I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 397/1999

of 22 February 1999

imposing a definitive anti-dumping duty on imports of bicycles originating in Taiwan and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] and in particular Article 9(4) thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) By Commission Regulation (EC) No 1833/98 [2] (hereinafter referred to as 'the Provisional Duty Regulation'), provisional anti-dumping duties were imposed on imports into the Community of bicycles falling within CN code 8712 00 10, 8712 00 30, 8712 00 80 and originating in Taiwan.

B. SUBSEQUENT PROCEDURE

(2) Following the imposition of provisional anti-dumping duties, several interested parties submitted comments in writing.

(3) The parties who so requested were granted an opportunity to be heard by the Commission.

(4) The Commission continued to seek and verify all the information it deemed necessary for the purpose of its definitive findings. A verification visit was carried out at the premises of the following importer not related to any Taiwanese exporting producer and located in the Community:

— Bikeurope BV, Utrecht, The Netherlands.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(6) The oral and written comments submitted by the parties were considered, and, where deemed appropriate, the definitive findings have been changed accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

(7) Since no comments with regard to the definition of the product concerned and the like product were received, the contents of recitals 13 to 19 of the Provisional Duty Regulation are hereby confirmed.

D. NEW EXPORTING PRODUCERS IN TAIWAN

(8) As explained in the Provisional Duty Regulation, in view of the large number of exporting producers in Taiwan, the Commission decided to apply sampling techniques in accordance with Article 17 of Regulation (EC) No 384/96 (hereafter referred to as 'the Basic Regulation'). No arguments have been advanced concerning the selection of the sample of exporting producers which was made with the consent of the association representing them.

One month before the adoption of provisional measures, a number of exporting producers in Taiwan made themselves known and requested new exporting producer status. Following the adoption of provisional measures the Commission, by means of a special questionnaire, examined whether these companies did not export the product concerned to the Community during the

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30. 4. 1998, p. 18).
[2] OJ L 238, 26. 8. 1998, p. 10.

investigation period, whether they had started to export to the Community after this period or whether they had entered into an irrevocable contractual obligation to export a significant quantity to the Community, and whether they were not related to any of the exporters or producers in Taiwan which are subject to the anti-dumping measures on the product concerned. The exporting producers which have shown that they fulfil the abovementioned criteria were considered as new exporting producers and should be granted the same treatment, in terms of definitive measures, as the cooperating exporting producers not included in the sample, i.e. an anti-dumping duty calculated in accordance with Article 9(6) of the Basic Regulation.

(9) The same treatment should be granted to any other new exporting producer who, following the adoption of definitive measures, submits sufficient evidence showing that it fulfils the abovementioned criteria.

E. DUMPING

1. Normal value

1. *Methodology for the construction of normal value*

(10) As no arguments have been advanced concerning the methodology used for the determination of constructed normal value following the adoption of provisional measures, the findings as set out in recitals 27 to 31 of the Provisional Duty Regulation are hereby confirmed.

2. *Cost of production*

(11) Following the adoption of provisional measures, one company contested the use of the manufacturing cost as set out in its own accounting records for the determination of constructed normal value. It claimed that the manufacturing cost reported in its response to the questionnaire should be used instead because this was more accurate. It also claimed that since certain customs duties incurred for the product when sold domestically were allocated together with the manufacturing overheads on all products in its accounting records, a different allocation should be made for the dumping calculations.

(12) During the on-the-spot investigation it was found that the company's accounting records provided a much more detailed cost of manufacturing per model than that requested in the questionnaire. The investigation also revealed that there was a significant discrepancy between the manufacturing cost reported in the response to the questionnaire and that in the company's accounting records. Overall, the company underestimated in its response to the questionnaire the manufacturing cost of the models exported to the Community and overestimated the manufacturing cost of the domestic models.

The company did not provide any reason why the cost reported in the response to the questionnaire reflected more reasonably the cost associated with the production of the product than the cost in its accounting records. With regard to the allocation of certain customs duties together with the manufacturing overheads, the company was not able to explain, on the basis of information available from the reply to the Commission's questionnaire and the on-the-spot investigation, how those customs duties were treated in its accounts and how they were allocated to the different models. Therefore it was concluded that the per model manufacturing cost obtained from the company's accounting records should be used for the construction of normal value.

(13) Another company claimed that in constructing normal value the Commission should not have rejected the allocation of direct labour and manufacturing overheads made in the questionnaire response. It argued that since it had no precise allocation method for these cost items, it was compelled to create such an allocation method for the dumping investigation. However, the investigation revealed that the company had historically utilised an allocation method for direct labour and manufacturing overheads. It was also found that the ad hoc allocation used in the questionnaire response systematically raised the cost of high manufacturing cost models and reduced the cost of low manufacturing cost models as compared to the cost allocation historically utilised in its accounting records. According to this ad hoc allocation method, direct labour and manufacturing overheads were allocated on the basis of various factors, e.g. the size or type of parts used. However, the company did not show that these ad hoc allocation factors provided a more appropriate allocation of direct labour and manufacturing overheads as compared to the historically used allocation. It was therefore considered that there is no reason to deviate from the allocation method historically utilised by the company and that the latter method should be used in calculating the manufacturing cost for the construction of normal value.

