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**COMMENTS IN THE UK TRANSITION REVIEW OF ANTI-DUMPING  
DUTIES ON CERAMIC TABLEWARE AND KITCHENWARE  
ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**(TD0056)**

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ON BEHALF OF

**CHINA CHAMBER OF COMMERCE FOR IMPORTS AND EXPORTS OF  
LIGHT INDUSTRY PRODUCTS AND ARTS-CRAFTS**

**(CCCLA)**

**AND ITS MEMBERS**

Dentons Europe LLP

27 August 2024

## 1. INTRODUCTION

- [1] On 15 May 2024, the UK Trade Remedies Authority (TRA) published a notice of initiation of a transition review of the anti-dumping duties on certain ceramic tableware and kitchenware products<sup>1</sup> originating in the People's Republic of China.
- [2] The UK transition review is related to the existing anti-dumping measures adopted in the European Union (EU).<sup>2</sup> Subsequent to the UK's withdrawal from the EU, the UK Secretary of State periodically publishes determination notices,<sup>3</sup> authorising the UK Trade Remedies Authority (TRA) to conduct transition reviews to determine if the existing EU trade remedy measures should be maintained, varied or revoked in the UK. A UK transition review considers whether the application of the EU anti-dumping amount is necessary or sufficient to offset dumping of the relevant goods in the UK market, and whether injury to the UK industry in the relevant goods would occur if the anti-dumping amount were no longer applied to those goods.
- [3] This submission is made on behalf of the China Chamber of Commerce for Imports and Exports of Light Industry Products and Arts-Crafts (CCCLA) and its members. CCCLA is a nationwide and industrial non-profit social organisation, composed of enterprises engaged in production, import and export of, inter alia, ceramics, glassware, tableware & kitchenware. Among other functions, CCCLA provides consulting services and training on law and policies, as well takes part in settling trade disputes and maintaining normal import and export order. Equally, CCCLA

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<sup>1</sup> The goods subject to review are described as 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, having the following commodity codes: 69 11 10 00 90, 69 12 00 21 91, 69 12 00 25 10, 69 12 00 21 11, 69 12 00 23 10 and 69 12 00 29 10.

<sup>2</sup> **Provisional measures** were imposed by way of Commission Regulation (EU) No 1072/2012 of 14 November 2012 imposing a provisional anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China, OJ L 318, 15.11.2012, p. 28–65. On 15 May 2013, the EU imposed **definitive duties** by way of Council Implementing Regulation (EU) No 412/2013 of 13 May 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, OJ L 131, 15.5.2013, p. 1. These **measures were continued following an expiry review** concluded by way of Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8–67.

<sup>3</sup> It is noted that the determination notice for transitioning the EU measure imposed on these specific goods has been published. See Notice of determination 2020/30: anti-dumping duty on ceramic tableware and kitchenware originating in the People's Republic of China at <https://www.gov.uk/government/publications/trade-remedies-notices-anti-dumping-duty-on-ceramic-tableware-and-kitchenware-from-china/notice-of-determination-202030-anti-dumping-duty-on-ceramic-tableware-and-kitchenware-originating-in-the-peoples-republic-of-china>.

organises members in responding to anti-dumping, countervailing and safeguard investigations initiated by foreign countries.

- [4] In this submission, CCCLA will show the lack of a legal basis in relation to the (re)imposition of the measures in the UK, as well as the transition review itself. As will be demonstrated by CCCLA, the only way in which the UK could lawfully adopt anti-dumping measures as currently in force is by conducting in full an independent investigation meeting the standards set by the World Trade Organisation (“WTO”) in its Anti-Dumping Agreement (“ADA”).
- [5] Moreover, as CCCLA will note in this submission, even if the legal requirements for the measures and the transition review were to be met, which is not the case, there would still not be a valid ground for a continuation of the measures. First, as will be demonstrated in this submission, the product scope of the measures shall be reduced to match the actual production mix by the UK industry. Second, there is a number of factors, including environmental considerations and attractiveness of the neighbouring markets. Indicating no likelihood of continuation or recurrence of injurious dumping, should the existing measures be terminated.
- [6] Moreover, CCCLA will demonstrate that due to two intertwined developments, continuing measures would even be against the UK’s economic interest.
- [7] CCCLA hereby reserves the right to present further evidence and arguments throughout any of the later stages of this proceeding. This includes hearings or meetings, which CCCLA may request in the due course of the proceeding. CCCLA also reserves its right to submit comments on the TRA's Statement of Essential Facts (SEF) once it becomes available.

