



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.1.2003
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Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. By Regulation (EC) No 772/1999 as last amended by Regulation (EC) No 322/2002, the Council imposed definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon from Norway, except where this product is exported by one of the Norwegian exporters from which the Commission, by Decision 97/634/EC as last amended by Decision 2002/157/EC, has accepted individual price undertakings. These companies are listed in the Annexes to the aforementioned Regulation and Decision.
2. Three Norwegian companies have claimed that they are “new exporters” within the meaning of the basic anti-dumping and anti-subsidies Regulations and have offered undertakings. Having investigated the matter, it was established that the applicants fulfilled the conditions for being considered as newcomers. The undertakings offered were therefore considered satisfactory and have been accepted by the Commission.
3. Following the re-organisation of company group, one Norwegian exporter with an undertaking requested that its name be replaced by that of a related company on the lists of companies from which undertakings have been accepted and which benefit from an exemption to the duties.
4. Another company advised the Commission that its name had changed and that another related company within the same group with an undertaking had been merged with it and that an undertaking was no longer appropriate for this related company. It was therefore requested that the new name of the company appear on the lists of companies from which undertakings have been accepted and which benefit from an exemption to the duties, and that the name of the related company with which it had merged should be deleted on the above mentioned lists.
5. Another Norwegian exporter wished to withdraw its undertaking.
6. The requests have been examined and are all considered acceptable since the modifications do not entail any substantive changes which would call for a re-assessment of dumping and subsidisation, nor do they affect any of the considerations on which the acceptance of the undertaking was based.
7. In view of all the above, it is necessary to amend the list of companies in the Annex to Regulation (EC) No 772/1999 which benefit from an exemption to the anti-dumping and countervailing duties.
8. In parallel, the Commission is amending the Annex to Decision 97/634/EC which lists the companies from which undertakings are accepted.

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amending Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway

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 Community¹, and in particular Article 8 thereof,

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 Community², and in particular Article 13 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 31 August 1996, by means of two separate notices published in the Official Journal of the European Communities, the Commission announced the initiation of an anti-dumping proceeding³ and an anti-subsidy proceeding⁴ in respect of imports of farmed Atlantic salmon (the "product concerned") originating in Norway.
- (2) These proceedings resulted in anti-dumping and countervailing duties being imposed in September 1997 by Council Regulations (EC) No 1890/97⁵ and No 1891/97⁶ in order to eliminate the injurious effects of dumping and subsidisation.

¹ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002, OJ L 305, 7.11.2002, p. 1.

² OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 1973/2002, OJ L 305, 7.11.2002, p. 4.

³ OJ C 253, 31.8.1996, p. 18.

⁴ OJ C 253, 31.8.1996, p. 20.

⁵ OJ L 267, 30.9.1997, p. 1.

⁶ OJ L 267, 30.9.1997, p. 19.

- (3) In parallel to this, by Decision 97/634/EC⁷, the Commission accepted undertakings from 190 Norwegian exporters and imports of the product concerned exported to the Community by these companies were exempted from the said anti-dumping and countervailing duties.
- (4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and No 1891/97 were replaced by Regulation (EC) No 772/1999⁸.

**B. NEW EXPORTERS, CHANGES OF NAME AND VOLUNTARY
WITHDRAWAL OF AN UNDERTAKING**

- (5) Three Norwegian companies, Vestmar AS, Gaia Seafood AS and Polar Quality AS claimed that they are “new exporters” within the meaning of Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11 (4) of Regulation (EC) No 384/96 and Article 20 of Regulation (EC) No 2026/97 and have offered undertakings identical to those previously accepted from other Norwegian companies. Having investigated the matter, it was established that the applicants fulfilled the conditions for being considered as new exporters and, accordingly, the undertakings offered have been accepted by the Commission. The exemption to the anti-dumping and countervailing duties should therefore be extended to these companies.
- (6) One Norwegian exporter, Arctic Group International, with an undertaking advised the Commission that the group of companies to which it belonged had been re-organized and that another company within the group, Arctic Group Maritime AS, was now responsible for exports to the Community. The company therefore requested that its name be changed on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC and on the list of companies which benefit from an exemption to the anti-dumping and countervailing duties in the Annex to Regulation (EC) No 772/1999.
- (7) Another company, Fjord Seafood Midt-Norge AS, with an undertaking advised the Commission that its name had changed to Fjord Seafood Norway AS and, in, addition, that a company within the same group, Fjord Seafood Måløy, also with an undertaking, had merged with it. It was therefore requested that the new name of the company appear on the above mentioned lists and, as a separate undertaking was no longer appropriate, that the name of the related company, Fjord Seafood Måløy, be deleted.
- (8) It is considered after verification that the requests are acceptable since the modifications do not entail any substantive changes which would affect the assessment of dumping or subsidisation, nor do they affect any of the considerations on which the acceptance of the undertakings was based. Consequently, the names of Arctic Group International and Fjord Seafood Midt-Norge AS should be changed to Arctic Group Maritime AS and Fjord Seafood Norway AS respectively on the list of companies from which undertakings are accepted in the Annex to Regulation (EC) No 772/1999 and the name of Fjord Seafood Måløy AS deleted from that list.

