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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Articles 9 and 11(2) thereof,

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

Whereas:

A. PROCEDURE

1. Measures subject to review involving the People's Republic of China

(1) In October 1991, the Commission announced the initiation [2] of an anti-dumping investigation (the original investigation) concerning imports of bicycles originating in the People's Republic of China (China).

(2) In September 1993, the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in China (Regulation (EEC) No 2474/93 [3]).

(3) In April 1996, the Commission initiated an investigation into the circumvention of this duty (Regulation (EC) No 703/96 [4]), as a result of which the duty was extended in January 1997 to imports of certain bicycle parts originating in China (Council Regulation (EC) No 71/97 [5]).

2. Measures in force involving other countries

(4) In March 1998, the Council imposed definitive anti-dumping duties on imports of bicycles originating in Indonesia, Malaysia and Thailand (Regulation (EC) No 648/96 [6]).

(5) In February 1999, the Council imposed definitive anti-dumping duties on bicycles originating in Taiwan (Regulation (EC) No 397/99 [7]).

3. Request for review

(6) Following the publication of a notice of impending expiry of the anti-dumping measures on imports of bicycles originating in China [8], the Commission received a request for a review pursuant to Article 11(2) of Regulation (EC) No 384/96 (the Basic Regulation) in respect of the measures.

(7) The request was lodged in June 1998 by the European Bicycle Manufacturers Association (EBMA), acting on behalf of Community bicycle producers whose collective output constitutes a major proportion of total Community production (the applicant Community producers).

(8) The EBMA argued that expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry. Having determined, after consulting the Advisory Committee, that the evidence was sufficient, the Commission initiated an investigation [9] pursuant to Article 11(2) of the basic Regulation.

4. Investigation

(9) The Commission officially advised the applicant Community producers, exporting producers, importers and consumers, as well as the representatives of the exporting country, of the initiation of the review and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(10) The Commission sent questionnaires to the parties known to be concerned and received replies from ten applicant Community producers who had participated in the original investigation (the sample) and 14 exporting producers in China. Of the latter, the following 11 companies had exported bicycles to the Community during the investigation period:

— Catic Bicycle Co., Ltd
— Giant (China)
— Huiyang Kenton Bicycle Group Ltd
— Liyang Machinery (SZ)
— Merida Bicycles (China)
— Ming Cycle
— Phoenix Co.
— Shenzhen Overlord
— Shenzhen Bao An Bike
— Shun Lu Bicycle Co.
— Universal Cycle Corporation (China).

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30. 4. 1998, p. 18).
[2] OJ C 266, 12.10.1991, p. 6.
[3] OJ L 228, 9.9.1993, p. 1.
[4] OJ L 98, 19.4.1996, p. 3.
[5] OJ L 16, 18.1.1997, p. 55.
[6] OJ L 91, 12.4.1996, p. 1.
[7] OJ L 49, 25.2.1999, p. 1.
[8] OJ C 74, 10.3.1998, p. 4.
[9] OJ C 281, 10.9.1998, p. 8.

(11) Investigations were carried out at the premises of the following companies:

(a) Producers in the analogue country (Mexico):

— Biciclo SA de CV, San Luis Potosi

— Bicileyca SA de CV, Apizaco

— Mercurio SA de CV, San Luis Potosi;

(b) Applicant Community producers (the sample):

— Batavus BV, Heerenveen, The Netherlands

— BH SA, Vitoria, Spain

— Cycleurope international SA, Romilly/Seine, France

— Dawes Cycles Ltd, Birmingham, United Kingdom

— Derby Cycles Werke GmbH, Cloppenburg, Germany

— Hercules Fahrrad GmbH & Co. KG, Nürnberg, Germany

— Koninklijke Gazelle BV, Dieren, The Netherlands

— Kynast AG, Quakenbrück, Germany

— Micmo Gitane SA, Machecoul, France

— Raleigh Industries Ltd, Nottingham, United Kingdom.

(12) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 September 1997 to 31 August 1998 (the investigation period). Trends between 1995 and 31 August 1998 (the period considered) were examined to determine the likelihood of continuation or recurrence of injury.

(13) The review could not be completed within the normal period of 12 months provided for in Article 11(5) of the basic Regulation, owing to the complexity of the investigation.

(14) The Commission sought and verified all information deemed necessary for determining the likelihood of the continuation or recurrence of dumping and injury, and the Community interest.

(15) All the parties concerned were informed of the essential facts and considerations on which the conclusions of this review were based and were granted a period within which to make representations. The representations received were considered carefully and where appropriate the findings have been changed accordingly.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(16) The product concerned here is the same as that covered by the original investigation, namely bicycles and other cycles (including delivery tricycles), not motorised, falling within CN codes 8712 00 10, 8712 00 30 and 8712 00 80.

(17) In the original investigation, bicycles were classified in the following categories:

(A) mountain bicycles or MTBs

(B) touring, trekking and city bicycles

(C) junior action bicycles

(D) other sport and racing bicycles.

(18) The present investigation has used the same categorisation. However, it should be noted that there are no clear dividing lines between categories, and the different product segments overlap. A number of models can be classified in more than one category.

(19) The investigation confirmed that all bicycles are sold through similar distribution channels on the Community market. The basic application and use of bicycles being identical, they are largely interchangeable and models from different categories therefore compete with each other. On this basis, it was concluded that all the categories form one single product.

