

## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/1379

of 28 August 2019

**imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China as extended to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka, Tunisia, Cambodia, Pakistan and the Philippines, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

## 1. PROCEDURE

## 1.1. Measures in force

- (1) By Regulation (EEC) No 2474/93 <sup>(2)</sup> ('the original investigation'), the Council imposed a definitive anti-dumping duty of 30,6 % on imports of bicycles originating in the People's Republic of China ('the PRC' or 'the country concerned'). 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 PRC. An 'exemption scheme' for certain bicycle parts was introduced by Commission Regulation (EC) No 88/97 <sup>(4)</sup>. Several investigations followed since then, amending the initial measures.
- (2) The measures currently in force are definitive anti-dumping duties imposed by Council Regulation (EU) No 502/2013 <sup>(5)</sup>. The anti-dumping duties currently in force range from 0 % to 48,5 % ('the measures in force'). The investigation that led to the imposition of the measures in force will hereinafter be referred to as 'the previous review investigation'.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Council Regulation (EEC) No 2474/93 of 8 September 1993 imposing a definitive anti-dumping duty on imports into the Community of bicycles originating in the People's Republic of China and collecting definitively the provisional anti-dumping duty (OJ L 228, 9.9.1993, p. 1).

<sup>(3)</sup> Council Regulation (EC) No 71/97 of 10 January 1997 extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered under Regulation (EC) No 703/96 (OJ L 16, 18.1.1997, p. 55).

<sup>(4)</sup> Commission Regulation (EC) No 88/97 of 20 January 1997 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93 (OJ L 17, 21.1.1997, p. 17).

<sup>(5)</sup> Council Regulation (EU) No 502/2013 of 29 May 2013 amending Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 153, 5.6.2013, p. 17).

- (3) The Council, by Implementing Regulation (EU) No 501/2013 <sup>(6)</sup>, also extended the measures on imports of bicycles originating in the PRC to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not. Several exemptions to genuine exporting producers in these countries were granted in the framework of this investigation.
- (4) The Commission, by Implementing Regulation (EU) 2015/776 <sup>(7)</sup>, extended the measures on imports of bicycles originating in the PRC to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not. Several exemptions to genuine exporting producers in these countries were granted in the framework of this investigation.
- (5) On 14 December 2017 <sup>(8)</sup>, the Court of Justice of the European Union confirmed the judgment of the General Court of the European Union that annulled the Regulation imposing the anti-dumping measures as far as the applicant, Giant Co. Ltd., was concerned. Therefore Giant Co. Ltd. is outside of the scope of the measures and did not fall within the scope of this investigation.
- (6) The Commission, by Implementing Regulation (EU) 2018/49 <sup>(9)</sup>, amended the measures on imports of bicycles originating in the PRC following a new exporter review pursuant to Articles 11(4) and 13(4) of the basic Regulation.

## 1.2. Initiation of an expiry review

- (7) Following the publication of a notice of impending expiry of the definitive anti-dumping measures in force <sup>(10)</sup>, the European Bicycle Manufacturer's Association ('EBMA' or 'the applicant') lodged a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged on 5 March 2018. The applicant acts on behalf of EU bicycle producers representing more than 45 % of the total Union production of bicycles. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.
- (8) On 4 June 2018, the Commission announced, by a notice published in the *Official Journal of the European Union* <sup>(11)</sup> ('the Notice of Initiation'), the initiation of an expiry review of the anti-dumping measures applicable to imports of bicycles originating in the People's Republic of China pursuant to Article 11(2) of the basic Regulation.

## 1.3. Investigation

### 1.3.1. Review investigation period and period considered

- (9) The investigation of a likelihood of continuation or recurrence of dumping covered the period from 1 April 2017 to 31 March 2018 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

<sup>(6)</sup> Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not (OJ L 153, 5.6.2013, p. 1).

<sup>(7)</sup> Commission Implementing Regulation (EU) 2015/776 of 18 May 2015 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not (OJ L 122, 19.5.2015, p. 4).

<sup>(8)</sup> Judgment of the Court of Justice of the European Union of 14 December 2017 in Case C-61/16 P, *EBMA v Giant (China)*, ECLI:EU:C:2017:968.

<sup>(9)</sup> Commission Implementing Regulation (EU) 2018/49 of 11 January 2018 amending Council Implementing Regulation (EU) No 501/2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from, inter alia, Tunisia, whether declared as originating in, inter alia, Tunisia or not, following a 'new exporter' review pursuant to Article 11(4) and 13(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 7, 12.1.2018, p. 31).

<sup>(10)</sup> OJ C 294, 5.9.2017, p. 3.

<sup>(11)</sup> OJ C 189, 4.6.2018, p. 18.

### 1.3.2. Interested parties

- (10) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission officially informed the following parties of the initiation of the expiry review: the applicant, the known producers in the Union and their relevant associations, the known exporting producers in the PRC, the known unrelated importers in the Union, the suppliers of parts and the association of users in the Union known to be concerned and the authorities in the PRC.
- (11) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request in writing a hearing by the Commission investigation services and/or the Hearing Officer in trade proceedings.

### 1.3.3. Sampling

- (12) In the Notice of Initiation, the Commission stated that it might sample interested parties in accordance with Article 17 of the basic Regulation.

#### 1.3.3.1. Sampling of Union producers

- (13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers, in accordance with Article 17(1) of the basic Regulation. Prior to the initiation, more than 70 Union producers had provided the information requested for the selection of the sample and expressed their willingness to cooperate with the Commission. On that basis, the Commission had provisionally selected a sample of three producers, which were found to be representative of the Union industry in terms of volume of sales and production of the like product in the Union. The sampled Union producers accounted for 22 % of the estimated total production of the Union industry and for 21 % of the total sales volume of the Union industry to unrelated customers in the Union during the period 1 January 2017 to 31 December 2017. The Commission invited the interested parties to comment on the provisional sample. No comments were received.
- (14) Further to the initiation of the case, it appeared that a number of Union producers were sub-contracting partly or fully the production process to third-party companies operating under tolling agreements ('tollers'). For this reason, the Commission requested additional information from the ten largest Union producers concerning their business models and production volumes. In light of the new information received, the Commission decided to include two more Union producers in the sample in order to cover the various business models applicable in the EU. The final sample covered 27 % of the estimated total production volume and 26 % of the estimated total sales volume to unrelated customers in the Union, during 2017. No further comments were received. The sample was considered representative for the Union industry.

#### 1.3.3.2. Sampling of unrelated importers

- (15) In order to enable the Commission to decide whether sampling was necessary and, if so, to select a sample, all unrelated importers were invited to participate in this investigation. They were requested to make themselves known by providing the Commission with the information on their companies listed in the Annex II of the Notice of Initiation.
- (16) In addition, 75 importers identified in the review request were contacted by the Commission at the stage of the initiation and were invited to explain their activity and to fill Annex II of the Notice of Initiation. None of them came forward.

#### 1.3.3.3. Sampling of producers in the PRC

- (17) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all known producers of the product under review in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.
- (18) Six exporting producers/producers came forward following the initiation of the proceeding, of which one subsequently withdrew its cooperation. Only two of the remaining five cooperating exporting producers/producers exported bicycles to the Union during the review investigation period.

- (19) In accordance with Article 17(1) of the basic Regulation, the Commission selected a representative sample of three groups of exporting producers/producers based on the largest declared volume of exports, both to the EU and third countries, and production of the product under review during the review investigation period.
- (20) On this basis, the three sampled groups of Chinese exporting producers/producers account for about 89 % of the overall declared production and sales of the five cooperating companies/groups of companies. In overall terms, the three sampled groups account for 18 % of the sales of bicycles from the PRC to the EU and 1 % of the production of bicycles in the PRC during the review investigation period.
- (21) Parties were given the opportunity to comment on the proposed sample. The Commission received comments only from the applicant. First, the applicant claimed that the producers that came forward are not Chinese bicycle producers, as they are related to Taiwanese companies. Second, the applicant argued that the sampled companies and the companies that came forward are not typical Chinese bicycle producers, not being located in the three main centres of the Chinese bicycle industry. Third, the applicant argued that the sampled companies and the companies that came forward do not produce entry-level bicycles. Fourth, the applicant argued that two of the sampled companies are subject to an *ad valorem* anti-dumping duty of zero percent.
- (22) The Commission noted that the applicant did not provide any evidence that the location would make a difference in the production types or costs nor that the selected companies do not produce entry-level bicycles. Moreover, the Commission could ascertain that the sampled exporting producers manufactured also entry-level bicycles.
- (23) Moreover, in selecting the sample, the Commission was bound by the provisions of Article 17 of the basic Regulation to select a representative sample from the companies that came forward. Within those cooperation companies, the Commission clarified that despite the company ownership, location and product range, all the companies selected for the sample produced bicycles in the PRC during the review investigation period.
- (24) The claims on sampling made by EBMA were therefore rejected.

#### 1.3.3.4. Questionnaires and verification visits

- (25) The Commission sent questionnaires to the five sampled Union producers, the three sampled exporting producers, the applicant and the Government of China ('GOC'). The five sampled Union producers, along with their ten tollers, the three sampled exporting producers and the applicant replied to the questionnaire.
- (26) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation or recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:
- (a) Union producers:
- Denver Bike, Italy
  - Maxcom EOOD, Bulgaria
  - MFC (Manufacture Française du Cycle), France
  - RGVS Ibérica Lda, Decathlon group, Portugal
  - Sprick Rowery Spółka z o.o., Poland
- (b) Union tollers (sub-contractors)
- A. J. Maias SA, Portugal
  - All Bike's SRL, Italy
  - Andos Bike SRL, Italy
  - G.L. Cicli Di Giraud Lorenza, Italy
  - RTE SA, Portugal

- (c) Exporting producers and their related companies:
- Ideal Bike Co., Ltd., Dongguan (the PRC)
  - Advanced Sports International-China Ltd., Dongguan (the PRC)
  - Econotrade Co. Ltd., Taichung (Taiwan)
  - Top Sport International Co. Ltd., Taichung (Taiwan)
  - Ideal Bike Corporation Co., Ltd., Taichung (Taiwan)
  - Oyama Bicycles Co., Ltd., Taicang (the PRC)
  - Universal Cycle Corporation Co., Ltd., Guangzhou (the PRC)
  - Universal Cycle Corporation (Taiwan Branch), Taipei (Taiwan)

1.3.4. *Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation*

- (27) In view of the sufficient evidence available at the initiation of the investigation tending to show the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation on the basis of Article 2(6a) of the basic Regulation.
- (28) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited producers of the country concerned to provide the information requested in Annex III to the Notice of the Initiation regarding the inputs used for producing the product under review. The same six exporting producers/producers that sent sampling replies also submitted the information requested in Annex III.
- (29) In order to obtain the necessary information for its investigation, the Commission also sent a questionnaire to the GOC with regard to the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The GOC did not reply to the questionnaire.
- (30) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*. No submissions or additional evidence were received in that respect.
- (31) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it may need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.
- (32) On 4 July 2018, the Commission published a first note for the file ('the first note on production factors') seeking the views of the interested parties on the relevant sources that the Commission may use for the determination of the normal value, in accordance with Article 2(6a)(e) second indent of the basic Regulation. In that note, the Commission provided a list of all factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified six possible representative countries: Brazil, Mexico, Russia, Serbia, Thailand and Turkey.
- (33) The Commission gave all interested parties the opportunity to comment. The Commission received comments from one exporting producer and one Union producer, as well as the applicant, whereas the authorities of the country concerned did not provide any comments.
- (34) The Commission addressed the comments received on the first note on production factors in a second note of 9 August 2018 ('the second note on production factors'). The Commission also established the list of factors of production and concluded that, at that stage, Serbia was the most appropriate representative country under Article 2(6a)(a), first indent of the basic Regulation. The Commission invited the interested parties to comment. The Commission did not receive any comments.

### 1.3.5. *Subsequent procedure*

- (35) On 7 June 2019, the Commission made the disclosure of the essential facts and considerations on the basis of which it intended to impose anti-dumping duties ('final disclosure'). All parties were granted a period within which they could make comments on the disclosure.
- (36) The commission received comments from the applicant and from China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('CCCME').

## 2. **PRODUCT UNDER REVIEW AND LIKE PRODUCT**

### 2.1. **Product under review**

- (37) The product subject to this review is bicycles and other cycles (including delivery tricycles, but excluding unicycles), not motorised, falling under CN codes 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 70 91, 8712 00 70 92 and 8712 00 70 99) ('the product under review' or 'bicycles')
- (38) The Commission noticed that there have been changes in the sector since the previous review investigation. There have been numerous technological developments, mainly regarding the used raw materials. Furthermore, the market has changed significantly, and specific categories of bicycles have become more popular and acquired a significant market share. In order to reflect these developments, the Commission decided to adjust the bicycle categories used in the previous review investigation. All interested parties were informed of this decision and invited to comment. No comments were received.
- (39) The bicycles were therefore classified under the following main types:
- code (A): ATB (all-terrain bicycles including mountain bicycles, above 24")
  - code (F): Foldable
  - code (J): Junior action (BMX) and children's bicycles (24" and below)
  - code (R): Road / Race (above 24")
  - code (T): Trekking/city/hybrid/touring bicycles (above 24")
  - code (O): Other (e.g. delivery, cargo, tricycle)
- (40) All types of bicycles as defined above have the same basic physical and technical characteristics. Furthermore, they are sold through similar distribution channels on the Union market, such as retailers, sport chains, mass merchandisers and independent bicycle dealers. The basic application and use of bicycles is identical, so some models from different types can be interchangeable and compete with each other.
- (41) On this basis, it was concluded that all the bicycle types form one single product.

### 2.2. **Like product**

- (42) This expiry review investigation confirmed that bicycles produced and sold on the domestic markets of the PRC and the representative country Serbia, and the product produced and sold in the Union by the Union producers have the same basic physical and technical characteristics and end-uses. They are considered identical products, alike in all respects, within the meaning of Article 1(4) of the basic Regulation.

## 3. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

### 3.1. **Preliminary remarks**

- (43) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

### 3.2. Cooperation from the PRC

- (44) Six companies/groups of companies provided the reply to the sampling form; one of these companies/groups of companies later withdrew its cooperation. The total declared export volume of bicycles to the Union by the five cooperating companies was [120 000 to 150 000] units in the review investigation period, corresponding to 18 % of the total import volumes of the product under review from the PRC recorded in Eurostat for the same period. The total declared production capacity of the cooperating companies/groups of companies amounted to around one million units, which is roughly 1 % of the total estimated Chinese production capacity (117 million units).
- (45) Given the low level of cooperation, the Commission applied Article 18 and based its findings on the Chinese market of bicycles, including production, capacity and spare capacity, on facts available.
- (46) In addition, the Ideal Group, one the sampled groups, did not provide the Commission its sales prices for the sales done via a related trader to the first independent customer for both sales to the Union and sales to the rest of the world. Therefore, the Commission applied Article 18 of the basic Regulation and used the best facts available for that part of the export sales of this group.

### 3.3. Continuation of dumping of imports during the review investigation period

- (47) For the review investigation period, the statistical data from Eurostat show that 747 313 bicycles were imported into the Union from the PRC, constituting roughly 4 % of the total Union consumption. Consequently, the Commission concluded that the actual imports in the review investigation period were sufficiently representative to examine whether dumping continued during the review investigation period.

