

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1095/2005****of 12 July 2005****imposing a definitive anti-dumping duty on imports of bicycles originating in Vietnam, and amending Regulation (EC) No 1524/2000 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup> (the basic Regulation) and in particular Articles 9 and 11(3) thereof,

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

Whereas:

**A. PROCEDURE****1. Measures in force**

- (1) The Council, by Regulation (EEC) No 2474/93<sup>(2)</sup> imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China (the original measures). Following an anti-circumvention investigation, this duty was extended by Council Regulation (EC) No 71/97<sup>(3)</sup> to imports of certain bicycle parts originating in the People's Republic of China (PRC).
- (2) Following an expiry review pursuant to Article 11(2) of the basic Regulation (the previous investigation), the Council, by Regulation (EC) No 1524/2000<sup>(4)</sup>, decided that the above mentioned measures should be maintained.

**2. Present investigations**

- (3) On 29 April 2004, the Commission announced, by a notice published in the *Official Journal of the European Union*<sup>(5)</sup>, the initiation of an anti-dumping proceeding with regard to imports into the Community of bicycles originating in Vietnam.
- (4) On the same day, pursuant to Article 11(3) of the basic Regulation, the Commission announced by a notice published in the *Official Journal of the European Union*<sup>(6)</sup>, the initiation of an interim review of the anti-dumping measures applicable to imports into the Community of bicycles originating in the PRC.
- (5) The anti-dumping investigations were initiated following a complaint and a request lodged on 15 March 2004 by the European Bicycles Manufacturers Association (EBMA or the applicant), acting on behalf of producers representing a major proportion, in this case more than 35 % of the total Community production of bicycles. The complaint contained evidence of dumping of the said product and of material injury resulting thereof, which was considered sufficient to justify the initiation of the proceeding concerning imports of bicycles originating in Vietnam. The request contained sufficient evidence justifying the initiation of an interim review of the measures applicable to imports of bicycles originating in the PRC.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ L 228, 9.9.1993, p. 1.

<sup>(3)</sup> OJ L 16, 18.1.1997, p. 55.

<sup>(4)</sup> OJ L 175, 14.7.2000, p. 39.

<sup>(5)</sup> OJ C 103, 29.4.2004, p. 76.

<sup>(6)</sup> OJ C 103, 29.4.2004, p. 80.

### 3. Parties concerned by the investigation

- (6) The Commission officially advised the applicant, the Community producers mentioned in the complaint and the request, any other known Community producers, the exporting producers, importers as well as the associations known to be concerned, and the authorities of the PRC and Vietnam, of the initiation of the investigations. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time-limits set in the notices of initiation.
- (7) A number of Community producers represented by the applicant, other cooperating Community producers, exporting producers, importers, suppliers and user associations made their views known. All interested parties who so requested were granted a hearing.

### 4. Sampling

- (8) In view of the large number of exporting producers, Community producers and importers involved in the investigations, the application of sampling techniques was envisaged in both notices of initiation, in accordance with Article 17 of the basic Regulation.
- (9) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and representatives acting on their behalf, Community producers and importers were requested to make themselves known and to provide information as specified in the notices of initiation. The Commission also contacted known associations of exporting producers and the authorities of the PRC and Vietnam. These parties raised no objections to the use of sampling.
- (10) In total, 21 exporters/producers in the PRC, 6 exporters/producers in Vietnam, 54 Community producers and 6 importers replied to the sampling questionnaire within the time-limits and provided the requested information.
- (11) From the 21 Chinese exporting producers that responded to the sampling return, only 17 reported exports of bicycles to the Community during the investigation period. Given the limited number of Vietnamese exporting producers which indicated their willingness to cooperate, it was decided that sampling was not necessary in respect of Vietnamese exporting producers.
- (12) The selection of the sample was made in consultation with, and with the consent of the Chinese cooperating exporting producers and the authorities of the PRC. The sample of the exporting producers was established on the basis of the largest representative volume of exports to the Community, which could reasonably be investigated within the time available and on whether the companies intended to apply for Market Economy Treatment (MET). Only companies that intended to apply for MET were included in the sample, since in an economy in transition, normal value for other companies is established on the basis of prices or constructed normal value of an analogue third country. On this basis, a representative sample of four exporting producers was selected. The four sampled companies represented, according to the replies to the sampling exercise, 16 % of the Chinese exports of the product concerned to the Community and 35 % of all cooperating producers' exports.
- (13) As for the Community producers, in accordance with Article 17(1) of the basic Regulation, the sample was selected after consultation of the relevant association and with their consent on the basis of the largest representative volume of sales and production within the Community. As a result, eight Community producers were selected in the sample. The Commission sent questionnaires to the eight companies selected, which submitted complete replies.
- (14) Given the limited number of importers who replied to the sampling questionnaire and indicated their willingness to cooperate (six importers), it was decided that sampling was not necessary. However, subsequently none of the importers cooperated in the review investigation and declined to return a complete questionnaire reply. Concerning the investigation of imports from Vietnam, three importers cooperated by submitting complete questionnaire replies.

- (15) The Commission sought and verified all information it deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:
- (a) *Producers in the Community*
    - Biria AG, Neukirch, Germany,
    - Accell Group N.V., Heerenveen, The Netherlands,
    - Cycleurope Industries S.A., Machecoul, France,
    - Vivi Bikes srl, Pozzaglio, Italy,
    - Denver srl, Dronero, Italy,
    - F.lli Masciagli Spa, Monza, Italy,
    - MIFA Mitteldeutsche Fahrradwerke AG, Sangerhausen, Germany,
    - Promiles, Villeneuve d'Ascq, France.
  - (b) *Exporting producers in the PRC*
    - Giant China Co. Ltd, Kunshan Jiangsu Province,
    - Shenzhen Xidesheng Bicycle Co. Ltd., Heshuikou Gongming, Shenzhen,
    - Guangzhou Viva Bicycle Corporation Limited, Guangzhou,
    - Komda Industrial Co. Ltd., Buji, Shenzhen.
  - (c) *Exporting producers in Vietnam*
    - Always Co., Ltd., Ho Chi Minh City,
    - Asama Yu Jiun Intl. Co., Ltd., Di An,
    - Dragon Bicycles Co., Ltd., Dong Nai,
    - High Ride Bicycle Co., Ltd., Di An,
    - Liyang Vietnam Industrial Co., Ltd., Dong Nai,
    - Vietnam Sheng Fa Co., Ltd., Ho Chi Minh City.
  - (d) *Unrelated importers*
    - ZEG, Cologne, Germany,
    - Raleigh Univega GmbH, Cloppenburg, Germany,
    - Halfords Nederland BV, Veenendal, The Netherlands.
  - (e) *Related companies involved in the production or sales of the product concerned*
    - Sheng Fa Industries Co., Ltd., Taipei, Taiwan.
- (16) In light of the need to establish a normal value for exporting producers in the PRC and Vietnam 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:
- Biciclo SA de CV, San Luis Potosí, México,
  - Bicicletas Mercurio SA de CV, San Luis Potosí, México.
- (17) The investigation of dumping and injury in both investigations covered the period from 1 April 2003 to 31 March 2004 (the IP). The examination of trends in the context of the analysis of injury covered the period from January 2000 to the end of the IP (the period considered).

- (18) Some interested parties raised the fact that the investigation covered the situation in the EU of fifteen Member States (EU-15) while measures would be imposed on imports into the enlarged EU of twenty-five Member States. In regard to imports from Vietnam, it must be noted that imports into the ten new Member States of the EU (EU-10) were negligible during the IP. Therefore, it was considered that any impact that these imports might have had on the injury or dumping situation would also be negligible. In regard to imports from the PRC, there were significant quantities of imports into the EU-10 in the IP at prices that were lower than those into the EU-15. In these circumstances, it is considered that the findings of dumping and the conclusion that there is a likelihood of continuation of dumping if measures were allowed to expire, would likely be reinforced by the level and prices of imports from the PRC into the EU-10. As there is significant production of bicycles in the EU-10, it was also considered that the impact of the level and prices of imports from the PRC would be such as to confirm the existence of injury to the broader Community industry, i.e. including producers in the EU-10. In these circumstances, it is considered that enlargement would not automatically vary the dumping and injury parameters which form the basis of the proposed measures.

#### B. PRODUCT CONCERNED AND LIKE PRODUCT

- (19) The product concerned is the same as that covered by the original and previous investigations, namely bicycles and other cycles (including delivery tricycles), not motorised, currently classifiable within CN codes 8712 00 10, 8712 00 30 and 8712 00 80.
- (20) In the present investigations the bicycles were classified in the following categories:
- (A) ATB (all-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.
- (21) A similar categorisation was used in the investigation which led to the original measures in the PRC and in the previous investigation covering the PRC. However, due to the development of new bicycles types, the classification had to be slightly amended. For instance, in the present investigations, the category B contains the types hybrid and VTC, which are further developments of previously existing types.
- (22) The investigations confirmed that 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 Community market. The basic application and use of bicycles being identical, they are largely interchangeable and models from different categories therefore compete with each other. On this basis, it was concluded that all the categories form one single product.
- (23) The investigations also showed that bicycles produced and sold by the Community industry on the Community market, those produced and sold by Mexican producers on the Mexican market and those imported into the Community market originating in the PRC and Vietnam have the same basic physical and technical characteristics and the same uses. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.
- (24) One interested party claimed that, in the framework of the review investigation, the extension of the scope of the product concerned by Council Regulation (EC) No 71/97 of 10 January 1997, as a result of an anti-circumvention investigation pursuant to Article 13 of the basic Regulation should be limited to those parts which have a significant potential to be involved in circumvention operations,

such as frames and forks. In this respect, it should be noted that the present review was initiated in order to examine whether the existing measures are no longer sufficient to counteract the injurious dumping. The scope of the product concerned, i.e. bicycles from the PRC, as extended by the above mentioned regulation, remains therefore the same and a possible review of the anti-circumvention measures should be carried out in the context of a separate review investigation, if the conditions therefore are met.

- (25) During the investigation one importer in the Community claimed that unicycles should be exempted from the scope of the product concerned because they allegedly have different basic physical and technical characteristics and different uses. The Commission investigated the claim and found that basic physical and technical differences clearly exist. Unlike bicycles, unicycles have no second wheel, no handlebar for steering and no breaking system. In addition, there is a clear dividing line between the uses of unicycles and other cycles. Unicycles are normally not used for transportation or sport, they are normally considered and used for acrobatic purposes. It was therefore concluded that the claim was duly justified and that the definition of the product concerned should be adjusted accordingly.

### C. DUMPING

#### 1. Market economy treatment

- (26) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC and/or Vietnam, normal value is to be established in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which can show that they meet the criteria laid down in Article 2(7)(c) of that Regulation, i.e. that market economy conditions prevail in respect of the manufacture and sale of the like product.
- (27) Briefly, and for ease of reference only, the criteria for MET are set out in summarised form below:
1. business decisions and costs are made in response to market signals, and without significant State interference;
  2. firms have one clear set of accounting records which are independently audited in line with international accounting standards (IAS) and are applied for all purposes;
  3. there are no significant distortions carried over from the former non-market economy system;
  4. legal certainty and stability is provided by bankruptcy and property laws;
  5. currency exchanges are carried out at market rate.
- (28) Claims for MET pursuant to Article 2(7)(b) of the basic Regulation were received from ten PRC and seven Vietnamese companies:

#### *Exporting producers in the PRC*

- Giant China Co. Ltd,
- Shenzhen Xidesheng Bicycle Co. Ltd,
- Guangzhou Viva Bicycle Corporation Limited,
- Komda Industrial Co. Ltd,
- Universal Cycle Corporation,
- Liyang Machinery (Shenzhen) Co Ltd,
- Zhejiang Pujiang Libahuang Bicycle Corporation,
- Merida Bicycle Co. Ltd,
- Huida Bicycle (Shenzhen) Co. Ltd,
- Shenzhen Bo-An Bike Co. Ltd;

*Exporting producers in Vietnam*

- Always Co., Ltd (Always),
- Asama Yu Jiun Intl. Co., Ltd. (Asama),
- Dragon Bicycles Co., Ltd (Dragon),
- High Ride Bicycle Co., Ltd (High Ride),
- Liyang Vietnam Industrial Co, Ltd. (Liyang),
- Vietnam Sheng Fa Co., Ltd (Sheng Fa),
- Olympic Pro Manufacturing Co., Ltd.

