I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1890/97

of 26 September 1997

imposing a definitive anti-dumping duty 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 Community (1), and in particular Articles 8 and 9 thereof,

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

Whereas:

A. PROCEDURE

1. Complaint

(1) In August 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities* (2), the initiation of an anti-dumping proceeding concerning imports of farmed Atlantic salmon originating in Norway. The proceeding was initiated as a result of a complaint lodged jointly by the Scottish Salmon Growers' Association Ltd (SSGA) and the Shetland Salmon Farmers' Association (SSFA), on behalf of their members whose collective production of farmed Atlantic salmon constitues a major proportion of the total Community output of this product. The complaint contained evidence of dumping of the product concerned originating in Norway, and of material injury resulting therefrom which was considered sufficient to justify the opening of a proceeding.

(2) A parallel anti-subsidy proceeding was initiated on the same date (3) with regard to the same imports and has been the subject of a separate investigation from the present anti-dumping proceeding.

2. Initiation of investigations

(3) The Commission officially, advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainants of the initiation of an investigation and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(4) In view of the large number of parties concerned by this proceeding and the strict time limits to be complied with pursuant to Article 6 (9) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'), sampling of Community producers and Norwegian producers/exporters was carried out as follows.

As far as producers supporting the complaint are concerned, the Commission decided to limit the investigation of some injury aspects to a representative sample of 16 Community producers, in accordance with Article 17 (1) and (2) of the Basic Regulation.

A far as Norwegian producers/exporters are concerned, two separate representative samples of six farmers and six exporters were selected by the Commission in consultation with, and with the consent of, the parties concerned, in accordance with Article 17 (1) and (2) of the Basic Regulation. However, as one company, Saga Lax Norge A/S, which was initially included in the sample of exporters, did not provide the Commission with the information deemed necessary for the investigation, it was replaced by another company, Domstein Salmon A/S.

(5) The Commission sent questionnaires to the companies selected as part of the samples of Community producers, Norwegian farmers and Norwegian exporters as well as to related and unrelated importers in the Community and also to associations of traders and processors which made themselves known and to their member companies.

(1) OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
(2) OJ C 253, 31. 8. 1996, p. 18.
(3) OJ C 253, 31. 8. 1996, p. 20.

The parties which so requested were granted an opportunity to be heard by the Commission.

The Commission verified all information it deemed necessary for the purpose of a determination of dumping, injury resulting therefrom, and Community interest and carried out investigations at the premises of the following companies:

(a) *Complainant Community producers in the United Kingdom*

Aquascot, Alness
Ardessie, Dundonnell
Ardvar, Laing
Ayre, Mossbank
Dury, Laxo
Highland Fish Farmer, Aberdeen
Joseph Johnston, Montrose
Kames, Argyll
Kyles of Bute, Tighnabruich
Landcatch, Langbank
Marine Harvest, Edinburgh
Murray Seafood, Dunoon
North Atlantic, Vadlure Walls
Ocean Reaper, Scalloway
Shetland Norse, Lerwick
Strathaird, Inverness.

(b) *Norwegian farmers*

Aakvik Settefisk A/S, Møre og Romsdal
Bolstad Fiskeoppdrett A/S/Bolstad Fjordbruk A/S, Hordaland
Finnmark Stamfiskstasjon A/S, Finnmark
Karstensen Fiskeoppdrett A/S, Sogn og Fjordane
Egil Kristoffersen & Sønner A/S, Nordland
Kvernsmolt A/S, Hordaland.

(c) *Norwegian exporters*

Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S, Hordaland
Domstein Salmon A/S, Sogn og Fjordane
Skaarfish Group A/S, Sogn og Fjordane
Terra Seafood A/S/Norfood Group A/S, Sør-Trøndelag
Timar Seafood A/S, Sør-Trøndelag
Ålesundfisk A/S, Sogn og Fjordane.

(d) *Importers in the Community*

Skaarfish International GmbH, Hamburg, Germany
Timar (Culturas em Água) Lda, Olhão, Portugal.

(e) *Processors in the Community*

Pêcheries de Fécamp, France.

(6) The investigation of dumping covered the period 1 August 1995 to 31 July 1996 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period from 1992 to the end of the investigation period.

(7) Having been informed of the Commission's provisional findings, the Norwegian exporters mentioned in the Annex to this Regulation offered undertakings pursuant to Article 8 of the Basic Regulation. These undertakings were considered acceptable by the Commission.

(8) The Commission subsequently completed the investigation on dumping and injury and informed all parties of the essential facts and considerations on the basis of which it intended to recommend the imposition of definitive residual anti-dumping duties which would be applicable to those exporters who had either failed to offer an undertaking or who would subsequently withdraw their undertaking or otherwise fail to honour it. Pursuant to Article 20 of the Basic Regulation, interested parties were granted a period within which to make representations subsequent to the disclosure.

(9) The parties' representations were considered, and the Commission altered its conclusions where appropriate.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(10) The product under consideration is farmed Atlantic salmon, whether or not filleted, fresh, chilled or frozen. This definition excludes other similar farmed fish products such as big ('salmon') trout, other salmon species such as Pacific salmon as well as wild salmon and further processed types such as smoked salmon.

