COUNCIL OF THE EUROPEAN UNION

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ANTIDUMPING 62
COMER 117

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL REGULATION amending Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009

COUNCIL REGULATION (EU) No …/2013

of

amending Implementing Regulation (EU) No 990/2011
imposing a definitive anti-dumping duty on imports of bicycles
originating in the People's Republic of China
following an interim review
pursuant to Article 11(3) of Regulation (EC) No 1225/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[1] ('the basic Regulation'), and in particular Articles 9(4) and 11(3), (5) and (6) thereof,

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

[1] OJ L 343, 22.12.2009, p. 51.

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EEC) No 2474/93[1] the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China ('the PRC' or 'the country concerned') (the 'original investigation'). Following an anti-circumvention investigation in accordance with Article 13 of the basic Regulation, this duty was extended by Council Regulation (EC) No 71/97[2] to imports of certain bicycles parts originating in the PRC. In addition, it was decided to create an 'exemption scheme' on the basis of Article 13(2) of the basic Regulation. The details of the scheme were provided for in Commission Regulation (EC) No 88/97[3]. In order to receive an exemption from the extended duty, bicycle producers in the Union have to respect the conditions of Article 13(2) of the basic Regulation, namely to respect a ratio of less than 60 % of Chinese bicycle parts in their operation or the addition of more than 25 % value to all parts brought into the operation. To date, more than 250 exemptions have been granted.

[1] OJ L 228, 9.9.1993, p. 1.
[2] OJ L 16, 18.1.1997, p. 55.
[3] OJ L 17, 21.1.1997, p. 17.

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1524/2000[1], decided that the above-mentioned measures should be maintained.

(3) Following an interim review pursuant to Article 11(3) of the basic Regulation ('amending interim review'), the Council, by Regulation (EC) No 1095/2005[2], decided to increase the anti-dumping duty in force to 48,5 %.

(4) Following a review of the anti-circumvention measures pursuant to Article 13(4) and 11(3) of the basic Regulation, the Council, by Regulation (EC) No 171/2008[3], decided to maintain the extension of the anti-dumping duty imposed on imports of bicycles originating in the PRC to imports of certain bicycles parts from the PRC.

(5) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Implementing Regulation (EU) No 990/2011[4] (the 'previous investigation'), decided that the above mentioned measures should be maintained.

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1 OJ L 175, 14.7.2000, p. 39.
2 OJ L 183, 14.7.2005, p. 1.
3 OJ L 55, 28.2.2008, p. 1.
4 OJ L 261, 6.10.2011, p. 2.

2. Ex officio initiation

(6) Following the expiry review concluded in October 2011, evidence at the disposal of the Commission indicated that as far as dumping and injury are concerned, the circumstances on the basis of which the existing measures were imposed might have changed and that these changes may be of a lasting nature.

(7) The *prima facie* evidence at the Commission's disposal indicated that the export quota system that applied to bicycle producers in the PRC, and that hindered the exporting producers in being granted market economy treatment in the amending interim review, had been abolished in January 2011.

(8) Furthermore, changes to the structure of the Union industry have taken place. In particular, several Union producers switched from the complete cycle of production to (partial) assembly operations using imported parts.

(9) Moreover, due to the enlargements of the European Union of 2004 and 2007, a significant number of producers joined the Union bicycle industry. In addition, several producers which had been part of the Union industry before the two enlargement rounds moved their production facilities or set up new facilities in the new Member States. As a result, the cost level of the Union industry might have changed.

(10) Finally, the present injury elimination level was calculated on the basis of bicycles made out of steel whereas it appears that currently the majority of bicycles are made of aluminium alloys.

(11) All these developments appeared to be of a lasting nature and therefore substantiated the need to reassess the injury and dumping findings.

(12) Moreover, the number of companies benefiting from the exemption scheme is rapidly growing, without the scheme having been adapted since its introduction in 1997. In addition, the monitoring system of the imports of parts exempted from the anti-dumping measures has become highly complex and burdensome, which might endanger its effectiveness.

(13) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Article 11(3) of the basic Regulation, the Commission announced by a notice ('Notice of initiation')[1], published in the *Official Journal of the European Union* on 9 March 2012, the initiation, on an *ex officio* basis, of an interim review of the anti-dumping measures applicable to imports of bicycles originating in the PRC.

[1] OJ C 71, 9.3.2012, p. 10.

3. Parallel anti-circumvention investigation

(14) In 25 September 2012, by Regulation (EU) No 875/2012[1], the Commission initiated an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the PRC by imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, and making such imports subject to registration ('the anti-circumvention investigation').

(15) In May 2013, the Council, by Regulation (EU) No /2013[2*] (the 'anti-circumvention Regulation'),extended the anti-dumping measures in force on imports of bicycles originating in the PRC to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, as these imports were found to circumvent the measures by transhipment and/or assembly operations within the meaning of Article 13(1) and (2) of the basic Regulation.

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1 OJ L 258, 26.9.2012, p. 21.
2 OJ L
* OJ: doc 9345/13

4. Parallel anti-subsidy investigation

(16) On 27 April 2012, the Commission announced by a notice published in the *Official Journal of the European Union*[1], the initiation of an anti-subsidy proceeding with regard to imports into the Union of bicycles originating in the PRC ('anti-subsidy investigation').

(17) In November 2012 the Commission announced by a notice published *in the Official Journal of the European Union*[2], that the findings in the anti-circumvention investigation may be used in the anti-subsidy investigation mentioned in recital (14) and (15).

(18) In May 2013, the Commission, by Regulation (EU) No /2013[3], terminated the anti-subsidy investigation without imposing measures.

5. Parties concerned by the investigation

(19) The Commission officially notified known Union producers, known associations of Union producers, the known exporting producers in the PRC and an association of Chinese producers, the representatives of the country concerned, known importers and associations of importers, known Union producers of bicycle parts and their associations and known association of users of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of initiation.

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1 OJ C 122, 27.4.2012, p. 9.
2 OJ C 346, 14.11.2012, p. 7.
3 OJ L

(20) In view of the t high number of exporting producers, Union producers and unrelated importers that was apparent, sampling was provided for in the Notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and if so, to select samples, all exporting producers and their known association, all Union producers and unrelated importers were asked to make themselves known to the Commission and to provide, as specified in the Notice of initiation, basic information on their activities related to the product concerned during the period from 1 January 2011 to 31 December 2011.

(21) Since the representatives of the country concerned did not come forward at initiation, the Commission contacted about 70 Chinese companies already known to the Commission services from the previous investigation. At a later stage, when the anti-subsidy investigation mentioned in recital (16) was initiated, the Commission identified around 300 additional Chinese exporting producers that were contacted in the context of this interim review as well.

(22) In spite of the Commission's efforts to obtain cooperation, only eight Chinese groups of exporting producers came forward, out of which only four reported exports to the Union in the review investigation period ('RIP') defined in recital (37) below, representing less than 4 % of the total imports from the PRC of bicycles in the RIP.

(23) On the basis of the above it was decided that sampling was not necessary for exporting producers in the PRC.

(24) As stated in recitals (63) to (64) and (131) below, for one Chinese exporting group, Giant China, application of Article 18(1) of the basic Regulation was warranted. Consequently, the cooperation of the Chinese exporting producers decreased even further.

(25) As explained in recital (32) to (35) below, a sample of Union producers was selected.

(26) As explained in recital (36) below, it was decided that sampling was not necessary for unrelated importers.

(27) The Commission sent questionnaires to all parties known to be concerned and to all other parties that so requested within the deadlines set out in the Notice of initiation, namely the sampled Union producers, the cooperating exporting producers in the PRC, unrelated importers that made themselves known as described in recital (36) below and to the known producers of bicycle parts in the Union.

(28) Replies to the questionnaires and other submissions were received from four groups of Chinese exporting producers and their representative, eight sampled Union producers, one association of users and eight associations of the Union producers, 53 bicycle parts producers and one association of producers of bicycle parts. None of the contacted unrelated importers submitted a questionnaire reply.

(29) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury, causality and Union interest and carried out verifications at the premises of the following companies:

(a) Producers of bicycles in the Union

– Accell Hunland, Hungary

– Decathlon RGVS, Portugal

– Denver srl, Italy

– SC Eurosport DHS, Romania

– Koninklijke Gazelle, Netherlands

– Maxcom Ltd, Bulgaria

– MIFA, Germany

– Sprick Rowery, Poland

(b) Producers of bicycle parts in the Union

– Chimsport, Romania

– Telai Olagnero, Italy

(c) Exporting producers in the PRC

– Ideal (Dong Guan) Bike Co.,

– Oyama Bicycles (Taicang) Co.,

– Zhejiang Baoguilai Vehicle Co..

(30) In light of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification visit to establish normal value on the basis of data from an analogue country took place at the premises of the following companies:

– Distribuidora de Bicicletas Benotto, S.A. DE C.V., Mexico City, Mexico,

– Bicicletas Magistroni, Mexico City, Mexico,

– Bicicletas Mercurio SA DE CV, San Luis Potosi, Mexico.

(31) Following the disclosure of essential facts and considerations ('the disclosure') some parties argued that an inadequate period was provided for the parties to comment. In this respect it is noted that the parties were provided sufficient time to comment in accordance with Article 20(5) of the basic Regulation. The comment is therefore dismissed.

6. Sampling of Union Producers

(32) The Commission announced in the Notice of initiation that it had provisionally selected a sample of Union producers. This sample consisted of eight companies, out of over 380 Union producers that were known prior to the initiation of the investigation, selected in particular on the basis of the largest representative volume of production and sales that can reasonably be investigated within the time available taking into account the geographical spread. The sample covered the largest producing countries ranked according to the production volumes. For each of these countries, the companies included in the sample were among the largest representative cooperating producers. The sample also captured entities from the largest cooperating groups. Particular attention was given in this case to sampling an equal number of companies from the old and the new Member States.

(33) The sample represented around 25 % of the total estimated Union production and sales during the RIP. Interested parties were invited to consult the file and to comment on the appropriateness of this choice within 15 days of the date of publication of the Notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(34) Certain interested parties raised objections concerning the sampling of Union producers. They claimed that: (i) the provisional sample included only certain legal entities pertaining to groups of related companies rather than all legal entities making up the full economic entity producing the product at issue; and (ii) the proposal included a company that has been recently operating at a loss, whereas the Union producers were thriving during that period. In addition, it was claimed that these losses were not linked to the product concerned.

(35) These arguments were dismissed on the following grounds: (i) The entities belonging to larger groups that were found to operate independently from other subsidiaries of the same group were considered representative of the Union industry and there was therefore no need to investigate the entire group on a consolidated basis. (ii) The interested party concerned did not substantiate its claim that the company selected in the sample and which allegedly realised losses would indeed not be representative for the Union industry. Finally, while the selected sample should be representative for the Union industry, the companies selected do not necessarily need to be homogeneous. The claim of this party had to be therefore rejected.

7. Sampling of Unrelated Importers

(36) Sampling of unrelated importers was also provided for in the Notice of Initiation. All known unrelated importers were contacted upon initiation. Given the small number of replies received in the framework of the sampling exercise, no sample was selected. All unrelated importers that came forward were invited to cooperate and received a questionnaire. None of the unrelated importers provided a questionnaire reply, nor did they cooperate further in the present investigation.

8. Investigation period

(37) The investigation of dumping and injury covered the period from 1 January 2011 to 31 December 2011 (the 'review investigation period' or 'RIP'). The examination of trends in the context of the analysis of injury covered the period from January 2008 to the end of the RIP (the 'period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(38) The product subject to this review investigation is bicycles and other cycles (including delivery tricycles but excluding unicycles), not motorised ('the product under review') originating in the PRC, currently falling within CN codes 8712 00 30 and ex 8712 00 70.

(39) As in the previous investigation, the bicycles were classified in the following categories:

– (A) ATB (al-terrain bicycles including mountain bicycles 24″ or 26″),

– (B) trekking/city/hybrid/VTC/touring bicycles 26″ or 28″,

– (C) junior action (BMX) and children's bicycles 16″ or 20″,

– (D) other bicycles/cycles (excluding unicycles).