(20) The investigation also showed that bicycles produced and sold by the Community industry on the Community market, those produced and sold by Mexican producers on the Mexican market and those imported onto the Community market originating in China are alike and are therefore like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

(21) In accordance with Article 11(2) of the basic Regulation, the purpose of this type of review is, with regard to dumping aspects, to determine whether dumping took place during the investigation period and whether the expiry of the measures would lead to a continuation or recurrence of dumping (see Article 11(2) of the basic Regulation). The findings on dumping set out should be viewed in the light of the fact that Community imports of the product concerned fell from a peak of 2,5 million units in 1991 to less than 14 000 units during the investigation period. Furthermore, the Chinese exporting producers who cooperated in the present investigation accounted for only 30 % of these imports during the investigation period.

2. Continuation of dumping and likelihood thereof

(a) Analogue country

(22) The existing measures provide for a single rate of duty on all bicycle imports originating in China. In accordance with Article 11(9) of the basic Regulation, the Commission used the same methodology as in the original investigation, so normal value was determined on the basis of information obtained in a market economy third country (the analogue country).

(23) Taiwan had been taken as an analogue country in the original investigation. However, its use in the present investigation was not considered appropriate in view of the concurrent anti-dumping concerning its bicycle exports and the fact that no interested party proposed it.

(24) The applicant Community producers proposed Mexico as a suitable analogue country. The notice of initiation invited interested parties to comment on the appropriateness of this choice. Several Chinese exporting producers claimed that the applicant Community producers had not provided sufficient data to show that Mexico was more appropriate than any other potential analogue country, but they themselves did not provide sufficient evidence in support of any alternative.

(25) Some Chinese exporting producers suggested India as an analogue country. However, India was found to be inappropriate, for two main reasons:

— the bicycles sold in India (rustic bicycles sold to retailers in kit form) are not comparable with those exported by Chinese manufacturers to the Community, and

— the Indian market is highly protected (high duty rates, import licensing system, producer subsidies).

(26) In view of the above, the following facts and considerations influenced the assessment of whether Mexico was an appropriate analogue country:

— bicycles produced in Mexico have the same technical characteristics as those produced in China and exported to the Community,

— Mexico can be considered an open and representative market. Imports of bicycles account for 13 % of annual sales. Its legal and commercial environment is favourable to free trade and competition. Its customs duty rate (20 %) is comparable with the European Union's (15,4 %). There are no quantitative restrictions or licensing. Mexican producers are free to source components and materials either on the domestic market (where there is a large number of suppliers of tubes, metal sheet, plastic, tyres, saddles, etc.), or abroad (for parts such as rims, hubs, brakes and derailleurs). The fact that Mexico imposed an anti-dumping duty on Chinese bicycles in 1997 is not considered relevant in this context,

— Mexican producers' domestic sales volumes are comparable with China's export volumes,

— three major bicycle producers cooperated in the investigation (Mercurio SA de CV, Biciclo SA de CV and Bicileyca SA de CV) which in 1998 accounted for 50 % of sales on the domestic market, where they competed with at least six other main producers. These companies are competitive, with modern manufacturing facilities including automated or partially automated steel tube cutting, tungsten inert gas welding for frames and forks, powder- and petroleum-based painting, and conveyor assembly lines. In the light of this and in accordance with Article 2(7) of the basic Regulation, Mexico was considered an appropriate analogue country for establishing normal value for the product concerned.

(27) Some exporting producers claimed that establishing normal value in an analogue country was no longer appropriate and would distort any forecast of future dumping. They argued that they were now operating under market economy conditions, as defined in Article 2(7)(c) of the basic Regulation, and that this constituted a change of circumstances justifying the use of a different methodology from that used in the original investigation (see Article 11(9)).

It should be stressed here that any producer may indeed claim that market economy conditions prevail (see Article 2(7)(b) and (c)), if he can demonstrate such a change of circumstances. Given the nature of such a change, it is considered appropriate to examine this in the context of an interim review under Article 11(3). However, no Chinese exporting producer had provided sufficient evidence for the Commission to open a parallel review under Article 11(3) by the time the present expiry review was initiated.

(28) In accordance with Article 11(9), therefore, the present review had to address the dumping aspects using the same methodology as the original investigation, i.e., *inter alia*, by determining normal value in an analogue country.

(b) Normal value

(29) First, it was established, overall and model by model, that the Mexican producers' domestic sales were equivalent to at least 5 % of the imports originating in China in terms of volume, i.e. they were representative within the meaning of Article 2(2) of the basic Regulation.

(30) It was also found that all relevant domestic sales of cooperating Mexican producers to independent customers could be considered to have been made in the ordinary course of trade. (The weighted average selling price of all sales during the investigation period was above the weighted average unit cost of production, and the volume of individual sales transactions below unit cost of production was less than 20 % of the sales being used to determine normal value).

(31) Normal value was therefore determined on the basis of the price paid or payable, in the ordinary course of trade, by independent domestic customers of the cooperating Mexican producers during the investigation period.

(c) Export price

(i) *Cooperating exporting producers*

(32) Comprehensive data were received on export prices from ten Chinese exporting producers. According to Eurostat figures, however, this data accounted for only 30 % of Chinese exports of bicycles to the Community during the investigation period (i.e. around 4 200 units).

