

22nd February 2018

By e-mail:

TRADE-AD643-EBIKES-INJURY@ec.europa.eu
TRADE-AS646-EBIKES-INJURY@ec.europa.eu

Mr Harald Schmid
Mr Francois Dauriat
Mr Michal Struk
Ms Daniela Zangobbo
European Commission
Directorate General for Trade, Directorate H
CHAR 04/039
Brussels B-1049, Belgium

Squire Patton Boggs (UK) LLP
Avenue Lloyd George, 7
1000 Brussels
Belgium

VAT BE 0538 348 812

O +32 2 627 1111
F +32 2 627 1100
squirepattonboggs.com

Robert MacLean
T +322 627 76 19
robert.maclea@sqirepb.com

Wojciech Maciejewski
T +322 627 76 12
wojciech.maciejewski@sqirepb.com

Your ref AD643 and AS646

VERSION FOR INSPECTION BY INTERESTED PARTIES

Dear Madam, dear Sirs

Subject: AD643 and AS646: Request for Registration of Imports in the Course of Anti-Subsidy and Anti-Dumping Investigations Against Imports of Electric Bicycles from China, Submitted by The European Bicycles Manufactures Association (EBMA)

Our clients: The Collective of European Importers of Electric Bicycles and Its Members

As you are aware, we are acting on behalf of the Collective of European Importers of Electrical Bicycles and its Members in the anti-dumping and anti-subsidy investigations concerning imports of these products from China.

By request made available on the E-TRON system on 8th February 2018, we have been informed of the formal written Request made by the EBMA for the registration of imports of electrical bicycles under Articles 10(4) and 16(4) of the two Basic Regulations respectively. If such a request is granted, this would mean that registration would apply from 20th April 2018. The Collective's members comprise 20 EU importers of this merchandise and so are well positioned to reply to the allegations made in the EBMA's registration request.

47 Offices in 20 Countries

Squire Patton Boggs is the trade name of Squire Paton Boggs (UK) LLP, a Limited Liability Partnership registered in England and Wales with number OC 335584 authorised and regulated by the Solicitors Regulation Authority. A list of the members and their professional qualifications is open to inspection at 7 Devonshire Square, London, EC2M 4YH. The status "Partner" denotes either a member or an employee or consultant who has equivalent standing and qualifications.

Squire Patton Boggs (UK) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

Please visit squirepattonboggs.com for more information.

At the same time, we wish to point out that registration of imports would inflict even greater damage on EU e-bike imports than has already been caused by the initiation of these two investigations. The Collective's members already have suffered major disruptions to their business activities, future planning and development of their products caused by the uncertainties of the outcome of these investigations. While the Collective and its Members have no doubt whatsoever that the Commission will carry out a thorough and objective investigation of the claims set out in the complaints, both firmly believe that neither complaint has merit.

Registration of imports would therefore inflict a disproportionate degree of injury on EU importers compared to the comparative non-existent injury suffered by the EU industry alleged caused by e-bike imports from China. The EBMA's request for registration should therefore unequivocally be rejected by the Commission.

1. Data presented by the EBMA to support its request for registration does not reflect the accurate level of imports of electric bicycles and should be disclosed in the non-confidential files

To make its point regarding increased import volumes, the EBMA uses Chinese export statistics. As explained at the hearing with the Commission, the Collective does not accept the accuracy or reliability of these statistics for a number of reasons.

The source of the data cited is "Chinese export statistics" obtained from "Chinese customs" and therefore no indication is given as to the actual source of this data and whether or not it is authoritative. The rationale given for the non-disclosure of the source or more detailed data is because a fee was paid for its generation. So without doubt, this information is publicly available albeit for a charge. Simply because the EBMA paid for the data does not change the fact that it is publicly-available and therefore non-confidential. Nor has the EBMA claimed that it is proprietary information. Therefore, the information source and the detailed data itself should be furnished by the EBMA to the Commission to ensure its accuracy and reliability and this information should all be put in the non-confidential file.¹

The EBMA does not specify either to which HTS/CN code these statistics refer, and so they cannot be independently verified. However, should the statistics refer to the Chinese export code HS 8711901010, then the Collective and its members again point out that this code covers "electric self-moving vehicles"² which is a far larger category of merchandise than simply e-bikes and includes, for example, electric bicycles but also electric hoverboards, electric skateboards, electric scooters, electric monowheels, self-balancing vehicles, etc.³ A potential for distortion therefore arises in terms of both export volumes and average unit prices for these exports. As for average import value, it is evident that lower value products included in the mix have a much lower price than electric bicycles.

