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

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.

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.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ L 66, 4.3.2004, p. 1.
[3] OJ C 196, 3.8.2004, p. 2.

(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.

(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 that the company's domestic sales are representative and being made in the ordinary course of trade.

(29) Normal value was constructed by adding to the manufacturing costs of the exported types a reasonable amount for selling, general and administrative expenses (SG & A) and for profit, in accordance with Article 2(6) of the basic Regulation.

(30) In this respect, the company claimed that SG & A and profit should be established on the basis of all transactions, as due to the large diversity of the product (the company has submitted information regarding more than 500 different product types) it cannot reliably be established whether a certain transaction is profitable or not. It is indeed true that the product concerned consists of a vast array of types with different sizes, designs, colours, fabrics etc. In establishing the cost of manufacturing for the different types of the product, the general cost allocation methods used by the company entailed a lack of precision which goes clearly beyond the difficulties normally encountered in cases with complex products. It was therefore considered that SG & A and profit used to construct normal value should be established on the basis of all transactions for all domestic sales of the product concerned.

(31) The Community industry challenged the approach adopted in respect of this company, claiming that only profitable transactions should have been used to determine the percentage of profit realised by the company in the ordinary course of trade. This claim was rejected, since for the reasons given in recital 30, it cannot be established reliably whether a certain transaction is profitable or not. Moreover, it was established that overall the transactions were in the ordinary course of trade.

(32) For the other seven sampled exporting producers, normal values had to be constructed in accordance with Article 2(3) of the basic Regulation since none of them had representative domestic sales. For all these exporters, therefore, normal value was constructed by adding to the cost of manufacturing of each type exported to the Community, corrected where appropriate as further explained in recital 36, a reasonable amount for SG & A expenses and for profit. The SG & A expenses and profit could not be established on the basis of Article 2(6)(a) of the basic Regulation since only one company had representative domestic sales. Neither could they be established under Article 2(6)(b) as the exporters concerned did not have representative sales, in the ordinary course of trade, of the same general category of products.

(33) The SG & A expenses and profit were accordingly determined in accordance with Article 2(6)(c) of the basic Regulation, on the basis of the weighted average of the SG & A expenses incurred and profit realised by the sole company with representative domestic sales and of the two companies with domestic sales representing 2,2 and 0,2 % respectively. In fact, it was considered that the domestic sales of these latter two companies, although not representative for the purpose of using domestic prices to calculate their own normal value, were sufficient to ensure that the related SG & A and profit could be considered as reliable for the purpose of applying Article 2(6)(c) of the basic Regulation. The SG & A and profit of the third company having non-representative sales on the domestic market, referred to at recital 25, were not taken into consideration since this company had reported a severe loss on those sales.

(34) One company claimed that the Commission should apply Article 2(6)(b) of the basic Regulation when determining the SG & A for this company. The company claimed that the SG & A for all the products sold on the domestic market by the company should be used since those products are similar to the product concerned, being of the same general category of products. This claim was rejected since it was found that the products claimed to be of the same general category of products as bedlinen, were in fact mostly grey cloth, i.e. an intermediary product sold to industrial users and not a consumer product as bedlinen.

(35) The company further argued that even if Article 2(6)(c) of the basic Regulation is applied, at least the SG & A and the profit of the company itself should be used. It added that the SG & A and profit used for constructing normal value is taken to a great extent from a company with a different structure, arguably comparable with a department store. However, it must be noted the applicant company's sales consist of products which do not even belong to the same general category of products and are also fairly small in volume. Therefore, it is not reasonable to use SG & A and profit established on such inappropriate data.

(36) A number of sampled companies had included different items in their SG & A, which should have been reported in the cost of manufacturing. Therefore, these items were reallocated to the cost of manufacturing. Furthermore, pursuant to Article 2(5) of the basic Regulation, costs shall normally be calculated on the basis of records kept by the party under investigation, provided that such records are in accordance with the generally accepted accounting principles of the country concerned and that it is shown that the records reasonably reflect the costs associated with the production and sale of the product under consideration. Moreover, consideration shall also be given to evidence submitted on the proper allocation of costs, provided that it is shown that such allocations have been historically utilised. For five sampled companies, the cost allocation in the replies submitted to the questionnaire had been done ad hoc, for the purpose of the investigation and could not be considered as reasonable since they were not in line with the audited accounts of the companies. Adjustments were therefore made to determine the cost of manufacturing in a way more consistent with the audited accounts of the companies in question.

