COMMISSION REGULATION (EEC) No 550/93

of 5 March 1993

imposing a provisional anti-dumping duty on imports of bicycles originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 11 thereof,

After consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. PROCEDURE

(1) In July 1991, the Commission received a complaint lodged by the European Bicycle Manufacturers Association (EBMA) on behalf of producers representing a major proportion of the Community production of bicycles. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding.

(2) The Commission accordingly announced by a notice published in the *Official Journal of the European Communities* (2) the initiation of an anti-dumping proceeding concerning imports of bicycles originating in Taiwan and the People's Republic of China, falling within CN Code 8712 00, and commenced an investigation.

(3) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants. Parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.

(4) Representatives of the exporters, the complainant, some importers and trade associations made their views known in writing. Some Taiwanese and Chinese exporters requested and were granted a hearing. An association of enterprises with investments in China also requested and was granted a hearing.

(5) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

(a) **Community producers**

— Peugeot Cycles, Neuilly/Seine, France,

— Cycles Gitane, Machecoul, France,

— Kynast AG, Quakenbrück, Germany,

— Nürnberger Hercules Werke GmbH, Nürnberg, Germany,

— Derby Cycle Werke GmbH, Cloppenburg, Germany,

— Batavus BV, Heerenveen, Netherlands,

— Gazelle Rijwielfabriek BV, Dieren, Netherlands,

— BH SA, Madrid, Spain,

— Raleigh Industries Ltd, Nottingham, United Kingdom,

— Dawes Cycles Ltd, Birmingham, United Kingdom.

(b) **Importers in the Community**

1. *Related importers,*

Germany :

— Giant Deutschland GmbH, Düsseldorf ;

Netherlands,

— Giant Europe BV, Lelystad,

— Giant Holland BV, Lelystad ;

2. *Unrelated importers,*

United Kingdom,

— Halfords Ltd, Redditch,

— Moore Large & Co., Ltd, Luton.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 266, 12. 10. 1991, p. 6.

(c) **Producers in Taiwan**

(6) In view of the large number of Taiwanese producers involved in the proceeding, the Commission was unable to verify the information concerning all companies within a reasonable timespan compatible with the purpose of anti-dumping proceedings. For this reason, the Commission was obliged to resort to sampling. In agreement with the Taiwan Transportation Vehicle Manufacturers Association (TTVMA), the following eight companies were selected for a complete investigation, including verification at their premises:

— Dahon Inc. (Hon Machinery Inc.), Taipei,

— Giant Manufacturing Taiwan, Taichung Hsien,

— Merida Industry Co., Nanlin,

— Rockman Taiwan, Taichung Hsien,

— Southern Cross Int., Co., Ltd, Nantou,

— United Engineering Corp., Luchu Taoyuan,

— Wheeler Industry Co., Ltd, Taichung,

— Willing Industry Co., Ltd, Tainan.

(d) **Producers in the People's Republic of China**

(7) A number of producers replied to the Commission's questionnaire. However, since the People's Republic of China is a non-market economy country, normal value could not be determined on the basis of Article 2 (3) of Regulation (EEC) No 2423/88. No investigation was carried out at the premises of those companies.

(8) The investigation of dumping covered the period from 1 October 1990 to 30 September 1991 ('the investigation period').

B. PRODUCT UNDER INVESTIGATION — LIKE PRODUCT

(9) The products concerned are bicycles of all types with or without ball bearings. The product is extremely heterogeneous. Indeed, several thousands of bicycle models exist which vary in respect of a great number of specific features. Despite such differences, all different types present the same basic characteristics which make them essentially alike as regards their nature and use. Within this overall product range, bicycles are usually classified in five different sub-categories, i.e. mountain bicycles, sport/racing bicycles, touring bicycles, junior action bicycles and other bicycles. There are, however, no clear dividing lines between these categories and the different product segments overlap. In a number of cases, one bicycle type can, indeed, be classified in two or more categories.