¹ Article 19 of the Basic AD Regulation sets out the exclusive rationales why information can be withheld as confidential and because it has been paid for does not mean it acquires such a character.

² The Chinese description for this classification in the Chinese customs code is 电动自行车 (diàndòng zìxíngchē), which literally means electric self-moving vehicles.

³ A few of many advertisements on the Internet, which are published with an explicit reference to HS 8711901010 are provided in [Annex 1](#).

Furthermore, as explained at the hearing, some electric bicycles may be exported without batteries and/or without motors. All this will result in lower average values for imports throughout the course of the relevant period.

2. EU e-bike importers are not stockpiling in advance of the possible imposition of provisional anti-dumping duties

The Collective strongly contests the unsubstantiated allegations against importers who are being accused by EBMA of stockpiling “dumped and subsidised EPACs from China.” As explained at the hearing with the Commission, importers are unable to stockpile since the lead-time from ordering to actual delivery of the products is substantial. Very few, if any, Chinese manufacturers are able to deliver “off the shelf” finished products from stock because the products are in many cases made to specific orders and specifications set by the EU importers themselves.

i. The long waiting times for deliveries of parts and finished products exclude any possibility of ordering large volumes of electric bicycles in a short period for the purpose of stockpiling

The overall majority of the importers in the Collective both design and specify their electric bicycles themselves or in cooperation with their Chinese partners. The development of a new product with custom design of frame and components may take 3 to 6 months, including production and approval of samples. Once the order is finalized, it will take another 4 to 6 months for the parts to be sourced and delivered and the electric bicycle to be produced. These long lead-times are due to an extremely high demand for components, originating not only from EU importers but also from the EU industry itself. Sourcing aluminium frames in China is particularly difficult because of the limited number of suppliers.

Shipping time for delivering the product to the EU is normally around 1 to 2 months. Therefore, the total lead-time from designing the electric bicycle to actual delivery is typically around 8 to 14 months. For repeat orders, lead-times would be 5 to 8 months, *i.e.*, 4 to 6 months sourcing and delivering components plus production and 1 to 2 months shipping. **[The information deleted is by its nature confidential and its disclosure would be of a significant competitive advantage to a competitor, and was provided on confidential basis by the members of the Collective. It shows the average delivery times of parts, and electric bicycles for the members of the Collective.]**⁴ These long lead times are highly typical for the other members of the Collective importing these products from China.

The characteristics of business and product concerned therefore exclude any commercial and business rationality of ordering extensive quantities of electric bicycles randomly, from any Chinese assembler that has some production capacity left. European importers label electric bicycles with their own brands and therefore, they are not willing to take commercial risk of introducing to the EU market products that do not comply with their design, quality, recent market developments or customers’ expectations. EU importers doubt that there might be any Chinese producers that could deliver mass volumes of electric bicycles without advance orders, to be stockpiled in quantities affecting trade flows between the EU and China.

⁴ The Commission will be able to confirm the accuracy of these statements in the course of its planned verification visits **[information deleted relating to verifications of individual EU importers]**.

Underlining this point, the Collective and its members also note that the EBMA itself has stressed that allegedly the EU industry has been engaged in “great innovations developed and adopted by the EU bicycle industry” from the aircraft and aerospace industries.⁵ The clear implication is that e-bikes are technological products which quickly evolve constantly through innovation and R&D. Logically therefore, stockpiled e-bikes would quickly become obsolete due to technological advancements. Stocks would therefore remain warehoused without being sold and the longer this happens, the inventories would become increasingly unmarketable except at a significant discount. It therefore makes no sense whatsoever that EU importers would engage in such activities when the impairment risk in the value of the merchandise would quickly increase.

Indeed precisely to the contrary of the EBMA’s allegations, rather than stockpiling in anticipation of possible dumping duties, the importers in the Collective either are reticent themselves to order electric bicycles from China now, which will only be delivered at a time when (provisional) duties may already be in place. Alternatively, they suffer from concerns on behalf of their suppliers in China, who fear being confronted with additional duties by the time they would deliver the orders. Both investigations have generated a chilling effect on these activities much to the detriment of the Collective’s members. Imposing registration, of course, would do even more harm to the EU importers’ business.

Finally, the EBMA claims in its request that “EU EPAC producers are mainly SMEs” while EU importers are “large customers” implying that they are not SMEs. The Collective’s members are fairly representative of the profile of EU importers and the overall majority of them are SMEs importing only a few thousand units per year. In contrast, at least three of the sampled EU producers are extremely large enterprises or groups with significant production capacity, a well-capitalised corporate structure and a significant number of employees.⁶ It is therefore misleading to present the EU industry as a group of SMEs confronted by larger and stronger importing companies when this is so far from the truth.