#### 3.3.1. Normal value

- (48) According to Article 2(1) of the basic Regulation, *'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country.'*
- (49) However, according to Article 2(6a)(a) of the basic Regulation, *'(i)n case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits.'* As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and absence of any claims from the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

#### 3.3.2. Existence of significant distortions

##### 3.3.2.1. Introduction

- (50) Article 2(6a)(b) of the basic Regulation defines *'significant distortions as those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:*

- *the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;*
- *state presence in firms allowing the state to interfere with respect to prices or costs;*
- *public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;*

- *the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;*
- *wage costs being distorted;*
- *access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state.'*

- (51) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product under review. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up entrust the government with substantive powers to intervene into market forces and which therefore points to the fact that prices and costs are not the result of free market forces.
- (52) Article 2(6a)(c) of the basic Regulation provides that '*[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector.'*
- (53) Pursuant to this provision, the Commission has issued a country report concerning the PRC ( 'the Report') <sup>(12)</sup>. Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. In that respect, and in view of the lack of cooperation in this case, the Commission relied on the Report showing the existence of substantial government intervention at many levels of the economy, including specific distortions in key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as aluminum, steel and chemicals). The Report was placed in the investigation file at the initiation stage.
- (54) The request also supports allegations on significant distortions in the meaning of Article 2(6a)(b) referred to above, complementing the Report.
- (55) Firstly, the applicant refers to the provisions included in the 13th Five Year Plan for Bicycle and Electric Bicycle Industry ('the 13th Bicycle Plan'). Specific provisions of that plan are provided in Section 5.1 of the request. Furthermore, the applicant refers to the existence of State-owned enterprises ('SOEs') in the bicycle industry (Section 5.2 of the request) as well as the heavy pressure exercised on the smaller producers to consolidate as mandated by the 13th Bicycle Plan (section 5.2 of the request).
- (56) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources, notably on Chinese legislation, published official Chinese policy documents, reports published by international organisations and studies/articles by renowned academics, specifically identified in the Report. That analysis covered the examination of the substantial government interventions in its economy in general, but also the specific market situation in the relevant sector including the product under review.
- (57) As specified in recitals (29), the GOC did not provide any reply to the questionnaire it received. The exporting producers who replied to the questionnaires, did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report, and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

<sup>(12)</sup> Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.

### 3.3.2.2. Significant distortions affecting the domestic prices and costs in the PRC: general economic context

- (58) The Chinese economic system is based on the concept of a 'socialist market economy'. That concept is enshrined in the Chinese Constitution and determines the economic governance of PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*'<sup>(13)</sup>. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership<sup>(14)</sup>.
- (59) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the existing first sentence of the provision: '*[t]he socialist system is the basic system of the People's Republic of China*' a new second sentence was inserted which reads: '*[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.*'<sup>(15)</sup> This illustrates the control of the CCP over the economic system of the PRC. This control is inherent to the Chinese system and goes beyond the situation customary in other countries where the governments exercise broad macroeconomic control within the boundaries of which free market forces are at play.
- (60) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market<sup>(16)</sup>. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as at the level of the regulatory environment.
- (61) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans cover a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans contain explicit output targets. Under the plans, individual industrial sectors and/or projects are singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. Not only because of the binding nature of the plans but also because the relevant Chinese authorities at all level of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.3.2.5 below)<sup>(17)</sup>.
- (62) Second, on the level of allocation of financial resources, the financial system of China is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.3.2.9 below)<sup>(18)</sup>. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Even though of lesser significance than the banking sector, these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP<sup>(19)</sup>.

<sup>(13)</sup> Report – Chapter 2, p. 6-7.

<sup>(14)</sup> Report – Chapter 2, p. 10.

<sup>(15)</sup> <http://en.pkulaw.cn/display.aspx?cgid=311950&lib=law>.

<sup>(16)</sup> Report – Chapter 2, p. 20-21.

<sup>(17)</sup> Report – Chapter 3, p. 41, 73-74.

<sup>(18)</sup> Report – Chapter 6, p. 120-121.

<sup>(19)</sup> Report – Chapter 6. p. 122-135.

(63) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies <sup>(20)</sup>. Similarly, in the area of investment, the GOC maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry <sup>(21)</sup>.

(64) In sum, the Chinese economic model is based on certain basic axioms which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with free play of market forces, resulting in distorting the effective allocation of resources in line with market principles <sup>(22)</sup>.

3.3.2.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country

(65) In the PRC, enterprises operating under the ownership, control and policy supervision or guidance by the State represent an essential part of the economy.

(66) With regard to State ownership, a certain degree of state ownership by the GOC persists in the bicycle sector. Even though the bicycle industry in the PRC is very fragmented with a large number of small producers, the major producers of bicycles including Flying Pidgeon and Phoenix are SOEs, however it is not possible to estimate the precise figures based on the information received from the cooperating exporting producers.

(67) With regard to control by the State, the government and the CCP maintain structures that ensure their continued influence over enterprises. The State (and in many respects also the CCP) not only actively formulates and oversees the implementation of general economic policies by individual enterprises, but it also claims its rights to participate in their operational decision making. The elements that point to the existence of government control over enterprises in the steel and iron sector is further developed in section 3.3.2.4 below.

(68) As concerns policy supervision and guidance by the State in the sector, the analysis is set out in sections 3.3.2.4 and 3.3.2.5 below. With the high level of government control and intervention in the bicycle sector as described below, even privately owned producers are prevented from operating under market conditions.

(69) The control, policy supervision and guidance of the sector by the Chinese authorities further transpires from the objectives of the leading sectoral industry association, the China Bicycle Organisation ('CBA'), which has a strong link with the GOC and the CCP. According to the website of CBA, the association gathers 650 members accounting for 80 % of the industry's total yearly output volume and export volume. The association's purposes are: concentrate the industry's forces, handle the industry's affairs, serve the industry and foster the industry's development <sup>(23)</sup>. The Articles of Association of CBA point to a strong link with GOC and the CCP, including Article 2: *'The association's purposes are: Following Xi Jinping's theory of socialism with Chinese characteristics for a new era and the spirit of the 19th CPC National Congress, fully implement the national relevant industry policies, support the governmental administration to strengthen the management of the industry [...] The association shall abide by the constitution, the law and regulations as well as by national policies, following the socialism's core values'* <sup>(24)</sup>. Furthermore, CBA published the 13th Bicycle Plan and in a recent investigation of the European Commission found that it did so while it had a strong link with the GOC <sup>(25)</sup>.

<sup>(20)</sup> Report – Chapter 7, p. 167-168.

<sup>(21)</sup> Report – Chapter 8, p. 169-170, 200-201.

<sup>(22)</sup> Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

<sup>(23)</sup> CBA website: <http://www.china-bicycle.com/information/?cid=11> (accessed on 26 March 2019).

<sup>(24)</sup> See CBA Articles of Association: <http://www.china-bicycle.com/information/?cid=33> (accessed on 27 March 2019).

<sup>(25)</sup> See Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China, recitals (136)-(138).

- (70) On the basis of the above, it is concluded that the market for bicycles in the PRC was served to a significant extent by enterprises subject to the ownership, control or policy supervision or guidance by the GOC.

3.3.2.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the state to interfere with respect to prices or costs

- (71) The GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, <sup>(26)</sup> CCP cells in enterprises, state-owned and private alike, represent another channel through which the State can interfere with business decisions. According to China's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution <sup>(27)</sup>) and the company is to provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced it claims to control business decision in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline <sup>(28)</sup>. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have final say over the business decision within their respective companies <sup>(29)</sup>. These rules are of general application throughout the Chinese economy, including the iron and steel sector. Hence, it is determined that these rules also apply to the producers of bicycles and the suppliers of their inputs.
- (72) Specifically in the bicycle sector, tight links exist between decision making processes of enterprises active in the sector and the State, in particular the CCP. Party structures personally overlap with the management bodies in a number of Chinese bicycle producers. By way of example, the Chairman of the Shanghai Phoenix Enterprise has also served as Party secretary in this company since 2012 <sup>(30)</sup>. Similarly, Deputy Secretary of Party Committee at Shanghai Zhonglu was at the same time member of if the Surveillance Committee <sup>(31)</sup>.
- (73) The State's presence and intervention in the financial markets (see also section 3.3.2.8 below) as well as in the provision of raw materials and inputs further have a distorting effect on the market <sup>(32)</sup>.
- (74) Based on all of the above, it is concluded that the State presence in firms in the bicycle sector, as well as in the financial sector and other input sectors, combined with the framework described in section 3.3.2.3 and in the subsequent sections, allows the GOC to interfere with respect to prices and costs.

3.3.2.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces

- (75) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning, which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors, the objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces <sup>(33)</sup>.

<sup>(26)</sup> Report – Chapter 5, p. 100-1.

<sup>(27)</sup> The Report – Chapter 2, p. 26.

<sup>(28)</sup> Report – Chapter 2, p. 31-2.

<sup>(29)</sup> See <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU>.

<sup>(30)</sup> [http://money.finance.sina.com.cn/corp/view/vCI\\_CorpManagerInfo.php?stockid=600679&Name=%D6%DC%CE%C0%D6%D0](http://money.finance.sina.com.cn/corp/view/vCI_CorpManagerInfo.php?stockid=600679&Name=%D6%DC%CE%C0%D6%D0)

<sup>(31)</sup> <http://www.600818.cn/about.asp?id=5> and [http://money.finance.sina.com.cn/corp/view/vCI\\_CorpManagerInfo.php?stockid=600818&Name=%B9%CB%BE%F5%D0%C2](http://money.finance.sina.com.cn/corp/view/vCI_CorpManagerInfo.php?stockid=600818&Name=%B9%CB%BE%F5%D0%C2).

<sup>(32)</sup> Report – Chapters 14.1 to 14.3.

<sup>(33)</sup> Report – Chapter 4, p. 41-42, 83.

- (76) The Light Industry Development Plan (2016-2020), ('Light Industry Development Plan'), prepared by the GOC to implement the 13th Five Year Plan and Made in China 2025, identifies among others the bicycles as one of the key industries. It also recommends to *'Promote the bicycle industry to develop in a lightweight, diversified, fashionable and intelligent direction. Speed up the R&D and application of high-strength light material, transmission, drive system, new energy, intelligent sensing technology and Internet of Things technology. Focus on developing diversified bicycles suitable for fashionable and casual purposes, exercise and fitness, long-distance country crossing and high-performance folding [...].'*
- (77) The Light Industry Development Plan also lists some concrete policy measures to promote the key industries. The first set of measures concerns the increase of market access reform, mainly through a simplification of the administrative steps (i.e. cancel unnecessary approvals, reduce and standardise the fees and approval process). The second set of measures concerns the increase of finance tax policy support:
- *'Give full play to the leading role of the development fund for medium and small sized enterprises, lead the medium and small sized enterprises to increase the investment on technology innovation, structure adjustment, energy-conservation and emission reduction, implement various preferential policies, perfect service system for medium and small sized enterprises'.*
  - *'Implement the accelerating depreciation policy for fixed assets, guide enterprises to increase investment on advanced equipment'.*
  - *'Give play to the role of special funds of cleaning production, guide the application of production technology and promotion of cleaning production technology in key industries'.*
  - *'Implement preferential policies of relevant tax and fee, reduce enterprises cost of "five social insurance and one housing fund", reasonably adjust the policy of consumption tax'.*
  - *'Encourage enterprises to increase the R&D investment of green products, give top priority to the products with green product certificate in governments purchasing'.*
- (78) The third set of measures concerns the increase of financial policy support, in particular:
- *'Implement the financial policy that supports the development of medium and small sized enterprises, further explore the financial channels of medium and small sized enterprises, perfect the credit guarantee system of medium and small sized enterprises'.*
  - *'Accelerate the development of financial products and services to support popular entrepreneurship and innovation in light industry field'.*
  - *'Increase financial support for technology transformation and equipment update of the enterprises'.*
  - *'Encourage banking financial institutions to develop the loan services using as guarantees also intangible assets, including: their own brands, the special rights to use the trademarks, to support brands construction in the light industry field'.*
  - *'Further play the role of policy and development finance, support the financial institutions, by the mode of syndicated loan, export credit, project financing, to set up a financial service platform of international R&D, production system, brands promotion for the enterprises'.*
  - *'Increase the support of export credit insurance to brand enterprises, encourage the commercial banks to actively carry out the financing business of the export credit insurance policy'.*
- (79) Light Industry Development plans are also developed at local level. It is the case for the Tianjin Municipal Light Industry and Textile Development Plan for the 12th Five-Year (2011-2015), which advocated the creation of four National-level Light industrial bases in the Province: *'The City of Tianjin shall construct a national-level bicycles production and export base. By taking the "China bicycle kingdom" industrial park in the district of Wuqing, and (electro-) bicycle industrial park in the district of Binhai as the core, we shall intensively develop the manufacturing industries of (electro-) bicycle, spare parts, etc.'.*

- (80) Similarly, the 13th Five Year Plan of Tianjin for Industry Economic Development sets clear support goals for the bicycle and electric bicycle industries including the parts industries, such as:
- *‘Emphatically develop the bicycle industry’;*
  - *‘Accelerate construction of characteristic industrial bases including [...] bicycle production, in Jinghai District and Wuqing District’;*
  - *‘Accelerate enterprise transformation and upgrading. Vigorously implement brand strategy, lead enterprises to intensify technological innovation and product popularization, and strengthen and promote the market positions of competitive products including bicycles. Promote annexation and reorganization of enterprises and comprehensively improve innovative capacity and product added value of middle and small-sized enterprises and private enterprises’;*
  - *‘Accelerate the construction of featured parks, including bicycle industrial parks in Quqing and Jinghai’; [...]*
  - *‘Expand areas with distinctive advantages. Take lithium-ion battery as core to promote the development of supercapacitor and high-performance power battery’.*
- (81) Furthermore, the 13th Five Year Plan for Bicycle and Electric Bicycle Industry (‘the 13 th Bicycle Plan’), issued by the CBA includes the bicycles among the ‘emerging industries’: *‘the emerging industries have been promoted to the level of national strategy, such as, new energy, new material, internet, energy conservation and environmental protection, and information technology, so it has become an inevitable trend for traditional industries to enter the mid-end and high-end community. Especially after the Fifth Plenary Session put forward to “promote the low-carbon development of traffic and transportation and encourage the green travel by bicycle”, the bicycle industry will certainly enjoy the new historic opportunities for development.’*
- (82) The 13th Bicycle Plan sets measurable goals to be attained by the GOC by 2020 in the bicycle industry: *‘the revenue from main businesses of the above-scale enterprises in the whole industry will achieve the annual average growth rate 6 %, and exceed RMB 200 billion by 2020. The export scale of bicycles and spare parts will keep stable and the export of electric bicycles will be dramatically increased. The industry integration will be further strengthened, and the contribution of leading enterprises to the output volume will exceed 50 %. The industry will nurture, jointly construct and improve 3-5 industry clusters and characteristic regions. The proportion of mid-end and high-end bicycle and lithium battery electric bicycle will increase year.’* The 13th Bicycle Plan further envisages to strengthen brand cultivation and make efforts to create international brands.
- (83) As demonstrated above, the bicycle industry is closely monitored and supported by the GOC. The implementation of the different goals set out in various plans requires a strong involvement of the GOC into the bicycle industry.
- (84) The Commission considered that the above body of evidence concerning the bicycles sector was sufficient to consider that public policies or measures influence free market forces in this sector.
- (85) However, the Commission also found that there is significant government intervention into the raw materials used to produce bicycles. Most components used to produce bicycles are made of raw materials with heavy intervention of the GOC <sup>(34)</sup>, including aluminium and steel (which can be used to make frames, forks, handle bars, wheels and spokes, chains, derailleurs, gears, cables, carriers), rubber (to produce wheels) and chemicals (plastic elements and paints).
- (86) By the way of example, aluminium is covered by the Non-Ferrous Metal Industry Development Plan 2016-2020 (13th FYP for the Non-Ferrous Metals Industry), which provides strict quantitative and qualitative targets and

<sup>(34)</sup> See Report Chapter 14 on steel, Chapter 15 on aluminium, Chapter 16 on the chemical sector (covering partly rubber) and Chapter 12 on raw materials (providing additional information on rubber).

extensive support measures to the industry aimed at developing the industry. Steel is covered by the Steel Industry Adjustment and Upgrading plan for 2016-2020 ('13th FYP for Steel'), which covers virtually all aspects of the development of the industry, including production capacity goals, upgrading and ensuring effective supply, industry restructuring, financial support, quantitative targets, geographical location of steel factories. Similarly, the 13th FYP for the Petrochemical and Chemical Industry (2016 - 2020) provides for strict regulation of the chemical sector, covering raw materials used to produce bicycle elements, such as rubber, paints and plastics.

