

COMMISSION IMPLEMENTING REGULATION (EU) 2023/724**of 31 March 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 of 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 ('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 Articles 13(3) of the basic Regulation, the Commission amended Implementing 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 23,4 % 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 Implementing Regulation (EU) 2019/1198, as replaced by Annex 1 to Implementing 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, 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 that has or could have cooperated in the original investigation; 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 17 December 2021, the company Fujian Dehua Longnan Ceramics Co., Ltd ('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 ('the NEPT conditions').
- (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 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 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 Implementing Regulation (EU) 2019/1198.

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 original investigation period, the applicant showed that indeed it did not export to the Union during that period. Fujian Dehua Longnan Ceramics Co., Ltd was founded in 1999 and it started exporting in 2006 modern porcelain products such as ceramic wares, but not the product concerned. Its sales ledger for the original investigation period, which was found to be in line with the financial statements provided, showed no record of export transactions to the Union of the product concerned. All the export transactions during the original investigation period were verified and there was no information found pointing to possible exports of the product concerned to the Union. Among those transactions, there was one of the product concerned, which was however not destined for the Union, and four transactions made to Germany, France and Finland, but not of the product concerned. The Union industry claimed that, according to its website and the export license date, the applicant had been involved in the export activities of ceramic tableware since the very outset of the company. In addition to that, in 2006 the applicant has applied for the registration of its trademark containing transliteration of the Chinese name. However, the Union industry did not provide any evidence showing that the applicant was not in compliance with the condition set out in Article 2(a) of Regulation (EU) 2019/1198. Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(a) of Implementing Regulation (EU) 2019/1198.

⁽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.

- (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 exporters or producers which are subject to the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1198 that has or could have cooperated in the original investigation, the applicant showed that it was not related to any of the Chinese exporting producers which are subject to the anti-dumping measures. The applicant has two shareholders, holding 80 % and 20 % respectively. According to the Qichacha database, the applicant's shareholders held shares in several other companies, which were however not related to the product concerned and were already deregistered. Fujian Dehua Longdong Ceramics Co., Ltd, the applicant's related company established during the original investigation period with the same shareholders, only sold products on the domestic market. According to the VAT statements of the related company that were provided, no export sales were realised. Therefore, the applicant fulfilled this condition.
- (13) 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 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 2020, 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 Spain. In addition, according to the sales ledger that was reconciled with the financial statements, in 2020 there were other shipments of the product concerned to the Union. 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 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

- (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 Fujian Dehua Longnan 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 Fujian Dehua Longdong Ceramics Co., Ltd, the applicant's related company, has registered a representative for import-export activities at the customs office of Quanzhou on 18 November 2013. The Union industry thereby argued that the related company did realise export sales.
- (18) The Commission noted that the date of registration of the representative of Fujian Dehua Longdong Ceramics Co., Ltd (18 November 2013) falls after the original investigation period, which ended on 31 December 2011. Moreover, as explained in recital (12), based on the VAT statements provided for the original investigation period, the Commission established that Fujian Dehua Longdong Ceramics Co., Ltd did not export the product concerned to the Union during the original investigation period. No evidence contradicting this finding was submitted or found by the Commission. Therefore, the Commission concluded that the Applicant met the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198 and the claim was rejected.
- (19) The present 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 of Implementing Regulation (EU) 2019/1198 as replaced by Annex 1 of Implementing Regulation (EU) 2019/2131 containing the list of cooperating companies not included in the sample:

Company	TARIC additional code
Fujian Dehua Longnan Ceramics Co., Ltd	899D

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, 31 March 2023.

For the Commission
The President
Ursula VON DER LEYEN