## **2. LAWFULNESS AND VALIDITY OF MEASURES AND TRANSITION REVIEW**

### ***2.1. THE CONTINUATION OF EU MEASURES IN THE UK FOLLOWING BREXIT IS UNLAWFUL UNDER THE WTO ADA***

- [8] As set forth in the WTO ADA, an anti-dumping measure shall be applied only under the circumstances provided for the ADA. As such, Article 3.1 of the ADA clearly stipulates that:

*“A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports*

*on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.”*<sup>4</sup>

- [9] In the case at hand, it is entirely clear that the UK has not applied measures on the basis of a domestic investigation. Instead, the currently applicable measures in the UK are applied on the basis of an (old) investigation conducted by the European Commission, which was based on the EU basic Anti-dumping Regulation.
- [10] CCCLA also points out that the existing anti-dumping measure was not only imposed by the European Commission as investigating authority (as opposed to the TRA), it was also based on the EU concept such as the “Union industry” composed of 28 Member States, which at the time included the UK. This obviously means that the underlying determinations of dumping, injury, causality and public interest were all made by assessing the impact of imports on the entire EU market, as opposed to only the UK market.
- [11] Following Brexit, the UK has decided to continue the application of certain EU trade remedy measures in its domestic legal order by way of national laws.<sup>5</sup> CCCLA however questions the legality of this rollover mechanism under international law. As the UK has withdrawn from the EU legal order, there cannot be a situation of legal continuation. In other words, the UK cannot be regarded as a legal successor to the EU under international agreements, thereby acquiring its rights and obligations or legal status under any international agreement.
- [12] The point above can be best illustrated by pointing to the agreement that the UK itself had to enter into its trade arrangements with the EU. As per the EU-UK Trade and Cooperation Agreement of 30 April 2021, the UK had to enter into a new international agreement with the EU to govern trade aspects of its relationship with the EU following Brexit. Given that the UK itself had to enter into a new agreement in relation to its trade policy vis-à-vis the EU, it is incomprehensible how its trade policy vis-à-vis third countries could continue to be governed on the basis of EU policy, which were simply taken over by the UK following Brexit.
- [13] In CCCLA’s view, the UK was simply not entitled to continue applying EU measures in its domestic legal order following the Brexit. This is acknowledged in the EU’s own publication of 18 January 2021, where it stated that:

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<sup>4</sup> Article 3.1 of the WTO ADA. See also Article 5 of the WTO ADA specifying the conditions which must be met by such investigation. CCCLA maintains that, since the UK authorities have never conducted a separate and independent investigation, these conditions have not been met. In other words, the current transition review is based on an underlying EU market investigation, not one that was limited to the UK market specifically.

<sup>5</sup> See the European Union (Withdrawal) Act 2018, European Union (Withdrawal) Act 2019, as well as the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the “Regulations”).

*“All anti-dumping and anti-subsidy measures in force apply from 1 January 2021 only to imports into the twenty-seven Member States of the European Union.”*<sup>6</sup>

- [14] The fact that an alternative route, which seems more appropriate under UK and international law, in fact possible, is evidenced by another investigation conducted by the TRA. On 21 June 2021, the first UK anti-dumping investigation was initiated concerning imports of aluminium extrusions from China.<sup>7</sup> A provisional determination was published by the TRA on 17 August 2022 and the final determination was published on 16 December 2022.<sup>8</sup> As opposed to other proceedings, this is not a follow-on investigation of measures adopted at EU level, despite the fact that the EU launched its investigation and adopted provisional measures prior to Brexit.<sup>9</sup> Subsequent to the aluminium extrusion investigation, UK also initiated its own parallel anti-dumping and anti-subsidy investigations on single-mode optical fiber cables from China and the final determination has also been published.<sup>10</sup> Thus, in terms of both aluminium extrusions and single-mode optical fiber cables, although there are measures in the EU, the TRA chose to initiate UK’s own investigation rather than rolling over the EU measures.
- [15] Given that the same investigating authority, the TRA has already proven that another route, which appears to be more consistent and valid under the principles of international and UK domestic law, the TRA is requested to consider applying the same as regards the current transition review investigation on ceramic tableware and kitchenware, which should be conducted under the applicable UK legal regime, and a new investigation (instead of a transition review) should be launched with the parameters set out therein.

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<sup>6</sup> Notice of 18 January 2021 regarding the application of anti-dumping and anti-subsidy measures in force in the Union following the withdrawal of the United Kingdom and the possibility of a review (OJ C18, 18.1.2021, 41).

<sup>7</sup> See the notice of *“TRA opens first case in response to application from UK industry, the TRA will investigate whether aluminium extrusions are being dumped in the UK by businesses in the People’s Republic of China*, at <https://www.gov.uk/government/news/tra-opens-first-case-in-response-to-application-from-uk-industry>.

<sup>8</sup> See *Provisional Affirmative Determination in Aluminium Extrusions Imported into the United Kingdom from the People’s Republic of China, Provisional affirmative determination in a dumping investigation and a recommendation to require a guarantee* (Investigation No. AD0012), at <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/3f3d3876-1284-46f0-85a2-22d0ce5d09aa/>, and Final Determination at: <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/f0403051-4eef-4959-a1d4-f773f18b66be/>

<sup>9</sup> More specifically on 12 October 2020, see Commission Implementing Regulation (EU) 2020/1428 of 12 October 2020 imposing a provisional anti-dumping duty on imports of aluminium extrusions originating in the People’s Republic of China (OJ L. 336, 13.10.2020, p. 8).