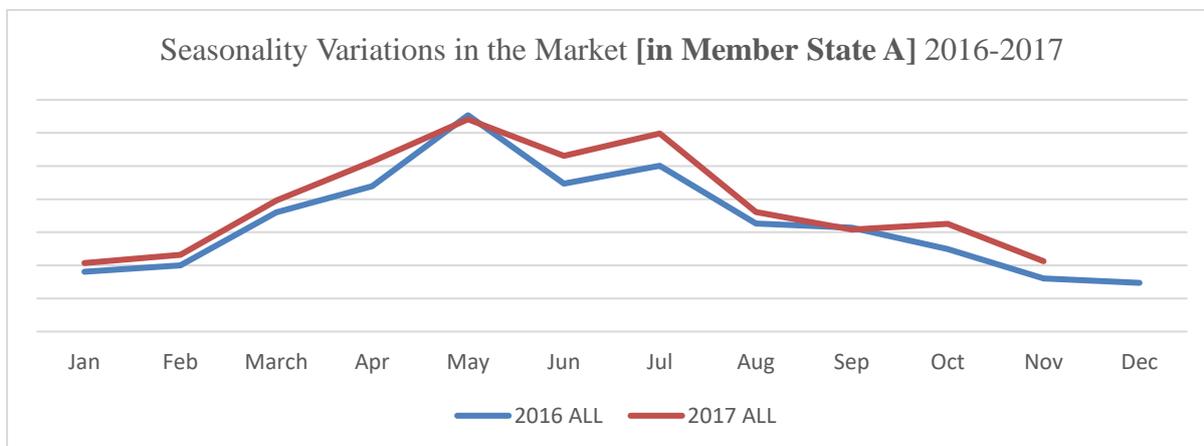
ii. The seasonal character of the e-bikes market is clearly reflected in available import/export data, in particular in the seasonal imports rises

The EBMA is incorrect to claim that the higher level of exports from China in December 2017 point to stockpiling activities whilst a considerable drop of imports is to be expected in the winter months. As explained above, in view of shipping times, these products will not have arrived in the EU until February or March 2018. High selling season is March – September as demonstrated in the Chart below for the market in **[Information deleted – EU Member State A]**.⁷ Therefore, these imports will arrive in the EU and be available for sale at the start of the high selling season and that is completely in line with the pattern of demand in the EU market each year as it currently operates.

⁵ See for example, EBMA AD Complaint, Para [45].

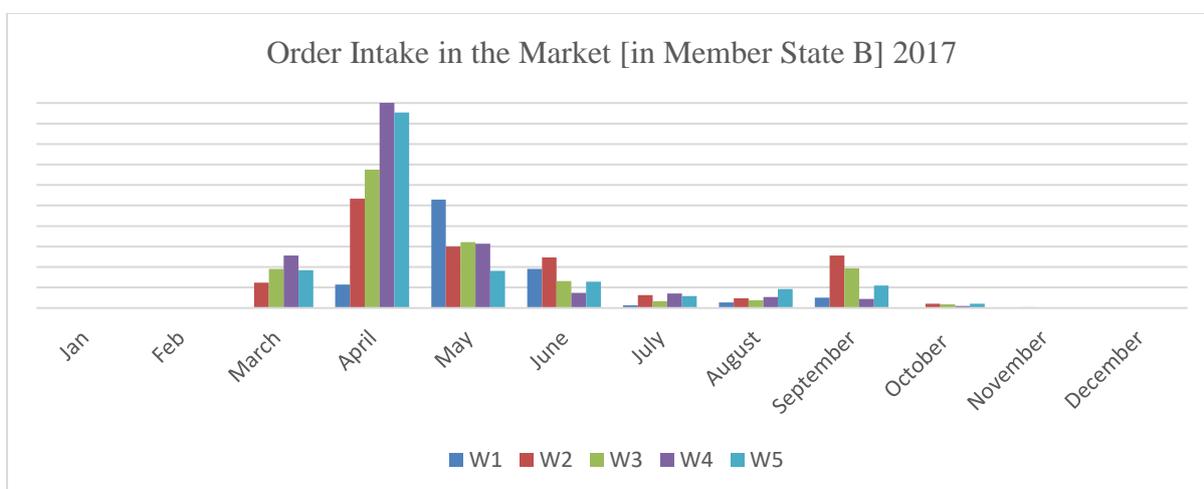
⁶ It appears that EBMA is not making this statement on behalf of its members since the EU Transparency Register mentions that “*EBMA has its members (sic) major bicycle and e-bike producers in the European Union.*”; Retrieved on 13 February 2018 from <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=726584717191-62>

⁷ Data provided by **[Deleted - EU Importer A]** attached as **Annex 2 [LIMITED]**.