- (29) One of these companies (Komda Industrial Co. Ltd), at a later stage in the investigation, withdrew its request for MET but maintained its request for individual treatment pursuant to Article 9(5) of the basic Regulation. In the case of another company (Olympic Pro Manufacturing Co., Ltd) it was found that it had no exports of the product concerned into the Community during the IP. Therefore, its request for MET and individual treatment became irrelevant.
- (30) The claims of the fifteen remaining companies were analysed on the basis of the five criteria set out in Article 2(7)(c) of the basic Regulation.

*1.1. MET determination regarding exporting producers in the PRC*

- (31) For all exporting producers of bicycles in the PRC it was established that they were subject to an export quota system, in accordance with a Regulation of export permit management of 20.12.2001 approved by the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the customs authorities. The allocation of the quotas was made by a Committee comprised of members of the MOFTEC, the relative Chamber of Commerce and the Association of Foreign Funded Enterprises on the basis of criteria set up by the MOFTEC. The system also included the setting of minimum export prices per product type and the control of prices and quantities of the exporter sales contract by the government, before an export licence could be issued.
- (32) In view of the above, the companies requesting MET were not able to demonstrate that their decisions regarding sale prices and quantities were taken in response to market signals and without significant State interference, as required by the first criterion of Article 2(7)(c) of the basic Regulation. Consequently, after consulting the Advisory Committee, it was decided not to grant MET to the applicant companies, since they did not meet the criteria set in Article 2(7)(c) of the basic Regulation.
- (33) Certain exporting producers and the China Chamber of Commerce for Import and Export of Machinery and Electronic products (CCCME) argued that the export licence scheme cannot be considered to affect the exporters' determination of export quantities and prices and are not subject to significant State interference within the meaning of Article 2(7)(c) of the basic Regulation. In this respect, it should be firstly noted that the export licence scheme restricts the companies to export bicycles beyond a maximum allowed quantity and below the minimum prices set by the State. This restriction indicates clearly that they are not free to determine their export activities without significant State interference. Indeed, they are obliged to tender for an annual quantity which may be accepted as such, or modified on the basis of unspecified grounds or even be rejected by the above mentioned Committee. Furthermore, a company with less than 5 000 bicycle exports in the previous year can be totally excluded from the tender procedures, leaving thus to the absolute discretion of that Committee the continuation of the company's export activities. Moreover, the quantities and prices are closely monitored by the State, involving MOFTEC and the customs authorities, via the validation of the actual export sales contracts, on the basis of which the export licence can be issued. This is considered to be an undeniable State interference in the company's business decisions within the meaning of Article 2(7)(c) of the basic Regulation. On this basis, the argument was rejected.

### 1.2. MET determination regarding exporting producers in Vietnam

- (34) It was found that five of the companies concerned were situated in a so-called Industrial Zones (IZ) and one of the companies was situated in a so-called Export Processing Zone (EPZ).
- (35) Regarding companies situated in an IZ, it was established that the Government Decree 24/2000ND-CP of 31 July 2000 implementing the Law on Foreign Investment of Vietnam, provided for a general obligation for companies subject to this law to export at least 80 % of their production (export obligation) in order to obtain an investment licence. It was also found that the export obligation was included in the investment licences of all five companies situated in an IZ.
- (36) Moreover, the investigation showed that the investment licence of the company situated in an EPZ did not contain the export obligation referred to above.
- (37) The five companies who had the export obligation included in their investment licences alleged that due to a subsequent change in the applicable Vietnamese legislation which was implemented by Government decree 27/2003ND-CP (amending decree) the export obligation ceased to exist after 7 May 2003.
- (38) In this regard, it is to be noted that according to the amending decree, the export obligation can only be removed under the condition that other compelling requirements included in the amending decree are met. Therefore, the amending decree did not remove the export obligation but rather amended the requirements which the companies needed to meet for the annulment of their export obligation.
- (39) The companies further alleged that they would have been entitled to have their export obligation removed from their investment licences had they complied with the supplemental conditions listed in the amending decree. However, according to the applicable legislation, the investor first has to request from the investment licence issuing authority an amendment of its licence and, subsequently, the investment licence issuing authority shall amend the investment licence of the investor so that the investor can enjoy the repeal of the export obligation.
- (40) The investment licence issuing authorities had not repealed the export obligation in the investment licences of any of the five companies at any time during the IP. Therefore, the companies also failed to demonstrate that they would have complied with the additional conditions.
- (41) The same companies also alleged that even if the export obligation were to be considered to be in force during the IP, the companies' decisions were, nevertheless, made in response to market signals. However, not only was this export obligation in place during the IP but, moreover, this export obligation was included in the investment licences and in the articles of association of all five companies throughout the investigation period. Consequently, it is concluded that the export obligation has to be considered as a significant State interference of such a nature as to effectively preventing the companies from making their decisions according to market signals.
- (42) It was also concluded that the company, for which it was found that neither the investment licence nor its articles of association contained the said export obligation, was free to sell the product concerned both on the domestic and on the export market and was not subject to significant State interference.

- (43) Furthermore, it has to be mentioned that in the case of four companies of the five companies referred to in recital 34 above subject to the export obligation, it could not be concluded that they had one clear set of accounting records independently audited in line with international accounting standards and applied for all purposes. It was found that a non-transparent invoicing arrangement was in place with regard to the invoicing of the product concerned to the Community. This arrangement involved intermediary companies in tax havens and other locations outside Vietnam and it did not allow an audit trail to be followed. As a result, the accounting records of the companies in Vietnam did not represent faithfully the underlying export sales transactions.
- (44) Consequently, after consulting the Advisory Committee, it was decided to grant MET to Always on the basis that the company met all the criteria set in Article 2(7)(c) of the basic Regulation and to reject the claims of Asama, Dragon, High Ride, Liyang and Sheng Fa since these companies did not meet all the above-mentioned criteria.

## 2. Individual treatment

- (45) 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)(a) of the basic Regulation, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation for individual treatment.
- (46) The same PRC and Vietnamese exporting producers, which did not fulfil the MET criteria, as well as the company referred to in recital 29, alternatively, requested individual treatment (IT) in accordance with Article 9(5) of the basic Regulation. The Commission consequently verified whether the applicant companies enjoyed, both in fact and in law, the necessary degree of independence from the State for setting their export prices and determining their export quantities of the product concerned, in accordance with Article 9(5)(b) of the basic Regulation.
- (47) In this respect, it was established, that all PRC exporting producers were subject to significant State control with regard to determining their export prices and quantities of the product concerned as explained in recital 31 above. It was, therefore, concluded that the Chinese exporting producers having applied for IT did not meet the necessary requirements for individual treatment as set out in Article 9(5) of the basic Regulation.
- (48) Regarding the Vietnamese companies, it was established that all the five companies were subject to significant State control with regard to setting their export quantities of the product concerned as explained in recitals 34 to 41 above. It was, therefore, concluded that none of the five companies met the necessary requirements for individual treatment.

## 3. Normal value

### 3.1. *Analogue country*

- (49) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers in the PRC and Vietnam not granted MET has to be established on the basis of the prices or constructed value of the analogue country.
- (50) For this purpose, in the notices of initiation the Commission suggested Mexico, which was also the analogue country used in the previous investigation concerning the PRC.
- (51) All interested parties were given the opportunity to comment on the choice of analogue country envisaged. Comments were received from the cooperating exporting producers suggesting Taiwan or India as being a more suitable analogue country than Mexico.

## T a i w a n

- (52) Certain exporting producers argued that, since this country had been used in the original investigation, Taiwan is a more appropriate analogue country to be used. They further argued that Taiwan is one of the largest producers of bicycles in the world and has a developed domestic market where many domestic producers actively compete. Moreover, there are no restrictions on imports of bicycles or parts into Taiwan. In addition, many Chinese and Vietnamese manufacturers are owned by Taiwanese companies and therefore both the production processes and the final products are very similar to those of the Chinese and Vietnamese producers. It was also submitted that several Taiwanese companies were willing to cooperate with the Commission for this purpose.
- (53) In respect of the above arguments, it should be firstly noted that Taiwan is indeed the third largest producer of bicycles in the world but the industry is heavily export oriented, typically exporting about 90 % of its output.
- (54) On the other hand, its domestic market is relatively small and rather stable estimated at about 700 000 to 800 000 units, whereas the Mexican domestic market is estimated at about 2,3 million units, i.e. three fold the Taiwanese market. Moreover, the Taiwanese market is largely supplied by Chinese exporters. In comparison, Taiwan imported in 2003 some 470 000 bicycles from the PRC, representing thus more than half of its market size. In this respect, it should be noted that the imports of bicycles into Taiwan were *quasi nil* before the year 2001. Therefore, whereas before 2001, the Taiwanese market was principally, if not, exclusively supplied by local producers, nowadays the PRC bicycles prevail in this market more and more over the local producers whose market share decreases dramatically. Consequently, the domestic market is highly influenced by import prices of PRC bicycles, which are subject of the current investigation.
- (55) Nevertheless, questionnaires were sent to all known Taiwanese producers. Certain companies replied that they would be willing to cooperate but they had no domestic sales, as they exported all their production. Two companies replied to the questionnaire. However, one of them failed to provide a meaningful questionnaire response and was considered to be non-cooperating. The other company fully cooperated but it was questionable whether the low volume of its domestic sales could be considered as sufficiently representative in relation to the Taiwanese market, the total Chinese exports to the Community and the total Vietnamese exports to the Community. Moreover, given the market conditions prevailing in the Taiwanese market explained in recital 54, that single company's sales could not be considered as an appropriate basis for the purpose of establishing a normal value.

## I n d i a

- (56) One Chinese exporting producer suggested alternatively India as an analogue country. It argued that the labour costs in India are similar to those in the PRC. In this respect, it should be noted that India was found to be an inappropriate choice because any comparison between the bicycles sold in India (rustic bicycles sold to retailers in kit form) and those exported by Chinese manufacturers to the Community would be very difficult and in any event would require multiple adjustments. Therefore, and in view of the existence of a more appropriate analogue country, i.e. Mexico, India was not considered a suitable analogue country.
- (57) Following disclosure, a Vietnamese exporting producer submitted that the Commission failed to provide any reasonable justification, supported by evidence, as to why India could not be used as an analogue country. It argued that the Commission had not sent any questionnaires to the producers in India, whereas this country exports large amounts of good quality bicycles to the Community, which are like products, in spite of the Commission's findings that they are 'rustic bicycles sold to retailers in kit form'.

