

**Request to initiate an anti-dumping investigation into dumped imports of tableware and kitchenware originating in the People's Republic of China**

TRADE H				
Date:	22/12/2011	N°:	S1530475	
Attribution:	CCN		R1405074	
Copie:	Pc			

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## A. Summary and general information

The European Union producers of tableware and kitchenware, assisted and represented by their industry associations and lawyers, most notably FEPF, the European Federation for Table-and Ornamentalware, Verband der Keramischen Industrie e. V. and Confindustria Ceramica, respectfully request in line with Article 5 of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ("**Basic Regulation**") that an anti-dumping investigation be initiated into imports of tableware and kitchenware from the People's Republic of China ("**the PRC**").

The product concerned is ceramic tableware and kitchenware currently falling within CN codes 6911 10 00, ex 6912 00 10, ex 6912 00 30, ex 6912 00 50 and ex 6912 00 90. It can be of porcelain or china, of common pottery, stoneware, earthenware or fine pottery, or other materials. The products are commercialised in a large variety of forms which have been evolving over time. EU and imported products are like products; the rampant counterfeiting corroborates this. The types that represent the large majority of the imports are cups and plates.

Imports of the product originating in China are dumped. The comparisons between the normal value established in the analogue country and the Chinese export prices to the European Union result in significant dumping margins. The average dumping margin for the like product is quite significant.

Imports of the dumped products are causing material injury which can be demonstrated by an analysis of the detailed injury factors.

It is in the European Union's interest to act against dumped injurious imports.

**B. European Union industry****B.1. Applicants**

This request is submitted on behalf of FEFP, the European Federation for Table-and Ornamentalware, and a group of European Union tableware and kitchenware producers.

See limited Annexes for information on the applicants and supporters.

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The powers of attorney and requests for confidential treatment are provided in open **Annex B.1.1.** "Powers of attorney" and in the limited annexes regarding the individual producers.

This request is submitted by a major proportion of the European Union producers of the product concerned, as will be explained in more detail in B.2. "Other European Union producers" and B.3. "Standing".

B.2. Other European Union producers

A listing of known producers in the European Union is provided in open **Annex B.2.1.** "Listing of known European producers and their associations". National tableware associations exist in Germany, France, Italy, Portugal and the United Kingdom; see contact details in the mentioned annex. The national associations are usually members of the European Federation for Table- and Ornamentalware, FEPPF, which is a member of Cerame-Unie, the European umbrella association for the ceramics industry.

B.3. Standing

The applicants account for more than thirty percent of the European Union production in volume of total European Union production of the product concerned and the supporters for five percent.

It is expected that the majority of European Union producers support the request.

Limited **Annex B.3.** "Standing" provides an overview of European production.



### C. Product concerned and like-product

The product concerned is ceramic tableware and kitchenware currently falling within CN codes 6911 10 00, ex 6912 00 10, ex 6912 00 30, ex 6912 00 50 and ex 6912 00 90. It can be of porcelain or china, of common pottery, stoneware, earthenware or fine pottery, or other materials. The products are commercialised in a large variety of forms which have been evolving over time. EU and imported products are like products; the rampant counterfeiting corroborates this. The types that represent the large majority of the imports are cups and plates.

The product definition follows the definition as mentioned in the general notes of sub-chapter II of chapter 69 of the HS (Harmonised System).

HS explanatory notes to headings 6911 and 6912 give guidance (by enumerating certain examples) on what is to be understood as tableware and what as kitchenware.

See open **Annex C.1.** for the mentioned notes.

Tableware, kitchenware, other household articles and toilet articles are classified in heading 69.11 if of porcelain or china, and in heading 69.12 if of other ceramics such as stoneware, earthenware, imitation porcelain (see General Explanatory Note to sub-Chapter II).

The headings therefore include:

(A) Tableware such as tea or coffee services, plates, soup tureens, salad bowls, dishes and trays of all kinds, coffee-pots, teapots, sugar bowls, beer mugs, cups, sauce-boats, fruit bowls, cruets, salt cellars, mustard pots, egg-cups, teapot stands, table mats, knife rests, spoons and serviette rings.

(B) Kitchenware such as stew-pans, casseroles of all shapes and sizes, baking or roasting dishes, basins, pastry or jelly moulds, kitchen jugs, preserving jars, storage jars and bins (tea caddies, bread bins, etc.), funnels, ladles, graduated kitchen capacity measures and rolling-pins.