The product as described above is currently classifiable under CN codes ex 0302 12 00, ex 0304 10 13, ex 0303 22 00 and ex 0304 20 13, corresponding to different presentations of the product (fresh or chilled whole fish, fresh or chilled fillets, frozen whole fish and frozen fillets). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding.

2. Like product

(11) The investigation showed that farmed Atlantic salmon produced by the Community industry and sold on the Community market is either alike in all respects to, or closely resembling farmed Atlantic salmon produced in Norway and sold in both the Norwegian and Community markets and they should therefore be regarded as like products within the meaning of Artice 1 (4) of the Basic Regulation.

C. DUMPING

1. General

(12) One of the specific features of the Norwegian salmon industry is the strict distinction which is maintained between the growers (commonly referred to as 'farmers') who produce salmon, and the traders (commonly referred to as 'exporters') who sell it domestically and for export. Farmers normally sell all their output to Norwegian exporters and are generally not aware of the final destination of the product. Since sales 'intended for domestic consumption' (within the meaning of Article 2 (2) of the Basic Regulation) and sales 'for export from the exporting country to the Community' (as referred to under Article 2 (8) of the Basic Regulation) could only be identified at the level of the exporters, the assessment of dumping was made at this level.

(13) The Norwegian exporters have contested the existence of such a strict distinction between producers and exporters. In their view, 'integrated companies make up about half the sales volume of the companies included in the "exporter" sample'. They suggested that to be consistent with Article 2 (5) of the Basic Regulation, the cost of obtaining the salmon sold domestically and for export for such 'integrated companies' should have been based on their own costs of farming rather than on data obtained from independent farmers in the sample of producers.

The Council considers that although corporate relationships exist between exporters and farmers, especially because exporters sometimes own — wholly or partly — a number of salmon farms, it remains that the two activities are clearly distinct from an operational point of view. This is illustrated by the fact that in the responses to the 'pre-questionnaire', issued to the exporters at the beginning of the investigation for sampling purposes, no exporter claimed to purchase salmon exclusively from 'integrated' farms and few farms reported that they were selling all their production to a single exporter. The subsequent investigation of the sampled Norwegian farmers and exporters confirmed this.

Furthermore, several exporters investigated, holding interests in salmon farms, declared in their response to the questionnaire, or during verification visits, that the price at which they procure salmon from 'related' producers is fully in line with that charged by independent farmers and strictly determined by the prevailing market conditions.

It is also noted that farmers and exporters of salmon in Norway are organized in separate trade associations, are subject to distinct legal and financial requirements and often defend divergent business interests.

In such circumstances, it was considered that the most reasonable approach was to select a representative sample of Norwegian farmers and to base the 'cost of acquisition' for each exporter, used in determining whether domestic sales were profitable and for constructing normal value, on a weighted average of the domestic selling prices charged by the sampled farmers.

2. Normal value

(14) It was first necessary to determine whether the categories of products sold by the six exporters investigated on the domestic market — as defined in terms of conditioning (fresh/chilled or frozen), quality (superior, ordinary or low) and presentation (gutted head-on, gutted head-off or in fillets) — could be considered as identical or closely resembling the categories sold for export to the Community. This was found to be so for all domestically sold categories of farmed Atlantic salmon.

As two specific categories (fresh/chilled salmon of superior and ordinary quality gutted head-on) accounted for more than 72 % of total exports to the Community by each of the six exporters investigated during the investigation period, it was decided to limit the investigation of dumping to these two categories.

(15) It was examined whether total domestic sales of farmed Atlantic salmon by each of the six exporters investigated were representative, i.e. made in sufficient quantities. For this purpose the total quantity sold domestically during the investigation period was compared to the total quantity sold for export to the Community, leaving aside 'domestic' sales to other exporters whose final destination could not be determined by the seller of the product under consideration.

On this basis, although none of the six exporters investigated had a domestic sales volume of the product concerned constituting at least 5 % of the export volume of that product to the Community, two of these exporters reached a ratio higher than 4 %. Domestic sales of other exporters accounted for significantly less than 4 %. Since the statistics provided by the Norwegian industry indicated that

Norway, as a whole, had a domestic consumption of farmed Atlantic salmon representing 5,2 % of its exports to the Community, it was considered, in accordance with the provisions of Article 2 (2) of the Basic Regulation, that the prices charged by the two exporters in question could be regarded as representative of the market concerned and, therefore, that their domestic sales were made in sufficient quantities.

The two exporters in question argued that normal value should not have been calculated on the basis of sales to the Norwegian domestic market because the size of the Norwegian market had been overestimated due to the inclusion of qualities which were not comparable to those exported to the Community and the fact that sales at a loss had not been excluded when performing the representativeness test.

With regard to the allegation that certain qualities sold domestically were not comparable to those exported to the Community, it must be emphasized that Article 2 (2) of the Basic Regulation provides for a comparison between 'sales of the like product intended for domestic consumption' and the 'sales volume of the product under consideration' exported to the Community.

In the present case, the product under consideration has been defined as farmed Atlantic salmon falling under CN codes ex 0302 12 00, ex 0304 10 13, ex 0304 22 00 and ex 0304 20 13. These CN codes encompass farmed Atlantic salmon of 'superior', 'ordinary' and 'production' quality. Although 'production' quality salmon is not normally exported to the Community, it is clearly a 'like product', being a product 'alike in all respects to' or at least, having 'characteristics closely resembling those of' salmon of superior or ordinary quality as provided for under Article 1 (4) of the Basic Regulation.

