

Commission Regulation (EC) No 1999/2006 of 20 December 2006 imposing a provisional anti-dumping duty on imports of certain saddles originating in the People's Republic of China

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of 20 December 2006

imposing a provisional anti-dumping duty on imports of certain saddles originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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⁾ ('the basic Regulation'), and in particular Article 7 thereof,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 22 February 2006, the Commission received a complaint concerning certain saddles originating in the People's Republic of China (PRC) lodged pursuant to Article 5 of the basic Regulation by the European Saddle Manufacturers Association (the complainant) on behalf of producers representing a major proportion, in this case 99 %, of the total Community production of certain saddles.
- (2) This complaint contained evidence of dumping and of material injury resulting there from, which was considered sufficient to justify the opening of a proceeding.
- (3) On 7 April 2006, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union*⁽²⁾.

2. Parties concerned by the proceeding

- (4) The Commission officially advised the exporting producers in the PRC, importers, traders, users, suppliers and associations known to be concerned, representatives of the PRC and the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

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- (5) In order to allow exporting producers to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Three exporting producers groups and one individual exporting producer requested MET pursuant to Article 2(7) of the basic Regulation, or IT should the investigation establish that they do not meet the conditions for MET. It should be noted that three of these exporting producers consisted of two or more related companies involved in the production and/or sales of saddles.
- (6) In view of the apparent high number of exporting producers in the PRC, importers and producers in the Community, in the notice of initiation, the Commission indicated that sampling may be applied in this investigation for the determination of dumping and injury in accordance with Article 17 of the basic Regulation.
- (7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC, Community importers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 January 2005 to 31 December 2005).
- (8) As far as the exporting producers are concerned, given that only three groups of companies and one individual company cooperated in the investigation, it was decided that sampling was not required.
- (9) With regard to Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production of saddles in the Community, which can reasonably be investigated within the time available. On the basis of the information received from Community producers, the Commission selected five companies located in two different Member States. In terms of production volume the five sampled companies represented 86 % of the total Community production. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury analysis. Furthermore, and in accordance with Article 17 of the basic Regulation, a sample of importers was selected based on the largest representative volume of imports of the product concerned into the Community which can reasonably be investigated within the time available. On the basis of the information received from various importers and considering the different quality of the information submitted, two importers located in one Member State were selected for the sample. The two importers selected for the sample represent 21 % of imports of the product concerned in

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the Community. In view of the small number of responses received by users, it was decided that sampling of users was not necessary.

- (10) Questionnaires were sent to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from four exporting producers in the PRC and one producer in the analogue country, Brazil. Full questionnaire replies were also received from the five Community producers selected in the sample. Although four importers replied to the sampling form, only two cooperated by submitting a full questionnaire reply. Moreover, four users of saddles returned a full questionnaire reply. In addition, one questionnaire reply was also received from a raw material supplier.
- (11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:
- (a) *Community producers*
- Selle Royal S.p.A., Pozzoleone, Italy
 - Selle Italia s.r.l., Rossano Veneto, Italy
 - Bassano Selle s.r.l., Riese Pio X, Italy
 - Selle SMP S.A.S., Casalserugo, Italy
 - pph ABI sp.j., Nasielsk, Poland.
- (b) *Exporting producers in the PRC*
- Cionlli Group
 - Cionlli Bicycle (Taicang) Co., Ltd.
 - Shunde Hongli Bicycle Parts Co., Ltd., Shunde
 - Safe Strong Bicycle Parts Shenzhen Co., Ltd., Shenzhen
 - Cionlli Bicycle (Tianjin) Co., Ltd., Tianjin.
 - Giching Group
 - Giching Bicycle Parts (Shenzhen) Co., Ltd., Shenzhen
 - Velo Cycle (Kunshan) Co., Ltd., Kunshan.
 - Justek Group
 - Jiangyin Justek Vehicle Co., Ltd., Jiangyin
 - Jiangyin Justek Communication Equipment Co., Ltd., Jiangyin
 - Tianjin Justek Vehicle Co., Ltd., Tianjin
 - Viscount Vehicle (Shenzhen) Co., Ltd., Shenzhen.
- (c) *Related companies in the PRC and Taiwan*
- Cionlli Bicycle (Tianjin) Co., Ltd, Tianjin
 - Cionlli Industrial Co., Ltd.

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(d) *Unrelated importer in the Community*

— Buechel GmbH, Fulda, Germany.

(12) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Brazil in this case, took place at the premises of the following company:

(e) *Producer in Brazil*

— Royal Ciclo Indústria de Componentes Ltda, Rio do Sul.

3. Investigation period

(13) The investigation of dumping and injury covered the period from 1 January to 31 December 2005 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2002 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(14) The product concerned is certain saddles and essential parts thereof (i.e. bases, cushions and covers), of bicycles and other cycles (including delivery tricycles), not motorised, of cycles fitted with an auxiliary motor with or without sidecars, of fitness machines and of home trainers, ('the product concerned', or 'saddles') originating in the People's Republic of China. The product is normally declared within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10.

(15) A saddle is typically made up of three parts: a base or support on which the saddle is built, is generally produced through a plastic injection moulding process; the cushion which is applied to the base to make the saddle comfortable which can be made from different types of synthetic foam or other materials; the cover, made from synthetic material or natural leather which covers the cushion and the edges of the base giving the saddle its feeling and aesthetical properties. As well as the above three components a saddle normally incorporates an attaching mechanism made from metal such as a fork, or clamp and may also include a spring or elastomer shock-absorbing mechanism.

(16) The product concerned is used in bicycles and similar vehicles, as well as stationary appliances such as fitness machines. The investigation has shown that, despite differences in shapes, materials and production process, the different types of the product concerned all share the same basic physical and technical characteristics and are basically used for the same purposes. They are therefore considered to constitute a single product for the purpose of this proceeding.

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2. Like product

(17) The investigation showed that the basic physical and technical characteristics of the saddles produced and sold by the Community industry in the Community, saddles produced and sold on the domestic Chinese market and saddles imported into the Community from the PRC, as well as those produced and sold in Brazil are the same and that these products have the same use.