(10) Taiwanese and Chinese producers submitted that each of these categories, and especially mountain bikes, should be considered separately on the grounds that there were clear physical and technical differences as well as differences in the use, manufacturing processes, materials used, marketing and development of each segment. The Commission has examined this claim. It found, however, that each category of bicycle is manufactured using the same processes and is distributed through similar channels of distribution. Their basic application and use are identical. There is a high degree of interchangeability and, consequently, of competition between models classified in different categories. This, together with the fact that a number of bicycles can be classified in two or more categories, leads to the conclusion that the whole range of models has to be considered as forming a single product.

(11) The Commission also found that the bicycles sold on the Taiwanese market and the imports in question comprised a similar range of models and that their basic technical and physical characteristics were identical to, or closely resembled, those of the different bicycle types produced by the Community industry. Consequently, the Commission considered that bicycles produced and sold by the Community producers formed one single product and constituted a like product, relative to the product imported from Taiwan and the People's Republic of China, within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

C. COMMUNITY INDUSTRY

(12) Those Community producers who fully cooperated in the investigation accounted for 52,2 % of total Community production of bicycles. Producers representing a further 10 % of Community output supplied some basic information on their production and expressed support for the complaint.

(13) A number of Taiwanese and Chinese producers stated that certain Community producers could not be considered as part of the Community industry, in the light of Article 4 (5) of Regulation (EEC) No 2423/88, as they had imported bicycles from Taiwan and the People's Republic of China during the investigation period. The Commission established that certain Community producers did indeed import bicycles from Taiwan. The quantity

of imports during the investigation period was, however, found to be insignificant in relation to the volume of production of these companies and to the total volume of imports originating in Taiwan and China. The Commission also found that those imports represented a reaction to competition from lower-priced imports, in particular from China. The purpose of those imports was to remain on the market with a complete range of models or to secure market segments which might have been lost without sales of the models in question. The imports, therefore, have to be viewed as a measure of legitimate commercial self-protection. Their relatively low volume shows, furthermore, that the Community industry is still substantially committed to the production of bicycles. Consequently, the Commission considers that there are no reasonable grounds for excluding those companies and that they satisfy the requirements for being regarded as part of the Community industry.

D. DUMPING

1. Sampling

(i) *Taiwan*

(14) Because of the large number of Taiwanese producers, sampling was used for the calculation of dumping. The companies included in the sample were all producers with domestic sales equivalent to at least 5 % of their exports to the Community, to which were added, on request by the TTVMA, two other companies without domestic sales but with significant exports to the Community. These companies represented 49 % of all Taiwanese bicycle exports to the Community during the investigation period.

(ii) *People's Republic of China*

(15) The Commission had also, for the purpose of establishing export prices for the People's Republic of China, to resort to sampling in view of the great number of Chinese producers involved in the proceeding and the high volume of Chinese exports. To this end, it established a sample of Chinese producers selected on the basis of the volume of their sales to the Community.

As two types of Chinese producers were identified, i.e. State-owned organizations and so-called joint ventures (companies with non-Chinese participation the sample established consisted of two State-owned organisations and two joint-venture companies. Further, an exporter selling bicycles produced in China via Hong Kong was included in the sample. These five exporters represented 85,15 % of all exports to the Community by the companies which replied to the questionnaire.

2. Normal value

(i) *Taiwan*

(16) Six companies in Taiwan sold, on their domestic market, bicycles sufficient in quantity to allow domestic prices to be used as a basis for normal value. In this particular case, however, the number of models sold domestically as well as for export to the Community was extremely large. All those models showed a considerable variety of physical characteristics and combinations of features. The establishment of normal value allowing proper comparison with export prices, on the basis of prices charged on the domestic market in Taiwan would, under these conditions, have required exceptionally complex calculations. It was therefore decided to take account of such differences by using the actual manufacturing cost of the exported models, thus avoiding numerous adjustments, most of which would have had to be based on estimations. Consequently, and in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88, normal value was provisionally calculated on the basis of a constructed value for the products destined to be exported to the Community.

