COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.12.2005
COM(2005) 616 final

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 74/2004 imposing a definitive countervailing duty on imports of cotton-type bed linen 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 ("the basic Regulation")[1] in the proceeding concerning imports of cotton-type bed linen 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[2], imposing a definitive countervailing duty on imports into the Community of cotton-type bed linen originating in India.

Proposal for granting newcomer status 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**

Interested parties concerned by the proceeding have already had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **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 exhaustive list of conditions that have to be assessed.

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

2 OJ L 12, 17.1.2004, p. 1, Regulation as last amended by Council Regulation (EC) No 2143/2004 (OJ L 370, 17.12.2004, p. 1).

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 bed linen 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 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').

By Article 1 of Council Regulation (EC) No 2143/2004, amending Regulation (EC) No 74/2004, fifteen companies were added to the list of Indian exporters/producers listed in the Annex of Regulation (EC) No 74/2004.

Thirteen Indian exporters/producers have requested newcomer status having their names added to the list of companies subject to the weighted average duty 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 and Council Regulation (EC) No 74/2004.

- **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 basic regulation 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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amending Council Regulation (EC) No 74/2004 imposing a definitive countervailing duty on imports of cotton-type bed linen 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 Community (the 'basic Regulation')[3],

Having regard to Article 2 of Council Regulation (EC) No 74/2004[4] of 13 January 2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India,

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 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 co-operating parties, a sample of Indian exporting producers was selected 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 duty rate of 10,4 % was imposed on companies which either did not make themselves known or did not cooperate with the investigation.

(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'); and

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

[4] OJ L 12, 17.1.2004, p. 1, Regulation as last amended by Council Regulation (EC) No 2143/2004 (OJ L 370, 17.12.2004, p. 1).

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 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) By Council Regulation (EC) No 2143/2004, amending Regulation (EC) No 74/2004, fifteen companies were added to the list of Indian exporters/producers listed in the Annex of Regulation (EC) No 74/2004.

B. NEW EXPORTERS/PRODUCERS' REQUESTS

(4) Thirteen Indian companies have applied to be granted the same status as the companies co-operating in the original investigation not included in the sample ('newcomer status').

(5) Four of the Indian companies requesting newcomer status did not reply to a questionnaire and one did not supply additional information requested after it had submitted an incomplete reply to the questionnaire. It was therefore not possible to verify whether these companies fulfilled the criteria set out in Article 2 of Council Regulation (EC) No 74/2004, and their requests had to be rejected.

(6) The remaining eight companies replied to the questionnaire intended to verify that they complied with the provisions of Article 2 of Council Regulation (EC) No 74/2004.

(7) The evidence provided by five 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.

(8) As far as the remaining three Indian exporters/producers are concerned, two exported the product concerned to the Community during the original investigation period (i.e. from 1 October 2001 to 30 September 2002) and one was unable to provide any evidence that it did not export to the Community during the investigation period.

(9) Under these circumstances, it was considered that for the three companies referred to above, at least one of the criteria set out in Article 2 of Council Regulation (EC) No 74/2004, i.e. the first criterion, was not fulfilled. Therefore, their claims had to be rejected.

(10) 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.

(11) 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 exporters/producers from India listed in the Annex of Council Regulation (EC) No 74/2004, as amended by Regulation (EC) No 2143/2004:

Company	**City**
Alok Industries Limited	Mumbai
Texel Industries	Chennai
Textrade International Private Limited	Mumbai
Welspun India Limited	Mumbai
Yellows Spun and Linens Private Limited	Mumbai

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