(33) Export prices for these companies were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

(ii) *Non-cooperating producers*

(34) For the remaining 70 % of imports originating in China, for which there was no cooperation, findings had to be based on the facts available in accordance with Article 18(1) of the basic Regulation. An average export price for all transactions was thus determined on the basis of Eurostat figures after deduction of exports by cooperating producers. Eurostat figures are not normally considered a suitable source of information where cooperation covers only 30 % of imports of the products concerned. They were used here, however, because in view of the small quantities imported during the investigation period, the main focus of the analysis is the question of whether dumping in significant quantities is likely to recur rather than ensuring that exporters are not rewarded for not cooperating. Moreover, since an expiry review can lead only to measures being maintained or repealed, but not modified, it is not necessary here to calculate a dumping margin with absolute precision.

(d) Comparison

(35) It should be noted that in some cases differences were found between the bicycles imported originating in China and those produced and sold in Mexico — generally because the Chinese models were more sophisticated. In an investigation initiated pursuant to Article 5 of the Basic Regulation, this would have required an upward adjustment of normal value (in this case, based on Mexican domestic sales prices) to reflect the difference, which in turn would have increased the level of dumping found. However, such an adjustment was not considered necessary here in view of the small overall impact on the level of dumping and the fact that measures cannot be modified following an expiry review.

(36) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, adjustments were made to allow for differences claimed in respect of transport, insurance, credit, handling and ancillary costs which were found to affect prices and price comparability.

(e) Dumping margin

(37) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value on a fob Mexican border basis was compared to the weighted average export price (of both cooperating and non-cooperating producers) on a fob Chinese border basis, at the same level of trade.

(38) The above comparison showed the existence of very significant dumping, the dumping margin being equal to the amount by which the normal value exceeded the export price. The dumping margin found was higher than the one found in the original investigation.

(39) The investigation did not reveal any reason why this dumping would stop if the measures were to be repealed. It is therefore concluded that there is a likelihood of continuation of dumping.

(40) Some Chinese exporting producers claimed that it was impossible to reach valid conclusions about current or future dumping on the basis of such a small quantity of imports. Whilst it is accepted here that concluding that dumping exists cannot in itself justify maintaining the measures, it is nonetheless one factor affecting the decision as to whether they should be repealed or maintained.

3. **Likelihood of recurrence of dumping**

(41) The following factors have been found to be pertinent in examining whether dumping is likely to recur: the existence of dumping, the background of circumvention, production and capacity utilisation trends in China, and trends in the number of Chinese bicycles being exported world-wide at dumped prices.

(a) Existence of dumping and background of circumvention

(42) While the dumping margin established in the original investigation was high (30,6 %), the present investigation indicates that far from being eliminated, dumping has even increased.

(43) Furthermore, numerous attempts have been made to circumvent the anti-dumping measures imposed. Since 1993, a large number of bicycle assemblers have started to operate in the Community and imports of bicycle parts have increased dramatically. This development, a reaction to the original measures, was highlighted in the findings of the 1996 anti-circumvention investigation.

(44) That investigation also showed that, as soon as the anti-dumping measures were imposed in 1993, Chinese exporting producers collaborated with importers in the Community to evade the duty by shipping bicycles in disassembled form. Parts destined for the same assembler were spread across different containers, shipped on different dates and sometimes unloaded at different Community ports.

(45) Another form of circumvention was the shipping to the Community of Chinese bicycles with certificates of origin, which were later withdrawn, indicating that they were made in Vietnam (523 000 bicycles from 1992 to 1995).

(46) The investigation which led to the extension of the measures also showed, with regard to the essential bicycle parts concerned, that there was evidence of dumping in relation to the normal values previously established.

(47) Some companies denied that the circumvention of the original measures by means of assembly operations in the Community constituted a factor to be considered in the assessment of the likelihood of recurrence of dumping. However, this argument cannot be accepted. The anti-circumvention investigation opened in 1996 showed that the circumvention of the measures was accompanied by dumping and that the remedial effects of the measures were being undermined.

(48) Moreover, the results of the anti-circumvention investigation as well as the current low level of imports originating in China showed that Chinese exporting producers have made little attempt to compete on the Community market at non-dumped price levels.

(b) Production and capacity utilisation trends in China

(i) *Industry in general*

(49) According to the information available (complaint), production capacity in China is very high (estimated at around 70 million units). In the last few years, there has been considerable investment in joint ventures, in particular from Taiwanese companies, and high tax and duty rebates are granted to export-oriented producers.

(50) From 1995 up to the investigation period, total bicycle production decreased, domestic consumption varied between 25 and 30 million units, and exports fluctuated between 8 and 16 million bicycles. The rate of capacity utilisation is thus rather low, at just above 50 %.

(51) Because of the enormous surplus capacity, Chinese exporting producers have a very high degree of slack in both the manufacturing process and the range of products. These producers would therefore be able to increase production at short notice and direct it to any export market including, were the measures to be repealed, the Community's.

(52) The situation is aggravated by the fact that, despite being covered by the measures since 1997, imports of essential bicycle parts have continued to rise, as assemblers are able to obtain duty exemption if they can show that the value of parts originating in or coming from China is less than 60 % of the total value of the parts of the assembled product, or that the value added to the imported parts during the assembly or completion operation is greater than 25 % of the manufacturing cost (see Article 13(2)(b) of the basic Regulation).

The increase in imports of bicycle parts can be seen from the table below.

Community imports of main bicycle parts originating in China (in units)	1991	1992	1993	1994	1995	1996	1997	1998	IP
Frames	122 579	359 396	1 049 657	1 169 226	1 456 691	1 893 237	1 926 896	2 445 528	2 272 651
Index	*100*	*293*	*856*	*954*	*1 188*	*1 545*	*1 572*	*1 995*	*1 854*
Forks	37 321	644 926	1 352 814	1 672 070	3 283 292	3 507 635	3 600 818	3 494 433	3 529 895
Index	*100*	*1 728*	*3 625*	*4 480*	*8 797*	*9 399*	*9 648*	*9 363*	*9 458*

Source: Eurostat.