(37) For these five companies, the various cost items included in the cost of manufacturing were identified. The percentage represented by the product concerned out of the total company turnover was determined. Depending on the information available and verifiable, this percentage was applied either to the value of each of the cost items or to the total costs as reported in the audited accounts for the purpose of establishing the manufacturing costs of the product concerned.

(38) For one company, the adjustment referred to in recital 37 was made to take account of the fact that there was a very significant difference between the cost structure of bedlinen and that of the other major product sold by the company, i.e. yarns. The fact that this company had reported in the questionnaire, in a way which could be verified, data permitting a clearer attribution of costs between these two categories of products made it possible to refine the allocation based on turnover, so as to permit a more appropriate attribution of the production costs.

(39) The Community industry challenged the approach adopted in respect of this company, claiming that the company does not have a historically used cost allocation system. However, this claim was rejected, since the attribution of costs mentioned in recital 38 was not based on the cost allocation provided by the company, but on verified accounting information prepared by the company on a regular basis.

(40) For one company, a further adjustment has been made. This company has production on two different sites, but bedlinen was manufactured at only one of the sites. Therefore, it was considered that the most appropriate approach was to rely on data related to the site where bedlinen is manufactured.

(41) Several other companies claimed additional adjustments to the cost allocation made by the Community institutions. However, the method of allocating costs on the basis of turnover does not allow the application of a specific, different methodology exclusively limited to a few cost items, unless it can be shown that such different specific methodology can exclusively be applied to those few cost items. Since this was not the case and, as indicated in recital 32, the information and evidence provided by these companies concerning their cost of production was not considered reliable, the above referred claims were rejected.

(42) For another company, the cost of manufacturing was obtained by deducting from the turnover the profit and the SG & A expenses, as established during the verification visit.

(43) For the two remaining companies, the cost of manufacturing was found to be generally reliable, but some corrections had to be made on the basis of information collected during the verification visit.

(44) Some of the exporting producers in the sample claimed that the cost of raw material (mainly grey cloth) they had reported in the cost of manufacturing already included certain SG & A costs. Since the companies were not fully integrated companies, as some of the processing steps were outsourced, they claimed that these SG & A expenses should be deducted from the cost of production in order to avoid a double counting of the SG & A expenses. However, it should be noted that the normal value had to be constructed by using the SG & A and profit of the sole company with representative domestic sales and those of the two companies with domestic sales representing 2,2 and 0,2 % respectively and that these three exporters were purchasing the vast majority of the grey cloth themselves. It should also be noted that every purchase of raw material includes some SG & A costs in the price paid, but these are costs of the supplier, and not the SG & A of the exporter in question. The claim was therefore rejected.

2. **Export price**

(45) Seven of the sampled exporting producers made all their export sales to the Community directly to independent customers. In accordance with Article 2(8) of the basic Regulation, their export prices were therefore established on the basis of the prices actually paid or payable by these independent customers in the Community.

(46) The eighth sampled exporting producer had a related importer in the Community. The prices for these exports were constructed on the basis of the prices at which the imported products were first resold to an independent buyer, as set out in Article 2(9) of the basic Regulation.

(47) However, as requested by a number of companies, export sales of outdated stocks and sales delivered by air freight (on a cif or cf basis) were excluded from the dumping calculations, as these sales were not made in the ordinary course of trade. These sales represented a negligible portion (less than 2 %) of all export sales reported.

(48) This approach regarding sales delivered by air freight and outdated stocks has been challenged by the Community industry, claiming that whether or not a sale is in the ordinary course of trade cannot be established by the means of conveyance of the goods and that these sales should be taken into account if they are a relatively common occurrence in the sector in question. This claim was rejected because, although most companies had sales delivered by air freight and sales of outdated stocks, those sales are not a relatively common occurrence in the sector as the volumes delivered by air freight and the volumes of outdated stocks are extremely limited as described in recital 47.