- (87) In addition, the steel sector is characterised by large presence of SOEs. A number of the major producers are owned by the State, with some are specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020' <sup>(35)</sup> as examples of the achievements of the 12th five-year planning period (such as Baosteel, Anshan Iron and Steel, Wuhan Iron and Steel, etc.). Steel is closely regulated by numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level such as the 'Steel Industry Adjustment and Upgrading plan for 2016-2020'. This Plan states that the steel industry is 'an important, fundamental sector of the Chinese economy, a national cornerstone' <sup>(36)</sup>.
- (88) The 13th Five-Year Plan on Economic and Social Development <sup>(37)</sup> envisages support to enterprises producing high-end steel product types <sup>(38)</sup>. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement <sup>(39)</sup>.
- (89) The 'Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)' <sup>(40)</sup> ('the Catalogue') lists iron and steel as encouraged industries. In particular, the Catalogue encourages *the [d]evelopment and application of technologies for higher-performance, high-quality, and upgrading steel products, including but not limited to high-strength automobile sheets of not less than 600 MPa, high performance pipeline steel for oil and gas transmission, high-strength wide and thick plates for vessels, marine engineering steel, moderate thickness plates of not less than 420 MPa for buildings, bridges and other structures, steel for high-speed and heavy-haul railways, low-iron loss and high-magnetic induction silicon steel, corrosion- and wear-resistance steel, alloy resource-saving stainless steel (modern ferritic stainless steel, duplex stainless steel, and nitrogen stainless steel), special steel bars and wire rods for high-performance basic parts (high-performance gears, bolts at or above Grade 12.9, high-strength spring, and long service life bearings), and high-quality special steel forged materials (tool and mould steel, stainless steel, and steel for machinery, among others)*. The applicability of the Catalogue was confirmed by the recent anti-subsidy investigation of certain hot-rolled flat products of iron, non-alloy or other alloy steel ('HRF') originating in the PRC <sup>(41)</sup>.
- (90) Aluminium is also subject to strong state intervention in the PRC. Firstly, the aluminium sector is characterised by the dominance of SOEs. According to estimates, SOEs account for more than 50 % of the total primary aluminium output in the PRC <sup>(42)</sup>. A recent study of the non-ferrous metal industry in the PRC also points in the direction of SOEs accounting for a dominant share of the domestic market <sup>(43)</sup>. While an increase in capacity in recent years is attributed partly to privately-owned companies, such capacity increase would usually also entail various forms of (local) government involvement, such as tolerating illegal capacity expansion <sup>(44)</sup>. Moreover, the aluminium production capacity amongst the main SOEs has also increased, though to a lesser extent <sup>(45)</sup>.

<sup>(35)</sup> The full text of the plan is available on the MIIT website: <http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5353943/content.html>.

<sup>(36)</sup> Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

<sup>(37)</sup> The 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016-2020), <http://en.ndrc.gov.cn/newsrelease/201612/P020161207645765233498.pdf>.

<sup>(38)</sup> Report – Chapter 14, p. 349.

<sup>(39)</sup> Report – Chapter 14, p. 352.

<sup>(40)</sup> Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

<sup>(41)</sup> See Recital (56) of Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China, OJ [2017] L 146/17.

<sup>(42)</sup> Australian Anti-Dumping Commission, *Aluminium Extrusions from China*, REP 248, p. 79 (13 July 2015).

<sup>(43)</sup> Taube, M. (2017). *Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry*, Think!Desk, 24 April 2017, p. 51.

<sup>(44)</sup> See for example a report concerning Shandong provincial government's failure to curb aluminium capacity expansion: [https://mp.weixin.qq.com/s?\\_\\_biz=MzI2OTUyMzA0Nw==&mid=2247494318&idx=1&sn=9690ca50845c19f38eaff659516817a&chksm=eaddaba6ddaa22b071a5e2588aa787ed6f6a1a964ccea55c4d85c6f7ccbfc5cedd3dceac9d&scene=0&pass\\_ticket=JFpLYZoDqNTFmOPYUGJbMwFOXlC1N3hAJ3EYPpKx6rkt4fSeZ4TwiVB5BffX4du#rd](https://mp.weixin.qq.com/s?__biz=MzI2OTUyMzA0Nw==&mid=2247494318&idx=1&sn=9690ca50845c19f38eaff659516817a&chksm=eaddaba6ddaa22b071a5e2588aa787ed6f6a1a964ccea55c4d85c6f7ccbfc5cedd3dceac9d&scene=0&pass_ticket=JFpLYZoDqNTFmOPYUGJbMwFOXlC1N3hAJ3EYPpKx6rkt4fSeZ4TwiVB5BffX4du#rd) (accessed on 22 February 2019).

<sup>(45)</sup> The Report – Chapter 15, p. 387-388.

- (91) The 13th FYP for the Non-Ferrous Metals Industry aims at upgrading the range of product types produced by the Chinese aluminium industry, inter alia, through supporting innovation. It calls for swift development of the mixed ownership system and a boost to SOEs' vitality. It further provides for the possibility of stock-piling non-ferrous metals, improving the security of resources, including aluminium and sets specific quantitative targets for reducing power consumption, increasing the ratio of recycled aluminium in production and increasing capacity utilisation <sup>(46)</sup>.
- (92) The Plan further provides for structural adjustments with stricter control on new smelting facilities and elimination of outdated capacity. It provides for geographical distribution of processing plants, focuses on projects to increase bauxite and alumina resource exploitation and covers electricity supply and pricing policy <sup>(47)</sup>.
- (93) Other policy documents targeting the aluminium sector are the Standard Conditions applicable to the Aluminium Industry issued by the Ministry of Industry and Information Technology ('MIIT'); Entry Conditions Applicable to the Aluminium Industry, issued by the National Development and Reform Commission ('NDRC') and Guidelines for Accelerating the Restructuring of the Aluminium Industry <sup>(48)</sup>, issued by the NDRC.
- (94) Thus, the numerous plans, directives and other documents pertaining to aluminium, issued at the national, regional and municipal level, clearly show the high degree of intervention of the GOC in the aluminium sector <sup>(49)</sup>.
- (95) It is therefore established that the GOC has a number of public policies in place influencing free market forces concerning the production of bicycles, including the raw materials used in that sector. Such measures impede market forces from operating normally.

3.3.2.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

- (96) According to the information on file, the Chinese bankruptcy system appears inadequate to deliver on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on similar principles as corresponding laws in other countries, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings <sup>(50)</sup>.
- (97) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC <sup>(51)</sup>. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land-use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates <sup>(52)</sup>. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land <sup>(53)</sup>.

<sup>(46)</sup> The Report – Chapter 12, p. 275 - 282

<sup>(47)</sup> The Report – Chapter 15, p. 378–382, 390.

<sup>(48)</sup> The Report – Chapter 15, p. 386.

<sup>(49)</sup> The Report – Chapter 15, pp. 377- 387.

<sup>(50)</sup> Report – Chapter 6, p. 138-149.

<sup>(51)</sup> Report – Chapter 9, p. 216.

<sup>(52)</sup> Report – Chapter 9, p. 213-215.

<sup>(53)</sup> Report – Chapter 9, p. 209-211.

- (98) Therefore, the Chinese bankruptcy and property laws do not appear to properly work, resulting in distortions when maintaining insolvent firms afloat and in relation to the land provision and acquisition in the PRC. These laws also apply with respect to the bicycle, including the exporting producers of the product under review. In particular, the Commission has established in a previous investigation that electric bicycles producers, a sector governed to a large extent by the same policy instruments as bicycles (for example the 13th Five Year Plan for Bicycle and Electric Bicycle Industry), benefited from the provision of land-use rights for less than adequate remuneration <sup>(54)</sup>. Recent investigations into other sectors also confirmed provision of land-use rights for less than adequate remuneration <sup>(55)</sup>.
- (99) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the bicycle sector, including with respect to the product under review.

### 3.3.2.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

- (100) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. the PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining <sup>(56)</sup>. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary <sup>(57)</sup>. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration <sup>(58)</sup>. Those findings lead to the distortion of wages costs in the PRC.
- (101) Nothing in the file of this investigation has revealed that the bicycle sector is not subject to the Chinese labour law system described. In fact, the bicycle sector appears to be equally affected by the distortions of wage costs both directly (when making the product under review) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).
- (102) On the basis of the above, the Commission concluded that wage costs were distorted in the bicycle sector, including with respect to the product under review.

### 3.3.2.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

- (103) Access to capital for corporate actors in the PRC is subject to various distortions.

<sup>(54)</sup> See recitals 503-515 of Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5) (C/2019/43).

<sup>(55)</sup> See recitals 478-493 of Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 283, 12.11.2018, p. 1) (C/2018/7349).

<sup>(56)</sup> Report – Chapter 13, p. 332-337.

<sup>(57)</sup> Report – Chapter 13, p. 336.

<sup>(58)</sup> Report – Chapter 13, p. 337-341.

- (104) Firstly, the Chinese financial system is characterised by strong position of State-owned banks <sup>(59)</sup>, which, when granting access to finance, take into consideration criteria other than economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of the large State-owned financial institutions are ultimately appointed by the CCP) <sup>(60)</sup> and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State <sup>(61)</sup>. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important <sup>(62)</sup>.
- (105) While it is acknowledged that there might be various legal instruments referring to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the relevant evidence shows that these provisions play only a secondary role in the application of the various legal instruments <sup>(63)</sup>. Findings made in previous trade defence investigations also reached the same conclusion <sup>(64)</sup>.
- (106) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings <sup>(65)</sup>.
- (107) This results in a bias for lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (108) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (109) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (110) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the GOC has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (111) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant systemic issues and distortions resulting from the continuing pervasive role of the state in the capital markets.

<sup>(59)</sup> Report – Chapter 6, p. 114-117.

<sup>(60)</sup> Report – Chapter 6, p. 119.

<sup>(61)</sup> Report – Chapter 6, p. 120.

<sup>(62)</sup> Report – Chapter 6, p. 121-122, 126-128, 133-135.

<sup>(63)</sup> Report, *ibid.*

<sup>(64)</sup> Report – Chapter 14, p. 362-3, listing EU trade defence investigations (concerning certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and concerning certain organic coated steel products originating in the People's Republic of China), as well as trade defence investigation conducted by the Australian, Canadian, Indian or US authorities.

<sup>(65)</sup> Report – Chapter 6, p. 127, in particular with respect to the IMF estimate.

- (112) Nothing in the file of this investigation has revealed that bicycles producers and/or the suppliers of raw materials and other inputs do not benefit from this financial system. In fact, the recent investigation into producers of electric bicycles, covered by the same policy instruments as bicycle producers (see recitals (80)-(81)) showed they benefited from preferential lending <sup>(66)</sup>, preferential financing and insurance (export credit insurance) <sup>(67)</sup>, exemption from tax of dividend income between qualified resident enterprises <sup>(68)</sup> and grant programmes <sup>(69)</sup>. Furthermore, the evidence of the file in the current investigation shows that some of the cooperating producers received loans during the investigation period. Therefore, the latter support and the general substantial government intervention in the financial system described above leads to the market conditions being severely affected at all levels.
- (113) In light of the above, the Commission concluded that the producers of bicycles had access to finance granted by institutions which implement public policy objectives or otherwise not acting independently from the state.

### 3.3.2.9. Systemic nature of the distortions described

- (114) The Commission noted that the distortions described in the Report are not limited to any particular industry sector. On the contrary, the evidence available shows that the facts and features of the Chinese system as described above in Sections 3.3.2.1-3.3.2.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.3.2.6-3.3.2.8 above and in Part B of the Report.
- (115) In order to produce bicycles, a broad range of inputs is needed. When the bicycle producers purchase/contract these inputs the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system which applies across all levels of government and sectors.
- (116) As a consequence, not only the domestic sales prices of bicycles cannot be used but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also tainted because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.

### 3.3.2.10. Conclusion

- (117) The analysis laid out in sections 3.3.2.2 to 3.3.2.9, which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the bicycles sector (including the product under review) showed that prices or costs, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation. On that basis, and in the absence of any cooperation from the GOC and the limited information on these issues provided by the exporting producers in the PRC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (118) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section. The Commission recalled that no claim was presented that some domestic costs would be undistorted under the third indent of Article 2(6a)(a) of the basic Regulation.

<sup>(66)</sup> See paras 175-346 of Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5) (C/2019/43).

<sup>(67)</sup> See paras 347-367, *ibid.*

<sup>(68)</sup> See paras 551-557, *ibid.*

<sup>(69)</sup> See paras 562-575, *ibid.*

## 3.3.2.11. CCCME comments on existence of significant distortions

- (119) In their comments on the final disclosure, CCCME argued that the Commission's analysis on significant distortions was macroscopic and general. First, the CCCME considered that a socialist market economy is in nature a market economy with characteristics of common market economy, giving enterprises full autonomy to make operational decisions, including pricing. CCCME further argued that the GOC implements macro-control to ensure a stable national economy, however this macro-control should not be misread as government's intervention in individual enterprises and it has no influence on the costs or prices of their products.
- (120) Secondly, the CCCME did not agree that there is heavy intervention of the GOC in the market of aluminium, steel, rubber and chemicals. Even if there are distortions in those markets, they are not present in the market of bicycle components, as they involve several stages of processing of those raw materials and their price is influenced by other factors such as specific technical features of the bicycles and the demand of individual consumers. Therefore, any distortion in the markets of aluminium, steel, rubber and chemicals would not have an influence on the prices of bicycle components.
- (121) Thirdly, the CCCME considered that the existence of a subsidy should not be used as evidence of the existence of a market distortion, because subsidies are present in many other countries considered as wholly market economy countries. The CCCME also notes that findings on subsidies in the electric bicycles case <sup>(70)</sup> are unreasonable.
- (122) In their submission, CCCME furthermore argued that both the markets of bicycles and bicycle parts are free markets with no state intervention, since many producers of bicycles and bicycle parts are privately owned or foreign-invested companies. CCCME further added that even if there are some companies owned or invested by the State, there is no difference between them and other companies, that may have influence on prices of bicycles or bicycle parts, as all economic operators have to abide by the same rules and regulations including VAT payments, health and retirement payments etc.
- (123) At the outset, the Commission observed that the CCCME did not support its claims with any evidence whatsoever to rebut the evidence contained in this section proving the existence of significant distortions in the PRC in general and specifically in the bicycle sector and in the sectors of its supplier industries. Therefore, the CCCME's claims could be outright entirely dismissed as unsubstantiated.
- (124) In any event, the Commission recalled that, pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of the elements mentioned therein on prices and costs in the exporting country of the product concerned. Any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand showing that those elements have a potential impact on prices and costs. The Commission noted that the CCCME itself acknowledged that the GOC exercises control to ensure a stable national economy. As explained in detail in sections 3.3.2.1 to 3.3.2.9, the interventionist nature of the GOC has a direct and indirect impact on the cost structure of enterprises and on final prices. It is clear from the extent of the GOC's interventions into the bicycle sector that there was at a very minimum at least a potential impact on the market of bicycles and/or its components.
- (125) With regard to the distortions on raw materials, the Commission provided multiple examples of specific state interventions into those markets demonstrating the existence of significant distortions in section 3.3.2.5. Again, the Commission noted that the CCCME did not provide any evidence pointing to the contrary. Furthermore, the Commission pointed out that the existence of price distorting elements in the markets for aluminium, steel, rubber and chemicals leads to at least a potential carry-over of those price distortions into the provision of processed bicycle components made of those raw materials and thus does affect the prices or costs of bicycles. Other than an allegation that the undisputed distortions in the raw materials do not have any effects on the downstream industry, the CCCME has failed to show any evidence that the bicycle industry is not affected by these distortions.

