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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2015/775**of 18 May 2015****amending Implementing Regulation (EU) No 908/2014 as regards conformity clearance**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ⁽¹⁾, and in particular Article 53(1)(b) thereof,

Whereas:

- (1) Article 34(8) of Commission Implementing Regulation (EU) No 908/2014 ⁽²⁾ provides for the rules on the deduction from Union financing of expenditure which does not comply with Union rules. It also provides for a derogation from those rules which allows the Member States to request the application of such deductions in instalments.
- (2) Where a Member State may experience severe financial difficulties, the Commission should have the possibility, in addition to authorising the deductions in three annual instalments, to defer such deductions for a period of no more than 24 months, if the Member State concerned so requests.
- (3) This deferral should only be granted to Member States which are subject to financial assistance in accordance with Council Regulation (EC) No 332/2002 ⁽³⁾, Council Regulation (EU) No 407/2010 ⁽⁴⁾ and the Treaty establishing the European Stability Mechanism signed on 2 February 2012.
- (4) Experience has shown that specifying a fixed period for the deferral of deductions can result in an accumulation of debt which may then fall due when the Member State concerned remains in severe financial difficulty and is not in a position to make the required reimbursements. Therefore, the Commission should have the possibility, taking into account the specific conditions of the financial assistance, to extend the length of the deferral period for a period of no more than 12 months.
- (5) In addition, experience has also shown that requiring the reimbursement of the total deferred amount in three annual instalments may lead to undue hardship for Member States which remain in financial difficulty after the deferral period has expired. Therefore, future decisions authorising the reimbursement in instalments should allow for a higher number of instalments in cases where the amounts concerned represent a high proportion of the Member State's Gross Domestic Product.

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ L 255, 28.8.2014, p. 59).

⁽³⁾ Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

⁽⁴⁾ Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

- (6) The Member State benefitting from a deferral decision should ensure that the deficiencies which have been the reasons for the deductions and which persist at the time of that decision are being remedied on the basis of an action plan, established in consultation with the Commission, with clear progress indicators. If a Member State benefitting from such a deferral fails to remedy the deficiencies in accordance with the action plan and, thus, exposes the Union budget to additional financial risks, the Commission should be able to amend or repeal its decision deferring the date for the application of the deductions, taking into account the principle of proportionality.
- (7) Implementing Regulation (EU) No 908/2014 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraphs 8a and 8b are inserted in Article 34 of Implementing Regulation (EU) No 908/2014:

'8a. For Member States which are subject to financial assistance under Council Regulation (EC) No 332/2002 (*), Council Regulation (EU) No 407/2010 (**) and the Treaty establishing the European Stability Mechanism, the Commission may, at the Member State's request and after consultation of the Committee on the Agricultural Funds, adopt an implementing decision deferring, for a period not exceeding 24 months from the date of its adoption, the execution of decisions adopted after 1 May 2015 pursuant to Article 52 of Regulation (EU) No 1306/2013 ("deferral decision").

The deferral decision shall authorise the deductions to be made after the end of the deferral period in three annual instalments. Where the total amount subject to the deferral decision represents more than 0,02 % of the Member State's Gross Domestic Product, the Commission may authorise the reimbursement in maximum five annual instalments.

The Commission may decide, at the Member State's request and after consultation of the Committee on the Agricultural Funds, to extend once, for a period not exceeding 12 months, the time period of deferral referred to in the first subparagraph.

The Member State benefitting from a deferral decision shall ensure that the deficiencies which have been the reasons for the deductions and which persist at the time of adoption of the deferral decision are being remedied on the basis of an action plan, established in consultation with the Commission, including deadlines and clear progress indicators. The Commission shall amend or repeal the deferral decision, taking into account the principle of proportionality, in one of the following cases:

- (a) the Member State fails to take the necessary actions to remedy the deficiencies as foreseen in the action plan;
- (b) the progress of the remedial actions is not sufficient according to the progress indicators; or
- (c) the outcome of the actions is not satisfactory.

8b. The implementing decisions referred to in paragraphs 8 and 8a shall be adopted in accordance with the advisory procedure referred to in Article 116(2) of Regulation (EU) No 1306/2013.

(*) Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

(**) Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).'

Article 2

This Regulation shall enter into force on the seventh 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, 18 May 2015.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION IMPLEMENTING REGULATION (EU) 2015/776**of 18 May 2015****extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not**

THE EUROPEAN COMMISSION,

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,

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 (China) (the original measures).
- (2) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1524/2000 ⁽³⁾, decided that the above mentioned 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 ⁽⁴⁾, increased the anti-dumping duty in force to 48,5 %.
- (4) In May 2013, following an interim review pursuant to Article 11(3) of the basic Regulation, the Council, by Regulation (EU) No 502/2013 ⁽⁵⁾, decided to maintain the anti-dumping duty in force to 48,5 % except with regard to three companies to which individual duty rates were attributed (19,2 % for Zhejiang Baoguilai Vehicle Co. Ltd, 0 % for Oyama Bicycles (Taicang) Co. Ltd and 0 % for Ideal (Dongguan) Bike Co., Ltd) (the existing measures).
- (5) In May 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, the Council, by Regulation (EU) No 501/2013 ⁽⁶⁾, decided to extend the existing measures on imports of bicycles originating in China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia (the previous anti-circumvention investigation).

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽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 (EC) No 1524/2000 of 10 July 2000 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China (OJ L 175, 14.7.2000, p. 39).

⁽⁴⁾ 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).

⁽⁵⁾ 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).

⁽⁶⁾ 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 (OJ L 153, 5.6.2013, p. 1).

1.2. Request

- (6) On 23 July 2014 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 China and to make imports of bicycles consigned from Cambodia, Pakistan and the Philippines (countries under investigation) whether declared as originating in Cambodia, Pakistan and the Philippines or not, subject to registration.
- (7) The request was lodged by the European Bicycle Manufacturers Association (EBMA) on behalf of 15 Union producers of bicycles.

1.3. Initiation

- (8) Having determined, after having informed the Member States, 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 China and to make imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, subject to registration.
- (9) The investigation was initiated by Commission Implementing Regulation (EU) No 938/2014 of 2 September 2014 ⁽¹⁾ (the initiating Regulation).

1.4. Investigation

- (10) The Commission officially advised the authorities of China, Cambodia, Pakistan and the Philippines, the exporting producers in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation.
- (11) Exemption forms were sent to the producers/exporters in Cambodia, Pakistan and the Philippines known to the Commission or through the Missions of Cambodia, Pakistan and the Philippines to the European Union. Questionnaires were sent to the producers/exporters in China known to the Commission or through the Mission of China to the European Union. Questionnaires were also sent to the known unrelated importers in the Union.
- (12) 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.
- (13) The intervention of the Hearing Officer was requested in the investigation by the Pakistani company that cooperated in the investigation. The hearing took place on 23 March 2015. The evidentiary value of Forms A for the bicycle parts purchased from a related company in Sri Lanka via a trader as explained in recital 98 and the application, by analogy, of Article 13(2)(b) of the basic Regulation for those bicycle parts purchased from Sri Lanka were discussed during the hearing.
- (14) Five producers/exporters in Cambodia, one in Pakistan and two in the Philippines submitted replies to the exemption forms. There was no cooperation from the Chinese exporting producers unrelated to the producers/exporters from the countries under investigation. Three unrelated importers in the Union submitted a questionnaire reply.
- (15) The Commission carried out the verification visits at the premises of the following companies:
 - (a) producers in the countries concerned
 - A and J (Cambodia) Co., Ltd, Sangkar Bavet, Krong Bavet, Ket Svay Rieng, Cambodia,
 - Asia Leader International (Cambodia) Co. Ltd, Svay Rieng Province, Cambodia,

⁽¹⁾ Commission Implementing Regulation (EU) No 938/2014 of 2 September 2014 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China by imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, and making such imports subject to registration (OJ L 263, 3.9.2014, p. 5).

- Opaltech (Cambodia) Co. Ltd, Khum Poek, Srok Angsnoul, Kandal Province, Cambodia,
 - Smart Tech (Cambodia) Co., Ltd, Bavet City, Svay Rieng, Cambodia,
 - Speedtech Industrial Co. Ltd and Bestway Industrial Co., Sangkat Bavet, Krong Bavet, Svay Rieng Province, Cambodia,
 - Collie Cycle Inc., Cavite, the Philippines,
 - Procycle Industrial Inc., Cavite, the Philippines;
- (b) related producer of bicycle parts to the producer of bicycles in Pakistan
- Great Cycles (Pvt.) Ltd Katunayake, Sri Lanka.

1.5. Reporting period and investigation period

- (16) The investigation period covered the period from 1 January 2011 to 31 August 2014. Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures and their extension to Indonesia, Malaysia, Sri Lanka and Tunisia in 2013 and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the reporting period from 1 September 2013 to 31 August 2014 in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (17) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of possible circumvention was made by analysing successively whether there was a change in the pattern of trade between China, the countries concerned, the countries subject to the previous anti-circumvention investigation 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

- (18) The product concerned is bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, currently falling within CN codes ex 8712 00 30 and ex 8712 00 70 and originating in China (the product concerned).
- (19) The product under investigation is the same as that defined above but consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, currently falling within the same CN codes as the product concerned (the product under investigation).
- (20) The investigation showed that bicycles, as defined above, exported from China to the Union and those consigned from Cambodia, Pakistan and the Philippines 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

2.3.1. Cambodia

- (21) During the reporting period six companies produced bicycles in Cambodia. Five cooperated and submitted a request for exemption in accordance with Article 13(4) of the basic Regulation. These five companies covered

slightly more than 100 % of the total imports from Cambodia to the Union as reported in Comext ⁽¹⁾. However, the investigation showed that certain imports (namely to the Netherlands) could not be attributed to any of the cooperating companies as explained below in recitals 66 and 67. As a result, it was established that the cooperating companies covered 94 % of the total imports from Cambodia to the Union. One of the cooperating companies is related to a Tunisian company that was found circumventing the measures in the previous anti-circumvention investigation. The sixth company is related to a company in Sri Lanka subject to the measures extended under Regulation (EU) No 501/2013 and to the cooperating company in Pakistan mentioned in recital 22. It did not cooperate with the investigation.

