

Dear Sir/Madam,

Re : Review No. TS 0038

Transition review of countervailing duties applying to electric bicycles originating in the People's Republic of China (PRC)

I am writing as a major importer of electric bicycles into the UK, to comment on the Statement of Essential Facts ('Statement') in the above-mentioned investigation.

We note and support the Statement findings that it is likely that

- 1) subsidization of the goods subject to review from the PRC would recur if the measure were no longer applied, and
- 2) injury would recur if the measure were no longer applied.

In this situation, the only remaining question (in order to conclude in favor of maintaining the existing measures) is whether "the application of the remedy is in the economic interest of the United Kingdom" ("the EIT").

The Statement's conclusion on this point is that "Overall we consider the negative impacts on the UK economy of imposing the measure to be disproportionate to the benefits of extending the measure."

In the attached analysis, we explain why

- 1) the EIT analysis is wrong, in particular the serious underestimation of the likely massive impact of the removal of the measure, and overestimation of the benefits of removing the measures, and
- 2) the conclusion of the EIT analysis should rather be that the negative impacts on the UK economy of imposing (actually, extending) the measure are not disproportionate to the benefits of extending the measure.

In other words, we believe that a correct application of that test would lead to the conclusion that it is in the best interests of the UK to extend the current measure.

Indeed, the UK would be making a major mistake to remove the existing measure simply on the basis of a relatively small percentage price consideration (with no out-of-pocket impact) for what is a higher-priced consumer item, while ignoring other considerations of equal importance for consumers, as well as the dislocation and other harm the removal of the measure would bring about, not least to the livelihood of those making or importing the product in the UK, to further UK investments in e-bike production, and to the innovations and synergies with other precision manufacturing sectors in the UK.

We hope our voice will be heard and that the TRA will revise its final recommendation.

Of course, we remain at your disposition for any further information you may find useful.

ORBEA

Sincerely,

ORBEA U.K.

ANNEX

EIT analysis in the Statement : factors to consider

The Statement refers to paragraph 25(4) of Schedule 4 to the Act, and claims to have taken account of the following factors in conducting the EIT:

- the injury caused by subsidized imports to the UK industry of the goods and the benefits to that UK industry in removing that injury;
- the economic significance of affected industries and consumers in the UK;
- the likely impact on affected industries and consumers in the UK;
- the likely impact on particular geographic areas, or particular groups, in the UK;
- the likely consequences for the competitive environment, and for the structure of markets for goods, in the UK; and
- such other matters as the TRA considers relevant.

As explained below, the Statement's analysis of the economic interest of the UK is vitiated by a number of inaccuracies and oversights, and needs major revision. Those inaccuracies and oversights lead to a gross underestimation of the negative impacts and a serious overestimation of the positive impact of the removal of the measure.

The Statement grossly underestimates the likely negative impact of the removal of the measure by ignoring massive PRC electric bicycle overcapacities

With regard to the first of the above factors, the Statement recognizes that the UK industry is likely to face some injury if the measure was to be removed, but asserts that "it is unlikely that the impact would be large because the UK industry has grown substantially over the past few years whilst remaining profitable and we are uncertain about the extent to which the UK produced like goods compete directly with the range of e-bikes produced in the PRC which potentially could be entering at the lower end of the market."

This statement entirely misses the point that the level of Chinese prices will quickly drive out of the market all non-Chinese electric bikes if the measures are removed. The most relevant lesson is from the US and Japanese bicycle markets which had domestic producers of conventional bicycles, but lost them entirely when they failed to ensure a level playing field with imports from China. The lack of conventional bicycle producers prevents those countries from developing domestic producers of electric bicycles as well, given the strong complementarity of those products.

The basic point is that the Chinese bicycle overcapacities (for both electric and conventional bicycles) are so immense that there should be no doubt about the severity of the consequences for the UK market if the measures are removed.