<sup>(70)</sup> Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China.

- (126) With regard to the CCCME's claim concerning subsidies, the Commission underlined that subsidies are one of a number of indicators of price and cost distortions in an economy, as they have a direct or indirect, actual or potential impact on such costs and prices, which normally decrease for the recipient enterprises and/or their customers. Subsidies such as provision of land-use rights for less than adequate remuneration or availability of preferential lending and financing in a given sector lower the costs of the producer and therefore affect the cost of production and/or the prices of their products <sup>(71)</sup>. The Commission also noted that the fact that the findings in the electric bicycles case are considered unreasonable by CCCME bears limited relevance, as the existence of subsidies in the granting of land-use rights and preferential lending was consistently confirmed in a number of recent investigations, not only limited to electric bicycles but applying throughout the Chinese economy (see recital (98)). CCCME's argument that enterprises in other economies might also benefit from subsidies is irrelevant in the context of this investigation, which deals with the situation of the product under review in the PRC and not in abstract with the subsidy situation in other countries.
- (127) Finally, with regard to the argument that a large number of bicycle producers are privately owned and all companies in the PRC are subject to free market conditions and the same rules are applicable for both privately owned enterprises and SOEs, the Commission observed that one of the elements of Article 2(6a)(b) of the basic Regulation, which are indicator of significant distortions in an economy, is the fact that 'the market in question is being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country'. As explained in recital (66), it was impossible to establish the exact ratio of SOEs and privately owned bicycle producers in the PRC due to lack of sufficient market data. However, even if there is no predominance of SOEs in a given sector, state ownership is only one of the indicators of significant distortions. State control and policy supervision or guidance are other indicators listed in Article 2(6a)(b) and since they are largely present in the bicycle sector (see section 3.3.2.3), the Commission established that the entire bicycle sector in the PRC is subject to significant distortions. Secondly, the fact that both state-owned and privately-owned enterprises are subject to the same rules and regulations such as VAT payments, health and retirement payments etc. does not preclude that all those enterprises operate in an environment characterised by significant distortions, which affect the costs and prices of those enterprises.
- (128) On the basis of the above, the claims by CCCME with regard to the existence of significant distortions were dismissed.

### 3.3.3. Representative country

#### 3.3.3.1. General remarks

- (129) The choice of the representative country was based on the following criteria:

- *A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income similar to the PRC on the basis of the database of the World Bank <sup>(72)</sup>;*
- *Production of the product under review in that country <sup>(73)</sup>;*
- *Availability of relevant public data in that country;*
- *Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.*

- (130) In the first note on production factors, the Commission informed interested parties that it had identified six possible representative countries: Brazil, Mexico, Russia, Serbia, Thailand and Turkey and invited interested parties to comment and suggest other countries. In the second note on production factors, the Commission informed interested parties that Serbia was the appropriate representative country.

<sup>(71)</sup> See Judgement of the Court of 28 February 2018 in Case C-301/16 P.

<sup>(72)</sup> World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

<sup>(73)</sup> If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

### 3.3.3.2. A level of economic development similar to the PRC

- (131) Brazil, Mexico, Russia, Serbia, Thailand and Turkey are regarded by the World Bank as countries with a similar level of economic development as the PRC, i.e. they are all classified as 'upper-middle income' countries on a gross national income basis.
- (132) In their comments on the first note on production factors, the applicant warned that the severe economic crisis experienced by Brazil in the recent past may impact the imports of bicycle components and worsened the performance of bicycles producers in their domestic market.
- (133) The Commission noted that the applicant did not provide evidence that imports into Brazil were impacted nor that the worsening of domestic performance of Brazilian producers was systematic. Although the Commission recognised that the only known company producing bicycles having publicly available data had negative operating profit, it could not extrapolate this finding to the country as a whole.

### 3.3.3.3. Production of the product under review in the representative country

- (134) In all the six countries identified in section 3.3.3.2 the Commission identified several producers producing output under NACE code 3092 (Nomenclature of economic activities of the Union) related to the manufacturing of bicycles <sup>(74)</sup>.
- (135) In their comments on the first note on production factors, the applicant pointed out that subsidies for energy are in place in Russia and that these could impact the production of energy-intensive material, such as aluminium, that is used in the manufacture of bicycles.
- (136) The Commission noted that the applicant did not provide evidence on these subsidies nor on their material impact on the production of bicycles. The claim was therefore rejected.
- (137) The applicant asserted that Serbian producers source bicycles parts from the Union (approximately 30 %), the PRC (approximately 30 %), other Asian countries (approximately 30 %), and domestically (approximately 10 %) and that Turkish producers source bicycles parts from the Union (approximately 15 %), the PRC (approximately 30 %), other Asian countries (approximately 30 %), domestically (approximately 20 %) and from other countries (approximately 5 %).
- (138) The Commission verified and confirmed this information on the Global Trade Atlas database <sup>(75)</sup> and considered this as an indication of open markets with diversified supply sources.
- (139) The applicant noted that the Union increased customs duties on imports of bicycles from Thailand (by withdrawing the GSP preferences in 2015 <sup>(76)</sup>), leading to a drop of Thai exports of bicycles to the Union. The applicant claimed that this severely impacted the performance of Thai producers, which are mostly exporting to the Union. The applicant also claimed that the Thai producers became lossmaking. However, it did not provide data on profitability of Thai producers nor on their magnitude of exports.
- (140) The Commission found that the profitability of the two Thai producers listed in the Note of 4 July was positive in 2016. The Commission also investigated companies in Thailand producing bicycles as secondary business (namely, secondary NACE code 3092) and found that out of 93 companies for profit and loss statements in 2017 or 2016 were available in the Orbis database, 76 were profitable <sup>(77)</sup>. The claim above was therefore rejected.

### 3.3.3.4. Availability of the relevant public data in the representative country

- (141) For all six countries identified in recital (130) the availability of public data (and in particular public financial data from the producers of the product under review) was further verified by the Commission.

<sup>(74)</sup> Source: Orbis database, provided by Bureau Van Dick (<https://orbis.bvdinfo.com/version-2019228/home.serv?product=OrbisNeo>).

<sup>(75)</sup> Global Trade Atlas – GTA ([https://www.gtis.com/gta/secure/htscty\\_wta.cfm](https://www.gtis.com/gta/secure/htscty_wta.cfm)).

<sup>(76)</sup> Thailand was removed from the list of GSP beneficiary countries listed in Annex II to Regulation (EU) No 978/2012 with effect from 1 January 2015 in accordance with Commission Delegated Regulation (EU) No 1421/2013.

<sup>(77)</sup> Source: Orbis database, provided by Bureau Van Dick (<https://orbis.bvdinfo.com/version-2019228/home.serv?product=OrbisNeo>).

- (142) The Commission looked for bicycle producers with publicly available financial data that could be used to establish undistorted and reasonable amounts for selling, general and administrative expenses (SG&A) and profit. As mentioned in the first and second notes on production factors, the Commission relied on the Orbis database <sup>(78)</sup> as source of data and selected companies with NACE primary code 3092, to limit the analysis to producers having bicycles as core business. Moreover, the Commission restricted the search to companies with publicly available profit and loss statements for the most recent period (2016 and 2017). This narrowed the search down to one company in Brazil, twenty-nine in Russia and six in Serbia. The Commission then selected profitable companies. This led to the exclusion of the one company in Brazil and of ten companies in Russia, which had a negative profitability in 2016 and 2017.
- (143) The Commission finally noted that the six Serbian companies had publicly available data for 2017, whereas the nineteen remaining Russian companies had publicly available data only until 2016. Since the review investigation period consists of the three last quarters of 2017 and the first quarter of 2018, the Commission considered that Serbia was an appropriate representative country.
- (144) Consequently, the Commission announced its intention to all interested parties in the second note on production factors to use Serbia as an appropriate representative country should it conclude that all the conditions to apply the methodology foreseen in Article 2(6a)(a) of the basic Regulation would be met. Taking into account all the above elements and the comments by the parties, the Commission decided that the final choice of an appropriate representative country was Serbia and selected the following six companies with publicly available financial data that could be used to establish undistorted and reasonable amounts for SG&A and profits in accordance with the last paragraph of Article 2(6a)(a) of the basic Regulation:
- *Capriolo d.o.o backa topola*;
  - *Planet bike co. D.o.o., Beograd*;
  - *Venera bike*;
  - *Krypton company d.o.o backa topola*;
  - *Crossbike*;
  - *Cassini wheels d.o.o*;

### 3.3.3.5. Level of social and environmental protection

- (145) Having established that Serbia was an appropriate representative country on the basis of these elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

### 3.3.3.6. Conclusion

- (146) In view of the above analysis, Serbia met all the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country. In particular, Serbia has a substantial production of the product under review and a complete set of data available for all factors of production, SG&A and profit.

### 3.3.4. Manufacturing overhead costs, SG&A and profits

- (147) For the construction of the normal value the Commission followed the methodology explained in the second note on production facts and included SG&A costs and profits from the six companies in Serbia as mentioned in Recital (144), in accordance with Article 2(6a)(a), fourth paragraph of the basic Regulation.
- (148) In addition, the Commission included a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. This was estimated using the ratio of manufacturing overhead over the cost of manufacturing reported by the cooperating exporting producers to the respective undistorted costs of manufacturing (covering the consumption of materials, labour, energy and water) determined according to the methodology described in section 3.3.8.

<sup>(78)</sup> Source: Orbis database, provided by Bureau Van Dijk (<https://orbis.bvdinfo.com/version-2019228/home.serv?product=OrbisNeo>).

## 3.3.5. Sources used to establish undistorted costs

- (149) In the second note on production factors, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use Global Trade Atlas ('GTA') to establish the undistorted cost of most of the factors of production. However, after the second note on production factors the Commission noted that for the review investigation period the information reported by GTA on the import of bicycles parts into Serbia was incomplete. Therefore, the Commission used Eurostat to establish the cost of material <sup>(79)</sup>, electricity and natural gas <sup>(80)</sup>, Bloomberg data extraction from Statistical Office of the Republic of Serbia for the cost of water <sup>(81)</sup>, and the financial data from the six Serbian companies listed in recital (144) to establish SG&A costs, profits.
- (150) As explained in recital 3.3.5, the manufacturing overheads were added to SG&A and profit and based on the ratio of manufacturing overhead over the cost of manufacturing reported by the cooperating exporting producers to the respective undistorted costs of manufacturing.

## 3.3.6. Factors of production

- (151) Through the first and second note on production factors, the Commission sought to establish an initial list of factors of production and sources intended to be used for all factors of production such as materials, energy and labour used in the production of the product under review by the producers in the PRC.
- (152) The Commission relied on the data provided by the applicant and on the replies to Annex III of the Notice of Initiation provided by the six original cooperating producers in the PRC <sup>(82)</sup> in order to establish a complete list of factors of production of bicycles.
- (153) For comparability purposes between the Chinese and Serbian nomenclature the Commission identified, for each factor of production, the corresponding 6-digit Harmonised System ('HS') code at HS subheading (six digits) level, based on the information provided by both the applicant and the cooperating producers in the PRC. The PRC, Serbia and the Union all use the Harmonised System so the tariff codes of all three match.
- (154) Considering all the information submitted by the applicant and the cooperating producers in the PRC, the following factors of production and HS codes, where applicable, have been identified:

Table 1

Factor of Production	HS Code	Unit import value
Full frame	8714 91	65,63 EUR/piece
Crown for frame head tube	8714 91	7,63 EUR/kg
Gusset for frame	8714 91	7,63 EUR/kg
Hanger for frame	8714 91	7,63 EUR/kg
Parts to assemble on frame head tube	8714 91	7,63 EUR/kg
York for frame	8714 91	7,63 EUR/kg
Frame triangle	8714 91	7,63 EUR/kg
Frame accessory	8714 91	7,63 EUR/kg
Frame bridge	8714 91	7,63 EUR/kg

<sup>(79)</sup> [http://comext.eurostat.ec.europa.eu/ANALYTICAL\\_S10\\_V17\\_ECAS/Analytical.html](http://comext.eurostat.ec.europa.eu/ANALYTICAL_S10_V17_ECAS/Analytical.html).

<sup>(80)</sup> <https://ec.europa.eu/eurostat/web/energy/data/main-tables>.

<sup>(81)</sup> <https://www.bloomberg.com/>.

<sup>(82)</sup> At 4 July 2018, the company Yong Yi had not yet withdrawn its cooperation from the investigation and information provided in Annex III was therefore used as source.

Factor of Production	HS Code	Unit import value
Accessory box	8714 99	9,15 EUR/kg
Alloy badge	8310 00	11,02 EUR/kg
Alloyed aluminium tube	7608 20	4,78 EUR/kg
Axle peg	8714 99	9,15 EUR/kg
B.B. parts	8714 99	9,15 EUR/kg
B.B. set	8714 99	9,15 EUR/kg
B.B. shell	8714 99	9,15 EUR/kg
B.B. axle	8714 99	9,15 EUR/kg
Bag	3923 21	2,20 EUR/kg
Bar end	8714 99	9,15 EUR/kg
Basket	8714 99	9,15 EUR/kg
Basket bracket	8714 99	9,15 EUR/kg
Battery	8714 99	9,15 EUR/kg
Bell	8306 10	12,47 EUR/kg
Brake	8714 94	7,48 EUR/kg
Brake cable	8714 94	7,48 EUR/kg
Brake cable housing	8714 99	9,15 EUR/kg
Brake inner wire	8714 94	7,48 EUR/kg
Brake lever	8714 94	7,48 EUR/kg
Brake pivot	8714 94	7,48 EUR/kg
Brake cable	8714 94	7,48 EUR/kg
Bridge	8714 99	9,15 EUR/kg
Cable guide	8714 99	9,15 EUR/kg
Cable stopper	8714 99	9,15 EUR/kg
Carbon fork blade	8714 91	7,63 EUR/kg
Carrier fixing nut	7318 16	5,55 EUR/kg
Carton	4819 10	1,11 EUR/kg
Chain	7315 11 or 8714 99	14,23 EUR/kg 9,15 EUR/kg

29.8.2019

EN

Official Journal of the European Union

L 225/25

Factor of Production	HS Code	Unit import value
Chain adjuster	8714 99	9,15 EUR/kg
Chain cover bracket	8714 99	9,15 EUR/kg
Chain guard	8714 99	9,15 EUR/kg
Chain cover	3926 90	8,93 EUR/kg
Chaincover bracket	8714 99	9,15 EUR/kg
Chainwheel	8714 96	7,41 EUR/kg
CKD set	8714 99	9,15 EUR/kg
Corrugated board	4808 10	0,77 EUR/kg
Crank set	8714 99	9,15 EUR/kg
Decal	4821 10	7,77 EUR/kg
Derailleur cable	8714 99	9,15 EUR/kg
Derailleur protector cage	8714 99	9,15 EUR/kg
Disc for owner's manual	8523 49	335,30 EUR/kg
Disc mount bracket	8714 94	7,48 EUR/kg
Disk brake	8714 94	7,48 EUR/kg
Electric accessory	8714 99	9,15 EUR/kg
End cap for grip	8714 99	9,15 EUR/kg
Fender	8714 99	9,15 EUR/kg
Fork	8714 91	7,63 EUR/kg
Rear fork ends	8714 91	7,63 EUR/kg
Shifter / derailleur (front/rear)	8714 99	9,15 EUR/kg
Grip	8714 99	9,15 EUR/kg
Handle bar	8714 99	9,15 EUR/kg
Handlebar stem	8714 99	9,15 EUR/kg
Head set	8714 91 or 8714 99	7,63 EUR/kg 9,15 EUR/kg
Head tube	7608 20	4,78 EUR/kg
Hi-ten tubes	7304 51	1,97 EUR/kg
Hub	8714 93	15,53 EUR/kg
Hub cap	8714 99	9,15 EUR/kg
Inner tube	4013 20	0,93 EUR/piece

