# I

*(Acts whose publication is obligatory)*

## COUNCIL REGULATION (EEC) No 1198/88

**of 25 April 1988**

**imposing a definitive anti-dumping duty on imports of roller chains for cycles originating in the People's Republic of China and providing for the definitive collection of the provisional anti-dumping duty on the said imports**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), as amended by Regulation (EEC) No 1761/87 (2), and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee established by that Regulation,

Whereas :

### A. Previous proceeding

(1) Following a complaint from the 'Fachverband Fahrrad- und Kraftradteile-Industrie e.V.' the Commission published a notice in the *Official Journal of the European Communities* (3) announcing the initiation of an anti-dumping proceeding concerning imports into the Community of 1/2 inch × 1/8 inch roller chains for cycles, corresponding to CN code ex 7315 11 10, from 1 January 1988, originating in the Soviet Union and the People's Republic of China ; it then commenced investigations.

(2) Following that investigation, which established the existence of dumping and injury [Regulation (EEC) No 2317/85 (4)], one Chinese exporter, the 'China National Light Industrial Products, Import and Export Corporation', Beijing, and the Soviet exporter offered price undertakings. Under the terms of the undertaking from the Chinese exporter accepted by Decision 86/33/EEC (5), the abovementioned Chinese firm undertook to raise its export prices by an amount sufficient to eliminate the injury caused by the dumping.

### B. Breach of undertaking and reopening of proceeding

(3) In July 1987 the Commission received a complaint from the Community producers that 1/2 inch × 1/8 inch rollers chains for cycles manufactured by the 'China National Light Industrial Products, Import and Export Corporation', Beijing, were again entering the Community market at prices causing material injury to the Community industry ; the complaint was supported by statistical evidence published concerning the said volume and prices. The Commission also received specific information from the producers and the customs authorities of certain Member States that the price undertaking has been breached by exports to the German and United Kingdom markets during 1987. In accordance with Article 10 (6) of Regulation (EEC) No 2176/84, the Chinese exporter was invited to comment ; it did not dispute the accuracy of the information.

(4) On the basis of that evidence, the Commission, in accordance with Article 10 (6) of Regulation (EEC) No 2176/84, withdrew its acceptance of the Chinese exporter's undertaking and, on the basis of the facts established prior to the said acceptance, reimposed by Regulation (EEC) No 14/88 (6) a provisional anti-dumping duty at a rate equivalent to the amount by which the net price per metre, free-at-Community-frontier, before duty, fell below 0,56 ECU.

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 167, 26. 6. 1987, p. 9.
(3) OJ No C 235, 5. 9. 1984, p. 9.
(4) OJ No L 217, 14. 8. 1985, p. 7.
(5) OJ No L 40, 15. 2. 1986, p. 27.
(6) OJ No L 3, 6. 1. 1988, p. 5.

It also decided (1) following consultations to reopen the anti-dumping proceeding concerning imports of roller chains for cycles originating in the People's Republic of China.

## C. Investigation

(5) The Commission officially notified the exporters and importers known to be concerned, representatives of the exporting country and Community producers that the proceeding was being reopened. It gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(6) Three Community producers and two importers submitted their views in writing. Neither the Chinese exporters nor the importers concerned requested a hearing.

The Chinese exporter neither replied to the questionnaire which had been sent to it, nor submitted any other information, although the Commission had notified the firm in writing that if it failed to cooperate, findings could be established on the basis of the facts available. (Article 7 (7) (b) of Regulation (EEC) No 2176/84).

(7) The Commission sought and verified all the information it considered necessary and carried out investigations at the premises of the German producer Union Sils, Van de Loo & Co. GmbH, Fröndenberg, Federal Republic of Germany.

It requested detailed written submissions from all Community producers, the Chinese exporter and the importers known to be concerned, and checked the information received wherever necessary.

(8) The Commission's investigations covered the period from January to December 1987.

## D. Dumping

(9) In order to find out whether imports from the People's Republic of China, which is not a market economy, were being dumped, the Commission had, for the purposes of the previous proceeding, established the normal value of the product on the basis of Spanish domestic prices. Since Spain is now a Member State of the Community, the Commission, following a suggestion made by the Community industry, this time chose Japan as reference country. The Japanese product and manufacturing processes are comparable to those of the exporting country under investigation, and competition on the Japanese market is such that prices must be competitive. They are also at a level which enables the Japanese manufacturers to make a reasonable but not excessive profit. The Chinese exporter did not oppose the choice of country.

(10) Normal value was accordingly calculated on the basis of domestic prices on the Japanese market, as established by the Commission.

(11) The export prices were based on the prices actually paid or payable for the product sold for export to the Community.

(12) In comparing normal value with export prices the Commission took account where appropriate, and where sufficient evidence was available, of differences affecting price comparability, including product quality, conditions of sale and terms of payment. All comparisons were made at the ex-works stage.

(13) On the basis of the comparison it was found that all exports to the Community during the reference period had been dumped. The dumping margin calculated on cif free-at-Community-frontier prices, before duty, varied depending on the importing Member State and the weighted average was well in excess of 50 %.