⁷ OJ L 267, 30.9.1997, p. 81. Decision as last amended by Decision 2002/157/EC, OJ L 51, 22.2.2002, p. 32.

⁸ OJ L 101, 16.4.1999, p. 1. Regulation as last amended by Regulation (EC) No 322/2002, OJ L 51, 22.2.2002, p. 1.

- (9) Another Norwegian company, Timar Seafood AS, advised the Commission that it wished to withdraw its undertaking. Accordingly, the name of this company should be deleted from the list of companies from which undertakings are accepted in the Annex to Regulation (EC) No 772/1999.

C. AMENDMENT OF THE ANNEX TO REGULATION (EC) NO 772/1999

- (10) In view of all the above, the Annex to Regulation (EC) No 772/1999 which lists the companies exempted from the anti-dumping and countervailing duties should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 772/1999 is replaced by the Annex hereto.

Article 2

1. (a) Definitive countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric codes: 0302 12 00*21, 0302 12 00*22, 0302 12 00*23 and 0302 12 00*29), ex 0303 22 00 (Taric codes: 0303 22 00*21, 0303 22 00*22, 0303 22 00*23 and 0303 22 00*29), ex 0304 10 13 (Taric codes: 0304 10 13*21 and 0304 10 13*29) and ex 0304 20 13 (Taric codes: 0304 20 13*21 and 0304 20 13*29) originating in Norway and exported by Fjord Seafood Måløy AS and Timar Seafood AS.
- (b) These duties shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11 and 0304 20 13*11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.
2. (a) The rate of the countervailing duty applicable to the net free-at-Community frontier price, before duty, shall be 3.8%.
- (b) The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be Euro 0.32 per kilogram net product weight. However, if the free-at-Community-frontier price, including the countervailing and anti-dumping duties, is less than the relevant Minimum Price set out in paragraph 3, the anti-dumping duty to be collected shall be the difference between that Minimum Price and the free-at-Community-frontier price, including the countervailing duty.

3. For the purpose of paragraph 2, the following minimum prices shall apply per kilogram net product weight:

| Presentation of salmon | Minimum price Euro/kg net product weight | Taric code |
|--|--|---------------|
| Whole fish, fresh or chilled | 2.925 | 0302 12 00*21 |
| Gutted, head-on, fresh or chilled | 3.25 | 0302 12 00*22 |
| Gutted, headless, fresh or chilled | 3.65 | 0302 12 00*23 |
| Other, fresh or chilled, including “steaks” | 3.65 | 0302 12 00*29 |
| Whole fish, frozen | 2.925 | 0303 22 00*21 |
| Gutted, head-on, frozen | 3.25 | 0303 22 00*22 |
| Gutted, headless, frozen | 3.65 | 0303 22 00*23 |
| Other, frozen, including “steaks” | 3.65 | 0303 22 00*29 |
| Whole fish fillets, more than 300 gr each, fresh or chilled | 5.19 | 0304 10 13*21 |
| Other fish fillets or fillet portions, 300 gr or less each, fresh or chilled | 6.55 | 0304 10 13*29 |
| Whole fish fillets, more than 300 gr each, frozen | 5.19 | 0304 20 13*21 |
| Other fish fillets or fillet portions, weighing 300 gr or less each, frozen | 6.55 | 0304 20 13*29 |

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

LIST OF COMPANIES FROM WHICH UNDERTAKINGS ARE ACCEPTED AND THUS EXEMPTED FROM THE DEFINITIVE ANTI-DUMPING AND COUNTERVAILING DUTIES

| UT No | Company Name | TARIC Additional Code |
|-------|---------------------------|-----------------------------|
| 3 | Rosfjord Seafood AS | 8325 |
| 7 | Aqua Export A/S | 8100 |
| 8 | Aqua Partner A/S | 8101 |
| 11 | Arctic Group Maritime AS | 8109 |
| 13 | Artic Superior A/S | 8111 |
| 15 | A/S Aalesundfisk | 8113 |
| 16 | Austevoll Eiendom AS | 8114 |
| 17 | A/S Keco | 8115 |
| 20 | A/S Refsnes Fiskeindustri | 8118 |
| 21 | A/S West Fish Ltd | 8119 |
| 22 | Midnor Processing AS | 8120 |
| 24 | Atlantic Seafood A/S | 8122 |
| 26 | Rossa Salmon AS | 8124 |
| 27 | Brødrene Aasjord A/S | 8125 |
| 31 | Christiansen Partner A/S | 8129 |
| 32 | Clipper Seafood A/S | 8130 |
| 33 | Coast Seafood A/S | 8131 |
| 35 | Dafjord Laks A/S | 8133 |
| 39 | Domstein Fish A/S | 8136 |
| 41 | Ecco Fisk & Delikatesse | 8138 |
| 42 | Edvard Johnsen A/S | 8139 |
| 43 | Fjord Marin Sales AS | 8140 |
| 44 | Euronor AS | 8141 |
| 46 | Fyskeforsyningen AS | 8143 |
| 47 | Fjord Aqua Group AS | 8144 |
| 48 | Fjord Trading Ltd. AS | 8145 |
| 50 | Fossen AS | 8147 |
| 51 | Fresh Atlantic AS | 8148 |
| 52 | Fresh Marine Company AS | 8149 |
| 56 | Gje-Vi AS | 8153 |
| 58 | Grieg Seafood AS | 8300 |
| 61 | Hallvard Lerøy AS | 8303 |
| 66 | Marine Harvest Norway AS | 8159 |
| 67 | Hydrotech-gruppen AS | 8428 |
| 72 | Inter Sea AS | 8174 |
| 75 | Janas A/S | 8177 |
| 76 | Joh.H.Pettersen | 8178 |