(40) All types of bicycles as defined above have the same basic physical and technical characteristics. Furthermore, they are sold through similar distribution channels such as specialised retailers, sport chains and mass merchandisers on the Union 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.

(41) One party argued that the different types of bicycles have significantly different characteristics and intended uses and also significantly different prices, while from the consumers' perspective these different types of bicycle are not interchangeable. Furthermore, it was argued that steel and aluminium bicycles are not considered interchangeable and that their prices are different as well.

(42) In support of its argument, the party submitted a study about the basic physical and technical characteristics and uses of five different product types as well as their interchangeability. It should be noted that the study was allegedly based on the replies of 36 individuals, however it is not clear how the respondents have been chosen. It seems furthermore that it was prepared specifically for the current investigation. The study does not include any quantifiable data. It is noted that the content of this study is apparently based on statements of customers and/or bicycles producers rather than verifiable evidence. Therefore, the representativity of the results of this study is questionable.

(43) The party has not brought any other evidence in support of its claim.

(44) The investigation has confirmed that all types of bicycles, as defined above, have the same basic physical and technical characteristics. In particular, it was found that the use of different raw materials did not have an impact on the basic characteristics of a bicycle. Although steel and aluminium have some different technical properties like weight, the basic characteristics of the bicycles made of steel and aluminium remain similar.

(45) Likewise, there was no specific evidence provided by the party that bicycles made of steel on one hand and those made of aluminium on the other hand had indeed different basic physical and technical characteristics.

(46) Regarding the specific application, use and consumer perception, the current investigation has confirmed that all bicycles have the same basic applications and perform essentially the same function. While it is true that different categories are in principal intended to meet different end users requirements, end-users will regularly put a bicycle in a particular category to a variety of uses.

(47) There are consequently no clear dividing lines based on end-users' use and consumers' perceptions of different categories.

(48) Furthermore, Union producers themselves often make no distinction among the bicycles classified in different categories with regard to production, distribution and accounting. Indeed, they often have a similar manufacturing process for all categories of bicycles.

(49) In addition, the bicycles in the various categories are sold through similar distribution channels such as specialised retailers, sport chains and mass merchandisers on the Union market.

(50) On this basis, it was concluded that all the categories form one single product.

(51) One party raised the point that the current investigation covers two CN codes as stated in recital (38) while the previous investigation stated in recital (5) covered three CN codes, i.e. ex 8712 00 10, 8712 00 30 and ex 8712 00 80. In this regard, it is noted that the changing of the codes was due to amendments to the Combined Nomenclature imposed by Regulation (EU) No 1006/2011 with effect as from 1.1.2012[1].

(52) In this context, the party claimed that bicycles without ball bearings should not be considered a single product with the bicycles with ball bearings. However, the investigation showed that bicycles with ball bearings and bicycles without ball bearing share the same technical characteristics and uses. Furthermore, the party has not substantiated its claim with any supporting evidence and therefore, the claim is rejected.

(53) Moreover, the party argued that there is a significant difference in the average import prices as recorded in Eurostat between the two CN codes covering the product concerned. In this regards, it is highlighted that as stated in recital (157) below due to the product mix, the average price as recorded in Eurostat can only serve as an indicator of price trends, but is not useful when comparing sales prices between various countries and the Union.

[1] OJ L 282, 28.10.2011, p. 1.

(54) After the disclosure one party reiterated its claim that the different types of bicycles covered by the scope of this investigation are not like products and claimed that it had submitted positive evidence in support of the differences in raw materials, physical characteristics, technological features, end-uses that allegedly exist among the different type of bicycles.

(55) In this respect, it should be noted that the positive evidence that the party claims to have submitted is actually the study assessed by the Commission in recital (42). After due assessment, the Commission concluded that the representativity of the results of this study was questionable for the reasons mentioned in recital (42).

(56) The parties claimed that children's bicycles defined by the party as bicycles with a size of wheel less than and including 16 inch should be excluded from the product scope of the investigation. These claims were based on the assumption that in particular duration of uses and simplicity in characteristics clearly divided these bicycles from other types of bicycles falling within the scope of the current investigation.

(57) However, these claims were deemed insufficient to exclude bicycles with a size of wheel less than and including 16 inch from the definition of the product concerned because they were not substantiated with sufficient evidence showing that in this investigation a clear dividing line could be drawn between bicycles with a size of wheel less than and including 16 inch and other bicycles types within the scope of the investigation. In fact, to the contrary it was found that the essential physical and technical characteristics of the bicycles with a size of wheel less than and including 16 inch which were common to those of the product concerned – a human-powered, pedal-driven vehicle having more than one wheel attached to a frame – were much more important than any differences (i.e. essentially size of the wheel). Furthermore, it appeared that production, sales channels and consumer service were not fundamentally different from other bicycle types under investigation. Just the mere fact that bicycles with a size of wheel less than and including 16 inch form a distinctive product sub-group within the scope of the product concerned does not warrant the exclusion from the product scope. Indeed, it was found that there is no clear dividing line between bicycles with a size of wheel less than and including 16 inch and the product concerned, but that there is rather a large overlap regarding the definition of the product concerned, notably that it is a human-powered, pedal-driven vehicle having more than one wheel used essentially for transportation and spot. In this regard, the investigation revealed that one of the co-operating Chinese exporting producers was actually exporting to the Union bicycles with a wheel size of 12 inch which were not considered necessarily bicycles for children but they were actually folding bicycles used by adults for which storage was an important feature of the bicycles.

(58) Therefore the request to exclude bicycles with a size of wheel less than and including 16 inch from the product scope of the investigation is rejected.

2. Like product

(59) Bicycles produced and sold by the Union industry on the Union market, those produced and sold on the analogue country market and those imported into the Union market originating in the PRC have the same basic physical and technical characteristics and the same uses and are, therefore, considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market Economy Treatment

1.1. MET assessment

(60) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly and for ease of reference only, these criteria are set out in summarised form below:

– Business decisions are made in response to market signals, without significant State interference, and costs reflect market values;

– Firms have one clear set of basic accounting records, which are independently audited in line with international accounting standards (IAS) and are applied for all purposes;

– There are no significant distortions carried over from the former non-market economy system;

– Bankruptcy and Property laws guarantee stability and legal certainty; and

– Exchange rate conversions are carried out at market rates.

(61) In the present investigation, all exporting groups that initially cooperated with the investigation requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.

(62) For all exporting groups that initially cooperated with the investigation, the Commission sought all information deemed necessary and verified information submitted in the MET claim at the premises of the groups in question.

(63) The reply of one group, Giant China, was considered as being significantly deficient as it did not include all the required information on the structure of the group, notwithstanding the Commission's efforts to obtain the necessary information from the group.

(64) As required by Article 18(1) of the basic Regulation, Giant China was informed of the likely application of facts available to it and invited to provide comments. As Giant China, however, refused to provide the Commission with the necessary information, Article 18(1) of the basic Regulation was applied and the claim for MET was rejected.

(65) Furthermore, the investigation revealed that MET could not be granted to any of the Chinese company groups as none of them fulfilled all the criteria set out in Article 2(7)(c) of the basic Regulation, for the following reasons:

Criterion 1

(66) All cooperating exporting groups failed to demonstrate that they fulfil Criterion 1 because of State interference in decisions concerning the main raw materials (steel & aluminium). The cost of steel and aluminium for the cooperating exporting groups represents at least around 20 % to 25 % of the cost of production of the product concerned. Many companies are fully vertically integrated, meaning that they purchase the aluminium ingots or steel to produce tubes which then are used to produce frames/forks and finally the bicycles.

(67) The investigation demonstrated that the three cooperating Chinese groups of exporting producers acquired the steel and aluminium used for the production of the product concerned on the Chinese domestic market.

(68) Prices are based on the quotation of aluminium in the State-controlled Shanghai Non-ferrous Metal Exchange market ('the Exchange' or 'SHFE'). The SHFE is a closed exchange for Chinese-registered companies and Chinese citizens and it is controlled by the State Securities Regulatory Commission. Several rules governing the functioning of the Exchange contribute to low volatility and prices which do not reflect the market value at the SHFE: daily price fluctuations are limited to 4 % above or below the settlement price of the previous trading day, trading happens at a low frequency (until the 15th day of each month), futures contracts are limited to a duration of up to 12 months, and transaction fees are charged by both the Exchange and brokers.

(69) Moreover, as concerns SHFE transactions, physical deliveries can only take place in an approved warehouse within the PRC, unlike international exchanges, where delivery can take place worldwide. Moreover, as the SHFE is a platform for physical exchanges only (no derivatives are sold), this completely insulates the Chinese aluminium market. As a consequence, arbitrage with the worldwide benchmark, the London Metals Exchange ('LME') or other markets is practically not possible and the exchange works in isolation from other world markets. Therefore, an arbitrage among these markets cannot take place. During the RIP primary aluminium prices were around 7 % lower on the SHFE (excluding VAT) as compared to the LME (also excluding VAT), compared on a spot price basis.

(70) The State also interferes with the price setting mechanisms in the SHFE as it is both a seller and a purchaser, via the State Reserve Bureau and other State Bodies, of primary aluminium. In addition, the State sets daily price limits via the rules of the SHFE which have been approved by the State Regulator, the China Securities Regulatory Commission ('the CSRC').

(71) The PRC supports the processing of aluminium products by granting a partial VAT refund on the export of many aluminium products (for bicycles, the rate is 15 %); in case of exports of primary aluminium instead, there is no refund. This is an incentive for Chinese industry to further process aluminium and has a direct bearing on the availability and price of primary aluminium on the domestic market. In addition, the investigation demonstrated that primary aluminium for export is subject to a 17 % tax, while no export tax is applied on exports of bicycles. This strengthens the finding of interference of the Chinese State on the domestic market of aluminium. These tools have a downward impact on domestic prices encouraging domestic industry to manufacture finished goods incorporating aluminium (such as the product concerned) for both the domestic and export markets.

(72) A further distortion by the Chinese State is in the form of interventions in the market by the State Reserves Bureau ('SRB') which is part of the National Development Reform Commission ('NDRC'). At the end of 2008 and the beginning of 2009 the SRB started buying up stocks of primary aluminium from Chinese aluminium smelters, in order to stimulate the price of the commodity. The SRB sold primary aluminium back onto the market such as at the start of November 2010 as reported by Bloomberg[1]. The Xinhua News Agency reported the stockpiling measures in December 2008, explaining that it was planned to accumulate 300 000 tonnes of aluminium at prices which were 10 % higher than the market price in a measure designed to prop up prices[2]. The SRB stockpiling plan involved buying from several Chinese smelters although around half was to be bought from the Aluminium Corporation of China Ltd. The above demonstrates that the Chinese State has a primary role in the setting of prices of primary aluminium and that it interferes in the market.

(73) That the significant State interference, as described above, is clearly targeted is, *inter alia*, corroborated by the 12th 5 Year Development Plan for Aluminium (2011-2015) in which the Government of the PRC explicitly states its intention of 'adjusting tax and export tax rebates and other economic levers, and strictly control the total amount of expansion and exports of primary products'. This plan continues the policy which existed in the previous Aluminium Plan. Furthermore these plans have been implemented over many years and, as demonstrated above, during the RIP several implementing measures were in operation.

[1] www.bloomberg.com

[2] http://news.xinhuanet.com/english/2008-12/26/content_10564812.htm

(74) Thus, the multiple State-induced distortions in the Chinese primary aluminium prices affect the raw material prices. In addition, the producers enjoy an advantage from these distortions, in the sense that they normally make their purchases in the Chinese market from local suppliers using Chinese spot markets prices (or SHFE) as a benchmark. During the RIP, these prices were around 7 % lower than the world market prices. In theory, Chinese companies can also buy certain quantities at LME prices when prices in the Chinese market are higher as a result of State intervention – whilst the opposite is impossible for non-Chinese operators.

(75) It was therefore concluded that the Chinese aluminium market is distorted due to significant intervention of the State.