[...]

The products presented in catalogues and offers have to be classified according to these rules. By way of example, ashtrays would have to be classified in CN code ex 6911 90 00. Candlesticks and flower vases are very likely to be classified in CN code ex 6913 10 00 as being "other ornamental ceramic articles" in view of the fact that heading 6913 covers products which are essentially designed for the interior decoration of homes, offices, etc. At least theoretically, candlesticks and flower vases could nevertheless be classified in CN code 6911 90 00 if they would not respect the classification conditions of CN heading 6913.

The Chinese products imported in the European Union are completely comparable products to those manufactured by the European Union industry.

**D. Tariff, Customs classification and preferences**

Tableware and kitchenware imports should be classified under CN 6911 1000 and ex 6912 0010, ex 6912 0030, ex 6912 0050, and ex 6912 0090 and are subject to the corresponding customs duty rates. See open **Annex D.1.1.** for the Taric and open **Annex D.1.2.** for the CN explanatory notes.

The third country duty rates range from 12 percent *ad valorem* for imports from China under tariff heading 6911 to 5, 5.5, 9 and 7 percent respectively under tariff headings 6912. See open **Annex D.1.3.** "Duty rates" for details.

Chinese products benefit on exportation from a VAT export rebate, an incentive granted on exports of the product concerned in the form of a VAT export refund.

## E. Exporter and Importers

A list of all known exporting producers is provided at limited **Annex E.1**. "List of Chinese associations and exporting producers". Two industry associations are known, namely China Ceramic Industry Association (CCIA) – founded in 1989 under the control of China Ministry of Industry – and China Porcelain Enamel Association (CEA). Information on known importers is provided at open **Annex E.2**. The imported product is sold through all types of sales channels, from specialised shops to supermarkets.



## F. Dumping

### F.1. Normal value

The information used for the determination of normal value and export prices is based on data gathered for the period second half 2010 and first half 2011 (in the following also "reference period"), and the values are established at ex works level or made comparable.

#### i Product types compared

Even though tableware and kitchenware is not a commodity product, the sector has its standard products which are sold in large quantities. See open **Annex F.1.1.** for an "Overview of product types".

In order to make fairly precise dumping calculations, the complainants looked at the product types that are imported in significant volume and account for the majority of imports from China:

Porcelain Cup and saucer

Porcelain Plate flat, standard size around 20 cm

Imports of these types account for vast majority of imports from China, and accordingly the calculations are representative.

#### ii Normal value and analogue country

Given that China is a non-market economy country, an appropriate analogue country is used as a reference for the normal value of the product concerned.

The European Union industry carefully analyzed

- i) whether the products produced and sold on the analogue country market are similar to those exported from China;
- ii) the size of the domestic market in the analogue country in comparison with the volume of exports from China to Europe;
- iii) the state of competition in the analogue country market for the product concerned; and
- iv) the production processes in the analogue country and the exporters' country.

Based on the analysis, the industry suggests using Russia as analogue country. See limited **Annex F.1.2.** "Normal value and Analogue country" for further information.

There are various non-EU countries other than China in which the product concerned is manufactured. For the reasons set out below, the complainants propose Russia as an analogue country. In the alternative, prices and costs should be based on European Union values, as appropriately adjusted.

There are several producers on that market which is quite important in size. We provide information on price of one of the market leaders and on imports and exports. Access to raw materials is unhindered. Other countries sell to Russia as well in significant quantities.

Russian consumption is estimated as having rapidly increased until 2008 and again is recovering after the crisis to similar levels as in 2008. The country imports substantial quantities of the product concerned from Asia and the EU. There are no known import barriers.

The known producers manufacture the like product using the same production processes as both the Chinese and European Union industries. There is further no difference in physical, chemical and technical characteristics between the product concerned produced in the analogue country and that produced in China and exported to the European Union. There is thus good comparability between the analogue country products and the Chinese product concerned.

The analogue country's economy is developing, but is not yet at European Union levels, and closer to the Chinese levels. The market is competitive, with an open domestic and international market, with both imports and exports and a healthy domestic consumption. With the exception of some materials which are imported, the country benefits from the local availability of all raw materials used for the production of the product concerned and is thus not dependent on foreign supplies.

To the best knowledge of the European Union industry, sales on the domestic market to independent customers account for at least 5% of Chinese exports to the European Union.