With regard to the non-exclusion of sales at a loss for the purpose of performing the representativeness test, it was argued that it was inconsistent to include sales at a loss ('not in the ordinary course of trade') for the purpose of assessing the representativeness of domestic sales and to exclude such sales when establishing the level of the normal value.

However, it should be noted that there is no requirement, under Article 2 (2) of the Basic Regulation, that only profitable domestic sales should be considered in establishing representativity of the domestic market. Furthermore, the 'ordinary course of trade' test, used in establishing normal value, can only be performed after the representativeness test has been carried out, since the analyses of the profitability of domestic transactions requires that the full cost of sales has been assessed by reference to the representative domestic selling, general and administrative costs of one or several exporters.

The argument put forward by exports concerning the application of the representativity test was therefore rejected.

(16) The next step consisted of determining, for the two exporters with global domestic sales made in sufficient quantities and for the two categories of farmed Atlantic salmon mostly sold for export to the Community, whether domestic sales of each category were also sufficiently representative to establish normal value. For the sake of consistency with the representativity test as applied on a global basis, a threshold of 4 % (instead of the usual 5 %) was used.

On the basis, only domestic sales of one category of salmon sold by one company were found to be sufficiently representative.

(17) It was then necessary to examine whether the domestic sales of the product category in question could, by reason of the prices at which those sales were made, be considered as having been made in the ordinary course of trade. For this purpose, the full cost of domestic sales was calculated by the addition of three components:

(a) a representative 'cost of acquisition' resulting from a weighted average of the domestic selling prices charged to independent customers during the investigation period by the six farmers in the sample;

(b) an average 'processing adjustment' based on data collected from both farmers and exporters — this adjustment was made wherever the cost of bleeding, gutting and packing the fish was not already included in the price charged by the farmer;

(c) the selling, general and administrative costs of the exporter in question for domestic sales of the product concerned.

The Norwegian exporters claimed that the use of 'acquisition costs', i.e. the weighted average of the selling prices per quality from the sampled farmers, to calculate the full cost of domestic sales gave

'erroneous results'. They also expressed surprise that the production costs of the farmers were not taken into account in the dumping calculations.

Although the questionnaire sent to the investigated farmers included questions on both their farming costs and their selling prices to independent exporters, the Council considers, for the reasons set out in recital 13, that the use of 'acquisition costs' constituted the most reasonable approach to reflect the full cost for an exporter of procuring salmon for resale to domestic or export customers.

By comparing the full cost thus calculated, expressed in Norwegian Kroner per kilo (Nkr/kg), to the price of each domestic sales transaction made during the investigation period, it was found that less than 80 % (but more than 10 %) of the quantities of the product category in question had been sold at a profit. Consequently, normal value was established for the product category concerned as the weighted average domestic price of the profitable transactions, in accordance with Article 2 (1) of the Basic Regulation.

The exporters disputed the validity of the method used to calculate normal value based on domestic sales prices excluding sales at prices below the average 'full cost' and complained that this method resulted in artificially high normal values for a perishable product.

The argument was rejected as the elimination of 'sales below cost' from the calculation of the weighted average domestic selling price used as a basis for the normal value is in line with the consistent practice of the Community institutions and is in full conformity with Article 2 (4) of the Basic Regulation. The fact that salmon is a perishable product does not affect the concept that sales below cost are regarded as not being 'in the ordinary course of trade'.

(18) For all other product categories, normal value had to be established, for the six exporters investigated, in accordance with Article 2 (3) of the Basic Regulation, on the basis of a constructed value.

The constructed value was calculated, for the two exporters with representative domestic sales, by adding to the 'cost of acquisition' (and 'processing adjustment' where necessary) amounts corresponding to the actual selling, general and administrative costs and profits respectively incurred and realized by each of the two companies concerned in respect of sales of the like product in the domestic market. For this purpose, the profitability of these companies was established by comparing the cost of domestic sales as defined in recital 17 above, expressed in Nkr/kg, to the price of each domestic sales transaction made during the investigation period. Since the quantities sold at a profit were, in both cases, lower than 80 % (but higher than 10 %), only profitable transactions were taken into account in the calculation of the weighted average individual profitability.

The exporters claimed that the weighted average profit margin added to the full cost of the exporters for the purpose of calculating constructed normal values was 'an excessive and unrealistic profit margin for salmon traders'. They argued that in accordance with Article 2.2.2 (ii) of the Agreement on Implementation of Article VI of GATT 1994, the actual profit realized by exporters should have been used rather than a profit computed after the exclusion of sales below cost. They also remarked that the profit margin used in the present proceeding was significantly higher than that used in the previous investigation in 1989/1990.

These arguments could not be accepted for the following reasons. First, the data established in the previous investigation is not relevant in the context of the present investigation since both Article 2 (6) of the Basic Regulation and Article 2.2.2 of the Agreement on Implementation of Article VI of GATT 1994 stipulate that 'actual data pertaining to production and sale' have to be used, i.e. that found in the current investigation. Second, the aforementioned provisions refer to profits realized for domestic sales made in the 'ordinary course of trade', i.e. those sales as defined by Article 2 (4) of the Basic Regulation.