Source: [Deleted - EU Importer A]

A similar picture emerges on [Information deleted – EU Member State B] market, also a substantial market for e-bikes. [Deleted - EU Importer B] tracks its order intake from its [Information deleted – EU Member State B] customers and this clearly indicates that March and April 2017 were the months starting for the uptick in demand for e-bikes from its customers. Again this information can be confirmed by the Commission in the course of the on-the-spot verification that will occur.



Source: [Deleted - EU Importer B]

Furthermore, there is also the impact of the Chinese New Year which falls around mid-February each year and effectively closes factories for about three weeks meaning limited production is carried on during that period. To ship out enough bikes for the sales in the EU in March, April and the first half of May, EU importers rely on the use of full production capacity in November to January period. This explains why export shipments in December and January for delivery in the EU in the next months are normally higher than the average while deliveries dip in the subsequent months. Bikes that are shipped out after Chinese New Year holiday can only be delivered and sold in the first week of May. This factor alone curtails the volume of imports that is possible if it was indeed the case that EU importers were trying to stockpile inventories before the imposition of any provisional measures in July 2018.

In fact, EBMA’s export data corroborates this explanation if it is recalled that there is a time shift of between 4-6 weeks between export and delivery. In January 2017, export volumes were at their highest

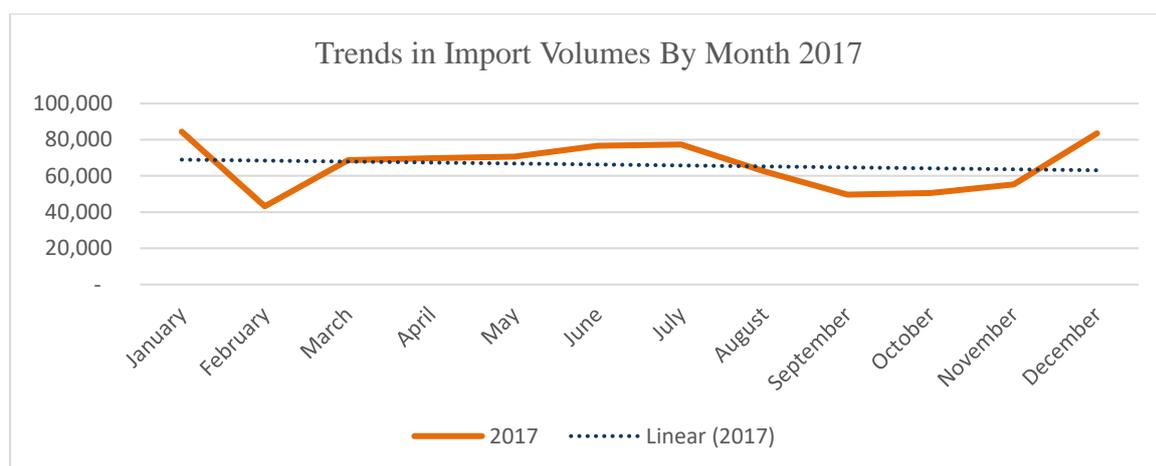
level and would have been actually delivered in March 2017. The same is true of the volumes reported for December 2017. Therefore, there is nothing anomalous about the increased volumes of exports taking place in December 2017 as reported by the EBMA and, if anything, it shows that the usual forces in this market are functioning normally.

It is therefore highly misleading for the EBMA to present increased export data and volumes in December 2017 as delivered merchandise available for immediate sale. The delivery times of 4-6 weeks means that they will arrive just in time for the start of the main selling period in the EU market.

3. The Chinese export data presented by the EBMA does not substantiate any further substantial rise in import volumes

As regards the EBMA’s claim that there has been an “explosion” of imports between 2014 and the IP, as the EBMA itself points out in its Complaint, EU consumption in that period increased by around 54%.⁸ It is therefore to be expected that Chinese import volume have increased from those in 2016 to meet this additional demand and this cannot be characterised as a further post-IP substantial rise in import volumes.

