



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

**amending Council Regulation (EC) No 74/2004 imposing a definitive countervailing duty
on imports of cotton-type bedlinen originating in India**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community as last amended by Council Regulation (EC) No 461/2004 of 8 March 2004 ("the basic Regulation") in the proceeding concerning imports of cotton-type bedlinen, originating in India.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 74/2004¹, amended by Council Regulations (EC) No 2143/2004² and No 122/2006³, imposing a definitive countervailing duty on imports into the Community of cotton-type bedlinen, originating in India.

Proposal for granting new exporting producer treatment to new exporters to the Community.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The applicant and the Community industry have been informed of the findings of the examination and have had the opportunity to submit their comments.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment but contains an

¹ OJ L 12, 17.1.2004, p. 1.

² OJ L 370, 17.12.2004, p. 1.

³ OJ L 22, 26.1.2006, p. 3.

exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

By Regulation (EC) No 74/2004 the Council imposed a definitive countervailing duty on imports into the Community of cotton-type bedlinen originating in India.

During the original investigation, given the large number of exporters/producers of the product concerned in India, a sample of exporting producers was chosen. Individual duty rates ranging from 4.4% to 10.4% were imposed on the companies selected in the sample, while other co-operating companies not included in the sample were attributed a duty rate of 7.6%. A residual duty rate of 10.4% was imposed on companies which either did not make themselves known or did not co-operate in the investigation.

Article 2 of Council Regulation (EC) No 74/2004 gave the possibility to Indian exporters/producers which met the criteria set out in the same Article not to be treated differently from the co-operating companies not included in the sample ('newcomer status').

Council Regulation (EC) No 74/2004 has been amended twice, namely by Council Regulation (EC) No 2143/2004 and by Council Regulation (EC) No 122/2006. Both Regulations added the names of companies exporting the product concerned originating in India who met the criteria set out in Council Regulation (EC) No 74/2004 to the list of Indian exporting producers in the Annex to the Regulation.

Six of the 19 Indian exporters/producers who requested the newcomer status provided evidence which was considered sufficient to amend Council Regulation (EC) No 74/2004 by adding their names to the list of companies subject to the weighted average duty margin of 7.6%.

It is therefore proposed that the Council adopt the attached proposal for a Regulation, which should be published in the Official Journal as soon as possible.

- **Legal basis**

Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community as last amended by Council Regulation (EC) No 461/2004 of 8 March 2004.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The form of action is described in the above-mentioned Regulations and leaves no

scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

The above-mentioned basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 74/2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁴ (the 'basic Regulation'),

Having regard to Article 2 of Council Regulation (EC) No 74/2004 of 13 January 2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India⁵,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) By Council Regulation (EC) No 74/2004, the Council imposed a definitive countervailing duty on imports into the Community of cotton-type bedlinen falling within CN codes ex 6302 21 00 (TARIC codes 6302 21 00 81, 6302 21 00 89), ex 6302 22 90 (TARIC code 6302 22 90 19), ex 6302 31 00 (TARIC code 6302 31 00 90) and ex 6302 32 90 (TARIC code 6302 32 90 19), originating in India. Given the large number of co-operating exporting producers of the product concerned in India, a sample was selected in accordance with Article 27 of the basic Regulation and individual duty rates ranging from 4,4 % to 10,4 % were imposed on the companies included in the sample, while other co-operating companies not included in the sample were attributed a duty rate of 7,6 %. A residual duty rate of 10,4 % was imposed on all other companies.
- (2) Article 2 of Council Regulation (EC) No 74/2004 (the 'original Regulation') stipulates that where any new exporting producer in India provides sufficient evidence to the Commission that it did not export to the Community the products described in Article 1(1) during the investigation period (1 October 2001 to 30 September 2002)(the 'first

⁴ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁵ OJ L 12, 17.1.2004, p. 1. Regulation as last amended by Regulation (EC) No 122/2006 (OJ L 22, 26.1.2006, p. 3).

criterion'), that it is not related to any of the exporters or producers in India which are subject to the anti-subsidy measures imposed by that Regulation (the 'second criterion') and that it has actually exported to the Community the products concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community (the 'third criterion'), then Article 1(3) of that Regulation can be amended by granting the new exporting producer the duty rate applicable to the co-operating companies not included in the sample, i.e. 7,6 %.

