Commission Implementing Regulation (EU) 2020/1407 of 6 October 2020 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

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1407

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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)] following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036, 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 ('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 Articles 13(3) and 14(5) of the basic Regulation, the Commission amended 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 % 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 of Implementing Regulation (EU) 2019/1198 as replaced by 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, the Commission may amend Annex I of 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');

(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) The company Liling Yuanmei Ceramic Co., Ltd. ('Yuanmei' 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 Orbis[(5)] and Qichacha[(6)] and cross-checking company information with information submitted in previous cases. In

parallel, the Commission also informed the Union industry about the applicant's request and invited it to provide any comments if needed. No comments from Union industry were received.

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, that is from 1 January 2011 to 31 December 2011 ('the original investigation period'), the Commission established that the applicant did not exist as a company at the time. The Articles of Association of Yuanmei and its business licence date from May 2017. 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 exporters or producers which are subject to the anti-dumping measures imposed by the original Regulation, the Commission established that Yuanmei is not related to any of the Chinese exporting producers, which are subject to the original anti-dumping measures. According to Qichacha, a Chinese business database, the sole shareholder of Yuanmei, Mr Xingfen Liu, does not own or hold shares in any company dealing with the production, processing, sale or purchase of the product concerned other than Yuanmei itself. Moreover, the Union Industry did not submit any comment regarding potential corporate links with other companies. It also followed that the key company documents setting out Yuanmei's structure and its articles of association pointed to the applicant having no related companies of any kind. Finally, the examination of Yuanmei's sales ledger did not raise suspicion of any client related to Yuanmei.. In sum, the Commission did not identify any relationship as defined by Commission Implementing Regulation (EU) 2015/2447[7]. Therefore, the applicant fulfils 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, the Commission established that the applicant had exported to the Union in 2019, therefore after the original investigation period. The applicant submitted invoices, a packing list, a bill of lading and a receipt of payment for an order placed in 2019 by a company in Spain.

(14) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2 of Implementing Regulation (EU) 2019/1198.

(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.