Council Regulation (EC) No 695/2006 of 5 May 2006 amending Regulation (EC) No 397/2004 imposing a definitive anti-dumping duty on imports of cotton-type bedlinen originating in Pakistan

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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 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation), and in particular Article 11(3) thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigation

(1) By Regulation (EC) No 397/2004[(2)] (the definitive Regulation), the Council imposed a definitive anti-dumping duty of 13,1 % on imports of bedlinen of cotton fibres, pure or mixed with man-made fibres or flax (flax not being the dominant fibre), bleached, dyed or printed, originating in Pakistan.

(2) This measure had been imposed on the basis of facts available since it had been impossible to verify on spot the highly implausible figures reported in the questionnaires of the six sampled companies, due to the following circumstances. During the verification of the second company, the Commission received a life threatening letter addressed personally to the officials carrying out the verifications. With regard to the specific, personal nature of this letter, the Commission considered that the necessary conditions to carry out the verifications were not met and that these circumstances significantly impeded the investigation. Consequently, the verification visits had to be interrupted.

(3) In the period following the imposition of the anti-dumping measures, sufficient information was received by the Commission indicating that the security circumstances had changed, i.e. that the impediment to the conduct of verification visits had been removed. Under these circumstances, the Commission decided to initiate an interim review limited to dumping aspects in order to review the findings on the basis of data that have been fully verified and better reflect the situation of Pakistani exporters.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 695/2006. (See end of Document for details)*

2. Initiation

(4) On 3 August 2004, the Commission announced, after having consulted the Advisory Committee[3], the initiation pursuant to Article 11(3) of the basic Regulation of an *ex officio* partial interim review, limited to dumping, of the anti-dumping measures imposed by the definitive Regulation.

(5) The Commission officially advised the exporting producers and importers known to be concerned as well as their known associations, the Pakistani authorities and the associations of Community producers of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limits set in the notice of initiation.

(6) A number of exporting producers and the Pakistan Bedwear Exporters Association, one of several bedlinen producers associations in Pakistan, as well as the association of the Community producers (Eurocoton), which was the complainant in the original investigation, made their views known in writing. A hearing was granted to all parties who so requested within the established time limits and showed that there were reasons why they should be heard.

3. Sampling

(7) In view of the large number of exporting producers and importers involved in this investigation, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers, importers and representatives acting on their behalf were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned within 15 days of the date of publication of the notice of initiation. The authorities of Pakistan and the association of producers/exporters, which made itself known, were also consulted by the Commission on the selection of the sample for exporters.

(9) After examination of the information submitted, it was decided that sampling was only necessary with regard to exporters. In total, 110 companies replied to the sampling questionnaire within the time limits and provided the requested information. However, 11 of these companies neither produced nor exported the product concerned and therefore could not be considered as interested parties in the investigation. Furthermore, one company only partially cooperated as it did not provide any information on production volumes. In total, 98 companies were considered as cooperating.

(10) The sample was selected in accordance with Article 17(1) of the basic Regulation, on the basis of the largest representative volume of exports from Pakistan into the Community that could reasonably be investigated within the time available.

(11) The Commission informed the Pakistani authorities and the associations of producers/exporters of its intention to select a sample of eight companies representing 31 % of Pakistan's exports to the Community. The Pakistani authorities and one association of exporters, however, contested this proposal and asked to limit the sample to six companies, i.e. taking the same sample as in the previous investigation.

(12) In accordance with Article 17(1) of the basic Regulation, after this consultation, the Commission eventually decided that, in order to reach the highest possible representativity of the sample, it was appropriate to include eight companies in the sample since (i) this allowed to cover a larger volume of exports, including from companies having also domestic sales; and (ii) it was feasible to investigate these eight companies within the time available.

4. Individual examination

(13) Requests for the determination of an individual dumping margin were submitted by 22 companies not selected in the sample. However, in view of the large number of requests and the volume of information to be examined (because of, *inter alia*, the large number of product types under consideration), it was considered that such individual examinations would be unduly burdensome within the meaning of Article 17(3) of the basic Regulation and would have prevented completion of the investigation in good time. The claims for determination of individual margins were therefore not considered.