(18) It was therefore provisionally concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment (MET)

(19) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(20) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:

1. Business decisions and costs are made in response to market signals and without significant State interference; and costs of major inputs substantially reflect market values.

2. Firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes.

3. There are no significant distortions carried over from the former non-market economy system.

4. Bankruptcy and property laws guarantee legal certainty and stability.

5. Exchange rate conversions are carried out at market rates.

(21) Two groups of exporting producers and one individual exporting producer requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadline. The Commission sought and verified at the premises of these companies all necessary information submitted in the MET applications as deemed necessary. The investigation revealed that the MET could only be granted to two group of exporting producers, whereas the claim had to be rejected for one group of companies and the individual company.

(22) With regard to the individual exporting producer, the investigation showed that the company did not meet the requirements of the above-mentioned

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criteria 1 and 3. Namely, the company could not demonstrate that its business decisions were taken in response to market signals, without significant State interference, in particular as sales quantities in the domestic and export markets are restricted by the Articles of Association of the company which cannot be changed without State approval. Moreover, the company could not demonstrate that there are no distortions carried over from the former non-market economy system, in particular by providing written evidence concerning the acquisition of the land use rights.

- (23) In addition, one group of exporting producers failed to declare their relationship with a major domestic customer both in the reply to the market economy claim form and the response to the anti-dumping questionnaire. The relationship was only uncovered by cross-checks made at the premises of those exporting producers. It is the Commission's consistent policy to make an MET/IT determination for groups of related companies as a whole. Therefore granting MET/IT to this exporter would have required the related company to fully cooperate in the investigation, in order to establish its precise activities regarding the product concerned, the fulfilment of the MET criteria and the influence of the relationship upon the transactions between the two companies. This was not the case, since the related company did not cooperate in the investigation. Therefore, the Commission was not in a position to make a MET/IT determination for this group of companies. It should be noted that this issue affected a very substantial part of the exporters' domestic sales. Moreover, this deliberate omission cast doubts on the reliability of other information and documents submitted to the Commission. In view of this omission and its significance both in terms of the MET analysis and of any dumping determinations that would be based on the individual data submitted by this group of exporters, it was determined that they had provided false and misleading information within the meaning of Article 18 of the basic Regulation. The company was informed forthwith of the basis on which it was intended to disregard the information provided and was given the opportunity to provide further explanations, in accordance with Article 18(4) of the basic Regulation. However, the explanations given by the company were unsatisfactory and could neither convince the Commission that it did not submit misleading information nor resolve the doubts about the integrity of the remaining data submitted by the company. As such, this group of exporting producers was considered as not cooperating in the investigation and its request for MET and IT was rejected.
- (24) The interested parties were given an opportunity to comment on the above findings.
- (25) On this basis, MET was granted to two groups of exporting producers:
- Cionlli Bicycle (Taicang) Co. Ltd., and related companies
 - Giching Bicycle parts (Shenzhen) Co. Ltd., and related companies.
2. Individual treatment (IT)

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- (26) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.
- (27) The exporting producer to which MET could not be granted also claimed IT in the event it was not granted MET. However, the company's claim for individual treatment (IT) was also rejected as the company failed to meet the criteria set out in Article 9(5)(b), namely that export prices and quantities were freely determined.
3. Normal value
- (a) Determination of normal value for the exporting producers granted MET
- (28) As far as the determination of normal value is concerned, the Commission first established, for each of the exporting producers concerned, whether its total domestic sales of saddles were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of the exporting producer was at least 5 % of its total export sales volume to the Community.
- (29) The two groups of companies granted MET included five companies producing saddles for export, three of which had also domestic sales. One further company had domestic sales but no exports.
- (30) For those exporting producers whose overall domestic sales were found to be representative, the Commission subsequently identified the types of saddles sold domestically which were identical or directly comparable to the types sold for export to the Community.
- (31) For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community.
- (32) The Commission subsequently examined for each company whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers on the domestic market of the type in question.
- (33) In cases where the sales volume of a type of saddle, sold at a net sales price equal to or above its cost of production, represented more than 80 % of the

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total sales volume of that type, and where the weighted average price of that type was equal to or above its cost of production, normal value, by product type, was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.

- (34) Where the volume of profitable sales of a type of saddle represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below its cost of production, normal value, by product type, was based on the actual domestic price, which was calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.
- (35) Finally, where the volume of profitable sales of any type of saddle represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (36) Wherever domestic prices of a particular type sold by an exporting producer could not be used, constructed normal value was used.
- (37) In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to each exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable amount for selling, general and administrative costs (SG&A) and for profits. In all cases SG&A and profits were established pursuant to the methods set out in Article 2(6) of the basic Regulation. To this end, the Commission examined whether the SG&A costs incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (38) Actual domestic SG&A costs were considered reliable when the total domestic sales volume of the company concerned could be regarded as representative as compared to the volume of export sales to the Community. The domestic profit margin was determined on the basis of domestic sales of those types that were sold in the ordinary course of trade. For this purpose, the methodology set out above was applied.
- (39) For the three companies with representative domestic sales it was found that the majority of types of the product concerned, which were exported, were sold on the domestic market in the ordinary course of trade. For those types where this was not the case, normal value was constructed using the methodology set out above, using the SG&A and profit information for each company concerned.
- (40) For the two companies without representative domestic sales, the amounts for SG&A and profit were determined on the basis of the average SG&A and profit of the four companies with domestic sales.
- (b) Determination of normal value for the exporting producers not granted MET