(17) Those constructed values were calculated by adding to the manufacturing costs of the exported models the selling, general and administrative costs (SG&A) and profit margin found for each individual company on its domestic sales. For one company whose domestic sales were made at a loss, the profit margin used was the average profit margin of all companies with profitable domestic sales. For two companies which did not sell on the domestic market, the SG&A and profit margin used were the weighted average figures calculated for all domestic sales by the companies which sold on their domestic market in sufficient quantities. All these calculations were made in conformity with the abovementioned Article 2 (3) (b) (ii).

(ii) *People's Republic of China*

(18) In order to establish normal value for the People's Republic of China, the Commission had to take account of the fact that that country does not have a market economy and thus it had to base its determination of normal value on the conditions in a market economy country (analogous country), in accordance with Article 2 (5) of Regulation (EEC) No 2423/88. As analogous country, the complainants had suggested Taiwan. A number of Chinese exporters objected to the choice of Taiwan, alleging that the Taiwanese product was not sufficiently similar to the Chinese product. According to those exporters, bicycle models sold in Taiwan were different from those sold on the domestic Chinese market and were manufactured using different components. In addition, the exporters pointed to the fact that the scale of production was much larger in China than in Taiwan.

As an alternative, India was proposed. To justify this proposal, it was argued that India produced bicycles on a scale comparable to that in China and that the domestic production, both in India and in China, was primarily devoted to the manufacture of so-called city bicycles, a basic model for which production was very low in Taiwan. Another group of producers which also objected to the choice of Taiwan proposed, without, however, giving any justification for their request, that Malaysia, Indonesia or Thailand be chosen as the analogous country.

(19) The Commission consequently contacted the most important bicycle producers in the four countries mentioned above in order to seek their cooperation. No positive reply was received.

(20) In the circumstances, the Commission examined carefully whether, contrary to the opinion expressed by the Chinese producers mentioned above, the use of Taiwan as an analogous country was 'appropriate and not unreasonable' within the meaning of Article 2 (5) of Regulation (EEC) No 2423/88. With a yearly bicycle production of 7 million units, Taiwan is, worldwide, the fourth largest producer after China (32 million) and India and Japan (8 million each). The difference in scale of production with India is, therefore, insignificant for the purpose of the present determination. Furthermore, the level of competition on the Taiwanese market, given the large number of domestic suppliers, is high. Finally, the Commission found that Taiwanese models were largely comparable to the Chinese models included in the sample. The fact that the Chinese production sold domestically consists mainly of 'city bicycles' is irrelevant as these models are not exported to the Community.

(21) Consequently, Taiwan was considered an appropriate analogous country for the determination of the normal value of Chinese exports to the Community and, in accordance with Article 2 (5) (a) (i) of Regulation (EEC) No 2423/88, normal value was established on the basis of the prices for each of the models of bicycles sold by the Taiwanese producers on their domestic market.

3. **Export price**

(i) *Taiwan*

(22) For export transactions with independent Community buyers, export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

(23) In the case of sales to related companies in the Community, export prices were constructed on the basis of the price at which the imported product was first resold to an independent buyer, pursuant to Article 2 (8) (b) of Regulation (EEC) No 2423/88. Account was taken of all costs incurred between importation and resale and of a profit margin of 5 % which was considered reasonable in view of the information gathered in the course of the investigation with regard to the profit margin of independent importers.

(ii) *People's Republic of China*

(24) All export sales were made to independent buyers in the Community. Consequently, export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

(25) A company located in Hong Kong exported bicycles to the Community which were declared to be of Chinese origin. The bicycles were produced in the People's Republic of China in a State-owned factory and were sent to Hong Kong against payment of a manufacturing fee including labour costs. There was no invoice price between the factory in China and the exporter in Hong Kong who invoiced the sales to the Community. Consequently, the export prices were based on the price to the Community as invoiced by the company in Hong Kong, in accordance with Article 2 (8) (a) of Regulation (EEC) No 2423/88, subject to adjustments made in accordance with Article 2 (9) and (10) of the same Regulation (see 28).

