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Mr. Jens Schaps

Director of Directorate Trade Defence
Of the European Commission
Office N105 04/092
B-1049 Brussels
BELGIQUE

Halle/Westfalen, den 28.11.2012

Fax: +32-2 292 01 49
Email: jens.schaps@ec.europa.eu

Request for Support

AD 586 — Anti-dumping proceeding concerning imports of ceramic tableware and kitchenware originating in the People's Republic of China / **HERE: Retailer questionnaire to our customers**

Dear Mr. Schaps, dear Sirs,

several of our customers got a formal questionnaire from the European Commission in case of AD586. The survey appears to customers very important for the running investigation. To make out the answers objectively and formally correct, the questions must be understood exactly. That can not afford a German retailer, if the questionnaire is written in English. Most of our customers request for a translated German version of the questionnaire and several letters were already written to the Commission including the request for extend the deadline. These requests, the Commission did not follow up today. They insists that the issues are understood and offered only a telephonic support. The deadline is still the same.

We ask a well-known and experienced law firm whose attorneys are also allowed at the European Court for their evaluation in this case of problem. We got the following statement:

We checked into public statements by the Commission, Charter provisions, and Parliamentary resolutions which could have a bearing on the right to receive and respond to a questionnaire in German.

1) The Commission Has Effectively Already Conceded Our Case

Internet:
Email:

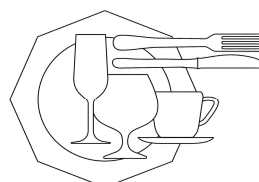
Geschäftsführer:
Handelsregister:

Steuernummer
Bankverbindung:

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The Commission has, in fact, effectively conceded our point on this website:

http://ec.europa.eu/languages/languages-of-europe/eu-languages_en.htm

where the Commission states that it uses German as one of three procedural languages: "*due to time and budgetary constraints, relatively few working documents are translated into all languages. The European Commission employs English, French and German in general as procedural languages, whereas the European Parliament provides translation into different languages according to the needs of its Members.*" [Emphasis added]. It would be bizarre if the Commission denied the right to receive and respond to a questionnaire in German when the Commission has already acknowledged that German is one of its three procedural languages.

The Commission might respond that the above phrase "*in general*" allows it to avoid the obligation of using German as a procedural language in all proceedings.

Yet on the same website, the Commission provides a link to Regulation No. 1 determining the languages to be used by the European Economic Community [Article 3: "*Documents which an institution of the Community sends to a Member State or to a person subject to the jurisdiction of a Member State shall be drafted in the language of such State.*"]

The above acknowledgment and hyperlink to Regulation 1 would appear to make it difficult for the Commission to deny the right of the importers to receive and respond to a questionnaire in German.

2) Relevant Provisions of the Charter of Fundamental Rights of the European Union ["Charter"]

The Charter appears to provide additional support for our position. Article 21(1) of the Charter states that "*[a]ny discrimination based on any ground such as ... language ... shall be prohibited.*" Given that the Commission has already publicly acknowledged that German is one of its procedural working languages, refusing to provide a questionnaire in German and/or allowing the importers to respond in this language would clearly be a discriminatory action. Were the Commission to cling to such a position, I believe we could additionally argue that such actions constitute a violation of Article 22 of the Charter: "*The Union shall respect cultural, religious and linguistic diversity.*" We could also highlight Article 41 (right to good administration) of the Charter: "*Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.*" [* Note also that Article 24 of the TFEU states that "*[e]very citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on European Union in one of the languages mentioned in Article 55(1) of the Treaty on European Union and have an answer in the same language.*" The Commission is, of course, one of the enumerated institutions in Article 13 of the TEU, and German is listed in Article 55(1) of the TEU. It could be argued that once the German importers wrote to the Commission to identify themselves as interested parties (Nico indicates that at least Holst has written extensively in German), they should have been able to receive a response (e.g. letters, the questionnaires) in German].

3) Relevant Resolutions of the EU Parliament

In addition to the Commission's own website, Regulation 1, and the above-mentioned Charter provisions, three resolutions of the EU Parliament are worth noting. Several provisions of European Parliament resolution of 24 March 2009 on Multilingualism: an asset for Europe and a shared commitment (P6_TA(2009)0162) are helpful for our argument:

Internet:
Email:

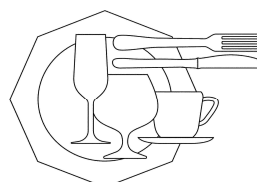
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- Paragraph B of the Preamble: "the acquisition of a diverse range of language skills is considered to be of the greatest importance for all EU citizens, since it enables them to derive full economic, social and cultural benefit from freedom of movement within the Union and from the Union's relations with third countries."
- Paragraph C of the Preamble: "multilingualism is of increasing importance in the context of relations between Member States, cohabitation in our multicultural societies, and in the Union's common policies."
- Paragraph 5: "[The European Parliament] [s]tresses the crucial role of the EU institutions in ensuring respect for the principle of linguistic parity, in relations between Member States and in the EU institutions themselves, as also in EU citizens' relations with national administrations and with Community and international institutions and bodies."
- Paragraph 34: "[The European Parliament] welcomes plans by the Commission to launch information and awareness campaigns regarding the benefits of language learning through the mass media and new technologies ..."

