identified in the course of the investigation, i.e. assembly operations, as provided for in recital 12 to the initiating Regulation.

(72) The criteria of Article 13(2) of the basic Regulation were analysed for the sole cooperating company to establish whether any assembly operation in Malaysia is circumventing the existing measures. The investigation led to the following findings.

(73) The company started operating in 2010 and therefore after the anti-dumping measures against the PRC were increased. The company was found to be export-oriented targeting the Union market, as only negligible sales were made on the domestic market or other third countries. Also, the parts used in production were found to be sourced primarily from the PRC. The criteria of Article 13(2)(a) of the basic Regulation were therefore considered to be met.

(74) In addition, this company purchased completely knocked down bicycle kits from the PRC, except for three types of parts. In this case, the Chinese-origin raw material (bicycle parts) constituted more than 60 % of the total value of the parts of the final product. Furthermore, the value added to the parts brought in during the assembly operation was not found to be greater than 25 % of the manufacturing cost of this company. The criteria of Article 13(2)(b) were therefore met.

(75) Also, in accordance with Article 2(11) and (12) of the basic Regulation, a comparison of the normal value, as previously established (see recital 98), and the export prices of the company to the Union during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid, showed significant dumping by the company in question with regard to the imports of the product under investigation. The comparison was carried out per each type of the product under investigation exported to the Union in the RP. In addition, it was found that the export prices of this company were well below the injury elimination level established for the Union industry in the original investigation. The calculation was done by main product categories, based on the information available. Thus, the remedial effects of the duty in force are found undermined in terms of prices. On these grounds, it was concluded that the criteria of Article 13(2)(c) of the basic Regulation were met.

(76) On this basis the company was found involved in an assembly operation. Therefore, the existence of assembly operations within the meaning of Article 13(2) of the basic Regulation in Malaysia is confirmed.

2.6.3. *Sri Lanka*

Transhipment

(77) The exports of the initially cooperating Sri Lankan companies amounted to 69 % of the total Sri Lankan exports to the Union in the RP. For three out of the six initially cooperating companies, the investigation did not reveal any transhipment practices. For the remaining exports there was no cooperation as explained in recitals 35 to 42.

(78) Therefore, in light of the change of the pattern of trade concluded in recital 58 between Sri Lanka and the Union within the meaning of Article 13(1) of the basic Regulation and the fact that not all Sri Lankan producers/exporters came forward and/or cooperated it can be concluded that the exports of those producers/exporters can be attributed to transhipment practices.

(79) The existence of transhipment of Chinese-origin products via Sri Lanka is therefore confirmed.

Assembly operation

(80) The sources of raw materials (bicycle parts) and the cost of production were analysed for each cooperating company to establish whether any assembly operation in Sri Lanka is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation.

(81) For three out of the six companies that initially cooperated the Chinese-origin raw materials (bicycle parts) did not constitute 60 % or more of the total value of the parts of the assembled product. It was not necessary, therefore, to examine whether or not the value added to the parts brought in, during the assembly operation, was greater than 25 % of the manufacturing cost. Consequently, assembly operations were not established with regard to these three companies.

(82) Article 18(1) of the basic Regulation was applied to two other companies as explained in recitals 37 to 42 above, while one other company withdrew its cooperation during the on-spot verification as mentioned in recital 36 above. Therefore, the existence of assembly operations within the meaning of Article 13(2) of the basic Regulation was not established.

2.6.4. *Tunisia*

Transhipment

(83) The exports of the cooperating Tunisian companies covered the total imports from Tunisia to the Union in the RP.

(84) The verification of the two cooperating companies did not reveal any transhipment of Chinese-origin products via Tunisia.

Assembly operation

(85) The sources of raw materials (bicycle parts) and the cost of production were analysed for each cooperating company to establish whether any assembly operation in Tunisia is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation. For one cooperating company the Chinese-origin raw material (bicycle parts) constituted more than 60 % of the total value of the parts of the assembled product. However, the investigation showed that the value added to the parts brought in during the assembly operation exceeded 25 % of the manufacturing cost of this company. On this basis the company was found not to be involved in an assembly operation.