2. **Export price**

(14) Since no arguments have been advanced concerning the determination of export price following the adoption of provisional measures, the findings as set out in the Provisional Duty Regulation are hereby confirmed.

3. **Comparison**

(15) One exporting producer claimed that certain payments made to a related company in order to prevent it from becoming insolvent were wrongly deducted as commissions from the export price.

(16) The on-the-spot investigation revealed that the exporting producer in question had actually paid certain commissions directly linked to specific export sales to the Community which have not been reported in the response to the questionnaire. In addition, it should be noted that the exporting producer had not disclosed in the response to the questionnaire the existence of the related company which received the commissions and was involved in export sales to the Community although such information was explicitly requested in the questionnaire. Consequently, the claim was rejected and these commissions were deducted from the relevant export prices.

(17) No other arguments have been advanced concerning the adjustments made to ensure a fair comparison as set out in the Provisional Duty Regulation and the findings as set out in the Provisional Duty Regulation are therefore confirmed.

4. **Dumping margins**

1. *Methodology*

(18) As explained in the Provisional Duty Regulation, the weighted average constructed normal value by model was compared on an ex factory basis with the weighted average export price by model. Since no change was made to the dumping calculations, the provisional dumping margins are hereby confirmed as follows.

2. *Dumping margins for companies in the sample*

(19) The comparison of the normal value and the export price duly adjusted showed the existence of dumping in respect of all companies which were included in the sample. The dumping margins of the various models established vary and, therefore, the Commission calculated a weighted average dumping margin for each exporting producer. In view of the significant differences in export prices of the various models, the weighting was done on the basis of their export quantity. The definitive dumping margins expressed as a percentage of the cif import prices at the Community frontier duty unpaid are the following:

— Fritz Jou Manufacturing Co. Ltd: 10,2 %

— Giant Manufacturing Co. Ltd: 2,4 %

— Merida Industry Co. Ltd: 2,5 %

— Ming Cycle Ind. Co. Ltd: 2,5 %

— Overlord Industries Corp.: 18,2 %.

3. *Dumping margin for cooperating companies not in the sample*

(20) Cooperating companies not selected in the sample were, in accordance with Article 9(6) of the Basic Regulation, attributed the average dumping margin of the companies in the sample, weighted on the basis of their export volume to the Community. Expressed as a percentage of the cif import price at the Community frontier duty unpaid, this definitive dumping margin is 5,4 %.

4. *Dumping margin for non-cooperating companies*

(21) For non-cooperating companies a dumping margin was determined on the basis of the facts available in accordance with Article 18 of the Basic Regulation. Since the level of cooperation was high it is considered appropriate to set the dumping margin for non-cooperating companies at the level of the highest dumping margin established for a company in the sample. Indeed, it would constitute a bonus for non-cooperation and encourage circumvention to assume that the dumping margin attributable to non-cooperating exporting producers is lower than that found for a cooperating exporting producer.

This definitive dumping margin expressed as a percentage of the cif import price at the Community frontier duty unpaid, is therefore 18,2 %.

F. DEFINITION OF THE COMMUNITY INDUSTRY, SAMPLING

(22) The Taiwanese Bicycle Exporters' Association (hereafter referred to as 'TBEA') and the European Bicycle Importers' Association (hereafter referred to as 'EBIA') indicated that only nine European producers were included in the sample and that six out of those nine companies are members of larger groups of bicycle manufacturers. However, only four of them have cooperated satisfactorily in the investigation. They remarked that small independent manufacturers of bicycles had either declined to support the investigation or had offered little cooperation. In view of the foregoing, TBEA and EBIA claimed that the companies sampled for the injury determinations are not representative of the Community industry but only represent the interests of large conglomerates.

(23) As far as representativeness of the Community industry or the support from the industry in the Community are concerned, in accordance with the provisions of Articles 4(1) and 5(4) of the Basic Regulation, it was established at the provisional stage, as mentioned in recital 43 of the Provisional Duty Regulation, that producers representing as much as 60 % of Community production expressly supported the complaint and were thus in favour of the initiation of the present investigation.

No producers, either large or small, expressed any opposition to the investigation. Consequently, there cannot be any doubt as to the position of all the Community producers as regards the initiation of this investigation.

(24) In accordance with the provisions of Article 17 of the Basic Regulation and as set out in recitals 46 and 47 of the Provisional Duty Regulation the sample of Community producers chosen was representative in all respects, covering in particular a representative variety of company sizes, integration of production and product mix, as well as a large volume of production. EBIA and TBEA, in their above submission, have not shown that the sample chosen by this methodology is not appropriate.