(19) For the four exporters without representative domestic sales, the constructed value was calculated by adding to the 'cost of acquisition' (and 'processing adjustment' where necessary) amounts corresponding to the weighted average of both the selling, general and administrative costs incurred and the profits realized by the two other exporters in respect of domestic sales of the like product in accordance with Article 2 (6) (a) of the Basic Regulation.

3. Export price

(20) In all cases where export sales of farmed Atlantic salmon were made to independent customers in the Community, the export price was established, in accordance with Article 2 (8) of the Basic Regulation, on the basis of the export prices actually paid.

(21) In four cases, where the product was imported into the Community by a related sales company, reliable export prices had to be constructed, in accordance with Article 2 (9) of the basic Regulation, on the basis of the price charged to the first independent buyer by deducting all costs incurred between importation and resale and profits accruing. For this purpose, the profit margin was established by reference to that normally realized by independent importers.

The exporters claimed that the profit margin of 2,8 % applied to prices from related importers in the Community for the purpose of constructing export prices was too high as the related importers only provided 'invoicing purposes'.

The argument could not be accepted as the profit margin applied resulted from actual data obtained during the investigation and was in conformity with Article 2 (9) of the Basic Regulation.

(22) In one case, reliable information concerning costs incurred between importation and resale had not been supplied by the related sales company. For the purpose of constructing the export price for the exporter concerned, the Commission used the highest costs found for another related sales company which cooperated in the investigation as the facts available within the meaning of Article 18 of the Basic Regulation.

(23) In another case, an exporter failed to provide the Commission with information concerning sales to independent buyers of significant quantities of smoked salmon processed in the Community by a related smoke house using fresh salmon supplied by the exporter concerned. It was decided that all export transactions to this related smoke house would be disregarded.

4. Comparison

(24) For the purpose of ensuring a fair comparison between normal value and export price, adjustments were made wherever appropriate to account for differences affecting price comparability with regard to transport, insurance, handling, loading and ancillary costs, credit and commissions, in accordance with Article 2 (10) of the Basic Regulation.

5. Dumping margin

(25) With regared to all six investigated exporters, the comparison per product category of weighted average normal values and weighted average export prices during the investigation period revealed the existence of dumping. Since the dumping margins varied per product category, a weighted average dumping margin was established for each exporter investigated.

(26) The analysis of export prices on a monthly average basis also revealed for all six exporters a pattern of export prices which differed significantly between time periods, i.e. export prices in November and December, the peak consumption period immediately preceding Christmas, were significantly below average export prices during the investigation period. For two exporters, this pattern was considered as sufficiently marked to justify the calculation of dumping by comparing the weighted average normal values to prices of all individual export transactions to the Community, in accordance with Article 2 (11) of the Basic Regulation, so that the full degree of dumping practised could be reflected.

The two exporters considered that this method was contrary to the normal 'average to average' approach contained in Article 2 (11) of the Basic Regulation and that there was no reason to deviate from the normal approach in the present case.

This argument was rejected as, for the two exporters concerned, there was a significant difference between the dumping margins calculated on an 'average to average' basis and an 'average to transaction' basis. This was indicative of a sufficiently marked pattern of selling at lower prices during certain periods to warrant application of the 'average to transaction' method.

(27) For the company Saga Lax Norge A/S, which was initially included in the sample, but did not provide the Commission with the information deemed necessary for the investigation, a dumping margin had to be assessed on the basis of the facts available in accordance with Article 18 of the Basic Regulation. In this respect, for the reasons given in recital 101, in particular the relationship of Saga Lax Norge A/S with one of the cooperative exporters investigated, Timar Seafood A/S, it is considered that the margin of dumping established for this latter company, which is the highest found for a sampled exporter, should be assigned to Saga Lax Norge A/S.

(28) On the basis of these findings, the Commission calculated a weighted average dumping margin for the exporters investigated in accordance with Article 9 (6) on the Basic Regulation. For this purpose, the margin established for Saga Lax Norge

A/S in the cirumstances referred to in Article 18 of the Basic Regulation was not taken into account. Since the cooperation given by the Norwegian industry in general was satisfactory and in view of the objectivity of the 'preselection' of farmers and exporters from which the samples were drawn, it was concluded that this weighted average dumping margin should apply to all cooperating Norwegian exporters outside the sample.

(29) On this basis, the dumping margins established, based on the free-at-Community-frontier prices, were as follows:

Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S	12,60 %
Skaarfish Group A/S	6,69 %
Terra Seafood A/S/Norfood Group A/S	9,70 %
Timar Seafood A/S	13,05 %
Ålesundfisk A/S	6,84 %
Domstein Salmon A/S	12,50 %
Saga Lax Norge A/S	13,05 %
Others	10,95 %

D. COMMUNITY INDUSTRY

(30) The Community producers supporting the complaint represent approximately 57 % of the total Community production of the product concerned, and were therefore considered to constitute the Community industry in accordance with Articles 4 (1) and 5 (4) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

(31) Information relating to production, sales and market share was requested and obtained from all the complainant Community producers. However, in view of the large number of producers supporting the complaint and the time limits established in Article 6 (9) of the Basic Regulation, the remaining injury indicators were based on information obtained from a representative sample of Community producers.