- (3) The original Regulation has been amended twice by amending Regulations, namely Council Regulation (EC) No 2143/2004⁶, and Council Regulation (EC) No 122/2006⁷. Both Regulations have added to the list of Indian exporting producers in the Annex to the Regulation the names of companies exporting the product concerned originating in India who satisfied the Commission's services that they met the criteria set out in the original Regulation.

B. NEW EXPORTERS/PRODUCERS' REQUESTS

- (4) 19 Indian companies applied to be granted the same status of the companies co-operating in the original investigation not included in the sample ('newcomer status') since the publication of the previous amending Regulation.
- (5) The 19 applicants were:

Applicant Company	City
B.K.S Textiles Private Limited	Coimbatore
Indian Arts & Crafts Syndicate (IACS)	New Delhi
Mittal International	Panipat
Esskay International	Mumbai
Opera Clothing	Mumbai
Govindji Trikamdas & Co.	Mumbai
Navnitlal Private Limited	Mumbai
Tulip Exim	Mumbai
Aarthi - A1 – Traders	Karur
Anjani Synthetics Limited	Ahmedabad
Home Concepts	New Delhi

⁶ OJ L 370, 17.12.2004, p. 1.

⁷ OJ L 22, 26.1.2006, p. 3.

Siyaram Silk Mills Limited	Mumbai
Ramlaks Exports Pvt. Ltd.	Mumbai
Oracle Exports	Mumbai
Sellon Dynamics	Mumbai
Synthesis Home Textiles	Karur
Devtara Industries	Muradnagar
Summer India Textile Mills	Salem
Prathishta Weaving and Knitting	Coimbatore

- (6) Four companies requesting newcomer status did not reply to the questionnaire intended to verify that they met the conditions set out in Article 2 of Council Regulation (EC) No 74/2004, and their requests had, therefore, to be rejected.
- (7) One company returned the questionnaire twice, both times incomplete and with contradictory information. The third questionnaire sent to the company was not returned and as such it was unable to prove that it complied with the criteria to be granted new exporting producer status. That company's request was therefore rejected.
- (8) The remaining 14 companies submitted complete replies to the questionnaire and were therefore considered for newcomer status.
- (9) The evidence provided by six of the above-mentioned Indian exporters/producers is considered sufficient to grant them the duty rate applicable to the co-operating companies not included in the sample (i.e. 7.6%) and consequently to add them to the list of exporters/producers in the Annex (the 'Annex') to Council Regulation (EC) No 74/2004, as amended by Council Regulation (EC) No 2143/2004 and Council Regulation (EC) No 122/2006.
- (10) The remaining eight companies had their applications for new exporting producer status rejected for the following reasons:
- (11) Seven companies failed to provide evidence that they had exported the product concerned after the investigation period to the EC or that they had irrevocable contractual obligations to export the product concerned in significant quantities to the EC.
- (12) One company is related to one company already listed in the original Regulation and its application for newcomer status was therefore rejected as it failed the second criterion mentioned in Article 2 of the original Regulation.
- (13) Companies for which newcomer status was not granted were informed of the reasons of this decision and given an opportunity to make their views known in writing.

- (14) All arguments and submissions made by interested parties were analysed and duly taken into account where warranted.

HAS ADOPTED THIS REGULATION:

Article 1

The following companies shall be added to the list of producers from India listed in the Annex to Council Regulation (EC) No 74/2004:

Company	City
Indian Arts and Crafts Syndicate	New Delhi
M/s. Opera Clothing	Mumbai
Anjani Synthetics Limited	Ahmedabad
Ramlaks Exports Pvt Ltd	Mumbai
Oracle Exports Home Textiles Pvt Ltd	Mumbai
Summer India Textile Mills (P) Ltd	Salem

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*