(25) Finally, it should also be pointed out that all the Community producers included in the sample replied to the Commission's questionnaire and to the relevant deficiency letters sent by the Commission. They also fully cooperated during the on-the-spot investigations. Consequently, the allegation that some Community producers did not cooperate satisfactorily in the investigation is unfounded.

(26) Based on the above facts and considerations, the Council confirms the contents of recital 45 of the Provisional Duty Regulation as far as representativeness of the Community industry is concerned. It is also confirmed that the sample, formed by the nine companies representing 40 % of the total Community industry's volume of operations, is representative of the Community industry.

G. INJURY

1. Methodology for the determination of injury

(27) As indicated in recital 48 of the Provisional Duty Regulation, the injury situation of the Community industry has been assessed on the basis of two categories of information. The first category of information relates to global injury indicators pertaining to the Community industry, such as, production, capacity and capacity utilisation, stocks, sales, market share, investments and employment. The second category of information is based on certain performance injury indicators of the Community industry, in particular profitability, prices, price evolution and price undercutting, collected from the sampled Community producers.

1. *Global injury indicators*

(28) On the basis of a variety of documents such as press releases, extracts from the non-confidential replies to the Commission's questionnaire and annual reports of European groups such as Monark, Atag and Derby to which some sampled producers belong, TBEA and EBIA claimed that these major groups have made significant improvements in terms of turnover, production volume and profitability. This was in contradiction with the injury finding reached at the provisional stage.

(29) In this respect, it should be underlined that TBEA and EBIA, in support of the alleged increases in production volume, turnover or profitability, mainly provided information at a group level and not specifically for the product concerned. It is considered that this cannot invalidate the provisional findings made on the global injury indicators for the whole Community industry which are based on the situation related to the product concerned and reflect the situation of all individual companies included in the groups.

Indeed, the abovementioned groups are also involved in business activities other than bicycles. The share of the bicycle business in the overall activity varies between approximately 27 % to 70 % depending on the group. It is also recalled that the total share of these three groups in the Community bicycle market was established at around 28 % during the investigation period. Furthermore, even though acquisitions may result in an overall increase in production and sales value as well as an increase in turnover within a whole group, especially when economic indicators are considered regardless of the inclusion of a new company in the group, they are nevertheless compensated for by the demise of independent companies. This assumption does not contradict the fact that individual companies within the group and the group itself may have decreased production, sales volume, turnover and profit throughout the whole period under investigation.

On this basis, the TBEA's and EBIA's conclusion that the overall performance of these groups had improved in terms of their operations in relation to the product concerned cannot be accepted.

(30) Since the information supplied by TBEA and EBIA is neither consistent nor provides adequate evidence to invalidate or put into question the detailed analysis made by the Commission in recitals 58 to 73 of the Provisional Duty Regulation, the findings set out in these recitals are therefore definitely confirmed.

2. *Performance-related injury indicators*

(31) TBEA and EBIA argued that the Commission should have assessed the situation of the Community industry on the basis of an investigation of the entire groups to which sampled companies respectively belong instead of collecting information from some individual members in the groups. They claimed that the selection of one or two companies within a group does not allow an overall analysis of the group and prevents taking into account the impact of sales within the group, in other words the sales between related parties. The injury determinations were therefore flawed according to TBEA and EBIA.

(32) Recital 5 of the Provisional Duty Regulation stated that in view of the large number of Community producers expressly supporting the complaint, sampling was used and a representative sample of complainant Community producers, as set out in recitals 46 to 47 of the Provisional Duty Regulation, was investigated.

Investigating entire groups instead of individual companies within the groups, as suggested by TBEA and EBIA, however, would have required the investigation of a significantly larger number of companies than the nine currently investigated and would thus have been contrary to the very reason why sampling in accordance with Article 17 of the Basic Regulation was used in the current investigation.

(33) In any event, the current investigation has been conducted in a way ensuring that all extraordinary, non-operative or financial items or subsidiary activities which were not directly linked to the product concerned were disregarded when assessing the individual factors which led to the provisional conclusions on injury. Such an approach excluded the possibility of transferring revenue from one company to another within the group or allocating excessive general costs to the bicycle activity.

(34) In addition, it was ensured that only indicators reflecting an arm's length relationship between companies belonging to the same group were used to establish the performance-related injury indicators of the Community industry.

(35) Consequently, there is no ground for TBEA and EBIA to conclude that the injury determinations were flawed. The provisional findings made for all performance-related injury indicators are thus confirmed.

2. **Price undercutting determinations**

(36) TBEA and EBIA contested the methodology (recitals 54 to 57 of the Provisional Duty Regulation) used by the Commission when determining the provisional undercutting margins. They claimed that these margins were inflated because the Commission did not offset any negative amount with the positive amount by which the Taiwanese exporters' prices undercut those of the Community industry. According to them the actual undercutting margin and the level of competition could only be measured by including in the calculations the amount by which the Community industry prices undercut those of the Taiwanese exporters.