(86) The criteria of Article 13(2) of the basic Regulation were analysed for the other Tunisian company. The investigation led to the following findings.

(87) The company started operating as of 2006 and therefore after the anti-dumping measures against the PRC were increased. The company was found to be export oriented and targeting the Union market, as only negligible sales were made on the domestic market or other third countries. Also, the parts used in production were found to be sourced primarily from the PRC. Therefore, it is considered that the criteria of Article 13(2)(a) of the basic Regulation were met.

(88) Also, the company in question was found to have a Chinese manufacturer of bicycles as its majority shareholder.

(89) Moreover, the company purchased all parts from the PRC and therefore the Chinese-origin raw material (bicycle parts) constituted more than 60 % of the total value of the parts of the final product. Furthermore, the investigation revealed that the sole supplier of the services and of the Chinese parts was related to the Chinese majority shareholder of the company in question. The added value of the parts brought in during the assembly operations of the company did not exceed 25 % of the manufacturing cost of this company either. On this basis the criteria of Article 13(2)(b) of the basic Regulation were therefore considered to be met.

(90) In addition, the verification revealed a large number of mistakes in the list of exports to the Union in the RP and, therefore, a new file was constructed based on the sampled sales invoices covering around 25 % of the total exports to the Union market. Consequently, as provided by Article 2(11) and (12) of the basic Regulation, in the absence of detailed information regarding the exports transactions of the respective company to the Union, the comparison between the normal value and the export price was made on the basis of the weighted average normal value previously established (see recital 98) to a weighted average export price of this company to the Union. The dumping margin expressed as a percentage of the CIF Union frontier value was found to be significant. In addition, it was found that the export prices of this company were on average well below injury elimination level established for the Union industry in the original investigation. The calculation was done on a weighted average basis. Thus, the remedial effects of the duty in force are found undermined in terms of prices. Therefore, it was concluded that the criteria of Article 13(2)(c) of the basic Regulation were met. On this basis the company was found involved in an assembly operation.

(91) Therefore, the existence of assembly operations in Tunisia within the meaning of Article 13(2) of the basic Regulation is confirmed.

### 2.7. **Insufficient due cause or economic justification other than the imposition of the anti-dumping duty**

(92) The investigation did not bring to light any due cause or economic justification for the transhipment and assembly operations other than the avoidance of the existing measures on the product concerned. No elements were found, other than the duty, which could be considered as a compensation for the costs of transhipment and assembly operations in particular regarding transport and reloading of bicycles originating in the PRC via Indonesia, Malaysia, Sri Lanka and Tunisia.

### 2.8. **Undermining of the remedial effect of the anti-dumping duty**

(93) For the assessment of whether the imported products had, in terms of quantities and prices, undermined the remedial effects of the existing measures on imports of the product concerned from the PRC, Comext data was used as the best available data concerning quantities and prices of exports by the initially cooperating producers/exporters where Article 18 of the basic Regulation was applied and by non-cooperating companies. Where applicable, for the cooperating companies found to be involved in circumvention practices, their reported quantities and prices of exports were used. The export prices so determined were compared to the injury elimination level for Union producers last established, i.e. in the interim review concluded in 2005, mentioned in recital 3.

(94) The comparison of the injury elimination level as established in the interim review in 2005 and the weighted average export price during the RP of the current investigation showed significant underselling for each of the four countries concerned.

(95) The increase of imports from Indonesia, Malaysia, Sri Lanka and Tunisia to the Union was considered significant in terms of quantities as discussed in Section 2.4.1 (recitals 45 to 50).

(96) It was therefore concluded that the existing measures are being undermined in terms of quantities and prices.

### 2.9. **Evidence of dumping**

(97) Finally, in accordance with Article 13(1) of the basic Regulation it was examined whether there was evidence of dumping in relation to the normal value previously established for the product concerned.

(98) In the interim review concluded in 2005, mentioned in recital 3 above, normal value was established on the basis of prices in Mexico, which in that investigation was found to be an appropriate market economy analogue country for the PRC ('normal value previously established').

