



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.10.2006
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Proposal for a

COUNCIL REGULATION

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ("the basic Regulation") in the proceeding concerning imports of bicycles originating in the People's Republic of China

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have already had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

On 10 January 2006, the Commission initiated on its own initiative, a review investigation of imports of bicycles originating in the People's Republic of China

(PRC). The interim review was limited in scope to dumping of one exporting producer of bicycles, Giant China Co. Ltd. ('Giant China').

It was found that Giant China was indirectly related to another manufacturer of bicycles in the PRC which did not cooperate with the Commission. Therefore, it was not possible to establish whether Giant China as a group of companies fulfils the conditions for Market Economy Treatment.

Furthermore, it was not possible to ascertain that an anti-dumping duty could be imposed on dumped imports of bicycles of all sources of the Giant China group of companies.

The company was informed by the Commission of the above conclusions. It declared its intention to no longer co-operate in this review proceeding.

In light of the above, it is concluded that the partial interim review concerning imports into the Community of bicycles produced by Giant China should be terminated and the currently applicable measures should be maintained.

Member States were consulted and supported this proposal.

It is proposed that the Council adopt the attached proposal for a Regulation which should be published in the Official Journal as soon as possible and not later than 9 January 2007.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

The above-mentioned basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

Proposal for a

COUNCIL REGULATION

of 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 Community¹ ('the basic Regulation'), and in particular Article 11(3) thereof,

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

Whereas:

1. EXISTING MEASURES

- (1) The measures currently in force are definitive anti-dumping duties imposed on imports of bicycles originating, *inter alia*, in the People's Republic of China ('PRC') by Council Regulation (EC) No 1524/2000² ('the original regulation').

2. PRESENT INVESTIGATION

- (2) On 10 January 2006, the Commission initiated by a notice published in the *Official Journal of the European Union*³, on its own initiative, an investigation pursuant to Article 11(3) of Council Regulation (EC) No 384/96⁴ (the 'basic Regulation'). The interim review is limited in scope to dumping aspects as far as one exporting producer of bicycles, Giant China Co. Ltd. ('Giant China' or 'the company') is concerned.
- (3) There was sufficient *prima facie* evidence available to the Commission that the circumstances on the basis of which the existing measures were established have changed and that these changes were of a lasting nature. The information at the

¹ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p.17).

² 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).

³ OJ C 5, 10.1.2006, p. 2

⁴ OJ L 56, 6.3.1996, p. 1 Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17)

Commission's disposal indicated that market economy conditions prevail for the company as demonstrated by the fact that it appeared to fulfil the criteria set out in Article 2(7)(c) of the basic Regulation.

- (4) The partial interim review was therefore initiated with a view to determine whether the company operates under market economy conditions as defined in Article 2(7)(c) of the basic Regulation or alternatively whether the company fulfils the requirements to have an individual duty established in accordance with Article 9(5) of the basic Regulation and, if so, to determine the company's individual margin of dumping and, should dumping be found, the level of the duty to which its imports of the product concerned into the Community should be subject.

3. PROCEDURE

- (5) The Commission officially advised Giant China, the Community industry and the authorities of the PRC of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (6) In order to allow the company to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), the Commission sent claim forms to the company and to the authorities of the PRC. Subsequently, claims for MET were received from Giant China and its related company.
- (7) A verification visit was carried out at the premises of Giant China and its related company Giant Chengdu Co., Ltd.

4. THE PRODUCT CONCERNED

- (8) The product concerned is, as defined in Article 1 of the original regulation, bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised originating in the People's Republic of China ('the product concerned'), currently classifiable within CN codes ex 8712 00 10, 8712 00 30 and ex 8712 00 80.

5. INVESTIGATION PERIOD

- (9) The investigation covered the period from 1 January 2005 to 31 December 2005.

6. RESULTS OF THE INVESTIGATION

- (10) It was found during the investigation that the applicant was related to another manufacturer of the product concerned in the PRC, which did, however, not submit a reply to the MET claim form within the deadline set in the notice of initiation.
- (11) It has to be noted that it is the Commission's consistent practice to examine whether a group of related companies, as a whole, fulfils the conditions for MET. This is deemed to be necessary to avoid that sales of a group of companies are channelled via one of the related companies in the group, should measures be imposed. Therefore, in cases where a subsidiary or any other related company is a producer and/or a seller of the product concerned, all such related companies have to provide a reply to the MET claim form in order that an examination can be made as to whether they also meet the criteria set out in Article 2(7)(c) of the basic Regulation. Consequently, failure in that

respect leads to the result that it cannot be established that the group, as a whole, fulfils all the conditions for MET.

- (12) Furthermore, no determination as to whether the company fulfilled the requirements of Article 9(5) of the basic Regulation could be made as the facts available did not allow for such a determination.
- (13) The company was informed by the Commission of the above conclusions. It declared its intention to no longer co-operate in this review proceeding.

7. TERMINATION OF THE PROCEEDING

- (14) In light of the above, it is concluded that the partial interim review concerning imports into the Community of the product concerned produced by Giant China should be terminated and the measures as described in recital (1) should be maintained.

HAS ADOPTED THIS REGULATION:

Article 1

1. The partial interim review, pursuant to Article 11(3) of Council Regulation (EC) No 384/96, with regard to the anti-dumping measures applicable to imports of bicycles produced by Giant China Co. Ltd. and originating in the People's Republic of China by virtue of Council Regulation (EC) No 1524/2000, as last amended by Regulation (EC) No 1095/2005, is hereby terminated.

2. The anti-dumping measures currently in force with regard to Giant China Co. Ltd. are maintained.

Article 2

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,

For the Council
The President