(53) These parts are produced by companies which also have the capacity to produce complete bicycles. If the measures were be to be repealed, it is likely that imports of complete bicycles originating in China would resume very rapidly, replacing the current imports of bicycle parts.

(ii) *Cooperating producers*

(54) Whereas the production figures for 1995 until the end of the investigation period are relatively stable, the forecasts for 1999 from the cooperating Chinese companies reflect an intention to increase production by 16 % to 10,6 million units.

(55) Furthermore, the capacity utilisation data show significant surplus capacity between 1995 and the end of the investigation period. In addition, the increase in production foreseen for 1999 would still leave sufficient capacity for another 5,8 million units.

(56) Some companies claimed that the Commission's conclusions on production capacity and its utilisation in China were not supported by reliable evidence. In this context, they referred to findings of the US International Trade Commission. This could not be accepted. First of all, these findings relate to a period different from the IP. It should also be noted that the conclusions of the Commission and the Council are based on data submitted by the cooperating Chinese exporting producers themselves. Moreover, the existence of large production capacities implied by the low utilisation rate of around 50 % found for the cooperating companies is confirmed by information on the Chinese bicycle production sector as set out in the complaint. In this context, the simple assertion made by the cooperating companies that a distinction should be drawn between production capacity for export sales and production capacity for sales on the Chinese domestic market was not found to be convincing. No evidence was submitted in support of this. Finally, it should be borne in mind that, should the Commission's conclusion be considered as drawn on too narrow a basis, this is entirely due to the considerable reluctance of Chinese exporting producers to cooperate.

(c) Trends in Chinese exports to third countries

(i) *General increase*

(57) Comext figures, which had to be relied on due to the low level of cooperation by Chinese exporting producers, showed that Chinese exports world-wide increased from 12,8 million units in 1995 to 14,6 million units in 1997 (+14 %). In the first half of 1998, exports amounted to 8,0 million units — an increase of 22 % over the same period in 1997.

(58) This trend is illustrated by the situation in the USA, where bicycles originating in China were not subject to anti-dumping measures. These imports increased from 4 million units in 1995 to 8,4 million units in 1998. Details are given in the table below.

Exports from China to	1995		1996		1997		1998		IP	
	Quantity	Average unit price (USD)	Quantity	Average unit price (USD)	Quantity	Average unit price (USD)	Quantity	Average unit price (USD)	Quantity	Average unit price (USD)
World	12 822 722	42	12 239 224	38	14 617 906	35	—	—	—	—
USA	4 074 554	52	3 902 483	39	5 734 027	38	8 400 000	—	7 511 342	—

Source: Comext

(59) Furthermore, a significant fall in prices was observed. Between 1995 and 1997, Chinese export prices world-wide fell on average by 17 % per unit and, for exports to the USA, by 27 %.

(ii) *Possible deflection of Chinese exports due to the introduction of anti-dumping measures and quantitative restrictions in third countries*

(60) According to the available information, several countries have recently adopted commercial defence measures on Chinese bicycles because of the injury caused to their domestic industry. In 1997, Canada and Mexico imposed anti-dumping duties, whilst South Korea and Vietnam decided to impose emergency import restrictions. Chinese exporting producers are therefore under pressure to find alternative export markets. Should the Community repeal the current anti-dumping measures, its market would be very attractive for these producers.

(iii) *Chinese exports to other third countries*

(61) It is important to note that, after the Council imposed anti-dumping duties in 1993, exporting producers in China easily penetrated other export markets such as Australia and South Korea.

(d) Dumping by cooperating exporting producers in third countries

(62) Exports by the Chinese cooperating exporting producers to third countries (USA, Australia and Japan in particular) are generally very representative of total Chinese

bicycle exports, accounting for 70 % of total Chinese exports to the USA in 1996 and 1997, and 20 % and 50 % respectively of total exports to Japan and Australia during the same period.

(63) For the purpose of this investigation and on the basis of the cooperating exporting producers' replies to the questionnaire, the analysis focused on those categories for which there were also exports to the Community: categories A and C. For each category, a weighted average export price was determined per country of destination for all Chinese cooperating exporting producers.

(64) For the purpose of this dumping calculation, a weighted average normal value for these models was then determined for each category and compared to the relevant export price.

(65) For the USA, Canada, Australia, Japan, and for all other large importers, this produced clear evidence of significant dumping (29 % to 96 %) for both categories. It is not unreasonable to assume that, should the Community's measures be lifted, the Chinese exporting producers would sell similar volumes at similar prices in the Community.

4. **Conclusion**

(66) The investigation has shown clearly that the (albeit small) quantity imported into the Community originating in China during the investigation period was dumped. The level of dumping found was well above that found in the original investigation.

(67) The investigation has also shown that the volume of Chinese bicycle exports to the Community would in all probability be considerable if the current measures were to be repealed. This conclusion was arrived at in view of the substantial spare capacity available in China and the history of circumvention. All this illustrates the continuing strong interest of Chinese exporting producers in selling to the Community. The likelihood of import volumes rising to significant levels is increased by the risk of deflection of trade to the Community due to the adoption of commercial defence measures by South Korea, Mexico, Canada and Vietnam.

(68) It is also concluded that substantially increased volumes would most likely be exported to the Community at dumped prices. This is supported by the high dumping margins found for Chinese exports to other main third country markets. It is unlikely that Chinese exporting producers would resume significant exports to the Community without similar low, dumped export prices.