- (58) In this respect, it should be firstly noted that, shortly after the initiation of the proceeding, only one exporting producer in the PRC suggested India as an analogue country but this claim was not sufficiently substantiated, as the only argument submitted was the similar labour costs in the PRC and in India. Furthermore, the Indian exports of bicycles to the Community are not a relevant factor in determining the suitability of India as an analogue country. It is not disputed that the bicycles sold on the Indian domestic market are like products to those exported into the Community by the countries concerned. However, the available information indicated that the types of bicycles sold on the Indian domestic market would require multiple adjustments, which would thus make any comparison unreliable. In view of this, and in the absence of other more substantiated information, the option of India was not further examined since data concerning a more appropriate analogue country, i.e. Mexico, was available. On this basis, the above argument was rejected.

#### Mexico

- (59) Questionnaires were sent to all known Mexican producers. Two companies fully cooperated by replying to the questionnaire and accepting a verification of their response at their premises. These two producers had domestic sales representing about one third of the Mexican market, estimated at about 2,3 million units. A large number of producers and some 20 major importers were found to operate in a competitive environment. The imports of bicycles in 2003 were originating principally in Taiwan (more than 50 %), Uruguay (20 %), United States and South Korea. These imports represented some 5 % of the domestic market. To this percentage, should be added the bicycles sold on the domestic market by importers assembling bicycle parts.
- (60) In this respect, it should be noted that in 2003, some 465 000 bicycle parts with a value of EUR 79 million were imported into Mexico, out of which one third in value was imported by twelve major importers/assemblers (source: annual report of ANAFABI, the Mexican association of bicycle manufacturers). On the other hand, the exports of bicycles from Mexico represented in 2003 about 60 % in value of the imports into Mexico (source: official Mexican statistics), i.e. estimated to represent around 50 to 70 thousand units. Therefore, it seems that a major part of the imported bicycle parts has been used either for the after sales (repair) market or for assembling and selling bicycles on the domestic market.
- (61) Certain exporting producers submitted that there are import registration procedures in Mexico which are cumbersome and increase the costs of goods imported into that country. They also argued that this registration system causes market distortions in the Mexican bicycle sector. They further argued that the domestic competition in Mexico is limited given that eight major producers, members of the ANAFABI, the Mexican association of bicycle manufacturers, account for more than 75 % of local output enjoying thus a significant power in setting the domestic prices. Furthermore, it was argued that the Mexican bicycle producers are limited as regards the quantities they can sell on their domestic market, since the Mexican law on the so called Maquiladora programs allegedly requires the domestic producers to meet certain performance requirements. In accordance with this program, if a company wishes to obtain duty free imports of raw materials for subsequent exports, it must export at least 30 % of its total production on an annual basis.
- (62) Regarding the import registration procedures, it should be firstly noted that although such procedures might make imports to some extent more cumbersome and time consuming, it was found that there are in any event significant imports of bicycles and bicycle parts into the Mexican market, ensuring thus a competitive market situation. Therefore, the potential impact on the market of such procedures, if any, which is in any event not directly measurable, cannot be considered as relevant in this respect. In contrast, with regard to the domestic competition, it should be noted that there are some twelve major producers, a large number of smaller producers and/or assemblers and a large number of importers/assemblers of bicycles and bicycle parts. All of these operators compete with each other and confirm a strong competitive environment prevailing in the Mexican

market. As for the power of large producers, members of ANAFABI, in setting the domestic prices, this was not substantiated and the investigation did not reveal any elements which could support this allegation. The fact that a number of large producers retain a major part of the domestic market does not constitute, as such, evidence of power in setting prices. In this context, it should be further noted that the two investigated Mexican producers, which represented about one third of the total Mexican production, were found to realise in average low profits (lower than the normal profit claimed by the applicant in the Community market in the absence of injurious dumping from the countries concerned) from their bicycles activity rather than high profits as could have been expected should the Mexican market be controlled by them.

- (63) In respect of the Maquiladora programs, it should be noted that the two cooperating Mexican producers were not found to pay any anti-dumping duty on imports of bicycle parts, which represented up to 60 % of their total needs for their bicycle production and were mainly originating in the PRC and Taiwan. However, both sold the major part of their production on the domestic market. Only one Mexican producer had exports, representing not more than 10 % of its total sales. As a matter of fact, since the year 2000, the bicycle sector is included within the so-called 'Mexican Sectorial Promotion Programs' (PROSEC) established by a decree published on 30 October 2000 by the Mexican Government. The PROSEC applies to firms that produce finished goods covered in a specific sector promotion program and imported inputs listed under this program. The decree does not explicitly link the tariff exemption/reduction to exports. All authorised producers may import the raw materials and machinery listed in the decree as far as they are used in the manufacture of certain specified products. No distinction is made based on the final destination of the imported goods (domestic or export markets). In this respect, it should be noted that the two cooperating producers were not found to pay any duty other than the customs duty for the imports of raw materials incorporated in final products destined for the domestic market.
- (64) One cooperating importer submitted that the labour costs in Mexico are three times the Vietnamese labour costs. As a result, the cost of production and selling prices of the end product in Mexico are higher than those in Vietnam. Consequently, Mexico is not an appropriate analogue country. In this respect, it should be noted that Vietnam is considered to be a country with an economy in transition. The labour costs of the Vietnamese producers not granted market economy status are not free market prices, i.e. these prices are not the result of the play of market forces. The very purpose of using an analogue country is to eliminate the effect of such non-market prices on companies costs. On this basis, the argument was rejected.
- (65) Finally, it was submitted that there are significant differences between the Mexican bicycle sector and that of the PRC which were mainly due to the raw materials used and to the conditions of access to raw materials. In respect of the raw materials used, it was argued that the Mexican manufacturers produce only rigid frames, while the Chinese manufacture also produce suspension frames. As for the conditions of access to raw materials, it was alleged that they are not comparable to those in the PRC, since the bicycle parts supplied on the domestic market are manufactured with outdated technology. Furthermore, the bicycle parts imported from the PRC, are subject to a 144 % anti-dumping duty, thus leading to an inflated cost.
- (66) Regarding the differences in the raw materials used and the conditions of access to the raw materials, it should be noted that the investigation did not show that there were differences between the bicycles produced by Mexican, Chinese or Vietnamese manufacturers. The Mexican manufacturers produce also bicycles with suspension frames and are mainly supplied with bicycle parts from the PRC and Taiwan. As for the anti-dumping duty on imports of bicycle parts, as mentioned in recital 63 above, such duty it is not levied to imports of bicycle parts. Therefore, this argument was rejected.
- (67) In view of the above, the Mexican market can 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*

- (68) Following the choice of Mexico as an analogue country, normal value was calculated on the basis of the data verified at the premises of the two cooperating Mexican producers. Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the Chinese and Vietnamese producers not granted MET was established on the basis of verified information received from the producers in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Mexico for comparable product types or constructed value in Mexico for comparable product types.
- (69) The domestic sales of the two Mexican producers of the like product were found to be representative as they represented a major percentage in relation to the product concerned exported to the Community by the exporting producers in the PRC and in Vietnam.
- (70) An examination was also made as to whether the domestic sales of each product type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of a product type, sold at a net sales price equal to or above the unit cost, 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 unit cost, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that product type made during the IP, irrespective of whether these sales were profitable or not.
- (71) In the case where the volume of profitable sales of a product type represented 80 % or less but at least 10 % of the total sales volume of that type, or where the weighted average price of such sales was below the unit cost, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of those types only.
- (72) For those product types, where the volume of profitable sales represented less than 10 % of the total sales volume of that type on the domestic market, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore, normal value could not be based on domestic prices in Mexico.
- (73) For the exported product types, which were either not made in the ordinary course of trade in Mexico or not sold by the Mexican producers on their domestic market, constructed normal values were used.
- (74) For exported product types, without corresponding types sold in the ordinary course of trade on the domestic market of Mexico, normal value was constructed, pursuant to Article 2(3) of the basic Regulation, on the basis of the weighted average of each producer's own manufacturing costs plus a reasonable amount for selling, general and administrative (SG&A) costs and for profit. The SG&A costs and profit were determined on the basis of the weighted average of SG&A costs incurred and of profit realised by each of the cooperating Mexican producers on their domestic sales of the like product, in the ordinary course of trade. For exported product types, without sales on the domestic market of Mexico, the manufacturing costs of similar product types were used in the construction of normal values, appropriately adjusted in order to take into account the differences in physical characteristics with the exported types.

### 3.3. *Determination of normal value for the exporting producer to which MET was granted*

- (75) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the domestic sales of the like product to independent customers by Always were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of the total volume of the corresponding export sales to the Community.

- (76) It was found that Always did not have any sales of the like product on the domestic market of Vietnam. Therefore, in the absence of domestic sales, normal value was established in accordance with Article 2(3) of the basic Regulation, on the basis of the cost of production in the country of origin plus a reasonable amount for SG&A costs and for profits.
- (77) Since Always did not have any sales on the domestic market for the product concerned nor for the same category of product in Vietnam, the amounts of SG&A and profits to be added to the cost of production of Always were established in accordance with Article 2(6)(c) of the basic Regulation. These amounts were therefore based on the weighted average SG&A costs and the weighted average profits incurred in the ordinary course of trade by the producers in Mexico. This method was considered to be reasonable in this situation as the Mexican market was considered to be representative and competitive.
- (78) Always claimed that, in the absence of domestic sales, normal values should be determined on the basis of information concerning export sales to third countries. In this respect, it should be noted that the construction of normal values on the basis of the cost of production in the country of origin is the first alternative listed in Article 2(3) of the basic Regulation for cases where there are no domestic sales. The use of constructed normal value, instead of export prices to third countries, as the basis for the determination of normal value is also the consistent practice of the Community in the absence of representative domestic sales. It is also noted that the export sales to third countries could be equally dumped. Moreover, the company did not provide complete information concerning its sales to third countries at any stage of the investigation resulting in no information being available for establishing the normal values on this basis. Consequently, this claim was rejected and normal values were constructed in accordance with the first alternative set out in Article 2(3) of the basic Regulation.
- (79) Always further claimed that the sales not made in the ordinary course of trade in the analogue country should not have been excluded when establishing the reasonable profit for its normal value determination. This claim however, could not be accepted since by analogy of the chapeau of Article 2(6), had the company realised sales on its domestic market, then the profits for constructing normal values would have been based on the company's data pertaining to production and sales in the ordinary course of trade. Therefore, it was only reasonable for the institutions to use the profits of the Mexican producers incurred by their domestic sales in the ordinary course of trade when applying Article 2(6)(c) of the basic Regulation.

#### Export price

##### 3.4. PRC

- (80) The investigation showed that the exports of the sampled PRC exporting producers were made both to unrelated and to related customers in the Community.
- (81) For the exports made by the sampled exporting producers directly to independent customers in the Community, the export prices were established on the basis of the prices paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.
- (82) For sales made via their related importers in the Community, the export price was constructed on the basis of the resale prices to the first independent customers. Adjustments were made for all costs incurred between importation and resale by those importers, including SG&A and duties, and assuming a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation. A profit margin of 5 % was considered to be reasonable for this type of market and was also found to be in line with the profit of unrelated importers.