(76) Interference by the Chinese State in the steel sector is demonstrated by the fact that a large majority of the large Chinese steel producers are State-owned and steel installed capacity and output are influenced by the various five-year Industrial Plans, in particular the current 12th Five-Year Plan (2011-2015) for the iron and steel sector.

(77) The State also exercises significant control over the market of raw materials. Coke (together with iron ore the major raw material to produce steel) is subject to quantitative restrictions on exports and to an export duty of 40 %. It may therefore be concluded that the Chinese steel market is distorted due to significant State interference.

(78) An anti-dumping investigation which has been conducted by the Commission[1], confirmed the importance of the State intervention also in the specific sector of pipes and tubes, which are the main raw material used for the production of steel bicycles.

(79) It was therefore concluded that the Chinese steel market is distorted due to significant intervention of the State.

(80) Under such circumstances, neither of the companies has been in a position to prove that their business decisions regarding acquisition of raw materials are not subject to significant State interference and that costs of major inputs substantially reflect market values. Therefore, they could not demonstrate that they fulfil criterion 1.

(81) Concerning the other four criteria, the three co-operating Chinese exporting producers were able to demonstrate that they met the remaining criteria.

(82) In view of the above findings on criterion 1, it was considered, after consultation of the Advisory Committee, that MET should be rejected for the three cooperating Chinese group of exporting producers.

(83) The Commission officially disclosed the results of the MET findings to the companies concerned in the PRC and to the complainant. They were also given an opportunity to make their views known in writing and to request a hearing if there were particular reasons to be heard.

[1] Commission Regulation (EU) No 627/2011 imposing provisional anti-dumping duties (JO L 169 , 29.6.2011, p. 1) and Council Implementing Regulation (EU) No 1331/2011, imposing definitive anti-dumping duties on imports of seamless pipes and tubes from the People's Republic of China (OJ L 336, 20.12.2011, p. 6).

1.2. Comments of the parties

(84) Following the MET disclosure, one company argued that the refusal to grant MET is based on the Chinese bicycle industry as a whole, rather than on an individual company basis. In this respect it is noted that although the Commission made an assessment of the steel and aluminium sectors in China, there is a clear link between the steel and aluminium markets in the PRC and the purchases of steel and aluminium products as a raw material by the co-operating groups.

(85) Moreover it was argued that the cost advantage for the Chinese bicycle producers concerning steel and aluminium is insignificant as it represents only between 1,4 % and 1,75 % when considering that primary aluminium and steel account for 20 %-25 % of the manufacturing cost of bicycles and that the price difference between LME and SHFE prices was 7 % during the RIP.

(86) In this respect it is highlighted that the pivotal factor in the analysis is the proportion of the raw material in the manufacturing cost (which in this case was significant as it accounted for at least 20 %-25 % of the manufacturing costs) and the fact that the raw material market is distorted in the PRC. The exact quantitative impact of the distortion in the company's cost is not considered as a decisive factor.

(87) Furthermore, it was argued that in another investigation the Commission has analysed the prices of the direct raw materials used in the manufacturing of the product concerned rather than the price of the primary raw material and, therefore, in the current case, the Commission should have assessed the State interference in prices of direct raw material, i.e. aluminium alloy extrusion, rather than in the primary aluminium which is the primary raw material.

(88) In this respect it is noted that each investigation is analysed on its own merits. Moreover, the fact that the market of primary aluminium is controlled by the State indicates that the market of intermediary aluminium products also does not operate under market economy conditions, i.e. responding to supply and demand. The claim was therefore rejected.

(89) It was also argued that any price difference for primary aluminium between SHFE and LME may not lead to a price difference for aluminium alloy extractions between the respective markets, and that factors such as production efficiency, residual capacity, and cost of environmental obligations need to be taken into account.

(90) In this respect, it is highlighted that no evidence was submitted in support of this allegation. In the absence of supporting evidence, the Commission was not in the position to analyse and verify this allegation, which was therefore rejected.

(91) In addition, it was claimed that, by ignoring the fact that there are a number of subsequent intermediary products, the Commission ignored the actual characteristics and factors for pricing the bicycle finish products. In particular, as the bicycle is sold directly to the end-consumer (unlike the primary aluminium), other factors than the price of the raw material determine the price of the bicycles such as the specific technical features of the bicycle and the demand of the consumers.

(92) However, no concrete details were provided on these characteristics and factors that should be taken into consideration and therefore it was not possible for the Commission to comment on them.

(93) It was further alleged that the Commission made a wrong assessment of the principles under which the SHFE operates. It was argued that the CSRC regulates SHFE functions similarly to, among others, the Autorité des marchés financiers ('AMF') in France or the Financial Services Authority ('FSA') in UK and that CSRC's role and specific regulatory/supervision measures are consistent with the G-20 principles. As a consequence the MET conclusions that are based on the role of the CSRC and operation of the SHFE are without merit.

(94) It is noted that the company failed to take into account the fact that while FSA[1] and AMF[2] are independent non-governmental bodies, CSRC is a ministry level unit operating directly under the State Council[3]. The State Council is the highest executive organ of State power, as well as the highest organ of State administration[4]. This is another example of the fact that the State is actively involved in the regulation of the aluminium market in the PRC. As concerns the compliance to G-20 principles, the company merely provided a statement, without really explaining the principles to which it referred. The argument was therefore rejected.

(95) Moreover, one company disagreed with the Commission's assessment that arbitrage between the worldwide benchmark, the LME, or other markets and SHFE prices is practically not possible and that therefore SHFE works in isolation from other world markets.

(96) It is noted that this contradicts the company's acceptance of the price difference between the SHFE and the LME during the period when the SHFE price was higher than LME prices by arguing that during that period of time the Chinese producers paid more for the aluminium products than the Union producers.

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1 http://www.fsa.gov.uk/about/who

2 http://www.amf-france.org/affiche_page.asp?urldoc=lesmissionsamf.htm&lang=en&Id_Tab=0

3 http://www.csrc.gov.cn/pub/csrc_en/about/

4 http://english.gov.cn/links/statecouncil.htm

(97) Furthermore, the company argued that as from 2010 the SHFE started to allow aluminium physical delivery to bonded warehouses in Shanghai's free trade zone. It follows that this statement does not contradict, but rather confirms the Commission's assessment that physical deliveries can take place only in a warehouse within the PRC which has been approved by the SHFE, unlike international exchanges, where delivery can take place worldwide.

(98) It was also argued that the SHFE is a futures market and aluminium futures contracts have been traded on the SHFE since 1991 and therefore the Commission's assessment that no derivatives are sold on the SHFE is wrong.

(99) Indeed the SHFE is a futures market. However, the futures contracts traded on SHFE are settled by physical delivery. Derivatives products without physical delivery, i.e. not actually exercised but traded before their delivery date, are limited in the PRC and therefore the SHFE is merely a platform for physical exchanges which insulates the Chinese aluminium market.

(100) It was also argued that the Commission's reasoning relating to the effects on bicycle pricing of the VAT/tax measures and inventory measures relating to primary aluminium are economically dubious and insufficiently reasoned.

(101) However, since the company did not explain which elements the Commission is missing in its analysis, nor did it further substantiate this claim, it was not possible for the Commission to comment.

(102) Furthermore, it was argued that there are similarities between the industrial policy in the PRC and the EU policies and that the Commission has not demonstrated that the industrial policy in the PRC has any direct or significant impact on the input decisions, bicycles production or sales operation of the Chinese bicycles exporting producers.

(103) In this respect it is noted that it was not specified to which EU policies the company was referring and therefore the Commission cannot comment on this allegation. In addition, concerning the statement that it has not been demonstrated that the industrial policy in the PRC has a significant impact on the input decisions, production or sales of the Chinese exporting producers of bicycles, it is noted that the existence of a 5-year Plan in the Aluminium sector in the PRC, the distortions of the aluminium price which is traded on an isolated Exchange when aluminium represents 20-25 % of the total manufacturing costs of a bicycle, indicate a clear link between the industrial policy in the PRC and the input decisions, production and sales of the Chinese exporting producers of bicycles.

(104) It was also argued that the Commission breached the three-month deadline specified in the basic Regulation. In this respect it is noted that due to the fact that the cooperation of the Chinese exporters was very low, the Commission made extra efforts to obtain more cooperation by contacting a large number of additional exporters that were identified later in the investigation. As a result, it was not possible to make the MET determination within the stipulated period. Moreover, it is recalled that the General Court[1] has recently held that a MET determination made outside the three month deadline laid down in Article 2(7)(c) of the basic Regulation is not in itself sufficient to lead to an annulment of a regulation imposing anti-dumping measures. It is also noted that Article 2(7) of the basic Regulation has meanwhile been amended with the effect that the Commission shall only make MET determinations in respect of companies included in a sample and that such a determination shall normally be made within seven months of, but in any event not later than eight months after the initiation of the investigation[2]. This amendment is applicable to all new and pending investigations, including the present one. The determinations were made within eight months from the date of the initiation.

(105) In view of the above, the claim relating to breach of the three month deadline is herewith rejected.

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1 General Court judgment of 18 September 2012 in case T-156/11, Since Hardware (Guangzhou) Co., Ltd v. Council, paragraph 167 (not yet published) and General Court judgment of 10 October 2012 in case T-150/09 Ningbo Yonghong Fasteners Co., Ltd v. Council, paragraph 53 (not yet published).

2 Regulation (EU) 1168/2012 of the European Parliament and of the Council of 12 December 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community(OJ L 344, 14.12.2012, p. 1).

1.3. Request of parties

(106) One party requested that Market Economy Treatment ('MET') claims of producers in the PRC which stopped exporting to the Union should also be analysed. It was alleged that those producers only stopped exporting to the Union due to the anti-dumping duties in place since 2005.

(107) In this regard it is highlighted that the findings with regard to dumping and injury relate to the review investigation period ('RIP') fixed in accordance with the Article 6(1) of the basic Regulation. This means that data collected from the exporting producers in view of establishing normal value and the export price also strictly relate only to that period. The MET analysis is carried out in the context of determining normal value of exporting producers in the PRC which is then compared to the export price during the same period. If a producer did not export the product concerned during the RIP, no export price can be established and no dumping margin can be calculated. Therefore, there is no reason to examine MET for a producer which did not export the product concerned during the RIP. Nevertheless, it is recalled that all exporting producers have the possibility to request an "interim review" to have their situation revised pursuant to Article 11(3) of the basic Regulation or, those exporting producers who have not exported the product concerned during the period of investigation on which the measures were based, have the possibility to request a "new exporter review" pursuant to Article 11(4) of the same Regulation.

(108) Moreover, in its request, the party also mentioned the Brosmann Judgement[1] of the Court and seemed to imply that on that basis, producers in the PRC should be allowed to submit MET claim forms even if they did not export the product concerned to the Union during the current investigation period. It is noted that the judgement does not address the situation of MET claims by exporting producers who did not export during the investigation period and is therefore not relevant in the present context.

(109) Consequently, the request was rejected.

(110) It was also argued that export prices for the companies without exports to the Union in the RIP should be determined on the basis of Article 2(9) of the basic Regulation, i.e. on any other reasonable basis.

(111) In this regard it is noted that Article 2(9) of the basic Regulation does not positively imply that an export price shall be constructed for producers of the concerned country in the case that they did not export any quantity to the Union. On the contrary, Article 2(9) of the basic Regulation refers to the re-sales price of the imported product as a basis to construct the export price, and to adjustments for all costs incurred between importation and resale, which implies that imports to the Union were in fact made. The "any other reasonable basis" in the first sentence of this provision refers to specific cases where the preceding methodologies mentioned therein cannot be applied. It does not detract from the fact that the Article implies that imports into the Union have taken place during the RIP.

[1] Case C-249/10 P.

1.4. Conclusion

(112) On the basis of the above, none of the Chinese groups that had requested MET could show that they fulfilled the criteria set out in Article 2(7)(c) of the basic Regulation. It was therefore considered that MET should be rejected for all these groups.

