Commission Implementing Regulation (EU) 2017/1932 of 23 October 2017 amending Council Implementing Regulation (EU) No 412/2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1932

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THE EUROPEAN COMMISSION,

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

Having regard to Council 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'), and in particular Article 11(3) thereof,

Whereas:

1. MEASURES IN FORCE

(1) By Council Implementing Regulation (EU) No 412/2013[(2)] ('the original Regulation'), the Council imposed a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China ('PRC' or 'the country concerned'). The investigation that led to the aforesaid Regulation used as investigation period the period from 1 January 2011 to 31 December 2011 ('the original investigation').

2. PRESENT INVESTIGATION

2.1. Procedure

(2) Following a request lodged by the Kyocera Fineceramics Group ('the applicant' or 'Kyocera'), the Commission announced by a notice ('the notice of initiation') published in the *Official Journal of the European Union*[(3)] the initiation of a partial interim review in accordance with Article 11(3) of the basic Regulation. The group includes Dongguan Shilong Kyocera Co. Ltd, an exporting producer in the PRC. The review was limited to the examination of the product scope as regards the clarification of whether certain product types (i.e. ceramic slicers, ceramic graters, ceramic scissors, ceramic scrapers, ceramic sharpeners and ceramic coffee mills or, together, 'the product types in question') fall within the scope of the anti-dumping measures applicable to imports of ceramic tableware and kitchenware originating in the country concerned.

(3) The Commission officially advised all the parties that cooperated in the original investigation as well as the authorities of the PRC of the initiation of the

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proceeding. Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limit set in the notice of initiation.

(4) The Commission sent a questionnaire to the applicant. In addition, the parties that cooperated in the original investigation were asked to comment on any differences between the product under review, as defined in recital 8, and the product types in question with respect to their basic physical, technical and chemical characteristics, their production process, end-uses and other aspects (if any).

(5) Kyocera submitted a questionnaire response and comments on the substance of the review. One Italian distributor said that the product types in question represent a very small part of its assortment. Eighteen companies (two importers in Italy and 16 companies in the PRC) replied that they did not deal with the product types in question. The complainant in the original investigation came forward but made no representations.

(6) The Commission sought and verified all information deemed necessary for the purpose of the assessment as to whether there is a need for clarification/amendment of the scope of the existing anti-dumping measures.

(7) All interested parties were informed of the essential facts and considerations on the basis of which the present conclusions were reached. In accordance with Article 20(5) of the basic Regulation, parties were granted a period within which they could make representations subsequent to the disclosure. Apart from the applicant (that welcomed the text), no parties submitted any oral or written comments.

2.2. **Product under review**

(8) The product under review is the product concerned as defined in the original Regulation, i.e. ceramic tableware and kitchenware, excluding ceramic knives, ceramic condiment or spice mills and their ceramic grinding parts, ceramic peelers, ceramic knife sharpeners and cordierite ceramic pizza-stones of a kind used for baking pizza or bread ('the product under review'), currently falling within 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 PRC.

2.3. **Results of the investigation**

2.3.1. *Introduction and methodology*

(9) In light of the relevant statistics derived from Article 14(6) of the basic Regulation, each year some 350 000 tonnes of Chinese ceramic tableware and kitchenware enter the Union market.

(10) According to Kyocera, the product types in question have different production process, end uses, design and physical characteristics than the product under review. Consequently, Kyocera claimed that, as it was confirmed for ceramic knives and other

product types in the original investigation, the product types in question should also be excluded from the anti-dumping measures.

(11) In light of their production processes and/or catalogues, in the original investigation the sampled cooperating producers in the Union and the PRC, and the analogue country producer in Brazil did not produce the product types in question. This finding was additionally supported by the statement of 16 companies (co-operating exporting producers of the product concerned in the PRC in the original investigation) and two importers in Italy referred to in recital 5. Therefore, all data and information used and presented in the original Regulation did not include any data related to the product types in question.

(12) The Commission examined whether the product types in question were distinct from other types of ceramic tableware and kitchenware currently subject to measures based on (i) their physical, technical and chemical characteristics, (ii) their production process and (iii) their typical end-uses and interchangeability.

2.3.2. *Basic physical, technical and chemical characteristics*

(13) Ceramic tableware and kitchenware as defined in the original Regulation is made of 'traditional ceramics', i.e. porcelain or china, of common pottery, stoneware, earthenware or fine pottery or other materials which confer it a strength of 1 000 kg/m^2~1 200 kg/m^2.

(14) The product types in question include a working part (to cut, grind or sharpen) and a non-working part (to handle them). The working part is made of advanced ceramics.

(15) Advanced ceramic items are developed with advanced technology so that they suit as industrial materials. They are heat resistant, have an anti-wear performance and insulating material. Their strength is 10 000 kg/m^2~12 000 kg/m^2.

(16) The main raw materials of traditional ceramics include minerals such as kaolin, feldspar and quartz. Either zirconium oxide or aluminium oxide is the key raw material of advanced ceramics.

(17) Due to its specific design and physical characteristics, ceramic tableware and kitchenware as defined in the original Regulation covers mainly items aimed at retaining foodstuff. Due to their specific design and physical characteristics (shape and hardness) the product types in question are aimed at cutting (pieces of) foodstuff in different ways, including for example grinding or, as is the case of ceramic sharpeners, at sharpening certain tools.

2.3.3. *Production process*

(18) The review investigation established that a production line used to produce traditional ceramics is not suitable to produce advanced ceramics. Typically the production process of traditional ceramics requires adding water to the raw material to make clay or barbotine, then shaping and later firing in a conventional kiln at a

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temperature of 1 000 °C-1 250 °C. By distinction, the working parts of the product types in question are produced by putting pure ceramic powder into a mould which is placed under high pressure to solidify the powder in the desired shape. The material is fired and sintered in a kiln under precisely controlled temperatures (the firing temperature being 1 400 °C).

2.3.4. *Typical end-uses and interchangeability*

(19) As highlighted in recital 17, the product types in question are not aimed at retaining foodstuff, which is the typical end-use of the product concerned as defined in the original Regulation.

(20) The review investigation has shown that there is no interchangeability between any of the categories of the product under review and the product types in question.

2.4. **Conclusion on the product scope**

(21) The review investigation has established that, due to their different physical, technical and chemical characteristics, different end-uses and different production process, the product types in question do not fall within the product scope of the antidumping measures in force.

(22) It is therefore considered appropriate to clarify that the product types in question do not fall within the product scope subject to antidumping measures.

(23) Given the above, it is considered appropriate to amend the original Regulation to clarify the product definition.

(24) Interested parties were informed of the conclusions of the review investigation.

2.5. **Retroactive application**

(25) The notice of initiation invited interested parties to make their views known on the possible retroactive application of any Regulation resulting from this review. Except for the applicant, no party made any representation on this issue.

(26) Since the present review investigation was limited to the clarification of the product scope and since the product types in question were not covered by the original investigation and the consequent anti-dumping measure, it is considered appropriate that the findings of this review be applied from the date of the entry into force of the original Regulation, including any imports subject to provisional duties between 16 November 2012 and 16 May 2013. The Commission has not found any overriding reason preventing the application of such retroactive provision.

(27) Consequently, for goods not covered by Article 1(1) of the original Regulation as amended by this Regulation, the definitive anti-dumping duty paid or entered in the accounts pursuant to Article 1(1) of the original Regulation (EU) No 412/2013 and the