- (83) One cooperating exporting producer claimed that the current anti-dumping duty should not be deducted as a cost between importation and resale when constructing its export price, in accordance with Article 11(10) of the basic Regulation. It argued that when deducting from its resale prices all costs incurred between importation and resale, other than the anti-dumping duty, the reconstructed export prices remained considerably above normal value and therefore, the anti-dumping duty was duly reflected in the resale price. Moreover, the resale prices are negotiated on the basis of the recommended retail prices minus the applicable dealer mark-up, and therefore the anti-dumping duty is duly reflected in the subsequent selling prices.
- (84) In this respect, it should be noted that the claim of the company regarding the reflection of the anti-dumping duty in its resale prices by reference to the normal value is considered irrelevant since what matters in the application of Article 11(10) is not changes of export prices by comparison with the normal value, but how the duty has been reflected in an increase of resale prices and subsequent selling prices in the Community. As the company did not provide any evidence of movements in the resale or in subsequent prices by reference to its export prices established in the previous investigations, which would conclusively prove that the amount of anti-dumping duties paid has been indeed reflected in the resale prices, the claim had to be rejected.

### 3.5. Vietnam

- (85) All export sales of the company to which MET was granted were made via related traders in third countries to independent customers in the Community. Therefore, the export price was established on the basis of the resale prices to independent customers in the Community.
- (86) For the exporting producers not granted MET the export price had to be established on the basis of facts available since the export prices of some producers were not found reliable. Therefore the export prices of the exporting producers referred to in recital 43 above were not taken into consideration when establishing the export price, and only the export prices of the producer whose export prices were considered reliable were used for this purpose.

## 4. Comparison

- (87) 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 price comparability in accordance with Article 2(10) of the basic Regulation. On this basis, adjustments were made where appropriate with regard to indirect taxes, discounts, level of trade, transport (including handling costs), ocean freight and insurance costs, packing and credit costs. The adjustments in the export price in respect of inland freight in the exporting country and credit costs were made based on the costs established in the analogue country with regard to companies to which MET was not granted. Adjustments were also made where the export sales were made via a related company located in a country other than the country concerned or the Community, pursuant to Article 2(10)(i) of the basic Regulation.
- (88) The CCCME and exporting producers in the PRC argued that adjustments made for inland transport and interest rate linked to credit costs established in the analogue country were not justified, since the absence of market economy conditions for these costs incurred by the cooperating exporting producers had not been demonstrated by the investigation. In this respect, it should be noted that all the MET claims of cooperating exporting producers in the PRC were rejected, i.e. it was found that these companies do not operate under market economy conditions. Therefore, the costs incurred by these companies could not be used since they did not arise from a situation where market economy conditions prevail. On this basis, the argument was rejected.

- (89) The Vietnamese companies claimed that the adjustment made for commissions pursuant to Article 2(10)(i) was unwarranted. The companies explained that the related traders situated in third countries were mere 'paper companies' (i.e. companies with no personnel that do not carry any function and activity) and should be considered as single economic entities with the exporting producers in Vietnam. In this regard, it is to be noted that invoices were issued by these traders to customers in the Community and payments were received by these traders from the customers in the Community. Furthermore, it is to be noted that the sales made by these related traders included a mark-up. Where these related traders had audited accounts, it could be established that this mark-up was even higher than the amount of the adjustment. Therefore, this claim was rejected and the adjustment was retained at the level of 5 % since this level was considered reasonable to reflect commissions paid to independent agents involved in the trade of the product concerned.

## 5. Dumping margin

### 5.1. PRC

- (90) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices per product type. A comparison of the normal value and the export price of the sampled PRC exporting producers showed a dumping margin of 36,8 % during the IP. This dumping margin was attributed to all cooperating companies, i.e. sampled and non-sampled.
- (91) The comparison of the data concerning exports to the Community provided by the cooperating PRC exporting producers (sampled and non-sampled) and the total volume of imports as derived from the Eurostat import statistics, indicated that the level of cooperation was low, since these exports represented 54 % of total Community imports from the PRC during the IP. Therefore, for the export volumes of non-cooperating Chinese exporting producers, the level of dumping was determined on the basis of the two product categories of the product concerned (see recital 20) with the highest margins established for the sampled exporting producers. This approach was deemed appropriate since no indication was found that any of the non-cooperating producers dumped the product at a lower level than that of the sampled exporting producers.
- (92) Finally, a country-wide average dumping margin was calculated using as a weighing factor, the CIF value of each group of exporters, i.e. cooperators and non-cooperators. The established country-wide dumping margin, expressed as a percentage of the CIF Community frontier price duty unpaid, was 48,5 %.
- (93) The CCCME argued that the approach followed for the determination of the dumping margin of non-cooperating exporting producers is inconsistent with the methodology followed by the Commission in the previous expiry review investigation concerning imports of bicycles from China, and this could lead to unreasonably artificial results in the framework of a single proceeding. The methodology used to calculate the dumping margin of non-cooperating exporting producers in the previous expiry review investigation was the average export price for all transactions on the basis of Eurostat figures, after deduction of exports by cooperating producers. It further argued that in determining the overall dumping on the basis of the assumption that the non-cooperating companies did not dump the product concerned at a lower level than cooperating exporting producers, the Commission had failed to take into account the specific types exported by non-cooperating exporting producers, whereas available information should be used with special circumspection, in accordance with Articles 18(6) and 6(8) of the basic Regulation and paragraph 7 of Annex II of the WTO Anti-dumping Agreement.
- (94) In this respect, it should be firstly noted that the methodology used in the previous expiry review investigation was considered to be appropriate in view of determining whether dumping was likely to recur. In this respect, the institutions considered that the dumping margin could be determined

without absolute precision as this margin was not going to be applied in practice. In the framework of the present investigation, it was necessary to calculate a dumping margin on a more precise manner. For this purpose, the export volumes of non-cooperating Chinese producers were determined using Eurostat figures. As for the export price, Eurostat figures were not considered a suitable source of information since the specific types exported by the non-cooperating companies were not known and therefore any comparison with the weighted average normal value established in the analogue country could not necessarily reasonably reflect the dumping margin of these exporters. Moreover, by applying the methodology as suggested by the CCCME, the overall dumping margin would have been significantly higher, i.e. more than double. The use of the two product categories of the product concerned with the highest margins established for the sampled exporting producers was therefore deemed to be more appropriate, in accordance with Articles 18(6) and 6(8) of the basic Regulation as well as with paragraph 7 of Annex II of the WTO Anti-dumping Agreement. On the basis of the above, the argument was rejected.

#### 5.2. Vietnam

- (95) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices per product type. A comparison of the normal value and the export price of the Vietnamese exporting producer with MET showed a dumping margin of 15,8 % during the IP.
- (96) The comparison of the data concerning exports to the Community provided by the Vietnamese exporting producers and the total volume of imports originating in Vietnam indicated that the level of cooperation was high, since these exports represented more than 95 % of total Community imports from Vietnam during the IP.
- (97) Since, as described in recital 96, the level of cooperation was high, the countrywide average dumping margin was determined on the basis of the weighted average dumping margin of those cooperating exporting producer which were not granted MET or IT and whose information regarding export prices could be considered reliable as referred to in recital 85. Therefore, a country wide dumping margin of 34,5 %, expressed as a percentage of the CIF Community frontier price duty unpaid, was attributed to all other exporting producers in Vietnam.

### D. INJURY

#### 1. Impact of anti-competitive conduct

- (98) During the investigation it was found that two subsidiaries, Batavus N.V. and Koga N.V., of one of the sampled Community producers, Accell Group N.V., were fined for involvement in anti-competitive behaviour by the Dutch competition authorities <sup>(1)</sup>. The infringement concerned an agreement between the two subsidiaries with two other Community producers (non-sampled) and Giant Europe B.V., a company related to a Chinese exporter, Giant China Co. Ltd., in regard to common minimum price lists (price cartel) for bicycles which was applied in the retailer channels on the Dutch bicycle market. It should be noted that Accell Group N.V. has appealed to the Dutch competition authorities against their decision regarding the price cartel.
- (99) The price cartel took place for the bicycle season 2001 (1 September 2000 to 31 August 2001). The period for the examination of dumping and injury in the current investigations is 1 April 2003 to 31 March 2004, whereas the examination of trends relevant for the injury assessment covers the period from January 2000 to the end of the IP. Consequently, there is an overlap between the occurrence of the anti-competitive conduct and the period considered.

<sup>(1)</sup> Decision by the Nederlandse Mededingingsautoriteit No 1615/691 of 21 April 2004.

- (100) In view of the above, it cannot be excluded that the impact of the anti-competitive conduct has had some effect on part of the Community market, i.e. the Dutch market, during part of the period considered and consequently on the injury indicators of the Community producers involved in the cartel. It has been common practice in cases where decisions concerning price cartels have been taken by public authorities that a particularly prudent approach be adopted even when such decisions are still under appeal. In order to avoid any doubts that the overall performance of the sampled Community producer, Accell Group N.V., could have been influenced by the anti-competitive conduct of some of its subsidiaries, it has been decided to exclude this producer from the injury analysis, although it was found that only some of the companies in the group were involved in the anti-competitive conduct. Regarding the anti-competitive conduct of the other two Community producers that also participated in the cartel, it is noted that they were not part of the sample of Community producers. For these two producers, considering that the cartel was based on common minimum price lists, the likely impact of the cartel on these producers' performance would be reflected in prices and profit levels. Since no assessment of trends in prices and profitability for the non-sampled Community producers has been made, the participation in the cartel of these two companies has no impact on the injury analysis. It has also been considered whether the anti-competitive behaviour in part of the Community market may have had an impact also on the performance of the other sampled Community producers. However, it has been found that these producers' operations on the Dutch market have been of an extremely limited nature during the period considered (less than 1 % of total units sold). Furthermore, the consumption on the Dutch market only represents 7 % of the total consumption in the Community and, in addition, the duration of the cartel was very limited in time. It is therefore not considered necessary to make any adjustments to the injury findings concerning the performance of these other producers.
- (101) Furthermore, it was also considered whether the injury picture would have been substantially different if Accell Group N.V. had been included in the injury analysis. However, even if the Accell Group N.V.'s data had been taken into consideration, the injury trends would overall have remained the same as concluded below.
- (102) As the cartel took place during the 2001 bicycle season, the participation of Giant Europe B.V. therein had no impact on the related exporter's findings for the investigation period of the current anti-dumping proceeding.

## **2. Community production**

- (103) In the course of the present investigation it was found that bicycles have been manufactured by:
- 8 sampled producers,
  - 12 other complainant Community producers,
  - 39 other Community producers supporting the complaint.

## **3. Definition of the Community industry**

- (104) The complainant Community producers (both the sampled and non-sampled) together with other Community producers supporting the complaint (both sampled and non-sampled) which responded to the sampling exercise and declared themselves ready to cooperate in the investigation, accounted for more than 80 % of Community production of the product concerned. They were therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the basic Regulation. The remaining non-complainant Community producers did not oppose the investigations. The sampled Community producers in the investigations, after the exclusion of one of the producers (as explained in recitals 98 to 101 above), (hereafter referred to as sampled producers) accounted for around 37 % of the total Community production of bicycles during the IP.

