



Holst Porzellan GmbH

Apothekerstrasse 1
D-33790 Halle (Westf.)
Telefon 0049 (0)5201 849551
Telefax 0049 (0)5201 849552

Holst Porzellan GmbH
Apothekerstrasse 1 D-33790 Halle/Westfalen

European Commission
Directorate-General for Trade
Directorate H
Office N105 04/092
B-1049 Bruxelles/Brussel
BELGIQUE/BELGIE

Halle/Westfalen, den 26.09.2012

Mail: trade-tableware-dumping@ec.europa.eu
trade-tableware-injury@ec.europa.eu

AD 586 - Anti-dumping proceedings concerning imports of ceramic tableware and kitchenware originating in the People's Republic of China

Dear Sir or Madam,

as you know Holst Porzellan is an importer of products standing under investigation in AD586. We already provided the investigation with six official statements including the official questionnaire (Annex B). In addition to the given statements we would like to point out some further relevant and important facts:

1. The EU producers - not qualified for a relevant 'Community industry'

According to Art 5 (4) Basic Regulation,
no investigation shall be initiated when the Community producers expressly supporting the complaint account for less than 25 % of total production of the like product produced by the Community industry.

According to Art 4 (1) (a) Basic Regulation,
when producers are themselves importers of the allegedly dumped product, the term 'Community industry' may be interpreted as referring to the rest of the producers.

The Complainants claim to account for (more?) than 30 percent of EU27 production and that there are additional supporters accounting for five percent of EU27 production (Complaint, Annex B.3., p. 1).

However there is strong evidence that a substantial number of renowned EU producers are in fact themselves **importers** of the allegedly dumped product, in particular

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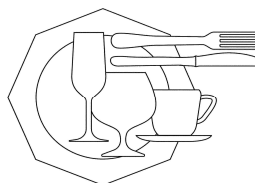
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Handelsregister:

Steuernummer
Bankverbindung:

<http://www.holst-porzellan.de>
office@holst-porzellan.de

Knud Holst
Gütersloh HRB 7115

351/5744/0919
Kreissparkasse Köln
BLZ 370.502.99
Konto 290.564



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Villeroy & Boch	purchasing (thus importing) from Chaozhou Big Arrow Ceramics Industrial Co. Ltd Cameo China Co. Ltd.	Enclosure 01 Enclosure 02
Rosenthal	purchasing (thus importing) from Chaozhou Big Arrow Ceramics Industrial Co. Ltd Guangxi Sanhuan Enterprise Group Holding Co. Ltd Zhejiang Nansong Ceramics Co. Ltd Shandong Silver Phoenix Co. Ltd	Enclosure 03 Enclosure 04 Enclosure 05 Enclosure 06
Vista Alegre	purchasing (thus importing) from Guangxi Sanhuan Enterprise Group Holding Co. Ltd	Enclosure 07
Medard de Noblat	purchasing (thus importing) from Guangdong Songfa Ceramics Co. Ltd Guangxi Sanhuan Enterprise Group Holding Co. Ltd Hunan Hualian China Industry Co. Ltd	Enclosure 08 t12.008525 t12.006419
Gibson	purchasing (thus importing) from Hunan Hualian China Industry Co. Ltd Liling Top Collection Industrial Co. Ltd Zibo Guanhua Ceramics Co. Ltd Jiangsu Gaochun Ceramics Co. Ltd	Enclosure 09 Enclosure 10 Enclosure 11 Enclosure 12
Wedgwood	purchasing (thus importing) from Shandong Silver Phoenix Co. Ltd	Enclosure 13
Royal Doulton	purchasing (thus importing) from Guangxi Sanhuan Enterprise Group Holding Co. Ltd	Enclosure 14
Richard Ginori	purchasing (thus importing) from Guangxi Sanhuan Enterprise Group Holding Co. Ltd	Enclosure 15
Aynsley	purchasing (thus importing) from Cameo China Co. Ltd.	Enclosure 16
Johnson Brothers	purchasing (thus importing) from Ming Chao Porcelain Co. Ltd	Enclosure 17
Tognana	purchasing (thus importing) from Ming Chao Porcelain Co. Ltd	Enclosure 18
Thun	purchasing (thus importing) from	