(69) In summary, it is highly likely that, should the measures be repealed, Community imports originating in China would resume in significant quantities and at significantly dumped prices.

D. **COMMUNITY INDUSTRY**

(70) Community producers included in the definition of the 'Community industry' for the original investigation constituted around 54 % of the total Community production of bicycles.

(71) The applicant Community producers here were found to constitute around 58 % of total Community production during the investigation period. They therefore are 'the Community industry' within the meaning of Article 4(1) of the basic Regulation and are hereafter referred to as such.

(72) The remaining producers in the Community (constituting around 42 % of total Community production) are hereinafter referred to as the 'non-applicant producers'.

E. **ANALYSIS OF THE COMMUNITY MARKET**

1. **Preliminary remarks**

(73) The Community industry's situation was assessed on the basis of two categories of data:

(i) global injury indicators for the Community industry as defined in section D above (production, production capacity, capacity utilisation, stocks, sales, investment and employment), collected from national bicycle associations in the Community.

The data from the Community industry was cross-checked, as far as possible, with other available information (statistical data, data from previous anti-dumping investigations, etc.);

(ii) certain performance-related injury indicators (profitability, prices, price evolution and price undercutting) collected and verified at the level of the sample. These companies replied to the Commission questionnaire and fully cooperated in the review investigation. They represent around 40 % of the production volume of the Community industry.

2. **Consumption in the Community**

(74) Community consumption was calculated by combining the total volume of sales on the Community market by all Community producers (Community industry and non-applicant producers) and total imports (Eurostat figures).

(75) Consumption declined by 11 % during the period considered, from 17 401 000 units in 1995 to 15 452 000 units in the investigation period. At the same time, the value of consumption was stable at around EUR 2,3 million, indicating that average sales prices on the Community market increased.

(76) The negative trend in consumption (in units) can partly be explained by the continued decline of two major products in the bicycle sector since the early 1990s: sales of BMX bicycles (children's 'moto-cross' — category C) have decreased significantly since 1991 and category A bicycles (MTBs, mountain bicycles) have become much less popular since 1992. Falling sales of these two types have not been compensated for by sales of other types or categories.

(77) Some exporting producers claimed that BMX and MTBs were China's principal export products. Accordingly, there cannot be a recurrence of injury if, as recognised by the Commission itself, there is no longer significant demand for these products in the Community.

(78) Although demand on the Community market for BMXs and MTBs declined during the period considered, it is still considerable. On the information available, several million MTBs were still sold on the Community market during the investigation period. Moreover, Community producers and exporting producers have launched several new kinds of BMX, which is still one of the main types of bicycle for children.

(79) The argument raised by Chinese exporting producers is therefore considered unfounded.

3. **Imports of dumped bicycles originating in China**

(a) Volume and price of bicycle imports originating in China

(80) The number of bicycles originating in, and imported from, China fell between 1995 (when a total of 65 408 was imported) and the investigation period. After a 29 % increase in 1996, the figure dropped from 1997 and only 13 651 bicycles were imported during the investigation period.

(81) One interested party claimed that, since under Article 11(5) of the basic Regulation review investigations must be covered by the same rules as other investigations, Article 5(7) of the basic Regulation applies to expiry reviews also. It was argued that the present review investigation should therefore never have been initiated, as imports originating in China were below 1 % of total consumption in both volume and value terms during the investigation period, i.e. below the *de minimis* threshold.

(82) Article 11(2) of the basic Regulation states that:

'A definitive anti-dumping measure shall expire after five years from its imposition (…), unless it is determined in a review that the expiry would be likely to lead to a continuation or recurrence of dumping and injury. (…)'

It follows from the above that the purpose of an expiry review, regardless of the level of imports from a given country concerned, is to determine whether the expiry of anti-dumping measures is likely to lead to a continuation or recurrence of dumping and injury. It is not a determination of material injury as referred to in Article 3(2) of the basic Regulation.

(83) Consequently, the claim that the current investigation was unduly initiated cannot be accepted.

(84) From the import figures in recital 80, it could be concluded that the anti-dumping duties on Chinese bicycles since 1993 have had an immediate and radical effect on import volumes, which had reached 2,5 million bicycles in 1991. However, these figures do not reflect the following two further developments, which alter the picture somewhat.

(85) Following the imposition of definitive anti-dumping duties in 1993, Chinese exporting producers exported bicycles to the Community using false declarations of origin (see recitals 44 and 45). They were also found to be circumventing the duties in force. Until the beginning of 1997 [1], the volume pressure from bicycles originating in China was therefore much higher than suggested by the figures.

(86) The average price of bicycles originating in China increased considerably during the period considered (+ 80 %), especially between 1997 and the investigation period (+ 51 %). However, given the limited import quantities, which fell significantly (– 79 %) during the period considered, no reliable conclusion on prices and price evolution could be drawn from this, especially as no information is available on possible changes in the product mix.

(b) Price behaviour of exporting producers

(87) Despite the very limited quantities imported during the investigation period, the exporting producers' price behaviour was analysed on the basis of the price information submitted. This analysis took into account actual export prices of exporting producers (cif Community frontier), both with and without anti-dumping duty, as well as the ex-factory prices charged by the Community industry to independent customers at the same level of trade.

[1] Publication of Regulation (EC) No 71/97 extending the anti-dumping duty to certain bicycle parts originating in China.