<sup>10</sup> See Press release: *New investigations into imports of fibre optic cables from China. The TRA has opened an anti-dumping investigation and a countervailing investigation into imports of fibre optic cables from China*. Published on 26 April 2022. <https://www.gov.uk/government/news/new-investigations-into-imports-of-fibre-optic-cables-from-china>, and the final determination at: <https://www.trade-remedies.service.gov.uk/public/case/AS0022/submission/6d341560-c127-45dd-8834-77d395b12295/>

[16] It logically follows that the currently applicable UK anti-dumping measures on ceramic tableware and kitchenware are unlawful, as they are based on the findings of a separate investigating authority (the European Commission) which the UK itself does not belong to anymore. This is strengthened by the additional fact that these findings were drawn on the basis of an investigation covering the EU industry and market, rather than the UK ones. By merely taking over these measures, the UK is currently applying trade defence instruments, the permissibility of which were assessed by investigating imports' impact on the EU, not the UK domestic industry and market. As such, the continuation of these measures by the UK is not in line with the requirements set out by the WTO ADA.

## **2.2. THE UK TRANSITIONAL REVIEW IS INVALID UNDER THE WTO ADA**

[17] In CCCLA's view, not only are the currently applied measures in the UK invalid because they have been taken over from existing EU measures rather than based on an independent assessment taking into account the UK domestic industry and market, but also, the unlawfulness extends to the initiated transition review in itself.

[18] As set out in Article 11.2 of the WTO ADA:

*“The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review [...]”<sup>11</sup>*

[19] The UK transition review cannot be considered as a permissible review under Article 11.2 of the WTO ADA. This is because the reviewing authority (UK TRA) is different from the investigation authority which has assessed the need for the imposition of the original measures (the European Commission). Moreover, the UK transition reviews are not covered by Article 11.3 of the WTO ADA, which is concerning the concept of “expiry review”. As a matter of fact, UK transition reviews cannot be supported by any provision in the WTO ADA. Therefore, CCCLA maintains that such reviews are invalid under the WTO ADA and should be terminated immediately as a result, and if need be replaced by a domestic autonomous investigation that covers the UK market as a whole.

## **2.3. Conclusion on the validity of UK measures and transition review**

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<sup>11</sup> See Article 11.2 of the WTO ADA.

- [20] In view of the above, i.e., the conclusion that both the continued imposition of EU measures in the UK following Brexit, and the attempt to legalise this situation by conducting a UK transition review of these measures are unlawful under the WTO ADA, CCCLA is of the view that the UK can only remedy the situation by immediate revocation of the measures.
- [21] To be clear, as a WTO member, the UK is of course entitled to launch an investigation into the impact of any imports onto its domestic industry and market. It has the right, as every other WTO member, to protect the domestic market under the conditions set out in the WTO ADA. However, this does not entitle the UK to impose measures on the basis of an investigation which was not conducted vis-à-vis the UK domestic industry or market, or on the basis of a review of such measures applied to the UK domestic industry or market.
- [22] In view of the above, CCCLA respectfully requests the TRA to regularise this unlawful situation by terminating the currently applicable measures, as well as ongoing transition review.

### **3. SUBSTANTIVE COMMENTS IN RELATION TO THE TRANSITION REVIEW**

- [23] Pursuant to Regulation 99A of the Regulations, the objective of the transition review is to identify whether (i) dumping of the goods or the importation of the goods subject to review would be likely to continue or recur if the anti-dumping amount or countervailing amount were no longer applied to those goods; and (ii) injury to a UK industry in the goods would be likely to continue or recur if the anti-dumping or countervailing amount were no longer applied to those goods.
- [24] In this section, CCCLA will provide comments as to why it considers that these requirements are not met substantively. It should be noted that these comments should not in any way be interpreted as any implication on CCCLA's side in relation to the unlawfulness of the measures. In other words, whereas CCCLA remains convinced of the unlawfulness of the measures, it still will provide its view as to why, even if the measures were to be considered lawful, their continuation should still be rejected on substantive grounds.

#### ***3.1. PRODUCT SCOPE***

- [25] In this respect, it should be kept in mind that the initial investigation was conducted by the European Commission in view of the Union industry and the EU-28 market, not the UK one. Accordingly, the EU determination cannot automatically be applied to the UK market. Indeed, any conclusion of the initial investigation applied only to the Union industry and EU market.