Several provisions of the European Parliament resolution on measures to promote multilingualism and language learning in the European Union: European Indicator of Language Competence (P6_TA(2006)0184) are also helpful:

- Paragraph A of the Preamble: "the cultural and linguistic diversity of the European Union is now integral to European identity."

- Paragraph D of the Preamble: "the ability to understand and communicate in foreign languages and higher standards of linguistic proficiency are of major importance for the more effective deployment of manpower in Europe, language skills being a fundamental requirement for all European citizens with a view to promoting the full exercise of the rights and freedoms arising from mobility within the European Union and creating a genuine European employment market."

Finally, the European Parliament resolution of 14 June 2012 on public consultations and their availability in all EU languages (P7_TA(2012)0256) may be helpful. Although its ambit is restricted to public consultations, it could perhaps be argued that providing questionnaires to importers in EU Member States constitutes a form of "consultation", and that refusing to provide such a questionnaire in German or permit a response in German would be contrary to the following provision:

- Paragraph 2: "[The EU Parliament] urges the Commission to ensure that every EU citizen's right to address the EU institutions in any of the EU official languages is fully respected and implemented by ensuring that public consultations are available in all EU official languages, that all consultations are treated equally and that there is no language-based discrimination between consultations."

Mr. Schaps, we herewith kindly ask for your assistance in this matter that the Commission complied with the principles of the European Union and our customers to the thing itself can actually take a position. We would also ask you to help that the customer shall be granted a reasonable deadline starting from the time when the question of them being in an intelligible form.

Thank you very much for your understanding and support in this matter.

Yours Sincerely



Knud Holst
CEO/Geschäftsführer

Copy to

Mr. Arthur Braam (arthur.braam@ec.europa.eu)
Mr. Rudolf Stümper (rudolf.stuemper@bmwi.bund.de)
Mr. Manfred Queck (manfred.queck@bmwi.bund.de)

Our known affected customers

Internet:
Email:

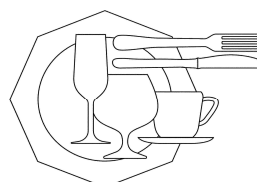
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Von: TRADE-TABLEWARE-INJURY@ec.europa.eu [mailto:TRADE-TABLEWARE-INJURY@ec.europa.eu]
Gesendet: Dienstag, 27. November 2012 13:03
An:
Cc: TRADE-HEARING-OFFICER@ec.europa.eu
Betreff: RE: AD 586

Dear Mr

Thank you for your letter. Please do not hesitate to address us/reply to the questionnaire in German. Should there be specific parts in the questionnaire that you cannot understand, please write back to us with your specific questions. We can also make an appointment so that a German speaking colleague calls you and replies to your questions over the phone.

We thank you for your understanding - we are bound to very strict deadlines but at the same time we will endeavour to accommodate your request to use your mother tongue.

Best regards,
Sonia

*ONLINE TRANSLATION/Online-Übersetzung
Sehr geehrter Herr Backenköhler,*

Vielen Dank für Ihren Brief. Bitte zögern Sie nicht, uns anzusprechen / Antwort auf den Fragebogen in deutscher Sprache. Sollte es bestimmte Teile des Fragebogens, dass man nicht zu verstehen, schreiben Sie bitte an uns zurück mit Ihren spezifischen Fragen. Wir können auch einen Termin, so dass eine deutschsprachige Kollegin ruft Sie an und Antworten auf Ihre Fragen über das Telefon.

*Wir danken Ihnen für Ihr Verständnis - wir werden sehr strenge Fristen gebunden, sondern zur gleichen Zeit werden wir uns bemühen, Ihre Anfrage an Ihre Muttersprache verwenden unterzubringen.
Mit freundlichen Grüßen,
Sonia*

From: Teekontor Ostfriesland [mailto:kontakt@tob-tee.de]
Sent: Monday, November 26, 2012 5:50 PM
To: TRADE TABLEWARE INJURY; TRADE TABLEWARE DUMPING
Cc: TRADE HEARING OFFICER
Subject: AW: AD 586
Importance: High

Sehr geehrte Damen und Herren,

Bitte beachten Sie anhängendes Dokument, welches Ihnen ebenfalls per Fax übersandt wird!

Mit freundlichen Grüßen

Von: TRADE-TABLEWARE-INJURY@ec.europa.eu [mailto:TRADE-TABLEWARE-INJURY@ec.europa.eu]
Gesendet: Freitag, 23. November 2012 15:07

An:
Betreff: RE: AD 586

Dear Mr

There is no German version available.

The investigation is subject to very strict deadlines. No deadline extensions for replying to questionnaires are possible unless duly justified. What would be the grounds that would justify it? How many extra days would you need?

Best regards
TRADE TABLEWARE INJURY TEAM

Sonia

From:
Sent: Friday, November 23, 2012 9:41 AM
To: TRADE TABLEWARE INJURY
Subject: AD 586

Sehr geehrte Damen und Herren,

in o. g. Angelegenheit erhielt ich von Ihnen die im Anhang befindlichen Fragebögen.

Ich bitte um eine Ausführung in deutscher Sprache. Des Weiteren bitte ich um eine Fristverlängerung, da die von Ihnen gewünschten Daten nicht ohne weitergehende Recherche zu erheben sind.

Gerne dürfen Sie mir die Fragebögen und die neue Frist per E-Mail mitteilen.

Mit freundlichen Grüßen