# COMMISSION IMPLEMENTING REGULATION (EU) 2021/1821

## of 18 October 2021

## accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China and amending Implementing Regulation (EU) 2019/1198

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (the 'basic Regulation') ([1]),

Having regard to Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China ([2]), and, in particular, Article 2 thereof,

Whereas,

### A. MEASURES IN FORCE

(1) On 13 May 2013, the Council imposed a definitive anti-dumping duty on imports of ceramic tableware and kitchenware ('the product concerned') originating in the People's Republic of China (the PRC) by Council Implementing Regulation (EU) No 412/2013 ('the original Regulation') ([3]).

(2) On 12 July 2019, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission extended the measures of the original regulation for another five years by Implementing Regulation (EU) 2019/1198.

(3) On 28 November 2019, following an anti-circumvention investigation pursuant to Article 13(3) of the basic Regulation, the Commission amended Implementing Regulation (EU) 2019/1198 by Commission Implementing Regulation (EU) 2019/2131 ([4]).

(4) In the original investigation, sampling was applied for investigating the exporting producers in the PRC in accordance with Article 17 of the basic Regulation.

(5) The Commission imposed individual anti-dumping duty rates ranging from 13,1 % to 23,4 % ([5]) on imports of the product concerned for the sampled exporting producers from PRC. For the cooperating exporting producers that were not included in the sample, a duty rate of 17,9 % was imposed. The cooperating exporting producers not included in the sample are listed in Annex I to Implementing Regulation (EU) 2019/1198 as amended by Regulation (EU) 2019/2131. Furthermore, a country-wide duty rate of 36,1 % was imposed on the product concerned from companies in the PRC which either did not make themselves known or did not cooperate with the investigation.

(6) Pursuant to Article 2 of Implementing Regulation (EU) 2019/1198, the Commission may amend Annex I to that Regulation, by granting a new exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of 17,9 %, where any new exporting producer in the PRC provides sufficient evidence to the Commission that:

(a) it did not export to the Union the product concerned during the period of investigation on which the measures are based, that is from 1 January 2011 to 31 December 2011 ('the original investigation period');

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) OJ L 189, 15.7.2019, p. 8.
([3]) OJ L 131, 15.5.2013, p. 1.
([4]) OJ L 321, 12.12.2019, p. 139.
([5]) After the adoption of Regulation (EU) 2019/2131, the individual rates range between 13,1 % and 18,3 %.

(b) it is not related to any exporter or producer in the PRC which is subject to the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1198; and

(c) it has actually exported to the Union the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

## B. **REQUEST FOR NEW EXPORTING PRODUCER TREATMENT**

(7) The company Liling Taichang Ceramics Co., Ltd ('Taichang' or the 'applicant') submitted a request to the Commission to be granted new exporting producer treatment ('NEPT') and hence be subject to the duty rate applicable to the cooperating companies in the PRC not included in the sample, which is 17,9 %. The applicant claimed that it met all three conditions set out in Article 2 of Implementing Regulation (EU) 2019/1198.

(8) In order to determine whether the applicant fulfilled the conditions for being granted NEPT, as set out in Article 2 of Implementing Regulation (EU) 2019/1198 ('the NEPT conditions'), the Commission first sent a questionnaire to the applicant requesting evidence showing that it met the NEPT conditions.

(9) Following the analysis of the questionnaire reply, the Commission requested further information and supporting evidence, which was submitted by the applicant.

(10) The Commission sought to verify all information it deemed necessary for the purpose of determining whether the applicant met the NEPT conditions. To this end, the Commission analysed the evidence submitted by the applicant in its questionnaire reply, consulting various online databases including Qichacha ([6]) and cross-checking company information with publicly available information on the internet. In parallel, the Commission also informed the Union industry about the applicant's request and invited it to provide any comments if needed. The Union industry provided comments which were taken into consideration.

## C. **ANALYSIS OF THE REQUEST**

(11) With regard to the condition set out in Article 2(a) of Implementing Regulation (EU) 2019/1198 that the applicant did not export the product concerned to the Union during the period of investigation on which the measures are based, during the investigation the Commission established that the applicant did not exist as a company at the time. The Articles of Association of Taichang and its business license date from March 2016. Therefore, the applicant could not have exported the product concerned to the Union during the period of investigation and thus fulfils this condition.

(12) With regard to the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198 that the applicant is not related to any exporter or producer which is subject to the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1198, during the investigation the Commission established that Taichang is not related to any of the Chinese exporting producers which are subject to the anti-dumping measures. According to Qichacha, the main shareholder of Taichang, Mr Zhou Jianxiang, does not own or hold shares in any company dealing with the production, processing, sale or purchase of the product concerned other than Taichang itself. The remaining company shares are owned by the related company Liling Taichang Carton Factory ('Taichang Carton'), whose sole shareholder is also Mr Zhou Jianxiang.

([6]) Qichacha is a private, for-profit Chinese-owned database that delivers business data, credit information, and analytics on China-based private and public companies to consumers/professionals.

(13) Taichang Carton, established in January 2014, i.e. after the original investigation period, was involved in the processing of the product concerned for third companies until March 2017. In March 2017, Taichang Carton transferred the relevant production facilities to the applicant as its capital contribution as shareholder. After that, Taichang Carton stopped its own operation. The Commission did not identify any relationship as defined by Commission Implementing Regulation (EU) 2015/2447 ([7]). Therefore, the applicant fulfils this condition.

(14) With regard to the condition set out in Article 2(c) of Implementing Regulation (EU) 2019/1198, that the applicant has actually exported the product concerned to the Union or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the original investigation period, during the investigation the Commission established that the applicant exported to the Union in 2019 and 2020, therefore after the original investigation period. The applicant submitted invoices, bills of lading and receipts of payment for three orders placed by a company in France. Therefore, the applicant fulfils this condition.

(15) Accordingly, the applicant fulfils all three conditions to be granted NEPT, as set out in Article 2 of Implementing Regulation (EU) 2019/1198 and the request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 17,9 % for cooperating companies not included in the sample of the original investigation.

## D. **DISCLOSURE**

(16) The applicant and the Union industry were informed of the essential facts and considerations based on which it was considered appropriate to grant the anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation to Liling Taichang Ceramics Co., Ltd.

(17) The parties were granted the possibility to submit comments. No comments were received.

(18) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

### *Article 1*

The following company is added to Annex I to Implementing Regulation (EU) 2019/1198 containing the list of cooperating companies not included in the sample:

| Company | TARIC additional code |
|---|---|
| Liling Taichang Ceramics Co., Ltd | C685 |

([7]) Article 127 of Commission Implementing Regulation (EU) 2015/2447 (OJ L 343, 29.12.2015, p. 558) (the EU Customs Code), stipulates that two persons shall be deemed to be related if one of the following conditions is fulfilled: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns or controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; (h) they are members of the same family. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in the preceding sentence.

*Article 2*

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

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

Done at Brussels, 18 October 2021.

*For the Commission*
*The President*
Ursula VON DER LEYEN