- [26] In this regard, the discrepancy between the underlying EU investigation and the scope of the UK's transition review becomes immediately clear. As set out in the pre-sampling questionnaires of an anonymous UK importer,<sup>12</sup> it becomes apparent that UK industry does not manufacture ceramic *“accessory and gift pieces that we buy, such as ovenware, bakers, coddlers, oils and vinegars”*, a portion of goods subject to the UK's transition review.
- [27] Given the above, which already highlights the practical implications of the problematic situation caused by an EU-28-wide investigation, followed by a UK-specific transition review, the TRA is requested at the very least to exclude any products which are not or insufficiently produced in the UK from the scope of its transition review, should it be of the view that the current transition review would continue, which CCCLA strongly disputes. A more preferable way forward would indeed be to open a separate UK domestic investigation and therefore re-define a correct product scope thereunder.

### **3.2. MARKET SEGMENTATION: PREMIUM<sup>13</sup> V. GENERIC CERAMICS**

- [28] Another importer<sup>14</sup> points to the ceramic tableware market segmentation into “premium” or “branded” segment and “generic” or “mass-market” segment.
- [29] CCCLA joins this comment and submits that several elements between cost and selling price are particularly important to the product under consideration: the brand name of the product as well as the producer, and the consumer perception of such brand premium. Moreover, the European Commission, i.e., an investigating authority in the original anti-dumping investigation, established that *“Branded products are normally perceived by customers to be products signifying a certain prestige, assured quality and design thus commanding higher market prices whereas generic (private label) products, whilst having the same physical and technical characteristics, are usually sold at considerably lower price levels.”*<sup>15</sup>
- [30] In this context, the comparison between potentially branded products produced in the UK with generic products produced in China would inevitably lead to a flawed undercutting and underselling findings. Therefore, CCCLA respectfully requests the TRA to consider market segmentation element when conducting the assessment in the present transition review.

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<sup>12</sup> See public records of the case for electronic file titled: *“TD0056 - Pre-Sampling Questionnaire (Importer)\_20240516090136 (1) - NON CONFIDENTIAL.odt”*, uploaded on 12 July 2024.

<sup>13</sup> It was consistently confirmed by the Commission in both Initial and Extending Regulations, that these anti-dumping measures primarily targets generic segment since it is mostly present in the EU.

<sup>14</sup> See Replies to Pre-Sampling Questionnaire (Importer) of Inter Table Top Company.

<sup>15</sup> See Recital 100 of the Commission Regulation (EU) No 1072/2012.

**3.3. GENERIC CERAMIC TABLEWARE AS A COMMODITY GOOD, AND THE ATTRACTIVE OF DOMESTIC AND EXPORTING MARKET IN NEIGHBOUR COUNTRIES**

- [31] CCCLA would like to elaborate on the nature of the key forces driving both global and national markets of ceramic tableware. Ceramic tableware in generic/non-branded segment represents a commodity good, which is a standardised bulk product, homogenous, interchangeable and indistinguishable from other products of the same type.<sup>16</sup>
- [32] The economic model of perfect competition, often used to describe commodity markets, assumes a large number of identical firms, perfect information and adequate entry and exit.<sup>17</sup> Commodity markets are focused on cost reduction and efficiency improvements to maintain turnover and profitability in a competitive environment.
- [33] In a highly competitive market with fragmented production industry and many sellers – like it is the case of ceramic tableware industry in China, the UK and other countries – individual companies have little to no market power. They are price takers, meaning they must accept the prevailing market price determined by supply and demand forces.<sup>18</sup> It significantly limits their ability to manipulate prices for strategic purposes.
- [34] Since generic ceramic tableware produced at large scale in China shall be considered as a commodity good due to its standardised nature and lack of significant differentiation, its market is primarily driven by supply and demand forces, with price and costs being the critical factors influencing consumer and producer choices.
- [35] Given the focus on cost efficiency, markets that are geographically close and offering high turnover are particularly attractive to Chinese producers. This is because geographic proximity means lower shipping expenses, enhancing profit margins, and shorter delivery times, allowing higher turnover and enhancing the economies of scale.
- [36] Based on the above criteria, Chinese ceramic tableware producers are keener to serve primarily the domestic market, followed by geographically close Southeast Asian countries with growing middle-class consumers that push demand for

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<sup>16</sup> Commodities Versus Differentiated Products, available at <https://www.extension.iastate.edu/agdm/wholefarm/pdf/c5-203.pdf>.

<sup>17</sup> *Perfect Competition: Examples and How It Works*, available at <https://www.investopedia.com/terms/p/perfectcompetition.asp>.

<sup>18</sup> *Perfect competition and why it matters*, available at <https://www.khanacademy.org/economics-finance-domain/microeconomics/perfect-competition-topic/perfect-competition/a/perfect-competition-and-why-it-matters-cnx>.

ceramic tableware. Middle East markets present opportunities for both premium and budget-oriented products as they offer a mix of high-income consumers and dense populations. Due to long shipping distances and present logistic problems,<sup>19</sup> UK market might remain interesting but definitely not priority market for Chinese producers.

- [37] Given the observations on commodity markets, CCCLA respectfully requests the TRA to take into due account the main market drivers in generic ceramic tableware segment, when analysing the likelihood of continuation or recurrence of injurious dumping from China.

