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Foreign Trade Association

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## Reimbursement of Anti-Dumping duties on Bed Linen from Egypt, India and Pakistan: Further information

In the Newsflash of 28 September we informed FTA Members of our successful attempt to obtain a judgment by the European Court of Justice to allow companies to obtain a repayment of anti-dumping duties on cotton bed linen imported from Egypt, India and Pakistan. In this Notice we now give important information as to the effect of this judgment, who can claim for repayment and how that repayment may be obtained.

### **Effect of the judgment**

It is important to clarify that the ECJ judgment applies **only** to Council Regulation 2398/97 that, as of 5 December 1997, imposed the following duties:

- Egypt: 8.7% - 13.5%
- India: 2.6% - 24.7%
- Pakistan: 6.3% to 6.7%

A consolidated version of the Regulation, containing a full list of companies with their assigned duties, is attached.

The duties for India were amended to 3.0% - 9.8% and suspended as of 14 August 2001 via Regulation 1644/2001. These duties were confirmed via Regulation 696/2002 as of 25 April 2002 but expired, following an expiry review, on 21 December 2003. Therefore, Members should be aware that this lowering of the duty level could be taken into consideration when the repayment of duties paid is calculated.

The duties for Pakistan were terminated on 30 January 2002 via Council Regulation 160/2002. The same Regulation suspended the duties against Egypt which subsequently expired on 28 February 2002.

The ECJ judgment **does not** apply to Council Regulation 397/2004 which imposed an anti-dumping duty against Pakistan of 13.1%, or to the amending Regulation 695/2006 which amended the duty to levels of 3.5% - 8.5%, nor also to amending Regulation 925/2007 (which amended the list of companies subject to duties of 5.8%). This Regulation remains in force.

In addition, the judgment **does not** apply to Regulation 72/2004 which imposed countervailing duties against India of 4.4% - 10.4% and also remains in force.

#### **Who can apply for repayment?**

The right to repayment of anti-dumping duties paid is only open to importers meeting the following criteria:

1. Those that opposed the collection of anti-dumping duties with their national customs authority.
2. Those that opposed the collection of anti-dumping duties with their national court (either directly or subsequent to a rejection by their customs authority).

Any importer who did not undertake either of the above steps is not eligible to obtain a repayment of the duties paid. Since the maximum period for the repayment of anti-dumping duties paid is 3 years, it is now too late to enter a claim (the effective deadline was 30 December 2006 – 3 years following the expiry of the measures against India).

#### **How to obtain repayment**

The next step may differ on a case by case basis or in each EU Member State. There are two possibilities:

1. The national customs authority may decide to accept and apply the ECJ judgment.
2. The national customs authority may decide that a judgment from their national court is required before they may apply the ECJ ruling.

Once the national customs authority has applied the ruling, importers may apply for reimbursement to that authority. The precise system for doing such can differ in each EU Member State so FTA members should contact their national customs authority for details.

Stuart Newman

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