(32) Of the 90 Community producers supporting the complaint, a sample of 16 was selected, according to geographical location and size of the companies in terms of production and sales. These companies accounted for 73 % of the output of the complainant Community industry and 42 % of total Community output.

(33) Injury has been established on the basis of data relating to the period 1992 to the investigation period. The geographical scope of the investigation over this period was the Community as constituted at the time of the initiation of the proceeding, i. e. the Community of 15 Member States. The injury assessment was based on the relevant economic factors as provided for within the meaning of Article 3 of the Basic Regulation.

(34) It is recalled that the injurious impact of the dumped imports from Norway on the situation of the Community industry of farmed Atlantic salmon was first established in 1991 by a previous anti-dumping proceeding. Since then, the impact of imports from Norway has led the Commission to impose minimum import prices on a number of occasions. However, such measures appear to have had, at best, a short-term effect on the market.

(35) The following injury indicators should, therefore, be seen in the light of a long-standing, unfavourable situation experienced by the Community industry concerned.

2. Community consumption

(36) In calculating total apparent Community consumption of farmed Atlantic salmon the following combined totals have been taken into consideration:

— the sales volume in the Community of the Community producers, as established on the basis of data provided by the Scottish Salmon Growers' Association, the Shetland Salmon Farmers' Association and the Irish Salmon Growers' Association, in combination with Eurostat data for their exports outside the Community,

— the imports into the Community of the products concerned (as declared within CN codes 0302 12 00, 0303 22 00, 0304 10 13 and 0304 20 13) from Norway,

— the imports into the Community of the same products from all other third countries.

(37) With a view to establishing consistent figures covering the enlarged Community of 15 for the whole period under examination, the total imports were based on relevant Eurostat and EFTA imports statistics. In addition, in order to ensure comparability between the different figures, all data were converted to whole fish equivalent. For this purpose, the import figures for fresh and chilled

salmon and for fresh and chilled salmon fillets were divided respectively by appropriate factors of 0,90 and 0,65. It should be noted that CN codes 0302 12 00, 0304 10 13 and 0304 20 13 may also cover products not included in the scope of this proceeding (i. e. Pacific salmon and/or wild salmon) but for which the quantities imported can be considered, given the origins reported, as negligible.

(38) On this basis, the apparent Community consumption of farmed Atlantic salmon increased from 201 037 tonnes in 1992 to 316 866 tonnes in the investigation period — an increase of 58 %.

3. Volume and market share of the dumped imports

(39) The aggregate volume of imports from Norway increased continuously and substantially from 134 338 tonnes in 1992 to 211 597 tonnes in the investigation period, an increase of 58 %, in line with the increase of Community consumption.

(40) The market share of the Norwegian imports in the Community declined from around 67 % in 1992 to around 62 % in 1993 and 1994 and then increased to 67 % in 1995 and the investigation period.

(41) The fact that Norwegian imports have been able over the last four and a half years to maintain their very high market share in a fast-growing market is in itself illustrative of the Norwegian exporters' position on the Community market. Moreover, this significant increase in Norwegian imports occurred in spite of minimum import prices imposed by the Commission during this period (see recital 76).

4. Prices of the Norwegian exports

(a) *Overall trend*

(42) Statistical data show that the CIF import price of salmon originating in Norway fell continuously and overall by 27 % between 1992 and the investigation period. Furthermore, this trend appears to indicate that the minimum import prices imposed during the period examined were not consistently adhered to by the Norwegian exporters.

(b) *Undercutting*

(43) For the investigation period, the prices of the sampled Community producers were compared to the prices of Norwegian exports. For the Community producers, the prices of gutted salmon head-on were taken as a basis for comparison. These categories of salmon represented more than 65 % of the volume of sales of all types of salmon sold by the sampled Community producers and accounted for the majority of imports of Norwegian salmon.

(44) For the exporters, prices were based on sales figures provided by the Norwegian exporters having cooperated in the investigation concerning both dumping and subsidies. These prices were adjusted to a Community frontier customs duty paid basis.

(45) Comparisons were made on a monthly weighted average basis. The prices of the Community producers were at ex-works level and at levels of trade known to be comparable to those of Norwegian imports. The results of the comparison showed the existence of monthly undercutting margins of up to 12 %. In addition, undercutting was found to be at its peak during the most important period of the selling season, i. e. the period inmediately preceding Christmas.

(46) It should be noted that salmon is traded as a commodity in a transparent and competitive market. It is sold on a daily basis, and the suppliers have to adapt rapidly, i. e. daily or hourly, to any reduction in prices of their competitors, making it therefore difficult to assess undercutting. Consequently, the undercutting margins found should be seen in the context of continuous pressure exerted by the Norwegian imports on the market prices.

(47) Some importers argued that, in comparing prices, an upward adjustment should be made to the Norwegian prices in order to take account of the fact that the consumer is prepared to pay a premium for salmon of Scottish origin. No evidence was provided concerning this claim and in particular regarding differences in the physical characteristics of the products which could justify an adjustment in price.

5. Situation of the Community industry

5.1. Global information

(a) *Production*

(48) Production of farmed Atlantic salmon by the Community industry increased from 45 801 tonnes in 1992 to 90 206 tonnes in the investigation period. This growth in production resulted from increased demand and allowed the Community industry to reduce its unit-cost and improve its productivity. In this respect, information obtained from the sampled companies shows that in the investigation period they were able to produce 2,35 times the quantity produced in 1992, with exactly the same number of workers.

