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COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

amending 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 74/2004[1], amended by Council Regulations (EC) No 2143/2004[2], No 122/2006[3] and No 1840/2006[4] 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 applicants 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**

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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.
4 OJ L 355, 15.12.2006, p.4.

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 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 for the sample, while other co-operating companies not included in the sample received 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 three times, namely by Council Regulation (EC) No 2143/2004, by Council Regulation (EC) No 122/2006 and by Council Regulation (EC) No 1840/2006. All three 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.

Two of the twenty Indian exporters/producers who requested 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.

- **Subsidarity 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.

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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 Community[5] (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 bed linen originating in India[6],

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

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 74/2004[7](the 'original Regulation'), the Council imposed a definitive countervailing duty on imports into the Community of cotton-type bed linen 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 cooperating exporting producers of the product concerned in India, a sample of Indian exporting producers was selected in accordance with Article 27 of Council Regulation (EC) No 2026/97 ('the basic Regulation') [8] and individual duty rates ranging from 4.4% to 10.4% were imposed on the companies included in the sample, while other cooperating 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.

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5 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).

6 OJ L 12, 17.1.2004, p. 1. Regulation as last amended by Regulation (EC) No 1840/2006 (OJ L 355, 15.12..2006, p. 4).

7 OJ L 12, 17.1.2004, p. 1.

8 Council Regulation (EC) No 2026/97, OJ L 228 21.10.1997, p. 1. as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

(2) Article 2 of Council Regulation (EC) No 74/2004 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 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 may be amended by granting the new exporting producers 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 three times, by Council Regulation (EC) No 2143/2004[9], Council Regulation (EC) No 122/2006[10] and Council Regulation (EC) No 1840/2006[11]. All three Regulations have added to the annex the names of companies exporting the product concerned, which met the criteria set out in the original Regulation.

B. NEW EXPORTER/PRODUCER REQUESTS

(4) Twenty Indian companies applied to be granted the same status as 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 20 applicants were:

Applicant Company	**City**
K.K.P. Textiles Limited	Tamil Nadu
Kashmiri Lal Tarun Khanna PVT LTD	Amritsar
Premier Polyweaves Private Limited	Coimbatore
Home Fashions International	Kerala
Y.J. Enterprises	Mumbai
KaLaM Designs	Ahmedabad
Himatsingka Linens	Bangalore
S.K.T. Textile Mills	Coimbatore
Shetty Garments Private Ltd.	Mumbai

9 OJ L 370, 17.12.2004, p. 1.
10 OJ L 22, 26.1.2006, p. 3.
11 OJ L 355, 15.12.2006, p. 4.

TAVOY Workwear	Mumbai
Orient Craft Limited	Haryana
GHCL Limited	Gujarat
Indo Count Industries Limited	Mumbai
Vijayeswari Textiles Limited	Coimbatore
Nest Exim	Mumbai
Prakash Textiles	Coimbatore
Prakash Woven Private Limited.	Coimbatore
Sotexpa Qualidis Textiles India Private Ltd	Coimbatore
BKS Textiles Pvt. Ltd	Coimbatore
JDA Textiles	Chennai

(6) Eleven companies 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 therefore had to be rejected.

(7) The remaining nine companies submitted complete replies to the questionnaire and were therefore considered for newcomer status.

(8) The evidence provided by two of the above-mentioned Indian exporting/producers is considered sufficient to show that they fulfil the criteria set out in the original Regulation and therefore to grant them the rate of duty applicable to the co-operating companies not included in the sample (i.e. 7,6%) and consequently to add them to the list of exporting producers in the Annex to Council Regulation (EC) No 74/2004, as amended by Council Regulation (EC) No 2143/2004, Council Regulation (EC) No 122/2006 and Council Regulation (EC) No 1840/2006.

(9) The remaining seven companies had their applications for new exporting producer status rejected for the following reasons.

(10) Two companies failed to provide evidence that they had exported the product concerned to the EC after the investigation period or that they had irrevocable contractual obligations to export the product concerned in significant quantities to the EC. Thus they did not fulfil the third criterion.

(11) One company failed to provide the sales ledger for the period considered and was thus unable to show that it had not exported the product concerned during the investigation period. Another company was found to have exported the product concerned during the investigation period. These companies therefore did not fulfil the first criterion.

(12) One company sent the reply to the questionnaire after the deadline and crucial documents were missing from the application. One other company did not reply to a deficiency letter requesting more information. These two companies had thus not provided sufficient evidence to show that they fulfilled the criteria set out in the original Regulation.

(13) Finally, one company was found to be related to one that was named in the original Regulation and its application for newcomer status was therefore rejected as it failed the second criterion.

(14) Companies for which newcomer status was not granted were informed of the reasons for this decision and given an opportunity to make their views known in writing.

(15) 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**
Home Fashions International	Kerala
GHCL Ltd.	Gujarat

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
[…]