(88) The analysis showed that export prices were significantly lower than those of the Community industry both with and without the applicable anti-dumping duty.

4. **Economic situation of the Community industry**

(a) Preliminary remark

(89) In assessing the situation of the Community industry it should be noted that, since the imposition of anti-dumping measures on imports of bicycles originating in China, imports from other third countries have also been subject to anti-dumping investigations. In 1996, anti-dumping measures were imposed on bicycles originating in Indonesia, Malaysia and Thailand and, in 1999, on those originating in Taiwan.

(b) Production

(90) From 1995 up to the investigation period, the Community industry's production fell by 25 % or more than 2 million units (from 8 842 500 to 6 400 000).

(91) The investigation revealed that this decrease was the result of several companies going out of business and reduced production by major Community producers. It should also be mentioned that, in order to survive, some Community producers included in the definition of the Community industry in the original investigation switched from the complete cycle of production (i.e. including manufacture of the frames) to simple assembly or sub-assembly operations using imported parts (frame, forks, complete wheels, crank gears, freewheels, brakes, etc.).

(c) Production capacity and capacity utilisation

(92) As bicycles are produced on a seasonal basis in the Community, demand for production capacity is very high in certain months. In most Member States, the season starts in March and finishes in September. Bicycle collections for the next season are presented to the trade (dealers, agents, retailers, mass merchandisers, etc.) each September.

(93) From 1995 up to the investigation period, the Community industry's production capacity was reduced by 27 %, from 15 to 11 million units, as a result of the factors that led to the drop in production, and certain Community producers restructuring (see recital 91).

(94) Despite the significant cut in capacity, the capacity utilisation rate increased by only 2 percentage points between 1995 and the investigation period. The actual rate of utilisation during the investigation period (58 %) should be viewed alongside the rate needed in this type of industry for economic viability (70 %).

(d) Sales by the Community industry

(95) During the period considered, volumes sold fell by 24 %, or 1,9 million units. The decrease was most marked in categories A (– 35 %) and C (– 13 %) — precisely those categories in which Chinese exporting producers were found to be very strong during the original investigation. The decrease can be explained at least partially by imports circumventing the anti-dumping measures on Chinese bicycles and by imports of parts, exempted following the introduction of anti-circumvention measures.

(96) Sales value fell by 8 %. This was much less than the decrease in volume terms, indicating that the Community industry's average sales prices went up in the period considered.

(e) Market share

(97) As a result of overall losses in sales volume and sales value, the Community industry lost 15 % of its market share (in volume terms) between 1995 and the investigation period, mainly in categories A and C (see remarks in recital 95).

(f) Average sales price and price evolution

(98) The weighted average price of bicycles sold by the Community industry on the Community market increased by 10 % during the period considered. The investigation has shown that the main producers included in the definition of the Community industry have changed their product mix and moved to higher-end products. This also required them to concentrate their sales activities on dealers/retailers whose resale prices are more stable and more attractive as compared to the other major sales channels such as mass-merchandisers and supermarkets.

(99) It emerged from the category-by-category analysis that prices in categories A and C (which accounted for most Chinese bicycle imports in the original investigation) increased overall by 13 % during the period considered, although the pattern of the increase was not the same for both types; for instance, prices for category C increased by up to 20 % between 1995 and 1997.

(100) By contrast, in category B, the strongest segment of the Community industry, sales prices remained very stable during the period considered.

(g) Profitability

(101) Although the average profitability of the Community industry improved slightly from – 2,3 % to – 0,6 % during the period considered, it remained negative throughout. In 1995 and 1996, losses incurred by the Community industry were stable (2,2 % in 1996). They were reduced by 1,9 percentage points in 1997 (– 0,3 % of net sales) but increased again during the investigation period (– 0,6 % of net sales).

(102) The investigation showed that the worst results were achieved in the period 1995 to 1996, when Chinese exporting producers were circumventing the anti-dumping measures (see recitals 44 to 45). In order to stop this practice measures were extended to bicycle parts in the beginning of 1997. In 1997, as a result of a 7 % price increase over 1995, the profitability of the Community industry improved slightly. It then dropped a little during the investigation period, despite a further 3 % price increase.

(103) The above trend clearly indicates that the Community industry's financial situation has not recovered sufficiently during the period considered. The investigation has shown that profitability has remained negative despite the fact that the Community industry undertook significant restructuring, reduced the amount of certain fixed costs of production and increased sales prices.

(104) The profitability achieved during the period considered should be compared with the level considered to be the minimum for the industry in the absence of dumped imports originating in China, i.e. 8 %.

(105) This deterioration can be explained mainly by a reduction in production volume (which led to a higher unit cost of production) and by the restructuring in the bicycle industry.

(h) Investments

(106) The Community industry's investment in buildings, plant and machinery was rather low during the period considered. It represented only 1,7 % to 2,5 % of the value of Community sales on the Community market. Investment was made mainly in machinery to improve production efficiency (welding robots) and the quality of bicycle frames.

(i) Employment

(107) Employment in the Community industry fell steadily from 1995 to the investigation period. In total 1 800 people (12 % of the workforce in 1995) were laid off during the period considered.

(j) General comments received on the economic situation of the Community industry

(108) On the basis of press releases and extracts from non-confidential replies to the Commission's questionnaire, some exporting producers claimed that the economic situation of certain Community producers had improved over the period considered, in particular in terms of sales volume, production volume and profitability. This, it was claimed, contradicted the conclusion that the Community industry had been in a weak and vulnerable economic position since the imposition in 1993 of the anti-dumping duties against bicycles originating in China.