#### 2.9.1. *Indonesia*

(99) A significant part of Indonesian exports were found to be genuine Indonesian production exported by three Indonesian companies that were found not to be involved in circumventing practices as stated in recitals 61 and 65. For this reason, in order to establish the export prices from Indonesia which are affected by circumvention practices, only the exports of the non-cooperating producers/exporters were considered. To this end, resort was made to the best facts available and export prices were established on the basis of the average export price of bicycles from Indonesia to the Union during the RP as reported in Comext.

(100) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in transport, insurance and packing costs submitted by the Union industry in its request for the current investigation.

(101) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as previously established and the corresponding weighted average export prices of Indonesia during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid.

(102) The comparison of the weighted average normal value and the weighted average export price as established showed dumping.

#### 2.9.2. *Malaysia*

(103) Due to the low cooperation by the producers of the product under investigation in Malaysia, the export price from Malaysia had to be based on facts available, i.e. on the average export price of bicycles during the RP as reported in Comext.

(104) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in transport, insurance and packing costs. Given that the cooperation was low, the relevant adjustments were based on the information submitted by the Union industry in its request for the current investigation.

(105) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as previously established and the corresponding weighted average export prices of Malaysia during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid.

(106) The comparison of the weighted average normal value and the weighted average export price as established showed dumping.

2.9.3. *Sri Lanka*

(107) Since the cooperation from Sri Lanka was low, the export price was established on the basis of facts available, i.e. on the average export price of bicycles during the RP as reported in Comext which was cross checked with the available export data from the companies not involved in circumvention practices.

(108) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, and given the absence of any other information available, adjustments were made for differences in transport, insurance and packing costs based on the information submitted by the Union industry in its request for the current investigation.

(109) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as previously established and the corresponding weighted average export prices of Sri Lanka during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid.

(110) The comparison of the weighted average normal value and the weighted average export price as established showed dumping.

2.9.4. *Tunisia*

(111) The export price was established on the basis of the average export price of bicycles during the RP as reported in Comext which was cross checked with the export data from the company not involved in circumvention practices.

(112) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in transport, insurance and packing costs based on information submitted by the Union industry in its request for the current investigation.

(113) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as previously established and the corresponding weighted average export prices of Tunisia during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid.

(114) The comparison of the weighted average normal value and the weighted average export price as established showed dumping.

## 3. MEASURES

(115) Given the above, it can be concluded that the definitive anti-dumping duty imposed on imports of bicycles originating in the PRC was circumvented by transhipment via Indonesia, Malaysia, Sri Lanka and assembly operations via Malaysia and Tunisia within the meaning of Article 13 of the basic Regulation.

(116) In accordance with the first sentence of Article 13(1) of the basic Regulation, the existing measures on imports of the product concerned originating in the PRC, should therefore be extended to imports of the same product consigned from Indonesia, Malaysia, Sri Lanka and Tunisia whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not.

(117) The measures to be extended should be the ones currently established in Article 1(2) of Implementing Regulation (EU) No 990/2011, which are a definitive anti-dumping duty of 48,5 % applicable to the net, free-at-Union-frontier price, before customs duty.

(118) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provides that any extended measure should apply to imports which entered the Union under registration imposed by the initiating Regulation, duties should be collected on those registered imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia.

## 4. REQUESTS FOR EXEMPTION

### 4.1. **Indonesia**

(119) The four companies in Indonesia that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted a reply to the exemption form.

(120) As stated in recitals 29 to 33, application of Article 18 was warranted for one company. Therefore, in view of the findings with regard to the change in the pattern of trade and transhipment as set out in recital 58, the exemption cannot be granted to this company.

(121) The other three cooperating companies in Indonesia that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation were not found to be engaged in the circumvention practices subject to this investigation as stated in recital 65. Furthermore, these producers could demonstrate that they are not related to any of the producers/exporters engaged in circumvention practices nor to any of the Chinese producers/exporters of bicycles. Therefore, an exemption from the extended measures could be granted to these three companies.