The complainants have tried to verify all possible analogue countries. For most countries, domestic markets are small and the larger producers manufacture more for export. Moreover, it may be difficult to obtain perfect product comparability for the products. Therefore, in the alternative, prices and costs should be based on European Union values, as appropriately adjusted.

Even if one were to use European prices and costs as a last resort with an appropriate adjustment for differences, and the lowest values, the dumping margins would be substantial.

## F.2. Export Price

Export prices have been calculated ex-works or made comparable and been determined based on offers for comparable products to be sold to European destinations for the reference period.

See limited **Annex F.2.**

F.3. Dumping margin

The dumping margins are substantial and in excess of 50 per cent on CIF European Union border basis.

See limited **Annexes F.1.2. and F.2.**



## G. Injury

### G.1. General information

Injury factors have been assessed for the years since 2007, the five year injury period, and detailed injury data for the complainants provided for the reference period Q3 2010 through Q2 2011.

### G.2. Imports in volume and value

Imports from China in volume increased significantly in 2005 and then remained at a very high level until 2011. Likewise did imports in value. See Annex G.2. "Eurostat" for the source data.

Imports from China increased their share of total imports both in volume and value. Whereas they accounted for approximately 45 percent in volume of imports in 2004, they increased their share in total imports to approximately 85 percent in the reference period.

The next biggest exporter, Turkey, does not even have a five percent import share in volume.

Moreover, competitors from other third countries have not fared better than Turkish exporting producers. In volume, imports from other countries accounted for slightly more than half of total imports in 2004 and have decreased to around 15 percent in the reference period. See Annex G.2. "Eurostat" for the source data.

### G.3. Average export values

The impact of Chinese products on the market can also be judged by looking at the development of average values. Chinese average exports values have always been significantly lower and remain so.

The difference between average import values for all imports other than from China is significant: By way of example, in the second half of the reference period, i.e. the first six months of 2011, the Chinese average value per kg was EUR 1.45 whereas the average value for imports from other third countries was EUR 2.64, i.e. more than 80 percent higher. See Annex G.2. "Eurostat" for the source data.

### G.4. Consumption in the EU

Consumption of tableware and kitchenware in the European Union decreased by approximately 8% between 2007 and 2010, and a further decrease is expected for 2011. See the information in **Annex B.3.1**.

#### G.5. Market shares

During the five year injury period Chinese imports could increase their market share in the EU even though consumption decreased. In other words, EU industry lost market share year on year, probably with the exception of the first half of 2011. Dumped imports, which already held more than sixty percent of the EU market in 2007, gained more than two percentage points until first half 2011 (and more than four percentage points when looking at the period including the calendar year 2010). Over the same period, EU companies lost around 8% of their market share between 2007 and 2010, with some recovery probably in the first half of 2011; any improvement in market share could however only have been achieved with a further deterioration of profitability.

See the information in **Annex B.3.1. Market development.**

#### G.6. Injury Factors

On all pertinent injury factors, the European Union industry can demonstrate that it suffers material injury. Production, sales, employment and profitability decreased. This is evidenced by the company specific data of the complainants which stand for the performance of producers in the entire EU.

The EU industry has undertaken significant efforts to improve all aspects of manufacturing and selling operations in the wake of strong competition. However, the unfair pricing of dumped imports has caused material injury which currently harms the EU producers and undermines the long term viability of the companies. It must be also noted that several companies, which could not provide data to the complaint, have left or are leaving the market. Accordingly, the injury suffered by the EU industry as a whole is worse than what results from the data of the complainants.

Aggregated data are as follows:

##### a. Production

EU production of complainants declined by 12% in the five year injury period. The production decreased already strongly between 2007 and 2008, before the economic crisis.

In the same five year injury period the EU complainants decreased production capacity but could in the face of dumped imports not retain their capacity utilisation ratios. Capacity utilisation decreased by eleven percent in the five year injury period and by nine percent even prior to the crisis the crisis.

##### b. Sales

EU complainants sold 14% less in quantity over the five year injury period. As a result of the strong pricing pressure of dumped imports, the sales value decreased even



more in the same period. This decrease has continued in the second half of the reference period, the first half of 2011.

c. Employment

As regards the EU complainants, they have been forced to cut their workforce by 14% in the five year injury period. At the EU complainants alone this means a loss of employment for 1,000 persons directly, not taking into account upstream and downstream employment.