2.3.2. *Pakistan*

- (22) During the reporting period one company produced bicycles in Pakistan. That sole Pakistani company submitted a request for exemption in accordance with Article 13(4) of the basic Regulation and covered slightly more than 100 % of the total imports from Pakistan to the Union as reported in Comext. The company was considered to be cooperating. In agreement with the company, the verification visit took place in Sri Lanka, at the seat of its related supplier of parts.

2.3.3. *The Philippines*

- (23) During the reporting period there were two companies producing bicycles in the Philippines. As explained in recitals 39 and 40, one of these companies was found to export to the Union market via two unrelated traders. One of the trading companies was also found to carry out similar operations with another company located in Sri Lanka during the previous anti-circumvention investigation.
- (24) The two Filipino companies that submitted a request for exemption in accordance with Article 13(4) of the basic Regulation covered slightly more than 100 % of the total imports from the Philippines to the Union as reported in Comext. Only one of these companies was considered fully cooperating.
- (25) The cooperation of the second company was found to be insufficient for the following reasons.
- (a) The company did not provide the information required in the exemption form within the time limits set; in particular it did not provide a detailed breakdown of the type of bicycle parts it purchased from China. Its related company in China did not submit any reply to the exporters' questionnaire.
 - (b) It has significantly impeded the investigation as it did not provide the relevant working sheets and other supporting documents necessary for the verification of the information provided in the exemption form during the on-spot verification; or such documents were only provided with significant time delays.
 - (c) It has supplied false or misleading information: First, the volume and the quality of the painting and of the chemical treatment of the frames identified at various stages of the verification visit was not compatible with the quantity of finished bicycles allegedly produced in the reporting period. Second, the absence of the raw materials for the production of frames available for inspection during the verification visit puts in question the company's claim of being a producer of frames. Third, in reply to the deficiency letter on 13 October 2014 the company provided information in the form of invoices in a large number of excel files that could not be reconciled with the previous information submitted concerning the purchase price of parts. Fourth, it submitted during the verification visit a second set of documents only on paper format for the purchases of parts which contained new information on alleged supplier of parts. Fifth, the investigation revealed that the export invoices and the corresponding certificates of origin did not mention the same company which cast doubts on the role of the company as an actual exporter of bicycles and consequently on the correctness of the invoices provided. Sixth, the information regarding depreciation, labour costs and energy expenses were highly dubious as they were likely to be overstated.
- (26) Therefore, in accordance with Article 18(4) of the basic Regulation, on 16 January 2015 the company was informed of the intention to partially disregard the information submitted by it and was granted a time limit to provide its comments.

⁽¹⁾ Comext is a database on foreign trade statistics managed by Eurostat.

- (27) In its reply on 30 January 2015, the company took position on the reasons provided for in recital 25 above, as explained below.
- (28) With regard to the reason stated in point (a) of recital 25, the company claimed that it was not required by the exemption form to provide a detailed breakdown of the purchased bicycle parts, that the task of identifying and classifying the type of parts bought was burdensome and that such detailed information would not in its view provide any additional valuable information to the Commission for the purpose of determining whether the criteria of Article 13 of the basic Regulation were met. On the same day, i.e. more than 2 months after the on-spot verification, the company also submitted a new document with the breakdown of the type of parts purchased in the reporting period.
- (29) The Commission disagrees with these claims as the volume and the value of the purchases are needed to assess whether the conditions of Article 13(1) and (2) of the basic Regulation are met. This information was also explicitly requested in the exemption form. All other cooperating companies in the present investigation were able to provide the relevant information in the requested format. As concerns the new information submitted belatedly, this could not be fully reconciled with the information provided before. Therefore, given the nature and the quantity of the information provided and the fact that the file was submitted after the on-spot verification and could not be checked anymore, it was disregarded.
- (30) In addition, the company claimed that the Commission had not provided enough guidance on whether its related Chinese company involved in the manufacture, sale or marketing of bicycles should have filled in the exporter's questionnaire. The company also claimed that the quantities exported to the Union were *de minimis* and therefore this information was in its view not relevant for the investigation. Despite these claims, the Filipino company submitted eventually a reply to the exporter's questionnaire, albeit at a very late stage of the investigation.
- (31) In respect of the above claims, it should be noted that the exemption claim form clearly requires this information, independently of the quantities exported, which was also highlighted to the company in the deficiency letter of 13 October 2014. In addition, the late submission of the reply did not allow the Commission to verify the information provided therein and it was thus not possible to assess whether it had a material impact on the situation of the company. Therefore, the above claims and the information provided were rejected.
- (32) With regard to the reason stated in point (b) of recital 25, the company claimed in its submission of 30 January 2015 that the discrepancies revealed during the on-spot verification were minor, that the time delay in the production of documents requested was not significant and was due to the company's limited organisational means. In addition, it was claimed that by the end of the verification visit the Commission had received all the documents it had requested.
- (33) In this regard it should be noted that the discrepancies identified during the on-spot verification concerned mainly the production volume of bicycles, that is a significant information due to its importance for the assessment of the request for exemption. Concerning the alleged company's limited resources, at no time before the verification visit did the company claim limited resources that could delay the conduct of the verification. Furthermore, there were still a number of requested documents of significant importance that the company did not submit by the end of the verification, such as the documents submitted to the local authorities on the basis of which the authorities issued the certificates of origin on a different name than the company's name, and the supporting documents for the determination of the useful life of the company's buildings for the purpose of calculating its depreciation period and which had a significant impact on costs.
- (34) With regard to the first and second reason stated in point (c) of recital 25, the company claimed that the Commission's assessment that the volume and the quality of painting and chemical treatment of frames identified at various stages of the verification visit which was not compatible with the quantity of finished bicycles allegedly produced in the reporting period was unclear. It similarly stated that the Commission's doubts about the company's capacity to produce frames are also unclear.
- (35) In this regard, it is highlighted that, as stated in recital 29, the company did not provide the necessary information as requested in the exemption form allowing the Commission to assess the volume of purchased frames and of manufactured frames. During the on-spot verification, the Commission visited the plant and ascertained that certain activities were not carried out continuously as required by the production process. For example, after a first visit of the Commission where the manufacturing activity appeared to be on-going, the Commission visited the plant again and found out that this activity had ceased, as the frames were abandoned in

the chemical treatment area and the electricity was shut down in the painting department while the frames were not completely painted, without any apparent justification. To the contrary, such discontinuation of the production could have a significant impact on the quality of the finished frames, which is not in line with an economically rational production process. Secondly, the Commission was not able to verify the existence of raw materials for the manufacturing of frames at the company's premises during the verification visit. Nevertheless, during the verification visit it was found that the company had indeed some equipment to manufacture frames and it was not excluded that the company could have manufactured some frames in the reporting period. Therefore, based on the incomplete information submitted by the company as explained in point (c) of recital 25, the Commission concluded, by adding up all the purchases of frames reported by the company in the excel files submitted in reply to the deficiency letter on 13 October 2014, that despite the presence of the equipment, most of the frames used for the assembly of the bicycles sold to the Union market during the reporting period were in fact purchased from China.

- (36) With regard to the third reason stated in point (c) of recital 25, the company claimed that the difficulties in reconciling the value of the purchased parts are due to the fact that the company only submitted the FOB (free on board) prices instead of the CIF (cost, insurance and freight) prices indicated on the invoice. The company also submitted a new file indicating FOB and CIF prices.
- (37) Concerning the reconciliation of the purchase prices, the exemption form requires the company to indicate the invoice value and the actual delivery term of each purchase transaction. In its reply to the exemption form, the company did not indicate for any of the reported transactions that the delivery term was FOB or CIF, but rather C&F (cost and freight) or COD (cash on delivery). In addition, as these allegations were raised by the company late in the investigation and such information could be no longer verified, also taking into account its nature and quantity, this claim was rejected.
- (38) As regards the fourth reason stated in point (c) of recital 25, it was claimed that the indirect sales of the related Chinese company through the allegedly unrelated suppliers account for a minor part of the total purchases of the company. The Commission was not in the position to establish the exact volume of parts purchased from the related supplier for the reasons set out in recital 29. Therefore, the Commission maintains its doubts on reliability of the purchase price for parts and the identity of the main supplier.
- (39) In relation to the fifth reason stated in point (c) of recital 25 concerning the correctness of the export price, it was claimed that the company usually sells bicycles to the Union market through two unrelated trading companies which then resell them to the final customer in the Union. Furthermore, the fact that the names of the trading companies appear on some certificates of origin submitted by the company would simply reflect the trader's status as the ultimate seller to the Union customers.
- (40) In this regard, the company did not report its unrelated trading companies as customers, and this contradicts the company's claim that they were actually the ultimate sellers to the Union customers. This in fact confirms the Commission's understanding that the invoices between the company and the Union customers shown during the on-spot verification do not reflect the actual export transactions, as the Union customers should then be invoiced by the unrelated traders. Therefore, the reported export price was found not to be reliable and was therefore disregarded.
- (41) In relation to the sixth reason stated in point (c) of recital 25 concerning the unreliability of the costs related to depreciation, labour costs and electricity, the company claimed the following.