2. Individual Treatment

(113) By Regulation (EU) No 765/2012[1], which entered into force on 6th September 2012, the European Parliament and the Council amended Article 9(5) of the basic Regulation. Article 2 of Regulation (EU) No 765/2012 stipulated that the amendment is only to apply to investigations initiated following its entry into force. Consequently, as the current investigation was initiated on 9th March 2012, the amendment did not apply to the current investigation.

(114) Pursuant to Article 2(7)(a) of the basic Regulation a country-wide duty, if any, is established for countries falling under Article 2(7) of the basic Regulation, except in those cases where companies are able to demonstrate, in accordance with Article 9(5) of the basic Regulation, that their export prices and quantities as well as the conditions and terms of the sales are freely determined, that exchange rates are carried out at market rates, and that any State interference is not such as to permit circumvention of measures if exporters are given different rates of duty.

[1] OJ L 237, 3.9.2012, p. 1.

(115) The three cooperating exporting groups which requested MET also claimed individual treatment in the event that they would not be granted MET. On the basis of the information available, it is established that all three groups in the PRC meet all the requirements for individual treatment.

3. Normal Value

3.1. Analogue country

(116) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET has to be established on the basis of the domestic prices or constructed normal value in an analogue country.

(117) For this purpose, in the Notice of initiation the Commission suggested Mexico, which was also the analogue country used in the previous investigation concerning the PRC.

(118) All interested parties were given the opportunity to comment on the choice of analogue country envisaged.

(119) One party argued that Mexico did not represent the best choice of analogue country, but that Taiwan was a better option due to the fact that Taiwan is a major producer of bicycles, had greater commonality with the PRC than Mexico and is likely to result in a more reliable normal value.

(120) The Commission tried to obtain cooperation from 15 countries, namely Bangladesh, Canada, Cambodia, India, Indonesia, Malaysia, Mexico, Norway, Philippines, Sri Lanka, Taiwan, Thailand, Tunisia, Turkey and USA.

(121) The Commission received replies to the questionnaire only from three Mexican producers of bicycles which also accepted a verification of their response at their premises. No other companies from any contacted countries cooperated. These three producers had domestic sales representing more than 30 % of the Mexican market, which was estimated at about 1,7 million units in 2011. More than 14 producers and several importers were found to operate in a competitive environment. The imports of bicycles in 2011 were originating principally in the PRC (more than 60 %) and Taiwan (20 %). These imports represented some 5 % of the domestic market (source: annual report of ANAFABI, the Mexican association of bicycle manufacturers).

(122) The Mexican market profile for the product concerned, number of operators, domestic competition and the features of production process confirmed that Mexico was still an appropriate analogue country. In view of the above, the Mexican market could be considered to be representative and competitive. It was therefore concluded that Mexico was an appropriate analogue country.

3.2. Determination of normal value in the analogue country

(123) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the producers in the analogue country as set out below.

(124) The investigation showed that the product concerned was sold in representative quantities on the Mexican domestic market.

(125) Furthermore, it was analysed whether it could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the RIP.

(126) Where sales volume of a product type, sold at net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the RIP, irrespective of whether the sales were profitable or not.

(127) Where the volume of profitable sales of a product type represent 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only.

(128) Moreover, the investigation did not reveal any product type where no profitable sales were made.

4. Export price

(129) In all cases where the product concerned was exported to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation, namely, on the basis of export prices actually paid or payable.

(130) In cases where sales were made via a related importer or trader, the export prices were constructed in accordance with Article 2(9) of the basic Regulation on the basis of the resale prices of that related importer to first independent customers in the Union. Adjustments were made for all costs incurred between importation and resale including sales, general and administrative expenses and profit. With respect to profit margin, the profit realised by an unrelated importer/trader of the product concerned was used since the actual profit of the related importer/trader was not considered reliable because of the relationship between the exporting producers and the related importer/trader.

(131) As stated in recitals (63) and (64), Giant China refused to provide the Commission's services with the necessary information on the structure of the group and essential information concerning production, export sales volume and prices of the product concerned to the Union in the RIP of the companies part of Jinshan Development and Construction Ltd group ('Jinshan Group') involved in the production and sale of the product concerned in the PRC and consequently, Article 18(1) of the basic Regulation was applied concerning the export price.

(132) Giant China challenged the application of Article 18(1) of the basic Regulation both in respect of refusal of MET and application of facts available to the export price calculations. It argued that the information requested by the Commission was not necessary for the calculation of the dumping margin. In this regard, Giant China argued that the information requested from Jinshan Group located in the PRC was not pertinent for the MET assessment or export price calculations as it was only very indirectly related to Giant China and its related companies ('Giant Group').

(133) However, the investigation has confirmed that one of Giant Group's subsidiaries, actively producing and exporting the product concerned to the Union during part of the RIP, namely Shanghai Giant & Phoenix Bicycles Co Ltd ('GP'), was related, via common shareholding, structural and management links to Jinshan Group and that this group was involved in the production and sales of the product concerned. In the absence of a reply to the MET claim form and the anti-dumping questionnaire from the companies part of Jinshan Group that were involved in the production and sales of the product concerned in the PRC, it could not be assessed to what extent the production and sales of the product concerned of Jinshan Group had an impact on the export price determination with regard to GP and as a consequence for the Giant as a whole group. It could further not be investigated whether the conditions of Article 2(7)(c) of the basic Regulation were met. In the absence of cooperation in this respect, Giant China's claims had to be rejected.

(134) Furthermore, Giant China argued that there is no need to take into account price information relating to other exporting producers when calculating the individual margin of an exporting producer unless Giant Group and Jinshan Group form a single entity in view of the existing close financial, commercial and management links.

(135) The evidence on the file supports the finding that GP and Jinshan Group are related and have close shareholding, structural and management links. In the absence of complete information on all parties related to GP, in particular on the Chinese bicycle exporting producers that are subsidiaries of Jinshan Group, it is impossible to perform complete and reliable calculations on the export price and therefore to obtain an individual margin determination for GP and as a consequence for the Giant Group as a whole.

(136) It was also claimed that the information requested placed an unreasonable burden on Giant China and that it acted to the best of its ability in the investigation. In this regard it should be noted that no evidence was submitted, until comments to definitive disclosure, showing that Giant China made any efforts to collect the information required in the MET claim form and the anti-dumping questionnaire for the companies part of Jinshan Group, involved in the production and sale of the product concerned. During the investigation Giant China claimed that it was unnecessary to provide the information requested but did not claim that obtaining such information was unreasonable burdensome. Giant China submitted evidence of alleged efforts only after final disclosure, at a stage where such information was unverifiable. It could therefore not be taken into account anymore.

(137) Giant China claimed that there was in any event no risk of circumvention of any potential anti-dumping measures by, for example, shifting production between the two groups as GP, the only link between the two groups, has ceased all operations in September 2011. In this regards, it should be noted that at the end of RIP, GP still existed as an entity as also confirmed by Giant China. Therefore, the production activity could have resumed at any moment in the future and the fact the GP allegedly ceased all operations in September 2011 is not relevant. In addition, Giant China argued that the risk of circumvention could have been addressed in a different manner i.e. the monitoring clause mentioned in recitals (276) and (277) below. In this regard, it should be noted that the monitoring clause only applies to unrelated companies, so the risks involved are not of similar nature and the same remedies could not have been applied.

(138) Moreover, Giant China argued that an on-spot verification at GP's premises in the PRC should have taken place in order to check the production and sales activities of GP after September 2011. In this regard, it should be noted that it was not considered relevant whether GP ceased its activities after September 2011. Indeed, even if this would have been the case, GP could have resumed its bicycles production and sales activities anytime and an on-spot verification would not have decreased such risk.

(139) Furthermore, Giant China submitted some evidence showing that Giant Group's shares in GP have been sold on 30 March 2013. However, it is to be noted that this transaction occurred after the RIP and in conjunction with the advanced stage of the investigation, this information cannot be verified nor is pertinent in the framework of this investigation. In this regard, should Giant request a review of their situation following the sale of the shares, this can be considered in due time in line with the provisions of the basic Regulation.

(140) In the same submissions Giant China provided other clarifications to the Commission assessment warranting application of Article 18(1) of the basic Regulation. However, they were not as such as to change the Commission's initial assessment.

(141) Therefore, the findings concerning application of Article 18(1) of the basic Regulation in relation to Giant Group are confirmed.

5. Comparison

(142) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made, where appropriate, in respect of indirect taxes, discounts, level of trade, transport, insurance, handling and ancillary costs, packing, credit, bank charges and commissions in all cases where they were found to be reasonable, accurate and supported by evidence.

6. Dumping margin

6.1. For the cooperating exporting producers

(143) For the three cooperating companies, dumping margins were established by comparing the weighted average normal value established for the co-operating Mexican producers with each company's weighted average export price to the Union, as provided for in Article 2(11) and 2(12) of the basic Regulation.

(144) The dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

Company	Dumping margin
Zhejiang Baoguilai Vehicle Co. Ltd.	19,2 %
Oyama Bicycles (Taicang) Co. Ltd.	20,9 %
Ideal (Dongguan) Bike Co., Ltd.	0 %

6.2. For all other exporting producers

(145) Given that cooperation from the PRC was very low as stated in recitals (22) and (24), the findings for the cooperating companies cannot be considered to be representative for the country. Therefore, the country-wide dumping margin applicable to all other exporting producers in the PRC cannot be revised.

(146) Therefore, the country-wide dumping margin is hereby maintained unchanged as established by Council Regulation (EC) No 1095/2005, i.e. 48,5 %.

D. DEFINITION OF THE UNION INDUSTRY

1. Union production and Union industry

(147) The like product is estimated to be manufactured by around 380 known producers in the Union. Furthermore, six national associations of Union producers made themselves known.

(148) All available information, including data collected from Union producers and national associations, as well as production statistics available to the Commission were used in order to establish total Union production, which amounted to around 11 million bicycles in RIP.

(149) The Union producers accounting for the total Union production constitute the Union industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation and will be hereafter referred to as the 'Union industry'.

(150) As indicated above, given the high number of cooperating Union producers a sample of eight Union producers was selected, representing around 25 % of the total production and sales of the Union industry of the like product in the RIP. All sampled Union producers were benefiting from the exemption scheme described in recital (1) above.

E. SITUATION ON THE UNION MARKET

1. Union consumption

(151) The Union industry's sales were assessed on the basis of data collected from producers in the reply to the sampling forms and data collected from various associations of bicycle producers in the Union.

(152) The Union consumption was established on the basis of the sales of all Union industry on the Union market, as estimated in recital (151), plus imports from all countries as reported by Eurostat.

(153) Total Union consumption declined from 22 459 062 units in 2008 to 20 116 602 units in the RIP, i.e. by 10 % over the period considered. This is mainly a result of a drop of 8 % between 2008 and 2009, while consumption remained stable afterwards and only slightly decreased in the RIP (by 2 %). In 2009, the market was in particular influenced by the impact of the economic crisis and it has not recovered since. A further drop in 2011 was mainly caused by the continued cautious consumer spending at the current economic climate.

Table 1

Consumption

	2008	2009	2010	2011
Volume (units)				
+ Total imports	10 017 616	8 974 906	9 734 143	8 840 362
+ Union production sold on the Union market	12 441 446	11 604 072	10 946 875	11 276 240
= Consumption	22 459 062	20 578 978	20 681 018	20 116 602
Index (2008=100)	*100*	*92*	*92*	*90*

Source: Eurostat, questionnaire replies

2. Imports from the PRC

2.1. Volumes of dumped imports and market share of bicycles originating in the PRC

(154) The volume of imports of the product concerned originating in the PRC was established on the basis of statistical information provided by Eurostat. The volume of imports from the PRC declined sharply between 2008 and 2009 from 941 522 units to 597 339 units respectively, i.e. by 37 %. In 2010 imports were increasing, but in the RIP decreasing again where they reached 581 459 units. The significant decrease in Chinese imports coincided with the economic crisis and did not recover since. Overall, Chinese imports decreased by 38 % during the period considered.

(155) The Chinese market share decreased accordingly from 4,2 % in 2008 to 2,9 % in the RIP. The decline in market share was partly offset by the reduction of the Union consumption.