4. Comparison

(i) *Taiwan*

(26) For the purpose of a fair comparison, normal values were compared with export prices on a transaction-by-transaction basis at an ex-factory level. As far as differences affecting price comparability were concerned, adjustments were granted in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, where sufficient evidence was supplied. Such adjustments concerned differences in costs for transport, insurance, handling, packing, credit, warranties, commissions and sales personnel salaries.

(27) Several Taiwanese producers requested an adjustment to take account of the fact that their export sales were so-called OEM (original equipment manufacturer) transactions, i.e. sales made to companies which resold the imported product under their own brand name. They argued that such sales could not be compared to domestic sales effected under the producer's brand name, because OEM sales would be made at lower prices as a result of lower SG&A costs and profit. While in other cases both the Commission and the Council have adopted such an approach, the Commission could not accept the claim made by the Taiwanese producers since prices, costs and profits for OEM sales on the Taiwanese market were found to be comparable to those for own-brand sales.

(ii) *People's Republic of China*

(28) Normal values and export prices were compared on a transaction-by-transaction basis. Adjustments for differences affecting price comparability were granted in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88. These included adjustments for transport, insurance and handling.

(29) The Chinese producers asked that normal values be adjusted to take account of differences in quality between their product and the Taiwanese models as well as differences in labour costs.

The Commission consequently examined whether the alleged 'quality' differences could be considered, within the meaning of Article 2 (10) (a) of Regulation (EEC) No 2423/88, as differences in physical characteristics having a bearing on consumer perception. The Commission endeavoured to use, for the purpose of comparison, Taiwanese models which were less well equipped than the comparable Chinese model. Regarding possible differences in labour costs, the Commission recalls that in the case of State trading countries where costs are not determined by market forces, such differences cannot be taken into consideration for the purpose of comparing normal value, based on an analogous market, with export prices.

5. Dumping margins

(i) *Taiwan*

(30) The comparison of normal values with export prices shows the existence of a limited amount of dumping in respect of a small number of companies included in the sample. However, the weighted average dumping margin for all companies investigated expressed as a percentage of cif value, amounted to 1,05 %. Under these circumstances, the Commission is of the opinion that the dumping margin for Taiwan has to be considered negligible.

(ii) *People's Republic of China*

(31) Some of the Chinese producers with non-Chinese participation (so-called 'foreign joint ventures') situated in a Special Economic Zone of China requested individual treatment leading to the establishment of specific individual anti-dumping duties for their exports.

(32) The Commission notes that there is no possibility of establishing separate normal values for the different producers since the normal value for a non-market economy such as China must be established according to the provisions of Article 2 (5) of Regulation (EEC) No 2423/88.

(33) The Commission further considers that individual treatment is only appropriate for exporters in centrally-planned economies in exceptional cases, since exports can be channelled by the State authorities through whichever exporter has the lowest anti-dumping duty, without any regard to the relative costs of the products of the various producers.

(34) The Commission is prepared to grant individual treatment — that is, to take account of an individual producer's export prices for the purposes of calculating dumping and injury margins and thus anti-dumping duties — where the exporter demonstrates that is operates independently of the State,

public bodies and State-controlled companies in the conduct of its sales policy and that this autonomy will continue into the future (i.e. there are no arrangements whereby control which is not at present exercised can be invoked in the future). The power of the State or a representative of the State to block certain key decisions of the company prevents a company from acting in a truly autonomous manner.

(35) In particular, the Commission considers that the sole fact that a company is situated in a Special Economic Zone is not sufficient to demonstrate that a company acts autonomously.