(b) *Sales and market shares*

(49) The volume of sales of the Community industry on the Community market increased during the period considered from 42 535 tonnes in 1992 to 82 885 tonnes in the investigation period, representing an increase of 40 320 tonnes. This increase should be seen in relation to an increase in consumption of almost 116 000 tonnes in the Community in the same period.

(50) The development of sales volume compared to that of apparent Community consumption, shows that the market share held by the Community industry increased from 21,2 % in 1992 to 28,9 % in 1994, and subsequently decreased to 26,2 % in the investigation period.

5.2. Sampled information

(c) *Capacity and capacity utilization*

(51) As regards capacity, it was found that the companies selected in the sample used different criteria for establishing capacity and, therefore, no reliable historical figures could be obtained for capacity prior to the investigation period. However, for the investigation period, figures for capacity provided by the Scottish Environment Protection Agency, an organization recently created which establishes sustainable capacity limits according to environmental requirements, were found to be reliable. On this basis, the average capacity utilization rate was found to be 59 % in the investigation period.

(d) *Price evolution*

(52) The prices of the sampled companies decreased by 24 % between 1992 and the investigation period. This reduction in price is very close to the reduction in prices of imports from Norway, indicating therefore that the Community industry was unable to resist pressure from Norwegian prices.

(53) Norwegian exporters claimed that the downward evolution of prices was exclusively due to improvement of the cost efficiency of salmon producers worldwide.

(54) The Community industry has indeed increased its production and sales over the period examined, with consequent reductions in unit costs and considerable productivity gains. Yet in spite of this, the investigation has shown that the abovementioned decrease in price resulted in insufficient profitability for the Community industry. This is due to the fact that prices have fallen beyond what could have been expected following gains in productivity. While it is true that the price of salmon will decrease if the cost of production decreases, this does not explain the deterioration of the Community industry's profitability (see recital 55).

(e) *Profitability*

(55) The average profitability improved between 1992 and 1993, but decreased thereafter although the market was expanding and the costs of the Community industry were reduced. Moreover, the average profitability never reached the minimum profit level (approximately 15 % of turnover), which is considered necessary in a high risk industry such as this (due to the uncertainty created by the risk of disease, predators and bad weather conditions) and was in the investigation period at its lowest point (3,3 %) since 1992. It must be underlined that, during the investigation period, a majority of the sampled Community producers were making considerable losses.

(56) Regarding profitability, the figure of 15 % which the Commission has taken into consideration as a normal profit margin was deemed excessive by the Norwegian exporters.

(57) As already mentioned above, the investigation established that a profit of 15 % on turnover is indeed necessary in this industry. Apart from the high-risk nature of this industry mentioned above, this was further confirmed by examining the profit margins in the salmon industry before the occurrence of injurious dumping, and also the profit margins that were considered as reasonable in other, comparable, Community industries such as trout farming and poultry. In all these cases the figure of 15 % was confirmed. In addition a 15 % profit was considered as being a reasonable, albeit conservative, estimate by one Norwegian-owned Community producer. This company considered that 15 % was probably an underestimation as far as small companies were concerned. Finally, if the cumulated profit on sales made in the normal course of trade of the sampled Norwegian farmers and exporters on their domestic market is examined, it is in line with the figure of 15 %.

(f) *Employment*

(58) Employment levels for the sampled Community producers remained stable between 1992 and the investigation period, with the sampled companies accounting for around 1 100 jobs directly linked to the production of farmed Atlantic salmon. An estimate of the whole employment level in the Community for this industry suggests that there were 3 300 people employed in the salmon business during the investigation period.

(g) *Investment*

(59) Investments increased between 1992 and the investigation period. However, this increase should be interpreted in the light of the specific situation of the salmon industry where more than half of the investments in the period were devoted to replacements. Furthermore, in the context of a growing industry where acquisition of up-to-date equipment is crucial, the net investment does not appear to be sufficient to make the apparent growth sustainable in the longer term.

6. Conclusion

(60) In concluding that the Community industry had suffered material injury during the period examined, account was taken of the following facts.

(61) The investigation has shown that the sampled Community producers have suffered significant price pressure over the period under consideration with a consequent significant fall in the prices of these companies. This led to a deterioration of the financial situation of the producers concerned, with insufficient profitability achieved by the sampled companies as a whole and losses by many producers. A number of companies have closed down in the recent past and, among the surviving companies in the sample, some are endangered. Furthermore, this deterioration in profitability should be seen in the light of considerable achievements in respect of productivity during the period examined. As regards market share, it should be noted that after an improvement in 1994, the market share of the Community industry is again in decline in spite of a significant increase in consumption.

(62) In the light of the foregoing analysis, it has been concluded that the Community industry has suffered material injury within the meaning of Article 3 (1) of the Basic Regulation. This conclusion is mainly based on the price pressure suffered, together with decreasing and clearly insufficient profitability of the sampled Community producers.

F. CAUSATION OF INJURY

(63) For the purpose of determining whether the injury suffered by the Community industry was caused by the dumped Norwegian imports of whether other factors caused or contributed to that injury, the following elements were examined.