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- (i) Analogue country
- (41) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET, has to be established on the basis of the prices or constructed value in an analogue country.
- (42) In the notice of initiation, the Commission indicated its intention to use Brazil as an appropriate analogue country for the purpose of establishing normal value and interested parties were invited to comment on this.
- (43) No exporting producers in the PRC not granted MET objected to this proposal.
- (44) However, an importer and an exporting producer granted MET have argued that Brazil is not the most appropriate analogue country, and that Taiwan or Mexico should be selected for that purpose instead.
- (45) Regarding Taiwan, it is considered that although a bicycle parts industry had developed there, most of the production has been transferred to the PRC. Accordingly, saddle manufacturers headquartered in Taiwan would be largely the same companies or related companies to the ones which are exporting from the PRC to the Community at allegedly dumped prices. Moreover, the normal division of labour within those groups means that only a few specialised models, with higher profit margins, are still produced in Taiwan, while the production of the vast majority of middle-range to lower-end models have been transferred to the PRC for cost reasons. It is not likely, therefore, that prices or costs of saddle models manufactured in Taiwan would be the best surrogate to base a normal value for the saddles manufactured in the PRC.
- (46) Regarding Mexico, this country is considered to be an open and competitive market, representing about one eighth of the size of the Brazilian market. The Commission contacted the two known producers in Mexico, but no cooperation was offered.
- (47) Regarding Brazil, the investigation revealed that it is a competitive market for the product concerned with at least three domestic producers, of different sizes, and with imports from third countries amounting to about 15 % of the domestic consumption of eight to nine million saddles per year. One exporting producer alleged that the level of competition on the Brazilian market was dubious due to the low number of producers. However, the investigation showed that there was no evidence of a dominant position of one of the Brazilian producers or that prices are established in a non-competitive manner. There was also no reason to believe that the access to raw materials, costs and other conditions of production in Taiwan or Mexico would be more similar to those in the PRC than they are in Brazil. The Brazilian market was therefore deemed adequate for the purpose of establishing normal value.
- (48) The three known exporting producers in Brazil were contacted, and one company agreed to cooperate. A questionnaire was therefore sent to this

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producer and the data submitted in its reply was verified on the spot. This cooperating producer is related to one of the Community producers, but there is no reason to believe that this would affect the reliability of the data, which was moreover verified at the company's premises.

(49) In view of the foregoing, it is provisionally concluded that Brazil is the most appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

(ii) Normal value

(50) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the Brazilian market for comparable product types, in accordance with the methodology set out above.

(51) Normal value was established on the basis of all prices paid or payable on the Brazilian market for comparable product types, as the transactions were all found to be made in the ordinary course of trade.

4. Export prices

(52) All exporting producers made export sales to the Community either directly to independent customers in the Community or through related or unrelated trading companies located in Hong Kong, the British Virgin Islands and Taiwan.

(53) Where the product concerned was directly exported to independent customers in the Community, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

(54) Where sales were made via a related trader located outside the Community, the export price was established on the basis of the first resale prices to independent customers in the Community.

5. Comparison

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

(56) For the sales channelled through related companies in Taiwan, an adjustment was applied in accordance with Article 2(10)(i) of the basic Regulation, where

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these companies have been shown to perform functions similar to that of an agent working on a commission basis. Given that the allocation of SG&A expenditure provided by the related company could not be considered reliable, this adjustment was based on the SG&A and profit data obtained from an unrelated trader.

6. Dumping margins
 - (a) For the cooperating exporting producers granted MET
 - (57) For the companies granted MET, the weighted average normal value of each type of the product concerned exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Article 2(11) and (12) of the basic Regulation.
 - (58) It has been the consistent practice of the Commission to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This in particular because individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to the Community through the company with the lowest individual dumping margin.
 - (59) In accordance with this practice, the related exporting producers belonging to the same groups were regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating producers in the respective groups.
 - (60) On this basis, the provisional weighted average dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Company	Provisional dumping margin
Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %

- (b) For all other exporting producers
 - (61) In order to calculate the country-wide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of cooperation. A comparison was made between the total export quantities indicated in the questionnaire replies of the three cooperating exporting producers and total dumped imports from the PRC, calculated as explained

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in recital 71. The percentage found was 23 %. On this basis, the level of cooperation was deemed to be low.

- (62) It was therefore considered appropriate to determine the country-wide dumping margin as the weighted average of:
- the dumping margin found for the cooperating exporter to which neither MET nor IT was granted, and
 - the highest dumping margins for representative product types of the same exporter, since there were no indications that the non-cooperating exporting producers dumped at a lower level.
- (63) On this basis the country-wide level of dumping was provisionally established at 30,9 % of the cif Community frontier price, duty unpaid.

D. INJURY

1. Community production

- (64) Within the Community the product concerned is known to be manufactured by nine producers on behalf of which the complaint was lodged. They are located in Italy, Poland, the United Kingdom and Portugal and represent 99 % of the Community production during the IP.
- (65) Furthermore, there was at initiation stage only one known Community producer which was not complainant. Taking into account the production volume of the nine complaining producers and the non-complaining producer in the Community, the total production of the like product amounted to 16 165 936 pieces in the IP.

2. Community industry

- (66) The following Community producers supported the complaint:
- Selle Royal S.p.A., Pozzoleone, Italy with its related company:
 - Brooks England Ltd., West Midlands, United Kingdom
 - Selle Italia s.r.l., Rossano Veneto, Italy with its related company:
 - Bassano Selle s.r.l., Riese Pio X, Italy
 - Selle SMP S.A.S., Casalserugo, Italy
 - pph ABI sp.j., Nasielsk, Poland
 - Iberoselle Fabrica de Selins Lda., Agueda, Portugal
 - Selle Montegrappa s.n.c., Ramon di Loria, Italy
 - Selle San Marco S.p.A., Rossano, Italy.
- (67) As these nine complainant cooperating Community producers (both the sampled and non-sampled) represent 99 % of the Community production of the like product, they constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. The sampled Community producers in the investigation, (hereafter referred to as 'sampled producers') accounted for 86 % of the total Community production of saddles during the

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IP. The remaining Community producers were requested to provide certain general data for the injury analysis.

3. Community consumption

(68) The Community consumption was established on the basis of the sales volumes on the Community market by the five sampled Community producers, the four Community producers which were not included in the sample, the non-complaining producer in the Community and imports from the PRC and from other third countries under the relevant CN codes according to Eurostat. As mentioned in recital 14 the product concerned is presently declared within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10. The Eurostat data concerning the latter two CN codes (ex 8714 99 90 and ex 9506 91 10) comprise also other parts of bicycles and exercising apparatus. As it was not possible to retrieve from these two broader categories the data for saddles only, it was decided to establish the import statistics only on the basis of one CN code, namely CN codes 8714 95 00. As a consequence, the import volumes considered for the establishment of the Community consumption may be slightly understated.