(37) In the undercutting methodology used by the Commission, the weighted average net sales prices of the dumped imported bicycles from Taiwan were compared, on a model-by-model basis, with the average net sales price of bicycles produced and sold by the Community industry in the Community market. Therefore, contrary to the claim made by TBEA and EBIA, this methodology allowed the amount by which the Taiwanese price of one particular model exceeded that of the Community industry price to be taken into account on a transaction-by-transaction basis.

3. **Profitability of the Community industry**

(38) TBEA and EBIA considered that the findings of the Commission in recital 70 of the Provisional Duty Regulation, i.e. that profitability has become negative since 1995 despite efforts made by the sampled Community producers to restructure and reduce costs, are not consistent with its findings on the evolution of prices which show a steady positive trend.

(39) As indicated in recital 83 of the Provisional Duty Regulation, it should be noted that not all prices of the individual models produced and sold by the Community industry had a positive trend or increased during the whole period under examination. On the contrary for mountain bikes (MTB), as stated in recital 83 of the Provisional Duty Regulation, prices decreased by up to 12 % in certain Member States where Taiwanese bicycles are mainly sold, namely the United Kingdom (UK), France and Germany. Furthermore, it cannot be concluded that the overall trend followed for prices and costs should automatically apply to profitability. To reach such a conclusion, an analysis, taking into account other economic factors, besides price evolution, is required. In the present context, these factors are economy of scale, cost of production per unit and product mix.

(40) Indeed, as stated in recitals 65 and 66 of the Provisional Duty Regulation, between 1994 up to the investigation period, the volume of sales made by the Community industry to unrelated customers in the Community market decreased by 22 % (about 1,8 million units) and sales value decreased by 14 % resulting, on the one hand, in a significant loss in the economy of scale and increased unit production costs. On the other hand, even though certain costs could be reduced as a result of restructuring, taking into account the above two trends, in the present case an increase in the unit cost of production (COP) for most models of bicycles has occurred. This tendency has been reinforced by the fact that, as mentioned in recital 67 of the Provisional Duty Regulation, the Community industry has produced higher range bicycles involving higher production costs and higher sales prices. Overall, the impact of the above situation on profitability was negative.

(41) Given the bad situation in the Community market and the pressure exerted on sales prices, the reduction of indirect costs and sales price increases were not high enough to compensate for the direct costs and COP per unit increases.

(42) The evolution of the above economic factors explains why the Community industry's profitability remained negative throughout the whole period under examination despite increases in sales prices and certain reductions in costs. The contents of recital 70 of the Provisional Duty Regulation are hereby confirmed.

4. **Conclusion on injury**

(43) The findings which led to the provisional conclusion that the situation of the Community industry deteriorated throughout the whole period under examination have been reviewed in the light of each claim made by TBEA and EBIA. This review confirmed that all the injury indicators of the Community industry, namely production (−20 %), capacity (−18 %) and capacity utilisation (−3 %), sales in terms of volume (−22 %) and value (−14 %), market share in terms of volume (−7 %) and value (−4 %), negative profitability and employment (−15 %), provisionally established were correct. These findings are therefore confirmed as well as the conclusion that the Community industry suffered material injury within the meaning of Article 3 of the Basic Regulation.

On the basis of the above facts and considerations, the provisional findings, as well as the provisional conclusions on injury as indicated in recitals 74 to 77 of the Provisional Duty Regulation, are hereby confirmed.

H. CAUSATION OF INJURY

1. **Effect of dumped imports on the Community industry**

1. *Volume of imports from Taiwan*

(44) TBEA and EBIA claimed that a significant number of bicycles imported from Taiwan were not in direct competition with bicycles manufactured by

the Community industry since not all bicycles imported from Taiwan were compared with Community produced ones in the price undercutting exercise and therefore could not have negatively affected the Community industry.

(45) In addition, according to TBEA and EBIA, the Community industry did not suffer injury caused by bicycles imported from Taiwan. Although the volume of imports of bicycles from Taiwan increased during the period under examination, the increase was very moderate and, in fact, it did not even compensate for the decline in total imports following the imposition of anti-dumping measures against imports from the People's Republic of China, Malaysia, Indonesia and Thailand. Between 1994 and the investigation period, imports from countries other than Taiwan decreased by approximately 1 000 000 units whereas in the same period of time imports from Taiwan only increased by 550 000 units. They thus concluded that import pressure on the Community was in fact significantly reduced during the period under examination.

(46) As regards the first argument, the fact that not all models of the product under investigation were compared in the context of the examination of price undercutting cannot lead to the conclusion that these models are not comparable or not in competition in the Community market. Indeed, the investigation has shown that despite the high number of possible variations in bicycles available in both the Taiwanese and the Community market, they all have the same basic physical and technical characteristics and uses and that all bicycles should therefore be regarded as being one single product.

