



2023/2769

14.12.2023

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/2769
of 13 December 2023**

accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of electric bicycles originating in the People's Republic of China and amending Implementing Regulation (EU) 2019/73

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China, and, in particular, Article 1, paragraph 6 thereof ⁽²⁾ ('the original Regulation'),

Whereas:

A. MEASURES IN FORCE

- (1) On 17 January 2019, the Commission imposed a definitive anti-dumping duty on imports into the Union of electric bicycles ('the product concerned'), originating in the People's Republic of China ('the PRC') by the original Regulation.
- (2) In the investigation leading to the imposition of definitive anti-dumping duties ('original investigation'), sampling was applied for investigating the exporting producers in the PRC in accordance with Article 17 of Regulation (EU) 2016/1036.
- (3) The Commission imposed individual anti-dumping duty rates ranging from 10,3 % to 62,1 % on imports of electric bicycles for the sampled exporting producers from the PRC. For the cooperating exporting producers that were not included in the sample (with the exception of the companies subject to the parallel countervailing duty rate for all other companies imposed by Commission Implementing Regulation (EU) 2019/72 ⁽³⁾) a weighted average duty of 24,2 % was imposed. These cooperating exporting producers not included in the sample are listed in Annex I to the original Regulation. A weighted average duty of 16,2 % was imposed on other cooperating companies not included in the sample (subject to the parallel countervailing duty rate for all other companies – Implementing Regulation (EU) 2019/72). These are listed in Annex II to the original Regulation. Furthermore, a country-wide duty rate of 70,1 % was imposed on electric bicycles from companies in the PRC which either did not make themselves known or did not cooperate with the anti-dumping investigation, but cooperated in the parallel anti-subsidy investigation (listed in Annex III to the original Regulation). A duty rate of 62,1 % was imposed on all other companies.
- (4) Pursuant to Article 1, paragraph 6 of the original Regulation, paragraph 2 of that Article may be amended by adding a new exporting producer to the appropriate annex with the cooperating companies not included in the sample and thus subject to the appropriate weighted average anti-dumping duty rate, where that new exporting producer in the PRC provides sufficient evidence to the Commission that:
 - (a) it did not export to the Union the product concerned during the period of investigation on which the measures are based, that is from 1 October 2016 to 30 September 2017 ('the original investigation period');

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 16, 18.1.2019, p. 108.

⁽³⁾ Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

- (b) it is not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures imposed by the original Regulation; and
- (c) it has actually exported to the Union the product concerned after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union.

B. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (5) The company Shenzhen Kinoway Electronic Co., Ltd ('the applicant') submitted a request to the Commission to be granted new exporting producer treatment and hence be subject to the duty rate applicable to the cooperating companies in the PRC not included in the sample, i.e. 16,2 % ('NEPT'), claiming that it met all three conditions set out in Article 1, paragraph 6 of the original Regulation.
- (6) In order to determine whether the applicant fulfilled the conditions for being granted NEPT, as set out in Article 1, paragraph 6 of the original Regulation ('the NEPT conditions'), the Commission first sent a questionnaire to the applicant requesting evidence showing that it met the NEPT conditions. The applicant provided a questionnaire reply.

C. ANALYSIS OF THE REQUEST

- (7) With regard to the first condition set out in Article 1, paragraph 6 of the original Regulation that the applicant did not export the product concerned to the Union during the investigation period on which the measures are based, that is from 1 October 2016 to 30 September 2017, during the investigation the Commission established that the applicant did not have an export licence for electric bicycles during this time period and did not export electric bicycles to the Union. The sales ledger submitted by the applicant did not show any sales of electric bicycles.
- (8) With regard to the second condition set out in Article 1, paragraph 6 of the original Regulation, that the applicant is not related to any exporters or producers which are subject to the anti-dumping measures imposed by the original Regulation, during the investigation the Commission established that the applicant is not related to any of the producers in the PRC that are subject to the anti-dumping measures imposed by the original Regulation.
- (9) With regard to the third condition set out in Article 1, paragraph 6 of the original Regulation, that the applicant has actually exported the product concerned to the Union after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union, during the investigation the Commission established that, based on the documentary evidence provided, the applicant has exported electric bicycles to the Union following the investigation period of the original investigation. The applicant provided sales documentations for a transaction to Poland that took place in 2022. The applicant also presented an additional sales order for electric bicycles from the same customer.
- (10) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 1, paragraph 6 of the original Regulation.
- (11) Accordingly, the applicant fulfils all three conditions to be granted NEPT, as set out in Article 1, paragraph 6 of the original Regulation and the request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 16,2 % for cooperating companies not included in the sample of the original investigation.

D. DISCLOSURE

- (12) The applicant and the Union industry was informed of the essential facts and considerations based on which it was considered appropriate to grant the anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation to Shenzhen Kinoway Electronic Co., Ltd.
- (13) The parties were granted the possibility to submit comments. No comments were received.

- (14) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II of Implementing Regulation (EU) 2019/73, the following company is added to the list of cooperating companies not included in the sample:

Company Name	Province	TARIC additional code
Shenzhen Kinoway Electronic Co., Ltd	Guangdong	89AC

Article 2

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

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

Done at Brussels, 13 December 2023.

For the Commission
The President
Ursula VON DER LEYEN