First, regarding depreciation expenses, the company mentioned the years of the construction of its buildings but did not support this claim with any evidence. In addition, during the on-spot verification the Commission had repeatedly asked for evidence of the construction year of the buildings and the assessment of the depreciation period of the buildings in light of the significant importance of the value of the depreciation for the calculation of the value added test under Article 13(2) of the basic Regulation. In particular, the company had determined the useful life of its buildings significantly below the usual under international accounting standards, i.e. 50 years. Depreciation costs were therefore high, with a significant impact on the reported overall costs of the assembled bicycles. The company could not provide any supporting documents, such as for instance relevant analyses or documents on the underlying reasons for the internal company's decision making which would justify such deviation from normal practices. During the verification visit, the Commission could not identify any reason for the company not being able to use the buildings for a longer period than the one it declared. Therefore, the company's claim is rejected and the depreciation period was revised based on a more accurate useful life of the buildings i.e. 20 years.

- (42) Second, as concerns labour costs, the company questioned the clarity of the Commission's assessment. In this regard, as explained in recital 35, based on the information submitted in the reply to the deficiency letter of 13 October 2014, the Commission calculated that most of the frames used for the assembly of the bicycles exported to the Union market during the reporting period, were actually purchased from China. Therefore, the labour costs submitted by the company were significantly disproportionate in relation to the production volume and were revised based on the findings for the genuine Filipino producer.
- (43) Third, concerning energy expenses, the company also questioned the clarity of the Commission's assessment. In this respect, as in the case of labour costs, the energy expenses reported by the company were significantly disproportionate in relation to the production volume and were revised based on the findings for the genuine Filipino producer.
- (44) Therefore, part of the information submitted by the company had to be revised as explained in recitals 41 to 43 while the information provided regarding the export price to the Union had to be fully disregarded. Findings concerning the export price of the company to the Union were, therefore, based on facts available in compliance with Article 18 of the basic Regulation. The export price was, thus, established on the basis of data from Comext.

2.3.4. China

- (45) There was no cooperation from any of the unrelated Chinese exporting producers while certain Chinese exporting producers related to the producers/exporters from the countries under investigation cooperated and reported to have sold insignificant volumes to the Union market and to Cambodia and the Philippines during the investigation period. Therefore, findings in respect of imports from China of the product concerned into the Union, on the one hand, and in respect of exports of bicycles from China to Cambodia, Pakistan and the Philippines, on the other hand, were based on data reported by the cooperating Chinese related exporting producers and on facts available in accordance with Article 18(1) of the basic Regulation. Facts available used with regard to imports to the Union were extracted from Comext. Chinese national statistics were used as regards the determination of export volumes from China to Cambodia, Pakistan and the Philippines.
- (46) The local authorities in Cambodia, Pakistan and the Philippines submitted partial information concerning imports of bicycles from China. In addition, the investigation revealed that the respective local authorities in Cambodia, Pakistan and the Philippines do not carry out cross checks between the Chinese export statistics and respective local import statistics.

2.4. Change in the pattern of trade

2.4.1. Imports into the Union from China, Cambodia, Pakistan and the Philippines

- (47) Total imports of the product concerned from China into the Union decreased by 27 % in 2012 as compared to 2011. After the imports from Indonesia, Malaysia, Sri Lanka and Tunisia have been registered following the initiation of previous anti-circumvention investigation in 2012, the imports from China increased by 44 %. In the reporting period, the imports from China decreased by 7 % as compared to 2013. In total, imports from China decreased by 2 % in the investigation period.
- (48) As explained in recitals 21, 22 and 24, the verified exports of the cooperating companies in the countries under investigation slightly exceeded the volume of imports as reported in Comext. Since data from the cooperating companies were considered to be more accurate as they were verified, Comext data was adjusted accordingly.
- (49) At the same time, imports of the product under investigation from Cambodia into the Union increased from 2011 onwards. In 2012 the imports increased by 120 % as compared to 2011 while in 2013 the imports tripled as compared to 2011. During the investigation period, imports from Cambodia to the Union increased by 180 %. The increase of imports from Cambodia into the Union should be seen in relation with the decrease of imports from Sri Lanka and Tunisia in 2013 and in the reporting period as compared to 2011 (by 59 % and 57 % respectively for Sri Lanka, and by 32 % and 23 % respectively for Tunisia). This decrease coincided with the registration of the imports from Sri Lanka and Tunisia into the Union following the initiation of the previous anti-circumvention investigation in 2012 as explained in recital 21.

- (50) As concerns the imports of the product under investigation from Pakistan into the Union, they were negligible before 2013. In the reporting period they increased to a significant level. The increase of imports from Pakistan into the Union should be seen in relation with the decrease of imports from Sri Lanka in 2013 and in the reporting period as compared to 2011 (by 59 % and by 57 %, respectively). This decrease coincided with the registration of the imports from Sri Lanka into the Union following the initiation of the previous anti-circumvention investigation as explained in recital 21.
- (51) As all the imports into the Union from Pakistan were made by the sole Pakistani producer/exporter as explained in recital 22, the exact total volume of exports from Pakistan to the Union cannot be disclosed for confidentiality reasons.
- (52) Finally, the imports of the product under investigation from the Philippines into the Union increased between 40 % and 65 % in the reporting period as compared to 2011. The increase of imports from the Philippines into the Union should be seen in relation with the decrease of imports from Sri Lanka in 2013 and in the reporting period as compared to 2011 (by 59 % and by 57 % respectively). This decrease coincided with the initiation of the previous anti-circumvention investigation as explained in recital 23.
- (53) As the imports of the product under investigation from the Philippines into the Union were made by two producers/exporters, as explained in recital 23, the total volume of exports from the Philippines to the Union cannot be disclosed for confidentiality reasons.
- (54) Table 1 below shows import quantities of bicycles from China, Cambodia, Pakistan, the Philippines, Indonesia, Malaysia, Sri Lanka and Tunisia into the Union during the investigation period.

Table 1

Import volumes to the EU

(pieces)	2011	2012	2013	1.9.2013-31.8.2014
China	492 945	357 894	517 010	480 706
<i>Index (2011 = 100)</i>	100	73	105	98
Cambodia	493 874	1 085 845	1 506 966	1 382 474
<i>Index (2011 = 100)</i>	100	220	305	280
Pakistan	0	0	[1 000-7 500]	[150 000-190 000]
<i>Index (2013 = 100)</i>	0	0	100	2 993
The Philippines	[470 000-520 000]	[630 000-730 000]	[840 000-930 000]	[820 000-910 000]
<i>Index (2011 = 100)</i>	100	[110-130]	[145-170]	[140-165]
Indonesia	641 948	629 387	252 071	170 934
<i>Index (2011 = 100)</i>	100	98	39	27
Malaysia	170 199	159 405	78 732	298
<i>Index (2011 = 100)</i>	100	94	46	0

(pieces)	2011	2012	2013	1.9.2013-31.8.2014
Sri Lanka	958 574	958 678	393 648	410 212
<i>Index (2011 = 100)</i>	100	100	41	43
Tunisia	518 430	447 969	350 656	397 544
<i>Index (2011 = 100)</i>	100	86	68	77

Source: Companies' reply to the exemption forms and Comext statistics (as adjusted).

2.4.2. Exports from China to Cambodia, Pakistan and the Philippines

- (55) Exports of bicycles from China to Cambodia increased first from 2011 to 2012 by 65 %. Between 2012 and 2013, imports slightly decreased by 10 % but increased by 76 % in the reporting period as compared to 2013. During the investigation period, exports from China to Cambodia increased in total by 159 %. The increase of exports from China to Cambodia should be seen in relation to the decrease of exports from China to Sri Lanka and Tunisia in 2013 and the reporting period as compared to 2011 (by 44 % and by 30 % respectively for Sri Lanka and by 66 % and by 57 % respectively for Tunisia). This coincided with the registration of the imports from Sri Lanka and Tunisia into the Union following the initiation of the previous anti-circumvention investigation.
- (56) Exports of the product concerned from China to Pakistan decreased in 2012 as compared to 2011, by 22 %. However, after initiation of the previous anti-circumvention investigation, exports of bicycles from China to Pakistan increased by 57 % and further increased in the reporting period. During the investigation period, exports from China to Pakistan increased in total by 57 %. The increase of exports from China to Pakistan should be seen in relation with the decrease of exports from China to Sri Lanka in 2013 and in the reporting period as compared to 2011, by 44 % and by 30 %, respectively. This coincided with the registration of the imports from Sri Lanka into the Union following the initiation of the previous anti-circumvention investigation.
- (57) Finally, exports from China to the Philippines decreased in 2012 as compared to 2011 by 27 %. However, the exports from China to the Philippines more than doubled in 2013 after the initiation of the previous anti-circumvention investigation. During the investigation period, exports from China to the Philippines increased in total by 140 %. The increase of exports from China to the Philippines should be seen in relation with the decrease of exports from China to Sri Lanka in 2013 and in the reporting period as compared to 2011 (by 44 % and by 30 %, respectively). This coincided with the registration of the imports from Sri Lanka into the Union following the initiation of the previous anti-circumvention investigation.
- (58) Table 2 shows export volume of bicycles from China to Cambodia, Pakistan, the Philippines, Indonesia, Malaysia, Sri Lanka and Tunisia during the investigation period.

Table 2

Export volumes from China

(pieces)	2011	2012	2013	1.9.2013-31.8.2014
Cambodia	7 445	12 285	10 963	19 316
<i>Index (2011 = 100)</i>	100	165	147	259
Pakistan	243 005	189 113	297 683	381 290
<i>Index (2011 = 100)</i>	100	78	123	157

(pieces)	2011	2012	2013	1.9.2013-31.8.2014
The Philippines	456 057	331 851	1 084 001	1 095 534
<i>Index (2011 = 100)</i>	100	73	238	240
Indonesia	3 848 450	4 773 631	6 215 767	5 858 330
<i>Index (2011 = 100)</i>	100	124	162	152
Malaysia	1 794 077	1 790 371	1 321 983	1 278 543
<i>Index (2011 = 100)</i>	100	100	74	71
Sri Lanka	706 828	644 280	395 770	497 363
<i>Index (2011 = 100)</i>	100	91	56	70
Tunisia	229 543	136 287	78 174	99 102
<i>Index (2011 = 100)</i>	100	59	34	43

Source: Goodwill China Business Information Ltd.

