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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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.

(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

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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 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

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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.

(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.

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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 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.

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)

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(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 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