### 4.2. **Malaysia**

(122) One company in Malaysia that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted a reply to the exemption form.

(123) As stated in recitals 72 to 76, the company was found to be involved in circumvention practices. Therefore, in view of the findings with regard to the change in the pattern of trade and transhipment as set out in recital 58, an exemption cannot be granted to this company.

### 4.3. **Sri Lanka**

(124) The six companies in Sri Lanka that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted replies to the exemption form.

(125) As stated in recital 36, one of the companies withdrew its request for exemption during the investigation and therefore, in view of the findings with regard to the change in the pattern of trade and transhipment as set out in recital 58, an exemption cannot be granted to this company.

(126) For the other two companies application of Article 18 of the basic Regulation was warranted as stated in recitals 36 to 42 and therefore, in view of the findings with regard to the change in the pattern of trade and transhipment as set out in recital 58, an exemption cannot be granted to these companies.

(127) The other three cooperating companies in Sri Lanka requesting an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation were found not to be engaged in the circumvention practices subject to this investigation as stated in recitals 80 and 81. Furthermore, these producers could demonstrate that they are not related to any of the companies found to circumvent nor to any of the Chinese producers/exporters of bicycles. Therefore, an exemption from the extended measures could be granted to these companies.

### 4.4. **Tunisia**

(128) The two companies in Tunisia that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted replies to the exemption form.

(129) One company was found not to be engaged in the circumvention practices subject to this investigation. Furthermore, this producer could demonstrate that it is not related to any of the companies found to circumvent nor to any of the Chinese producers/exporters of bicycles. Therefore, an exemption from the extended measures could be granted to this company.

(130) As stated in recital 89, the second company was found to be involved in circumvention practices. Therefore, in view of the findings with regard to the change in the pattern of trade and transhipment as set out in recital 58, an exemption cannot be granted.

### 4.5. **Special measures**

(131) It is considered that special measures are needed in this case in order to ensure the proper application of such exemptions. These special measures are the requirement of the presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice shall be made subject to the extended anti-dumping duty.

### 4.6. **Newcomers**

(132) Without prejudice to Article 11(3) of the basic Regulation, other producers/exporters in Indonesia, Malaysia, Sri Lanka and Tunisia which did not come forward in this proceeding and did not export the product under investigation to the Union in the RP and which consider lodging a request for an exemption from the extended anti-dumping duty pursuant to Articles 11(4) and 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such an exemption may be granted after

the assessment of the market situation of the product under investigation, production capacity and capacity utilisation, procurement and sales and the likelihood of a continuation of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on-spot verification visit. The request should be addressed to the Commission forthwith, with all relevant information, in particular any modification in the company's activities linked to the production and sales.

(133) Where an exemption is warranted, the extended measures in force shall be amended accordingly. Subsequently, any exemption granted will be monitored to ensure compliance with the conditions set therein.

## 5. DISCLOSURE

(134) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment.

(135) One Indonesian company reiterated its claims mentioned in recital 31 without bringing any new substantiated evidence. In this regard, as mentioned in recital 29, the data submitted by the company was unverifiable as no working files substantiating the figures provided in the exemption form were kept by the company. Moreover, the reported figures that were tested and recalculated on the basis of the bookkeeping available at the company's premises i.e. purchases and production volume, were found inaccurate. Therefore, these claims are rejected.

(136) One Malaysian company argued that the fact that the weight of the Chinese origin parts in the manufacturing cost of the bicycles was only slightly above the 60 % threshold should not lead the Commission to reject its exemption request. In addition, the company submitted certain invoices for purchasing of parts which allegedly were wrongly reported as originating from the PRC when in fact they were from Indonesia.

(137) In this respect it should be noted that the thresholds set in Article (13)(2)(b) of the basic Regulation are very clear and, therefore, it is not relevant by how much the weight of the Chinese origin parts in the manufacturing cost of the bicycles exceeds the 60 % threshold but that the Chinese origin parts should represent less than 60 % in the manufacturing cost of the bicycles. Moreover, these invoices could not be traced back in the list of purchases provided by the company and, in addition, the value of the invoices submitted were not material as to change the original assessment of the Commission. Therefore, these claims are rejected.