2.4.3. Conclusion on the change in the pattern of trade

- (59) The decrease of exports from China and from Indonesia, Malaysia, Sri Lanka and Tunisia to the Union, the parallel increase of exports from Cambodia, Pakistan and the Philippines to the Union and the increase of exports from China to Cambodia, Pakistan and the Philippines with a parallel decrease of exports from China to Malaysia, Sri Lanka and Tunisia after the extension of the anti-dumping measures following the previous anti-circumvention investigation constitutes a change in the pattern of trade between third countries and the Union within the meaning of Article 13(1) of the basic Regulation. In the case of the three countries concerned, this conclusion could be reached both (i) globally and (ii) for each of the countries under investigation.

2.5. Existence of circumvention practices

- (60) 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.

2.5.1. Production

- (61) The local authorities in the countries under investigation did not submit any information concerning the production volume of the product under investigation in their respective countries.
- (62) Based on the companies' exemption claim forms, it could however be established that the producers in Cambodia and the Philippines increased their production of the product under investigation between 2011 and the reporting period by 161 % and between 20 % and 55 % respectively.
- (63) Concerning Pakistan, the sole Pakistani cooperating company started to export bicycles in 2013. Therefore, the conclusion that there was no genuine production in Pakistan was based on the information provided by that company and verified.

- (64) As explained in recital 24, two companies cooperated from the Philippines and one of them proved not to be a genuine producer as stated in recitals 112 to 125. Therefore the production volume in the Philippines cannot be disclosed for confidentiality reasons.

Table 3

Production of bicycles of the producers in Cambodia and the Philippines

(pieces)	2011	2012	2013	1.9.2013-31.8.2014
Cambodia	594 811	1 375 967	1 621 963	1 551 254
<i>Index</i>	100	231	273	261
The Philippines	[450 000-520 000]	[550 000-650 000]	[575 000-630 000]	[600 000-670 000]
<i>Index</i>	100	[110-130]	[115-140]	[120-155]

Source: Companies' replies to the exemption form.

2.5.2. Cambodia

General

- (65) As the five cooperating companies in Cambodia, accounted for the large majority of the exports to the EU, a detailed analysis could be carried out. As mentioned in recital 21, certain imports to the Netherlands could not be attributed to any of the cooperating companies. In addition, one of the cooperating companies is related to a Tunisian company that was found circumventing the measures in the previous anti-circumvention investigation.
- (66) The investigation showed that the imports into the Netherlands from Cambodia increased significantly in 2013 and the reporting period as compared to 2011 (by 672 % and 533 % respectively), while import price decreased in 2013 and the reference period as compared to 2011 (by 43 % and 21 % respectively), as showed in Table 4 below:

Table 4

Imports into the Netherlands from Cambodia

		2011	2012	2013	1.9.2013-31.8.2014
Volume	pieces	20 137	25 463	155 426	127 466
<i>Index</i>	%	100	126	772	633
Value	EUR	2 172 310	3 320 550	9 636 470	10 816 490
<i>Index</i>	%	100	153	444	498
Average import price	EUR/piece	107,88	130,41	62,00	84,86
<i>Index</i>	%	100	121	57	79

Source: Comext statistics.

- (67) A more detailed analysis based on monthly data, which is showed in Table 5 below, revealed that import prices from Cambodia to the Netherlands in the first 4 months of the reporting period were at a much lower level than prices from January 2014 onwards. The investigation also revealed that the non-cooperating company in Cambodia moved to Pakistan at the end of 2013. Furthermore, three Cambodian cooperating companies exported to the Netherlands small quantities of bicycles at prices considerably higher than the average prices found in the first 4 months of the reporting period. The two other companies did not export bicycles to the Netherlands. On this basis, the Commission concluded that imports into the Netherlands from Cambodia were also made by the non-cooperating company.

Table 5

Average monthly imports prices into from Cambodia the Netherlands

Period	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14
Average price (EUR/piece)	45,58	69,43	72,35	66,37	147,7	168,51
Period	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14
Average price (EUR/piece)	137,45	125,7	148,06	151,3	131,15	145,96

Source: Comext statistics.

Transshipment

- (68) The exports of the cooperating Cambodian companies covered 94 % of the total imports from Cambodia to the Union in the reporting period.
- (69) One of the five cooperating companies could not reconcile the data on the type of frames purchased from China with the data on the type of bicycles sold to the Union, while the company did not manufacture frames in that period. Therefore, it was concluded that bicycles were transhipped.
- (70) After disclosure the company disagreed with the Commission assessment of transshipment. The company provided additional documents and argued that the Commission does not have any evidence in the file showing that the frames came from China.
- (71) It is recalled that, during the on-spot verification, the information provided by the company did not allow the Commission to reconcile the type of frames purchased with the type of bicycles exported to the Union, as the company showed purchases of frames of steel while it exported bicycles with frames of steel and aluminium of different sizes. This would indicate that the exported bicycles have not been assembled in Cambodia. Furthermore, the only evidence submitted during the on-spot verification by the company to show the origin of these frames was the Form A/Certificate of origin issued by Vietnamese authorities in the name of a Vietnamese trader. Following disclosure, the company claimed that the Form A/Certificate of origin wrongly indicated that all the frames were of steel when in fact they are also of aluminium. The new documents submitted by the company after disclosure, in Vietnamese and Chinese with limited translation into English, contained several inconsistencies (the quantity of frames purchased could not be reconciled with the number of bicycles exported as established during the on-spot verification; one document was submitted as an invoice but it did not include any prices; no evidence was submitted for the other manufacturing steps for the frames like cutting, forming, punching, and painting). These new documents were, therefore, considered incomplete and insufficient in order to show that the frames in question were produced in Vietnam.
- (72) In addition, the investigation established that the company bought the majority (70 %) of the other parts used to assemble the bicycles from related companies in China while the remaining parts (with few immaterial exceptions) came from Vietnamese traders. The company was not however able to provide any evidence/information as to the actual producers of these other parts.

- (73) Moreover, the company was not able to provide the Form A/Certificate of origin from the Ministry of Commerce in Cambodia for the bicycles in question. Therefore, and in the absence of any other information available, it is concluded that the parts in question originated from China. Hence, the above claims were rejected.
- (74) Therefore, on the basis of the evidence listed above, the existence in Cambodia of transshipment practices of Chinese-origin products within the meaning of Article 13(1) of the basic Regulation is established.

Assembly operation

- (75) 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 Cambodia is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation. For three out of the five companies that cooperated, the raw materials (bicycle parts) from China 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.
- (76) The other two companies were set up in 2013 in Cambodia. One of them engaged in transshipment practices, as established in recitals 69 to 74. Both companies claimed to produce frames. The two companies bought the parts from China either from related companies or through related traders in Hong Kong. The investigation established that the allocation of the fixed costs (i.e. depreciation, rent and direct and indirect electricity expenses) to the manufacturing of frames was inconsistent with the production volume of bicycles and artificially increased the value of the manufactured frames. In addition, the consumption of the paint used in the manufacturing of frames was found to be overstated as compared to the data of genuine producers. Moreover, the labour costs allocated to the manufacturing of frames and assembly operations of bicycles was found to be too high and unreliable in comparison to the volume of frames manufactured and assembled bicycles, based on findings regarding the genuine producers. The allocation of these different costs to the manufacturing of frames was therefore revised and showed that the raw materials (bicycle parts) from China constituted in reality more than 60 % of the total value of the parts of the assembled product, while the value added to the parts brought in during the assembly operation, was lower than 25 % of the manufacturing cost.
- (77) After disclosure, one company claimed that a considerable portion of its production of bicycles was destined for outside markets outside the Union. In this regard it is noted that in the reporting period the company's sales outside the Union represented less than 6 % of the total sales and involved one transaction (one invoice) only.
- (78) The same company disputed the Commission's findings that the parts from China represented more than 60 % of the total value of the parts of the assembled product. It claimed that the Commission wrongly assumed that all raw materials are for the bicycles sold to the Union while the company is also selling outside Union. It also argued that the cost of production for bicycles sold to the Union is higher than the cost of production for bicycles sold outside Union. The company claimed that the Commission, therefore, should adjust its findings to strip out the costs of the parts and the materials for the production of bicycles destined for outside Union. In addition, the company argued that the Commission mistakenly considered that certain non-Chinese material (frames and other bicycle parts) were actually originating in China. It also argued that some parts covered by two purchase orders have been mistakenly reported as originating in China by the company.
- (79) In this regard, it should be noted that as explained in recital 77, the sales outside the Union represented less than 6 % of the total sales of the company and, therefore, it could not have materially distorted the Commission's analysis. The company submitted in its reply to the disclosure a new file indicating which parts were used for the bicycles exported outside Union. However, the company did not submit any evidence showing that these parts were effectively used for the assembly of the bicycles exported outside the Union, such as for example bills of materials for the bicycles exported outside the Union indicating the type of parts used for these bicycles. As regards the parts for which the company claimed they were mistakenly considered by the Commission as Chinese, it is noted that the company reported to purchase several parts from Vietnamese traders but no evidence was submitted concerning the producers of these parts as explained in recital 71. Therefore, in the absence of any evidence concerning the actual producers of these parts and taking into account the fact that the company has related companies in China from which it buys bicycle parts, it is concluded that the parts in question also come from China. As for the two purchase orders mentioned above, these have been reported by the company itself as covering purchase of parts from its Chinese related company and no evidence was submitted after disclosure to prove that the company made a mistake in declaring a Chinese origin to those parts. Therefore, these claims were rejected.