Factor of Production	HS Code	Unit import value
Joint	8714 99	9,15 EUR/kg
Kick-stand	8714 99	9,15 EUR/kg
Kickstand plate	8714 99	9,15 EUR/kg
Lights	8512 10	3,20 EUR/kg
Lock	8301 40	14,33 EUR/kg
Manual	4911 10	1,95 EUR/kg
Other accessories	8714 99	9,15 EUR/kg
Outer casing cap	8714 94	7,48 EUR/kg
Outer casing cap for brake	8714 94	7,48 EUR/kg
Packaging materials	3923 90	3,17 EUR/kg
Packing accessories	8714 99	9,15 EUR/kg
Paint	3208 20 or 3208 90	4,35 EUR/kg 3,81 EUR/kg
Paint bottle	7010 90	0,45 EUR/kg
Pedal	8714 96	8,93 pairs
Quick release	8714 99	9,15 EUR/kg
Rear carrier	8714 99	9,15 EUR/kg
Reflector bracket	8714 99	9,15 EUR/kg
Reflector	3926 90	8,93 EUR/kg
Rim	8714 92	3,01 EUR/kg
Rim set w/o tire & tube	8714 92	3,01 EUR/kg
Rim tape	4012 90	3,22 EUR/kg
Rivet	7318 16	5,55 EUR/kg
Rotor	8714 94	7,48 EUR/kg
Rotor/accessory parts for basket/accessory parts for fender	8714 99	9,15 EUR/kg
Saddle	8714 95	6,15 EUR/kg
Screw	7318 15	3,69 EUR/kg
Screw/bolt	7318 16	5,55 EUR/kg
Seat clamp	8714 99	9,15 EUR/kg
Seat collar	8714 99	9,15 EUR/kg

29.8.2019

EN

Official Journal of the European Union

L 225/27

Factor of Production	HS Code	Unit import value
Seat post	8714 99	9,15 EUR/kg
Seat stay bridge	8714 99	9,15 EUR/kg
Shift lever	8714 99	9,15 EUR/kg
Shifter inner wire	8714 99	9,15 EUR/kg
Shifter outer cable	8714 99	9,15 EUR/kg
Spoke	8714 92	3,01 EUR/kg
Spoke protector	8714 99	9,15 EUR/kg
Sticker	3919 90	5,60 EUR/kg
Suspension	8714 99	9,15 EUR/kg
Suspension accessories	8714 99	9,15 EUR/kg
Tire	4011 50	2,75 EUR/piece
Tools	8714 99	9,15 EUR/kg
Tube	7608 20	4,78 EUR/kg
Valve	8714 99	9,15 EUR/kg
V-shape stay for fender	8714 99	9,15 EUR/kg
Water bottle fixing nut (boss)	7318 16	5,55 EUR/kg
Freewheel	8714 93	15,53 EUR/kg
Wheel sets	8714 93	15,53 EUR/kg
Training wheel	8714 99	9,15 EUR/kg
Wire	8714 94 or 8714 99	7,48 EUR/kg 9,15 EUR/kg
<b>Labour</b>		
Labour wages in manufacturing sector	[N/A]	1,49 EUR/hour or 3 396,84 EUR/year
<b>Energy</b>		
Electricity	[N/A]	0,06 EUR/kWh
Gas	[N/A]	0,33 EUR/m <sup>3</sup>
Water	[N/A]	2,28 EUR/m <sup>3</sup>

## 3.3.6.1. Materials

- (155) In order to establish undistorted price of materials as delivered at the gate of the producer's factory as provided by Article 2(6a)(a), first indent, the Commission used the import prices in the representative country, of each material used by the cooperating producers in the PRC.

- (156) In order to establish the normal value, according to the Commission's methodology the import duties of the factors of production and the materials imported into Serbia, as well as the domestic transport costs should be added to these import prices. This would result in a higher normal value since the import duties would further increase the import prices of bicycle parts. Consequently, an even higher dumping margin. Considering the finding in recital (178) as well as the nature of this expiry review investigation, which is focused on finding whether dumping continued during the review investigation period rather than finding its exact magnitude, the Commission decided that adjustments for import duties and domestic transport were unnecessary.

#### 3.3.6.2. Labour

- (157) The ILO statistics provided information on monthly wages in the manufacturing sector and weekly hours worked in Serbia for the review investigation period. For Ideal, that reported the total staff wage for the review investigation period, the Commission extrapolated the individual average monthly wage and replaced it with the ILO average monthly wage. For Oyama, that reported wages for person-hours, the Commission first extrapolated the monthly working hours from the ILO data on working hours per week then divided the average monthly wage by the average working hours, thus obtaining the average wage per hour which was finally used to replace the information provided by the company.

#### 3.3.6.3. Electricity and natural gas

- (158) The prices of electricity and natural gas for non-household consumers and in particular for medium-sized industry were readily available on Eurostat for Serbia <sup>(83)</sup>, for the year 2017. The electricity price was reported in Euro per kWh and the gas price in Euro per gigajoule. The latter has a fixed conversion rate with cubic meters, which was the measure used by the cooperating producers in the PRC to report their gas consumption.

#### 3.3.6.4. Water

- (159) The data used for determination of water price was extracted from the Bloomberg database in series of Serbia CPI (Consumer Prices) Water Supply Index, reporting an amount of 269,1 RSD for January 2019.

#### 3.3.7. Calculations

- (160) In order to establish the constructed normal value, the Commission followed the following two steps.
- (161) First, the Commission established the undistorted manufacturing costs. This was done by multiplying the usage factor of each production factor by their undistorted cost per unit. The usage factors for materials, labour, energy and water were provided by the cooperating exporting producers. The undistorted costs per unit were those observed in the representative country.
- (162) Second, the Commission established the manufacturing overheads costs. These were computed by applying the ratio of manufacturing overhead over the cost of manufacturing reported by the cooperating exporting producers, to the respective undistorted costs of manufacturing (covering the consumption of materials, labour, energy and water) determined according to the methodology described in section 3.3.6.
- (163) Third, to the manufacturing costs identified above the Commission applied the average SG&A costs and profits from six companies in Serbia (Capriolo, Planet bike, Venera bike, Krypton, Crossbike and Cassini Wheels). They were identified on the basis of publicly available information on these companies annual accounts of 2017 <sup>(84)</sup> and were expressed as the following percentages:

— SG&A <sup>(85)</sup> of 6,62 % applied to the sum of costs of manufacturing and manufacturing overheads; and

— A profit <sup>(86)</sup> of 10,05 % applied to the sum of costs of manufacturing and manufacturing overheads.

<sup>(83)</sup> <https://ec.europa.eu/eurostat/web/energy/data/database>.

<sup>(84)</sup> Source: Orbis database, provided by Bureau Van Dijk (<https://orbis.bvdinfo.com/version-2019228/home.serv?product=OrbisNeo>).

<sup>(85)</sup> Computed as average of operating revenue, less operating profit, less financial profit, less cost of goods sold (material costs, costs of employees, depreciation and amortisation).

<sup>(86)</sup> Computed as the profit before taxes over the cost of goods sold (material costs, costs of employees, depreciation and amortisation).

- (164) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. A different normal value was established for each exporting producer.
- (165) In their comments on the final disclosure, the CCCME argued that the Commission did not use any data provided by the cooperating exporting producers when establishing the undistorted normal value. CCCME argued that, since the PRC is no longer considered as a non-market economy, factors such as energy costs, manufacturing overhead costs, SG&A and profits should not be replaced by benchmarks. CCCME also argued that other factors of production such as frames made of carbon, should not be replaced as carbon used in these frames was not mentioned as material subject to significant distortions in the PRC.
- (166) The Commission noted that the statement that it did not use any data provided by the cooperating exporting producers when establishing the undistorted normal value is factually inaccurate. As mentioned in recitals (150) and (161), the Commission used, the usage factors for materials, labour, energy and water, as well as the ratio of manufacturing overheads, all reported by the cooperating exporting producers and verified by the Commission.
- (167) The Commission further noted that CCCME's argument that the PRC is no longer considered as a non-market economy is also irrelevant. The Commission recalls that in recital (2) of the new anti-dumping legislation it is clearly stated that '*[t]his Regulation is without prejudice to establishing whether or not any WTO Member is a market economy or to the terms and conditions set out in protocols and other instruments in accordance with which countries have acceded to the Marrakesh Agreement Establishing the World Trade Organization done on 15 April 1994.*'<sup>(87)</sup> As the new anti-dumping legislation no longer distinguishes between market economies and non-market economies, this argument by CCCME lacks any legal basis applicable to this investigation. The application of Article 2(6a) of the basic Regulation is made on a case by case basis, having regard to all the evidence available with respect to the exporting country.
- (168) Furthermore, the Commission noted that Article 2(6a)(a) of the basic Regulation establishes that the existence of significant market distortions render the use of domestic costs and prices inappropriate, and thus the normal value must be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks. It also provides that the normal value must include an undistorted and reasonable amount for SG&A and for profits. The use of domestic costs in that context is only available to the extent that such costs are positively established not to be distorted, on the basis of accurate and appropriate evidence, in particular on the basis of evidence provided by interested parties in accordance with Article 2(6a)(c). CCCME did not adduce any evidence to that effect.
- (169) Finally, the Commission also noted that none of the three cooperating sampled producers in the PRC claimed that any of the factors of production have been purchased at undistorted values.
- (170) This claim was therefore rejected.

### 3.3.8. Export price

- (171) Out of the two sampled producers/groups of producers in the PRC selling the product under review to the Union during the review investigation period, one was selling directly to independent customers and the other was selling via related traders.
- (172) The exporting producers exported the product under review either directly to independent customers in the Union or via a trader. The export price was therefore established based on prices actually paid or payable for the product under review when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

<sup>(87)</sup> Regulation (EU) 2017/2321 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 338 of 19.12.2017, p. 1).

- (173) As mentioned in recital (46), one of the sampled exporting producers group did not provide the Commission its sales prices for the sales done via a related trader to the first independent customer for both sales to the Union as well as sales to the rest of the world. Therefore, using best facts available in accordance with Article 18 of the basic Regulation, the Commission used only transactions for which the price to independent customer could be identified to establish the export price for that exporting producers group.

### 3.3.9. Comparison

- (174) The Commission compared the constructed normal value in accordance with Article 2(6a)(a) of the basic Regulation with the export price on an ex-works basis.
- (175) Where justified by the need to ensure a fair comparison, the Commission adjusted the export price for differences affecting price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for inland transport costs, handling, loading and ancillary expenses, credit cost and bank charges.
- (176) Furthermore, for one of the exporting producers the export price was adjusted in accordance with Article 2(10)(i) of the basic Regulation by deducting commissions on the account of the sales via a trader. The calculation of the commissions was based on the trader's SG&A and a reasonable profit margin. When adjusting for profit, the Commission used the level established in the investigation that set the current level of duties.

#### 3.3.9.1. Dumping margin

- (177) The Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (178) On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was 2,56 % for Ideal and 49,82 % for Oyama.

#### 3.3.9.2. Dumping by the non-cooperating exporting producers

- (179) The Commission also computed the average dumping margin for the non-cooperating exporting producers. Given the low level of cooperation from the PRC discussed in Section 3.2, the Commission used facts available in accordance with Article 18 of the basic Regulation.
- (180) First, to establish the normal value, the Commission used the average normal value of the two cooperating exporting producers/groups of producers.
- (181) Second, to establish the export price the Commission used Eurostat data after deducting the exports of the two cooperating exporting producers. For the purpose of comparison, the Commission adjusted the export price to the ex-works level by using the average verified allowances, including the transport costs, of the two cooperating exporting producers.
- (182) On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was 206 %. This dumping margin would be higher had the normal value of the cooperating exporting producers been adjusted for domestic transport costs and import duties into Serbia, as mentioned in recital (156).
- (183) Alternatively, in order to use all best facts available in accordance with Article 18 of the basic Regulation, the Commission computed the dumping margin by using the average constructed normal value provided in the request. This was based on Turkey as representative country. Despite the fact that this alternative normal value only included the major factors of production (15 to 20, depending on the bicycle types), the resulting dumping margin was 86 %.
- (184) There is therefore no doubt that dumping continued during the review investigation period.

#### 3.3.9.3. Conclusion

- (185) The Commission therefore concluded that dumping continued during the review investigation period.

### 3.4. Likelihood of continuation of dumping from the PRC

(186) To examine the likelihood of continuation of dumping the following elements were examined by the Commission: the production capacity and spare capacity in the PRC and the attractiveness of the Union market.

#### 3.4.1. Production capacity and spare capacity in the PRC

(187) According to the China Bicycles Association, total bicycle output was 80 million units in 2017.

(188) Furthermore, the five cooperating companies reported a capacity utilisation rate between 38 % and 96 % during the review investigation period (i.e. a weighted average of 68 %). By application of best facts available in accordance with Article 18 of the basic Regulation given the low cooperation, the Commission estimated a total capacity of 117 million bicycles<sup>(88)</sup>. On this basis, the spare capacity of the Chinese industry would be some 37 million bicycles, which is more than double the total consumption in the Union (namely, 18 million units).

(189) In addition, as established in the Council Regulation (EU) No 502/2013<sup>(89)</sup> and confirmed during the investigation, the production of bicycles is essentially an assembly operation that could be easily increased by increasing the number of personnel. Therefore, the Chinese producers could rapidly build up new capacity by hiring new personnel.

(190) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacity, which they could use to produce bicycles to export to the Union market if measures were allowed to lapse.

(191) In their comments of final disclosure, CCCME argued that the Commission roughly estimated the spare capacity of the Chinese industry and failed to provide any evidence to support its estimation.

(192) The Commission recalled that due to the low level of cooperation from the PRC, Article 18 of the basic Regulation was applied to estimate the spare capacity. Moreover, as explained in recitals (187) and (188) the Commission based its estimation on the total output figures provided by the China Bicycle Association. Moreover, other than an assertion, CCCME does not provide any evidence for its claim that the Commission miscalculated the spare capacities in the PRC. This claim was therefore rejected.

#### 3.4.2. Attractiveness of the Union market

##### 3.4.2.1. Price behaviour of the Chinese exporters in third markets

(193) The first element in support of the attractiveness of the Union Market is the price behaviour of Chinese producers when selling to the Union market as compared to other export markets. Looking at the overall Chinese exports of bicycles during the review investigation period<sup>(90)</sup>, these amounted to some 58 million pieces of which 15 million were sold to the USA (namely, 26 % of the total Chinese export of bicycles). The average Chinese export price to USA is 50 EUR/unit which is lower than to the EU (64 EUR/unit) and significantly lower than the average selling price of Union producers during the review investigation period (namely, 129 EUR/unit). Moreover, the imposition an additional 10 % *ad valorem* rate of duty on Chinese bicycles in the USA as of 1 January 2019, pursuant to Section 301 of the U.S. Trade Act<sup>(91)</sup>, is likely to substantially affect the Chinese exports of bicycles to this country. In addition, on 10 May 2019, the USA furtherly raised the additional *ad valorem* import duty to 25 %<sup>(92)</sup>. Thus, the impact on the Chinese exports of bicycles to the USA is expected to be even more significant. As a result, the Union would become more attractive than the current biggest market for the Chinese bicycles, should the existing measures elapse.

<sup>(88)</sup> This was computed by extrapolation, assuming that the total production of 80 million units represents 68 % of the total capacity, which would therefore be equal to 117 million units.

<sup>(89)</sup> Council Regulation (EU) No 502/2013 of 29 May 2013 amending Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 153, 5.6.2013, p. 17).