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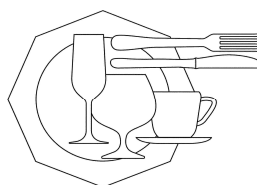
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	ChongQing Kinway Ceramics Co. Ltd	Enclosure 19
Porvasal	purchasing (thus importing) from	
	Guangxi Sanhuan Enterprise Group Holding Co. Ltd	t12.006419
Steelite	purchasing imported goods originating in China from	
	Symbol s.r.l.	Enclosure 20
Emile Henry	purchasing (thus) importing from	
	Chaozhou Big Arrow Ceramics Industrial Co. Ltd	Enclosure 21
IPA Porcellane	importing goods originating in China through its subsidiary	
	RDLR s.r.l.	Invoices
		Extract from Companies Register (p. 4)
		Enclosure 22
		Enclosure 23

It is quite obvious why the complainants do not like to have their identities disclosed and why they prefer to remain unknown.

Moreover it is quite obvious why the complainants, even though they are themselves, directly or indirectly, importers of the products under investigation, would not have a problem with additional duties that might be imposed as a result of these proceedings.

Their simple method is buying imported merchandise at low prices and selling it at high end prices, pretending high end quality originating from their own EU factories.

Additional import duties would help these EU producers to eliminate a significant number of competitors (= importers) from the market, whereas their own pricing structure has sufficient room to cover these extra costs, with a total gain in market share being their revenue.

However, as per the clear instruction of Art (1) (a) Basic Regulation, those of the EU producers who are themselves importers of the allegedly dumped product are to be disregarded when determining the scope of the relevant Community industry.

Even though we do not exactly know who the complainants are, the producers named above are major EU producers and we are quite certain that if these manufacturers are disregarded as Community producers (Art 4 (1) (a) Basic Regulation), the remaining producers expressly supporting the complaint account for far less than 25 % of the total production of the like product produced by the Community industry, so that the present proceedings should not have been initiated in the first place.

2. The German Factories - a group of majority

The EU Porcelain Industry is a very majority German business! Nearly half of the production capacity of the EU Porcelain is represented by the German industry (96 to 42 thousand tons). In total figures the investigation AD586 is touching 6,400 employees in the EU, about 3,500 of them in Germany. Whereas in Portugal, Italy or Spain pottery is made by hand, this procedure is dominated by a highly industrial mass production from Germany.

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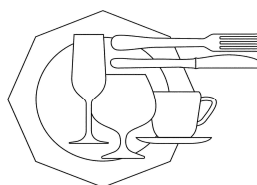
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Due to the market report of the "FAZ" (Frankfurter Allgemeine Zeitung – see page 11 of 1st report of Holst Porzellan dd. 01.03.2012) the addition of the market share of Villeroy & Boch, Rosenthal and BHS-Tabletop in 2006 is more than € 1,243,000.--. All three companies show out a high profit in their business reports 2010 and 2011. This division illustrates very clear that AD586 is very far away from a general interest of the European Union.

The request for this investigation is based on a minority of some VKI (Verband der Keramischen Industrie e.V.) members, who use some negative examples of very small EU producers to initiate the overkill of competition in their markets of interests, which is very far away from the distribution channels of the porcelain originating in the PRC.

In the other hand more than one million workers in China are affected, as Mr. Li Wenfeng (Vice President of CCCLA) confirmed in the second hearing of Chinas factories dd. 19.09.2012. If you recognize only the number of employees on the European and the Chinese side it is absolutely clear that porcelain in the EU is a very small, marginal industry and China is the largest producer in the world – at the moment for more than 5,000 years!

6,500 employees against 1,105,000 employees
this is about 0.58%

But even if the complainants are still qualified as a Community industry, they do not represent more than a group of minority suppliers, the specific protection of which by artificial measures imposed by the authorities (such as anti-dumping duties) is not warranted by any of the purposes of the Treaty or by any other provision of Community law.

The complainants themselves claim to have held a share in the EU market of 7.14 % in 2010, whereas the Chinese market share accounted for 66.4 %.
(Complaint, Annex G, page 3).

There are three conclusions to be derived from this:

1. The market is dependent on **imports** by nearly **93 %**.
2. Even if the complainants, indeed, accounted for 35 % of the Community industry, they represent not more than a **minority** of $(7.14 * 0,35)$ **2,5 %** of the Community market.
3. If anti-dumping measures were applied, the overwhelming majority of the Community market, (including EU importers, EU retailers and EU consumers), would have to pay the price to protect the pricing structure of these very few.