(36) In the present case, none of the companies involved has yet been able to demonstrate to the satisfaction of the Commission that it does enjoy, and can be expected to continue to enjoy, the necessary degree of commercial autonomy to be granted individual treatment, but the Commission will continue to examine the matter with the companies concerned in the remaining period of the investigation.

(37) Therefore, the calculation of the dumping margin for China had to be calculated as a weighted average of the margin of the exporters included in the sample. The comparison of normal value and export prices shows the existence of dumping, the weighted average margin, expressed as a percentage of cif value, being 34,4 %.

E. INJURY

1. Total consumption, volume and market shares of dumped imports

(38) Dumped imports of bicycles originating in the People's Republic of China rose from 693 600 units in 1989 to 2 100 600 units during the investigation period, representing an increase over a period of two years and nine months of more than 200 %, i.e. an average increase of more than 70 % on an annual basis. Consumption in the Community also increased but to a much lesser degree, i.e. from 15 045 600 units in 1989 to 19 910 500 units during the investigation period, which represents an increase of 32,3 % over the period.

(39) The Chinese producers increased their market share from 4,6 % in 1989 to 10,5 % in the investigation period. By contrast, the Community industry saw its markets share drop from 33 % to 27 % between 1989 and the investigation period.

2. Prices of dumped imports

(40) The Commission compared the prices of Chinese models of bicycles exported with models produced and sold by the Community industry on the EC market. For this purpose, all bicycle models produced by the Community industry were classified into one hundred different groups of bicycles, created on the basis of three criteria, i.e. category (see 9), material of frame and number of gears. The same classification was applied, individually for each Chinese exporter included in the sample, to the bicycle models exported to the Community.

(41) Average prices were then calculated per exporter and per group and compared with average prices of each corresponding Community industry group.

(42) The comparison was made on the basis of sales to the first independent customer. Account was taken of differences in the level of distribution channel, and adjustments were granted in this respect on the basis of the information available from the trade.

(43) Price undercutting was thus calculated as the average difference between the cif price, duty-paid, of the exporters concerned and the prices of the Community industry on the Community market, duly adjusted to ex-factory level. The differences in prices have been expressed as a percentage of the cif value.

(44) On this basis, substantial price undercutting was found. The weighted average undercutting margin amounted to 43,8 % for Chinese exports.

3. State of the Community industry

(a) *Production, capacity, utilization rate and stocks*

(45) The production of the Community industry concerned increased from 5 673 000 units in 1989 to 5 945 000 units for the period of investigation.

(46) In order to maintain or improve its presence on a bicycle market characterized by growing demand, the Community industry increased its production capacity from 8,7 million units in 1989 to 9,1 million units in the investigation period. Since, however, production and sales could not be increased in line with the growth of the market, capacity utilization initially increased from 65 % in 1989 to 71 % in 1990 but dropped again to 65,1 % during the investigation period.

(47) The level of stocks held by the Community industry rose from 325 000 units in 1989 to 410 000 units at the end of the investigation period, representing an increase of 26 %.

(b) *Sales and market shares*

(48) While the apparent consumption showed an increase of 32,3 % between 1989 and the investigation period, sales by the Community industry stagnated, the yearly increase being less than 2 %, i.e. from 5 million units to 5,3 milion units during the same period.

(49) Consequently, the market share held by the Community industry concerned fell form 33,3 % in 1989 to 27,0 % in the investigation period.

(c) *Development of Prices*

(50) When examining the development of prices of the Community industry, the Commission found that the specifications for bicycles have increased substantially both in number and in quality in recent years. It was, therefore, not possible to establish with sufficient precision the exact price development for each of the numerous models. However, for a number of samples it could be shown that bicycle prices did not follow the upgrading of specifications. In some cases, prices dropped despite higher specifications and more features.