<sup>(90)</sup> Source: Global Trade Atlas – GTA ([https://www.gtis.com/gta/secure/htstcty\\_wta.cfm](https://www.gtis.com/gta/secure/htstcty_wta.cfm)), statistical data available at the HS code level 8712 00 (Product concern: CN code 8712 00 30 & 8712 00 70).

<sup>(91)</sup> <https://www.usitc.gov/tata/hts/index.htm>, United States International Trade Commission - Official Harmonized Tariff Schedule 2019.

<sup>(92)</sup> <https://www.federalregister.gov/documents/2019/05/09/2019-09681/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>.

- (194) Overall, the Union is attractive in terms of prices to the Chinese bike producers. The Chinese exporters sold in 149 countries (representing 71 % of their total export value of bicycles) where, on average, the prices were lower than in the Union. Only in 24 countries, (representing 25 % of their total export value of bikes) they sold at prices which were, on average, higher than in the Union.
- (195) In conclusion, exporting to the Union would be more attractive for Chinese exporters than exporting to most of the other countries, representing the majority of their exports.

#### 3.4.2.2. Availability of other markets

- (196) The second element in support of the attractiveness of the Union Market is the existence of trade defence and other restrictive import measures against Chinese bicycles in a high number of export markets. Such measures exist in Mexico and Argentina. These countries account for 4 % of the total volume exported in the rest of the world by the sampled exporting producers and 1 % of the total Chinese exports in the review investigation period <sup>(93)</sup>.
- (197) As mentioned in recital (193), the imposition of an additional 10 % *ad valorem* rate of import duty on Chinese bicycles in the USA as of 1 January 2019 will substantially affect the Chinese exports of bicycles. Indeed, the USA alone accounts for 58 % of the export volume to the rest of the world for the sampled exporting producers and 26 % when considering all exports from the PRC. Already in the first quarter of 2019, Chinese exports of bicycles into the USA were 54 % lower than in the first quarter of 2018 (or some 1,4 million units less). This impact is expected to be even higher after the decision of the USA to further raise the additional *ad valorem* rate of import duty to 25 % as on 10 May 2019 <sup>(94)</sup>.
- (198) These additional duties on the biggest export market for the Chinese bicycles accompanied by the repeal of the existing measures on the Union market would likely result in a redirection of Chinese exports from the USA to the Union.
- (199) In their comments on final disclosure, CCCME argued that the Commission failed to provide any evidence to prove that the spare capacity in the PRC is targeting the Union market.
- (200) The Commission noted that it did not argue that the spare capacity is targeting the Union market but that it is likely to do so, should the measures be allowed to lapse. In recitals (193) to (198) the Commission listed a number of circumstances that strongly point towards that likelihood. Notably, none of these circumstances were disputed by CCCME.
- (201) This claim was therefore rejected.

#### 3.4.3. Conclusion on the likelihood of continuation of dumping

- (202) In view of the above, the Commission concluded that there is a strong likelihood that dumping would continue should the measures lapse.

### 3.5. Overall conclusions on the likelihood of continuation of dumping

- (203) The investigation showed that Chinese imports continued to enter the Union market at dumped prices during the review investigation period.
- (204) The Commission also found evidence that dumping will likely continue should the measures lapse. The spare capacity in the PRC was significant in comparison with the Union consumption during the review investigation period. Moreover, the pricing behaviour of the Chinese exporting producers in third markets, showing that export prices to the majority of those markets are lower than those to the Union, points towards the likelihood of continuation of dumping to the Union, should the measures be allowed to lapse. Finally, the attractiveness of the Union market in terms of size and prices, and the fact that other markets remain protected by trade

<sup>(93)</sup> Source: Global Trade Atlas – GTA.

<sup>(94)</sup> <https://www.federalregister.gov/documents/2019/05/09/2019-09681/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>.

measures, particularly the USA indicated that it is likely that Chinese exports and spare capacity would be directed towards the Union market, should the measures be allowed to lapse. Consequently, the Commission concluded that there was a strong likelihood that the repeal of the anti-dumping measures would result in an increase of exports of bicycles from the PRC to the Union at dumped prices.

- (205) In the light of the above, the Commission concluded that the expiry of the anti-dumping measures would be likely to lead to a continuation of dumping.

#### 4. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

##### 4.1. Definition of the Union industry and Union production

- (206) There were more than 400 known producers in the Union manufacturing bicycles during the review investigation period. As mentioned in recital (14), some of them were sub-contracting part or the entirety of the production process to third-party companies operating under tolling agreements (tollers). The 400 producers and tollers constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation. Part of the Union industry also manufactures electric bicycles, using, to a certain extent, the same production equipment as that used for the product under review.
- (207) The total Union production was estimated at 11,2 million pieces during the review investigation period. Such figure is based on data collected by the Confederation of the European Bicycle Industry ('CONEBI').

##### 4.2. Consumption in the Union

- (208) The Commission estimated the Union consumption based on the information submitted by the applicant and CONEBI.
- (209) During the period considered the Union consumption developed as follows:

Table 2

##### Union consumption

	2014	2015	2016	2017	RIP
Union consumption (pieces)	19 201 153	19 269 158	18 883 749	18 501 392	18 300 000
<i>Index</i>	100	100	98	96	95

Source: EBMA, CONEBI, Eurostat.

- (210) Union consumption decreased by 5 % over the period considered, down to 18,3 million pieces in the review investigation period. The decrease in consumption is mainly explained by the parallel growth of the electric bicycle market which increased from 1 139 000 to 1 982 269 pieces over the period January 2014 – September 2017 <sup>(95)</sup>.

##### 4.3. Imports into the Union from the PRC

- (211) The Commission established the volume of imports and prices on the basis of import statistics at TARIC level from Eurostat. The market share of the imports was then established by comparing import volumes with the Union consumption as shown in Table 2.

<sup>(95)</sup> Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 108).

4.3.1. *Volume and market share*

(212) Over the period considered imports from the PRC into the Union developed as follows:

Table 3

**Import volume and market share**

	2014	2015	2016	2017	RIP
Volume of imports (pieces)	494 433	595 558	456 158	694 748	747 313
<i>Index</i>	100	120	92	141	151
Market share (%)	2,6	3,1	2,4	3,8	4,1
<i>Index</i>	100	120	94	146	159

Source: Eurostat.

(213) The volume of Chinese imports remained low and close to the level of the previous review investigation. The trend however — a 51 % increase over the period considered — indicates a revitalization of interest in the Union market.

(214) The combined decrease in consumption and increase in import volume led to an increase in market share from 2,6 % in 2014 to 4,1 % in the review investigation period.

4.3.2. *Price of imports and price undercutting*

(215) Over the period considered the price of imports from the PRC into the Union developed as follows:

Table 4

**Import prices**

	2014	2015	2016	2017	RIP
Average import price (EUR/piece)	47	61	44	77	77
<i>Index</i>	100	130	94	164	164

Source: Eurostat.

(216) The prices of Chinese imports increased by 64 % over the period considered. The import prices based on Eurostat data do not take into account the various product types and the price differences among the various types of the product under review. However, due to the low cooperation of the Chinese exporters, as explained in recital (45), the Commission had to rely on facts available in accordance with Article 18 of the basic Regulation.

(217) On this basis, the average sales prices of the co-operating Union producers to unrelated customers on the Union market were compared to the average prices of imports from the PRC. The prices of more than 80 % of the imports (all imports except those from the two cooperating Chinese exporting producers) were found to undercut the Union industry prices by 19,1 %. When deducting the anti-dumping duties in place, the undercutting margin amounted to 43,0 %.

(218) With regard to the two cooperating Chinese exporting producers, the comparison was made at Original Equipment Manufacturer ('OEM') price level as both of them exported exclusively OEM models to the EU market. Undercutting was also found for one of the two exporters and amounted to 6,4 %.

#### 4.4. Imports into the Union from other third countries

##### 4.4.1. Imports to the Union from other countries

- (219) The import volume, market share and import prices relating to imports from other third countries developed as follows:

Table 5

#### Import volume, market share and import prices from all other countries except the PRC

	2014	2015	2016	2017	RIP
Volume of imports (pieces)	7 347 580	7 179 794	6 497 571	6 387 657	6 244 138
<i>Index</i>	100	98	88	87	85
Market share (%)	38,3	37,3	34,4	34,5	34,1
Average price (EUR/piece)	148	180	186	172	169

Source: Eurostat.

- (220) Over the period considered the volume of imports from other third countries decreased by 15 %. Their market share decreased from 38,3 % to 34,1 % during the period considered.
- (221) Average import prices from third countries were systematically higher than average import prices from the PRC during the review investigation period. The difference ranged from 92 to 142 EUR/piece over the period considered.
- (222) Average import prices from third countries were systematically higher than the prices of the Union producers reported in Table 12, at recital (250). Depending on the year, the difference ranged from 30 to 58 EUR/piece.

##### 4.4.2. Imports to the Union from other countries subject to anti-dumping measures

- (223) Imports to the Union from other countries subject to anti-dumping measures following the anti-circumvention investigations referred to in recitals (3) and (4) developed as follows:

Table 6

#### Import volume, market share and import prices from other countries subject to anti-dumping measures

		2014	2015	2016	2017	RIP
Volume of imports (pieces)		3 314 228	3 272 207	2 948 037	3 122 230	3 084 171
<i>Index</i>		100	99	89	94	93
Market share (%)		17,3	17,0	15,6	16,9	16,9
Average price (EUR/piece)		105	133	138	132	130
Cambodia	Market share (%)	6,3	7,2	6,9	7,7	7,9
	Average price (EUR/piece)	193	226	222	204	196
Philippines	Market share (%)	4,8	4,5	3,6	4,5	4,4
	Average price (EUR/piece)	43	48	50	55	54

		2014	2015	2016	2017	RIP
Tunisia	Market share (%)	2,2	2,2	2,3	2,2	2,0
	Average price (EUR/piece)	66	79	82	78	79
Sri Lanka	Market share (%)	2,1	2,0	1,7	1,5	1,7
	Average price (EUR/piece)	47	54	58	62	64
Indonesia	Market share (%)	0,9	0,9	1,1	1,0	0,9
	Average price (EUR/piece)	112	142	147	159	153
Pakistan	Market share (%)	1,0	0,3	0	0	0
	Average price (EUR/piece)	44	48	—	—	—

Source: Eurostat.

- (224) Over the period considered the volume of imports from the other third countries subject to anti-dumping measures decreased by 7 %.
- (225) The total market share followed a similar trend and decreased from 17,3 % to 16,9 % during the period considered, as all countries but Cambodia lost market share.
- (226) The average import price increased over the period considered from 105 to 130 EUR/piece.
- (227) It should be noted that the vast majority of the imports from the other countries subject to anti-dumping measures came from genuine producers which were exempted from the extension of the measures <sup>(96)</sup>.

#### 4.4.3. Imports to the Union from other countries not subject to anti-dumping measures

- (228) The imports to the Union from other countries not subject to anti-dumping duties developed as follows:

Table 7

#### Import volume, market share and import prices from other countries not subject to anti-dumping measures

	2014	2015	2016	2017	RIP
Volume of imports (pieces)	4 033 352	3 907 587	3 549 534	3 265 427	3 159 967
Index	100	97	88	81	78
Market share (%)	21,0	20,3	18,8	17,6	17,3
Average price (EUR/pieces)	183	220	226	210	206

<sup>(96)</sup> Source: statistics based on the data reported to the Commission by the Member States in accordance with Article 14(6) of the basic Regulation.

		2014	2015	2016	2017	RIP
Taiwan	Market share (%)	10,0	10,2	8,8	7,8	7,0
	Average price (EUR/piece)	256	296	320	311	318
Bangladesh	Market share (%)	3,5	3,9	3,9	4,4	4,6
	Average price (EUR/piece)	84	98	89	80	78
Thailand	Market share (%)	3,6	2,4	2,2	1,8	1,8
	Average price (EUR/piece)	79	95	96	94	93
Other countries	Market share (%)	3,9	3,7	3,9	3,6	3,8
	Average price (EUR/piece)	107	128	116	105	98

Source: Eurostat.

- (229) Imports from other countries that were not subject to anti-dumping measures decreased by 22 %. In terms of volume, the first three countries were Taiwan, Bangladesh and Thailand.
- (230) Consequently, the market share of these countries declined from 21 % to 17,3 % over the period considered. The market shares of imports from Taiwan and Thailand decreased by 3 and 1,8 percentage points respectively, while the market share of imports from Bangladesh increased by 1,1 percentage point.
- (231) During the period considered, the average import prices from other countries not subject to anti-dumping measures were higher than Chinese average import prices. Import prices from other countries not subject to measures ranged from 78 to 320 EUR/piece.

#### 4.5. Economic situation of the Union industry

- (232) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (233) As mentioned in recitals (13) and (14), sampling was used for the determination of possible injury suffered by the Union industry. For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators.
- (234) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, growth, magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the applicant and CONEBI.
- (235) The analysis of microeconomic indicators (inventories, sales price and cost, labour costs, profitability, cash flow, investments, return on investments and ability to raise capital) was carried out at the level of the sampled Union producers. The assessment was based on their information, which was duly verified during an on-spot verification visit.

- (236) An additional analysis of certain microeconomic indicators (labour cost, investments and return on investments) was considered necessary due to the singularity of some bicycle producers in sub-contracting certain production processes to tollers as mentioned in recital (206). This assessment was carried out at the level of the tollers operating under tolling agreements for two of the sampled Union producers during the period considered. The assessment was based on their information, which was duly verified during an on-spot verification visit for the five largest tollers in terms of production volume.

#### 4.5.1. Macroeconomic indicators

##### 4.5.1.1. Production, production capacity and capacity utilisation

- (237) Over the period considered production, production capacity and capacity utilisation of the Union industry developed as follows:

Table 8

#### Production, production capacity and capacity utilisation

	2014	2015	2016	2017	RIP
Production volume (pieces)	11 441 234	12 540 564	11 917 086	11 422 700	11 227 000
<i>Index</i>	100	110	104	100	98
Production capacity (pieces)	14 858 745	16 153 881	16 355 470	15 331 000	15 150 000
<i>Index</i>	100	109	110	103	102
Capacity utilisation (%)	77,0	77,6	72,9	74,5	74,1
<i>Index</i>	100	101	95	97	96

Source: EBMA, CONEBI.

- (238) After an increase in 2015, production decreased progressively and ended in the review investigation period at a slightly lower level than in 2014, namely at 11,2 million bicycles. Capacity followed similar trends, increasing initially then decreasing, but registering an overall increase of 2 % over the period considered. Consequently, capacity utilisation declined by 2,9 percentage points to reach 74,1 % in the review investigation period.
- (239) Capacity refers to the theoretical number of bicycles which can be manufactured on the available production lines. Capacity can be increased by introducing additional shifts, depending on demand and availability of staff and parts. Besides, the same production lines can be equally used for the production of electric bicycles without any additional cost. In view of the adaptability of such parameters, the indicators for capacity and capacity utilisation should be analysed with care and not given extensive relevance in the injury analysis.

#### 4.5.1.2. Sales volume and market share in the Union

- (240) Over the period considered sales in the EU by the Union industry and its market share in relation to consumption, developed as follows:

Table 9

#### Sales volume and market share

	2014	2015	2016	2017	RIP
Sales volume (pieces)	11 359 140	11 493 806	11 930 020	11 418 987	11 308 549
<i>Index</i>	100	101	105	101	100

	2014	2015	2016	2017	RIP
Market share (%)	59,2	59,6	63,2	61,7	61,8
<i>Index</i>	100	101	107	104	104

Source: EBMA, CONEBI, Eurostat.

- (241) The sales by the Union industry on the EU market remained stable during the period considered, at around 11,3 million bicycles
- (242) Due to the shrinking consumption as presented in Table 2, at recital (209), the market share of the Union industry rose by 2,6 percentage points to reach 61,8 % in the review investigation period.