(69) On the basis of these data, it was found that over the period considered, consumption increased by 17 % from 20 701 027 pieces in 2002 to 24 179 012 pieces in 2005.

TABLE 1

	2002	2003	2004	2005 (IP)
Community consumption (pieces)	20 701 027	21 688 470	23 357 359	24 179 012
Index	100	105	113	117

4. Imports of saddles from the PRC

(a) Margin of dumping and volume of imports and market share

(70) As indicated earlier, the present investigation has shown that average dumping margins established for the PRC are above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation, and that the volume of imports from the PRC is not negligible in the sense of Article 5(7) of the basic Regulation.

(71) Import volumes were established on the basis of Eurostat data. As mentioned above in recital 68, the import data given below may be slightly understated. Furthermore, Eurostat provides statistics concerning import volumes of bicycle saddles in quantities of 100 kg and not in pieces. It was therefore considered as appropriate to use 500 grams per piece as the average weight

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of imported saddles from China as this weight was reported by one exporting producer and one unrelated importer.

- (72) Imports from the PRC more than quadrupled over the period considered. In fact, they increased from 1 416 814 pieces in 2002 to 6 276 749 pieces in the IP. Correspondingly, the market share increased from 7 % in 2002 to 26 % during the IP. This has to be seen against the background of a consumption which augmented by only 17 %, i.e. relatively less than the increase of imports from the PRC.
- (73) One unrelated importer alleged that import statistics were overestimated because an average weight of 400 grams per piece of saddles was used in the complaint. The company claimed that the average weight of saddles imported from the PRC would be between 600 and 800 grams. However, the same company confirmed during the verification visit which took place at its premises that the average weight of imported saddles from the PRC was 500 grams, i.e. exactly the weight used by the Commission for the conversion of Eurostat data given in 100 kg into pieces. This importer also argued that the import statistics from the PRC were inflated because they included also imports of saddles cover coats which are used for the protection of saddles. As mentioned above in recital 71, the import statistics were based on only one CN code, (CN 8714 95 00) which is not the one under which seat covers are normally declared and therefore the claim of the importer is unfounded.

TABLE 2

	2002	2003	2004	2005 (IP)
Imports (pieces)	1 416 814	2 048 240	4 351 842	6 276 749
Index	100	145	307	443
Market share	7 %	9 %	19 %	26 %

(b) Prices

- (74) The weighted average price of imports of saddles originating in the PRC decreased steadily each year throughout the period considered and overall by 21 %, i.e. from EUR 1,4 per piece to EUR 1,1 per piece between 2002 and the IP.

TABLE 3

	2002	2003	2004	2005 (IP)
Weighted average cif Community	1,4	1,3	1,1	1,1

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frontier price (EUR/piece)				
Index	100	91	75	79

- (c) Undercutting
- (75) For the determination of price undercutting, the Commission analysed data referring to the IP. The relevant sales prices of the Community industry were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Community and after deduction of discounts and rebates. Prices for the different types of saddles, defined according to base, cushion, cover, fork and weight, were compared with the sales prices of similar types charged by the exporters, net of discounts, and adjusted, where necessary, to cif Community frontier with an appropriate adjustment for the customs duties (1,2 %) and post-importation costs, as incurred by an importer in the Community.
- (76) For the calculation of weighted average undercutting margins, export prices of cooperating exporting producers were taken into consideration. During the IP, the weighted average undercutting margin of cooperating producers amounted to 67,3 %. Moreover, taking into account all imports of saddles, i.e. those of cooperating and non-cooperating exporting producers in the PRC, the calculation of the average undercutting margin based on Eurostat data showed a similar average undercutting margin of 70,1 % for the IP.
5. Situation of the Community industry
- (77) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors having a bearing on the state of the Community industry during the period considered.
- (78) This analysis was carried out for the sampled companies. However, in order to provide a complete picture of the situation of the Community industry, for those indicators for which reliable information was available for the Community industry as a whole, this information has also been provided below. On this basis, the industry's performances as measured by factors such as prices, wages, investments, profits, return on investment, cash flow and ability to raise capital have been established on the basis of information provided by the sampled companies. The injury factors such as market share, sales volume and production have been established for the full Community industry.
- (a) Production
- (79) The production volume of the whole Community industry showed a clear negative trend over the period considered. Whereas in 2002 the production

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volume amounted to 19 546 740 pieces of saddles, during the IP, the Community industry produced only 16 165 936 pieces, which is almost 3,5 million pieces or 17 % less than in 2002. As saddles are in general only produced upon orders received from customers, the negative development of the production volume can be directly linked to the declined demand for saddles produced by the Community industry.

TABLE 4

	2002	2003	2004	2005 (IP)
Production (pieces)	19 546 740	19 022 491	17 698 103	16 165 936
<i>Index</i>	100	97	91	83

(b) Capacity of production and capacity utilisation rates

- (80) The production capacity was established on the basis of the nominal capacity of the production units owned by the Community industry, taking into account interruptions in production as well as the fact that in some few cases part of the capacity had been used for other products manufactured, e.g. handle bars for wheel chairs, with the same production lines.
- (81) The saddles production capacity increased by 5 % over the period considered from 29 492 120 pieces in 2002 to 30 921 920 pieces in the IP. The slight increase in production capacity results from investments made in 2004 and in the IP for the production of some new product types which are used for racing bicycles. The capacity utilisation rate mirrors the decline in production and demand. It steadily decreased during the period considered reaching only a 45 % utilisation in the IP.

TABLE 5

	2002	2003	2004	2005 (IP)
Capacity of production (pieces)	29 492 120	29 215 880	29 354 000	30 921 920
<i>Index</i>	100	99	100	105
Capacity utilisation	60 %	59 %	53 %	45 %

(c) Stocks

- (82) As far as end of year stocks are concerned, the vast majority of production is made in response to orders. Therefore, whilst a decrease in stocks of 35 % was

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observed over the period considered, it is considered that in this case stocks were not a relevant indicator of injury.