#### 4. Community consumption

- (105) The Community producers' sales were assessed on the basis of data collected from producers in the reply to the sampling questionnaire and data reported in the complaint lodged by the applicant. The data in the complaint were collected from various bicycle-manufacturing associations in the Community.
- (106) The apparent Community consumption was established on the basis of the sales of all Community producers on the Community market, as estimated per above, plus imports from all countries as reported by Eurostat.
- (107) The Community consumption declined by 10 % at the beginning of the period considered, from 17 348 000 units in the year 2000 to 15 695 000 units in the year 2002. Thereafter the consumption gradually increased, to 18 037 000 units during the IP. Throughout the period considered the consumption increased by 4 %. Detailed data, expressed in units, are as follows:

Consumption	2000	2001	2002	2003	IP
Units	17 348 000	15 236 000	15 695 000	17 336 000	18 037 000
Index	100	87	90	100	104

#### 5. Imports of bicycles from the PRC and Vietnam

##### 5.1. Cumulation

- (108) The Commission considered further whether the effects of imports of bicycles originating in the PRC and Vietnam (the countries concerned) should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.
- (109) This provision stipulates that the effects of imports from two or more countries simultaneously subject to the same investigation shall be cumulatively assessed when (i) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in Article 9(3) of the basic Regulation; (ii) the volume of imports of each country is not negligible; and (iii) the conditions of competition between the imported products and the conditions of competition between the imported products and the like Community product make such an assessment appropriate.
- (110) As indicated above, the present investigations have shown that the dumping margins established for the PRC and Vietnam are well above the *de minimis* level, and the volume of imports from said countries is not negligible in the sense of Article 5(7) of the basic Regulation (their market shares attaining respectively 4,07 % and 8,70 % in the IP).
- (111) In order to determine the appropriateness of a cumulative assessment in view of the conditions of competition between the imported products and the like Community product, the Commission has analysed the exporters' market behaviour in terms of export prices and volumes based on Eurostat data.
- (112) Similar market behaviour of PRC and Vietnamese producers in terms of export prices was found. In fact, said countries have decreased their respective average unit selling prices of bicycles by 22 % and 52 % throughout the period considered.

- (113) As stated in recital 110, both countries hold significant market shares in the Community market.
- (114) Furthermore, as explained above (see recitals 19 and following) it has been found that the product concerned imported from the PRC and Vietnam and produced by the Community industry are to be considered alike in terms of interchangeability and substitutability, thus competing with each other on a type by type basis.
- (115) Thus, it was established that exports of the product concerned from the countries concerned compete with bicycles manufactured by the Community industry.
- (116) Further to the disclosure of definitive findings, some interested parties argued that cumulation was not justified since the models of the PRC and Vietnamese imports of bicycles are different. However, when comparing the imports on model by models basis it has been found that not only there is a substantial matching between the imports of the PRC and Vietnamese bicycles with those produced by the sampled Community producers, but that there is also a substantial matching between the models imported from the PRC and those imported from Vietnam. It was also claimed that the market segments, in which the Vietnamese exporters were selling their bicycles, were different from those served by the PRC exporters and the Community producers, thereby justifying a different price. This allegation was however not supported by any evidence. Moreover, it appears that in certain Member States, where Vietnamese imports have an important market share, bicycles from Vietnam are present in the various market segments. Therefore, both claims were rejected.
- (117) On the basis of the above, it was concluded that all conditions justifying the cumulation of imports of bicycles originating in the PRC and Vietnam were met.

*5.2. Volume of the dumped imports and market share of bicycles originating in the PRC and the Vietnam*

- (118) The volume of imports of the product concerned was established on the basis of statistical information provided by Eurostat. The number of bicycles originating in, and imported from, the PRC increased between 2000 and the investigation period by 472 %. The imports of bicycles from the PRC during the IP are more than 55 times higher than the quantity of 13 651 bicycles imported during the IP of the previous investigation (1 September 1997 to 31 August 1998). Between 2000 and the IP, imports of bicycles originating in Vietnam increased by 413 %. At cumulated level, the imports of the two countries have increased between 2000 and the IP from 435 373 units to 2 311 638, an increase of 431 %.
- (119) Since the consumption during the period considered has only increased by 4 %, the market share held by imports of the product concerned originating in the PRC has increased from 0,73 % in 2000 to 4,07 % in the IP and the Vietnamese share has increased from 1,77 % in 2000 to 8,70 % in the IP. Consequently the cumulated market share has increased from 2,50 % in 2000 to 12,77 % in the IP.
- (120) The developments of imports and market share of bicycles originating in the PRC and Vietnam during the period considered is shown in the following tables:

Imports PRC	2000	2001	2002	2003	IP
Volumes (units)	128 091	257 728	561 706	707 351	733 901
<i>Index</i>	100	201	438	552	572
Market share %	0,73	1,68	3,58	4,08	4,07
Imports Vietnam	2000	2001	2002	2003	IP
Volumes (units)	307 282	586 051	766 680	1 457 245	1 577 737
<i>Index</i>	100	191	250	474	513
Market share %	1,77	3,84	4,88	8,40	8,70

Imports Cumulated	2000	2001	2002	2003	IP
Volumes (units)	435 373	843 779	1 328 386	2 164 596	2 311 638
<i>Index</i>	100	194	305	497	531
Market share %	2,50	5,52	8,46	12,48	12,77
<i>Index</i>	100	220	338	499	510

## 6. Prices of the imports concerned

### (a) Evolution of prices

- (121) Eurostat data could only be used to a limited extent for establishing the price trends of dumped imports for the period between 2000 and the IP for the following reasons:

It has been found that 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. The investigation has shown, 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. Furthermore, it was found that the import prices based on the product types identified among the cooperating exporters truly reflect the price differences between bicycles originating in the PRC and Vietnam and the Community industry. Consequently, the prices found in Eurostat are inconclusive for the purpose of this investigation. The import prices of Eurostat for the PRC and Vietnam can only serve as an indicator of price trends per country basis, but are not useful when comparing sales prices between various countries and the Community.

- (122) According to Eurostat data, the weighted average import prices, hereafter indicated by index, from the PRC and Vietnam declined by 22 % and 52 % respectively between the year 2000 and the IP. On a cumulated level, the average sales prices declined by 50 %. Detailed information is as follows:

Import Prices	2000	2001	2002	2003	IP
(PRC)					
<i>Index</i>	100	83	70	75	78
(Vietnam)					
<i>Index</i>	100	82	71	49	48
(cumulated)					
<i>Index</i>	100	81	62	50	50

### (b) Price undercutting

- (123) For the determination of the price undercutting of bicycles originating in the PRC and Vietnam, the Commission based its analysis on the information submitted in the course of the investigation by the sampled exporting producers and the sampled Community producers. This analysis took into account actual export prices of exporting producers (CIF Community frontier), and for the PRC, both with and without anti-dumping duty. The relevant sales prices of the Community industry where those to independent customers, adjusted when necessary to ex-works level. During the IP, based on different product types defined in the questionnaire, there was an undercutting margin of 53 % without the anti-dumping duty for the PRC and 39 % with the duty. For Vietnam, there was an undercutting margin between 25 and 60 %. In this regard, it should be noted that the weighted average sales prices from the PRC and Vietnam are, based on product type, substantially higher than the import prices based on Eurostat data. This reinforces the conclusion above in recital 121 that the product mix clearly affects the sales prices between countries.

## 7. Situation of the Community industry

- (124) 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 Community industry. This analysis was carried out for the sampled companies as mentioned in recital 15, with the exception of the company referred to in recital 100 above. However, in order to provide a complete picture of the situation of the Community industry, for those indicators for which reliable information was available for the Community industry as a whole, this information has also been provided below. On this basis, the industry's performances as measured by factors such as prices, wages, investments, profits, return on investment, cash flow and ability to raise capital have been established on the basis of information from the sampled companies. The injury factors such as market share, sales volume and production have been established for the full Community industry.
- (125) Some of the interested parties have argued that when analysing the injury indicators, only the sampled companies should be taken into account. It is normal practice in anti-dumping proceedings to analyse injury factors for the full Community industry. However, in cases where the industry consists of a high number of producers, resort is made to sampling. The purpose of sampling is to provide that detailed data can be collected and verified from a limited number of producers within the time available. This data concerns factors such as prices, wages, investments, profit, return on investment, cash flow and ability to raise capital, where it would be unfeasible to verify the data for the full industry within the time available. For other factors such as market share, sales volume and production, data is usually readily available for the full industry. To base the injury analysis merely on data from sampled producers would ignore usable data from other producers, thereby leading to an incomplete assessment. Therefore, in the interests of having as complete an assessment as possible within the time available in this case, data received and verified for trends in all injury factors from the sampled producers was complemented by information relating to the full industry.

### (a) Production, production capacity and capacity utilisation

- (126) Between 2000 and the IP, the production of the like product by the sampled producers increased by 17 %. The production capacity increased throughout the period considered by a total of 18 %.
- (127) Capacity utilisation was stable throughout the period considered. The detailed data is as follows:

Production	2000	2001	2002	2003	IP
Production	3 231 842	3 193 497	3 222 858	3 718 918	3 788 660
<i>Index</i>	100	99	100	115	117
Production capacity	4 033 737	4 125 649	4 339 273	4 613 939	4 779 632
<i>Index</i>	100	102	108	114	118
Capacity utilisation	80,1 %	77,4 %	74,3 %	80,6 %	79,3 %
<i>Index</i>	100	97	93	101	99

- (128) The investigation revealed that the general increase in the production capacity was the result of investments in new production lines and of restructuring operations within the company groups. The fact that the sampled producers have in general increased their production is also the result of several other Community producers going out of business or reducing their capacity. However, the trend of an increase in production and production capacity for the sampled companies should be seen in the light of the performance of all Community producers. When taking into account the overall production of all Community producers, the trend indicates a decrease in the production. The detailed data is as follows:

Production	2000	2001	2002	2003	IP
Production	12 700 000	11 028 000	10 083 000	10 165 000	10 160 000
<i>Index</i>	100	87	79	80	80

(b) *Stocks*

- (129) One producer could not provide consistent information on stocks for the years 2000 and 2001 due to internal re-organisations. Accordingly, data from this company had to be excluded when carrying out the analysis of stocks for the period considered.
- (130) Stocks of bicycles increased over the analysis period from 219 370 units in 2000 to 362 095 units in the IP, an increase of 65 %. The main build up occurred during 2003 and the IP and was due to the fact that one of the sampled producers had to satisfy a very big delivery immediately after end of the IP. Therefore, the increase of level of stock does not necessarily show a deterioration of the situation of the sampled producers in this particular aspect. Detailed data is shown below:

Stocks	2000	2001	2002	2003	IP
Units	219 370	206 854	210 968	317 345	362 095
<i>Index</i>	100	94	96	145	165

(c) *Sales volume and market share*

- (131) The sales on the Community market of bicycles produced by the sampled producers increased steadily during the period considered from 3 156 451 units in 2000 to 3 683 176 units in the IP, an overall increase of 17 %. Similarly the sampled producers increased their market share from 18 % in 2000 to 20 % in the IP. Detailed data is shown below:

	2000	2001	2002	2003	IP
Sampled producers sales (units)	3 156 451	3 241 830	3 203 020	3 600 670	3 683 176
<i>Index</i>	100	103	101	114	117
Sampled producers market share	18 %	21 %	20 %	20 %	20 %

- (132) However, this trend should be seen in the light of the performance of all Community producers. When taking into account the sales of all Community producers, there is a decrease in the sales. The detailed data is as follows:

	2000	2001	2002	2003	IP
Sales of all Community producers	11 718 000	10 035 000	9 175 000	9 100 000	9 300 000
<i>Index</i>	100	86	78	78	79
Market share	67 %	66 %	58 %	52 %	51 %

(d) *Sales prices and costs*

- (133) The investigation has shown that the sampled producers have maintained their product mix, mainly in categories A, B and C. Furthermore, they have expanded their sales activities to mass-merchandise and supermarkets, but less so with the dealers/retailers, where the sampled producers were already highly present with their high-end products. The mass-merchandisers have increased their presence on the bicycle market. This has had an effect on the end-consumers since the sales through mass merchandisers are normally at lower prices than through retailers. In order for the sampled producers to maintain their presence on the mass-market, they had to compensate the lower prices with higher volumes.
- (134) The weighted average sales price of bicycles expressed per unit fell from EUR 124 in 2000 to EUR 115 in the year 2003, a decrease of 7 %. However, during the IP the average price increased to EUR 122. Over the period considered there was a decrease of 2 %.