(47) As regards the second argument above, related to the impact of high import volumes from Taiwan, it was found in recital 79 of the Provisional Duty Regulation that Taiwan was by far the main exporter of bicycles to the Community with a share of 55 % of imports during the investigation period. That performance was achieved despite the fact that the Community market had continually shrunk since 1994: the market size measured in units decreased by 16 %. Whereas the Community industry lost sales volume (−22 %), as did other operators in the Community market, only Taiwanese exporters continued to increase their import volume (+ 25 %) at a time during which their sales prices steadily decreased (−19 %) between 1995 and 1996. Whereas the Community industry lost around 1,8 million units in sales volume, Taiwanese imports increased by 300 000 units, namely 55 % of the overall increase during the whole period under examination. Under these circumstances, and bearing in mind the findings specified in recital 81 of the Provisional Duty Regulation, low-priced dumped Taiwanese bicycles negatively affected Community industry.

2. *Evolution of market share*

(48) According to TBEA and EBIA, the evolution of the market share of the complainant and non-complainant Community producers indicates the absence of detrimental effects caused by Taiwanese imports. In 1994, all Community producers held a 70,4 % share of the Community market. During the investigation period this share, slightly reduced by 2 percentage points, was still as high as 68 %. This reduction however allegedly hides the fact that the market share held by individual Community producers had improved. As indicated in recital 58 of the Provisional Duty Regulation several companies went bankrupt or closed down during the period under consideration, thereby reducing the number of Community producers. Since the remaining producers hold a market share comparable to that held by the arguably more numerous producers back in 1994, TBEA and EBIA concluded that these remaining producers have allegedly increased their own market share at the expense of other European manufacturers.

(49) The focus on market share as advocated by TBEA and EBIA blurs in this particular case the results of a proper analysis. As far as the Community producers are concerned, it was found in recital 71 of the Provisional Duty Regulation that between 1994 up to the investigation period, the Community industry lost 7 % of its share in the market in terms of volume and 4 % of the market in value. The loss in sales volume was around 1,8 million units during that period of time. The market share held by the other Community producers, namely those not included in the definition of the Community industry, increased both in terms of volume (+ 2 %) and in terms of value (+ 5 %). However, they also lost considerable sales volume (−600 000 units) during that period.

In the meantime, the market share of Taiwanese exporters in terms of volume increased by 50 % or by 5,8 percentage points, namely three times more than the other Community producers. Moreover,

they managed to increase their sales volume by 550 000 units. Consequently the above findings clearly contradict the assumptions made by TBEA and EBIA on market share. From the above analysis it can be concluded in fact that the spectacular increase in the market share held by Taiwanese exporters was made at the expense of both complaining and non-complaining Community manufacturers.

3. *Price evolution of the Community industry*

(50) TBEA and EBIA noted that the prices of bicycles sold by the Community industry had developed positively during the whole period under examination with prices increasing by 6 % between 1994 and the investigation period. Prices increased by 11 % between 1995 and 1996 and by a further 2 % between 1996 and the investigation period.

(51) The overall price development of the Community industry was indeed positive between 1994 and the investigation period. As stated in recital 59 of the Provisional Duty Regulation, however, such a trend resulted from the fact that the Community industry changed its product mix and concentrated on higher range products. Nevertheless, the investigation has also shown that as price increases did not allow that industry to cover its costs of production, profitability has remained negative since 1995. It was also established in recital 83 of the Provisional Duty Regulation that price evolution had also shown negative trends, depending on the model and pressure from unfair competition from low-priced dumped Taiwanese imports. The average price for homogeneous MTB models, namely MTBs whose components did not change much, showed a decrease of up to 12 % from 1994 to the investigation period, depending on the Community market.

(52) Given the fact that 60 % of Taiwanese imports were mainly concentrated in the low-end range of the MTB segment, where Community prices were mainly depressed, it is considered that the pricing behaviour of the Taiwanese exporters negatively affected the Community industry.

2. **Evolution of consumption**

(53) According to TBEA and EBIA, the negative development of consumption is one of the factors which has detrimentally affected the Community industry. It was claimed that from 1994 up to the investigation period the demand for bicycles in the Community market decreased by approximately 3 million units. At the same time sales of the Community industry decreased by 1,8 million units. It was precisely when consumption was at its lowest, namely in 1996, that the Community industry recorded its worst financial results, namely −2,3 %. During the investigation period, when consumption increased, the financial situation of the Community industry slightly improved since it recorded a negative return on sales of only −1,3 %. They claimed that this shows a clear correlation between the evolution of Community consumption and the performances of the Community industry.

(54) In recital 100 of the Provisional Duty Regulation, the Commission found that it could not be excluded that the negative evolution of consumption contributed to the difficult situation of the Community industry. However, it was concluded that its impact was not such as to break the causal link between dumped imports from Taiwan and the material injury suffered by the Community industry. In any event, even if there is some correlation between the development of consumption and the performance of the Community industry, this alone does not sufficiently explain the bad performance of the Community industry in periods when consumption was developing positively.

