

COMMISSION IMPLEMENTING REGULATION (EU) 2023/148**of 20 January 2023****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 ⁽¹⁾ ('the basic Regulation'),

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 into the Union of ceramic tableware and kitchenware originating in the People's Republic of China ('the product concerned') by Council Implementing Regulation (EU) No 412/2013 ⁽³⁾ ('the original Regulation').
- (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 5 years by Implementing Regulation (EU) 2019/1198.
- (3) On 28 November 2019, following an anti-circumvention investigation pursuant to Articles 13(3) of the basic Regulation, the Commission amended Regulation (EU) 2019/1198 by Implementing Regulation (EU) 2019/2131 ⁽⁴⁾.
- (4) In the original investigation, sampling was applied for investigating the exporting producers in the People's Republic of China ('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 18,3 % on imports of the product concerned for the sampled exporting producers from the 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 Regulation (EU) 2019/1198, as replaced by Annex 1 to 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 Regulation (EU) 2019/1198, Annex I of that Regulation can be amended 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 that 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.

- (b) it is not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures imposed by the original Regulation; and
- (c) it has actually exported to the Union the product concerned after the end of the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union.

B. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (7) On 30 October 2020, Raoping Jinde Ceramics Co. Ltd ('Jinde' 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 %, claiming that it met all three conditions set out in Article 2 of Regulation (EU) 2019/1198 ('the NEPT conditions').
- (8) In order to determine whether the applicant fulfilled 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, on 6 April 2021 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 and consulted various online databases including Orbis ⁽⁵⁾ and Qichacha ⁽⁶⁾. In parallel, the Commission informed the Union industry about the applicant's request and invited it to provide any comments, if needed. The Union industry submitted comments with regard to the applicant's compliance with the condition set out in Article 2(a) of Regulation (EU) 2019/1198.

C. ANALYSIS OF THE REQUEST

- (11) With regard to the condition set out in Article 2(a) of Regulation (EU) 2019/1198 that the applicant did not export the product concerned to the Union during the original investigation period, during the investigation the Commission established that the applicant indeed did not export to the Union during that period. Jinde was founded in December 1995 and the company has been exporting since its establishment. However, its sales ledger shows no record of export transactions to the Union during the original investigation period. Moreover, Jinde's ledgers during that period were in line with the financial statements provided and there was no trace or further evidence suggesting that the applicant did export the product concerned to the Union before January 2012, that is after the original investigation period. The Union industry stressed in their initial comments the fact that the applicant had been involved in export activities since its establishment in 1995, but did not provide any evidence proving that Jinde was not in compliance with the condition set out in Article 2(a) of Regulation (EU) 2019/1198. Therefore, there is sufficient evidence that the applicant did not export to the Union the product concerned during the original investigation period.
- (12) With regard to the condition set out in Article 2(b) of Regulation (EU) 2019/1198 that the applicant is not related to any exporters or producers which are subject to the anti-dumping measures imposed by Regulation (EU) 2019/1198, during the investigation the Commission established that Jinde is not related to any of the Chinese exporting producers which are subject to the anti-dumping measures. According to Qichacha, Jinde's shareholders hold shares in three companies other than Jinde itself, none of which are subject to the anti-dumping measures imposed by Regulation (EU) 2019/1198. Therefore, the applicant fulfilled this condition.

⁽⁵⁾ Orbis is a global data provider of corporate information covering more than 220 million companies across the globe. It mainly provides standardised information on private companies and corporate structures.

⁽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) With regard to the condition set out in Article 2(c) of Regulation (EU) 2019/1198, that the applicant has actually exported the product concerned to the Union after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union, during the investigation the Commission established that the applicant exported the product concerned to the Union in 2019, therefore after the original investigation period. The applicant submitted an invoice, purchase order, customs clearance documents, a bill of lading and a receipt of payment for an order placed in 2019 by a company in France. In addition to this shipment, between 2012 and 2019 there were other shipments of the product concerned to France, for which the applicant also provided supporting documents. Therefore, the applicant fulfilled this condition.
- (14) Accordingly, the applicant fulfils all three conditions to be granted NEPT, as set out in Article 2 of 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

- (15) 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 Raoping Jinde Ceramics Co. Ltd.
- (16) The parties were granted the possibility to submit comments and the Union industry provided comments.
- (17) Following disclosure, the Union industry claimed that an audited financial statement is a statutory requirement for foreign invested companies in China, which also includes the applicant. In addition to that, Union industry asked to be provided with the name of the related company in order to provide comments on the business operations of the related company.
- (18) The Commission verified the information provided by the applicant on the issue whether there was a statutory requirement of audited financial statement for foreign investment companies in China. In 2009, Qiandong Taxation Branch of Raoping County State Taxation Bureau in Chaozhou City issued a notice to the applicant, by which it exempted the applicant from the obligation of submitting audited reports. Consequently, the Commission established that there was not a mandatory requirement either before or after the original investigation period. In addition, the Commission provided the Union industry with the name of applicant's related company. No further comments were received.
- (19) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The following company is added to Annex 1 of Regulation (EU) 2019/1198 as modified by Regulation (EU) 2019/2131 containing the list of cooperating companies not included in the sample:

Company	TARIC additional code
Raoping Jinde Ceramics Co. Ltd	C879

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, 20 January 2023.

For the Commission
The President
Ursula VON DER LEYEN