TABLE 6

	2002	2003	2004	2005 (IP)
Stocks (pieces)	1 365 040	1 192 612	1 000 376	884 829
Index	100	87	73	65

(d) Investments

(83) Between 2002 and 2003, investments for the production of the like product diminished from EUR 3 808 057 to EUR 1 664 147. In 2004 the Community producers stepped up their investments and spent almost double the amount, i.e. EUR 3 381 996 compared to the previous year. During the IP investments amounted to 3 638 962 which is 4 % lower than the level reached at the beginning of the period considered in 2002. During the investigation it was found that investments in buildings, plants and machinery were mainly made to maintain the production capacity and, only in 2004 and the IP, to a lesser extent, to develop new product types. In view of the low capacity utilisation mentioned before, investments were in any case not made with the purpose to increase the overall production volume.

(84) The investigation revealed that the Community industry is considered as the world leader concerning product design, and innovation of saddles. Between 2000 and the IP, the Community producers designed and marketed over one thousand new types of saddles. R&D accounts for approximately 8 % to 10 % of turnover of the Community industry. In order to keep this position, the Community industry needs to maintain a certain level of investment, even if capacity utilisation is low.

TABLE 7

	2002	2003	2004	2005 (IP)
Investments (EUR)	3 808 057	1 664 147	3 381 996	3 638 962
Index	100	44	89	96

(e) Sales volume and market share

(85) There are two main sales channels for saddles: the original equipment manufacturer (OEM) market and the 'after market'. In the first case, saddles are sold to be put on a new bicycle and, in the second case saddles are sold in order to replace a used bicycle saddle. It was found that OEM sales account

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for approximately 60 % and after market sales for approximately 40 % of the total market. Like tyres, saddles are those components of a bicycle which are replaced most frequently.

- (86) Sales volumes of the whole Community industry declined by 20 % over the period considered from 15 109 569 pieces to 12 139 162 pieces in the IP, i.e. the Community industry sold almost three million saddles less in the IP than during 2002. After a small decrease of 1 % in 2003 compared to 2002, the loss in sales volumes was more pronounced in 2004 and the IP.
- (87) In terms of value, over the whole period considered sales of saddles by the Community industry increased only by 1 %. Sales value on the Community market increased by 5 % from EUR 54 460 180 in 2002 to EUR 56 978 530 in 2003 and then further to EUR 58 052 609 in 2004. However, during the IP, the Community industry's sales value decreased by almost EUR three million as compared to the previous year. The fact that sales in value did not develop along the same trend as sales in volume is explained by an increase in average prices which will be explained below.
- (88) Corresponding to the decline in sales volumes, the Community market share also went down significantly from 81 % in 2002 to 58 % in the IP. In other words, the Community industry lost 23 percentage points of its market share over the whole period considered to increasing imports from the PRC.

TABLE 8

	2002	2003	2004	2005 (IP)
Sales value (EUR)	54 460 180	56 978 530	58 052 609	55 228 738
Index	100	105	107	101
Sales in the EC (pieces)	15 109 569	15 024 427	13 803 151	12 139 162
Index	100	99	91	80
Market share	81 %	77 %	67 %	58 %

(f) Prices

- (89) The Community industry's average unit selling price increased by 25 % over the period considered. This price increase can be explained, on the one hand, as a result of the increased cost of raw material, which impacted the whole industry and, on the other hand, by a shift from low tech to high tech product types which incorporate more expensive raw materials and whose production is also more labour intensive.

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- (90) The main raw materials used for the production of saddles include plastic shells, coverings, polyurethane, rails and clamps. The prices of these raw materials are indirectly related to the development of the oil price and metal prices. The raw material is a major cost driving component in the production cost of saddles accounting for approximately half of the total production cost and has a direct impact on the sales price evolution.
- (91) It was found that average prices of raw materials remained stable between 2002 and 2003, but increased from 2003 and also during the IP, which was reflected in the higher sales prices of the Community industry
- (92) One unrelated importer alleged that the rise of prices of the Community industry was a result of a change in consumer demand. The company argued that the demand for low price bicycles and accordingly low price saddles has declined whereas the demand for more expensive high quality saddles has increased. This statement is contradicted by the fact that low priced imports from the PRC increased in relative terms considerably more than the overall consumption of saddles in the Community as stated in recital 72.

TABLE 9

	2002	2003	2004	2005 (IP)
Weighted average price (EUR/piece)	3,6	3,8	4,2	4,5
Index	100	106	117	125

- (g) Profitability and cash flow
- (93) During the period considered the weighted average profitability on net turnover of the Community industry decreased sharply from 3,8 % in 2002 to only 0,4 % in the IP. Whereas profitability increased to 5,0 % in 2003, it dropped to 3,1 % in 2004 and reached finally 0,4 % during the IP. The low profit margin is a consequence of the fact that the Community industry was unable to sufficiently pass on the price increase in raw materials to its customers.

TABLE 10

	2002	2003	2004	2005 (IP)
Pre-tax profit margin	3,8 %	5,0 %	3,1 %	0,4 %

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The Community industry generated a cash flow of EUR 3 990 473 during the IP which was approximately EUR 1,1 million or 22 % lower than in the year 2002. The still substantial amount of liquidity of the Community industry is explained by the fact that it is a capital intensive industry which requires high depreciation amounts. In general, it could be seen that the liquidity of the Community industry developed in a similar trend as profitability.

TABLE 11

	2002	2003	2004	2005 (IP)
Cash flow (EUR)	5 084 871	6 655 555	6 574 821	3 990 473
Index	<i>100</i>	<i>131</i>	<i>129</i>	<i>78</i>

- (h) Return on net assets
- (94) The return on net assets was calculated by expressing the pre-tax net profit of the like product as a percentage of the net book value of fixed assets allocated to the like product. This indicator followed a similar trend as profitability, decreasing from 12 % in 2002 to only 1 % in the IP.