But it seems as if these very few are not even in need for protection because their businesses have done well in recent years, for instance

Villeroy & Boch 2011 increase of turnover tableware of 5 %

Royal Copenhagen 2011 best results for 10 years

- P&G Newsletter of 16 April 2012 (page 3 top) Enclosure 24

Steelite International For the second year running ... broke its turnover record ...

- Extract from www.steelite.com of 15 September 2012 Enclosure 25

BHS tabletop Increase in turnover and considerable profits

- Press release BHS tabletop of 17 February 2012 Enclosure 26

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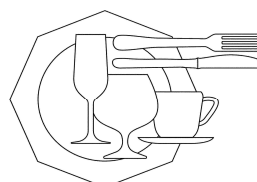
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ANCAP
PA Porcellane
FAC
Tognana

9,40 % increase of revenue in 2010 over previous year
6,20 % increase of revenue in 2010 over previous year
10,65 % increase of revenue in 2010 over previous year
2,00 % increase of revenue in 2010 over previous year

- Extract from Submission of Symbol S.r.l (Annex 2 to Sec B / table 1) Enclosure 27

The balance sheets of the EU producers all show improving results (despite recession!!).

Therefore, where is the injury?

Even more so, as the prices the importers had to pay for the goods they imported from China have increased considerably over the last 2.5 years. To be specific, the prices (CN 6911) went up from € 1,28 in **January 2010** to € 1,78 in **June 2012**, which is an increase by **39 %**.

- Extract from Eurostat

Enclosure 28

To impose anti-dumping duties under the given circumstances would not mean to eliminate distorting effects and to restore effective competition (as required by Art 21 Basic Regulation).

On the contrary, it would mean to eliminate effective competition and to introduce distorting effects, thus being the opposite of what is defined as the Community interest, in particular as the distribution of market shares between EU producers and Chinese imports is not the result of a recent and acute problem which any intervention by the authorities could resolve.

And it is why some major European producers, not only expressly object to the imposition of anti-dumping duties, but consider such action a serious threat to their own business.

- Portmeirion Group plc, Letter dated 12 June 2012
- JM Ltd, E-Mail dated 26 June 2012

Enclosure 29

Enclosure 30

3. **The real differences between China's and Europe's Porcelain**

The lack EU porcelain manufacturers inflicted harm to themselves by selling their products at special offers in order to secure the market volume. The consequence of this practice was a steadily declining brand loyalty since 1974 and a diminishing sensitivity consumer of the consumers as to quality differences regarding brand products. As already brought officially to the Commission at FTA Hearing dd. 22.08.2012 we herewith repeat

the disaster history of the German Porcelain industry – starting many years before Chinese Porcelain was allowed to distribute in the Western Countries:

1970	98.400 tons	
1975	80.163 tons	minus 19 %
...		
1991	88.227 tons	minus 2.7 %
1992	76.053 tons	minus 14.8 %
1993	68.575 tons	minus 9.8 %
1994		minus 8.1 %
1995		minus 0.2 %
...		
2006	40.700 tons	...

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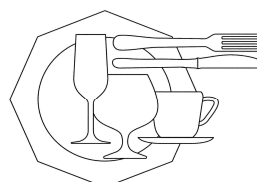
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The lack of the German Porcelain industry started 1974 with the first energy crises in Germany. During this period the German porcelain capacity was higher than actually the summarized EU volume of 27 countries (67.639 tons)! It has to be pointed out, that the German majority of Porcelain Factories is a synthetic construct of millions subsidies and grants! Since the European Recovery project started, the U.S.A., the country of Germany, the state Bavaria and at the end also the EU inflated more than € 1,000,000,-- to the German Producer!

Only with these subsidies the German were able to grow up their level of production, which is very unique in the world. Wherever plants are grown up – except China - they all use German technology.

China is producing more than 500,000 tons per year in the old fashioned / more profitable way! This is 7.4 times more porcelain than the summarized EU-Capacity. AD586 is trying to compare more than 10,000 Chinese and a very small range of less than ten major factories in Europe! This cannot work!

It is totally understandable that the capacity and the experiences of more than 5,000 years carries the Chinese in the position of the most specialised country in the world. As Mr. Li Wenfeng told to the Commission, porcelain is one of the major symbols of China.