#### **3.4. CCCLA'S REMARKS ON THE ISSUE OF PARTICULAR MARKET SITUATION (PMS)**

- [38] CCCLA understands that the question of a potential Particular Market Situation (PMS) has been included in the registration form for interested parties and contributors. It is CCCLA's principal view that the alleged PMS does not exist in China. CCCLA notes that Regulation 7(4) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 specifies the scope of PMS:

A "particular market situation" includes situations where—

- (a) prices are artificially low;
- (b) there is significant barter trade;
- (c) prices reflect non-commercial factors.

- [39] CCCLA believes that none of these scenarios exists in the Chinese ceramic industry, or the upstream market based on that fact that:

- 1) Pricing for all ceramic tableware is negotiated by sellers and customers in market conditions. There is no existence of "artificially low prices".
- 2) there is also no barter trade.
- 3) There is also no existence of "non-commercial factors". The Chinese government is not involved in pricing processes.

- [40] At the same time, CCCLA understands that the Chinese ceramic tableware industry and its upstream raw material supply chain are predominantly composed of privately-owned companies.

- [41] Even if PMS were to exist, *quod non*, it is evident from the provisions that the mere presence of a PMS is not sufficient for disregarding domestic sales. The TRA must conduct an investigation to see whether the existence of PMS results in incomparability between export prices and domestic prices. In other words, after

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<sup>19</sup> See details at <https://www.maersk.com/insights/resilience/2024/07/09/effects-of-red-sea-shipping>.

identifying a PMS, the TRA shall first determine if the PMS inhibits a proper comparison between the domestic sales and the export sales of like goods from the exporting country. In such instances, TRA shall then apply the “non-comparable price” as defined in Regulation 8(1). This involves the construction of a normal value based on either:

- (a) the company’s own costs of production plus a reasonable amount for administrative, selling and general costs and for profits; or
- (b) the price of the like goods when exported to an appropriate third country or territory provided that price is representative.

[42] Only in very exceptional cases where the situation meets the criteria of Regulation 14, can TRA depart from a company’s own book and records and opt for an appropriate third country comparison. This refers to the situation described in Regulation 14(1), where the exporting countries or territories

- (a) that are not members of the WTO;
- (b) that are members of the WTO but the terms of their membership contain specific provisions regarding the determination of the normal value; or
- (c) where there is a complete or substantially complete monopoly of its trade and where all or substantially all domestic prices are fixed by the government.

[43] CCCLA remains confident that China does not fall into any of these categories. Moreover, CCCLA notes that this provision imposes more stringent requirements than PMS. Therefore, the mere presence of a PMS does not inherently validate the use of an analogous methodology.

[44] As a conclusion, CCCLA wishes to emphasize that:

- (1) PMS does not exist in the Chinese ceramic tableware industry;
- (2) Even if PMS were to exist, it does not constitute a direct reason for the TRA to disregard the domestic sales information in China;
- (3) In any case, PMS itself is not a sufficient reason for the TRA to depart from a company’s own book and records and find for an appropriate third country.

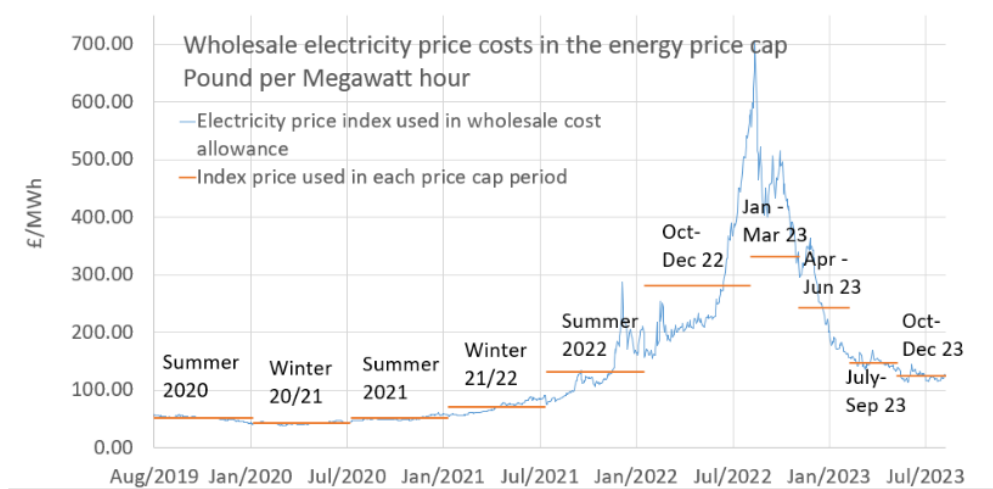
### ***3.5. IMPACT OF ENERGY PRICE HIKE***

[45] CCCLA submits that cost factor of natural gas and electricity is a crucial component in the ceramic tableware production process. Ceramic tableware production is an energy-intensive process, requiring significant amounts of electricity for various stages, including (1) kiln firing – the most energy-consuming step, where the greenware (unfired ceramic pieces) are heated to high temperatures to transform them into finished products, (2) drying, the process of removing moisture from the greenware before firing, (3) molding, i.e., shaping of the clay into desired forms, often using electric machinery and (4) application of glaze coatings, which may require electric heating for drying and firing.