While the export data presented by the EBMA is disputed, even this data does not present a convincing case to support the prospect of a further substantial rise in imports likely to seriously undermine the remedial effects of any definitive anti-dumping duty to be applied. The trends in export volumes reported by EBMA are summarised in the chart below. In November and December 2017, the volume of exports allegedly coming from China were 55,295 and 83,560 units respectively. Throughout the course of 2017, the average monthly volume of exports was 66,050 units. So, in November 2017 import volumes were 16% lower than the average for the year while in December 2017 they were 26% higher than the average.

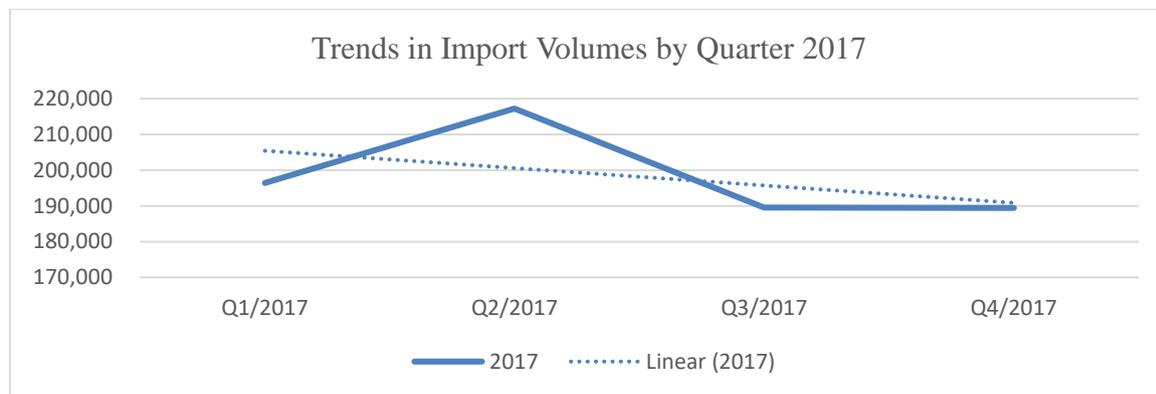


Source: EBMA Request for Registration

One single month of alleged high export volumes (i.e. December 2017) therefore has to be placed in the proper context. For example, the volume of exports allegedly occurring in December 2017 was in fact lower than the volume reported in January 2017 and close to the export volumes reported for June

⁸ EBMA AD Complaint, page 21 and Annex 24.

and July 2017. Looking at this picture on a quarterly basis as opposed to a monthly one, import volumes in Q4/2017 are actually lower than any of the other quarter of that year.



Source: EBMA Request for Registration

The EBMA stretches its credibility to the limit when it claims that between the start of this year and 20th April 2018 (the date on which registration could start from), EU importers would be able to bring forward deliveries in sufficient volumes to cover a large part of the 2018 season and into the 2019 one. Even if its export data for December 2017 is correct, and even assuming export shipments in January 2018 are at the same level, we are speaking about around 35,000 units to be imported above the average monthly levels last year.⁹ EU consumption between Q2/2016 and Q1/2017 is estimated in the Complaint at 1,762,000 units. The consumption, according to the data provided in the Complaint has been growing, since 2014, annually, by ca. 20%. Therefore, it is likely to be approaching 2 million units in the full year 2017. These “extra units”, which can of course anyway be fully explained by the seasonal demand as mentioned above, would only account for around 1.75% of the demand in the EU market for 2017 and even less if demand increases in 2018 are anticipated.

Precisely how this alleged extra volume would be “more than sufficient to sell Chinese EPACs throughout the remainder of 2018” is a complete mystery to the Collective and its members as is the grossly exaggerated claim that these imports could possibly supply part of the 2019 season free of AD duties. The only explanation is the exaggerated hyperbole that the EBMA has demonstrated throughout its representations to the Commission in this procedure.

4. The Complaint and evidence collected so far in the course of the investigations have not shown any *prima facie* injury to the EU industry justifying the registration of imports

The Basic Anti-Dumping Regulation requires the Commission to evaluate all relevant economic factors affecting the performance of the EU industry to establish injury and a causal link with imports. Among those factors, the Anti-dumping Regulation names *inter alia* factors that are implicated by the replies to anti-dumping questionnaires, such as actual and potential decline in sales, profits, inventories, employment and wages, growth, and ability to raise capital or investments.