(d) *Profitability*

(51) Had the Community industry's production and sales increased in line with the growth of the market, the normal result would have been economies of scale and increased profits. Instead, the Commission found that profits had actually dropped. Profitability on sales, before taxes, of the Community industry fell from 6,9 % in 1989 to 5,3 % in the investigation period. These figures, however, mask the true pricture since the results of a number of firms, representing a production of one million units, were so bad that they ceased trading.

(e) *Investments*

(52) In order to maintain or improve its presence on the growing Community market, the Community industry increased the level of investment from ECU 20,7 million in 1989 to ECU 25,3 million during the investigation period.

4. **Conclusion as to injury**

(53) The Community market in bicycles has expanded by more than 50 % over the last four years. In normal circumstances, this substantial increase in consumption should have allowed the Community industry to benefit from increased quantities leading to reduced costs and increased profits. The Community industry, however, did not benefit from the increase in the market. Since sales stagnated, the Community industry lost market share to the Chinese, who tripled their exports between 1989 and the reference period. Increased stocks led to increases in costs. The pressure excited by the exporters from the People's Republic of China on bicycle prices in the Community eroded profitability and frustrated the investments of the Community industry. Those investments demonstrated the commitment of that industry to bicycle production and its willingness to remain competitive.

(54) All these factors have affected negatively the economic and financial situation of the Community industry which, accordingly, is considered to have suffered material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88.

F. CAUSE OF INJURY

(a) **Effect of dumped imports**

(55) Some State-owned Chinese producers argued that, when assessing the effect of the dumped imports, their bicycle sales should be separated from those of Chinese joint venture companies; the alleged considerable differences in the physical characteristics, quality, price, volume, sales channels and customs treatment of the various products. The Commission considered that according to the case-law of the Court of Justice, the injury caused to the Community industry by imports form one or more countries should normally be assessed comprehensively, and not therefore, as was suggested by the exporters in question, individually or on the basis of a certain group of producers. All exports from the People's Republic of China have consequently been cumulated.

(56) In its examination of the extent to which the material injury suffered by the Community industry was caused by the effects of the dumped imports in question, the Commission found that the increase in volume and market share of the dumped imports coincided with the drop in the Community industry's market share and profitability.

(57) Moreover, the bicycle market is transparent, and purchase decisions are essentially made on the basis of prices. The considerable price undercutting of the dumped imports consequently had a major negative impact on the price level in the Community and on the volume of sales by the Community industry.

(b) **Other factors**

(58) It has been alleged by a Chinese producer that the injury suffered by the Community industry was due, at least partially, to the fact that the industry was not sufficiently fast in reacting to a sharply increasing demand for mountain bikes in the Community. It was, this producer claimed, quite normal that, in a period of growing demand, imports should fill a gap in supply caused by the Community industry's inablity to meet the increased demand in time.

The Commission, however, did not find any confirmation for these allegations. The industry launched its mountain bikes as early as 1980, and their production capacity was sufficient to satisfy demand. The cause of the injury, the Commission found, was not a lack of production capacity but rather the imports of large volumes of bicycles from the People's Republic of China at such low prices that the industry in the Community was in fact prevented from maintaining its prices at a level sufficient to offset cost increases, due in particular to higher prices for components.

(59) As regards channels of distribution, it was alleged that Community producers refused to supply department stores and mass outlets. No evidence has been submitted showing that this was indeed the case. On the contrary, it was found that most producers had various channels of distribution whose importance varied according to the type of customer and product.

(60) The market share of other third countries' imports showed a growth from 12,6 % in 1988 to 22,1 % during the investigation period, while the market share of China's imports rose from 4,2 % to 10,5 %. Taiwanese exports, which increased during this period from 5,6 % to 13,6 %, accounted for most of the imports from other third countries into the Community. However, their impact on the Community industry can be distinguished from that of the Chinese imports. The Commission examined the Taiwanese export prices and found, applying the same methodology as is described in (40) to (44), that there was no clear price-undercutting by the Taiwanese producers. In general, the average unit price of Taiwanese bicycles was slightly higher than those of the Community industry and clearly higher than the Chinese products.