| UT No | Company Name | TARIC Additional Code |
|-------|--------------------------------------|-----------------------------|
| 79 | Karsten J. Ellingsen AS | 8181 |
| 82 | Labeyrie Norge AS | 8184 |
| 83 | Lafjord Group AS | 8185 |
| 85 | Leica Fiskeprodukter | 8187 |
| 87 | Lofoten Seafood Export AS | 8188 |
| 92 | Marine Seafood AS | 8196 |
| 96 | Memo Food AS | 8200 |
| 98 | Misundfisk AS | 8202 |
| 100 | Naco Trading AS | 8206 |
| 101 | Fjord Seafood Norway AS | 8207 |
| 104 | Nergård AS | 8210 |
| 105 | Nils Williksen AS | 8211 |
| 107 | Nisja Trading AS | 8213 |
| 108 | Nor-Food AS | 8214 |
| 112 | Nordreisa Laks AS | 8218 |
| 114 | Norfi Produkter AS | 8227 |
| 115 | Norfood Group AS | 8228 |
| 119 | Norsk Akvakultur AS | 8232 |
| 120 | Norsk Sjømat AS | 8233 |
| 122 | Nortrade AS | 8308 |
| 123 | Norway Royal Salmon Sales AS | 8309 |
| 124 | Norway Royal Salmon AS | 8312 |
| 126 | Frionor AS | 8314 |
| 128 | Norwell AS | 8316 |
| 137 | Pan Fish Sales AS | 8242 |
| 140 | Polar Salmon AS | 8247 |
| 141 | Prilam Norvège AS | 8248 |
| 142 | Pundslett Fisk | 8251 |
| 144 | Olsen Seafood AS | 8254 |
| 145 | Marine Harvest Rogaland AS | 8256 |
| 146 | Rørvik Fisk-og fiskematforretning AS | 8257 |
| 147 | Saga Lax Norge AS | 8258 |
| 148 | Prima Nor AS | 8259 |
| 153 | Scanfood AS | 8264 |
| 154 | Sea Eagle Group AS | 8265 |
| 155 | Sea Star International AS | 8266 |
| 156 | Sea Bell Salmon AS | 8267 |
| 158 | Seacom AS | 8269 |
| 160 | Seafood Farmers of Norway Ltd AS | 8271 |
| 161 | Seanor AS | 8272 |
| 162 | Sekkingstad AS | 8273 |

| UT No | Company Name | TARIC Additional Code |
|-------|--------------------------------|-----------------------------|
| 164 | Sirena Norway AS | 8275 |
| 165 | Kinn Salmon AS | 8276 |
| 167 | Fjord Seafood Sales AS | 8278 |
| 168 | SMP Marine Produkter AS | 8279 |
| 172 | Stjernelaks AS | 8283 |
| 174 | Stolt Sea Farm AS | 8285 |
| 175 | Storm Company AS | 8286 |
| 176 | Superior AS | 8287 |
| 178 | Terra Seafood AS | 8289 |
| 182 | Torris Products Ltd. AS | 8298 |
| 183 | Troll Salmon AS | 8317 |
| 188 | Vikenco AS | 8322 |
| 189 | Wannebo International AS | 8323 |
| 190 | West Fish Norwegian Salmon AS | 8324 |
| 193 | F.Uhrenholt Seafood Norway AS | A033 |
| 195 | Polaris Seafood AS | A035 |
| 196 | Scanfish AS | A036 |
| 197 | Normarine AS | A049 |
| 199 | Emborg Foods Norge AS | A157 |
| 200 | Helle Mat AS | A158 |
| 201 | Norsea Food AS | A159 |
| 202 | Salmon Company Fjord Norway AS | A160 |
| 203 | Stella Polaris AS | A161 |
| 204 | First Salmon AS | A205 |
| 205 | Norlaks A/S | A206 |
| 206 | Atlantis AS | A257 |
| 207 | Cape Fish AS | A258 |
| 208 | Athena Seafoods AS | A379 |
| 209 | Norsk Havfisk AS | A380 |
| 210 | Rodé Vis International AS | A381 |
| 211 | Seaborn AS | A382 |
| 212 | Triton AS | A383 |
| 213 | Nordlaks Produkter AS | A386 |
| 214 | Codfarms AS | A400 |
| 215 | Vestmar AS | A416 |
| 216 | Gaia Seafood AS | A417 |
| 217 | Polar Quality AS | A418 |