1. Causal link between the imports concerned and injury

(64) It should be noted that since the Norwegian imports of salmon were found to be dumped in the same period during which countervailable subsidies were paid to Norwegian producers, the coincidental effects of both dumping and subsidization cannot be distinguished and have therefore to be examined in conjunction.

(65) In examining whether the material injury suffered by the Community industry had been caused by the effect of the dumped and subsidized imports, it was noted, in the first instance, that the injury consisted mainly of continuous price pressure and reduced profitability for the Community producers. This coincided with a significant increase in volume of low priced imports of salmon from Norway. As a consequence, Norway has been able to maintain its market share at a very high level (67 %) in an expanding market. Moreover, the prices of these imports fell significantly during the period considered and undercutting of up to 12 % was found in the most important selling period. In this context, it should be recalled that the market for salmon is transparent. In such a market, any downward pressure on prices is likely to be caused by the main supplier, in this case Norway.

(66) Under these circumstances, it is concluded that the combined effects of dumping and subsidization of the Norwegian imports have caused material injury to the Community industry.

2. Other factors

(67) The trend in consumption in the Community market, the evolution and impact of imports from other third countries and the competitiveness of the Community salmon industry were analysed in order to establish whether they could have been a cause of the injury suffered by the Community industry.

(a) *Community consumption*

(68) Community consumption of Atlantic salmon increased continuously and in total by 58 % between 1992 and the investigation period. The injury sufferd by the Community industry cannot, therefore, be attributed to any downward trend in demand.

(b) *Imports from other third countries*

(69) As regards imports from third countries not concerned by the present proceeding (mostly the Faeroes, Chile, Canada and Iceland), their overall market share was found to have decreased from 12 % to 7 % during the period considered. It was therefore concluded that the impact of these imports had been limited.

(c) *Competitiveness of the Community industry*

(70) It should be noted that the Community producers of salmon significantly improved their competitiveness between 1992 and the investigation period; the output per worker more than doubled, there was a reduction in the fish mortality rate by 23 % and an increase of 25 % in the average weight of the salmon grown. Moreover, the volume of exports of

the Community industry increased from 3 266 tonnes in 1992 to 7 321 tonnes in the investigation period. On this basis, the Community industry has attained considerable efficiency in cost terms.

3. Conclusion

(71) In the light of the above, it was concluded that the dumped and subsidized Norwegian imports of salmon have, taken in isolation, caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General considerations

(72) On the basis of all evidence submitted, consideration was given as to whether, despite the conclusions on dumping and injury, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to impose measures in the present case. For this purpose, the impact of possible measures for all parties involved in the proceedings and also the consequences for those same parties of not taking measures were assessed.

(73) In making such an appreciation, in conformity with the Basic Regulation, special consideration was given to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition.

2. Interest of the Community industry

(74) It should first be recalled that the Community industry of farmed Atlantic salmon has suffered from a long history of dumping attributable to Norwegian exports.

(75) Injurious dumping was established by the Commission as far back as 1991 (Commission Decision 91/142/EEC) [1], when it was decided that, despite positive findings on both dumping and injury, no measures should be imposed on the grounds that the Norwegian authorities had taken measures at a national level which, it was thought, would stabilize the market.

(76) Subsequently, minimum import prices (MIP) have been set by the Commission on several occasions over the past few years (November 1993, February 1994, March 1994) and lastly from 16 December 1995 to 13 June 1996 by Regulation (EC) No 2907/95 [2]. MIPs were justified by the fact that the volume and prices of imports were causing or threatening to cause disturbances on the market resulting in serious economic, societal or environmental difficulties and demanding the adoption of immediate measures. As opposed to anti-dumping or countervailing measures, these measures did not require a finding that the exporting country concerned had engaged in unfair trading practices. These measures failed to produce the expected effects.

(77) Against this background, it is considered that if no effective measures are taken in order to correct the injurious effects of dumped and subsidized Norwegian imports, the situation of the Community industry will continue to deteriorate to the point where, ultimately, its very existence could be at risk.

(78) It should also be recalled that the Community industry of farmed Atlantic salmon is mostly made up of small and medium-sized enterprises, located in rural and mostly less-developed regions of the Community (Objective 1 regions), where economic activity is scarce. As has been mentioned above, the Community industry has constantly improved its productivity, which is consequently not in doubt. In the course of the restructuring which has taken place, a number of small farms have been acquired by producers which are part of large groups. If no measures are taken, apart from the likelihood of a further reduction in the number of competitors in the market, the investment in improving productivity and restructuring may well prove not to have had the desired effect.

3. Interest of other community industries

(79) A number of downstream users such as smokers and wholesalers of farmed Atlantic salmon alleged that the imposition of measures on imports of Norwegian farmed Atlantic salmon would adversely affect their activities. These users argued that if measures had the effect of reducing quantities of farmed Atlantic salmon imported from Norway, no alternative sources of supply would be available. These same users alleged that if imports of farmed Atlantic salmon from Norway were made more expensive, they would have to pass on the additional cost to the final consumer who would then turn to other products. The argument was also made that a duty imposed on unprocessed farmed Atlantic salmon originating in Norway could lead to the expansion of the Norwegian industry processing farmed Atlantic salmon, at the expense of the Community processing industry.