(61) Accordingly, while it cannot be ruled out that factors other than dumped imports from China also had negative effects on the Community industry, it must be concluded that the very substantial expansion in volume and the low, dumped prices of the Chinese exports have been a reason for the stagnation of the EC producers' sales and the erosion of bicycle prices in the Community. Those exports taken in isolation, must, therefore, be considered to have caused material injury to the Community industry.

G. COMMUNITY INTEREST

(62) When examining the Community interest, the Commission found that since 1987 the Community industry, within the limits of its resources, has been increasing its yearly investment both to expand its production capacity and to improve its efficiency. Considerable efforts have also been made in order to rationalize the production process. This shows the determination of the Community bicycle industry to remain competitive in the business. If the effects of dumped imports were not eliminated these efforts would be jeopardized and the Community bicycle industry would see its position further weakened ; even more producers would have to face the prospect of a shutdown. The effect on employment — the industry presently provides 8 700 jobs — would be serious and the resulting crisis would also affect the European manufacturers of bicycle components, which account for about 70 % of a bicycle's value.

(63) Furthermore, there are indications that the construction of new plants, considerably increasing production capacity, is under way in China, in particular by Asia Bicycle Co., Xiamen Euro Bike and Guangzhou Five Rams Bicycle Industry Corp. Moreover, the Kunshan Development Zone in China appears to be planned to become one of the world's largest bicycle production sites to rival that of Shenzen which already has the capacity to produce annually well over 5 000 000 bicycles. Since the investigation period, the Chinese produ-

cers, according to their own statements, have already increased their production by some 11 % in 1992. It is consequently anticipated that for the years 1993 and 1994 there will be a sharp increase in Chinese exports. Unter these conditions, unless the effect of the dumped exports is eliminated, the Community industry may not be in a position to survive in the longer term. Consequently, the Community industry's interests and the interests of related sectors clearly call for intervention.

(64) As far as the interests of consumers are concerned, the Commission is aware of the fact that an anti-dumping duty on imports of bicycles from the People's Republic of China, which in terms of market share represent some 10 % of the Community market, would increase the prices of these bicycles if the price increase is passed on by the dealer to the consumer. However, the purpose of an anti-dumping duty is to re-establish fair competition on the Community market by eliminating the injurious effects of dumping practices. This is beneficial for the consumer in the long term. Also, the temporary disadvantage of higher prices for the consumer in the long term. Also, the temporary disadvantage of higher prices for the consumer has to be viewed in the light of the abovementioned consequences for the Community industry should no anti-dumping duty be imposed on bicycles from the People's Republic of China, i.e. more plant closures, negative effects on the employment situation and loss of competitiveness and viability for the remaining companies.

(65) In the cirumstances, the Commission concludes that the adoption of measures aimed at re-establishing fair competitive conditions in the Community market for the product concerned, and permitting the Community industry to obtain a reasonable return on its sales and thus eliminating the injurious effects of the dumped imports from the People's Republic of China, is in the interests of the Community.

H. PROVISIONAL DUTY

(66) According to Article 13 (3) of Regulation (EEC) No 2423/88, the level of the provisional duty should be equal either to the margin of dumping or the amount necessary to remove the injury, whichever is lower. As the injury level, caused by price undercutting, is higher than the dumping margin of the producers included in the sample, the duty should be based on the latter, i. e. the single weighted average dumping margin of the producers included in the sample.

(67) A period should be fixed within which the parties known to be concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the prupose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of bicycles and other cycles (including delivery tricycles), not motorized falling within CN code 8712 00, originating in the People's Republic of China.

2. The rate of the duty, applicable to the net free-at-Community-frontier price, before duty, shall be 34,4 %.

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

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 5 March 1993.

For the Commission
Leon BRITTAN
Member of the Commission