AD586 differs from all other antidumping investigations: Chinaware was founded in China – we Europeans copy their product since a very short time and now we complain that they can make it better!

The price is the marketplace where supply and demand meets! This applies to Europe as well as to China! We have to note that the competition in China increased a lot during the last 10 years. Since the import quota for Europe on ceramic tableware and kitchenware was abolished end of 2004 many businessmen in China set up new factories and/or increased the production capacity of existing factories in order to meet the increased demand.

Although the free economic market forces are acting in China - as well as in Europe – and there are still thousands of Chinese factories producing tableware and kitchenware. Many factories bankrupted in China especially during the last 4 years due to the worldwide financial crises – this is the bad evidence for the liberal market in China!

But of course China has a high competition in itself. Everybody can travel to Kanton and can buy porcelain. From booth to booth thousands of exhibitors are available two times per year. Online platforms like "Alibaba" performing a useable overview of the worldwide market and prices. There is nobody who underlines that the internet also changes the trade between China and Europe.

The major advantage of Chinese Porcelain is its still traditional production method. The factories are quite flexible regarding shapes and quantities. Chaozhou factories can open a mould up from 1,000 pieces; a European factory needs for the same kind of product 100,000 pcs.. The fundamental disadvantage in realizing this consists in being dependent on large-scale production. But the demand of the markets changed to diversified requirements and this can not cooperate with the huge capacities of the high tech machinery.

Only in case of high volumes, they can ensure an economical production and finally keep costs within reasonable limits. In such case a white undecorated plate made by a pressing machine e.g. from Poland or Romania is cheaper than from China! To prove this we enclose 9 official papers of EU producer.

Enclosure 31 to 39

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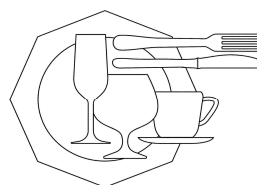
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4. The EU importers and related retailers a large Community industry at risk

The above description of the market situation clearly shows that anti-dumping duties would not help the lack EU factories to overcome the structural problems they inflicted upon themselves over the past decades. The only consequence anti-dumping duties would have is that the majority of market suppliers, the EU importers of Chinese tableware representing some **66%** of the total supply of the market, would have to pay the price for the complainants lack of ability and/or willingness to adapt to changing market circumstances.

A significant number of EU importers will be forced to step out of the market, simply because any price increase, which is not the result of the mere operation of market forces, but which is the result of **artificial interferences by the authorities** (e.g. introduction of anti-dumping duties), would unavoidably lead to severe decreases of their sales, possibly dropping down to nil in some of the product areas, and put a corresponding number of jobs at risk.

Roughly calculated, the average number of staff required on the EU importers side to import and distribute 1,000 tons of goods from China is **12** (sourcing, logistics & import: 5,96; sales to trade: 4,81; administration: 1,11).

According to the Eurostat database, a total of 574,618 tons (326,492 tons falling within CN 6911 and 248,126 tons falling within CN 6912) of products concerned were imported from China in 2010.

This means a reduction of imports by 575,000 tons could put as many as **7,000 jobs** ($12 * 575$) at risk on the EU importers side in case anti-dumping duties were imposed.

In addition there are several hundreds if not thousands of jobs at risk on the side of the retailers. According to what **Metro** stated during the Commission hearing on 22 August 2012, it could easily cost as many as 5.000 tableware related jobs all across Europe just within the Metro group (and Metro being only one of the top 20 retail chains in Europe, of which the others are Auchan, Carrefour, Edeka, Tesco, etc).

- Eurostat, EU27 Imports/Exports 2010, CN 6911
- Eurostat, EU27 Imports/Exports 2010, CN 6912

Enclosure 32

Enclosure 33

It is not only the jobs that are at risk, most EU importers have invested heavily through many years and it has taken many efforts to find a market niche they can serve, to build up their own brands and trademarks, to establish a well functioning system of distribution channels and retail outlets. All of this would be at risk if anti-dumping measures were applied.

In the end it will be the consumers who suffer because they will be deprived of the opportunity they presently have to purchase ceramic tableware for daily use at prices they can afford at local supply facilities in their neighbourhood, in particular as the EU manufacturers will not be able and/or will not be willing to substitute the supply deficit that anti-dumping duties will create.

5. EU-Producer barriers the free trade

The Commission knows that the German VKI (Verband der Keramischen Industrie e.V.) and a range of German producer are under investigation of the German prosecution for suspicion of violation of the antitrust laws.