3. **Undercutting by other Community producers**

(55) According to TBEA and EBIA, part of the injury caused to the Community industry was due to the significant undercutting practised by non-complainant Community producers located in Italy. They claimed that sales of such producers were particularly important in the most representative Community markets and were made at extremely low prices undercutting Taiwanese prices. In order to substantiate the alleged injurious behaviour of these producers, TBEA and EBIA referred to Eurostat statistics for 1996 and 1997 and compared the Taiwanese prices in nine Member States with prices of shipments from Italy. It was found that only in

the UK did the average Taiwanese import price undercut that of Italian producers. They explained that these low Taiwanese prices were due to the fact that the main Taiwanese imports into the UK were children's bicycles, which are cheaper than other bicycles.

(56) It should be noted that, contrary to the price comparison described in recitals 54 to 57 of the Provisional Duty Regulation, TBEA and EBIA did not make any basic distinction in their price comparison between the bicycle categories defined in recital 14 of the Provisional Duty Regulation. They did not even consider the fact that Eurostat statistics provided separate information for the three CN codes involved in the present investigation and that one code in particular contains information relating to very basic bicycles without ball-bearings. As an example, despite the fact that children's bicycles are less sophisticated, they did not distinguish between the difference in the product mix and homogeneous categories of bicycles sold in the Community market by Taiwanese and Italian operators. Moreover, no distinction was made between complainant and non-complainant Italian producers. Nor did they consider the fact that the Eurostat statistics contain information on bicycles of all origins. Finally, TBEA and EBIA ignored the fact that Italian producers were selling their bicycles under different sales conditions from those of the Taiwanese, thus affecting the meaningfulness of the price comparison exercise. From a methodological point of view their findings are thus highly questionable.

(57) The findings made in recitals 91 to 95 of the Provisional Duty Regulation concerning the non-complainant Community producers are therefore confirmed.

4. **Restructuring**

(58) According to TBEA and EBIA, the Community industry had to significantly restructure its activities by way of mergers and acquisitions, which were responsible for the reduction in production capacities, unemployment and cost increases.

(59) As indicated in recital 103 of the Provisional Duty Regulation, the European bicycle industry undertook rationalisation and restructuring efforts, still going on today, demonstrating at the same time this industry's adaptability to new market situations. However, contrary to the suggestion made by TBEA and EBIA, the restructuring did not necessarily lead to increased costs. The investigation has shown that some of the Community producers included in the sample were able to reduce their costs by selling equipment or buildings. In particular, this allowed certain large European groups to slightly improve their overall financial situation, and to make certain cuts in costs, such as overheads, depreciation, renting, financial costs, etc.

(60) Important operations such as mergers and acquisitions were indeed performed by some European groups in the framework of the globalisation trend. Mergers and acquisitions should not be seen as the cause of the negative situation of the companies concerned but rather as its consequence. As regards global injury indicators, such as production, production capacity and unemployment, the evolution of the situation of the companies merged or acquired during the period under examination was taken into account since they form the Community industry.

However, any impact caused by the cost of mergers and acquisitions in the financial situation of the companies forming the Community industry, and more so in the sampled Community producers, was disregarded. It follows that costs resulting from mergers, acquisitions or group restructuring are not reflected in the findings which led to the above conclusion of material injury suffered by the Community industry.

(61) Consequently, the restructuring of the Community industry cannot be held responsible for the material injury it has suffered.

5. **Conclusion on causation**

(62) As a result of the above facts and considerations, the provisional analysis and relative conclusions on causation are hereby confirmed.

I. COMMUNITY INTEREST

(63) Contrary to the conclusions reached in the Provisional Duty Regulation, EBIA claimed that there are compelling reasons that the adoption of anti-dumping measures is not in the Community interest.

1. **Interest of the Community industry**

(64) In recital 103 of the Provisional Duty Regulation, it was found that the material injury suffered by the Community industry due to unfair competition from low-priced dumped imports rendered it highly vulnerable. This situation had indeed

required additional rationalisation and restructuring efforts in particular by the small manufacturers. Many European companies had to close down or revert to assembling rather than producing bicycles. Not imposing anti-dumping duties on low-priced dumped imports from Taiwan would thus undermine all the efforts made by European manufacturers over the last few years in order to survive and remain competitive on the market.

(65) Since no comments with regard to the interest of the Community industry were received, the contents of recitals 103 to 105 of the Provisional Duty Regulation are hereby confirmed.

2. **Interests of importers, dealers and retailers**

(66) EBIA claimed that many Community importers, dealers and retailers have invested a great deal of time, effort and money over the years in promoting certain brands within the Community. These investments will be detrimentally affected by the imposition of anti-dumping measures. Furthermore, they added that the survival of the retailers relies upon the diversity and quality of the bicycles which only Taiwanese manufacturers can offer. Numerous jobs across Europe are allegedly being jeopardised by the imposition of anti-dumping measures.