5. Investigation

(14) The Commission sent questionnaires to the companies selected in the sample. Questionnaire replies were received from all the eight exporting producers in the sample. The Commission sought and verified all the information it deemed necessary for the purpose of its investigation. However, due to particular security constraints, it was decided not to carry out the verification visits at the premises of the companies. Instead, the verification of the submitted data took place in a third country, in this particular case the United Arab Emirates (UAE), by using systems of communication with the headquarters of the companies investigated. This allowed receiving, without delay transmission, of any document requested. Data provided by the following companies was verified:

Gul Ahmed Textile Mills Ltd, Karachi,

Al-Abid Silk Mills Ltd, Karachi,

Yunus Textile Mills, Karachi,

Chenab Limited, Faisalabad,

Nishat Mills Limited, Faisalabad,

Fairdeal Textiles (Pvt) Ltd, Karachi,

Lucky Textile Mills, Karachi,

Mohammad Farooq Textile Mills Ltd, Karachi.

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(15) The Community industry observed that the investigation should have been terminated as no change has taken place in the security situation in Pakistan. Therefore, the verification visit in the UAE should not have taken place. In this respect, it should be noted that the information provided in the course of these verifications was sufficient to establish the level of dumping. However, the comments made by the Community industry have been taken into account in assessing the lasting nature of the changed circumstances, as indicated in recital 64.

(16) The investigation period (IP) covered the period between 1 April 2003 and 31 March 2004.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(17) The product under review is the same as in the original investigation, i.e. bedlinen of cotton fibres, pure or mixed with man-made fibres or flax (flax not being the dominant fibre), bleached, dyed or printed, originating in Pakistan, currently classifiable 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), 6302 31 00 (TARIC code 6302 31 00 90) and ex 6302 32 90 (TARIC code 6302 32 90 19) (the product concerned). Bedlinen includes bed sheets (fitted or flat), duvet covers and pillow covers, packaged for sale either separately or in sets.

(18) The fabrics made of cotton-type fibres used to produce bedlinen are identified by two pairs of numbers. The first one indicates the count (or weight) of yarns employed respectively for the warp and for the weft. The second one indicates the number of threads per centimetre or per inch respectively of the warp and of the weft.

(19) The fabrics are bleached, dyed or printed. Then they are cut and stitched into different sized flat sheets, fitted sheets, duvet covers and pillow cases. The final product is packed for sale either separately or in sets.

(20) Notwithstanding the different possible product types due to different weaving construction, finish of the fabric, presentation and size, packing, etc., all of them constitute one product for the purpose of this review investigation because they have the same physical characteristics and essentially the same use.

(21) This definition was contested by several cooperating exporters which, however, did not substantiate in any way their claims, which were therefore rejected.

2. Like product

(22) As in the original investigation, it was found that the product concerned and the bedlinen produced and sold on the domestic market of Pakistan have the same basic physical, technical characteristics and uses. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(23) Several cooperating exporters claimed that the product concerned and the bedlinen sold on the domestic market of Pakistan were different products since they did not have the same basic physical, technical characteristics and uses. However, no evidence was submitted to support these claims, which were therefore rejected.

C. DUMPING

1. Normal value

(24) Normal value was calculated according to Article 2 of the basic Regulation. Therefore, it was first established for each sampled exporting producer, whether its total domestic sales of the like product were representative in comparison with its total export sales of the product concerned to the Community. In accordance with Article 2(2), first sentence, of the basic Regulation, the domestic sales of the like product were found to be representative for one of the sampled companies since the domestic sales volume of this company exceeded 5 % of its total export sales volume to the Community.

(25) In addition to the above exporter with representative domestic sales exceeding 5 % of its exports sales volume to the Community, three other sampled exporters had some domestic sales of the product concerned, which, however, only represented 2,2, 0,5 and 0,2 % respectively of the sales volume of the product concerned exported to the Community. After having duly examined the characteristics of the domestic market and of the sales organisation of the companies in question, it was finally concluded that these sales were negligible and could not be considered as representative pursuant to Article 2(2) of the basic Regulation.

(26) For the exporting producer having overall representative domestic sales, it was further examined whether the types of bedlinen sold domestically were identical or directly comparable to the types sold for export to the Community. Domestic sales of a particular product type were considered as sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented 5 % or more of the total volume of the identical and directly comparable product type sold for export to the Community.

(27) It was subsequently examined whether the domestic sales of the company could be considered as being made in the ordinary course of trade. For those product types where the weighted average price of that type was equal to or above the cost of production, normal value was established on the basis of the weighted average price actually paid for all domestic sales of that type, irrespective of whether these sales were profitable or not. For those product types where the weighted average price of that type was below the cost of production, it was considered that normal value had to be constructed in accordance with Article 2(3) of the basic Regulation.

(28) The company had contested that its sales were in the ordinary course of trade, claiming that remnants sold on the domestic market were not comparable with the products sold for export. In the course of the investigation, it was established that the remnants were surplus quantities of bedlinen produced for export, and as a consequence the products sold domestically and for export are comparable. It is therefore considered