As pointed out by the EU bicycle manufacturing association (EBMA) in its request to the European Commission for an expiry review which began in January 2024,

In 2022-23, the estimated Chinese annual production capacities of e-bikes were approximately 130 million pieces. In addition, Chinese production of standard bicycles can be easily switched to producing e-bikes. The overall capacity in China for bicycles, e-bikes and other electric two and three-wheelers is estimated at over 400 million pieces. Producers in Tianjin alone have a capacity of over 100 million bicycles. Domestic e-bike sales are estimated at only approximately 45 million pieces. There is no export data from China available, as there is no separate customs code for e-bikes. Instead, the Applicant collected import data from countries that are known major users of EPACs and also have separate customs codes for EPACs. Based on these data, the Applicant estimates Chinese exports at approximately 12 million pieces. Chinese e-bike producers therefore have structural overcapacities of 85 million e-bikes and spare capacities of 73 million e-bikes. These overcapacities are even likely to be understated. It is very easy for Chinese producers to switch production between bicycles, EPACs, e-scooters and throttle-based/other e-bikes. They can all be assembled with the same equipment and personnel, with minimal if any time and costs required to adjust the assembly lines.¹

Given the immensity of PRC electric bicycle overcapacities, the fact that they are never mentioned in the Statement is an astonishing oversight.

In this context, the reasons cited in the Statement for doubting that the impact would be large (of the removal of the current measure) are manifestly unfounded :

- The fact that the UK industry has grown substantially over the past few years whilst remaining profitable is irrelevant. Just because the industry has done well in the presence of measures, it is not logical to conclude that the removal of measures would necessarily not have a large impact. Indeed, the massive overcapacities in China and their predation in markets worldwide based on those overcapacities leads to an entirely opposite conclusion.²³

¹ EBMA expiry review request, para. 24. We understand that the EBMA has provided the TRA with that request.

² In paragraph 293, the Statement says that “Both businesses had strong growth and profits, so they are unlikely to be as vulnerable to economic shocks as other affected groups.” While those UK producers may be unlikely to be as vulnerable as other affected groups – by virtue of recent strong growth and profits – there can be no doubt that they will also be wiped out by massive (subsidised) Chinese overcapacities if the current measures are removed.

Paragraph 179 of the statement concludes that Brompton has the ability to produce goods flexibly because the production process is 90% similar between electric and conventional bicycles, and on that basis asserts that Brompton is “likely to remain profitable despite future changes in demand between e-bikes and conventional bicycles”. Given the established historic trend by which electric bicycle demand is increasing and conventional bicycle demand is decreasing, there is no basis for concluding that Brompton could be expected to remain profitable if it loses its position in the market for e-bikes.

³ We note that if the industry had not done well in the presence of measures, one could well imagine that the TRA would question the usefulness of measures, which means that

- There can be no uncertainty about the “extent to which the UK produced like goods compete directly with the range of e-bikes produced in the PRC which potentially could be entering at the lower end of the market”. In particular, PRC producers have massive overcapacities for all types of electric bicycles. Again, this is easily seen in other markets, such as the EU, where the Chinese electric bicycles do not compete only at the lower end of the market. In any event, given the overlapping of product types and their overcapacities, there can be no doubt that the substantial undercutting by Chinese electric bicycles (regardless of their level) will affect the entire UK market for electric bicycles if the measures are removed.

It appears that one reason the TRA has underestimated the impact of the removal of the measure is because it assumes (Section H4.1, para. 305) “that prices for other PRC producers were the same as those for Jinhua Vision”, apparently because “Jinhua Vision was the only PRC producer with which we verified a questionnaire response.” Even without knowing the prices of Jinhua Vision,⁴ this assumption is manifestly inadequate for the simple reason that there are hundreds, if not thousands, of Chinese exporting producers of electric bicycles with immense overcapacities overall, and many of them may not be exporting to the UK now because of the existing measures.

In the absence of other information (what about the prices of imports from China by those UK importers who were verified?), there is reliable information about the prices of Chinese exports to nearby markets (e.g. the EU before measures were imposed, or of prices to the US and Canada currently). Those sharply undercutting prices could be taken as a conservative estimate of the price level of imports from China into the UK in the absence of measures.