- (80) Both companies involved in assembly operations disputed the revision of their costs made by the Commission. As a general note, it is highlighted that when calculating, under Article 13(2) of the basic Regulation, whether the value added to the parts brought in during the assembly operation was greater than 25 % of the manufacturing cost, the costs included in the calculation of the value added are costs incurred in the manufacturing process that lead to an increased value of the finished product in addition to its initial costs (for example manufacturing labour costs, factory overheads, depreciation of assembly facilities, internally-manufactured parts). These costs should, therefore, be specifically incurred in the manufacturing and completion process of bicycles.
- (81) One company claimed that the Commission did not take into account the costs linked to its geographical location. In this regard, it should be noted that the company has not submitted any evidence showing the difference in costs per region in Cambodia. Therefore, this claim was rejected.
- (82) As concerns depreciation costs, one company claimed during the on-spot verification that the fixed assets were paid for by the shareholders and not by the company itself. Therefore, as the company did not incur any costs with the acquisition of the fixed assets, the depreciation costs reported by the company were disregarded. After disclosure, the company claimed, however, that the equipment purchased by the shareholders was in fact a contribution in kind to capital. As this claim was made at a late stage of the investigation, the Commission was not able to verify it and, therefore, the claim was rejected.
- (83) Both companies are renting buildings for their bicycles assembly operations. In the reporting period, a significant part of their production capacities was not used. However, both companies allocated the total rent expenses to the production of frames and assembly of bicycles. The allocation made by the companies did not take into account that only a part of the rented buildings was used in the production process. For the calculation of the value added, the Commission, therefore, revised the allocation of the rent expenses to the manufacturing of frames and the assembly of bicycle in proportion of the actual production volume. The remaining rent costs incurred by the companies were considered costs that do not contribute to the creation of the value added required by Article 13(2) of the basic Regulation.
- (84) As concerns costs for painting, one company claimed that it uses a more complex painting process with three coats of painting and, therefore, more paint than the companies used to calculate a benchmark for the consumption of painting (around 2,5 more than the benchmark). In this regard it should be noted that the companies included in the benchmark also use three coats of painting. Nevertheless, even if the benchmark was revised as the company suggested, it would not have changed the Commission's conclusions that the company does not comply with the 25 % value added test under Article 13(2)(b) of the basic Regulation. In addition, the company claimed that the Commission has not taken into account the costs of sand blasting. The company submitted invoices after the disclosure indicating these expenses. However, the invoices were issued after the end of the reporting period and had to be, therefore, disregarded. Therefore, these claims were rejected.
- (85) The same company claimed that it was incorrect to allocate the energy costs on the basis of the square meters of each location instead of consumption. In this regard, it is noted that not all the energy consumed by that company was incurred in the manufacturing process. In any event, even if the energy costs had not been revised, it would not have changed the Commission's conclusion that the company does not comply with the 25 % value added test under Article 13(2)(b) of the basic Regulation. The same conclusion is reached if both the painting and the energy costs had been changed as claimed by the company.
- (86) The other company argued that the Commission should not have revised its costs on the basis of the data from the company's bill of materials, because the methodology for establishing costs in the bill of materials differs from the Commission's methodology for determining the energy costs. The company's claim is not further elaborated. Nevertheless, even if the energy costs had not been revised on the basis of the energy expenses from the bill of materials provided by the company during the on-spot verification, it would not have changed the Commission's conclusion that the company does not comply with the 25 % value added test under Article 13(2)(b) of the basic Regulation.
- (87) As concerns the labour costs, one company argued that the Commission did not take into account the fact that the company paid a higher salary to its workers in order to retain them as there was not enough supply of workers in that area. In this regard, it should be noted that the Commission did not revise the level of the salary of the employees, but the number of the employees effectively allocated to the production of frames and the assembly of bicycles. In addition, the same company argued that the Commission did not take into account the flexibility of the workers as it was alleged that the workers allocated to the production of frames also occasionally worked in the assembly of bicycles. In reply to this claim, it is highlighted that during the on-spot

verification the Commission requested the company to provide an estimation of the number of employees per department (production of frames, assembly operations etc.). The Commission has carried out its assessment based on the information submitted during the on-spot verification. The company has not provided any information concerning such flexibility of the workers and, therefore, the claim was rejected. The other company claimed that its labour costs were high because of training costs, without however providing evidence of the value of such training costs. Nevertheless, it should be noted that as the company will benefit from the trained employees for a longer period of time, the training expenses should be allocated for a longer period. Therefore, the training expenses cannot be fully allocated to the costs of the first months of production as they will also contribute to the increase in value of bicycles produced after the reporting period.

- (88) Therefore, the existence in Cambodia of assembly operations involved in the circumvention of the measures in force within the meaning of Article 13(2) of the basic Regulation is established.

Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (89) Cambodia is a beneficiary of the EU's scheme 'Everything But Arms' (EBA) since 2001. While it cannot be excluded that the EBA rules could have contributed to motivate different companies to set up production facilities in Cambodia and export bicycles to the Union market, it does not affect the findings that one company was engaged in transshipment practices and that two companies sourced the bicycle parts mainly from China, added insufficient value added in their manufacturing operations and were thus found to be involved in circumvention activities.
- (90) After disclosure, one company claimed that it was established in Cambodia for commercial reasons, in order to benefit from low labour costs and from logistical advantages. It should however been noted that those advantages are to some extent put into question by a document attached by the company itself in its reply to the disclosure. In addition, as explained above, the company's sales to the Union during the reporting period represented around 94 % of its total sales. Such a targeting of the Union market is not compatible with the claim, which is therefore rejected.
- (91) The investigation did not bring to light any due cause or economic justification for the transshipment and the assembly operations described above 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 the transshipment and the assembly operations.

Conclusion on Cambodia

- (92) In its reply to the disclosure of 19 March 2015, the Ministry of Commerce of Cambodia did not question the Commission's analysis on the existence of circumvention practices.
- (93) On the basis of the evidence above, the investigation has established that the change in the pattern of trade stemmed from, in addition to an increase of exports of some genuine producers, a practice, process or work for which there is no economic justification other than the duty.

2.5.3. Pakistan

General

- (94) The investigation revealed that there is only one company involved in the manufacturing of bicycles in Pakistan. This company is related to a company in Sri Lanka that was subject to the previous anti-circumvention investigation and is subject to the extended measures. In addition, the shareholders of that Sri Lankan company set up a company in Cambodia also involved in the exports of bicycles to the Union. As explained in recital 21 this Cambodian company did not cooperate in the current investigation, although it exported the product under investigation to the Union market in 2013 as explained in recitals 66 to 67. The Cambodian company ceased its operations in Cambodia during the reporting period and moved its activities to the related company in Pakistan. The sole activity of the Pakistani company was to export the product under investigation to the Union market.

Transhipment

- (95) The exports of the sole cooperating Pakistani company covered the total imports from Pakistan to the Union in the reporting period.
- (96) The investigation did not reveal any practice of transhipment of Chinese-origin products via the Pakistan.

Assembly operation

- (97) The sources of raw materials (bicycle parts) and the cost of production were analysed for the sole cooperating company to establish whether any assembly operation in Pakistan is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation.
- (98) The investigation revealed that the company purchased a significant volume of frames, forks, alloy rims and plastic wheels from one of its related companies in Sri Lanka via an unrelated trader. In order to demonstrate that these parts are from Sri Lanka, the company submitted their Certificate of origins/Forms A issued by Department of Commerce in Sri Lanka. However, these certificates were not considered sufficient evidence to demonstrate the origin of the bicycle parts because they were issued on the basis of unreliable cost statements. It was indeed found that they were not based on real manufacturing costs, but merely on a global projection of manufacturing costs that were valid for an undetermined volume of production for about 1 year. In addition, for certain types of frames and forks for which Certificates of origins/Forms A were issued, supporting cost statements were missing. Consequently, as these parts were manufactured mainly with raw materials from China, it was concluded that these parts themselves come from China.
- (99) In addition, the company claimed that it purchased the relevant bicycles parts from its related company via an unrelated trader. The investigation however showed that at the end of the reporting period, there was an unpaid amount of about USD 5 million for the parts purchased from this unrelated trader. Given that this unpaid debt represented more than 90 % of the company's sales to Union during the reporting period, such fact casts doubts on the relationship between the company and the trader. In addition, the verification showed that this allegedly unrelated trader applied an inconsistent mark-up and therefore the prices charged for parts to the Pakistani company could not be relied upon. Finally, the company directly purchased parts from its related companies in Sri Lanka and Cambodia and from one unrelated company in Sri Lanka, but was unable to prove the origin of any of those parts during the verification visit, with the exception of tyres purchased from Sri Lanka. In addition, the statutory purpose of these three companies is limited to the production of bicycles and does not include bicycle parts, and therefore it was concluded that these parts were from China. Taking into account the above, the raw material (bicycle parts) from China 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 found to be less than 25 % of the manufacturing cost of this company.
- (100) After disclosure, the company disagreed with the Commission's assessment that the Forms A/Certificates of origin submitted for the bicycles parts purchased from Sri Lanka could not be considered sufficient evidence to demonstrate the origin of the bicycle parts. The company argued that the cost statements were prepared by a firm of chartered accountants and that the importers should be able to rely on Forms A/Certificates of origin issued by the Sri Lankan Department of Commerce. The company confirmed that the cost statements were not supported by real manufacturing costs for parts but a mere projection of future costs valid for about 1 year. Moreover, the company claimed that Article 13(2)(b) of the basic Regulation is not a rule of origin and, therefore, that it cannot be applied to assess the origin of the bicycle parts purchased from Sri Lanka.
- (101) As explained in recital 98, the Forms A/Certificates of origin were not considered sufficient evidence to demonstrate the origin of the bicycle parts purchased from Sri Lanka because they were not issued on the basis of actual manufacturing costs but on a projection of manufacturing costs for the future which does not provide any guarantees that the bicycle parts were indeed manufactured in compliance with the projected costs. Moreover, it should be made clear that the Commission is not disputing in general the methodology for the issuance of the Forms A/Certificates of origin in Sri Lanka, which is beyond the scope of this investigation, but only assessing whether the conditions of Article 13(2) of the basic Regulation are met in the present case. In these circumstances, while noting that Article 13(2)(b) of the basic Regulation is indeed not as such a rule of origin, the Commission was justified in considering that as these parts were manufactured for more than 60 % with raw materials from China and the value added was less than 25 % of the manufacturing costs, it could conclude that these parts themselves come from China. Therefore, all the above claims were rejected.