Sales Price	2000	2001	2002	2003	IP
Sales price (EUR per unit)	124	127	120	115	122
Index	100	103	97	93	98

- (135) The cost of production was calculated on the basis of the weighted average of all types of the like product produced by the sampled producers.
- (136) Between 2000 and 2001 the cost of production increased from EUR 119 to EUR 122, a total increase of 2 %. Thereafter, the cost of production decreased to EUR 110 in the year 2003, a decrease by 9 % since 2001. During the IP, the cost of production increased to EUR 117. Consequently, the cost of production throughout the period decreased by 2 %. This decrease is mainly due to more effective assembling lines and parts produced by the sampled producers themselves, such as frames, have been replaced by cheaper imports.

Costs	2000	2001	2002	2003	IP
Cost of production (EUR per unit)	119	122	115	110	117
Index	100	102	97	92	98

(e) *Profitability*

- (137) The overall profitability of the sampled producers in respect of the product concerned during the first year of the period considered was 3,26 % and increased to 4,08 % in 2003. The profitability thereafter decreased to 3,58 % during the IP. On an overall basis, the profit increased by a mere 0,32 percentage points during the period considered.
- (138) Although the above trend indicates that the industry's financial situation has partially recovered during the period considered, the profitability achieved should be looked at in the light of the level considered to be the minimum the industry could achieve in the absence of dumped imports originating in the PRC and Vietnam, i.e. 8 % of the turnover of sales of bicycles, which was also used in the previous investigation. As the characteristics of the market have remained substantially the same as in the previous investigation, it is considered that 8 % still represents the minimum profitability that could be achieved by producers in the Community market.

Profitability	2000	2001	2002	2003	IP
Profitability (EC sales)	3,26 %	3,89 %	3,50 %	4,08 %	3,58 %
<i>Index</i>	100	119	107	125	110

- (139) Several parties in the PRC argued that the Community industry has improved its situation since the IP of the previous investigation, where the Community industry was facing a loss of -0,6 %, and that the Community industry should therefore be considered as not being in an injurious situation in the current investigation. As explained above in recital 137, the profit has improved since the previous investigation, but it still remains very far from what would be considered a normal level of profitability.
- (140) Further to the disclosure of definitive findings, some interested parties argued that the profit level of 8 % indicated above in recital 138 is too high and that the sampled producers are already performing sufficiently well, with a stable profit level. However, these parties did not provide any indication of the reasons why the level of 8 % would not be reasonable, nor did they provide any indication of which level of profit would instead be appropriate and why. As stated in recital 195 below, the profit level of 8 % is the minimum profit that could be achieved by the Community industry in the absence of dumped imports. Although the profit level of the sampled producers has improved to some extent, this is still very far from being sufficient for the complete recovery of the Community industry from injurious dumping.

(f) *Investments and return on investments*

- (141) Investment in the business of the product concerned significantly increased during the period considered, from EUR 1 938 556 in 2000 to 3 950 636 during the IP. It has to be noted that this substantial increase in investments was mainly due to the increase in the production capacity of one of the sampled producers, which accounts for more than 60 % of all investments during the period. Detailed data is shown below:

Investments	2000	2001	2002	2003	IP
Investments (EUR '000)	1 938	4 820	1 645	3 901	3 950
<i>Index</i>	100	249	85	201	204
Return on investment	15 %	30 %	12 %	23 %	24 %

- (142) Return on investment increased from the year 2000 to the year 2001 by 15 percentage points. From the year 2002 the return on investment decreased, but increased again during the year 2003 and remained positive during the IP at 24 %.

(g) *Cash flow and ability to raise capital*

- (143) Cash flow of the sampled producers increased significantly over the period considered, both in absolute values, as well as expressed as a percentage of sales turnover.

Cash flow	2000	2001	2002	2003	IP
Cash flow (EUR '000)	10 005 000	20 557 000	13 425 000	20 541 000	20 541 000
<i>Index</i>	100	205	134	205	205
Cash flow expressed as percentage of turnover	2,5 %	4,9 %	3,5 %	4,9 %	4,6 %

- (144) The sampled producers raise capital either internally when they belong to a group of companies, or by bank loans. In other cases, cash flow generated by the company is used as a source of financing. None of the sampled producers have shown any major difficulties to raise capital.

(h) *Employment, productivity and wages*

- (145) Employment decreased by 6 % during the period considered. Given that production increased substantially over the period considered, the decrease in employment is explained by the fact that productivity, as measured by output per worker, has significantly increased by 24 % during the period considered.

Employment	2000	2001	2002	2003	IP
Number of employees	1 981	1 871	1 784	1 838	1 871
<i>Index</i>	100	94	90	93	94
Wage costs per employee (in EUR)	23 575	25 846	27 130	27 593	28 153
<i>Index</i>	100	110	115	117	119
Production per employee (units/year)	1 631	1 707	1 807	2 023	2 025
<i>Index</i>	100	105	111	124	124

- (146) When taking into account the employment of all the Community producers the trend is similar as per above, i.e. there is a decrease, but at a more pronounced level. The detailed data is as follows:

Employment	2000	2001	2002	2003	IP
Number of employees	14 300	12 670	11 860	11 500	11 500
<i>Index</i>	100	88	83	80	80

(i) *Growth*

- (147) Overall, it has to be noted that the market share of all Community producers fell by 16 percentage points while the level of consumption increased by 4 %, which indicates clearly that they have not been able to grow.

(j) *Magnitude of dumping and recovery from past dumping*

- (148) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping found in the IP (48,5 % for the PRC and between 15,8 and 34,5 % for Vietnam), given the volume and prices of imports from these two countries, this impact cannot be considered to be negligible. It should be noted that the margin for the PRC is higher than that which was found in the original investigation. It should also be noted that the volume of dumped imports from the PRC has increased since the previous investigation.

- (149) The expected recovery of the Community industry from the effects of past dumping has not happened to the extent anticipated as in particular shown by the decrease of sales prices, low profitability and decrease in the capacity utilisation. The industry has in recent years been faced with increased dumping of imports from the PRC and Vietnam which has hampered its expected recovery.

## 8. Conclusion on injury

- (150) It should be noted that measures are already in force with regard to one of the countries concerned. These measures have clearly had an effect on the injury indicators, in particular for the sampled producers. Despite the overall decrease of the Community production, the sampled producers have managed to maintain and even increase their production. The sampled producers have managed to some extent to benefit from the existence of the measures, but any possibilities for further growth has been undermined by the dumped imports. In addition, since the imposition of the measures on imports from the PRC, the imports from Vietnam have now become a substantial negative factor for the Community industry. In the period following the imposition of the existing measures on imports from the PRC, the economic situation of the sampled producers has improved in terms of productivity, production, production capacity, sales and market share. This must be viewed in the light of the existence of measures. However, sales prices have decreased and the profit levels have remained at low levels despite the increase in sales. In addition, the stock levels have increased and employment has decreased. However, the positive developments, as per above, do not put into question the overall injurious picture which would have been even worse without the existing measures. This is reinforced by the fact that the overall performance of the Community producers is negative. The total Community production had decreased by 20 %, the overall sales have decreased by 21 % and the market share of the total Community industry has fallen by 16 %.
- (151) Import volumes from the PRC and Vietnam have increased considerably, both in absolute terms and in terms of market share. Indeed, during the period considered they gained 10,3 percentage points in market share. Moreover, the weighted average prices of imports have decreased considerably over the period considered, resulting in significant levels of price undercutting in the IP.
- (152) On this basis, it is concluded that the Community industry, as a whole, remains in a vulnerable economic situation and has suffered material injury within the meaning of Article 3 of the basic Regulation.
- (153) As have been concluded above, the injury picture of the sampled Community producers differs to some extent from the injury picture of the Community producers as a whole. However, this should be viewed against the fact that the producers selected for the sample are those producers which have the highest volume of production and sales of bicycles and because of the economy of scale, these producers have managed to partly recover from the dumped imports. Despite these advantages, the sampled producers are still in a vulnerable situation which reflects the situation for the Community industry as a whole.

## E. LASTING NATURE OF CHANGED CIRCUMSTANCES AND LIKELIHOOD OF CONTINUATION OF DUMPING AND INJURY

- (154) In regard to imports from the PRC, 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.
- (155) By comparing the normal values and export prices found between the previous and the current investigation, it has been established that, account being taken of comparable models, whereas average normal value has slightly increased, the average export price has significantly decreased leading to the increased levels of dumping. As for the PRC export prices to other markets, they have been found to generally be in line with exports to the EU market. No evidence was found to indicate that exports from the PRC would not continue to be made at these low dumped prices. Given all of the above, it is considered that there is no reason to doubt that the new higher level of dumping found is of lasting nature.

- (156) Despite the fact that the sampled producers recovered to a certain extent from past dumping of imports originating in the PRC, it was also found that the sampled producers still suffered material injury within the meaning of Article 3 of the basic Regulation. This conclusion is reinforced when looking at the picture of the Community industry as a whole (see above recitals 150 to 153). The injury margins found in this investigation have increased as compared to the original investigation because the dumped imports have continued to substantially undercut the Community industry's prices. It has been established through detailed analysis of the distribution network that the majority of the sampled producers mostly produce for sales to mass-merchandisers. As the exporting producers from the PRC mainly compete in these same high volume sales channels, pressure on the Community industry is strong there. No evidence was found to indicate that exporters in the PRC would not continue to sell through these sales channels, if the measures were allowed to expire, and less in the dealer/retailer sales channels (which account for around 22 % of the total sales of the sampled producers). Considering the lasting nature of the dumping findings and the effects of the dumped imports on profitability, it is concluded that the circumstances leading to injury are of a lasting nature and that the expiry of the original measures would be likely to lead to the continuation of the injury.
- (157) It was also examined to what extent there was a likelihood that there would be a continuation of dumping should the measures on imports from the PRC be allowed to expire. Based on the complaint and the information provided by exporters in the PRC, it has been established that the production capacity in the PRC is over 80 000 000 bicycles per year. The PRC producers are producing around 66 000 000 bicycles per year and their internal demand is around 22 000 000 bicycles. Bicycles originating in the PRC are present on the main markets worldwide and around 96 % of the USA consumption consists of bicycles originating in the PRC. This demonstrates the export-oriented nature of the bicycles industry in the PRC with the consequent likelihood of continued exports to the Community.
- (158) It was found that the product concerned was still dumped on the Community market during the IP (recitals 90 to 97). In this regard, the dumping margins for the product concerned were significantly higher than the dumping margins found in the original investigation. Since the imposition of measures following the previous investigation, the PRC has continued to sell bicycles to the Community at dumped prices. During the period considered, the volume of dumped imports increased by 472 % and the prices of dumped imports from the PRC decreased by 22 %. As seen above (recital 157), exporters in the PRC have a spare production capacity which is almost at the same level as total Community consumption. It should also be recalled that before the imposition of the original anti-dumping duties, the level of dumped imports from the PRC was around 2,5 million bicycles which represented at that time around 15 % market share in the Community. This indicates the likelihood that in the absence of anti-dumping measures, the PRC imports would again return to the market at these or even higher levels. These imports would likely be at dumped prices given that the high levels of dumping found in the current investigation are considered to be of a lasting nature.