The Statement’s estimated impacts remarkably fails to consider the aggressive pricing behaviour of Chinese producers with major overcapacities and low capacity utilisation

Section H4.3 of the Statement (Estimated impacts if the measure is revoked) sets out three scenarios of what would happen if the measure is revoked, but two of those scenarios (numbers two and three) are clearly not going to happen. In particular, the idea that only prices of PRC-produced electric bicycles would fall is pure fantasy.⁵ To begin with, one can

regardless of the industry’s performance in the presence of measures, the TRA’s conclusion would be the same, which in turn raises the question of why an analysis is even necessary...

⁴ In this regard, we note that Jinhua Vision has the lowest rate of anti-dumping duty in the EU, presumably because its prices for export are significantly higher than all other Chinese exporting producers. See Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People’s Republic of China, OJ 2019, L 16, 18.1.2019, p. 108–140.

⁵ The Statement appears to doubt that there is direct competition between UK electric bicycles and those produced in China. If one merely looks at the websites of Chinese producers, one can see that they offer a full range of electric bicycles to the UK market. In any event, given the overlap among product types, the constant experience of the bicycle

easily anticipate the degree of price undercutting which would result if the measure were removed by looking at the undercutting prices of Chinese producers to the EU before measures were imposed, and that was in circumstances where EU producers had already reduced prices to unprofitable levels.⁶ UK producers would immediately need to drop their prices to levels which would be unsustainable for more than a short time, as Chinese producer overcapacities would lead them to drop prices further. The failure to consider the pricing behaviour of Chinese producers with major overcapacities and low capacity utilization is a major oversight.

The price impact described in Scenario 1 (Prices of all e-bikes fall) is evidently the most likely, as the removal of the measure would be an immediate invitation to Chinese producers to unload their overcapacities in the UK market, and the weight of those overcapacities in terms of price decreases would force others in the market also to drop prices. However, the description of Scenario 1 in the Statement is manifestly inaccurate to the extent the Statement asserts that “producers’ market shares would stay the same”: UK producers would quickly be driven from the market because the drop in prices of PRC produced e-bikes would not be limited to the level of the measure. It is unclear why an equal drop in prices by PRC producers and other producers on the UK market would be remotely expected, given the experience of Chinese prices in other markets. Again, the key driver is the fact of the massive Chinese overcapacities: the result would be a series of price drops in the UK market at least until all other (UK and other non-Chinese) competition is eliminated.

The Statement fails to consider several other significant negative impacts of the removal of the measure for the competitive environment and the wider UK economy

Section H6 of the Statement (Likely consequences for the competitive environment and for the structure of markets for goods in the UK) is remarkably deficient to the extent that it looks only at the likely consequences for the competitive environment if the measure is extended. The more relevant and important question is what would be likely to happen to that environment if the measure is not extended. In that regard, all evidence points to a situation where electric bicycles would be exported from China to the UK in significantly increased quantities at highly undercutting prices. This would be highly likely to transform the UK market from one where UK consumers have a wide range of choices of high quality e-bikes, to one which is increasingly dominated by low-priced product of questionable quality. That negative transformation is exactly the experience of the bicycle sector in other major markets (most notably, the US and Japan).

Further, the Statement ignores other significant negative impacts from the removal of the measures, which weigh in favour of keeping the measure :

sector (including electric bicycles) is that significant price undercutting fueled by major overcapacities quickly affects prices among all types.

⁶ For Chinese producers other than Jinhua Vision, the rates were between 16 and 70%.

- The Statement's manner of analysis does not consider the losses to the wider UK economy of the removal of the measure. Beyond the loss of UK employment, there is the loss of further investments in manufacturing (the planned Brompton investment would clearly be in jeopardy, for example).⁷ In addition, the removal of the measure, and the consequent driving out of UK production from the market, would have a significant indirect impact on related UK businesses, and especially skilled manufacturing of other products (most notably automobiles). It is well-known that the precision manufacturing at scale represented by the bicycle sector (including electric bicycles), with the concomitant improvements and innovations, is a valuable element of the broader manufacturing economy.
- The removal of the measure would not only drive UK electric bicycle production out of the market, but also have the effect of replacing nearly all imports from other third countries with imports from China. This would have a major dislocation effect in the UK market because much of the current imports from countries other than China are by UK importers related to the third country supplier. Those importers are not going to simply shift suppliers but will leave the UK market, to the benefit of those importers who would like to import (more) from China. Our company is one example of such an importer from countries other than China, and we can foresee a major negative impact on our UK operations if the measure is removed.
- The Statement asserts (para. 335) that “lower demand for e-bikes than without a measure ... would lead to negative environmental and health impacts for the UK”, but recognizes that “the extent of this will depend on the proportion of those who switch to using cars instead of e-bikes”. It would be more helpful for the TRA to consider the other more obvious, more certain and more substantial negative environmental and health impacts for the UK and the globe if the measure were removed. Thus, to the extent the removal of the measure is certain to bring about the replacement of local production and of imports from nearby countries, with imports from China, there would be significant additional pollution, not only given the higher level of manufacturing pollution in China, but also because of the substantial pollution from transport over long distances to the UK.