Taking into account the companies which are leaving the market or have already left the market, the decrease in employment would be even higher.

d. Investment

The European producers have undertaken significant efforts to improve all aspects of manufacturing and selling operations in the wake of strong competition which is demonstrated by continued investment despite adverse trading conditions. Investment was reduced by some ten percent over the five year injury period.

e. Profitability

The pricing pressure of dumped imports affected significantly the profitability of the EU companies despite strong and successful efforts to improve, as above-mentioned, all aspects of their manufacturing and selling operations. Even though the prices for raw material, energy and labour have increased in the five year injury period, the EU industry could reduce the costs. Nonetheless, in the five year injury period the profitability decreased from four percent to lower than minus two.

EU producers were forced to decrease their prices in the five year injury period in order to counter the cheap prices of dumped imports. Chinese imports have exerted through their strong and increasing market share a significant influence on the market price. In this respect one should also note the substantial price difference between the EU and Chinese prices. Large undercutting margins have added strong pricing pressure.

The decrease in profitability over the period considered together with a significant underselling margin undermines the viability of the EU producers.

The analysis of all possible injury factors would not demonstrate a different picture from the one shown above.

## H. Causality

The tableware and kitchenware industry is a dynamic industry sector with very creative players, which have heavily invested in research and innovation to find new products and improve the production process. The European producers have state-of-the-art manufacturing facilities and appealing designs. The material injury suffered by the EU industry in terms of among others sales and profitability is linked to the dumped pricing of Chinese imports.

Chinese imports coincide with the injury which the industry has suffered. Imports from other countries do not have an impact on the injury. As demonstrated above, other imports are on average much higher priced.

The economic crisis does not break the causal link. The material injury suffered is caused by the dumped imports. Dumping margins and injury margins are substantial and caused renewed decreases of profitability despite the upturn after the crisis.

There are no other causes which would break the causal link between the injury suffered and the dumped imports. EU industry has improved all aspects of the product, from developing new products, creating consumer demand to improving manufacturing and sales operations to reducing capacity where appropriate. Imports from other countries exist but are not made at dumping prices and are imported at much higher average values than the dumped Chinese products.

## I. CONCLUSION

The industry has long tried to overcome the challenge of cheap and dumped imports by ever greater innovation and improvements in the production process aiming at further savings. However, it is now forced to request protection against ongoing dumped imports which materially threaten it and endanger the very viability of the industry sector.

In line with Article 5 of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ("**Basic Regulation**") the EU producers respectfully request that an anti-dumping investigation be initiated into imports of tableware and kitchenware from the People's Republic of China ("**the PRC**").

For and on behalf of the industry, signed this day in Brussels, on behalf of the applicants and supporters.

FEPF

  
Renaud Batier

BEITEN BURKHARDT

  
Rainer Bierwagen

## Contents of binders

- A.00. Request  
Annex\_A\_00\_AD\_tableware\_2010\_12\_16\_A\_limited\_05.docx
- A.01. Listing of contents of binders, X pages, limited  
Annex\_A\_01\_Annex\_listing\_limited\_02.docx
  
- B.1.1. Powers of attorney etc., limited
  
- B.2.1. Listing of known European producers, open
  
- B.3. Standing, limited
  
- C.1. HS Explanatory notes, open
  
- D.1. Customs classification, explanatory notes, duty rates, open  
Annex\_D\_1\_1\_Taric\_open.pdf  
Annex\_D\_1\_2\_CN\_Explanatory\_Notes\_open.pdf  
Annex\_D\_1\_3\_Duty\_rates\_6911\_open.pdf  
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- E.1. Exporting producers, open
- E.2. Importer information, open
  
- F.1.1. Overview of product types, open
- F.1.2. Analogue country and normal value information, limited,
- F.2. Exports and Dumping calculation, limited
  
- G.2. Eurostat, open
- G.4. Availability for consumption, partially open
- G.6. Injury data from companies, partially limited
- G.6. Undercutting, partially limited



## Contents of binders

### G.7. EU resale price data from companies, limited

The injury data, notably production and sales data, are by their very nature confidential because their disclosure would be of significant competitive advantage to a competitor.

The other evidence is based on information from third parties and particular sources. Their disclosure would be of significant competitive advantage to a competitor and endanger the sources.

Market intelligence is based on meetings of the industry with third parties and particular sources. Their disclosure would be of significant competitive advantage to a competitor and endanger the sources. It is not susceptible to summarization.