(156) However, it is to be emphasised that the relatively low and decreasing market share of Chinese imports must be seen in the context of the findings in the parallel on-going anti-circumvention investigation mentioned in recital (14) and (15) (see recitals (223) and (224) below).

Table 2

Imports from the PRC

	2008	2009	2010	RIP
Volume of imports from the country concerned (units)	941 522	597 339	627 120	581 459
Index (2008=100)	*100*	*63*	*67*	*62*
Market share of imports from the country concerned (%)	4,2	2,9	3,0	2,9

Source: Eurostat

3. Prices of the imports concerned

3.1. Evolution of prices

(157) As it was established in the Council Regulation (EC) No 1095/2005[1], Eurostat data could only be used to a limited extent for establishing the price trends of dumped imports for the period between 2008 and the RIP for the following reasons:

[1] OJ L 183, 14.07.2005, p. 1.

(158) The import prices based on Eurostat data do not take into account the various product types and the substantial price differences among the various types of the product concerned. The average prices per country are strongly influenced by the product mix of each country. Moreover, when comparing model by model of imports from the cooperating exporters that even within the same product types and models there exist substantial price differences depending on the components of the bicycles. Therefore, the prices found in Eurostat continue to be inconclusive for the purpose of this investigation. The import prices of Eurostat for the PRC, hereafter indicated by index, can only serve as an indicator of price trends, but are not useful when comparing sales prices between various countries and the Union.

(159) According to Eurostat data, the weighted average import prices, hereafter indicated by index, from the PRC increased significantly during the period considered as showed in Table 3. However, without knowing the type of the bicycles that were imported from the PRC and whether there was any shift in the product mix from one year to the other, no conclusion can be drawn.

Table 3

Imports price from the PRC

	2008	2009	2010	RIP
Import Price from the PRC				
Index (2008=100)	*100*	*173*	*217*	*214*

Source: Eurostat

3.2. Price undercutting

(160) Price undercutting of the cooperating exporting producers for which dumping was found was calculated on the basis of their actual verified export price (CIF Union frontier) both with and without the anti-dumping duty. The relevant sales prices of the Union industry were those to independent customers in the Union adjusted, when necessary, to ex-works level. During the RIP, based on different product types defined in the questionnaire, undercutting was only found for one of the exporting producers which amounted to 61 % without the anti-dumping duty and 44 % with the anti-dumping duty.

(161) Given that the cooperation from the Chinese exporting producers was very low and the findings for the cooperating companies could not be considered to be representative for the country as well as the fact that the average price in Eurostat could not be considered as conclusive, it was considered that undercutting levels as established during the last expiry review concluded by Council Regulation (EC) No 1095/2005 mentioned in recital (3) should be taken as a reference when establishing the country-wide undercutting for the PRC, as no other more reliable information was available, i.e. 53 % after deduction of the anti-dumping duty and of 39 % with the duty.

4. Economic situation of the Union industry

(162) As indicated in recitals (8), (9) and (10), the present investigation analysed whether there was a change in the situation of the Union industry justifying a need to reassess the injury findings of the amending interim review. The investigation has confirmed that: (i) Following the global trend, the production of bicycles in the Union consists mainly of labour intensive assembly of bicycle parts that are designed according to the customers' specifications and sourced from various origins. (ii) In order to cut the cost of production the investigation has shown a continued effort of the Union industry to automatize and to streamline the assembly process. In addition, some Union producers benefitted from the comparatively lower labour costs in Central and Eastern Europe as compared to the investigation period of the amending interim review. The production statistics available to the Commission confirm this trend. (iii) The investigation confirmed the preference for aluminium alloy as a raw material, while steel remained the main raw material for lower end models and children's' bicycles. In light of these changes the economic situation of the Union industry was examined as described below.

(163) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry.

(164) For the purpose of the injury analysis, the injury indicators have been established as follows:

– macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, growth, magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the whole Union production for all Union producers, on the basis of the information collected from the national associations of Union producers and individual Union producers. These factors were cross-checked, where possible, with the overall information provided by the relevant official statistics.

– microeconomic indicators (stocks, unit sales price, cost of production, cash flow, profitability, return on investments, ability to raise capital, investments and wages) were assessed for the sampled Union producers on the basis of the information they submitted.

Macro-economic indicators

(a) Production, production capacity and capacity utilisation

(165) During the period considered, the Union industry's production decreased continuously and at a faster pace than the Union consumption as shown above in table 1 under recital (153). Thus, production decreased from 13 541 244 units in 2008 to 11 026 646 units in the RIP, which reflected a 19 % decline.

Table 4

Total Union production

	2008	2009	2010	RIP
Volume (units)				
Production	13 541 244	12 778 305	11 682 329	11 026 646
Index (2008=100)	*100*	*94*	*86*	*81*

Source: Questionnaire replies, relevant official statistics

(166) Production capacity was reduced by 5 % between 2008 and the RIP, which partly offset the impact of the 19 % decline of production on the capacity utilisation rate. The latter dropped by 14 % points over the same period, reaching 74 % in the RIP.

Table 5

Production capacity and capacity utilisation

	2008	2009	2010	RIP
Volume (units)				
Production capacity	15 804 000	15 660 000	15 150 000	15 000 000
Index (2008=100)	100	99	96	95
Capacity utilisation	86 %	82 %	77 %	74 %
Index (2008=100)	*100*	*95*	*90*	*86*

Source: Questionnaire replies, relevant official statistics

(b) Sales volume

(167) Overall, the sales volume of the Union industry on the Union market declined in a similar way as the Union consumption, showing a decrease of 9 % over the period considered, from 12 441 446 units in 2008 to 11 276 240 units in the RIP. Between 2009 and 2010 however, sales continue to decrease while consumption had remained stable, which is reflected in the loss of market share of the Union industry in 2010 as shown below in table 7 under recital (168) below. In RIP the volumes of sales increased again but have not reached their 2008 level.

Table 6

Sales of the Union industry in the Union

	2008	2009	2010	RIP
Volume (units)	12 441 446	11 604 072	10 946 875	11 276 240
Index (2008=100)	*100*	*93*	*88*	*91*

Source: Questionnaire replies, relevant official statistics

(c) Market share

(168) The market share held by the Union industry increased from 55,4 % in 2008 to 56,1 % in the RIP, i.e. an increase of 0,7 percentage points during the RIP. This slight improvement of 0,7 percentage points over the period considered included a significant drop from 56,4 % in 2009 to 52,9 % in 2010. The overall increase of market share of the Union industry, against the background of falling volumes of sales (see recital (167)), can be explained by the overall drop in consumption (see recital (153)).

Table 7

Union industry market share

	2008	2009	2010	RIP
Union market share(%)	55,4	56,4	52,9	56,1
Index (2008=100)	*100*	*102*	*96*	*101*

Source: Questionnaire replies, relevant official statistics

(d) Employment and productivity

(169) Direct employment decreased by 17 %, from 14 197 employees in 2008 to 11 783 during the RIP. This decline followed the reduction of the production volume.

(170) Overall, the productivity decreased by 2 % over the period considered. The decline of production between 2008 and 2009 combined with constant employment over the same period caused a drop in productivity between 2008 and 2009. This was followed by an increase of productivity between 2009 and 2010, which can be explained by the restructuring of the industry and investments into more efficient production processes over the same period. Further decline in production volume in RIP coupled with less sharp decline in employment resulted in another decrease of productivity in RIP.

Table 8

Total Union employment and productivity

	2008	2009	2010	RIP
Number of employees	14 197	14 147	12 067	11 783
Index (2008=100)	*100*	*100*	*85*	*83*
Productivity (units/year)	954	903	968	936
Index (2008=100)	*100*	*95*	*102*	*98*

Source: Questionnaire replies, relevant official statistics

(e) Growth

(171) Over the period considered the consumption decreased by 10 %. The market share of the Union industry remained relatively constant (increasing only slightly, i.e. by +0,7 percentage points over the period considered as outlined in recital (168)). The declining Union market indicates that the Union producers have not opportunity to benefit from any growth.

(f) Magnitude of dumping margin

(172) Dumping from the PRC continued during the RIP as explained in recitals (143) to (145). Given the large spare capacity in the PRC (see recital (203)) and the established circumvention (see recitals (223) and (224)), the impact on the Union industry of the actual margins of dumping cannot be considered to be negligible.

(g) Recovery from past dumping

(173) It was analysed whether the Union industry recovered from the effects of past dumping. It was concluded that the expected recovery of the Union industry from the effects of past dumping has not happened as shown, in particular, by the persistently low profitability and a decrease in the capacity utilisation. The recovery of the Union industry has also been hampered by established circumvention practices (see recital (223) and (224)).

Micro-economic indicators

(h) Stocks

(174) The stocks of bicycles for the Union producers stood at 517 977 units by the end of the RIP, broadly stable in relation to their level in 2008 despite a 25 % decline between 2008 and 2009.

(175) Some of the Union producers had very limited levels of stocks because they were selling their entire production to related companies within their respective group. In addition, the Union producers were found to produce mostly on customer orders. The development of stocks over the period considered was distorted by all these factors and, therefore, this indicator cannot be regarded as meaningful.

Table 9

Stocks

	2008	2009	2010	RIP
Volume (units)				
Closing stocks	519 832	390 398	522 779	517 977
Index (2008=100)	*100*	*75*	*101*	*100*

Source: Questionnaire replies

(i) Sales prices and costs

(176) The average ex-works sales price in the Union remained stable over the period considered despite an increase of 3 % between 2008 and 2009. Sale price in the RIP dropped again to the level of 2008.

Table 10

Unit sales price in the Union

	2008	2009	2010	RIP
Unit sales price in the EU (EUR)	144	149	146	144
Index (2008=100)	*100*	*103*	*102*	*100*

Source: Questionnaire replies

(177) The cost of production was calculated on the basis of the weighted average of all types of the like product produced by the Union producers. The cost of production increased slightly by 2 % over the period considered as showed in Table 11 below.

Table 11

Unit cost of production

	2008	2009	2010	RIP
Unit cost of production (EUR per unit)	141	147	146	145
Index (2008=100)	*100*	*104*	*103*	*102*

Source: Questionnaire replies

(j) Profitability

(178) The profitability levels were established on the basis of the sales to unrelated customers. The Union industry was close to break-even between 2010 and RIP. Overall, profitability deteriorated during the period considered, showing a decrease from 1,9 % in 2008 to -0,1 % in RIP.

Table 12

Profitability

	2008	2009	2010	RIP
Profitability Union sales	1,9 %	1,6 %	0,3 %	-0,1 %
Index (2008=100)	*100*	*100*	*98*	*98*

Source: Questionnaire replies

(k) Investments and return on investment

(179) Investments significantly increased by 16 % over the period considered from EUR 7 952 150 in 2008 to EUR 9 263 184 during the RIP. This reflects the continued efforts of the Union industry to increase the efficiency of the manufacturing process and to remain competitive.

(180) Return on investment followed a similar trend as profitability. In 2008 the return on investment was positive (14 %) but decreased to a - 1 % during the RIP.

Table 13

Investments and Return on Investment

	2008	2009	2010	RIP
Investments (EUR '000)	7 952 150	9 421 745	19 288 284	9 263 184
Index (2008=100)	*100*	*118*	*243*	*116*
Return on investment	14 %	11 %	2 %	-1 %

Source: Questionnaire replies

(l) Cash flow and ability to raise capital

(181) The cash flow followed a similar development as profitability but remained positive throughout the period considered. It is expressed in the table 14 below as a percentage of turnover.

(182) Only Union producers that were part of larger groups did not report any particular problems to raise capital. Union producers that were not part of larger groups reported increased pressure on their cash situation linked to the low profitability and the deterioration of the business terms with both suppliers and customers. The ability to raise capital was further compromised by the reluctance of banks to finance the bicycle market in the current economic climate.