3. **Comparison**

(49) For the purpose of ensuring a fair comparison between normal values and export prices, due allowance in the form of adjustments was made for differences affecting price and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning import charges and indirect taxes, discounts and rebates, transport, insurance, handling, loading and ancillary costs, credit, commissions, interest rates and currency conversions were granted when reasonable, accurate and supported by verified evidence. An adjustment for level of trade was also made in order to reflect the fact that the domestic sales were made directly to final customers, whereas the exports were made to traders, retailers and distributors.

(50) One exporter contested an adjustment for commissions, arguing that the related trader which had been found to have functions similar to those of an agent working on a commission basis was, in reality, a mere extension of its own export department and did not carry out business of its own. The adjustment was confirmed and the claim rejected, since it was found that the related trader was indeed carrying out its own sales activities (e.g. the obtaining and managing of a part of the quota regime) that could not be carried out by the exporter itself and was incurring substantial expenses in doing so. Moreover, the related trader received a significant mark-up for its activities in relation to sales of the product concerned to the Community, not dissimilar from a commission.

(51) Several exporters claimed further adjustments for bank charges and credit costs. They claimed that the end-users on the domestic market commonly used credit cards as payment form. However, for those companies with domestic sales the investigation showed that the sales to end-users are on cash basis. This claim was therefore rejected.

(52) One company claimed adjustment for an increase in the cotton prices during the IP. However, the increase in cotton prices was due to an increase in world market prices and therefore was not an isolated Pakistani phenomenon. The increase in cotton prices affected at most three months of the IP, while the sales of the product concerned took place throughout the full IP. Furthermore, the increase in prices was only of a temporary character in the sense that the world market prices are volatile, which is a normal phenomenon for this type of raw material. Such changes in raw material prices must be considered as a normal part of the business operations. In addition, the information supplied by the company (cotton purchase prices from 1997 to 2005 in PKR) showed a downward trend, with 1997 having seen the highest prices. If there are important fluctuations of an input, this could normally be addressed by making a monthly or quarterly comparison of normal value and export prices. However, that was not requested here. This claim was therefore rejected.

(53) All companies claimed adjustments for duty drawback, pursuant to Article 2(10)(b) of the basic Regulation. Claims for such adjustments were accepted in the original investigation insofar as the amounts claimed were actually borne by the like product and by the materials physically incorporated therein, when intended for consumption in the exporting country, and refunded in respect of the product exported to the Community. It was found that, in the present investigation, the amounts refunded by the Pakistani government exceeded by far the amounts of imports charges or indirect taxes actually paid by the companies on materials incorporated in the product concerned.

(54) The sampled exporters argued that the Government of Pakistan had introduced a new system for the calculation of these refunds of import duties paid by the exporting producers. This new system uses certain standards for the determination of the amount refundable.

(55) The new regime was investigated in order to clarify if a direct link between the duty paid by the exporting producers and the material physically incorporated in the like product intended for consumption in the exporting country could be established. Where the sampled exporters could show that import duties had been reimbursed, the Community institutions accepted the claim for an adjustment to normal value, where appropriate, insofar as the amounts claimed were actually borne by the like product and by materials physically incorporated therein, when intended for consumption in the exporting country, and refunded in respect of the product exported to the Community.

4. **Dumping margins**

(56) For the sampled exporting producers, individual dumping margins were established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) of the basic Regulation.

(57) The dumping margins, expressed as a percentage of the net free-at-Community-frontier price, before duty, are:

Yunus Textile Mills, Karachi	8,5 %
Lucky Textile Mills, Karachi	7,2 %
Nishat Mills Limited, Faisalabad	6,1 %
Chenab Limited, Faisalabad	5,7 %
Gul Ahmed Textile Mills Ltd, Karachi	5,6 %
Al-Abid Silk Mills Ltd, Karachi	3,9 %
Mohammad Farooq Textile Mills Ltd, Karachi	3,5 %
Fairdeal Textiles (Pvt) Ltd, Karachi	1,3 %

(58) In accordance with Article 9(3) of the basic Regulation, it is concluded that the dumping margin for Fairdeal Textiles (Pvt) Ltd is *de minimis*, as its margin of dumping is below 2 %.