#### 4.5.1.3. Employment and productivity

- (243) Over the period considered, employment and productivity of the Union industry developed as follows:

Table 10

#### Employment and productivity

	2014	2015	2016	2017	RIP
Number of employees (full time equivalent)	20 137	22 071	20 975	23 641	23 652
<i>Index</i>	100	110	104	117	117
Productivity (bicycles per employee)	568	568	568	483	475
<i>Index</i>	100	100	100	85	84

Source: EBMA.

- (244) Over the period considered, employment increased by 17 % while productivity followed an opposite trend. The decrease in productivity is partly explained by the fact that some Union producers re-shored the production of certain parts or integrated certain processes such as painting to their activities. Consequently, they increased the number of employees without increasing the production volume. Therefore productivity followed a downward trend. In the previous review investigation, employment was established at a lower level. In the above table, the reported employment figures are based on the most recent updated data provided by EBMA and include all direct or indirect labour involved in the bicycle production.

#### 4.5.1.4. Growth

- (245) As its sales remained stable while consumption decreased over the period considered, the Union industry managed to consolidate its position on the market leading to an increase in market share over the period considered (+ 2,6 percentage points).

#### 4.5.1.5. Magnitude of dumping and recovery from past dumping

- (246) The dumping continued during the review investigation period at a significant level, as explained under Section 3 above and the Chinese exporting producers' prices continued to undercut Union industry's sales prices to a significant extent.
- (247) The combined impact of the increasing volume of low-priced dumped imports from the PRC and the actual margins of dumping did not allow the Union industry to recover fully from past dumping.

## 4.5.2. Microeconomic indicators

## 4.5.2.1. Inventories

(248) Over the period considered, the stocks levels of the sampled Union producers developed as follows:

Table 11

**Inventories**

	2014	2015	2016	2017	RIP
Closing stocks (pieces)	254 758	255 917	268 546	291 969	527 087
<i>Index</i>	100	100	105	115	207
Closing stock as a % of the production volume	9,5	9,0	9,0	9,7	16,9

Source: Verified questionnaire replies of the sampled Union producers.

(249) Closing stocks increased progressively by 15 % between 2014 and 2017. When compared to the production volume, they do not show any significant increase over the period 2014 – 2017. Bicycles being a seasonal product, the Union industry has to increase its levels of stocks before the selling season. This is reflected in the review investigation period where the end of the review investigation period coincides with the beginning of the selling season, resulting in a significant increase in the level of stocks.

## 4.5.2.2. Average unit sales price in the Union and cost of production

(250) Over the period considered, the average unit sales price to unrelated customers in the Union and average unit cost of production of the sampled Union producers developed as follows:

Table 12

**Sales price and cost in the Union**

	2014	2015	2016	2017	RIP
Average unit sales price (EUR/piece)	118	125	128	127	129
<i>Index</i>	100	106	108	108	109
Unit cost of production (EUR/piece)	116	120	122	122	120
<i>Index</i>	100	103	105	105	103

Source: Verified questionnaire replies of the sampled Union producers.

(251) Over the period considered, the Union industry managed to increase its average sales prices by 9 %. The average cost of production increased slightly by 3 %.

## 4.5.2.3. Labour costs

(252) The average labour costs of the five sampled Union producers developed over the period considered as follows:

Table 13

**Average labour costs**

	2014	2015	2016	2017	RIP
Average labour costs per employee (EUR)	17 403	19 712	21 895	24 036	23 083
<i>Index</i>	100	113	126	138	133

Source: Verified questionnaire replies of the sampled Union producers.

(253) The average labour cost per employee increased by 33 % over the period considered. This indicator was mainly affected by the significant increase in wages in Bulgaria where one sampled company is located. Wages increased nearly by 50 % in this Member State during the period considered <sup>(97)</sup>.

(254) In addition, the average labour costs of the tollers working for the five sampled producers during the period considered was also analysed. It developed as follows:

Table 14

**Average labour costs of tollers**

	2014	2015	2016	2017	RIP
Average labour costs per employee (EUR)	15 071	15 113	15 470	16 276	16 429
<i>Index</i>	100	100	103	108	109

Source: Verified questionnaire replies of the sampled tollers.

(255) The average labour cost per employee increased by 9 % over the period considered.

## 4.5.2.4. Profitability and cash flow

(256) Over the period considered, profitability and cash flow developed as follows:

Table 15

**Profitability**

	2014	2015	2016	2017	RIP
Profitability (%)	1,5	5,0	3,5	3,3	2,8
<i>Index</i>	100	333	233	220	187

Source: Verified questionnaire replies of the sampled Union producers.

<sup>(97)</sup> [https://ec.europa.eu/eurostat/en/web/products-datasets/-/EARN\\_MW\\_CUR](https://ec.europa.eu/eurostat/en/web/products-datasets/-/EARN_MW_CUR).

- (257) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered, the sampled Union producers managed to increase their profitability. After increasing to 5 % in 2015, profitability progressively decreased to 2,8 % in the review investigation period. While the Union industry was profitable during the period considered, its profit level remained below the target profit (8 %) that was set in the previous review investigation.
- (258) The net cash flow indicates the ability of the Union industry to self-finance its activities. It developed as follows during the period considered:

Table 16

**Cash flow**

	2014	2015	2016	2017	RIP
Cash flow (EUR)	5 754 771	17 826 914	11 635 887	5 880 325	- 15 297 175
<i>Index</i>	100	310	202	102	- 266

Source: Verified questionnaire replies of the sampled Union producers.

- (259) The evolution of the cash flow reflects mainly the development of the overall profitability of the Union industry. The cash flow situation in the review investigation period is mainly explained by the significant inventory increase analysed in recital (249).

## 4.5.2.5. Investment, return on investments and ability to raise capital

- (260) Over the period considered, investment and return on investments of the Union industry developed as follows:

Table 17

**Investment and return on investment**

	2014	2015	2016	2017	RIP
Investments (EUR)	5 344 906	7 666 151	9 971 864	4 508 316	3 626 470
<i>Index</i>	100	143	187	84	68
Return on investments (%)	15	50	34	31	26
<i>Index</i>	100	333	227	207	173

Source: Verified questionnaire replies of the sampled Union producers.

- (261) Investments increased significantly by 87 % in the period 2014-2016. From 2017 onwards, following the profitability trend, investments decreased. Overall, investments decreased by 32 % over the period considered.
- (262) The Union producers made several investments regarding the modernisation and automation of production lines. Some companies also optimised their capacity by increasing the storage space.
- (263) The return on investments is the profit in percentage of the net book value of investments. The return on investments during the period considered followed partly the profitability trend as it increased significantly in 2015 before gradually declining but remaining over the 2014 level.

(264) Investments and return on investments for the tollers were also analysed. They developed as follows:

Table 18

**Investments and return on investments of the tollers**

	2014	2015	2016	2017	RIP
Investments (EUR)	4 947 813	2 762 778	5 820 882	8 556 256	5 938 196
<i>Index</i>	100	56	118	173	120
Return on investments (%)	26	31	30	23	27
<i>Index</i>	100	119	115	88	104

*Source:* Verified questionnaire replies of the sampled Union producers.

- (265) Tollers made regular investments over the period considered. The trend shows an increase in investments by 20 % over the period considered.
- (266) Investments consisted of new production lines, automation of existing lines and reshoring of certain parts.
- (267) During the period considered, return on investments fluctuated from 23 % to 31 % and shows an overall slight increase from 26 % in 2014 to 27 % in the review investigation period.
- (268) The overall improvement of profitability and cash flow had a positive effect on the ability of the Union producers and their tollers to raise capital, as most of them relied on their own resources to finance their activities and investments. Some of the companies took also advantage of European or National development programs while others resorted to bank financing.

#### 4.5.3. Conclusion

- (269) The investigation has shown that the situation of the Union industry on a macro level has been relatively stable over the period considered, during which the Union bicycle industry is going through a transformation due to the increasing growth of the electric bicycles market in the Union. While consumption decreased over the period considered, the sales and production volumes remained stable allowing the Union industry to increase its market share.
- (270) The investigation has also shown that the situation of the industry on a micro level improved over the period considered due to a lower increase in costs than prices, that led to improved profitability, and also due to investments that begin to pay off. However, the profit achieved remained below the target profit set in the original investigation throughout the period considered. The situation of the tollers is similar.
- (271) In the light of the above, it is concluded that the Union industry did not suffer material injury during the review investigation period within the meaning of Article 3 of the basic Regulation.
- (272) However, even if the situation of the Union industry has stabilised, it is still fragile, as demonstrated by the profit achieved during the period considered.
- (273) In their comments on final disclosure, EBMA claimed that the Commission did not take into account the full market situation in the analysis of the performance of the Union industry, especially as regards the imports of dockless bike sharing bicycles from the PRC and their effect on the Union industry situation in the period from 2016 to the review investigation period. EBMA also claimed that the analysis of employment and productivity in recitals (243) to (244) might be susceptible to misinterpretation.

- (274) The Commission recalled that the macroeconomic indicators in section 4.5 were assessed at the level of the whole Union industry and for all product types as a whole. No concrete evidence was provided establishing a link between the imports of dockless bike sharing bicycles and the deterioration of these indicators that could justify a specific product type analysis. Furthermore, the examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 2014 to the review investigation period, during which certain indicators showed improvement. As regards the level and the trend of Chinese imports, the Commission noted that it has already analysed and indicated the revitalisation of interest in recital (213).
- (275) Concerning employment and productivity, the Commission noted that there is no space for misinterpretation, as in the recitals (243) to (244) it has already provided a detailed analysis of the employment data, the observed trend of the productivity and the causes of this trend. The total number of employees may have increased but many of them were covering the reshoring of certain activities, like production of certain parts or painting. Consequently, the production volume of bicycles did not increase at the same rate and productivity followed a downward trend.
- (276) Both claims of EBMA were therefore rejected.
- (277) In their comments on the final disclosure, CCCME also claimed that the Union industry has recovered from previous injury, which justifies discontinuation of the measures.
- (278) The Commission reiterated the findings in recitals (269) to (272), where it also concluded that the situation of the Union industry is still fragile. This is demonstrated *inter alia* namely by the profit achieved during the period considered, which remained below the target profit that was set in the original investigation and cannot be altered in the present investigation.
- (279) CCCME's claim was thus rejected.
- (280) Since the Union industry did not suffer material injury during the review investigation period, the Commission further examined, in accordance with Article 11(2) of the basic Regulation, whether material injury from Chinese imports would be likely to recur should the measures against the PRC be allowed to lapse.

#### 4.6. Likelihood of recurrence of injury

##### 4.6.1. Preliminary remark

- (281) The Commission analysed the following elements to establish the likelihood of recurrence of injury should the measures be repealed: (a) likely price levels of imports from the PRC in the absence of anti-dumping measures, (b) attractiveness of the Union market, (c) production capacity and spare capacity in the PRC and (d) existence of trade restrictive measures in other third countries on exports of bicycles from the PRC.

##### 4.6.2. Likely price levels of imports from the PRC in the absence of anti-dumping measures

- (282) The investigation has shown that the imports from the PRC were made at dumped prices during the review investigation period (see recital (185)) and that there was a likelihood of continuation of dumping should measures be allowed to lapse (see recital (202)).
- (283) As explained in recitals (215) to (218), the Chinese import prices were substantially below the Union industry's sales prices despite the anti-dumping measures in force during the period considered. The average selling price of the Union industry in the EU market during the review investigation period was 129 EUR/piece, while the average import price from the PRC was almost half, at 77 EUR/piece. On this basis, it was concluded that Chinese exports of bicycles to the EU would be made at dumped and injurious prices, undercutting the Union industry sales price, should measures be allowed to lapse.
- (284) In their comments on the final disclosure, CCCME claimed that the difference in prices of Chinese imports and Union industry's sales was due to the difference in the products being compared instead of dumped and injurious import prices, and that the Commission failed to make a price comparison based on product types. CCCME also claimed that even if the measures lapse, the Chinese exporters can maintain the current price level and will not export bicycles to Union at dumped and injurious prices.

(285) The Commission noted that due to low cooperation from the Chinese exporters, a price comparison based on product types was not possible. Injury was assessed for all product types as a whole and no preference was given to high-end types. This was ensured through the sampling of Union producers, on the choice of which no comments were received. The producers were selected based on the largest representative volume of sales and production and consequently their production covered all types of products and not only high-end types. As regards the second claim, Commission recalled recital (185) and that dumping from Chinese exporters has already been found in the review investigation period.

(286) Therefore, both claims of CCCME were rejected.

#### 4.6.3. *Attractiveness of the Union market*

(287) The Union market is attractive in terms of its size and prices. According to available information provided by the applicant <sup>(98)</sup>, the Union market is the largest world market in terms of demand.

(288) As developed in recital (193), it was found to be attractive in terms of prices, with export prices to the EU being higher on average than to other countries.

(289) Chinese export statistics also show that Chinese export prices to its main export markets; i.e. the USA, Indonesia and Japan were on average lower (50 EUR/piece) than to the EU (64 EUR/piece) during the review investigation period.

(290) The attractiveness of the Union market is also confirmed by the trend in imports from the PRC, which, despite the measures in force, shows a significant increase over the period considered (+ 51 %).

(291) In their comments on the final disclosure, CCCME claimed that even if the measures are repealed, it is difficult for the Chinese exporters to regain Union customers in a short term. Moreover, the established network in other countries, the decreasing demand in Union and competition of the recovered Union manufacturers would act as a deterrent for Chinese exporters.

(292) The Commission recalled the findings in recital (212), in particular that within a period of 27 months (2016 to the review investigation period) Chinese imports increased by 59 %. In addition, the circumventing practices mentioned in recitals (3) and (4) confirm that Chinese exporters are still very interested in the Union market and can penetrate it quite fast.

(293) This claim of CCCME was thus rejected.

#### 4.6.4. *Production capacity and spare capacity in the PRC*

(294) As explained in recitals (187) to (190), the Chinese bicycles production capacity was established conservatively at 117 million pieces in the review investigation period. Based on a production volume of 80 million pieces, the available spare capacity was thus 37 million bicycles in the review investigation period. Such capacity would be sufficient to cover twice the Union market consumption.

(295) Furthermore, as confirmed by the China Bicycle Association, Chinese exporting producers are mainly export oriented as 75 % of their production is exported yearly <sup>(99)</sup>.

(296) On this basis, it was concluded that the Chinese exporting producers were export-oriented and that they would have sufficient available spare capacity to substantially increase their exports to the EU, should measures be repealed.

#### 4.6.5. *Existence of trade restrictive measures in other third countries on exports of bicycles from the PRC*

(297) As mentioned in recital (196), a number of trade barriers exist in some of the PRC's main export markets for bicycles, such as Argentina and Mexico where anti-dumping measures are in force.

(298) Furthermore, as mentioned in recital (197), the increase in *ad valorem* import duties in the USA (25 %) on imports of bicycles originating in the PRC have made the US market less attractive.

<sup>(98)</sup> EBMA's submission of 1st May 2019.

<sup>(99)</sup> <http://www.china-bicycle.com/information/?cid=11>.

- (299) On top of the attractiveness of the EU market mentioned in recitals (287) and (290), the limitations in these export markets for the PRC are another indicator that the Union market is likely to be targeted if the measures were allowed to lapse.