(109) In this respect, it should be underlined that these exporting producers provided information relating mainly to some individual producers included in the definition of the Community industry whose situation is not representative for the Community industry as a whole. It is considered that this does not invalidate the overall findings, which reflect the situation for the product concerned and for all individual companies included in the definition of the Community industry.

(110) On this basis, the conclusion that the economic situation of the Community industry had improved is considered to be unfounded.

5. **Conclusion**

(111) The analysis of the Community industry's economic situation has revealed that most economic indicators continued to show negative trends during the period considered: production fell by 25 %, production capacity by 27 %, sales volume and sales value by 24 % and 8 % respectively and the value and volume of market share by 8 % and 15 % respectively. Although prices increased by 10 % during the investigation period as compared to 1995, the Community industry continued to make losses and employment was reduced by 12 %.

(112) On this basis, it was concluded that the Community industry has remained in a weak and vulnerable economic position since the imposition in 1993 of the anti-dumping duties against imports of bicycles originating in China.

F. **LIKELIHOOD OF RECURRENCE OF INJURY**

1. **Preliminary comments**

(113) In addition to the economic situation of the Community industry, the Commission examined the likelihood of recurrence of injury should the anti-dumping measures applicable to imports originating in China be removed.

(114) This analysis covered the situation of the Community market in the light of past circumvention by Chinese exporting producers, the situation of the bicycle industry in China and the likely consequences for the Community market of repealing the anti-dumping measures.

2. **Situation of the bicycle industry in China and future export volume**

(115) As mentioned in recital 50, the Chinese bicycle industry is using only about 50 % of its huge production capacity and Chinese bicycles are present on the main markets worldwide, particularly in the USA and Japan.

(116) The investigation also showed that, after a two-year absence from the US market following the imposition of anti-dumping duties, Chinese exporting producers financed massive sales campaigns when the duties were repealed and were able to re-establish their presence almost immediately. Large numbers of Chinese bicycles were sold, in particular via supermarkets and department stores, one of the major distribution channels in the USA (as well as in the Community). As a result, around 8 million bicycles originating in China were exported to the USA during the investigation period.

(117) Finally, it is also recalled that several countries have recently applied commercial defence instruments to imports of Chinese bicycles (see recital 60).

(118) Some exporting producers claimed that, due to the large domestic market in China and exports to third countries with large and stable markets (e.g. Japan and USA), injury is not likely to recur.

(119) They also claimed that the Chinese bicycle industry does not have such a huge excess production capacity at its disposal as to allow a significant increased or rapid penetration of the Community market in such a manner as to threaten the Community industry. In their opinion, no reliable evidence was provided to support the conclusions on production capacity and capacity utilisation in China. The capacity utilisation rate in China, it was claimed, was much higher (around 87 %).

(120) It is true, as indicated in recital 116, that Chinese exporting producers are present in third countries with large and stable markets. However, they have shown that they are able quickly to redirect exports and penetrate new markets.

(121) It should also be noted that the findings on production capacity and capacity utilisation in China are based on the complaint and the information provided by the Chinese exporting producers themselves (see recitals 54 and 55).

(122) On this basis, with no new supporting evidence, the claims of the exporting producers could not be accepted.

3. **Likely situation on the Community market without anti-dumping measures on imports originating in China**

(123) As mentioned, Chinese exporting producers have the potential to penetrate the Community market quickly. Without anti-dumping duties and given the spare production capacity, volumes of low-priced dumped imports originating in China could be expected in the near future to reach a level comparable to that in 1991 (around 2,5 million bicycles). This would give Chinese exporting producers a share of around 15 % of the Community market.

(124) This scenario also appeared highly likely on the basis of price quotations given by Chinese exporting producers to Community-based operators, and offers during major bicycle exhibitions in the Community. These prices, which were not conditional on the removal or maintenance of the anti-dumping measures, were comparable to those charged by Chinese exporting producers in their main export markets.

(125) The present analysis showed that average prices of Chinese imports were likely to increase slightly as compared to the original investigation since bicycles at the lower end of the market were found to be better equipped during the investigation period. Nevertheless, these prices or price quotations, using the price comparison methodology described in recitals 87 and 88, were significantly below those for comparable models sold by the Community industry. Indeed, without anti-dumping duties, selling prices for Chinese bicycles would be between 40 % and 55 % below the Community industry's average.

(126) This finding indicates that injurious pricing by exporting producers in China would resume at serious levels should measures be allowed to lapse. It is to be expected that, without anti-dumping duties, Community producers would lose sales volume and market share. More precisely, the Community industry's sales and production volumes could both be expected to fall by around 1 million units, to 5 million and around 5,4 million bicycles respectively. It is also highly likely that Community producers would concentrate on producing more expensive bicycles.

(127) It has been established through detailed analysis of the distribution network that:

— the Community industry is prominent in the dealer/retailer sales channel (60 % to 65 % of total sales) selling mainly in the medium and high end of the market,

— some Community producers, however, (mainly in France, Germany and the United Kingdom) mostly produce for the lower end of the market and specialise in sales to supermarkets, mass-merchandisers and OEM customers (up to 80 % of their sales or 2 million overall).

(128) As Chinese exporting producers would mainly compete in the high volume sales channels, pressure on the Community industry would be strong there and less acute in the dealer/retailer sales channels.

(129) The removal of the anti-dumping duties against Chinese bicycles would thus lead to:

— further restructuring of the Community industry and company closures,

— reduced employment in the Community industry,

— losses in sales volume entailing a reduction in production volume and thus inevitably increases in fixed costs per unit and factory break-even levels,

— losses of economies of scale leading to higher variable unit costs.