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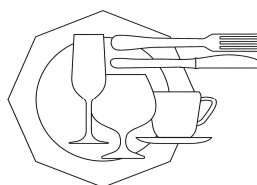
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A hand full of German factories is playing the major role in our market. Due to the possible consequences of this investigation Holst Porzellan tried to find European factories as production partners inside the EU. We placed our invitation for cooperation to all the 76 factories named in the application list and in the member list of the associations.

8 of them declared their displeasure of cooperation:

▪ Rosenthal	Negative reply dated 20 April 2012	Enclosure 34
▪ ANCAP	Negative reply dated 15 March 2012-09-25	Enclosure 34a
▪ Thun	Negative reply dated 12 March 2012	Enclosure 35
▪ Fürstenberg	Negative reply dated 16 March 2012	Enclosure 36
▪ Bauscher	Negative reply dated 21 March 2012	Enclosure 37
▪ Meissen	Negative reply dated 26 March 2012	Enclosure 38
▪ Dibbern	Negative reply dated 27 March 2012	Enclosure 39
▪ Sargadelos	Negative reply dated 16 March 2012	Enclosure 40

10 of them replied, most not useful for starting a relationship. 58 factories do not consider it necessary to answer to a customer inquiry. This shows very clearly that 66 of the EU-Producer (86,9%) are not interested to fulfill the previous Chinese market segments.

That action is not affected by factories which has been really harmed from dumped products!

We do not believe that in a modern world the vague allegation of a very few that they have suffered (unsubstantiated) injury justifies the imposition of protectionist measures (such as the imposition of anti-dumping duties), which would put the vast majority of market actors at the serious risk to be erased from the market, and it is not only the EU importers, it is also a significant number of EU retailers, who oppose the imposition of anti-dumping measures.

- Collection of Retailers' letters of objection Enclosure 41

5. **Absence of Community interest**

Under circumstances which were very similar to the ones prevailing in the present case, the Commission held that

The prospect of Community industry to become a strong player in the short or medium term market would appear quite remote in particular in terms of market share, production capacity or technology, if measures are imposed.

Otherwise, the imposition of measures would concern nearly 90 % of the EU consumption of the product concerned and would be detrimental to importers, distributors, retailers and consumers. In such circumstances, the imposition of anti-dumping measures would be disproportionate.

On the basis of the above, it can be concluded that the imposition of measures would have substantial negative effects on importers, distributors, retailers and consumers of the product concerned and that the Community industry is unlikely to obtain significant benefits. It is therefore considered that the imposition of measures would be disproportionate and against the Community interest.

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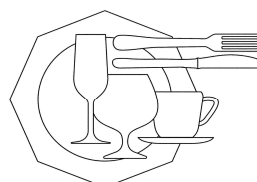
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(OJ L 293/7 of 24 October 2006, Commission Decision of 20 October 2006 terminating the anti-dumping proceedings concerning imports of recordable digital versatile discs (DVD+/-R) originating in the People's Republic of China, Hong Kong and Taiwan (2006/713/EC)). We suggest that the same standards be applied in the present cases.

The imposition of anti-dumping duties therefore would be disproportionate and against the Community interest and we strongly suggest that the present proceedings be terminated without measures.

Specifically, we hereby reiterate our findings and formal applications of

01.03.2012	First statement and view of our market
14.03.2012	in the personal hearing
23.03.2012	Facts and acts of AD586
26.03.2012	Customer resonances
27.03.2012	Catering market in Germany
27.03.2012	2012/C 86/04
30.08.2012	Trade facts of Second Hand Porcelain

We also support the hearings applications of our approach

22.08.2012	FTA – Foreign Trade Association
19.09.2012	CCCLA – Chinese Delegation – delivered by Mr. Li Wenfeng

At the end we like to thank all members of the commission for their attention and their professional work with our invitation to visit the first page of our domain <http://www.antidumping.eu>. Here we have collected the major matters in some photos of the porcelain industry from East and West. Please take the time to understand the differences of Porcelain from China and Europe.

Thank you very much.

Yours

Holst Porzellan GmbH

Knud Holst
CEO

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Email:

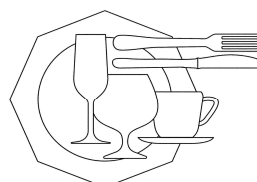
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