TABLE 12

	2002	2003	2004	2005 (IP)
Return on net assets	12 %	16 %	10 %	1 %

- (i) Ability to raise capital
- (95) There was no claim from the Community industry nor indication that it encountered problems to raise capital for its activities and it was therefore concluded that the Community industry, as a whole, was in a position to raise capital for its activities throughout the period considered.
- (j) Employment and wages
- (96) Employment in the Community industry remained stable over the whole period considered. After a small increase in 2003 and 2004, the Community industry employed 418 people on a full time basis during the IP, i.e. almost the same number as in 2002. However, it is noted that all Community producers outsource substantial parts of their production to other small and medium sized enterprises located in the Community and, in a few cases, almost the entire production process to other small and medium sized enterprises. Therefore, the total amount of people employed on a full time basis in the production of saddles is much higher than the number of employees directly

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employed by the Community industry. It is estimated that the total number of employees working in the production of the like product is at least three times higher, i.e. approximately 1 200 people during the IP. Average annual wages developed along the same trend as labour cost, i.e. they increased by 5 % over the period considered from EUR 7 784 339 in 2002 to EUR 8 190 911 in the IP, which is below the inflation rate in the Community during the same period.

TABLE 13

	2002	2003	2004	2005 (IP)
Employees	421	434	456	418
<i>Index</i>	<i>100</i>	<i>103</i>	<i>108</i>	<i>99</i>
Labour cost (EUR/year)	11 427 812	12 136 974	12 319 136	12 121 976
<i>Index</i>	<i>100</i>	<i>106</i>	<i>108</i>	<i>106</i>
Wages (EUR/year)	7 784 339	8 136 410	8 428 090	8 190 911
<i>Index</i>	<i>100</i>	<i>105</i>	<i>108</i>	<i>105</i>

(k) Productivity

(97) Productivity measured in output (production) per employee per year amounted to 42 225 pieces in 2002 and declined steadily over the years to 33 317 pieces in the IP. This decrease is caused by the decreasing production volume.

TABLE 14

	2002	2003	2004	2005 (IP)
Productivity (pieces/employee)	42 225	39 752	34 388	33 317
<i>Index</i>	<i>100</i>	<i>94</i>	<i>81</i>	<i>79</i>

(l) Growth

(98) While Community consumption increased by 17 % between 2002 and the IP, the sales volume of the Community industry remained stable during the same period. Thus, sales by the Community industry increased far less than the demand during the period considered. On the other hand, the market share of imports from the PRC went up by 19 percentage points.

(m) Magnitude of the dumping margin and recovery from past dumping

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- (99) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC, this impact cannot be considered negligible.
- (100) The Community industry was not found to be recovering from the effects of past dumping or subsidisation.
6. Conclusion on injury
- (101) The analysis of the injury indicators revealed that the situation of the Community industry deteriorated significantly over the period considered. The majority of injury indicators (net sales in volume, production volume, capacity utilisation, profitability, return on investments, investments, cash flow and employment) follow a negative trend over the period considered.
- (102) Still, some injury indicators show a stable development (net sales in value and ability to raise capital) or, they even show a positive trend (average sales prices, production capacity and closing stocks). However, the increase in sales prices and net sales value during IP cannot be attributed to an improvement of the situation of the Community industry as such, but were a consequence of the increased prices of raw materials and also a shift of the Community industry to the production of higher value product types. As far as closing stocks are concerned, as mentioned in recital 82, in view of the particularity of this industry, closing stocks cannot be considered as relevant for the determination of the injury.
- (103) Given the vastly negative development of the profit-related indicators, the viability of the industry can be considered to be at stake if this situation is not remedied. Indeed, as the Community industry consists of small and medium sized enterprises and operates in a capital intensive business, it is highly unlikely that the Community industry could financially survive a longer period at this level.
- (104) In the light of the foregoing, it is concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

- (105) In accordance with Article 3(6) and 3(7) of the basic Regulation, the Commission has examined whether the dumped imports of the product concerned originating in the PRC have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports
 - (106) Imports from the PRC more than quadrupled over the period considered, i.e. they increased by 343 % in terms of volume, and by 19 percentage points in terms of market share. At the same time, average prices of all exporting producers in the PRC undercut the average Community industry prices by 70,1 % in the IP. The substantial increase in the volume of imports from the PRC and their gain in market share during the period considered, at prices which were only a fraction of those of the Community industry, coincided with the evident deterioration of the overall financial situation of the Community industry during the same period.
 - (107) Whereas unit prices of imports from PRC steadily declined over the period considered by 21 % from EUR 1,4 in 2002 to EUR 1,1 in the IP, the Community industry's prices increased over the same period by 26 % from EUR 3,6 in 2002 to EUR 4,5 during the IP. This price development into opposite directions can only partly be explained by a different product mix of saddles produced in the Community and the PRC. Moreover, the Community producers have submitted evidence that the access to and the prices of most raw materials are similar in the Community and the PRC. They have also shown that the raw material cost of saddles in the Community increased over the period considered. Indeed, some exporting producers in the PRC sell their products to the Community below cost of the raw material and this clearly shows that this is not a situation where prices are low because of a comparative advantage of the producers in the PRC, but because of the existence of dumping practices.
 - (108) The effect of this unfair pricing behaviour of the dumped imports from the PRC was that the Community industry's prices were suppressed and could not even cover the increase of cost of raw materials. This was further confirmed by the significant reduction in profitability by the Community industry.
 - (109) Based on the above considerations, it is evident that the low-priced imports from the PRC which significantly undercut the prices of the Community industry have had a determining role in the deterioration of the situation of the Community industry, which is reflected in particular in the decrease of production and sales volumes, market share, and in the sharp decrease of profitability.
3. Effect of other factors
 - (a) Non-dumped imports originating in the PRC
 - (110) For one exporting producer the dumping margin established was below the *de minimis* threshold. Therefore, imports of this company were not considered in the injury analysis above. Of all imports from the PRC, the imports of this exporting producer amounted to a range of 28 % up to 33 % in the years 2002 and 2003, to a range between 18 % and 23 % in 2004 and reached a

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range between 12 % and 17 % in the IP. Average prices of this company still undercut those of the Community industry significantly throughout the period considered. However, the average undercutting margins of this company were much smaller than those of the companies for which dumping was found. In view of the fact that imports from this company were not significant, and, even more important, sharply decreased over the period considered, it is concluded that the non-dumped imports of this exporting producer did not break the causal link, i.e. that dumped imports from the PRC caused material injury to the Community industry.