The Statement significantly overestimates the benefit to UK consumers of the removal of the measure by focusing only on price considerations which are not out-of-pocket

Section H4.4 of the Statement analyses the “Estimated welfare impacts of extending the measure on effected UK businesses and consumers”, but essentially only takes into account the extent to which prices would drop if the measure is removed. This is a false measure with regard to consumers to the extent it is clear that price is not the most important consideration for them, and the extension of the measure would not involve any out-of-pocket cost impact. On the first of these considerations, and as the TRA well knows, price is not the only factor

⁷ As per Table 8, investments by the UK industry have increased substantially since the imposition of measures. Also, those investments are planned to grow further with at least the new Brompton factory (see para 220ff).

which is very important to consumers: also of major importance are safety (see para. 267 of the Statement) and brand (see para. 298), both of which are related to quality and the ability to choose among different sources. Indeed, as seen from EU consumers in the past (including those in the UK), quality and safety, as well as meaningful choices, are regularly identified as most important. In other words, a calculation based merely on anticipated price differences, especially in a situation where there would by hypothesis be no out-of-pocket cost, is seriously deficient as a measure of the impact on consumers. Consumers clearly place a value on those other elements which the extension of the measure would help to safeguard.

The Statement wrongly posits a benefit to UK importers of the removal of the measure by ignoring the fact that most UK importers of electric bicycles would lose out

Further, the formula used to calculate the estimated welfare impact on importers of extending the measure is not clear, and the result (significant negative welfare impact on importers) is highly questionable. As a major importer ourselves, we see the welfare impact of extending the measure as extremely positive, and the welfare impact of not extending the measure as extremely negative. Given the very high UK market share of imports from countries other than China, it is reasonable to conclude that the welfare impact of extending the measure would be extremely positive for most UK importers. The only importer(s) who might be considered to have a negative welfare impact from the extension of the current measure is the one who currently imports electric bicycles from China (a minority). Even then, to the extent they pass on the duty impact, the extension of the measure has no welfare impact on them.

The Statement overestimates the negative impact of the continuation of the measure

Section H7 of the Statement contains objectionable statements about the possible negative impact of the continuation of the measure :

- Para. 334 contains the misleading assertion that “Extending the measure is likely to lead to higher prices and lower demand for e-bikes than otherwise.” The impression given is that one expects higher prices in terms of out-of-pocket costs, which is not the case.
- The Statement also claims that extending the duties could mean around 9,000 fewer e-bikes being purchased per year (para. 334). Regardless of the obvious quality and safety concerns linked to reliance on imports driven by pricing considerations (and we recall that quality and safety concerns are a major reason consumers do not only consider price to be an important purchase factor), these concerns could lead to the conclusion that UK e-bike use (consumption) would actually be likely to decline if the measure is removed, as the market is taken over by cheap Chinese e-bikes of low quality (following the example of the US with regard to conventional bicycles, for example).

In sum, we believe the Statement’s analysis of the economic interest of the UK is vitiated by a number of inaccuracies and oversights, and needs major revision. Those inaccuracies and oversights lead to a gross underestimation of the negative impacts and a serious

overestimation of the positive impact of the removal of the measure. Accordingly, we believe that an objective and correct application of the economic interest test would lead to the conclusion that it is in the best interests of the UK to extend the current measure.