(59) For the cooperating companies not selected in the sample, the dumping margin was established on the basis of the weighted average dumping margin of the companies selected in the sample, pursuant to Article 9(6) of the basic Regulation. This weighted average dumping margin, expressed as a percentage of the net free-at-Community-frontier price, before duty, was 5,8 %.

(60) Several cooperating exporters not selected in the sample claimed that it was discriminatory not to receive the lowest duty instead of the weighted average duty of the sampled companies. It is noted that in this case, eight exporters were selected in the sample in accordance with the provisions of Article 17 of the basic Regulation. The findings made as based on data supplied by these exporters are deemed to be representative for the bedlinen industry in Pakistan. In relation to the duty to be applied to the non-sampled exporters, it would be contrary to the purpose of sampling to apply the lowest duty established for one of the sampled exporters rather than the weighted average duty which is clearly more representative of the industry as a whole. In any event, Article 9(6) of the basic Regulation requires that the anti-dumping duty applicable to imports from exporters who have made themselves known, but are not included in the sample, shall not exceed the weighted average margin of dumping established for the parties in the sample and it is the consistent practice of the Community institutions to apply the weighted average margin. In light of the above, this claim was rejected.

(61) In order to determine the residual dumping margin, the level of cooperation was first established. A comparison between Eurostat data concerning imports originating in Pakistan and sampling replies showed that the level of cooperation was high (more than 80 %). Therefore, and since there were no indications that the remaining companies were dumping at a lower level, it was considered appropriate to set the dumping margin for the remaining companies, which had not cooperated in the investigation, at the level of the highest dumping margin found for the companies included in the sample. This approach is in accordance with the standing practice of the Community institutions and was also considered necessary in order not to provide an incentive to non-cooperation. Therefore, the residual dumping margin was calculated at the rate of 8,5 %.

(62) A number of companies which had been considered as non-cooperating claimed that they had indeed sent the sampling return within the time limits either through their respective association or directly to the Commission. These companies were requested to provide evidence that the replies indeed had been transmitted within the requested deadlines. None of these companies could submit sufficient evidence to support such claims which were therefore rejected.

5. **Lasting nature of the changed circumstances**

(63) In the present investigation, the aim of the review was to base the conclusion on the findings of verified data, which had, in principle, become possible following the change in circumstances regarding the security situation. There are no indications that the new verified findings would not be of a lasting nature.

(64) However, it should be noted that due to some remaining security concerns, the verifications took place in the UAE. Despite the efforts made by the cooperating exporting producers, a verification in a third country does not comply with the normal practice as the Commission investigators did not have unlimited direct access to the accounting registers and the accounting systems of the exporters. Therefore, albeit the findings are sufficiently reliable to justify a modification in the level of the anti-dumping duties, on its own initiative or at the request of interested parties the Community institutions might carry out a review of the modified antidumping duties should available information sources point out to a change or otherwise inaccuracy of the findings verified in the third country.

6. **Conclusion**

(65) In view of the above, the present antidumping measures on imports of the product concerned originating in Pakistan should be amended to reflect the new dumping margins found.

(66) According to Article 9(4) of the basic Regulation, the duties should not exceed the margin of dumping established but should be less than the margin if such lesser duty would be adequate to remove the injury of the Community industry. Given the fact that the present interim review is limited to the examination of the dumping aspects, the level of duties imposed should not be higher than the injury levels found in the original investigation.

(67) As mentioned in recital 134 of the definitive Regulation, the original dumping margin was lower than the injury elimination level definitely determined and therefore the definitive anti-dumping duty was based on the lower dumping margin, namely 13,1 %. Since the dumping margins found in the present interim review are still lower than the injury margin, the amended anti-dumping duties should be based on these lower dumping margins.