Assuming that the non-confidential versions of sampled EU producers’ replies to the AD questionnaire are correct and truly resemble the economic position of EU electric bicycles assemblers, the EU electric

⁹ Calculation: Export volume in December 2017 = 83,560 units minus average monthly export volume = 66,050 units → 17,510 units multiplied twice (Dec 2017 and Jan 2018) = 35,020 units.

bicycle industry shows no sign of injury whatsoever.¹⁰ It is therefore impossible for any anti-dumping measures to be seriously undermined in terms of their remedial effect when no injury has been sustained or caused by Chinese imports. Moreover, its economic condition effectively prevents any imminent threat of injury in the near future since all sampled EU producers have reported increasing production and sales volumes over the injury investigation period. In any event, there would seem to be a logical inconsistency to import registration and retroactive imposition of anti-dumping duties to remedy a possible but admittedly implausible threat of injury in the future.

Consequently, the threshold for enforcing and justifying the imports registration, in the case at hand, has not been triggered for the reasons stated in more detail below.¹¹

i The EU industry has shown constant and significant growth of production and sales that simply excludes any possibility to conclude the existence of material injury

What currently appears in the non-confidential file is a picture of an EU industry that in recent years has performed very well and is healthy. Its offering has been meeting demand and expectations of a growing number of customers who want to purchase high-end electric bicycles with a central motor. As presented below, *Accell Group* and *Derby Cycle Holding GmbH* have significantly increased production volumes and almost doubled their sales between 2014 and the investigation period, while *Eurosport DHS SA* has increased its sales by a remarkable 35 times. In absolute terms, the EU producers are effectively competing with the imports from China and are able to increase their sales on the EU market despite those imports.

Production in Volume		2014	2015	2016	IP
Accell Group	Pieces	100	130	162	166
Derby Cycle Holding GmbH	Pieces	100	146	167	196
Eurosport DHS SA	Pieces	100	98	124	137
Koninklijke Gazelle NV	Pieces	100	105	105	144

Sources: Non-confidential submissions of the EU producers available on the platform TRON.

Net Sales in Value (to unrelated customers)		2014	2015	2016	IP
Accell Group	EUR	100	119	163	193
Derby Cycle Holding GmbH	EUR	100	133	170	193

¹⁰ The Collective notes that the European Commission has already completed the verification exercise process for the sample of EU producers including Eurosport (starting week of 29/01/2018), Accell (starting first half of February 2018) and Gazelle (starting week of 12/02/2018). Verification for Derby is scheduled for second half of February 2018. For the EU producers already verified, the Collective and its Members respectfully request the Commission to promptly post meaningful non-confidential versions of any revisions to the questionnaire reply and data reported by these companies in the open file to allow the Collective and its members to confirm the existence or not of the trends in economic indicators expressed by the sampled EU producers in their initial questionnaire replies.

¹¹ Guidance on this point has been taken from Commission Implementing Regulation (EU) 2016/1329 of 29th July 2016 levying the definitive anti-dumping duty on the registered imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation, Recitals (33) to (82), OJ L210/27 (04.08.2016).

Eurosport DHS SA	EUR	100	452	1,554	3,755
Koninklijke Gazelle NV	EUR	100	111	122	153

Sources: Non-confidential submissions of the EU producers available on the platform TRON.

Net Sales in Volume (to unrelated customers)		2014	2015	2016	IP
Accell Group	EUR	100	118	147	161
Derby Cycle Holding GmbH	EUR	100	126	157	176
Eurosport DHS SA	EUR	100	383	1,516	3,628
Koninklijke Gazelle NV	EUR	100	106	111	132

Sources: Non-confidential submissions of the EU producers available on the platform TRON.

The growth in sales revenues from e-bikes for the EU industry, and its contribution to the improved financial performance of EU e-bike producers is further confirmed in the 2016 Annual Report of one of the sampled EU producers, namely the Accell Group.¹² *“Net turnover in the bicycle segment came in 9.3% higher on the back of increased e-bike sales. Sales and turnover of sports e-MTBs of our brands Haibike, Ghost and Lapierre recorded particularly strong growth. Turnover in e-bikes was up 33%, while turnover in regular bicycles declined by 11%. Growing numbers of consumers are choosing an e-bike to replace non-electric bikes. The turnover contribution from e-bikes increased to 55% in 2016, from 45% in 2015.”*

The period covered in the EBMA complaint is 2014 to Q2/2016 to Q1/2017, which extensively overlaps with the Accell Group report and, of course, this company is one of the largest EU producers of e-bikes. It is therefore highly incongruous that one of the largest EU producers publicly states that its business on e-bikes is great while the complaints allege that the industry is suffering injury.

ii The EU electric bicycles industry has been constantly profitable and there is no signs it will decrease its profitability in the future

All EU producers included in the sample are profitable and have dramatically improved their profitability levels in some cases exponentially despite the claim that profitability levels declined from 3.4% to 2.1% over the course of the IP.¹³ Their profitability levels show no signs of injury or imminent injury in the near future. As reported in the non-confidential versions of the questionnaire replies, three of the EU producers increased their profitability levels by between 30% and 232% while *Eurosport DHS SA* increased its profits by more than 18 times between 2014 and the investigation period.