4. **Conclusion on recurrence of injurious dumping**

(130) Analysis of the likelihood of the recurrence of injurious dumping indicates that injurious dumping would recur in the absence of anti-dumping measures against bicycles originating in China.

(131) As is clear from their behaviour in the period considered and their performance on export markets, Chinese exporting producers have a high capacity and enormous potential for producing both finished bicycles and bicycle parts. These producers have the technical and financial means to return to the Community market quickly and gain significant market share, as they did recently in the USA. Given notably the existence of dumping and the weak economic situation of the Community industry, it is concluded that the removal of the anti-dumping duty would inevitably lead to a recurrence of material injury to the Community industry.

G. **COMMUNITY INTEREST**

1. **Introduction**

(132) It should be recalled that in original investigations the adoption of measures was considered not to be against the Community interest.

(133) In the framework of this review, it was examined whether there were compelling reasons to conclude that it is not in the Community interest to maintain measures in this particular case, despite the conclusions on dumping, injury and likely recurrence of injurious dumping. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Commission considered the impact of existing measures for all parties involved in the proceeding, and also the consequences of not maintaining measures against China.

2. **Interest of the Community industry**

(134) The economic situation of the Community industry clearly indicates that, in the interest of that industry, effective competitive conditions need to be maintained and that prices reflecting these conditions should prevail on the Community market.

(135) Some parties claimed that anti-dumping measures should not shield the Community industry from international competition and that the industry should have fully recovered after five years of anti-dumping measures.

(136) It should be noted here that Community producers, mostly small and medium-sized enterprises, faced significant competition from low-priced dumped imports originating in China from 1988 to the end of 1996. Between 1993 and 1996, the injury was particularly severe given the circumvention by Chinese exporting producers and injurious dumping from other sources.

(137) The industry has made considerable efforts to improve its efficiency and productivity in recent years in an attempt to lower its production costs and improve quality and competitiveness in this price-sensitive market. As shown by the decreasing production capacities, several Community producers have shut down or reduced the size of their production facilities. This has favoured the emergence of a few groups which have purchased small, well-known brands and production facilities or merged with other companies in order to restructure and reorganise their activities. This indicates the industry's adaptability, competitiveness, viability and determination to survive.

(138) With anti-dumping measures on all identified sources of dumping, the Community industry could now benefit from effective trade conditions on the market and finally recover financially.

(139) However, without measures on Chinese imports, the precarious financial situation of the Community industry would deteriorate further, leading inevitably to further company closures and therefore jeopardising thousands of other jobs in the Community. The negative consequences for the industry will be amplified by repercussions in the Community parts industry and other activities, both upstream and downstream.

3. **Interests of the other producers in the Community**

(140) During the period considered both sales and production volume of the non-applicant producers in the Community decreased by 10 % (sales from 4,6 to 4,1 million units, production from 5,1 to 4,6 million units). The information available would indicate that the bicycles sold by the non-applicant producers compete mainly with bicycles originating in China (same range and similar customers). Consequently, the loss in market share would also be at the expense of these producers. The removal of the anti-dumping duties on bicycles originating in China would thus not serve their best interests.

4. **Impact on consumers**

(141) The Commission did not receive comments concerning this review from Community consumers' associations, indicating that there is no real concern about the impact of the continued imposition of anti-dumping measures.

(142) Nevertheless, an analysis was carried out to establish the likely consequences of both removing and maintaining the measures.

(143) Some parties claimed that consumers have a sufficient choice from a wide variety of bicycles in all segments thanks to competition from non-Community producers and that this competition should be increased by repealing the measures.

(144) The investigation showed that the remaining Community producers reacted to lower sales and production volumes and higher unit production costs by increasing prices in the medium and high end of the market. This would again be the case if anti-dumping measures were to be repealed. It should be noted that these market segments represent around 60 % of the Community market in volume terms.

(145) Consumers have a wide range to choose from in all segments, even without bicycles originating in China. The Community industry contributes significantly to the exhaustive product range on offer and the investigation has not brought to light any supply problems.

(146) Without anti-dumping measures prices would therefore increase in the medium and high end of the market and decrease at the lower end. Consumer choice would not be affected significantly. On this basis, the continued imposition of anti-dumping measures against China is not contrary to the interests of consumers.

5. **Conclusion**

(147) On the basis of the above facts and considerations, and having examined all the arguments submitted by interested parties, it is concluded that there are no compelling reasons for not maintaining the measures in force on imports originating in China. As the anti-dumping duty in force in respect of complete bicycles has been extended by Regulation (EC) No 71/97 to cover in addition imports of certain bicycle parts originating in China, the duty shall be maintained as extended by that Regulation.

H. **DEFINITIVE MEASURES**

(148) It follows that, as provided for by Article 11(2) and 11(6) of the basic Regulation, the anti-dumping duty on imports of bicycles originating in China imposed by Regulation (EEC) No 2474/93, as extended by Regulation (EC) No 71/97, should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of bicycles and other cycles (including delivery tricycles), not motorised, currently classifiable within CN codes 8712 00 10, 8712 00 30 and 8712 00 80, originating in the People's Republic of China.

2. The rate of the definitive duty applicable to the net, free-at-Community-frontier price, before duty, shall be 30,6 %.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

This Regulation shall enter into force on the day following that of 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 Brussels, 10 July 2000.

For the Council
The President
H. VÉDRINE