(67) While taking the above claims into consideration, it should also be borne in mind that dealers and retailers working with the Community industry also invested time and money in their respective businesses. Therefore, it is considered that the negative effects of anti-dumping measures on retailers should be seen in the light of the contents of recital 110 of the Provisional Duty Regulation. In any event, the imposition of anti-dumping measures will not put dealers and retailers buying and selling Taiwanese bicycles in an unfairly disadvantageous situation as compared to other retailers in the Community market. The proposed measures will simply correct the distorting effects of injurious dumping and restore fair trade competition among all the operators in the Community. Moreover, price increases will not be automatic. Although price increases might occur as a result of the imposition of the anti-dumping duty, as indicated in recital 111 of the Provisional Duty Regulation, these increases should be very limited.

(68) As mentioned in recital 108 of the Provisional Duty Regulation, very few meaningful replies were received from importers who are members of EBIA. After the imposition of the provisional anti-dumping duties, the Commission intended to carry out on-the-spot investigations in order to further investigate the situation of importers in the Community market, and to verify the relevance of the above claims. Since none of the members of EBIA agreed to cooperate with the Commission, the above claims concerning importers cannot be taken into consideration.

(69) In these circumstances, and in the absence of any information which suggests the contrary, the conclusions reached at the provisional stage concerning the effect of the imposition of anti-dumping measures on importers, traders and retailers are hereby confirmed.

3. **Interest of consumers**

(70) EBIA also claimed that imposing anti-dumping measures on bicycles is most likely to have several negative consequences on consumers. The consumer price of bicycles will increase; many models of bicycles will no longer be affordable and consumers will be forced to buy low-end range bicycles. The Community market will be in the hands of a reduced number of European manufacturers and the availability of low-priced bicycles of low quality imported from other sources such as eastern European countries and India will increase. The restriction in choice and innovation in bicycles will have negative consequences on a number of cyclists, particularly in Member States where Taiwanese bicycles have a very high market share. Accordingly, the imposition of anti-dumping measures is allegedly not in the interest of the Community consumers.

(71) With the exception of the effect of the anti-dumping measures on consumer bicycle prices, these issues have already been dealt with above. Consequently, the quality of bicycles sold in the Community market, competition and consumer choice in the Community market will not be affected by the imposition of anti-dumping measures.

(72) As far as the consumer price increase is concerned, EBIA did not provide any economic analysis indicating an alleged increase in consumer prices if anti-dumping measures were imposed. Given the

margin of the distribution chain in the Community, the maximum impact of the anti-dumping duty on the consumer price should be limited to 2,6 %. However, given the large number of competitors in the market, it is far from certain that the adoption of anti-dumping measures will result in any price increases at consumer level.

4. **Consequences on competition in the Community market**

(73) EBIA is of the opinion that the imposition of anti-dumping measures would contribute to the creation of an oligopoly formed by Atag, Monark and Derby to which some individual companies included in the sample belong. With anti-dumping measures in force, these groups will allegedly be able to dominate the market and control the behaviour of small independent manufacturers.

(74) EBIA also claimed that the imposition of any anti-dumping duty adding up to the already high customs duty of 15,4 % will contribute to reducing competition on the Community market. They recalled that the measures against Taiwan conclude a series of anti-dumping measures imposed against China, Indonesia, Malaysia and Thailand.

(75) As indicated in recital 117 of the Provisional Duty Regulation, there are a great many operators in the Community market so there is no risk of a monopolistic or oligopolistic situation being created. On the contrary, the investigation has shown that there is a lot of competition among all European manufacturers and importers in the Community market.

(76) As indicated in recital 62 of the Provisional Duty Regulation, the total market share of the three main European groups in the Community market is around 28 %. In total, there are around 70 producers in the Community, most of them small and medium-sized enterprises (SMEs), who have considerable experience in the bicycle business. In addition, there are hundreds of importers of bicycles made in the USA, the Czech Republic, Poland, India, Vietnam, Indonesia, Korea, Malaysia, etc. It is therefore considered that there is no risk of a monopolistic situation being created in the Community.

(77) Moreover, the fact that small manufacturers wished to support and participated in the investigation and in addition were not opposed to the conclusions reached in the Provisional Duty Regulation strongly suggests that there is no risk of such a threat to them. On the contrary, their behaviour rather indicates that they are convinced that their situation would deteriorate further if no anti-dumping measures were imposed against low-priced dumped imports from Taiwan.

(78) Consequently, on the basis of the above facts and considerations, the contents of recitals 116 to 118 of the Provisional Duty Regulation are confirmed.

5. **Reduced innovation in the Community**

(79) EBIA submit that given the important role of Taiwanese bicycle manufacturers in the Community market who offer a broad range of high quality products it is not in the Community interest to impose anti-dumping measures. It has been claimed that the Taiwanese can be credited with the most technical breakthroughs from the introduction of MTBs to full suspension bicycles and beyond. They are also reputed for their R & D allegedly leading the way in the production of power-assisted/electrically-powered bicycles, a growing sector in the market, and also being the world's leading producer of folding bicycles. In particular, EBIA claimed that 2,2 % of Taiwanese manufacturers' turnover is invested in long-term investments in R & D.

