Commission Implementing Regulation (EU) 2019/464 of 21 March 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 412/2013 on imports of ceramic tableware and kitchenware originating in the People's Republic of China, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2019/464

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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 on protection against dumped imports from countries not members of the European Union[(1)] and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. EX-OFFICIO INVESTIGATION

(1) The European Commission ('the Commission') has decided on its own initiative, pursuant to Articles 13(3) and 14(5) of Regulation (EU) 2016/1036 ('the basic Regulation'), to investigate the possible circumvention of the anti-dumping measures imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China and to make such imports subject to registration.

B. PRODUCT

(2) The product concerned by the possible circumvention is ceramic tableware and kitchenware, excluding ceramic condiment or spice mills and their ceramic grinding parts, ceramic coffee mills, ceramic knife sharpeners, ceramic sharpeners, ceramic kitchen tools to be used for cutting, grinding, grating, slicing, scraping and peeling, and cordierite ceramic pizza-stones of a kind used for baking pizza or bread, currently falling under CN codes ex 6911 10 00, ex 6912 00 21, ex 6912 00 23, ex 6912 00 25 and ex 6912 00 29 (TARIC codes 6911 10 00 90, 6912 00 21 11, 6912 00 21 91, 6912 00 23 10, 6912 00 25 10 and 6912 00 29 10) and originating in the People's Republic of China ('the product concerned').

(3) The product under investigation is the same as that defined in the previous recital, currently falling under the same codes as the product concerned, imported under the TARIC additional codes listed in Annex ('the product under investigation').

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/464. (See end of Document for details)*

C. EXISTING MEASURES

(4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Implementing Regulation (EU) No 412/2013[(2)], as amended by Commission Implementing Regulation (EU) 2017/1932[(3)] ('the existing measures').

D. GROUNDS

(5) The Commission has at its disposal sufficient evidence that there is a reorganisation of patterns and channels of sales of the product concerned.

(6) Indicators for such channelling practices are a sharp rise or fall in the export statistics of certain companies, when comparing the figures and trends between 2014 and 2018. Moreover, in some cases, the actual exports from certain companies exceed their declared production. Finally, the Commission has been informed about ongoing customs authorities' investigations on the misuse of company specific TARIC codes.

(7) It appears from these indicators that certain companies currently subject to the residual duty rate of 36,1 % (TARIC additional code B999) or companies subject to an individual duty rate are selling their products via other companies which are subject to a lower duty. A list of companies possibly involved in such practices is attached in Annex.

(8) These channelling practices resulted in a change in the pattern of trade regarding exports from the People's Republic of China following the imposition of measures on the product concerned, without sufficient due cause or justification other than the imposition of the duty.

(9) Furthermore, the evidence points to the fact that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantities and prices. The volumes of imports of the product under investigation have increased significantly. In addition, there is sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(10) Finally, the Commission has sufficient evidence at its disposal that the prices of product under investigation are dumped in relation to the normal value previously established for the product concerned.

(11) Should circumvention practices covered by Article 13 of the basic Regulation, other than the ones mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

(12) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the products under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) **Questionnaires**

(13) In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the Chinese exporting producers listed in Annex.

(14) In any event, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(1) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties.

(15) The authorities of the People's Republic of China will be notified of the initiation of the investigation.

(b) **Collection of information and holding of hearings**

(16) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

F. **REGISTRATION**

(17) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports was imposed.

(18) Any future liability would emanate from the findings of the investigation. With the information available at this stage, in particular the indicators that certain companies currently subject to the residual duty of 36,1 % (TARIC additional code B999) or companies subject to an individual duty rate are selling their products via other companies which are subject to a lower duty, the amount of possible future liability is set at the level of the residual duty, namely 36,1 % *ad valorem* on the CIF import value of the product under investigation, imported under the TARIC additional codes listed in Annex of this Regulation.

G. **TIME-LIMITS**

(19) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

(20) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

(21) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.

(22) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(23) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

(24) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

(25) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data[(4)].

K. HEARING OFFICER

(26) Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

(27) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised.

(28) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

(29) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should

request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3 to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

(30) For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website: http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports into the Union of ceramic tableware and kitchenware, excluding ceramic condiment or spice mills and their ceramic grinding parts, ceramic coffee mills, ceramic knife sharpeners, ceramic sharpeners, ceramic kitchen tools to be used for cutting, grinding, grating, slicing, scraping and peeling, and cordierite ceramic pizza-stones of a kind used for baking pizza or bread, currently falling under CN codes ex 6911 10 00, ex 6912 00 21, ex 6912 00 23, ex 6912 00 25 and ex 6912 00 29 (TARIC codes 6911 10 00 90, 6912 00 21 11, 6912 00 21 91, 6912 00 23 10, 6912 00 25 10 and 6912 00 29 10) and originating in the People's Republic of China, imported under the TARIC additional codes listed in Annex, are circumventing the measures imposed by Council Implementing Regulation (EU) (No) 412/2013.

Article 2

The Customs authorities shall, pursuant to Article 13(3) and Article 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports into the Union declared under the TARIC additional codes listed in Annex of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

Article 3

1 Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.

2 Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3 Interested parties may also apply to be heard by the Commission within the same 37-day time-limit.

4 Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing (a) the Commission to use the