Table 14

Cash flow

	2008	2009	2010	RIP
Cash flow	3,2 %	3,1 %	1,8 %	1,3 %
Index (2008=100)	100	97	99	98

Source: Questionnaire replies

(m) Wages

(183) During the period considered, the wage cost per employee remained broadly stable, an increase only showing in 2009. This is mainly due the impact of the reduction of staff on companies' salary scales while retaining trained employees in order to maintain efficiency and quality.

Table 15

Wages

	2008	2009	2010	RIP
Wage cost per employee (in EUR)	15 747	17 393	17 383	16 581
Index (2008=100)	100	*110*	*110*	*105*

Source: Questionnaire replies

5. Conclusion on injury

(184) Despite the measures in place, the majority of the injury indicators relating to the performance of the Union industry deteriorated during the period considered. In particular, the macroeconomic indicators such as production volumes (-19 %), production capacity (-5 %), capacity utilization rate (-14 %) and employment (-17 %) decreased considerably. Moreover, the profit related microeconomic indicators declined over the period considered, with a profitability of -0,1 % in the RIP.

(185) The above shows that the Union industry remains in a fragile situation, with declining profits and close to breaking even situation in 2010 and RIP. In addition, any possibility for further growth and profits has been undermined by the pressure of dumped imports from the PRC and by circumventing imports (see recitals (223) and (224)).

(186) Notwithstanding, the Union industry managed to maintain and even slightly increase its market share in a shrinking market. The increased investments over the period considered (+16 %) show the efforts of the Union industry to remain competitive. This together with the latest innovations of the Union industry described in recital (248) below shows its underlying vitality and economic viability.

(187) On this basis, it is concluded that the Union Industry continued to suffer material injury within the meaning of Article 3 of the basic Regulation and remained in a vulnerable state.

(188) After disclosure, parties argued, by referring to the Preserved Mandarins[1] case, that the Commission was obliged to take any steps to remedy the lack of certain information caused by the low cooperation of the Chinese exporting producers and in failing to do so the Commission has breached its procedural obligations under the basic Regulation. Furthermore, the parties suggested using the Chinese export statistics, which break down the major types of bicycles exported to the EU market unlike Eurostat, or to request the national customs authorities of the largest importing Member States pursuant to Article 6(3) or (4) of the basic Regulation to carry an analysis of the different types imported from the PRC.

(189) As mentioned in recitals (19) and (21) the Commission officially notified the known exporting producers in the PRC, an association of Chinese producers, and the representatives of the country concerned of the initiation of the investigation. The Commission contacted about 70 Chinese companies already known to the Commission services from the previous investigation and at a later stage, when the anti-subsidy investigation mentioned in recital (16) was initiated, the Commission identified around 300 additional Chinese exporting producers that were contacted in the context of this interim review as well. Moreover, the representatives of the country concerned were notified at the initiation of the investigation that in case sufficient cooperation on the part of exporting producers is not forthcoming, the Commission may base its findings on the facts available, in accordance with Article 18 of basic Regulation. It was stressed that a finding based on facts available may be less advantageous to the party concerned.

[1] Case C-338/10 of 22 March 2012.

(190) In the Preserved Mandarins case the element analysed by the Court was the degree of the efforts the Commission should have made in obtaining pertinent information concerning the calculation of normal value based on the price or constructed value from domestic producers in a market economy third country by seeking cooperation from identified potential analogue markets.

(191) In the present investigation, the lack of information is due to the extensive non-cooperation of the parties that are actually subject to the investigation. As mentioned in recital 186 the parties were repeatedly invited to cooperate but failed to do so. Thus unlike in the Preserved Mandarins case the Commission actively and repeatedly sought the cooperation from the parties concerned. The parallel between Preserved Mandarins case and the current investigation is therefore not substantiated.

(192) The Commission assessed the usefulness of other sources, including the Chinese export statistics. It was concluded that the alternative sources were not appropriate for this investigation due to the fact that the level of details was not sufficient to allow for calculation of new margins. In addition, the Chinese statistics were also found inconsistent with the Eurostat statistics showing, for example, significantly higher level of imports than those reported in Eurostat. The proposed alternative sources therefore could not be used. Some parties also suggested the Commission seek cooperation from the national customs authorities of the largest importing Member States to carry out an analysis of the different product categories imported from the PRC. In response to this claim it is considered that apart from the practical impossibility, even if such data was collected, it could have not supplemented the information gap caused by the non-cooperation. This is because, in particular, the level of analysis required could not have been simply based on invoices, lacking relevant product type description at the level of detail necessary for meaningful product type comparability.

(193) Several parties also argued that the Commission had not carried out a product mix analysis of the imports from the PRC, in order to achieve a fair comparison of the imports with bicycles produced in the Union for purposes of making an objective and fair comparison in its injury and the price undercutting determination. In addition the parties argued that the Commission referred to the price undercutting figure determined in the previous investigation mentioned in recital (5) which was calculated with reference to average prices from Eurostat, without knowing the actual composition of the imports. Furthermore it was argued that the Commission did not make any effort to determine whether the imported products were actually comparable to the Union-produced bicycles and, therefore, the Commission's price undercutting analysis with respect to non-cooperating producers is defective. For these reasons, the parties argued that it must also be concluded that the Commission had failed to make an objective assessment and adequate explanation of its determination that the Union industry continues to suffer material injury.

(194) In this regard, it should be noted that as mentioned in recital (160) the price undercutting of the cooperating exporting producers for which dumping was found was calculated on the basis of their actual verified export price (CIF Union frontier) both with and without the anti-dumping duty taking into account the product mix of their exports during the RIP. However, as cooperation of the Chinese exporting producers was very low and, consequently, the findings of the cooperating Chinese exporting producers could not be considered representative for the PRC as a whole as mentioned recital (145), the undercutting levels as established in the amending interim review mentioned in recital (3) could not be modified.

(195) In face of extensive non-cooperation the Commission had to rely on facts available for the determination of the country-wide dumping, undercutting and injury elimination levels. In this context the Commission considered alternative sources of information that for the reasons stated in recitals (192) to (194) could not be used. Therefore, in the absence of contradicting findings, the country-wide dumping, undercutting and injury elimination levels established in the amending interim review mentioned in recital (3) were taken as a reference for the purpose of this investigation.

(196) It is confirmed that contrary to the claim of the parties the reference levels used were those established during the expiry review concluded by Council Regulation (EC) No 1095/2005 mentioned in recital (3) and not those established in the expiry review concluded by Implementing Regulation (EU) No 990/2011.

(197) In addition, it was argued that the Commission failed to analyse the claimed national customs errors preventing a fair comparison of Chinese import prices. It is recalled that no meaningful price comparison could have been carried out in the present investigation due to the extensive non-cooperation, therefore, under these circumstances the claim was considered irrelevant.

F. LASTING NATURE OF CHANGED CIRCUMSTANCES AND LIKELIHOOD OF CONTINUATION OF DUMPING AND INJURY

1. Dumping

(198) It was analysed in accordance with Article 11(3) of the basic Regulation, whether the circumstances with regard to dumping and injury have changed significantly, and if this change could reasonably be said to be of a lasting nature.

(199) The three co-operating Chinese exporting producers were subject to the residual duty rate in the previous investigation while in the current investigation individual duty rates were calculated for them. As mentioned in recitals (113) and (115), all three exporting producers in the PRC meet all the requirements for individual treatment. There was no information in the file which would have shown that the situation of the cooperating exporting producers concerned could change in the foreseeable future.

(200) Moreover, the investigation has shown that the Chinese export quota system applicable during the amending interim review, was abolished by the Government of the PRC and is not likely to be re-installed, in particular also given the export oriented government policies for the bicycle sector addressed in recital (203). Furthermore, the investigation did not reveal any evidence that the export price behaviour of these three companies will significantly change in the foreseeable future.

(201) Therefore, it is considered that the changed circumstances which lead to the dumping margins calculated for the three co-operating Chinese exporting producers are of a lasting nature.

(202) Regarding the country-wide duty for the PRC, the investigation did not reveal any changed circumstances and it is proposed to maintain the same duty level as established during the amending interim review.

(203) It was also examined whether the continued imposition of the measure is no longer necessary to offset dumping. According to the Chinese Bicycles Association, total bicycle output in the PRC amounted to 83,45 million units in 2011, showing an increase of 2,3 % as compared to 2010. Moreover, the Chinese bicycle industry continues to be export oriented. Thus in 2011, the PRC exported 55,72 million bicycles or 67 % of the total production, a decrease of 4,2 % from 2010. Domestic sales were approximately 23,73 million units in 2011. The most important production region in the PRC is Tianjin which produced about half of the total output in 2011. According to *Tianjin Municipal Light Industry and Textile Industry Development Plan for the 12th Five-Year Plan*, new industrial parks specialised in the production of bicycles are being developed in this area. It follows that by 2015 the production capacity of bicycles in Tianjin area is estimated to reach 55 million bicycles, an increase of 44 % as compared to 2011 while about half of the output will be for export (more than the total consumption of bicycles in the Union in the RIP).

(204) Furthermore, the three cooperating companies reported a capacity utilization rate between 72 % and 81 % during the RIP. Extrapolating, we can estimate a spare capacity of the Chinese industry of more than 25 million bicycles, which is more than double the Union industry's total production during the RIP and 24 % higher than the total Union consumption. In addition, as the production of bicycles is labour intensive, it seems that due to the significant cheap labour force available in the PRC, Chinese producers are able build up new capacity rather quickly.

(205) Moreover, in volume terms, the Union market is the second largest world-wide, after the Chinese market which makes the Union very attractive in terms of potential demand.

(206) The findings in the anti-circumvention investigation (see recital (14)) confirms that the Union market continues to be an attractive market for Chinese exporting producers and that in the absence of any measures they would very likely re-direct significant volumes to the Union.

(207) Moreover, other potential important export markets for the PRC have anti-dumping measures in place (Canada[1]) which is reducing the potential third countries markets available for the Chinese exports without duties.

[1] SIMA – Notice of Conclusion of re-investigation – Bicycles - 2011.

(208) It is recalled that US used to have a domestic production of bicycles in the past and had anti-dumping duties in place against the PRC. However, after the anti-dumping duties were repealed at the end of the '90s, Chinese imports entered the US market massively. Domestic production almost disappeared in the following years. In 2011 it was estimated that 99 % of the bicycles sold in the US were imported; 93 % from the PRC and 6 % from Taiwan. Domestic production of bicycles in the US is estimated at approximately 56 000 units per year with an annual consumption of about 16 million bicycles. The total US bicycles market (including sales of related parts and accessories) was valued at USD 6 billion in 2011.

(209) In conclusion, the Chinese bicycle industry is an export oriented industry with precedents of unfair pricing behaviour in several markets world-wide. Moreover, the findings in the anti-circumvention investigation confirmed the continued interest of the Chinese exporters in the Union market. Moreover, this behaviour suggests that if the measures were repealed, the Union market would very likely be targeted by low priced Chinese imports with a view of taking over the domestic market. Therefore it can be concluded that the continued imposition of the measures is still necessary to offset the dumping.

(210) Following the disclosure it was argued that the analysis overlooked the fact that the production growth in the PRC is being restricted by labour availability and that the PRC is losing its labour cost advantage to other south-Asian countries operating under preferential trade agreements. In face of non-cooperation the claim was unverifiable and was therefore disregarded.

2. Injury

(211) As regards the grounds for opening the *ex officio* interim review, the investigation examined the following changes in the structure of the EU bicycle industry: (i) switch from the complete cycle of production to (partial) assembly operations using imported parts; (ii) change in the cost level due to the enlargement and relocation and setting up of new production facilities in Central and Eastern Europe; (iii) increasing change in the use of raw material from steel to alloy following consumer trends. As a result of the findings spelt out in recital (162), all the above-mentioned developments are on-going and of global nature and are therefore not likely to change in the foreseeable future.

(212) As regards the assessment of the likelihood of continuation of the injury, given the already fragile situation of the Union industry, described in recitals (184) to (187), it is also likely that the Union producers will not be able to resist the further price pressure that would be exerted by the Chinese dumped imports and, as a consequence, will be forced to exit the Union market with the consequence of a loss of employment and investments, technology and know-how (see recitals (247) and (248)). Therefore it can be concluded that there is a likelihood of continuation of injury should the measures be repealed in this case.