(80) Contrary to the suggestion made by EBIA, Taiwanese bicycles imported in the Community are concentrated on the low-range models, whereas only about 7 % of these imports can be considered as being in the high-range. The information available also indicates that during the investigation period the sampled Taiwanese exporting producers invested not 2,2 % but approximately only 1 % of turnover in R & D, i.e. less than the Community industry.

(81) Finally, considering that the level of measures will not prevent Taiwanese bicycles being sold in the Community market, the imposition of anti-dumping measures will not affect the pace of innovation as far as it is determined by imports from Taiwan.

6. **Conclusion**

(82) As no new conclusive evidence or arguments were received in connection with the determination of Community interest, the provisional findings are hereby confirmed.

J. DEFINITIVE ANTI-DUMPING DUTY

(83) Since no arguments to invalidate the provisional findings which led to the imposition of the provisional anti-dumping duty were put forward by the interested parties, the contents of recitals 121 to 125 of the Provisional Duty Regulation are confirmed.

(84) On the above basis, given the wide variety of bicycles exported from Taiwan, an *ad valorem* duty is still considered to be the most appropriate form of measure.

K. COLLECTION OF THE PROVISIONAL DUTIES

(85) In view of the magnitude of the dumping margins found for the exporting producers and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties for transactions involving the product concerned should be definitively collected at the level of the definitive duties.

L. FUTURE REQUESTS FOR NEW EXPORTER TREATMENT

(86) Since sampling has been used in the investigation, a new exporters' review pursuant to Article 11(4) of the Basic Regulation with the objective of determining individual dumping margins cannot be initiated in this proceeding. However, as already explained in recitals 8 and 9 above, in order to ensure equal treatment for any genuine new exporting producer and the cooperating companies not included in the sample, it is considered that provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporting producer who would otherwise be entitled to a review pursuant to Article 11(4) 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), not motorised, with or without ball-bearings, falling within CN codes 8712 00 10, 8712 00 30 and 8712 00 80 originating in Taiwan.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall, subject to paragraphs 3 and 4, be 18,2 % (TARIC additional code 8900).

3. Products manufactured by the companies listed in the Annex shall be subject to a definitive anti-dumping duty rate of 5,4 % (TARIC additional code 8548).

4. Products manufactured by the companies listed below shall be subject to the following definitive anti-dumping duty rates:

Company	Rate of duty	TARIC additional code
Fritz Jou Manufacturing Co., Ltd	10,2 %	8698
Giant Manufacturing Co., Ltd	2,4 %	8699
Merida Industry Co., Ltd	2,5 %	8551
Ming Cycle Industrial Co., Ltd	2,5 %	8552

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

Article 2

Where any new exporting producer in Taiwan provides sufficient evidence to the Commission that

— it did not export to the Community the products described in Article 1(1) during the investigation period (1 November 1996 to 31 October 1997),

— it is not related to any of the exporters or producers in Taiwan which are subject to the anti-dumping measures imposed by this Regulation,

— it has actually exported to the Community the products concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(3) of this Regulation by adding the new exporting producer to the list in the Annex referred to in that Article.

Article 3

Amounts secured by way of the provisional anti-dumping duty imposed by Regulation (EC) No 1833/98 shall be definitively collected at the duty rate definitively imposed. Amounts secured in excess of the definitive rate of the anti-dumping duty shall be released.

Article 4

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

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

Done at Luxembourg, 22 February 1999.

For the Council

The President

H.-F. von PLOETZ

ANNEX

Acetrikes Industrial Co., Ltd., Changhua
Asahi Enterprises Corporation, Tainan
Axman Enterprise Co., Ltd., Taichung
Century Manufacturing Co., Ltd., Taichung
Dahon Inc., Taipei
Dodsun Bicycle & Machinery Manufacturers, Tao Yuan
Fairly Bike Manufacturing Co., Ltd., Taipei
Formosan I Shin Enterprise Ltd., Tainan
Golden Cycle Corp., Taipei
Hsieh Chan Bicycle Co., Ltd., Changhua
Ideal Bike Corporation, Taichung
Kenstone Metal Co., Ltd., Taichung
Liyang Industrial Co., Ltd., Taipei
MT Racing Inc., Taichung
Pretty Wheel Industrial Co., Ltd., Taichung
Rockman Taiwan Bicycle Mfg. Inc., Taichung
San Ground Co., Ltd., Taichung
Sanfa Bicycle Industrial Co., Ltd., Taichung
Sheng Fa Industries Co., Ltd., Taipei
Southern Cross International Co., Ltd., Nantou
Speedstar Industries Co., Ltd., Kaohsiung
Taioku Manufacturing Co., Ltd., Nantou
Taiwan Hodaka Industrial Co., Ltd., Taipei
United Engineering Corp., Taoyuan
Wai I Industry Co., Ltd., Chia-Yi
Wheeler Industrial Co., Ltd., Taichung
Willing Industry Co., Ltd., Taichung
Yuh Jiun Industrial Co., Ltd., Tainan