## F. CAUSATION

### 1. Introduction

- (159) In accordance with Article 3(6) and (7) of the basic Regulation it was examined whether the material injury suffered by the Community 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 Community industry, were also examined to ensure that the possible injury caused by these factors was not attributed to the dumped imports.

### 2. Effect of the dumped imports

- (160) Despite the measures in force on imports from the PRC, the exporting producers in the PRC have increased their market share significantly from 0,73 % to 4,07 %. The combined market share in the Community of imports from the PRC and Vietnam has increased from 2,50 % to 12,77 % during the period considered. Even with an overall stable consumption between the year 2000 and the IP, they saw an increase of their market share of more than 10 percentage points.

- (161) At the same time, although the sampled Community producers have managed to increase their production, the total Community production has decreased by 20 %. As stated in recital 128, this resulted of several other Community producers either going out of business or decreasing their production. The total sales of all Community producers have decreased by 21 % (or 16 percentage points) between the year 2000 and the IP, even if the sampled producers have somewhat managed to increase their market share by 2 percentage points. Moreover, as can be seen from the table in recital 166 below, the market share of the imports from countries other than the PRC and Vietnam has increased, but only by 7 percentage points.
- (162) Therefore, although the sampled Community producers have managed to continue operating and even to slightly increase their market share, it is the remaining Community producers who have lost market share and have gone out of business in recent years or have been forced to drastically reduce their production due to the pressure exerted by the dumped imports. Such pressure has been twofold: (i) from the point of view of volumes, where as said in recital 160 above, the dumped imports have increased their market share by more than 10 percentage points; while, (ii) the sales prices have continuously decreased and significantly undercut the Community industry's prices.
- (163) The profit of the sampled producers increased slightly due to relatively stable prices (which decreased slightly in line with costs) but not to the extent expected after the imposition of measures. The profit that could be achieved in the absence of dumped imports was not achieved because of the increased dumping of imports from the PRC and the occurrence of dumped imports from Vietnam.
- (164) It is therefore concluded that the pressure exerted by the imports concerned, which increased their volume and market share from 2000 onwards, and which were made at very low and dumped prices, played a determining role in vulnerable economic situation in which the Community industry currently finds itself.

### **3. Effect of other factors**

#### *Imports from other countries*

- (165) Imports originating in other third countries could also have contributed to the injury suffered by the Community industry. Several parties in the PRC and Vietnam also argued that the imports from other third countries have increased substantially and at prices that undercut the Community industry prices.
- (166) Based on Eurostat data, imports from other third countries increased from 5 193 000 units in 2000 to 6 423 000 units in the IP, for an overall increase of 24 %. The market share of these imports increased from 29 % to 36 % during the period considered. However as stated in recital 121, 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 the imports below with those of the Community industry. Nevertheless, some additional information was sought and obtained regarding imports from those countries that account for most other imports of bicycles. Detailed data is shown below:

All Types	2000			2001			2002			2003			IP		
	Units '000	Market share	Price EUR/unit	Units '000	Market share	Price EUR/unit	Units '000	Market share	Price EUR/unit	Units '000	Market share	Price EUR/unit	Units '000	Market share	Price EUR/unit
Taiwan	2 520	1,4,5 %		1 894	12,4 %		2 106	13,4 %		2 052	11,8 %		2 106	11,6 %	
Indexed	100	100	100	75	86	100	84	92	79	81	81	74	84	80	73
India	309	1,8 %		210	1,4 %		169	1,1 %		130	0,7 %		130	0,7 %	
Indexed	100	100	100	68	77	97	55	61	78	42	38	68	42	38	65
Thailand	41	0,2 %		43	0,3 %		181	1,2 %		333	1,9 %		375	2,0 %	
Indexed	100	100	100	103	150	114	434	600	93	800	950	86	900	1 000	85
Indonesia	104	0,6 %		82	0,5 %		87	0,5 %		222	1,3 %		241	1,3 %	
Indexed	100	100	100	79	83	97	83	83	91	213	216	69	231	216	68
Philippines	470	2,7 %		399	2,6 %		539	3,4 %		631	3,6 %		662	3,7 %	
Indexed	100	100	100	85	96	88	115	126	73	134	133	63	141	137	62
Poland	540	3,1 %		522	3,4 %		620	3,9 %		772	4,4 %		830	4,6 %	
Indexed	100	100	100	97	109	109	115	125	122	143	142	111	154	148	113
Bangladesh	157	0,9 %		189	1,2 %		273	1,7 %		382	2,2 %		423	2,3 %	
Indexed	100	100	100	120	133	92	174	188	73	243	244	58	270	255	59
Lithuania	237	1,3 %		284	1,8 %		298	1,9 %		336	1,9 %		336	1,8 %	
Indexed	100	100	100	120	138	103	126	146	101	142	146	86	142	138	86
Czech Republic	297	1,7 %		253	1,6 %		189	1,2 %		235	1,3 %		220	1,2 %	
Indexed	100	100	100	85	94	98	64	70	112	79	76	139	74	70	145
Turkey	67	0,4 %		77	0,5 %		97	0,6 %		160	0,9 %		203	1,1 %	
Indexed	100	100	100	114	125	100	145	150	94	237	225	76	301	275	74
Others	450	2,6 %		402	2,6 %		630	4,0 %		815	4,7 %		906	5,0 %	
Indexed	100	100	100	89	100	98	140	154	83	181	181	51	201	192	51
TOTAL	5 193	29 %		4 354	28 %		5 194	33 %		6 073	35 %		6 423	36 %	
Indexed	100	100	100	84	97	98	100	114	84	117	121	70	124	124	70

#### Taiwan

- (167) The imports from Taiwan represent 11,6 % of the market share during the IP which is more than 2 000 000 units. In volumes, the imports from Taiwan are far bigger than from any of the other import sources. However, during the period considered their market share declined by 20 %. Moreover, the imports of bicycles from Taiwan are aimed for the high-end market. On the basis of evidence submitted by the complainant it has been demonstrated, applying model comparison, that imports from Taiwan are sold at a higher prices than the similar models produced by the Community industry.

#### Thailand

- (168) Imports originating in Thailand have increased during the period considered and their market share has increased to reach 2,0 % in the IP. However considering that they (i) started from a very low import level, and (ii) that their market share still remains very low in comparison to that of the PRC and Vietnam it is concluded that these exports cannot be considered as a cause of injury to the Community industry.

#### Philippines

- (169) Imports originating in the Philippines have increased by 41 % during the period considered. Their market share during the IP was 3,7 %. However, the imports from the Philippines are currently the subject of an investigation by OLAF (European Anti-Fraud Office) to examine possible misdeclaration of the origin of the goods. In these circumstances, it is not possible to conclude on whether imports reported as originating from the Philippines are contributing to the injury suffered by the Community industry.

#### Bangladesh

- (170) Imports originating in Bangladesh have increased by 170 % during the period considered and their market share during the IP was 2,3 %. However considering that (i) they started from a very low import level, and (ii) that their market share still remains very low in comparison to the PRC and Vietnam it is concluded that these exports cannot be considered as a cause of injury to the Community industry.

- (171) After disclosure of definitive findings, some interested parties argued that the imports from certain third countries (namely Bangladesh, Philippines and Thailand) had increased substantially, in a way similar to the increase of imports from Vietnam and that their market share was not negligible. They argued that for these reasons these countries also should have been subject to the proceeding and, by not doing so, the Council would operate in a discriminatory manner. In this regard, and in addition to what is already mentioned in recitals 168 to 170 above, it should be noted that imports from these three countries have increased at a much lower rate than that of imports originating in the PRC and Vietnam. For this reason, and the reasons already mentioned in recitals 168 to 170, the claim was rejected.

#### Trade with accession countries

- (172) Imports originating in Poland and Lithuania, which are meanwhile members of the European Union since 1 May 2004, increased by 54 % and 42 % respectively during the period considered. However, it should be noted that the prices of imports from Poland increased by 13 % through the period considered. Poland was one of the two countries (the other being the Czech Republic) to show an increase in prices. The imports from Lithuania have remained at a very low level compared to those of the PRC and Vietnam. It is concluded that, given the prices and volumes of these imports, they cannot be considered as having had a significant negative impact on the injurious situation of the Community industry.

#### 4. Development of consumption.

- (173) As mentioned in recital 107, from 2000 to the IP the consumption increased by 4 %. Thus, this cannot be a source of injury.

### 5. Community producers other than the sampled producers

- (174) As has been seen from recitals 128 and 132 above, the overall production and sales of the Community producers have decreased. This suggests that they are in a similar, or even worse, situation to the sampled producers, i.e. that they have suffered injury from the dumped imports. Therefore, it cannot be concluded that other Community producers may have caused material injury to the sampled producers.

### 6. Currency fluctuations

- (175) One Chinese exporting producer argued after disclosure of the definitive findings, that an adjustment should have been made for exchange rate developments since the CNY is linked to the USD rate, and the latter had depreciated substantially against the euro during the IP. However, although *prima facie* it cannot be excluded that the appreciation of the euro *vis-à-vis* the USD might have favoured the imports of the product concerned, the fact that currency fluctuations did not have an effect on imports from other countries, into the Community, indicates that it cannot be considered as a causal factor in this case. It is also noted that the benchmark for the causal link analysis is whether the dumped imports, i.e. the volumes and prices of these imports, have caused injury. The argument of the Chinese exporters tries rather to explain why the dumped imports are at a certain price level. However, in the causal link context, the question as to why the prices of these dumped imports were at a given level is irrelevant.

### 7. Conclusion

- (176) The dumped imports from the PRC and Vietnam were found to be substantially undercutting the prices of the Community industry in the IP. The increased presence of these imports on the market, as seen in their increased market share, coincides with a period of continued economic vulnerability of the Community industry (see recitals 150 to 153 above). It is concluded, therefore, that there is a causal link between the imports from these two countries and the injury suffered by the Community industry. As regards imports from other countries, they have also increased their presence on the market, but at a significantly lesser rate than imports from the PRC and Vietnam. From among those other countries that export bicycles to the Community, imports from Taiwan were the biggest during the IP. However, their share of the market has been decreasing and prices in the IP were found not to be undercutting those of the Community industry. Imports from Taiwan cannot, therefore, have contributed to the injury suffered by the Community industry. As regards imports from all other countries excluding Taiwan, these have also seen their market share grow, but to a lesser extent than the imports from the PRC and Vietnam. While it has not been possible to establish whether the prices of these imports undercut the Community industry prices as explained in recital 166 above, it was found that the impact of these imports from other third countries, in particular given their volumes and market share, could not in any significant way contribute to the injury suffered by the Community industry.

## G. COMMUNITY INTEREST

### 1. General considerations

- (177) In accordance with Article 21(1) of the basic Regulation, it has been examined whether, despite the conclusion on injurious dumping, compelling reasons existed that could lead to the conclusion that it would not be in the Community interest to maintain the anti-dumping measures against imports from the PRC or to adopt anti-dumping measures on imports from Vietnam. The impact of possible measures on all parties involved in the proceeding and also the consequences of not taking or maintaining measures were considered. In this respect, it should also be recalled that in the previous investigation concerning imports from the PRC the adoption of measures was considered not to be against the Community interest.
- (178) The Commission sent questionnaires to importers, but no questionnaire replies were received concerning the initiation of the review on measures applicable to imports from the PRC. For the proceedings concerning Vietnam, the Commission received replies from 3 importers.