(138) In addition, the company in question argued that there is no sufficient legal basis for the denial of the company's request for exemption as the conclusions reached are based on calculations without taking due account of the individual situation of the company in question. In response to this claim the company received further explanations reflecting the analysis in recitals 72 to 75.

(139) In addition, the company claimed that the increase of imports of the product under investigation by the company in question coincides with the relaxation of the Generalised System of Preferences for Malaysia and therefore the increase in company's exports into the Union in 2010 had no economic justification in the increase of the anti-dumping measures imposed against the PRC. In response to this argument it was considered that while the relaxation of the Generalised System of Preferences rules could have contributed to the company's motivation to export to the Union, it does not contradict the finding that the company started its operation after the anti-dumping duties against the PRC were increased and that it sourced the parts mainly from the PRC (see recital 73). Therefore, the argument of the party was rejected.

(140) The same company also claimed that the reported data concerning the values of purchased and consumed bicycle parts were not duly verified as no distinction between purchased and consumed parts was made. In this respect it is noted that based on the figures reported by the company, the values of purchased and consumed parts were found to be identical. In addition, the reported values of purchased parts in 2011 corresponded to the value of consumed parts reported in the annual report of the company for 2011. The figures concerning purchased and consumed parts reported for RP and 2010 were accepted as declared by the company. Therefore, the argument was rejected.

(141) The company in question submitted further cost breakdowns per product model demonstrating its alleged compliance with the requirement that the parts sourced from the PRC shall not exceed 60 % of the total value of the parts of the assembled product. This information contradicted the cost breakdowns per model collected and verified for selected models on spot for which the failure of the company to comply with the 60 % threshold was confirmed. The new information submitted by the company in this respect was not backed up by any evidence and, in essence, contradicted verified information. For this reason the information was disregarded.

(142) Further, the company claimed that it acted in good faith as relying on its alleged compliance with Commission Regulation (EC) No 1063/2010 [1] laying down the

[1] OJ L 307, 23.11.2010, p. 1.

applicable rules of origin. In this context it is noted that the purpose of the anti-circumvention investigation is not to verify the compliance with the applicable rules of origin. Such verification was not carried out in the context of the current anti-circumvention investigation and therefore the alleged compliance with the rules of origin cannot be in this case confirmed. For this reasons, the alleged compliance with the rules of origin in this case does not exclude in any way the possibility of circumvention as defined in Article 13(2) of the basic Regulation [1]. Against this background, the argument is therefore rejected.

(143) Finally, the company claimed that the dumping margin calculation should have been carried out based on the company specific data. This request was accepted as reflected in recital 75 above and the company was informed accordingly.

(144) A company from Sri Lanka disputed the relevance of the documents requested during the verification visit and therefore argued that its exemption request should not be rejected. In this respect it should be noted that the documents showing the origin of the parts used in the assembly of the bicycles exported to the Union have significant importance for the assessment of compliance with the conditions of Article 13(2)(b). Also, as mentioned in recital 37, the data submitted by the company was unverifiable. In addition, the company admitted on spot that the parts purchased from the PRC were actually not recorded in its accounts and consequently the compliance with the criteria set out in Article 13(2) of the basic Regulation could not have been determined. Therefore, the claims are rejected.

(145) Another company from Sri Lanka claimed that had it known that the exports to the Union from Sri Lanka could be subject to the anti-dumping duty as extended to Sri Lanka as from the initiation of the investigation, it would have not withdrawn its request for exemption. However, it is underlined that, at the time of the withdrawal of its request for exemption, the company is considered aware of the possible application of the anti-dumping duty as extended as from the date of the registration of imports from Sri Lanka to the Union, i.e. the initiation of the anti-circumvention investigation. The company has been informed of this consequence in three instances, through recital 20 of the initiating Regulation, during a hearing at the beginning of the investigation and during the on-spot visit. Therefore, the claim could not be accepted.