- (b) Imports originating in third countries other than the country concerned
- (111) According to Eurostat and to the information collected during the investigation, the main third countries from which saddles are imported are Taiwan, India and Vietnam.
- (112) Imports from Taiwan amounted 1 145 000 pieces in 2002 and increased over the period considered by 25 % to 1 429 200 pieces in the IP. The market share of saddles imported from Taiwan amounted to 6 % in 2002, i.e. the same level as in the IP. Taiwanese imports were made at prices at similar levels of those of the Community industry. As the market share of Taiwanese imports did not increase, but remained stable at 6 % over the period considered and prices were at the same level as Community industry's prices, imports from Taiwan are not considered as having had a negative effect on the situation of the Community industry.
- (113) Imports from India amounted to 204 200 pieces in 2002 and augmented by 30 % to 264 600 in the IP. Average prices of imports from India stayed during the whole period considered well below the level of imports from the PRC. They amounted to EUR 0,63 in 2002, then increased to EUR 0,91 EUR in 2003 after which they declined sharply to EUR 0,47 and reached EUR 0,6 in the IP. However, these imports only represent a market share of 1 % throughout the whole period considered. Therefore, it is concluded that despite the low price level of imports from India, these imports did not have a significant effect on the situation of the Community industry.
- (114) As to imports from Vietnam, Eurostat statistics show a very low level of 4 400 imported saddles in 2002 which augmented to 136 600 pieces in the IP. Prices of imports from Vietnam remained in the same range as prices from the PRC. However, similar as in the case of India, the market share of Vietnamese imports was below 1 % in 2002 and 2003 and merely reached 1 % in 2004 and the IP. Thus, it is concluded that these imports have not had a significant impact on the state of the Community industry.
- (115) It can thus provisionally be concluded that imports other than from the PRC did not contribute to the material injury suffered by the Community industry.
- (c) Infringement of intellectual property rights

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(116) As mentioned earlier in recital 84, around 8 % to 10 % of the Community industry's turnover is devoted to investments in R&D. These investments include posture studies, tests and the design of new models of saddles. Some Community producers alleged that certain exporting producers from the PRC simply copy the patented European products and are hence able to generate a cost advantage compared to the producers in the Community which is reflected in the low price of saddles imported from the PRC. On the other hand, one unrelated importer submitted that counterfeits were not only originating from the PRC, but that they were also a cause of litigation among the producers in the Community. It is acknowledged that counterfeiting is an important issue in this industry and may indeed have aggravated the situation for the Community industry. In any event, the losses incurred by infringement of intellectual property rights caused by the Community industry itself are not such as to break the strong causal link between the surge of dumped imports and the material injury suffered by the Community industry. It should also be noted that to the extent that dumped imports from the PRC benefited from infringements of intellectual property rights, this could not be considered as another factor as this infringement would still relate to the dumped imports.

4. Conclusion on causation

(117) The coincidence in time between, on the one hand, the increase in dumped imports from the PRC, the increase in market shares and the undercutting found and, on the other hand, the evident deterioration in the situation of the Community industry, leads to the conclusion that the dumped imports caused the material injury suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation. Other factors were analysed but found not to be a determining reason for the injury suffered.

(118) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Community industry from the injurious effect of the dumped imports, it is provisionally concluded that the imports of saddles from the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. COMMUNITY INTEREST

(119) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the conclusion on injurious dumping, compelling reasons exist for concluding that it is not in the Community interest to adopt measures in this particular case. The likely impact of possible measures on all parties involved in the proceeding and also the consequences of not taking measures have to be considered in this respect.

1. Community industry

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- (120) The injurious situation of the Community industry resulted from its difficulty to compete with the low-priced, dumped imports.
- (121) The imposition of measures should enable the Community industry to increase the volume of its sales and to regain market share and thereby generating better economies of scale, thus achieving the necessary profit level to justify continued investments in its production facilities and in research, to remain competitive.
- (122) One importer claimed that one Community producer had a dominant market position, however, without substantiating this allegation. Given the fact that saddles were produced throughout the period considered by at least 10 different competing producers in the Community, and that nothing was found in the course of the investigation to support this allegation, this claim is rejected.
- (123) Should measures not be imposed, the deterioration of the situation of the Community industry would continue. It would not be able to invest in new technologies and to compete effectively with imports from third countries. In addition, if measures are not imposed, the Community industry would continue to be deprived from the big volumes of the market of medium range saddles, therefore be unable to distribute its fixed costs. Indeed, some companies would have to cease the production of the like product and lay off their employees, as was already the case of one Community producer in 2005. It is therefore concluded that the imposition of anti-dumping measures is in the interest of the Community industry.
2. Interest of unrelated importers
- (124) As far as importers are concerned, only two unrelated importers replied to the questionnaire and a verification visit was subsequently carried out to one of them. The volumes of the product concerned imported by these two importers represented 21 % of the total imports in the Community from China and 7 % of the Community consumption.
- (125) In view of the fact that the majority of all saddles imports into the Community are channelled through importers which are not related to exporting producers, imports of these unrelated importers were considered as representative for all other unrelated importers.
- (126) For both importers, imports of the product concerned from the PRC represented 100 % of their total imports of saddles. In the case of one importer, the corresponding sales value of saddles represented 8 % of the importer's total turnover during the IP. The sales of imported saddles from the PRC were profitable during the IP. However, the profitability of the sales of saddles was 0,7 percentage points below the overall profitability of this company which was in a range of approximately 2 % to 6 % in the IP. In the case of the other importer, the sales value of imported saddles in the IP represented only 1,2 %

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of the company's total turnover and the profitability of the sales of saddles was estimated to be in line with the overall profitability of this company. It can be assumed from the information submitted by other importers that the situation of these two described importers is representative for most importers of saddles from the PRC.