- (102) On this basis the company was found to be an assembly operation. Therefore, the existence in Pakistan of assembly operations involved in the circumvention of the measures in force within the meaning of Article 13(2) of the basic Regulation in Pakistan is established.

Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (103) Pakistan received the GSP+ status ⁽¹⁾ at the end of 2013. While it cannot be excluded that the granting of additional benefits under the GSP rules could have contributed to motivate different companies to set up production facilities in Pakistan and export bicycles to the Union market, it does not affect the findings that the sole exporter to the Union is related to a Sri Lankan company subject to measures following the previous anti-circumvention investigation and that it sourced the bicycle parts mainly from China.
- (104) Therefore, the investigation did not bring to light any due cause or economic justification for the 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 assembly operations.

Conclusion on Pakistan

- (105) The government of Pakistan did not make comments after the disclosure.
- (106) The investigation has established that the change in the pattern of trade stemmed from a practice, process or work for which there is no economic justification other than the duty.

2.5.4. *The Philippines*

General

- (107) As stated in recitals 23, the investigation showed that the exports of one of the two cooperating companies were in fact performed by two unrelated trading companies. One of these trading companies, which did not cooperate in this investigation, carried out similar operations in Sri Lanka as found in the context of the previous anti-circumvention investigation.

Transshipment

- (108) As mentioned in recital 24 two companies in the Philippines cooperated by providing information in their exemption forms. The exports of these companies covered the total imports from the Philippines to the Union in the reporting period.
- (109) The investigation did not reveal any practice of transshipment of Chinese-origin products via the Philippines.

Assembly operation

- (110) 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 the Philippines is circumventing the existing measures according to the criteria of Article 13(2) of the basic Regulation.
- (111) For one of the two companies in the Philippines the raw materials (bicycle parts) from China 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.
- (112) Concerning the other company, findings were partially based on Article 18(1) of the basic Regulation as explained in recitals 25 to 44. This company was found to be related to a Chinese manufacturer of bicycles subject to measures. It purchased almost all parts from China and therefore the raw material (bicycle parts) from China constituted more than 60 % of the total value of the parts of the final product. In addition, as explained in recitals 41 to 43, certain cost items had to be revised. A more reliable depreciation period for the buildings was used, the productivity ratio (quantity produced divided by the number of employees) of a genuine Filipino producer was used to calculate a more reliable number of employees for the volume of production reported by the company, and the average consumption of electricity per bicycle of a genuine Filipino producer was used to calculate a more reliable cost of electricity per bicycle.

⁽¹⁾ The GSP+ scheme is currently contained in chapter III of Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

- (113) After disclosure, one company claimed that it was unable to verify the data used from the genuine Filipino producer as the non-confidential data provided by that genuine producer was incomplete. In this regard it should be noted that the Commission cannot disclose the exact data of the genuine Filipino producer as this information is confidential. In addition, while the non-confidential data is in general provided in indexes, the Commission in this case has disclosed to the company the data used from the genuine producer in ranges, providing a minimum and a maximum value, and therefore, more meaningful data than an index. Therefore, the company had detailed data to understand the basis for the revision of its costs and provide comments. Finally, the company did not request the intervention in this case of the Hearing Officer in trade proceedings.
- (114) The same company confirmed that it was not claiming to comply with the less than 60 % test of Article 13(2)(b) of the basic Regulation. It however claimed that the calculation of 25 % value added test by the Commission was incorrect because it did not include the selling, general and administrative expenses and the profit, because the Commission had separated the value added to the raw materials from the value added to imported frames and, thirdly, because the Commission had taken into account only the value added in proportion of the parts that were purchased from China. As explained below, those claims are based on a misunderstanding of the relevant provision of the basic Regulation.
- (115) First, as explained in recital 80, the costs included in the calculation of the value added are costs incurred in the manufacturing process that lead to an increased value of the finished product in addition to its initial costs (for example manufacturing labour costs, factory overheads, depreciation of assembly facilities, internally-manufactured parts). These costs should be incurred in the manufacturing process. The costs incurred by the company that cannot be linked to the manufacturing process during the reporting period are not included for the purpose of the calculation of value added. Therefore, the selling, general and administrative expenses are not included in the calculation of the value added as such costs are not incurred by the company in the manufacturing process and do not increase the value added of the product. The profit cannot be included either as it is not a component of the value added. Moreover, it is based on the management decision and market forces.
- (116) As concerns the second claim, it is highlighted that under Article 13(2)(b) of the basic Regulation, the parts that are purchased are not included in the calculation of the value added by the company. The calculation of value added includes only the costs incurred directly and indirectly in the assembly operations of the parts.
- (117) Finally, the Commission took into account the value added in proportion of the parts purchased from China in accordance with established practice and in line with Article 13(2)(b) of the basic Regulation. In any event, even if this rule had not been applied in this case, this would not have affected the Commission's conclusion that the company fails to meet the 25 % value added test, as more than 80 % of the parts were purchased from China.
- (118) In addition, the company disputed the Commission's revision of its costs (labour, energy, depreciation and bonuses of managers). As concerns labour costs, the company claimed that the Commission disregarded without any reason the indirect labour costs and that it did not demonstrate that the reported labour costs were unreliable. As concerns the energy costs, the company claimed that the energy costs may vary amongst production plants depending on type of product and working hours. Regarding depreciation, the company reiterated its previous claims that the company's accounts were audited while for the bonuses of the management the company argued that the Commission's adjustment was arbitrary.
- (119) Although the company claimed to manufacture frames, a fact that could not be verified during the on-spot verification as explained in recital 35, at no point during the investigation did it provide the actual manufacturing costs of the frames. The company provided the cumulated manufacturing costs for frames and assembly of bicycles. Therefore, the Commission was not able to assess whether the unit manufacturing costs for frames incurred by the company were reliable. It is recalled that according to the information submitted in its reply to the deficiency letter, the company purchased the majority of the frames from China and therefore, the manufacturing costs reported by the company were mainly incurred in the assembly of bicycles. By comparing the company's reported costs with the similar costs incurred by a genuine Filipino producer, the Commission reached the conclusion that the costs reported by the company could not have been incurred in the manufacturing process and that some of them were other costs.
- (120) As concerns the labour costs, the Commission has not disregarded the indirect labour costs of the company, but to the contrary has included them in the total labour costs together with the direct labour costs. During the on-spot verification, the Commission collected detailed information on the number of employees and on their productivity in the main departments of the genuine Filipino producer. The comparison of the data submitted by the company with the similar one submitted by the genuine Filipino producer showed that the company overstated the number of the employees effectively involved in the frames and forks department, the bicycle

assembly department, the wheels assembly and the quality control departments. Therefore, the revision of the labour costs of the company relating to the manufacturing and completion process was warranted.

- (121) Regarding the energy costs, the Commission is aware that the consumption of energy may differ from one producer to another. In fact, the activity of the genuine Filipino producer is more complex than the one of the company, thus with a higher consumption of electricity. Therefore, the methodology used by the Commission did not disfavour the company concerned.
- (122) As concerns the depreciation expenses, in the audited annual reports there is no explanation concerning the useful life of the buildings. It is recalled that during the on-spot verification the Commission had repeatedly asked the company to provide evidence of the construction year of the buildings and the assessment of the company's accountant on the depreciation period of the buildings. The company has failed to do so and it instead alleged that, because they had been audited by local tax authorities, it did not have to provide evidence to the Commission in the context of this investigation. Therefore, the Commission revised the depreciation amount by using a depreciation period in line with international accounting practices.
- (123) Finally, regarding the bonus of the production and foreign managers, it is highlighted that such costs and especially the value of such costs are not linked to the production process and production volume. These costs are administrative costs and are not included in the calculation of value added.
- (124) Therefore the above claims were rejected.
- (125) The revised value added to the parts brought in during the assembly operations of the company did, on this basis, not exceed 25 % of the manufacturing cost of this company.
- (126) Therefore, the existence in the Philippines of assembly operations involved in the circumvention of the measures in force within the meaning of Article 13(2) of the basic Regulation is established.

Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (127) The Philippines received the GSP+ status at the end of 2014 well after the establishment of the two Filipino producers.
- (128) Therefore, the investigation did not bring to light any due cause or economic justification for the 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 assembly operations.

Conclusion on the Philippines

- (129) The government of the Philippines did not make comments after the disclosure.
- (130) The investigation has established that the change in the pattern of trade stemmed from a practice, process or work for which there is no economic justification other than the duty.

2.6. Undermining of the remedial effect of the anti-dumping duty

- (131) In the assessment as to whether the imported products had, in terms of quantities and prices, undermined the remedial effects of the existing measures, the quantities and export prices reported by the cooperating companies and Comext were used. The export prices were compared to the injury elimination level for Union producers last established, that is in the interim review concluded in 2013, mentioned in recital 4.
- (132) The comparison of the injury elimination level as established in the interim review in 2013 and the weighted average export price during the reporting period of the current investigation showed significant underselling for each of the three countries concerned.
- (133) The investigation established that the quantities produced and found to be circumventing the existing measures are significant, and that are likely to increase more substantially in the future in light of the attractiveness of the Union market.