#### 4.6.6. *Analysis of the Union industry and the likelihood of recurrence of injury*

- (300) The investigation has shown that the imports from the PRC continued to be made at dumped prices and that there are no indications that such dumping practices would stop in the future.
- (301) Furthermore, should the measures be repealed, it can be reasonably expected that, as a consequence of the attractiveness of the Union market, the available spare capacity in the PRC and the existence of trade barriers on other markets, there will be a substantial increase of imports to the EU made at dumped, injurious prices, undercutting the Union industry selling price.
- (302) In such scenario, Chinese exports to the EU would rapidly gain market share from the Union industry which would face an immediate drop in its sales volumes and an increase in its fixed costs per unit.
- (303) Furthermore, considering the price sensitivity of certain channels of distribution and the likely price level of Chinese imports, the Union industry will likely be forced to decrease its prices in order to defend its market share. The increase in fixed costs combined with a decrease in selling prices would immediately negatively affect the profitability of the Union industry, which remained far below the target profit throughout the period considered. Consequently, the Union industry would become loss-making, the overall economic situation of the Union industry would be negatively affected and material injury would recur.
- (304) Given their industrial links, the situation of the tollers would be equally negatively impacted with a decrease in production volume and an increase in fixed costs. In the long term, the activity of the Union industry, as a whole, would be at risk leading to the closure of several production sites.
- (305) Based on the above, the Commission concluded that there is a strong likelihood of recurrence of injury from imports originating in the PRC should the measures be repealed.

## 5. UNION INTEREST

### 5.1. Introduction

- (306) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would not be against the interest of the Union as a whole.
- (307) It should first be recalled that, in the previous investigations, the adoption of measures was considered not to be against the interest of the Union.
- (308) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation
- (309) On this basis, the Commission examined whether, despite the conclusions on the likelihood of continuation of dumping and recurrence of injury, compelling reasons existed which would lead to the conclusion that it was not in the Union interest to maintain the existing measures.

### 5.2. Interest of the Union industry

- (310) The investigation showed that the Union industry is still in a fragile situation. Should the measures expire, the situation of the Union industry would quickly deteriorate resulting again in losses in the short term and the gradual elimination of the whole industry in the long term.
- (311) As mentioned in recital (14), it is recalled that a significant part of the production is sub-contracted to tollers, which made significant investments in the product under review during the period considered. Considering that the tollers are heavily dependent on the level of activity of their business partners, their situation would also be negatively affected, should measures be repealed.

- (312) On this basis, it was concluded that the continuation of the measures on imports from the PRC was in the interest of the Union industry as it would allow it to further stabilise its position in the market and secure its employment. It would also allow the Union industry to seize the benefits from the significant investments made over the period considered in order to ensure its future development.

### 5.3. Interest of the producers of electric bicycles

- (313) In January 2019, the Commission, by Implementing Regulations (EU) 2019/72 <sup>(100)</sup> and 2019/73 <sup>(101)</sup>, imposed countervailing and anti-dumping measures on imports of electric bicycles originating in the PRC.
- (314) As mentioned in recital (206), part of the Union industry is also involved in the production of electric bicycles, for which they use, to a large extent, the same machinery, labour and assembly lines as for the product under review. In this regard, any decrease in the conventional bicycle production and sales volumes following the repeal of the measures would have a knock on, negative effect on the electric bicycle activity in the Union. As a matter of fact, fixed costs would have to be absorbed on a lower production volume, thus driving costs up and affecting negatively the financial situation of this intertwined industry.
- (315) In their comments on the final disclosure, the CCCME claimed that Chinese bicycles will not flood into the Union and that the total production of bicycles and electric bicycles will definitely increase. According to CCCME, the alleged possibility of fixed costs to be absorbed on a lower production volume will in no way occur.
- (316) The Commission has already analysed above in recitals (301) to (302) the expected evolution of Chinese imports in case the measures are allowed to lapse and the extensive negative effect on the bicycle's production. Considering that electric bicycle's production is quite limited (10 times lower than production of conventional bicycles in 2016), it is unlikely that an increase in the production of electric bicycles could offset the negative effects on the fixed costs caused by the decrease in the production of conventional bikes.
- (317) Therefore, the CCCME's claim was rejected.
- (318) Furthermore, given the similarity between conventional and electric bicycles, the repeal of the measures on the product under review would incentivize misdeclaration of electric bicycles as conventional bicycles upon importation in the EU, leading to fraud regarding the measures applicable to electric bicycles. Under such circumstances, the effectiveness of the anti-dumping and anti-subsidy measures for electric bicycles would be seriously undermined and the electric bicycle Union industry would be affected negatively.
- (319) In their comments on final disclosure, CCCME claimed that the conventional and electric bicycles are totally different products and the price of electric bicycles is normally much higher than that of conventional bicycles. Under this circumstance, it is easy for the Customs of member states to distinguish the two products, and thus there will hardly be any possibility for customs misdeclaration to occur.
- (320) The Commission notes that, to a large extent, electric bicycles are quite similar to the conventional bicycles in terms of components and prices. The main difference is the engine and the battery, which could be integrated in a later stage. A customs misdeclaration therefore, could be considered likely. The fact that there is a long history in this sector to circumvent the anti-dumping duties measures, as mentioned in recitals (1), (3) and (4), further supports this conclusion.
- (321) Thus, the Commission rejected the claim above.

<sup>(100)</sup> Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

<sup>(101)</sup> Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 108).

- (322) Consequently, it was concluded that maintaining the measures in force for the product under review would also be in the interest of the producers of electric bicycles.

#### 5.4. Interest of the producers of bicycle parts

- (323) According to a recent research <sup>(102)</sup> carried out jointly by EBMA and CONEBI, more than 400 companies were manufacturing bicycle parts and components for both conventional and electric bicycles in 20 different Member States in 2018. In total, these companies were employing more than 22 000 people.
- (324) It should be recalled that, as explained in recital (1), the anti-dumping measures were extended to imports of certain bicycle parts originating in the PRC following an anti-circumvention investigation. Following such investigation, an exemption scheme was introduced to encourage local production of bicycle parts by restricting the Chinese content of bicycle parts used to less than 60 % of the total value. Consequently, bicycle manufacturers have an incentive to buy their parts outside the PRC and purchase them locally to a significant extent, which also ensures short delivery time and reduces the level of their stocks. Consequently, the bicycle parts producers also benefit from the extension of the existing measures to essential bicycle parts
- (325) Furthermore, during the period considered, suppliers of parts deployed significant efforts in 'reshoring' production of parts and components back to the EU by making significant investments in research and development and machinery. Given the specificity of such investments and the long lasting relationship between both industries, the sustainability of the bicycle parts industry is closely linked to the existence of a viable Union bicycle industry. Any decrease in production and sales volume for the Union bicycle industry would have a detrimental effect on the bicycle parts industry.
- (326) In their comments on the final disclosure, the CCCME claimed that if the measures are allowed to lapse, there will be no negative consequences for the producers of bicycle parts, as production and sales volume for the Union bicycle industry will not decrease. Moreover, parts will be used in the production of electric bicycles, which will increase.
- (327) The Commission reiterated the arguments mentioned in recital (316). The repeal of the measures is likely to cause an extensive negative effect on the bicycle's production that could not be offset by an increase in production of electric bicycles. The bicycle parts industry is closely linked, and thus it will be immediately affected.
- (328) This claim was therefore rejected.
- (329) On this basis, it was established that, should measures be repealed, the bicycle parts industry in the EU would also suffer negative consequences. It was therefore concluded that the imposition of anti-dumping measures would be in the interest of the bicycle parts industry.

#### 5.5. Interest of the unrelated importers

- (330) As mentioned in recital (15) and (16), the Commission invited all unrelated importers to participate in the investigation and contacted directly 75 importers. As in the last review investigation, none of them came forward or cooperated in any way in the investigation.
- (331) It should 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 dumped and injurious prices.
- (332) The investigation found that a significant volume of imports, accounting for over 17 % market share in the review investigation period, came from countries that were not subject to anti-dumping measures. Furthermore, as mentioned in recital (227), most of the imports from other countries subject to the measures, accounting for over 15 % market share in the review investigation period, came from genuine producers that were exempted from the extensions of the measures. As a consequence, with imports not subject to measures accounting for over 32 % of the market share in the review investigation period, it was considered that importers could still source bicycles from a wide range of countries.
- (333) On the basis of the above, it was concluded that the measures currently in force had no significant negative effects on the situation of importers and that the continuation of the measures would not unduly affect them.

<sup>(102)</sup> 'European bicycle market - Employment and Investment figures in 2018', updated March 2019, p. 5.

### 5.6. Interest of users

- (334) It should first be recalled that, in the previous investigations, it was found that the impact of measures would not be significant for the users/consumers.
- (335) The European Cyclists' Federation ('ECF'), representing associations and federations of cyclists, and Cykelfrämmandet, the organization for cyclists in Sweden, both expressed their support for the maintenance of the measures. They claimed that cyclists would benefit from the supply of products with high quality and safety standards, while very cheap bicycles would not meet the safety standards and discourage cycle use by being uncomfortable to ride, unreliable and lacking the accessories needed for daily use. They also put forward the consumer's prioritisation for quality over price and that bicycles at low price and quality jeopardize the cyclist's experience and safety.
- (336) The impact of the anti-dumping duties on the consumer price was estimated not to be significant as certain Chinese producers enjoy a zero duty while other sources of supply exist and are present on the EU market. Furthermore, the majority of Union producers of bicycles operate under the exemption scheme under which the essential bicycle parts can be imported from the PRC without any duty up to 60 % of the total value of the parts used. While ensuring a fair level playing field, this enhances competition on the market between bicycles produced in the EU and imported bicycles.
- (337) In their comments on the final disclosure, the CCCME claimed that the purchase cost of bikes for Union consumers has increased and people with low income cannot buy a bicycle due to the anti-dumping measures. CCCME added that the nature of the anti-dumping measures is to protect interests of the minority high-end producers at the expense of sacrificing the environment and public health.
- (338) The Commission noted that the continuation of the measures increased the diversity of suppliers and subsequently the diversity of prices. As presented in Tables 6 and 7 at recitals (223) and (228), average import prices from other countries were often lower than import prices from the PRC. Consequently, Union consumers have not been impacted negatively by the measures.
- (339) As regards the second claim of CCCME, the Commission reiterated its reply in recital (268) and referred to Table 12 at recital (250) where the average sales price in the Union ranged from 118 to 129 EUR/piece and surely cannot be considered as an indicative price of a high-end bicycle.
- (340) Both claims were rejected, as well.
- (341) On the basis of the above, it was concluded that the measures currently in force had no negative effect on the situation of users and that the continuation of the measures would not unduly affect them.

### 5.7. Interest of other parties

- (342) The bicycle Union industry consists of around 400 companies, mainly SMEs, and employed directly more than 20 000 people in the Union market during the review investigation period. The IndustriAll European Trade Union, a federation of independent trade unions representing manual and non-manual workers in various sectors, expressed its support for the continuation of the measures. It claimed that the measures would strengthen the growth of this industry which, as a whole, is expected to employ 200 000 people in 5 years' time. It also claimed that the measures would allow the industry to address the strategic challenges of transforming bicycles into smart bikes or organising a circular economy for bikes (re-cycling, re-using, re-manufacturing).
- (343) AEGIS Europe, which brings together 25 European associations of industries, also expressed its support for the measures claiming that they ensure a level playing field and address market distortions created in the international trade arena by a state-led trade-disrupting economic model.

### 5.8. Conclusion

- (344) Based on the information available concerning the Union interest, the Commission concluded that there are no compelling reasons against the maintenance of the definitive anti-dumping measures on imports of bicycles originating in the PRC.

## 6. ANTI-DUMPING MEASURES

- (345) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force applicable to imports of bicycles originating in the PRC. They were also granted a period within which they could submit comments subsequent to this disclosure. The submissions and comments were duly taken into consideration.
- (346) It follows from the above considerations that, under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of bicycles originating in the PRC imposed by Council Regulation (EU) No 502/2013, as amended by Implementing Regulation (EU) 2018/49, and its extensions as provided for in Implementing Regulation (EU) No 501/2013 and Implementing Regulation (EU) 2015/776, should be maintained.
- (347) Any claim requesting the application of these individual anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission <sup>(103)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, the Regulation will be amended accordingly by updating the list of companies benefiting from individual duty rates.
- (348) In view of Article 109 of Regulation 2018/1046 <sup>(104)</sup>, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (349) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

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 under CN codes 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 70 91, 8712 00 70 92 and 8712 00 70 99), originating in the People's Republic of China.

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

Company	Definitive duty	TARIC Additional Code
Zhejiang Baoguilai Vehicle Co. Ltd	19,2 %	B772
Oyama Bicycles (Taicang) Co. Ltd	0 %	B773
Ideal (Dongguan) Bike Co., Ltd	0 %	B774
All other companies (except Giant (China) Co. Ltd. - TARIC additional code C329)	48,5 %	B999

<sup>(103)</sup> European Commission, Directorate-General for Trade, Directorate H, B-1049 Brussels, Belgium.

<sup>(104)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

3. The definitive anti-dumping duty applicable to imports originating in the People's Republic of China, as set out in paragraph 2, is hereby also extended to imports of the same bicycles and other cycles consigned from Indonesia, Malaysia, Sri Lanka <sup>(105)</sup> and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, currently falling under CN codes ex 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 30 10 and 8712 00 70 91) with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Indonesia	P.T. Inera Sena, 393 Jawa Street, Buduran, Sidoarjo 61252, Indonesia	B765
	PT Wijaya Indonesia Makmur Bicycle Industries (Wim Cycle), Raya Bambi KM. 20, Driyorejo, Gresik 61177, Jawa Timur Indonesia	B766
	P.T. Terang Dunia Internusa, (United Bike), Jl. Anggrek Neli Murni 114 Slipi, 11480, Jakarta Barat, Indonesia	B767
Sri Lanka	Asiabike Industrial Limited, No 114, Galle Road, Henamulla, Panadura, Sri Lanka	B768
	BSH Ventures (Private) Limited, No 84, Campbell Place, Colombo-10, Sri Lanka	B769
	Samson Bikes (Pvt) Ltd, No 110, Kumaran Rathnam Road, Colombo 02, Sri Lanka	B770
Tunisia	Euro Cycles SA, Zone Industrielle Kelaa Kebira, 4060, Sousse, Tunisia	B771
	Look Design System Route de Tunis Km6 — BP 18, 8020 Soliman, Tunisia	C206

4. The definitive anti-dumping duty applicable to imports originating in the People's Republic of China, as set out in paragraph 2, is hereby also extended to imports of the same bicycles and other cycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, currently falling under CN codes ex 8712 00 30 and ex 8712 00 70 (TARIC codes 8712 00 30 20 and 8712 00 70 92) with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Cambodia	A and J (Cambodia) Co., Ltd, Special Economic Zone Tai Seng Bavet, Sangkar Bavet, Krong Baver, Ket Svay Rieng, Cambodia	C035
	Smart Tech (Cambodia) Co., Ltd, Tai Seng Bavet Special Economic Zone, National Road No 1, Bavet City, Svay Rieng, Cambodia	C036
	Speedtech Industrial Co. Ltd, Manhattan (Svay Rieng) Special Economic Zone, National Road No 1, Sangkat Bavet, Krong Bavet, Svay Rieng Province, Cambodia	C037
	Bestway Industrial Co., Manhattan (Svay Rieng) Special Economic Zone, National Road No 1, Sangkat Bavet, Krong Bavet, Svay Rieng Province, Cambodia	C037
The Philippines	Procycle Industrial Inc., Hong Chang Compound, Brgy. Lantic, Carmona, Cavite, the Philippines	C038

<sup>(105)</sup> Including City Cycle Industries - TARIC additional code B1 31 (Commission Implementing Regulation (EU) 2018/28 of 9 January 2018 re-imposing a definitive anti-dumping duty on imports of bicycles whether declared as originating in Sri Lanka or not from City Cycle Industries (OJ L 5, 10.1.2018, p. 27)).

5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.
6. The application of the individual anti-dumping duty rates or of the exemptions specified for the companies listed in paragraphs 2, 3 and 4 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows:

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

If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

#### *Article 2*

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

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

Done at Brussels, 28 August 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

---