## E. Injury

(14) The evidence available to the Commission shows that Community imports of roller chains for cycles originating in the People's Republic of China increased from 2 100 000 metres in 1984 to 3 500 000 metres in 1987, taking China's market share in the Community from 13 % to 26 % (2).

(15) Taking into account differences in quality, the price of the imported goods undercut Community producers' prices during the reference period by between 35 % and 45 %. The Chinese exporter's prices would not even have allowed the Community producers to recover their full costs.

(16) The volume increase in imports, combined with the Chinese exporter's low prices, helped bring about a generalized steady decline of prices, leading to loss-making sales, a decline in Community output and a consequent lowering of capacity utilization rates.

(1) OJ No C 2, 6. 1. 1988, p. 5.

(2) Imports from the People's Republic of China rose as high as 4 685 000 metres in 1986. The 1987 figures are provisional.

Community production fell from 8 800 000 metres in 1984 to 8 500 000 metres in 1985 and again to 5 500 000 metres in 1987. In 1987 the Community industry was running at under 40 % of capacity. While the volume of Chinese imports does not entirely match the fall in Community production, these imports have nevertheless won substantial market shares (30 % in the Federal Republic of Germany, 36 % in the Netherlands and 32 % in Italy, those three markets alone accounting for 94 % by volume of Chinese imports), larger than those held by imports from other Community countries. This, coupled with the fact that the goods from the People's Republic of China were imported at prices much lower than those charged by Community producers, indicates that the imports in question constitute the main cause of the injury sustained by the Community industry. The industry experienced a rise in unit costs and had to sell its products at prices below break-even point. It thus accumulated substantial losses, a trend which, in the Federal Republic of Germany in particular, was responsible for job losses and the resort in many places to short-time working.

(17) The Commission considered whether the injury might have been caused by other factors, such as the trend of consumption in the Community, a fall in Community exports or an increase in imports from other non-Community countries.

Consumption fell from around 16 million metres in 1984 to 14 million metres in 1985 and stabilized at that level until 1987.

From 1984 to 1987, Community exports fell by approximately 700 000 metres.

As regards other imports, the drop in consumption from 1984 to 1985 was reflected by a fall of about the same order of magnitude in total imports. The available statistics for 1986 and 1987 suggest that imports from countries such as India, the Soviet Union and Taiwan might have contributed to a limited extent to the decline in Community sales. However, these imports were lower in volume than the Chinese imports and the prices were generally higher.

While these three factors may have had an impact on the Community industry, they are not in themselves sufficient to account for more than a fraction of the injury it sustained. Accordingly, the proportion of that injury attributable solely to the dumped imports under consideration constitutes material injury to the Community industry concerned.

## F. Community interest

(18) The Community industry directly concerned is facing such serious difficulties that a failure to take action to eliminate the injurious effects of dumping would imperil its continued existence, worsening the employment situation in the regions concerned. The Council further considers that the effect on prices of the measures envisaged would be negligible in terms of the competitiveness of cycle manufacturers and nil for the final purchaser of a bicycle. Accordingly, it concludes that it is in the Community's interest to take measures to eliminate injury to the manufacturers concerned, in the form of a definitive anti-dumping duty.

## G. Rate of duty

(19) The extent of injury was taken to be the difference between the selling price in the Community of the dumped goods and the price which would enable the most efficient Community producers to make an adequate return on their sales. On that basis, given the margin of undercutting, the Council considers a duty of 35 % necessary to eliminate the injury. Given the breach of the undertaking, it further considers that in order to ensure the effectiveness of the measure and prevent any circumvention, the *ad valorem* duty should be backed up by a variable duty. Thus the definitive duty will be equivalent either to the amount by which the net price per metre, free-at-Community-frontier, before duty, paid by the first Community importers falls below 0,65 ECU, or to 35 % *ad valorem*, whichever is the higher,

HAS ADOPTED THIS REGULATION:

*Article 1*

The duty imposed by Council Regulation (EEC) No 338/86 [1] is hereby repealed.

[1] OJ No L 40, 15. 2. 1986, p. 25.

*Article 2*

1. A definitive anti-dumping duty is hereby imposed on imports of ½ inch × ⅛ inch roller chains for cycles, corresponding to CN code ex 7315 11 10, originating in the People's Republic of China.

2. The duty shall be equivalent either to the amount by which the net price per metre, free-at-Community-frontier, before duty, falls below 0,65 ECU, or to 35 % of the net price per metre, free-at-Community-frontier, before duty, whichever is the higher.

The free-at-Community-frontier prices shall be net prices where the terms of sale are such that payment is to be made within 30 days of the date of delivery. They shall be increased or reduced by 1 % for each month by which this period is shortened or lengthened.

3. The provisions in force concerning customs duties shall apply.

*Article 3*

Amounts secured by way of the provisional anti-dumping duty imposed by Regulation (EEC) No 14/88 shall be definitively collected at a maximum rate of 35 %.

*Article 4*

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

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

Done at Luxembourg, 25 April 1988.

*For the Council*

*The President*

H.-D. GENSCHER