Profitability		2014	2015	2016	IP
Accell Group	EUR	100	194	223	130
Derby Cycle Holding GmbH	EUR	100	163	228	197
Eurosport DHS SA	EUR	100	344	867	1,895
Koninklijke Gazelle NV	EUR	100	431	236	332

Sources: Non-confidential submissions of the EU producers available on the platform TRON.

¹² See Accell Group Annual Report 2016 attached as [Annex 3](#) and specifically pages 30-31. A sound financial performance for H1/2017 has also been reported by the same Group and attached as [Annex 4](#).

¹³ EBMA AD Complaint, page 24.

Even if it is assumed for the sake of argument that the profitability levels of these EU producers in 2014 was low in absolute terms, which is doubtful, the trend towards improved profitability levels is unambiguous. Not only do these trends not indicate injury but also they refute any claim that Chinese imports are a cause of injury. As Chinese import volumes have increased, so too have the profitability levels of the EU industry exposing the lack of any correlation between these two factors.

iii The EU electric bicycles industry has been competing successfully with imports from China that do not prevent increase of EU industry’s prices, further investments, additional production capacity and employment levels

According to information submitted in the course of the sampling exercise by the EU producers, there is no evidence of price depression or suppression. Prices of the EU producers, in fact, increased over the injury investigation period. *Accell Group* increased its prices by 20% over the injury investigation period, *Koninklijke Gazelle NV* by 15%, and *Derby Cycle Holding GmbH* managed to increase its average unit price by 10%. Only *Eurosport DHS SA* increased its average price by less but this could be because it is a recent entrant into the EU market.

Average EU Industry Prices		2014	2015	2016	IP	Effective increase of average price	Effective increase of average unit cost
Accell Group	EUR/piece	100	101	111	120	20%	10%
Derby Cycle Holding GmbH	EUR/piece	100	106	109	110	10%	3%
Eurosport DHS SA	EUR/piece	100	118	103	103	3%	23%
Koninklijke Gazelle NV	EUR/piece	100	105	110	115	15%	12%

Sources: Calculated by Squire Patton Boggs on the basis of non-confidential submissions of the EU producers available on the platform TRON.

In addition, the average unit production costs of the EU producers have not been increasing more rapidly than their actual average prices. For most of the EU producers—apart from *Eurosport DHS SA*—the production costs has been growing slower than their prices. On the other hand, the reported performance data of *Eurosport DHS SA* suggests that this company has not been increasing its prices because it is pursuing a strategy of increasing sales volumes and building up stronger market presence. In their case, this strategy has become successful since they increased their sales volumes by 35 times that led to the increase of their profitability by 18 times!

Over the injury investigation period, the EU electric bicycle industry has developed and grown not only by increasing its sales and production, but also by developing new production capacity, employing new staff, and making enormous investments. An injured industry is not capable of building its capacity to this level, and usually would reduce, not develop, its production capacity, investment spending or employment. Most of the EU producers (*Accell Group*, *Derby Cycle Holding GmbH* and *Koninklijke Gazelle NV*, both part of the *Pon.Bike Group*) have also increased their stocks. Bearing in mind the increase of sales and production over the entire investigation period, it seems like the reasonable business strategy of developing adequate stocks in order to meet customers’ demand for the extensive variety of models that they are developing, producing and selling.

5. Comparative pricing between Chinese imports and EU producers explains the lower price of some Chinese imports

The majority of European importers have based their activity on the business model that has gone far beyond basic importation. As described above, this is the business model of a designer and developer who sells its products, under his own brand, bearing full commercial risks. In this business model, only the process of assembling electric bicycles has been outsourced to Chinese manufacturers. Consequently, the main cost drivers for electric bicycles are beyond control of Chinese manufactures and largely in the hands of their EU customers.

For the most part, the place of final assembly of electric bicycles is a minor factor influencing final prices. The major cost drivers for electric bicycles are cost of parts, and those costs remain unchanged wherever e-bikes are assembled. In fact, many components used by the EU industry are of the same origin as ones used by Chinese manufacturers. However, EU-based assemblers—for some elements—tend to use more expensive high-end parts. This is the main reason why significant part of imported electric bicycles is fairly, but not substantially, cheaper than those of EU-based assemblers.