[46] Gas and electricity costs can represent a substantial portion of the overall production costs, especially in regions with high energy prices. This can directly impact the profitability of ceramic tableware manufacturers.

[47] For example, in 2022-2023, the electricity prices in the UK soared, as the consequence of an energy supply shortage,<sup>20</sup> which severely impacted Europe and was further aggravated by the military conflict in Ukraine since late February 2022.

**Wholesale electricity price costs in the energy price cap**



[Source: UK Office of Gas and Electricity Markets.]

[48] Shown in the graph above, electricity price trends in 2020-2023 proves multiplication of energy prices in 2022. The same trends were applicable to other sources of energy such as natural gas. Since energy is a significant cost factor in ceramic tableware production, the UK producers were forced to bear this essential cost.

[49] Therefore, the TRA is requested to take into due account the UK exceptional increase of price for energy in 2022-2023 and objectively differentiate the impact of energy prices in the UK and effects of Chinese imports on the UK industry of ceramic tableware.

**3.6. EMERGING ENVIRONMENTAL POLICIES**

[50] Present analysis in favour of termination of the present measures is further strengthened by the fact that China is imposing far-reaching environmental

<sup>20</sup> Details on global energy crisis are available via link: <https://www.statista.com/topics/8604/energy-supply-shortage-2021/>.

regulations, which decrease Chinese production of the goods subject to the transition review, thereby decreasing imports of those goods. What is important to highlight is that those regulations are merely environmental ones which are used for general welfare of the society. Therefore, reference to those regulations must not be linked to any allegation on a “particular market situation”, as explained above.

- [51] At a macroeconomic level, the implementation of Chinese government’s “carbon peaking and carbon neutrality” goals and other stricter environmental protection objectives have led to policies published by central government and local authorities that reduced the production of ceramic products. Such reduction in production was expected to be of lasting nature.
- [52] Since the official implementation of the “Comprehensive Emission Standards for Regional Air Pollutants in Shandong Province” on 1 September 2013, as of the end of 2014, more than 100 ceramic enterprises in Linyi City have been integrated into more than 60 enterprises. The facilities that failed to meet the standards within the prescribed period have chosen to shut down or switch production and exit the market. Out of 192 ceramic enterprises in Zibo City, 185 have completed the deadline for remediation tasks, while dozens of enterprises in the ceramic and refractory industries have chosen to shut down or switch careers due to failure to meet the re-quired standards.
- [53] In 2017, Shandong Province of China issued the “Implementation Rules for the Action Plan for Comprehensive Control of Air Pollution in the Beijing Tianjin Hebei and Surrounding Areas in the Autumn and Winter of 2017-2018”, which required seven transmission channel cities significantly reduce the average concentration of PM2.5 and the number of days with heavy pollution. For the ceramic industry, it was required that all ceramic industries in seven transmission channel cities ceased production during the heating season, i.e., November to March of the following year.
- [54] In 2018, Shandong Province issued the “Three Year Action Plan for Strengthening Pollution Source Prevention and Promoting the ‘Four Reductions and Four Increases’ (2018-2020)”, which required all ceramic industries in provincial capital city clusters and transmission channel cities, except for those operating on natural gas, to cease production during the heating season, i.e., November to March of the following year. At the same time, it is proposed to accelerate the substitution of clean energy for industrial furnaces in the ceramic industry and gradually shut down existing coal-fired furnaces in batches.
- [55] In 2022, Shandong Province issued the “Alternative Measures for Carbon Emission Reduction”, which stipulated that for newly proposed projects increasing carbon

emissions, alternative sources must be implemented through other means to reduce carbon emissions. The alternative sources are carbon emission reductions formed by enterprises above designated scales. The measures clearly included the ceramic industry in the scope of high energy consumption and high emissions (“two highs”) industries, strictly limited the discretion of enterprises to expand the production capacity and increase carbon emissions and forced them to pursue transformations and upgrade.