(146) Another company from Sri Lanka submitted new information that it should have submitted before the verification visit and due to the advanced stage of the investigation that information could not be verified anymore. Furthermore, the company argued that it had submitted all the information required.

(147) As mentioned in recitals 39 and 40 the company did not submit all the information requested in order to be verified on-spot. In particular, the purchase value of parts of local origin as reported by the company was found unreliable. As a result, the compliance with the criteria set out in Article 13(2) of the basic Regulation could not have been determined.

(148) In addition, the company claimed irregularities concerning the on-spot visit in respect of its length and language issues. In this regard, it should be noted that the company was recently set up and therefore only one day of verification was scheduled. The verification was carried out during a full working day. At the end of the verification, the company did not ask to submit any additional information that was not able to provide during the verification.

(149) Furthermore, before the on-spot verification the company was informed that the verification will be carried out in English and the party has not raised any objections. Moreover, the Commission was accompanied by an interpreter during the on-spot verification to facilitate language communication problems, if any. In addition, it is highlighted that most of the documents submitted by the company during the verification visit were actually in English, including the accounting related documents.

(150) In view of the above, all the claims of the company are rejected,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. In light of the purpose of this Regulation, the definitive anti-dumping duty applicable to 'all other companies' imposed by Article 1(2) of Implementing Regulation (EU) No 990/2011 on imports of bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, originating in the People's Republic of China, is hereby extended to imports of bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, consigned from Indonesia, Malaysia, Sri Lanka and Tunisia whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, currently falling within CN codes ex 8712 00 30 and ex 8712 00 70 (TARIC code 8712 00 30 10 and 8712 00 70 91) with the exception of those produced by the companies listed below:

[1] See also previous cases, e.g. recital 48 of Council Regulation (EC) No 388/2008 (OJ L 117, 1.5.2008, p. 1).

| Country | Company | TARIC additional code |
|---|---|---|
| Indonesia | P.T. Insera Sena, 393 Jawa Street, Buduran, Sidoarjo 61252, Indonesia | B765 |
| | PT Wijaya Indonesia Makmur Bicycle Industries (Wim Cycle), Raya Bambe KM. 20, Driyorejo, Gresik 61177, Jawa Timur Indonesia | B766 |
| | P.T. Terang Dunia Internusa, (United Bike), Jl. Anggrek Neli Murni 114 Slipi, 11480, Jakarta Barat, Indonesia | B767 |
| Sri Lanka | Asiabike Industrial Limited, No 114, Galle Road, Henamulla, Panadura, Sri Lanka | B768 |
| | BSH Ventures (Private) Limited, No 84, Campbell Place, Colombo-10, Sri Lanka | B769 |
| | Samson Bikes (Pvt) Ltd, No 110, Kumaran Rathnam Road, Colombo 02, Sri Lanka | B770 |
| Tunisia | euro Cycles SA, Zone Industrielle Kelaa Kebira, 4060, Sousse, Tunisia | B771 |

2. The application of exemptions granted to the companies specifically mentioned in paragraph 1 of this Article or authorised by the Commission in accordance with Article 2(2) of this Regulation shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. If no such invoice is presented, the anti-dumping duty as imposed by paragraph 1 of this Article shall apply.

3. The duty extended by paragraph 1 of this Article shall be collected on imports consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, registered in accordance with Article 2 of Regulation (EU) No 875/2012 and Articles 13(3) and 14(5) of Regulation (EC) No 1225/2009 with the exception of those produced by the companies listed in paragraph 1.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H
Office: N-105 08/20
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22956505

2. In accordance with Article 13(4) of Regulation (EC) No 1225/2009 the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) No 990/2011, from the duty extended by Article 1 of this Regulation.

*Article 3*

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EU) No 875/2012.

*Article 4*

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, 29 May 2013.

*For the Council*
*The President*
R. BRUTON

*ANNEX*

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(2):

(1) The name and function of the official of the entity issuing the commercial invoice;

(2) The following declaration: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct';

(3) Date and signature.