Considering the above, EU importers could not have been aware of any dumping practices carried out by the Chinese assemblers with which they cooperate, or subsidies those assemblers might have received. They are positive that the different ratio of price to quality of imported electric bicycles compared to those made by the EU industry stems from the difference in components used by producers, not from alleged dumping practices or subsidies. Furthermore, the dumping calculations provided to support the dumping complaint, using Switzerland and very high-end e-bikes as an analogue country reference price, are absolutely not persuasive that dumping is occurring based on this modelling which now of course has been abandoned in the latest version of the EU’s Basic AD Regulation.

6. The EBMA has put no evidence in place that could suffice to substantiate the necessity for the registration of imports

The request for registration is also flawed to the extent that Article 14(5) of the Basic Anti-Dumping Regulation and the corresponding provisions of the Basic AS Regulation, require that any request for registration of imports made by an EU industry must contain *sufficient evidence to justify such action*. The request falls woefully short of this requirement.¹⁴ The evidence provided is a short summary of alleged export volumes from China, based on an unidentified source, accompanied by a series of spurious and unsupported allegations set out in the request that, as explained above, are materially defective.

Nowhere in the request has any actual evidence of stockpiling been produced; nor has the EBMA attempted in any way to correlate the trends in export volumes with the established cyclical demand that exists in the EU e-bike market. Linking this paucity of evidence with the apparent fact that the EU industry shows no signs of suffering any injury caused by Chinese e-bike imports, the Collective and its members conclude that the EBMA’s request is speculative and aspirational rather than grounded in any real concerns requiring the registration of imports to protect the well-being of the EU industry.

¹⁴ On this point, the Collective and its members are in full agreement with the Submission made by Van Bael & Bellis on behalf of MOFCOM dated 5th February 2018, at Point 6, pp.28-30.

Furthermore, the “product in question” here is electrical bicycles as defined in the Notices of Initiation of the two proceedings. There has been no prior investigation into the alleged dumping or subsidisation of these products by either the EU or any other third country for that matter nor, of course, any measures of any kind. Consequently, there has never been an affirmative determination that dumping has occurred by any investigating authority in the world never mind that it has occurred over an extended period.

Nor can it be argued by analogy that the quarter century or so of anti-dumping protection given by the EU to the importation of conventional bicycles from China constitutes in any way, shape a history of dumping of the product concerned in these investigations. While conventional bicycles and electric ones share some common features such as frames, wheels and saddles, electric bicycles have distinguishing features such as motors, batteries, control systems and even brakes systems that made them completely separate products.

This means that the conditions of Article 10(4)(c) of the Basic Anti-Dumping Regulation, as well as the corresponding provisions of the Basic Anti-Subsidy Regulation, are not met.

* * *

In light of the above, the Collective and its Members assert that there is no justification and necessity for enacting the registration of imports of electric bicycles from China. The current export profile resembles the normal cycle of orders importers placed over a year ago. These trends also confirm that there has been no significant stockpiling activities of major EU importers. Due to this, they could not to any—even insignificant degree—undermine the remedial effect of any definitive or provisional measures, if imposed in the later stage of the investigations. On the other hand, registration of imports would cause further injury to EU importers who are already suffering from the uncertain trading conditions that have been provoked by two proceedings themselves.

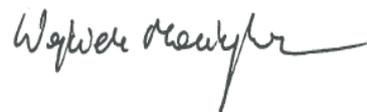
In addition, the Complaint and other evidence collected so far have not shown *prima facie* the existence of the injury. To the contrary, the collected evidence on its face confirms the lack of material injury or any threat of this. Therefore, the Collective of European Importers of Electric Bicycles kindly request the Commission to decline to order the registration of imports.

We thank you for your kind consideration to this submission.

Yours sincerely



Robert MacLean
Solicitor (Scotland)



Wojciech Maciejewski
Attorney-at-Law (New York State)

List of Annexes

No	Description of document
1	Chinese exporters' advertisements on the Internet, which are published with an explicit reference to HS 8711901010, and relate to products other than electric bicycles
2	Market data provided by the member of the Collective. This annex is confidential and its disclosure would be of a significant competitive advantage to a competitor, and was provided by the member of the Collective on a confidential basis. It contains the excel spreadsheet with market data crucial for the business planning and operations of the providing member of the Collective
3	Accell Group Annual Report 2016
4	Accell Group Mid-term 2017 Financial Results