- [56] Finally, in May 2024, the Interim Regulations on the Management of Carbon Emission Trading were implemented. Guangdong Province, as an early pilot area, included the ceramic industry in the scope of carbon emission management and trading, involving 132 ceramic enterprises with annual emissions of over 10 000 tonnes of carbon dioxide. After being included in the scope of carbon emission trading, the price of carbon indicators goes sharply up. As a result, the production cost of enterprises will be significantly increased, and some enterprises will inevitably face the choice of increasing investment in equipment upgrading and transformation or stopping production and operation, as it was early the case in Shandong Province.
- [57] On the other hand, Chinese market observes increased consumption domestically. According to data from Zhiyan Consulting, the demand for daily ceramics in China has been increasing year by year since 2015, with a demand of approximately 46.08 billion pieces in 2022, a year-on-year increase of 6%, and a market size of approximately 94.03 billion yuan.
- [58] According to data from the National Bureau of Statistics, from 2011 to 2022, both the e-commerce transaction volume and online retail sales in China continued to rise, with online retail sales increasing from 0.78 trillion yuan to 13.79 trillion yuan. The booming development of online re-tail has also driven the increasing consumption of daily ceramics in the Chinese domestic market year by year. Considering both market entities and product categories, daily necessities account for the top three in terms of the number of online retail stores and online retail sales (China E-commerce Report 2022).
- [59] Foshan takes the industrial supply chain as the entry point, centralises the procurement of ceramic enterprises on the platform, achieves centralised and transparent procurement, explores a new path of “digital economy and Foshan manufacturing”, and is committed to expanding the domestic market through e-commerce platforms (China E-commerce Report 2022).

## 4. UK ECONOMIC INTEREST TEST

### 4.1. GENERAL COMMENTS

- [60] Pursuant to Regulation 100A(2)(a) of the Regulations, anti-dumping measures may only be applied if the UK economic interest test is met.
- [61] CCCLA would like to highlight two intertwined developments, that taking together, mean that this moment in time is not an appropriate to continue measures.
- [62] As published by the HM Treasury,<sup>21</sup> independent forecasts for the UK economy projected a gradual expansion (GDP figures) by 0.4% in 2024, followed by a further increase of 1.4% in 2025. In CCCLA's view, this growth can only be supported if UK downstream users and consumers have cost-effective access to a wide variety of products across sectors, including in relation to the product under consideration.
- [63] In order to provide a sufficiently broad supply base to fuel this expected growth, imposing or maintaining trade defence measures at this moment in time would be counterproductive and in fact threaten to undercut the expected growth, to the detriment of UK downstream users and the UK economy as a whole. This is especially true when considering the market-specific circumstances in relation to ceramic tableware.
- [64] Ceramic tableware is a final product. This means the anti-dumping duty directly hits UK consumers and inflationary trends as there is no intermediate industry to absorb the increased cost. The TRA has to bear in mind that UK low-income consumers are likely to suffer the most since they are the main customers of generic ceramic tableware.
- [65] In addition, as revealed above, the UK producers do not manufacture all types of ceramic tableware and kitchenware. Those products, which are no longer manufactured in the UK, are produced in third countries, including China. Certain large UK producers complete their product portfolio with these products and therefore are dependent on a reliable source of supply from China. Anti-dumping duties would have a continuing negative effect on them.

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<sup>21</sup> Official Statistics, Forecasts for the UK economy: April 2024, available at <https://www.gov.uk/government/statistics/forecasts-for-the-uk-economy-april-2024>.

***4.2. SPECIFIC COMMENTS ON THE IMPORTS CHINESE CERAMIC TABLEWARE IN RELATION TO THE UK ECONOMIC INTEREST***

- [66] The Chinese ceramics industry has for many years been in the status of full competition with the European ceramics industry. The high price-performance ratio and rich product diversity are also the result of this full competition.
- [67] According to CCCLA's initial research on the UK ceramics tableware industry, it can be found that the number of ceramic manufacturers in the UK is very limited, probably in the range of ten. These companies have their own specialities in terms of segments, target customers, sales channels, etc.
- [68] Denby Pottery is renowned for its wide range of high-quality ceramics for tableware, cookware and decorative items. In recent years it has acquired a number of other traditional UK ceramic brands.
- [69] Mason Cash is known for its uniquely designed and quality crafted baking and kitchen ceramicware, including baking bowls, mixing bowls, bread pans, pastry trays, and more, which are widely used in both home and professional kitchens.
- [70] Mr. Pottery specialises in creating unique and artistically valuable high-end ceramic vases, bowls, plates, tea sets and other decorative items with attention to detail and craftsmanship.
- [71] Burleigh Pottery is renowned for its unique handmade underglaze cotton paper print decoration technique for traditional English ceramics, including coffee cups, tea sets and plates, continuing the long tradition of English ceramics.
- [72] These UK companies achieve a relatively high market share through the specific product type, target market, sales channels and other aspects of differentiated positioning, in their respective market segments to. For example, from the product type, some focus on daily-use ceramics tableware, some focus on art ceramics. From the perspective target customers, some focus on ordinary families, some aim at the high-end gift market. From perspective the sales channels, some focus on physical shops, some on online sales.
- [73] Due to the small number of participants, this market pattern makes the level of the UK ceramics market low. Certain companies almost enjoy a monopoly situation. This provides them with a high negotiation power, which maintain a relatively high level of product prices.
- [74] Such a situation is completely from full competition of the ceramic industry in China.