- (134) The investigation revealed that the assembly operations can easily be set-up and closed within a short period of time. This was shown by a pattern of moving the assembly operations from one country to another as soon as the Commission initiated an anti-circumvention investigation. It was further established that some of the companies subject to this investigation were related to companies already subject to measures, or exported to the Union market via the same unrelated trading company.
- (135) It was, therefore, concluded that the existing measures are being undermined in terms of quantities and prices by the imports subject to this investigation.

2.7. Evidence of dumping

- (136) 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.
- (137) In the interim review concluded in 2013, mentioned in recital 4, 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 China (normal value previously established).

2.7.1. Cambodia

- (138) A significant part of Cambodian exports were found to be genuine Cambodian production exported by three Cambodian companies that were found not to be involved in circumventing practices as stated in recital 75. For this reason, in order to establish the export prices from Cambodia which are affected by circumvention practices, only the exports of the circumventing producers/exporters were considered. This data was also cross checked with Comext data.
- (139) 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, handling, loading expense and packing costs submitted by the companies in their reply to the exemption forms.
- (140) 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 Cambodia during the reporting period, expressed as a percentage of the CIF price at the Union frontier duty unpaid.
- (141) The comparison of the weighted average normal value and the weighted average export price as established showed significant dumping.
- (142) After disclosure, the Ministry of Commerce of Cambodia asked to clarify whether the dumping findings mentioned in recital 141 were based only on the exports of the companies found circumventing and whether the Commission found evidence of dumping by the genuine Cambodian companies.
- (143) In this regards, it is confirmed that, as mentioned in recital 138, the exports of the genuine Cambodian producers were disregarded for the purpose of the calculation of the dumping margin pursuant to Article 13 of the basic Regulation. In addition, Article 13 of the basic Regulation does not entail an investigation of dumping practices of genuine producers in Cambodia.

2.7.2. Pakistan

- (144) The export price was established on the basis of the average export price of bicycles during the reporting period by the cooperating company and cross checked with data from Comext.
- (145) 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 with regard to handling, loading, ancillary expenses, freight in the country concerned, and packaging expenses as reported by the company in its reply to the exemption form and completed during the on-spot verification.

- (146) 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 Pakistan during the reporting period, expressed as a percentage of the CIF price at the Union frontier duty unpaid.
- (147) The comparison of the weighted average normal value and the weighted average export price as established showed significant dumping.

2.7.3. *The Philippines*

- (148) A significant part of the Filipino exports were found to be genuine Filipino production exported by one Filipino company that was found not to be involved in circumventing practices as stated in recital 111. For this reason, in order to establish the export prices from the Philippines which are affected by circumvention practices, only the exports of the circumventing producer/exporter were considered. However, as explained in recitals 40 and 44 the export price of the circumventing company was disregarded and its export price was established on the basis of data from Comext.
- (149) 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, handling and loading, and packing costs submitted by the cooperating company in its reply to the exemption forms.
- (150) 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 the Philippines during the reporting period, expressed as a percentage of the CIF price at the Union frontier duty unpaid.
- (151) The comparison of the weighted average normal value and the weighted average export price as established showed significant dumping.
- (152) After disclosure, one company claimed that the dumping margin calculated under Article 13 of the basic Regulation was lower than the duty level of the existing measures and that the extension of the measures was therefore not justified. As demonstrated above, the conditions for applying measures under Article 13 of the basic Regulation, which are different from those for measures under Article 5 of the basic Regulation, are met. The claim is therefore rejected.

3. MEASURES

- (153) Given the above, the Commission concludes that the definitive anti-dumping duty imposed on imports of bicycles originating in China was circumvented by transshipment via Cambodia and by assembly operations via Cambodia, Pakistan and the Philippines within the meaning of Article 13 of the basic Regulation.
- (154) 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 China, should therefore be extended to imports of the same product consigned, directly or indirectly, from Cambodia, Pakistan and the Philippines whether declared as originating in Cambodia, Pakistan and the Philippines or not.
- (155) The measures to be extended should be the ones currently imposed under Article 1(2) of Regulation (EU) No 502/2013 on 'all other companies', which are a definitive anti-dumping duty of 48,5 % applicable to the net, free-at-Union-frontier price, before duty.
- (156) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provide 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 Cambodia, Pakistan and the Philippines.
- (157) One Cambodian company requested the duties not be collected on imports of its products that were registered, for reasons of fairness. In the absence of a legal basis, and in order to ensure the effectiveness of the measure, the request was rejected.

4. REQUESTS FOR EXEMPTION

4.1. Cambodia

- (158) The five companies in Cambodia that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted an exemption form.
- (159) Three out of the five cooperating companies in Cambodia 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 as stated in recital 75. Furthermore, two of 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 two companies.
- (160) As concerns the third company that was not found to be engaged in the circumvention practices subject to this investigation as stated in recital 75, this company was found to be related to a Chinese producer/exporter of bicycles. However, the investigation did not reveal any evidence that this relationship was established or used to circumvent the existing measures. Indeed the relationship was established before the measures were imposed in 1993 and the current investigation did not reveal any contractual relationship between these two companies. Therefore, as stated in the initiating Regulation, even if producers are related to companies subject to the original measures, an exemption may still be granted if there is no evidence that the relationship with the companies subject to the original measures was established or used to circumvent the original measures. As no such evidence was found, an exemption from the extended measures could be granted to this company.
- (161) As concerns the other two companies that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation, as stated in recital 76, these companies were found to be involved in circumvention practices. Therefore, under Article 13(4) of the basic Regulation, an exemption cannot be granted to these companies.

4.2. Pakistan

- (162) One company in Pakistan that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted an exemption claim form.
- (163) As stated in recital 102, the company was found to be involved in circumvention practices. Therefore, under Article 13(4) of the basic Regulation, an exemption cannot be granted to this company.

4.3. The Philippines

- (164) The two companies in the Philippines 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.
- (165) One company was found not to be engaged in the circumvention practices subject to this investigation as explained in recital 111. 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.
- (166) As explained in recitals 112 and 125, the second company was found to be involved in circumvention practices and therefore, under Article 13(4) of the basic Regulation, an exemption cannot be granted.

4.4. Special measures

- (167) 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.

4.5. New exporters

- (168) Without prejudice to Article 11(3) of the basic Regulation, other producers/exporters in Cambodia, Pakistan and the Philippines which did not come forward in this proceeding and did not export the product under investigation to the Union in the reporting period 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 an exemption form 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.
- (169) 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

- (170) On 13 March 2015, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and were invited to comment. Comments were received from the Ministry of Commerce of Cambodia, two companies in Cambodia, one company in Pakistan, and one company from the Philippines. The oral and written comments submitted by the parties were considered. None of the arguments presented gave rise to a modification of the findings.
- (171) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty applicable to 'all other companies' imposed by Article 1(2) of Regulation (EU) No 502/2013 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 Cambodia, Pakistan and the Philippines whether declared as originating in Cambodia, Pakistan and the Philippines or not, currently falling within CN codes ex 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 30 20 and 8712 00 70 92) with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Cambodia	A and J (Cambodia) Co., Ltd, Special Economic Zone Tai Seng Bavet, Sangkar Bavet, Krong Bavet, Ket Svay Rieng, Cambodia	C035
	Smart Tech (Cambodia) Co., Ltd, Tai Seng Bavet Special Economic Zone, National Road No 1, Bavet City, Svay Rieng, Cambodia	C036
	Speedtech Industrial Co. Ltd and Bestway Industrial Co., Manhattan (Svay Rieng) Special Economic Zone, National Road No 1, Sangkat Bavet, Krong Bavet, Svay Rieng Province, Cambodia	C037
The Philippines	Procycle Industrial Inc., Hong Chang Compound, Brgy. Lantic, Carmona, Cavite, the Philippines	C038

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 Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, registered in accordance with Article 2 of Regulation (EU) No 938/2014 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: CHAR 04/039
1049 Brussels
Belgium

2. In accordance with Article 13(4) of Regulation (EC) No 1225/2009 the Commission, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Regulation (EU) No 502/2013, 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 938/2014.

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, 18 May 2015.

For the Commission
The President
Jean-Claude JUNCKER

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.

COMMISSION IMPLEMENTING REGULATION (EU) 2015/777**of 18 May 2015****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 18 May 2015.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	71,6
	MA	90,5
	MK	94,5
	TR	69,0
	ZZ	81,4
0707 00 05	AL	36,5
	EG	191,6
	MK	56,1
	TR	107,6
	ZZ	98,0
0709 93 10	TR	129,7
	ZZ	129,7
0805 10 20	EG	50,9
	IL	75,0
	MA	64,8
	ZZ	63,6
0805 50 10	BR	107,1
	MA	111,5
	TR	101,5
	ZZ	106,7
0808 10 80	AR	93,8
	BR	102,6
	CL	121,4
	NZ	155,1
	US	165,3
	UY	86,8
	ZA	120,4
	ZZ	120,8

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (CFSP) 2015/778

of 18 May 2015

on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 20 April 2015, the Council confirmed a strong commitment to act in order to prevent human tragedies resulting from the smuggling of people across the Mediterranean.
- (2) On 23 April 2015, the European Council expressed its indignation about the situation in the Mediterranean and underlined that the Union will mobilise all efforts at its disposal to prevent further loss of life at sea and to tackle the root causes of this human emergency, in cooperation with the countries of origin and transit, and that the immediate priority is to prevent more people from dying at sea. The European Council committed to strengthening the Union's presence at sea, to preventing illegal migration flows and to reinforcing internal solidarity and responsibility.
- (3) The European Council of 23 April 2015 also committed to fighting the traffickers in accordance with international law, by undertaking systematic efforts to identify, capture and destroy vessels before they are used by traffickers, and invited the High Representative of the Union for Foreign Affairs and Security Policy (HR) to start preparations for a possible Common Security and Defence Policy (CSDP) operation to this effect.
- (4) On 11 May 2015, the HR informed the UN Security Council about the crisis of migrants in the Mediterranean and the ongoing preparation for a possible Union naval operation, in the framework of the Union's Common Security and Defence Policy. In this regard, she expressed the need for the Union to work with the support of the UN Security Council.
- (5) On 18 May 2015, the Council approved the crisis management concept for a CSDP operation to disrupt the business model of smugglers in the Southern Central Mediterranean.
- (6) The Union CSDP operation will be conducted in accordance with international law, in particular with the relevant provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the 2000 Protocols against the Smuggling of Migrants by Land, Sea and Air (the Protocol against the Smuggling of Migrants) and to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1979 International Convention on Maritime Search and Rescue (SAR), the 1976 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention), the 1951 Geneva Convention relating to the Status of Refugees and the principle of non-refoulement and international human rights law.