- (127) As both companies imported saddles only from the PRC, it can be concluded that the imposition of measures may indeed have a negative effect on the financial situation of these companies. However, taking into consideration that the sales of saddles only account for a minor share of the companies' total turnover and profit, it is not expected that measures would have a significant financial impact on the overall situation of these two importers. In addition, these companies could also import saddles either from the group of companies for which zero dumping was found, or from other third countries, e.g. Taiwan.

3. Interest of users

- (128) Four users and distributors of the product concerned replied to the questionnaire sent by the Commission. These are companies which use saddles produced in the Community and also imported saddles for the assembly of bicycles. These four companies used a total amount of 1 255 655 saddles during the IP of which more than half (55 %) were saddles originating in the PRC. The number of imported saddles from the PRC and used by the four companies represented 5,7 % of the sales volume of the Community industry and 2,9 % of the total consumption of saddles in the Community during the IP. As far as the assemblers of bicycles are concerned, it was found that saddles constitute only a minor cost component of the total cost of a finished bicycle. On average, saddles account, depending on the model, for 1 % to 4 % of the total cost of a bicycle.
- (129) Two of the four users declared that the imposition of an anti-dumping duty would most likely not have a big effect on their business because an increase in the price of saddles would possibly be passed on to their final customer. Furthermore, they argued that the price difference between saddles produced and sold by the Community industry and imports from China was such, that even after the imposition of anti-dumping duties, saddles originating in the PRC would still remain competitive.
- (130) The other two users did not provide a non-confidential version of their submission. Therefore, in line with Article 19(3), such information was provisionally disregarded.
- (131) One exporting producer claimed that the imposition of measures on imports of saddles was not in the Community interest as it would put the existence of a viable European bicycle manufacturing industry further at risk. The company argued that manufacturers in the Community would stop their assembling business and instead start importing finished bicycles from the PRC despite the existence of an anti-dumping duty on bicycles. In this respect, it should

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be noted that exporters have no standing with regard to the determination of the Community interest. Nevertheless, the substance of the argument was examined. Given that two of the four users of bicycle saddles declared that the imposition of measures would not have any substantial impact on their businesses because of the low cost of a saddle in the overall cost of production of a bike the argument should in any event be rejected.

- (132) In view of the fact that the four companies purchased an important part of saddles (45 % during the IP) in the Community and given the relatively low importance of a saddle in the total cost of a fully assembled bicycle, it is concluded that the impact on costs resulting from the imposition of anti-dumping measures on saddles would not result in a significant impact in the overall costs of users. In any event, should such impact occur it is highly likely that users of imported saddles will be able to pass on the additional cost.

4. Interest of raw material suppliers and consumers

- (133) One raw material supplier replied to the questionnaire. This company is selling the metallic parts of saddles to producers in the Community, namely frames and springs which are made out of iron, steel, titanium, vanadium, manganese or carbon-steel. The company is in favour of the imposition of anti-dumping duties, as it expects production volumes of the Community industry to increase and consequently a higher demand for its raw materials.

- (134) On the basis of the above findings, and in the absence of any other element or reaction from consumer organisations it is concluded that the impact of the proposed measures on the consumers is not likely to be significant.

5. Conclusion on Community interest

- (135) Following the above, it is concluded that there are no compelling reasons on the grounds of Community interest, why provisional anti-dumping duties should not be imposed.

G. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (136) In view of the conclusions reached with regard to dumping, resulting injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.

- (137) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped

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imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 5 % of turnover, based on the profitability established in previous investigations for producers of bicycle parts which include the Community producers as defined in recital 67.

- (138) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations (see recital 75 above), with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry by the actual loss/profit made during the IP and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.
- (139) In order to calculate the country-wide injury elimination level for all other exporters in the PRC, it should be recalled that the level of cooperation was low. Therefore, the injury margin was calculated as a weighted average of the margin calculated for the cooperating exporter and the highest margins established for representative types exported by the same exporter.
- (140) The injury margins were significantly higher than the dumping margins found.

2. Provisional measures

- (141) In light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not, in accordance with Article 7(2) of the basic Regulation, be higher than the injury margin calculated above.
- (142) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this document with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (143) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽³⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if

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appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates. In order to ensure a proper enforcement of the anti-dumping duty, the countrywide dumping margin should also apply to those producers which did not have any exports to the Community during the IP.

(144) On the basis of the above, the provisional duty rates are:

Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %
All other companies	30,9 %

3. Special monitoring

(145) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. Only the imports of the product concerned manufactured by the respective exporting producer can benefit from the specific dumping margin calculated for the producer concerned. These special measures include the following:

(146) The presentation to the customs authorities of the Member States of a valid commercial invoice which must conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice must be made subject to the residual anti-dumping duty applicable to all other companies.

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

H. FINAL PROVISION

(148) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing

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and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1 A provisional anti-dumping duty is hereby imposed on imports of saddles and essential parts thereof i.e., bases, cushions and covers, of bicycles and other cycles (including delivery tricycles), not motorised, of cycles fitted with an auxiliary motor with or without sidecars, of fitness machines and of home trainers, falling within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10 (TARIC codes 8714 99 90 81 and 9506 91 10 10) and originating in the People's Republic of China.

2 The rate of the provisional anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, of the products manufactured by the companies below shall be:

Company	Anti-Dumping Duty	TARIC Additional Code
Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %	A787
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %	A788
All other companies	30,9 %	A999

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

4 The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

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Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 20 December 2006.

For the Commission

Peter MANDELSON

Member of the Commission

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ANNEX

The valid commercial invoice referred to in Article 1(3) of this Regulation must include a declaration signed by an official of the company, in the following format:

- (1) The name and function of the official of the company which has issued the commercial invoice.
- (2) The following declaration: 'I, the undersigned, certify that the [volume] of saddles sold for export to the European Community covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.'

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- (1) [OJ L 56, 6.3.1996, p. 1](#). Regulation as last amended by Regulation (EC) No 2117/2005 ([OJ L 340, 23.12.2005, p. 17](#)).
- (2) [OJ C 84, 7.4.2006, p. 4](#).
- (3) European Commission, Directorate-General for Trade, Direction B, 1049 Brussels, Belgium.

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Changes to legislation:

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