- [75] There are high numbers of ceramic factories in China, with any of the top ten ceramic production areas having more factories than the UK. In Chaozhou, Dehua, Liling such a large-scale ceramic production area, hundreds of enterprises rely on locally available raw materials, energy, land, labour resources to produce similar ceramic products. If there is no special technological advantages, product characteristics or management capabilities, it is difficult to stand out from the many competitors. Big industrial scale, on the one hand, provides Chinese producers with a mature and complete upstream and downstream industrial chain, and reduces the cost of raw materials and production materials; and on the other hand, enhances the building of steps for the technology, process and management.
- [76] Due to the large number of local enterprises, it becomes difficult (if not negligible or non-existent) for individual producer to receive any supporting policy from the government. In Handan, Tangshan, Zibo, such as medium-sized origins, the ceramic industry is treated as a high-pollution, high-energy industries, the industry continues to shrink. Policies to promote the development of the ceramic tableware industry policy is clearly insufficient. According to CCCLA's statistics, out of the 416 exporting producers that received lower anti-dumping duties, ten percent have closed down, and another ten companies have withdrawn from export market and instead focus on the domestic market or other products. The individual (lower) anti-dumping duty rates do not prevented these companies from stopping the exporting activities.
- [77] It is therefore CCCLA's view that, at first, the advantage of the Chinese ceramic industry is the scale of full competition. The Chinese ceramic tableware export price is also the most in line with the international market price. Producers in the UK and other countries such as Germany, Turkey, Portugal are limited by the small number of ceramic producers in their respective countries, which is not able form a fully competition, and thus the ceramic companies in these countries would be able obtain a kind of controlling power in the market.
- [78] Second, after Brexit, the UK market is independent of the European Union one, the market power of the UK ceramic producer has received further protection, which leads to an even less competitive market price, at the cost of the vast majority of UK consumers. If, in order to protect the relative monopoly position of the UK ceramic producers, anti-dumping duties on Chinese imports continue, it will be against the overall interest of the UK consumers. Lower income families who are already suffering from the inflation will have to choose cheaper plastic tableware that is prone to cascading odours, glass tableware that is prone to blowing up, or metal tableware which might be too hot to the touch.
- [79] Third, even if the UK imposes no restriction on the import of Chinese ceramic tableware, judging from the long-term trend, China's ceramic tableware production will decline year by year, the price will rise year by year. Firstly, China's birth rate

has entered a downward trend, the labour force, which the ceramic industry requires, indicates a shrinking trend. Secondly, the capital, land and labour resources that the ceramic industry requires, will be gradually transferred to higher value-added industries with the transformation of China's economy. Thirdly, Chinese consumers have an increasing preference to buy higher quality goods, therefore better product will be kept in the Chinese market. In recent years, Chinese consumers' preference for medium-high end ceramic tableware has risen, higher quality and designer brand ceramic tableware market has a great potential in the domestic market. In terms of those producers with a higher recognition, they are not willing to open another low-end production line to cater for foreign customers. They consider their brand name more important than certain volume of export sales

[80] Fourth, since 2012 and till now, the original (EU) anti-dumping duties have been in place for eleven years. During the eleven years, the UK ceramic industry has not gained extraordinary development even under the protection of the anti-dumping duty. The main reason is still the limit of the industry and the space of the development.<sup>22</sup> Over the years, some UK ceramic brands teamed up with Chinese factories, made supplements through the cooperation with the Chinese industry, so as to obtain the ability to expand the influence of the market in a wider range. Chinese ceramic producers became a stable and reliable partner of the UK ceramic brands, and as a return, the UK ceramic brands have a high reputation in the hotel industry and high-end consumer groups in China. Since an increasing spending power along with the 1.4 billion population in China, the UK ceramic tableware brands can get a larger market space with a great potential.

[81] To conclude, co-operation between the UK and Chinese ceramic industries will remove unnecessary trade barriers, which will eventually benefit both producers and consumers in the UK and China. CCCLA requests the TRA to take this into account throughout the investigation and therefore refrain from imposing the anti-dumping measure.

## 5. CONCLUSION

[82] In this submission, CCCLA has first set out its views on the legality of measures and the transition review, which it considers manifestly unlawful. The only possible way for the UK to remedy this situation is to abandon the measures which have originated at the EU-level and start over with its own investigation.

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<sup>22</sup> The depth of the industry refers to a mature production chain, a huge number of specifications, technology, formula and design, as well as a stable and reliable production.

- [83] Additionally and separate from the issue of legality, CCCLA has shown the various issues, including product scope, which is an important element in the injury analysis. In addition, stricter environmental regulations in China will lead to decreasing production of ceramic industry in China, as well as decreasing imports of those goods to the UK.
- [84] Finally, CCCLA has shown that continuing the anti-dumping measures would not at all be in the UK's broader economic interest.
- [85] For all the reasons set out above in this submission, CCCLA believes that the termination of the current investigation is warranted. CCCLA reserves its legal right to make further comments at a later stage of this proceeding.

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