The UNCLOS, SOLAS and SAR Conventions include the obligation to assist persons in distress at sea and to deliver survivors to a place of safety, and to that end the vessels assigned to EUNAVFOR MED will be ready and equipped to perform the related duties under the coordination of the competent Rescue Coordination Centre.

- (7) On the high seas, in accordance with relevant domestic and international law, States may interdict vessels suspected of smuggling migrants, where there is flag State authorisation to board and search the vessel or where the vessel is without nationality, and may take appropriate measures against the vessels, persons and cargo.

- (8) Measures may also be taken in the territorial or internal waters, territory or airspace of a State against vessels suspected of involvement in human smuggling or trafficking, with the consent of that State or pursuant to a UN Security Council Resolution, or both.
- (9) A State may take appropriate measures against persons present on its territory whom it suspects of smuggling or trafficking humans with a view to their possible arrest and prosecution, in accordance with international law and its domestic law.
- (10) The Political and Security Committee (PSC) should exercise, under the responsibility of the Council and of the HR, political control over the Union crisis management operation, provide it with strategic direction and take the relevant decisions in accordance with the third paragraph of Article 38 of the Treaty on European Union (TEU).
- (11) Pursuant to Article 41(2) TEU, and in accordance with Council Decision (CFSP) 2015/528 ⁽¹⁾, the operational expenditure arising from this Decision, which has military or defence implications, is to be borne by the Member States.
- (12) In accordance with Article 5 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications. Consequently, Denmark is not participating in the adoption of this Decision, is neither bound by it nor subject to its application, and does not participate in the financing of this operation,

HAS ADOPTED THIS DECISION:

Article 1

Mission

1. The Union shall conduct a military crisis management operation contributing to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean (EUNAVFOR MED), achieved by undertaking systematic efforts to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers or traffickers, in accordance with applicable international law, including UNCLOS and any UN Security Council Resolution.

2. The area of operation shall be defined, before the launching of EUNAVFOR MED, in the relevant planning documents to be approved by the Council.

Article 2

Mandate

1. EUNAVFOR MED shall operate in accordance with the political, strategic and politico-military objectives set out in the Crisis Management Concept approved by the Council on 18 May 2015.

2. EUNAVFOR MED shall be conducted in sequential phases, and in accordance with the requirements of international law. EUNAVFOR MED shall:

- (a) in a first phase, support the detection and monitoring of migration networks through information gathering and patrolling on the high seas in accordance with international law;
- (b) in a second phase,
 - (i) conduct boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking, under the conditions provided for by applicable international law, including UNCLOS and the Protocol against the Smuggling of Migrants;
 - (ii) in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, conduct boarding, search, seizure and diversion, on the high seas or in the territorial and internal waters of that State, of vessels suspected of being used for human smuggling or trafficking, under the conditions set out in that Resolution or consent;

⁽¹⁾ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP (OJ L 84, 28.3.2015, p. 39).

(c) in a third phase, in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, take all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable, which are suspected of being used for human smuggling or trafficking, in the territory of that State, under the conditions set out in that Resolution or consent.

3. The Council shall assess whether the conditions for transition beyond the first phase have been met, taking into account any applicable UN Security Council Resolution and consent by the coastal States concerned.

4. EUNAVFOR MED may collect, in accordance with applicable law, personal data concerning persons taken on board ships participating in EUNAVFOR MED related to characteristics likely to assist in their identification, including fingerprints, as well as the following particulars, with the exclusion of other personal data: surname, maiden name, given names and any alias or assumed name; date and place of birth, nationality, sex; place of residence, profession and whereabouts; driving licenses, identification documents and passport data. It may transmit such data and data related to the vessels and equipment used by such persons to the relevant law enforcement authorities of Member States and/or to competent Union bodies.

Article 3

Appointment of the EU Operation Commander

Rear Admiral Enrico Credendino is hereby appointed EU Operation Commander of EUNAVFOR MED.

Article 4

Designation of the EU Operation Headquarters

The Operation Headquarters of EUNAVFOR MED shall be located in Rome, Italy.

Article 5

Planning and launch of the operation

The Decision to launch EUNAVFOR MED shall be adopted by the Council, upon the recommendation of the Operation Commander of EUNAVFOR MED following approval of the Operation Plan and of the Rules of Engagement necessary for the execution of the mandate.

Article 6

Political control and strategic direction

1. Under the responsibility of the Council and of the HR, the PSC shall exercise the political control and strategic direction of EUNAVFOR MED. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 38 TEU. This authorisation shall include the powers to amend the planning documents, including the Operations Plan, the Chain of Command and the Rules of Engagement. It shall also include the powers to take decisions on the appointment of the EU Operation Commander and the EU Force Commander. The powers of decision with respect to the objectives and termination of the EU military operation shall remain vested in the Council. Subject to Article 2(3) of this Decision, the PSC shall have the power to decide when to make the transition between the different phases of the operation.

2. The PSC shall report to the Council at regular intervals.

3. The Chairman of the EU Military Committee (EUMC) shall, at regular intervals, report to the PSC on the conduct of EUNAVFOR MED. The PSC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.

*Article 7***Military direction**

1. The EUMC shall monitor the proper execution of EUNAVFOR MED conducted under the responsibility of the EU Operation Commander.
2. The EU Operation Commander shall, at regular intervals, report to the EUMC. The EUMC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.
3. The Chairman of the EUMC shall act as the primary point of contact with the EU Operation Commander.

*Article 8***Consistency of the Union's response and coordination**

1. The HR shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's development programmes and its humanitarian assistance.
2. The HR, assisted by the European External Action Service (EEAS), shall act as the primary point of contact with the United Nations, the authorities of the countries in the region, and other international and bilateral actors, including NATO, the African Union and the League of Arab States.
3. EUNAVFOR MED shall cooperate with the relevant Member State authorities and shall establish a coordination mechanism, and as appropriate, conclude arrangements with other Union agencies and bodies, in particular FRONTEX, EUROPOL, EUROJUST, European Asylum Support Office and relevant CSDP missions.

*Article 9***Participation by third States**

1. Without prejudice to the Union's decision-making autonomy or to the single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the operation.
2. The Council hereby authorises the PSC to invite third States to offer contributions and to take the relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Operations Commander and the EUMC.
3. Detailed arrangements for the participation by third States shall be the subject of agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of EUNAVFOR MED.
4. Third States making significant military contributions to EUNAVFOR MED shall have the same rights and obligations in terms of day-to-day management of the operation as Member States taking part in the operation.
5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors, should third States provide significant military contributions.

*Article 10***Status of Union-led personnel**

The status of Union-led units and personnel shall be defined where necessary in accordance with international law.

*Article 11***Financial arrangements**

1. The common costs of the EU military operation shall be administered in accordance with Decision (CFSP) 2015/528.
2. The financial reference amount for the common costs of EUNAVFOR MED shall be EUR 11,82 million. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 70 % in commitments and 40 % for payments.

*Article 12***Release of information**

1. The HR shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of EUNAVFOR MED, EU classified information generated for the purposes of the operation, in accordance with Council Decision 2013/488/EU ⁽¹⁾, as follows:
 - (a) up to the level provided in the applicable Security of Information Agreements concluded between the Union and the third State concerned; or
 - (b) up to the 'CONFIDENTIEL UE/EU CONFIDENTIAL' level in other cases.
2. The HR shall also be authorised to release to the UN, in accordance with the operational needs of EUNAVFOR MED, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of EUNAVFOR MED, in accordance with Decision 2013/488/EU. Arrangements between the HR and the competent authorities of the United Nations shall be drawn up for this purpose.
3. The HR shall be authorised to release to the third States associated with this Decision any EU non-classified documents connected with the deliberations of the Council relating to the operation and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽²⁾.
4. The HR may delegate such authorisations, as well as the ability to conclude the arrangements referred to in this Article, to EEAS officials, to the EU Operation Commander or to the EU Force Commander in accordance with section VII of Annex VI to Decision 2013/488/EU.

*Article 13***Entry into force and termination**

This Decision shall enter into force on the date of its adoption.

EUNAVFOR MED shall end no later than 12 months after having reached Full Operational Capability (FOC).

This Decision shall be repealed as from the date of closure of the EU Operation Headquarters in accordance with the plans approved for the termination of EUNAVFOR MED, and without prejudice to the procedures regarding the audit and presentation of the accounts of EUNAVFOR MED laid down in Decision (CFSP) 2015/528.

Done at Brussels, 18 May 2015.

For the Council
The President
F. MOGHERINI

⁽¹⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

⁽²⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