(68) Therefore, the level of duties should be set at that of the dumping margins found, except for one company, for which a *de minimis* dumping margin has been found as outlined in recital 58:

(a) *For the exporters in the sample:*	
Yunus Textile Mills, Karachi	8,5 %
Lucky Textile Mills, Karachi	7,2 %
Nishat Mills Limited, Faisalabad	6,1 %
Chenab Limited, Faisalabad	5,7 %
Gul Ahmed Textile Mills Ltd, Karachi	5,6 %
Al-Abid Silk Mills Ltd, Karachi	3,9 %
Mohammad Farooq Textile Mills Ltd, Karachi	3,5 %
Fairdeal Textiles (Pvt) Ltd, Karachi	0 %
(b) *For the cooperating exporters not included in the sample*	5,8 %
(c) *For all other companies*	8,5 %

(69) All parties concerned were informed of the essential facts on the basis of which it was intended to recommend the amendment of the existing measures and were given an opportunity to comment. Comments were received and taken into consideration where appropriate. All parties concerned were also granted a period to make representations subsequent to disclosure.

(70) In order to ensure equal treatment between any new exporters and the cooperating companies not included in the sample, mentioned in the Annex to this Regulation, it is considered that provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a review pursuant to Article 11(4) of the basic Regulation.

(71) One Pakistani exporting producer submitted an offer for a price undertaking. However, bedlinen is characterised by hundreds of different product types, with some characteristics not easily discernible upon importation. This makes it virtually impossible to establish meaningful minimum import price for each product type, which could be properly monitored by the Commission and controlled by the customs authorities of the Member States. Under these circumstances, it was considered that a price undertaking was impracticable and could not be accepted.

D. **DURATION OF THE MEASURES**

(72) The review carried out does not affect the date on which the definitive Regulation will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 397/2004 is hereby amended as follows:

1. Article 1(2) shall be replaced by the following:

'2. The rate of the definitive antidumping duty applicable to the net, free-at-Community-frontier price, before duty, of products manufactured by the following companies shall be:

Manufacturer	Rate of duty %	TARIC additional code
Yunus Textile Mills H-23/1, Landhi Industrial Area, Karachi	8,5	A698
Lucky Textile Mills L-8, Block 21, F. B Area, Karachi	7,2	A699
Nishat Mills Limited Nishatabad, Faisalabad	6,1	A700
Chenab Limited Nishatabad, Faisalabad	5,7	A701
Gul Ahmed Textile Mills Ltd Plot No HT/3A, Landhi Industrial Area, Landhi, Karachi	5,6	A702
Al-Abid Silk Mills Ltd A-39, S.I.T.E., Manghopir Road, Karachi	3,9	A704
Mohammad Farooq Textile Mills Ltd 1st floor, Finlay House, I.I Chundrigar Road, Karachi	3,5	A703
Fairdeal Textiles (Pvt) Ltd A/15-D, Binoria Chowk, S.I.T.E., Karachi	0	A705
Manufacturers listed in the Annex	5,8	A706
All other companies	8,5	A999'

2. the text of the Annex to this Regulation shall replace the Annex to Regulation (EC) No 397/2004;

3. the following paragraph shall be added to Article 1:

'4. Where any new exporting producer provides sufficient evidence to the Commission that:

— it did not export to the Community the product described in paragraph 1 in the period between 1 April 2003 and 31 March 2004,

— it is not related to any of the exporters or producers subject to the measures imposed by this Regulation and

— it has actually exported to the Community the product 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 Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend paragraph 2 by adding the new exporting producer to the companies subject to the weighted average duty rate of 5,8 %.'

Article 2

This Regulation shall enter into force on the day following 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, 5 May 2006.

For the Council
The President
K.-H. GRASSER

ANNEX

'ANNEX

List of the cooperating manufacturers referred to in Article 1(2) under TARIC additional code A706:

Name	Address
A.B. Exports (PVT) Ltd	Off. No 6, Ground Floor, Business Center, New Civil Lines, Faisalabad
A.S.T. (PVT) Limited	Saba Square 2-C, Saba Commercial Street No 3, Phase V Extension, D.H. Authority, Karachi
Abdur Rahman Corporation (Pvt) Ltd	P-214 Muslim Town #1, Sarghoda Road, Faisalabad
Adil Waheed Garments	66-Zubair Colony, Jaranwala Road, Faisalabad
Afroze Textile Industries (Pvt) Ltd	LA 7/1-7, Block 22 F.B. Area, Karachi
Al Musawar Textile (PVT) Ltd	Atlas Street, Maqbool Road, Faisalabad
Al-Karam Textile Mills (PVT) Ltd	3rd floor, K.D.L.B. Building, 58-West Wharf Road, Karachi
Al-Latif	W,S, 24, Block-2, Azizabad, F.B. Area, Karachi-75950
Al-Noor Processing & Textile Mills	Sargodha Road, Near Bava Chak, Faisalabad
Al-Raheem Textile	F/40, Block-6, P.E.C.H.S., Karachi
Ameer Enterprises	3rd floor, Bismillah Centre, Street No 2, Karkhana Bazar, Yanr Market, Faisalabad
Amsons Textile Mills (PVT) Ltd	D-14/B, S.I.T.E., Karachi
Amtex (Private) Limited	1-Km, Khurrianwala-Jaranwala Road, Faisalabad
Anjum Textile Mills (PVT) Ltd	Anjum Street, Nalka Kohala, Sarghoda Road, Faisalabad
Apex Corporation	1-19, Arkay Square, PO Box 13373, Karachi
Arshad Corporation	1088/2, Jail Road Faisalabad 38000
Arzoo Textile Mills Ltd	2.6 km, Jaranwala Road, Khurrinwala, Faisalabad
Asia Textile Mills	D-156, S.I.T.E. Avenue, Karachi
Aziz Sons	D21/Karach, S.I.T.E., Karachi-75700
B.I.L. Exporters	15/5, Sector 12/C, North Karachi Industrial Area, Karachi

Name	Address
Baak Industries	P-107, Akbarabad, Near Allied Hospital, Faisalabad
Be Be Jan Pakistan Limited	Square No 7, Chak No 204/R.B., Faisalabad
Bela Textiles Ltd	A-29/A, S.I.T.E., Karachi
Bismillah Fabrics (PVT) Ltd	3 Km, Jhumbra Road, Khurrianwala, Faisalabad
Bismillah Textiles (PVT) Ltd	1. KM, Jaranwala Road, Khurrianwala, Faisalabad
Classic Enterprises	B-1/1, Sector 15, Korangi Industrial Area, Karachi
Cotton Arts (PVT) Ltd	613/1, Dagrawaan Road, Faisalabad
D.L. Nash (Private) Ltd	11, Timber Pond, Keamari Road, Karachi-75620
Dawood Exports PVT Ltd	PO Box 532, Sarghoda Road, Faisalabad
Decent Textiles	P-1271, Abdullahpur, West Canal Road, Faisalabad
En Em Fabrics (Pvt) Ltd	10th Km, Sarghoda Road, Faisalabad
En Em Industries Ltd	10th Km, Sargodha Road, Faisalabad
Enn Eff Exports	4th floor, Business Centre, New Civil Lines, Faisalabad
Faisal Industries	Office 205, Madina City Mall, Abdullah Haroon Road, Saddar, Karachi
Fashion Knit Industries	5-Business Centre, Ground Floor, Mumtaz Hassan Road, Karachi
Fateh Textile Mills Limited	PO Box No 69, Hali Road, S.I.T.E., Hyderabad
Gerpak Textile (PVT) Ltd	317 Clifton Centre, Schon Circle, Kehkashan Clifton, Karachi
Gohar Textile mills	208 Chak Road, Zia Town, Faisalabad
H.A. Industries (PVT) Ltd	10 KM, Jaranwala Road, Faisalabad
Haroon Fabrics (Private) Limited	P-121, Rafique Colony, Jail Road, Faisalabad
Hay's (PVT) Limited	A-33, (C), Textile Avenue, S.I.T.E., Karachi-75700
Homecare Textiles	D-115, S.I.T.E., Karachi
Husein Industries Ltd	HT-8 Landhi Industrial & Trading Estate, Landhi, Karachi
Ideal International	A-63/A, SIND Industrial Trading Estate, Karachi-75700
Jaquard Weavers	811 Mahmoodabad Colony, Multan