## 2. Interest of the Community industry

- (179) It is recalled that the Community industry has suffered material injury as set out in recitals 150 and following. After the imposition of measures on imports from the PRC, the Community industry has been able to partially recover. However, the continuation of dumped imports from the PRC combined with the additional surge of dumped imports from Vietnam, which were not a cause of injury in the previous investigation, prevented the Community industry from reaching a satisfying financial situation and fully recovering from the injurious situation.
- (180) The imposition of anti-dumping measures would allow the Community industry to increase its sales, markets shares, and in certain segments of the market also the prices. In that way, the Community industry can be expected to reach the levels of profitability which it would have been able to achieve in the absence of dumped imports. Considering that new bicycle models are to a high extent developed by the industry in the Community, they would also fully benefit from such developments, in terms of sales volumes and prices, if the pressure of dumped imports ceased. The Community bicycle industry has shown that it is viable and competitive, if fair market conditions prevail. Therefore, effective competitive conditions need to be restored on the Community market.
- (181) However, without measures on imports from the PRC and Vietnam, there will be further trade distortions which would inevitably lead to a halt in the recover process of the Community industry. Despite the fact that measures are in place against the PRC, imports have steadily increased and the import prices have decreased. Considering the production capacity of the PRC, the high volumes of imports that existed before the imposition of the original anti-dumping measures, the substantial increase of imports and gain of substantial market shares of imports from Vietnam, it is clear that without the continuation of measures on imports from the PRC and the imposition of measures on imports from Vietnam, it would be very difficult, if not impossible, for the Community industry to recover. Otherwise, the injurious situation of the Community industry is likely to further deteriorate, which may lead to further Community producers going out of business or reducing their capacity. As examples of recent bicycle production going out of business, the following companies could be noted Kynast (Germany), Merkers-Rad (Germany), Confersil Portugal and Ceasare Rizzato (Italy). It is therefore clear that anti-dumping measures are in the interest of the Community industry.

## 3. Interest of unrelated importers

- (182) No questionnaire reply or comments were received from unrelated importers concerning the imports from the PRC. As regards Vietnam, one of the importers (representing around 14 % of the total imports) alleged that any import duties on bicycles from Vietnam would be detrimental to customers in EU since it would result in a sharp decline of Vietnamese imports. Another importer also argued that the imported bicycles are mostly children bicycles which the Community producers are not producing.
- (183) It should be noted first of all that in view of the low level of cooperation of importers, it was impossible to make a proper full assessment of the possible effects of taking or not taking measures. 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. As fairly-priced imports will still be allowed to enter into the Community market, and as imports from third countries will also continue, it is likely that the traditional business of importers will not be substantially affected. It is also clear that the Community producers have sufficient capacity to supply a possible increase in demand of bicycles. Moreover, as seen from table in recital 166, imports from other third countries indicate that there is a substantial capacity to produce bicycles in these countries. It is therefore highly unlikely that a shortage of bicycles would occur. Furthermore, when analysing the imports from Vietnam it has been established that the imports cover all categories of bikes, not only children bicycles. It should also be added that part of the sampled producers are in fact also producing children bicycles.

- (184) As fairly-priced imports will still be allowed to enter into the Community market, it is likely that the traditional business of the importers will continue even if anti-dumping measures against dumped imports are maintained on the PRC and imposed on imports from Vietnam. The low cooperation by unrelated importers and the fact that after the imposition of measures on the PRC, importers do not seem to have experienced particular difficulties further underscores this conclusion.

#### **4. Interest of retailers**

- (185) One of the importers of bicycles from Vietnam also functions as a bicycle retailer organisation which consists, according to the annual account of the year 2003, of 720 members. These members form part of a retailer network under the umbrella of the importer and the importer supplies, amongst others, bicycles imported from Vietnam. The 720 members are claimed to employ 4 900 people in the year 2003. The Commission also received signed declarations from 1 287 retailers (consequently not all of them members of the retailer network) indicating that they are supporting the submissions filed by the importer. As stated in recital 182, they claim that if measures would be imposed against bicycles from Vietnam, there would be a decline in imports, decreased sales of bicycles and consequently also a loss of jobs among the retailers. In this regard, it should be noted that, as stated in recital 183, there is no risk of shortage of bicycles nor a decline of sales, since retailers can be expected to be able to switch their supply of bicycles to other sources than Vietnam, if needed.
- (186) Following disclosure of the definitive findings, some interested parties claimed that the availability of fairly priced bicycles is not the only issue at stake when looking at the interests of retailers in respect of bicycles originating in Vietnam. These interested parties also claimed that they cannot switch from one brand to another easily because of the quality aspects. However, no further evidence was submitted in this regard to show that the bicycles imported from Vietnam are of some particular type or quality which is not produced elsewhere. On the contrary, when comparing the Vietnamese imports with bicycles produced by the sampled Community producers for purposes of calculating the price undercutting margin (see recital 123 above) it was found that there is a substantial matching between the various models. These claims were therefore rejected.
- (187) The Commission also received comments from another retailer association representing more than 6 000 retailers, supporting the measures against imports from the PRC, but objecting against the current proceeding concerning Vietnam, claiming that the imports from Vietnam were neither dumped nor causing any injury. However, as it was set out in recitals 95 to 97, the imports of bicycles from Vietnam were found to be dumped and causing injury to the Community industry.
- (188) Given the above, it was found that the anti-dumping measures against imports of bicycles from the PRC and Vietnam are not contrary to the interests of the retailers.

#### **5. Interest of suppliers**

- (189) One Italian supplier (and its association) made themselves known during the investigation. They argued that in Italy there exist more than 200 factories which are supplying components to the bicycle producers and that the further existence of the supplier industry was therefore inevitably depending on the continuation of the bicycle production in Europe. In this respect, it was found that without the existence of the measures, it is to be expected that further closures of bicycle production in Europe will occur, which would have negative consequences for the Community parts industry and would jeopardise employment in the supplier industry. It is therefore concluded that the imposition of anti-dumping measures would be in the interest of the suppliers.

#### **6. Impact on consumers**

- (190) The Commission did not receive any comments from Community consumers' associations, concerning the measures on PRC or the possibility of imposition of measures on imports from Vietnam. It should be noted, in any event, that the consumers have a wide range to choose from in all segments, even without bicycles originating in the PRC or the Vietnam. The Community industry

contributes significantly to the exhaustive product range on offer. The investigation has not brought to light any supply problems. In this regard, it should also be noted that the Commission received comments from the same association as mentioned in recital 185 above. The retailers represented by the association purchase the major part of their bicycles from European producers and they have lost a considerable part of their market share to other distribution channels, notably the mass-merchandisers market. Although they claim that the imported bicycles from the PRC do not appear in the retailer chain, the low prices in the mass-merchandisers market affect the end consumers preferences despite the quality differences between the bicycles available with the retailers compared with the mass-merchandisers. For all these reasons, it was found that, any of the anti-dumping measures against the PRC and Vietnam is not contrary to the interests of the consumers.

#### 7. Conclusion on Community interest

- (191) The continuation of measures on imports of bicycles originating in the PRC and the imposition of measures on imports of bicycles originating in Vietnam would clearly be in the interest of the Community industry and in the interest of the Community suppliers of bicycle parts. It will allow the Community industry to grow and fully recover from the injury caused by the dumped imports. If, however, measures are not imposed, it is likely that the Community production will continue to decline and more operators will go out of business. Furthermore, the importers and the retailers will not be substantially affected since fairly priced bicycles will still be available in the market. As regards consumers, the Commission did not receive any comments from these parties.
- (192) In view of the above, it is concluded that there are no compelling reasons not to impose anti-dumping duties against imports of bicycles originating in the PRC and Vietnam.

#### H. PROPOSED DUTIES

- (193) In view of the conclusions reached with regard to dumping, resulting injury and Community interest, measures on imports from Vietnam should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports. As regards imports from the PRC, the existing measures, as maintained by Council Regulation (EC) No 1524/2000, should be modified in order to take account of the findings in this interim review. Pursuant to Article 11(2) of the basic Regulation, the modified measures should be imposed for a new period of five years.
- (194) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports 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 Community 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 Community. 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.
- (195) Several cooperating exporters in the PRC and Vietnam argued that 8 % is very high and referred to the percentage indicated in the complaint, 3,3 %, as a profit attributable to a healthy industry. In addition they made reference to the previous investigation where it was found that the Community industry was suffering losses of -0,6 %. It was considered however, that the profitability found (3,5 %) during the IP of this investigation, only indicates that the Community industry has partly recovered from past dumping, and cannot be considered as a profit level that could be achieved in the absence of dumped imports. In this regard, it is noted that, despite the existence of measures on imports from the PRC, imports from the PRC have increased considerably over the period considered while there has been a huge growth in imports from Vietnam at dumped prices. In these circumstances, a profit level of 8 %, as used in the previous investigation, is considered appropriate since there was no indication found that this rate should be changed. On this basis, a non-injurious price was calculated for the Community industry of the like product.

- (196) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the weighted average total cost of production of the sampled producers, increased by a profit margin of 8 %.
- (197) Since the injury margins are higher than the dumping margins found, the anti-dumping duties should be based on the dumping margins in accordance with the provisions of Article 7(2) of the basic Regulation.
- (198) The CCCME expressed its willingness to offer an undertaking together with cooperating exporting producers in the PRC. In this respect, it should be noted that the acceptance of undertakings for consumer products has historically, not usually been accepted due *inter alia*, to the complexity of the models, the number of different types and the variety and the regularity with which they are upgraded or otherwise modified. This makes it practically impossible to establish meaningful minimum import prices. In addition, these considerations lead to virtually insurmountable difficulties in monitoring, which render acceptance of such undertakings impracticable. These general considerations also apply to the present case. It was therefore considered by the Commission that the acceptance of an undertaking was not appropriate in this particular investigation and the offer had to be rejected. The Commission informed the CCCME accordingly.
- (199) 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 companies. These duty rates (as opposed to the countrywide duty applicable to all other companies) are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, 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'.
- (200) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change of name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission <sup>(1)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. 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.
- (201) In view of the findings above, the anti-dumping duty rates are as follows:

Country	Company	Anti-dumping duty (%)
People's Republic of China	All companies	48,5
Vietnam	Always Co., Ltd. Tan Thuan Export processing Zone, District 7, Ho Chi Minh City, Vietnam	15,8
	All other companies	34,5

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(202) In accordance with Article 20 of the basic Regulation, all parties concerned were informed of the essential facts and considerations, on the basis of which it was intended to propose amendment of the level of the existing measures in the PRC and to impose measures on imports of bicycles from Vietnam. They were given the opportunity to comment and to request a hearing. Comments were received and taken into consideration where appropriate,

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 ex 8712 00 10 (TARIC code 8712 00 10 90), 8712 00 30 and ex 8712 00 80 (TARIC code 8712 00 80 90), originating in Vietnam.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following companies shall be as follows:

Country	Company	Anti-dumping duty (%)	Taric additional code
Vietnam	Always Co., Ltd., Tan Thuan Export processing Zone, District 7, Ho Chi Minh City, Vietnam	15,8	A667
	All other companies	34,5	A999

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

*Article 2*

Article 1(1) and (2) of Council Regulation (EC) No 1524/2000 shall be replaced by the following:

*'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 ex 8712 00 10 (TARIC code 8712 00 10 90), 8712 00 30 and ex 8712 00 80 (TARIC code 8712 00 80 90), originating in the People's Republic of China.

2. The rate of the definitive duty applicable to the net, free-at-Community-frontier price, before duty, shall be 48,5 %.

*Article 3*

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

Done at Brussels, 12 July 2005.

*For the Council*  
*The President*  
 G. BROWN