Comments of the parties

(213) Some parties argued that the Union industry is not suffering material injury as publicly available information suggests that its financial situation is good. It is to be noted that the financial situation of the Union industry is assessed based on the information gathered and verified during the investigation from a representative sample of Union producers. This assessment cannot be substituted by publicly available information related to some Union producers even if their production and sales value is allegedly large. Therefore, the findings of the investigation analysed in recitals (162) to (187) contradict the information submitted by these parties. Therefore, their arguments were considered unfounded.

(214) It was also argued that the continuation of the anti-dumping measures against the PRC would be discriminatory as imports from other third countries are allegedly dumped and causing injury in particular from Sri Lanka while no anti-dumping measures are in force on imports from these countries. As a result of the anti-circumvention investigation, the anti-dumping measures have been extended to imports of bicycles inter alia from Sri Lanka. In addition, no evidence was submitted showing that the genuine producers in the country concerned would be dumping. Therefore, the argument from the party was considered unfounded and it was rejected.

G. CAUSATION

1. Introduction

(215) In accordance with Article 3(6) and (7) of the basic Regulation it was examined whether the material injury suffered by the Union industry had been caused by the dumped imports concerned. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined to ensure that the possible injury caused by these factors was not attributed to the dumped imports. In particular the results of the anti-circumvention investigation were analysed.

2. Effect of the dumped Chinese imports

(216) The Chinese imports declined over the period considered, representing 2,9 % of market share in the RIP. This relatively low and decreasing market share is to be seen in the context of the circumventing imports from, Indonesia, Malaysia, Sri Lanka and Tunisia (see recital (223) and (224))

(217) As mentioned in recital (160), it was concluded that imports from the PRC continued to significantly undercut the Union industry's sales price on the Union market, thus exerting a significant pressure on the price level on the Union market.

(218) At the same time, most of the injury indicators showed a decreasing trend, in particular the production (-19 %) and sales volume (-9 %), capacity (-5 %) and capacity utilisation (-14 %).

(219) The profitability of the Union industry declined throughout the period considered with the Union industry close to breaking even due to the Chinese price pressure. Because of this the Union industry was not able to raise the prices to profitable levels without losing significant market share.

(220) It is therefore concluded that the pressure exerted by the imports of bicycles at dumped prices had a decisive impact on the current vulnerable economic situation of the Union industry.

(221) Following the disclosure it was argued that the relevance of declining production levels and capacity utilisation was not adequately reasoned, in particular, in the light of the fact that the decline in production was considered to have no impact on profitability. It is noted that all the injury elements are relevant for the assessment of the economic situation of the Union industry whether or not they have an impact on the profitability levels in the particular case. As explained in recital (237) the decline in profitability and of other profit related indicators was not caused by the shrinking market but can be attributed to the continued pressure of dumped Chinese imports. The argument is therefore rejected.

(222) The same party also argued that the market share evolution of the Chinese imports was not adequately analysed as the analysis failed to address the sharp decline of imports over the period considered. Also it was argued that the causality analysis failed to take into account the increasing price trends of these exports. In response to this argument it is recalled that the declining volume of Chinese imports must be seen in the context of the findings of the parallel anti-circumvention investigation (see recital (216)). The price trend of the Chinese imports established on the basis of Eurostat is not meaningful as it does not take into account the price development of the imports of the Chinese bicycles via the circumventing countries. On these grounds, the argument was therefore rejected.

3. Effect of circumventing imports

(223) As mentioned in recital (15), the anti-circumvention investigation established circumvention of the measures in force against the PRC by assembly operation and transhipment via Indonesia, Malaysia, Sri Lanka and Tunisia. Based on these findings the difference between the volumes of imports from the countries in question reported in Eurostat and the volumes exported by known genuine producers i.e. those that qualified for exemption from the extended measures for the reasons set out in Regulation (EU) No /2013[1] were considered as imports circumventing the measures in force ('circumventing imports').

[1] OJ L

(224) In the context of the causality analysis, these imports were considered as effectively coming from China and should therefore be considered together with the direct imports from China. On this basis the volume of Chinese imports thus established reached 1 904 761 units in the RIP. In 2008, imports reached 2 321 240 units. They were declining in 2009 to 1 802 101 units, i.e. by 22 % and increasing in 2010 to almost the same levels than in 2008, reaching 10,6 % of the market share. Finally, imports decreased again in the RIP by 13 %, reaching a market share of 9,5 %. Over the period considered, import volumes decreased by 18 %. In the context of the shrinking market (see recital (153)) the described decrease of import volumes did not result in a significant loss in market share as the latter has declined by only 0,8 % over the period considered. Since the product mix of the imports from the PRC and the circumventing imports is unknown, it is not meaningful to compare prices of these imports with those of the Union industry on the Union market.

Table 16

Imports from the PRC together with circumventing imports from, Indonesia, Malaysia, Sri Lanka and Tunisia

	2008	2009	2010	RIP
Volume of imports (units)	2 321 240	1 802 101	2 194 354	1 904 761
Index (2008=100)	*100*	*78*	*95*	*82*
Market share	10,3 %	8,8 %	10,6 %	9,5 %

Source: Eurostat

(225) Following the disclosure some parties argued that the analysis of the impact of the circumventing imports was deficient as solely based on the volume effects and thus lacking any price comparison based on a product mix analysis. It was alleged that this lack of analysis was a result of procedural failure as the product mix analysis was omitted despite cooperation of exporting producers from the countries concerned. In addition, it was alleged that the imports from these countries into the Union concern low-cost children or other bicycles that do not compete with the bicycles produced in the Union. In response to this argument it is noted that the product mix analysis could not have been carried out for the reasons explained in recital (192). Also, the majority of the circumventing imports were transhipments in cases of which no information on the product mix was available. Finally, it is noted that the Union producers were found to produce all product segments; therefore, the argument on alleged non-competing imports of the children and low end bicycles was found unsubstantiated.

4. Effect of other factors

4.1. Imports from other countries

(226) Total imports from other third countries amounted to 6 931 333 units during the RIP. This level of imports reflected a small increase of 1 % over the period considered.

(227) Given the contraction of the Union consumption, the market share of the imports from other third countries remained broadly stable, reaching 34 % in the RIP.

(228) Taiwan remained the main exporting country to the Union with a relatively constant market share over the period considered and representing 14 % of the Union consumption during the RIP.

(229) Thailand is the second largest exporting country into the Union. Its market share decreased by 2 percentage points during the period considered, i.e. form 7 % in 2008 to 5 % in the RIP.

(230) As stated in recital (157), the prices in Eurostat do not take into consideration the various product mixes from each country and therefore only indexes are used to indicate the price trends. Since the product mix of the imports from other third countries is unknown, it is not meaningful to compare prices of these imports with those from the Union industry on the Union market.

(231) However, it should be noted that only the imports from Taiwan exceed the volume of the Chinese imports (circumventing imports included). In this regard, it should be noted that the imports of bicycles from Taiwan are usually aimed for the high-end market and no evidence was submitted otherwise. Therefore it is concluded that these imports cannot be considered as a cause of injury to the Union industry.

(232) Several parties claimed that imports from other third countries were made at lower prices than the Chinese imports and therefore the Chinese imports have not caused the material injury suffered by the Union industry. This argument could not be accepted because the average import prices could not be determined on the basis of Eurostat for the reasons explained in recital (157) and therefore no conclusion could be drawn on this basis.

(233) Another party claimed that imports from third countries subject to General System of Preferences (GSP) from 1 January 2011 onwards are expected to increases (Cambodia and Bangladesh). However, the impact on import prices and quantities and the effect on the Union market cannot be evaluated a priori. In addition, no information was available as to the ability of these countries to increase the production capacity and the sales volume to the Union market. Therefore, no firm conclusion can be drawn on this basis and this claim had to be rejected.

(234) Following the disclosure the parties claimed that the analysis of the impact of the imports from the third countries with preferential trade agreements was not adequately addressed as the imports from these counties were claimed to be significant in volumes as compared to the Chinese imports and some of them also significantly lower prices. In this context it is recalled that the PRC is the second largest importer into the Union. The imports from other third countries were all below the import volumes of the Chinese bicycles. Also, no allegations of dumping were brought forward against these countries. Therefore, it was concluded that the imports from these countries could not have an impact so as to break the established causal link between the large volumes of dumped imports from China that coincided with the continuation of material injury of the Union industry. On these grounds, the argument was rejected.

Table 17

*Imports from other third countries**

	2008			2009			2010			RIP		
	Units	Market share	Price EUR/unit	Units	Market share	Price EUR/unit	Units	Market share	Price EUR/unit	Units	Market share	Price EUR/unit
Taiwan	3 428 043	15 %		2 949 433	14 %		3 458 448	17 %		2 864 114	14 %	
Indexed	*100*	*100*	*100*	*86*	*94*	*126*	*101*	*110*	*125*	*84*	*93*	*151*
Thailand	1 522 209	7 %		1 384 410	7 %		1 234 123	6 %		993 952	5 %	
Indexed	*100*	*100*	*100*	*91*	*99*	*118*	*81*	*88*	*114*	*65*	*73*	*113*
Others	2 746 124	12 %		2 838 962	14 %		2 847 164	14 %		3 077 535	15 %	
Indexed	*100*	*100*	*100*	*103*	*113*	*111*	*104*	*113*	*122*	*112*	*125*	*121*
Total	**7 696 376**	**34 %**		**7 172 805**	**35 %**		**7 539 735**	**36 %**		**6 935 601**	**34 %**	
Indexed	*100*	*100*	*100*	*93*	*102*	*118*	*98*	*106*	*124*	*90*	*101*	*134*

* *Circumventing imports from Indonesia, Malaysia, Sri Lanka and Tunisia excluded*

Source: Eurostat

4.2. Development of consumption

(235) As mentioned in recital (153), from 2008 to the RIP the consumption decreased by 10 %. However, the Union industry maintained and even slightly increased its market share (see recital (168)). Therefore, shrinking market cannot be a source of injury.

4.3. Economic crisis and climatic conditions

(236) Some parties claimed that the prevailing negative economic conditions in the Union had an impact on the consumers' purchase behaviour over the period considered. It was also claimed that the poor weather conditions in the Union in 2011 had at least partly an effect on the situation of the Union industry. These factors allegedly resulted in the overall decrease of consumption of bicycles in the Union.

(237) Indeed the investigation revealed a decrease of the Union consumption during the period considered. However, as mentioned in recital (234), the shrinking of the market cannot be considered a source of injury.

(238) These parties also claimed that production and employment only decreased to follow the consumption trend and not because of the dumped imports. However, as the bicycle industry does not have high fixed costs, the decline in production did not have an impact on the profitability of the Union bicycles industry. As far as employment in concerned this is due to the restructuring process undertaken by the Union industry. In any event this development does not explain the negative trends for other injury indicators.

4.4. Non-dumped imports

(239) The non-dumped imports from one co-operating exporting producer represented negligible quantities, i.e. close to 0 % of the total imports from the PRC and therefore they could not have a discernible effect on the situation on the Union industry.

4.5. Electric bicycles

(240) It was argued that the injury suffered by the Union industry was caused by the development of electric bicycles which allegedly were replacing the product concerned. However, the development of the electric bicycles is very recent and represented only marginal sales volumes during the RIP. Therefore, they could have not had an impact on the situation of the Union industry.

4.6. Effect of the structural changes

(241) Following the disclosure one party argued that the Commission failed to analyse the impact of the recognised structural changes of the market and of the Union industry in its injury and causation analysis. As an example it was claimed that Commission failed to address the impact of the shift of production towards the eastern European countries in its production cost analysis. In response to this claim, it is noted that the analysis of the lasting nature of the changes has been carried out (see recital (162)) and it was concluded that the changes were of lasting nature (see recital (211)). For this reason, new injury analysis was carried out based on a sample of the Union producers chosen to reflect the structural changes. Therefore, it is considered that the impact of such changes was duly taken into account in the injury and causation analysis. The argument is therefore rejected.