Name	Address
Kam International	F-152, S.I.T.E., Karachi
Kamal Spinning Mills	4th KM, Jranwala Road, Khurrianwala, Faisalabad
Kausar Processing Industries (PVT) Ltd	P-61 Gole Chiniot Bazar, Faisalabad
Kausar Textile Industries (PVT) Ltd	Maqbool Road, Faisalabad
Khizra Textiles International	P-68, First Floor, Tawakal Cloth Market, Gol Chiniot Bazar, Faisalabad-38000
Kohinoor Textile Mills Limited	Peshawar Road, Rawalpindi
Latif International (PVT) Ltd	Street No 1, Abdullahpur, Faisalabad
Liberty Mills Limited	A/51-A, S.I.T.E., Karachi
M/s M.K. SONS Pvt Limited	2 KM, Khurrianwala, Jarranwala Road, Faisalabad
M/S Al-Ghani International	202 Bhaiwala, Ghona Road, Faisalabad
M/S Home Furnishings Limited	Plot No 1,2,10,11, Sector IX-B., Karachi Export Processing Zone, Karachi
MSC Textiles (PVT) Ltd	P-19, 1st floor, Montgomery Bazar, Faisalabad
Mughanum (PVT) Ltd	P-162, Circular Road, Faisalabad
Mustaqim Dyeing & Printing Industries (Pvt) Ltd	D-14/A, Bada Board, S.I.T.E., Karachi
Naseem Fabrics	Suite #404, 4th floor, Faisalcomplex, Bilal Road, Civil Lines, Faisalabad
Nawaz Associates	87 D/1 Main Boulevard Gulberg III, Lahore
Nazir Industries	Suite 3, 7th floor, Textile Plaza, M.A. Jinnah Road, Karachi-74000
Niagara Mills (PVT) Ltd	Kashmir Road, Nishatabad, Faisalabad
Nina Industries Limited	A-29/A, S.I.T.E., Karachi
Nishitex Enterprises	P-224, Tikka Gali No 2, Y.Y. Plaza., 1st floor, Montgomery Bazar, Faisalabad
Parsons Industries (PVT) Ltd	E-53 S.I.T.E., Karachi
Popular Fabrics (PVT) Limited	Plot 115, Landhi Industrial Area, Karachi
Rainbow Industries	810/A, Khanewal Road, Multan

Name	Address
Rehman International	P-2, Al Rehman House, Ghulam Rasool Nagar Main Road, Sarfraz Colony, Faisalabad
Sadaqat Textile Mills Pvt Ltd	Sadaqat Street, Sarghoda Road, Faisalabad
Sadiq Siddique Co.	170-A, Latif Cloth Market, M.A. Jinnah Road, Karachi
Sakina Exports International	#313, Dada Chambers, M.A. Jinnan Road, Karachi-74000
Samira Fabrics (PVT) Ltd	401-403, Chapal Plaza, Hasrat Mohani Road, Karach
Sapphire Textile Mills Limited	313, 3rd floor, Cotton exchange Bldg. I.I., Chundrigar Road, Karachi
Shahzad Siddique (PVT) Ltd	4,5 KM, Khurrainwala Jaranwala Road, Faisalabad
Shalimar Cotton Export (PVT) Ltd	Yousaf Chowk, Sarghoda Road, Faisalabad
Sharif Textiles Industries (PVT) Ltd	PO Box 265, Satiana Road, Faisalabad
Shercotex	39/c, Peoples Colony, Faisalabad
Sitara Textile Industries Limited	6- K.M., Sargodha Road, Faisalabad
South Asian Textile Inds.	Street No 3, Hamedabad Colony, Vehari Road, Multan
Sweety Textiles Pvt Ltd	P-237, 2nd floor, Hassan Arcade Montgomery Bazar, Faisalabad
Tex-Arts	P-22, 1st floor, Montgomery Bazar, Faisalabad
The Crescent Textile Mills Ltd	Sargodha Road, Faisalabad
Towellers Limited	WSA 30-31, Block 1, Federal B, Karachi
Union Exports (PVT) Limited	D-204/A, S.I.T.E., Karachi-75700
United Finishing Mills Ltd	2nd floor, Regency Arcade, The Mall, Faisalabad
United Textile Printing Industries (Pvt) Ltd	PO Box 194, Maqbool Road, Faisalabad
Wintex Exports PVT Ltd	P-17/A, Main Road, Sarfaraz Colony, Faisalabad
Zafar Fabrics (PVT) Limited	Chak No 119, J.B. (Samana), Sarghoda Road, Faisalabad
Zamzam Weaving and Processing Mills	Bazar 1, Razabad, Faisalabad'