4.7. Conclusion

(242) Despite the shrinking Union consumption, substantial volumes of direct or circumventing dumped imports of Chinese bicycles were found entering the Union market. The rather stable and significant market share of these imports over the period considered coincided with a period of continued economic vulnerability of the Union industry (see recitals (184) to (187)). It is concluded, therefore, that there is a causal link between the imports from the PRC (direct and circumventing) and the material injury suffered by the Union industry.

(243) Other factors were considered such as impact of imports from other third countries, development of consumption, economic crisis and the climatic conditions, the non-dumped imports, the development of the electronic bicycles. None of these factors was found significant enough to break the causal link established between the dumped Chinese imports and the material injury suffered.

(244) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped exports, it was concluded that the dumped imports from the PRC together with the circumventing imports have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

H. UNION INTEREST

1. Introduction

(245) In accordance with Article 21 of the basic Regulation, it has been examined whether, despite the conclusion on injurious dumping, compelling reasons existed for clearly concluding that it would not be in the Union interest to impose the anti-dumping measures against imports from the PRC at the rates set out below (see recital (279)).

(246) It should be recalled that, in the previous investigations, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is an interim review pursuant to Article 11(3) of the basic Regulation, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(247) The determination of the Union interest was based on an appreciation of the various interests involved, i.e. those of the Union industry, producers of bicycle parts, unrelated importers and users.

2. Interest of the Union industry

(248) The investigation showed that the industry is still in a fragile situation. Given the substantial volume of dumped imports from the PRC and likelihood of continuation of dumping and injury, there is a strong likelihood that Union production would disappear should measures be repealed.

(249) The Union industry contributes significantly to technological innovation and spin offs, such as the recently developed EPACs (Electronically Power Assisted Cycles) and electronic bicycles that would not be economically viable without having a bicycle industry in the Union. Moreover, the Union industry contributes to the environmental goals such as greening of transport and decarbonisation.

(250) The Union industry is also a driving force for related industries, such as production of bicycle parts, bicycle accessories and related services. In total the Union industry generates directly and indirectly between 60 000 and 70 000 jobs in the Union market.

(251) The Union industry had undertaken efforts to restructure and invested in innovation which would be lost should the Union industry disappear. To the contrary, with the measures in place, the Union industry would be able to maintain and even increase sales volume and thereby generating the necessary return on investments which would enable it to continue to reinvest in new technology and innovation.

(252) In view of the conclusions on the situation of the Union industry as set out at recitals (184) to (187), it can be expected that without measures the financial situation of the Union industry would likely deteriorate significantly and ultimately risk the closure of production. Therefore, the anti-dumping measures are in the interest on the Union industry.

3. Interest of producers of bicycle parts

(253) The Association of the Bicycles Parts Producers (COLIPED) made itself known during the investigation. COLIPED provided information that there are about 370 companies in the Union, which are supplying components to the bicycle producers and employ about 16 000 people. The suppliers industry is depending on the continuation of the bicycles production in the Union.

(254) 53 producers of bicycle parts came forward in favour of the measures, representing 39 % of the estimated 1,2 billion EUR of total turnover of the bicycle part industry. The bicycles parts producers are benefiting from the extension of the existing measures to essential bicycle parts (see recital (1)). The existing exemption scheme (see recital (1)) encourages local production of bicycle parts by restricting the Chinese content of bicycle parts used to less than 60 % of the total value. Due to the measures in place the Union industry was able to develop and invest in new projects aiming to resume production of certain essential parts in the Union.

(255) In this respect, it was found that without the measures and the expected closure of bicycles production in the Union, the bicycle parts industry in the Union will also suffer negative consequences as they will lose their customers. It is therefore concluded that the imposition of anti-dumping measures would be in the interest of the bicycle parts industry.

4. Interest of users/ consumers

(256) The European Cyclists' Federation (ECF), an umbrella federation of the national cyclists' associations in Europe supported the continuation of the anti-dumping measures in force. The ECF argued that local production is in the interest of the consumers as it ensures quality and safety as well as specialised customer services.

(257) The ECF argued that an increase of imports from the PRC would have a negative impact on the high quality and safety standards in the Union at the expense of the consumer.

(258) The impact of the anti-dumping duties on the consumer price is estimated not to be significant as the majority of Union producers of bicycles operate under the exemption scheme whereas the essential bicycle parts can be imported from the PRC without any duty up to 60 % of the total value of the parts used.

(259) It is recalled that, in the previous investigations, it was found that the impact of measures would not be significant for the users/consumers. Despite the existence of measures, the supply of bicycles from the PRC, as well as countries without any measures is available. It is therefore concluded that the anti-dumping measures do not have a significant negative impact on users in the Union.

(260) Following the disclosure one party argued that the analysis failed to take into account the negative impact of the measures on the users in form of additional costs brought by the measures. It is noted that the ECF representing the consumers came forward in support of the measures for the quality and safety reasons (see recital (255)). Also, thanks to exemptions scheme the consumers already benefit from the reduced price of certain bicycle parts (see recital (257)). Therefore, the argument was found unsubstantiated.

5. Interest of unrelated importers

(261) None of the unrelated importers co-operated in the investigation. Therefore, it was not possible to make an assessment of the impact of the measures during the RIP. It should also be recalled that the purpose of the anti-dumping measures is not to prevent imports, but to restore fair trade and ensure that imports are not made at injuriously dumped prices.

(262) It is recalled that there are other sources of imports and around 45 % of the consumption of bicycles are in fact imported bicycles.

(263) As fairly-priced imports from the PRC would still be allowed to enter the Union market, and as imports from third countries would also continue, it is likely that the traditional business of the importers would continue even if the anti-dumping measures with regard to the PRC were maintained. The amended anti-dumping measures for the three cooperating exporting producers would increase the import possibilities from the PRC at 0 % or reduced rate. Therefore, it is concluded that the anti-dumping measures do not have a significant impact on unrelated importers in the Union.

6. Effectiveness of the measures

(264) One party argued that measures would not be effective given that the Union industry is still suffering injury after the anti-dumping measures being in force for almost 20 years. It is noted that despite the measures in force, it has been confirmed that Chinese exporting producers were circumventing the measures via other third countries which explained at least partly the situation of the Union industry during the RIP. Therefore, the argument was rejected.

(265) Following the disclosure some parties argued that the measures existing for over twenty-three years are not justified on either legal or trade policy grounds. In response to this claim it is noted that no time limits restrict the duration of the measures as long as the conditions for their imposition or maintenance are met. Also, in the case at hand the measures are justified as the findings confirmed existence of injurious dumping. Furthermore, the situation of the Union industry is further undermined by circumvention. Therefore, the argument is rejected.

7. Conclusion

(266) The continuation of measures on imports of bicycles originating in the PRC would clearly be in the interest of the Union industry and the Union suppliers of bicycle parts. It will allow the Union industry to grow and improve its situation caused by the dumped imports. Furthermore, the importers would not be substantially affected since fairly priced bicycles would still be available on the market from the PRC and other third counties. Also, due to the extensive use of the existing exemption scheme by the Union industry, it was concluded that the existing measures had no significant negative impact on the users/consumers. In contrast, if measures were repealed, Union bicycles producers will likely close production, thus also threatening the existence of Union bicycle parts producers.

(267) In view of the above, it is concluded that based on the information available concerning the Union interest, there are no compelling reasons against imposing the measures at the rates indicated (279) on imports of the product concerned originating in the PRC.

I. PROPOSED DUTIES

1. Injury elimination level

(268) In view of the conclusions reached with regard to dumping, resulting injury and Union interest, the existing measures, as imposed by Council Regulation (EU) No 990/2011, should be maintained except as provided herein below.

(269) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union producers.

(270) The measures should be imposed at a level sufficient to eliminate the injury caused by the imports in question without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Union. The pre-tax profit margin used for this calculation was 8 % of turnover of the sales of bicycles. It is the same as in the previous investigation since there was no indication found that this rate should be changed.

(271) Given that cooperation from the PRC was very low as stated in recitals (22) and (24), the findings for the cooperating companies cannot be considered to be representative for the country. Consequently, the country-wide injury margin is hereby maintained unchanged as established by Council Regulation (EC) No 1095/2005[1].

[1] OJ L183, 14.7.2005, p. 1.

(272) For the two cooperating exporters, for which dumping was found, the injury margins were established on the basis of their own export prices compared, at the same level of trade, to the non-injurious prices of the Union industry for the corresponding product type. No injury margin was calculated for the third company, for which no dumping was found. For Oyama Bicycles (Taicang) Co. Ltd., no injury margin was identified. However, a substantial injury margin higher than the dumping margin was found for Zhejiang Baoguilai Vehicle Co. Ltd.

(273) Following the disclosure one party argued that the 8 % target profit was fixed at the market conditions that do not correspond to the current situation and the Commission failed to provide adequate reasoning to justify why the target profit determined in the previous investigation mentioned in recital (5) is still justified. It is noted that there was no indication found under the current review that the rate of the target profit should be changed. The party in question did not submit any substantiated calculation of an alternative target profit level to be used. Therefore, the argument was rejected.

2. Definitive measures

(274) As regards the three co-operating Chinese exporting groups, the individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these groups. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the People's Republic of China and produced by these groups and thus by the specific legal entities mentioned. Imported products produced by any other group not specifically mentioned in the operative part of this Regulation including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(275) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission[1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

[1] European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium

(276) In order to ensure a proper enforcement of the anti- dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers but also to those producers which did not have any exports to the Union during the RIP.

(277) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. These special measures include the following: The presentation to the Customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporting producers.

(278) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty.

(279) In accordance with Article 7(2) of the basic Regulation, the duty rates for the cooperating exporters are established at the level adequate to remove the injury to the Union industry. For Zhejiang Baoguilai Vehicle Co. Ltd and Ideal (Dongguan) Bike Co., Ltd the duty rates are based on dumping margins established by the investigation since they were lower than the injury margins. For Oyama Bicycles (Taicang) Co. Ltd. the injury margin was lower than the dumping margin, therefore, the duty is established at the injury margin level.

(280) The individual duty rates calculated for the RIP should be as follows:

Company	Definitive duty
Zhejiang Baoguilai Vehicle Co. Ltd.	19,2 %
Oyama Bicycles (Taicang) Co. Ltd.	0 %
Ideal (Dongguan) Bike Co., Ltd.	0 %
All other companies	48,5 %

(281) It is noted that pursuant to Article 2(1) of Council Regulation (EC) No 71/97, the anti-dumping duty of 48,5 % imposed to all other companies by this Regulation (see recital (279)) applies also to imports of essential bicycle parts, as defined in Article 1 of Council Regulation (EC) No 71/97, originating in the PRC,

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, but excluding unicycles), not motorised, falling within CN codes 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 70 91 and 8712 00 70 99), originating in the Peoples' Republic of China.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies listed below shall be as follows:

Company	Definitive duty	TARIC Additional Code
Zhejiang Baoguilai Vehicle Co. Ltd.	19,2 %	B772
Oyama Bicycles (Taicang) Co. Ltd.	0 %	B773
Ideal (Dongguan) Bike Co., Ltd.	0 %	B774
All other companies	48,5 %	B999

3. The application of the individual duty rates specified for the companies referred to in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex. If no such invoice is presented, the duty applicable to "all other companies" shall apply.

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

Article 2

The extension of the antidumping duty imposed on imports of bicycles originating in the People's Republic of China to imports of certain bicycle parts originating in the People's Republic of China by Regulation (EC) No 71/97, is hereby maintained.

The definitive anti-dumping duty referred to in Article 2(1) of Regulation (EC) No 71/97 shall be the "all other companies" anti-dumping duty imposed by Article 1(2) herein.

Article 3

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

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

Done at Brussels, 2013.

For the Council
The President

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

(1) the name and function of the official of the entity issuing the commercial invoice;

(2) the following declaration:

'I, the undersigned, certify that the (volume) of bicycles sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.

Date and signature'.