[1] OJ L 69, 16. 3. 1991, pp. 32-37.

[2] OJ L 304, 16. 12. 1995, pp. 38-39.

(80) It should be pointed out, first of all, that the investigation has shown that the Community industry has the capacity to increase its production and it would certainly do so if it were allowed to achieve a reasonable return. Furthermore, in the event that the proposed measures would result in a reduction of the quantities of farmed Atlantic salmon being imported from Norway, alternative sources of supply are readily available, i.e. Chile, Canada, Iceland and the Faroe Islands.

(81) As to the pricing policy likely to be adopted by Community producers following the imposition of measures, it should be borne in mind that any increase in the prices of the Community producers is bound to be limited to what is strictly necessary for them to obtain a more reasonable return. If the Community producers were to increase their prices massively, it is indeed more than likely that other exporting countries would gain a more substantial share of the Community market. In addition, any such price increases on the part of the Community industry are bound to be limited by another factor, i.e. the availability to the consumer of farmed salmon trout, which is a product relatively similar and thus substitutable for salmon, available in the Community at a slightly lower price and which seems to have also been negatively affected by the increase of imports of dumped farmed Atlantic salmon from Norway.

(82) As to the possibility of the Community processing industry being affected by competition of processed products from Norway, the anti-dumping and countervailing duties will be levied on the raw material, which represents only a proportion of the cost of the processed product. The limited impact of the proposed duty rates should therefore not be sufficient to justify a reduction in processing operations in the Community. Finally, most of the smokers in the Community also process and trade salmon produced in the Community, as well as other products and are therefore not entirely dependent on salmon imported from Norway.

(83) It should be noted, furthermore, that in order to evaluate the likely impact that measures might have on processors in the Community, the Commission sent questionnaires to all companies which were members of three associations of traders and processors which had made themselves known and requested a hearing.

(84) In total, 93 questionnaires were sent but only one complete and verifiable reply was received, making it thus impossible to evaluate, on a representative basis, the possible effect that the imposition of measures might have on the Community industry trading or processing farmed Atlantic salmon.

(85) Nevertheless, the information obtained so far has shown that, as far as smoked salmon is concerned, the cost of the raw material, i.e. farmed Atlantic salmon represents around 45 % of the total cost of production of smoked salmon. Thus, if the cost of the raw material was increased by, for instance, 10 %, this would entail a total increase in the cost of production of smoked salmon of only 4,5 %.

(86) In addition, information obtained from various reliable sources seems to indicate that the situation of Community processors is quite diverse. There are, on the one hand, companies which produce ready-to-eat meals and which are part of large groups. Since the cost of the raw material fish is a limited proportion of the cost of the final product, these companies are unlikely to be significantly affected by the present measures. On the other hand, there are a number of companies who smoke or pickle salmon and which are more dependent on the price of the raw material. These companies would probably have to pass on part of the extra cost to the next trade level. As already mentioned under recital 85, the increase in costs would be of a limited nature. In any event, information obtained so far seems to indicate that only in the case of price increases in excess of 20 % would there be a danger that consumers would turn to other products.

4. Interest of importers

(87) A number of importers have argued in general terms that any imposition of anti-dumping measures would negatively affect them.

(88) As has been shown above, it is expected that the proposed measures, whilst allowing the Community industry to recover from the injurious effects of dumping, will neither affect the possibility for importers of purchasing salmon from Norway or other sources, nor entail price increases in excess of what is necessary for the Community industry to be able to regain a reasonable profitability.

5. Interest of consumers

(89) Consumer representatives (BEUC) argued that protective measures would not be in the interest of the consumers in the Community, since they would entail a restriction of the products being on offer and/or price increases to the consumer.

(90) As has been shown above, the existence of alternative sources of supply and the availability of substitute products tend to demonstrate that the effect on the final consumer will be minimal, if any. In addition, it should be borne in mind that any duty will be levied on the CIF import price. The impact, if

any, on retail prices will therefore be considerably lessened. It should further be noted that the average yearly consumption of salmon in the Community is estimated at 0,8 kg per capita, which suggests that the overall impact on consumers will be very small.

6. Conclusion

(91) Having carefully examined all the above aspects, it was concluded that it is in the Community interest to impose anti-dumping measures on imports of farmed Atlantic salmon originating in Norway since there are no compelling reasons which would lead to the conclusion that it is not in the Community interest to impose such measures.

H. ANTI-DUMPING MEASURES

1. Level of anti-dumping measures

(92) In accordance with the relevant provisions of the Basic Regulation, it was examined whether the measures should be less than the dumping margins found, if such lesser measures would be adequate to remove the injury to the Community industry.

(93) In this respect, it is considered that any measures imposed should allow the Community industry to achieve prices they would have obtained in the absence of dumped imports. In the absence of any information to the contrary, it can be assumed that such prices would cover its cost of production and a reasonable profit. In order to achieve this, the prices of imports should be increased accordingly.

(94) For the purpose of calculating the necessary price increase, the prices of the dumped imports were compared to selling prices reflecting the cost of production of the Community industry plus a reasonable level of profit. In this respect, a profit margin of 15 % was considered to be the minimum profit level necessary to make this sector viable. In determining this profit level, account was taken of the following factors: salmon farming is a high-risk industry given, *inter alia*, the length of the production process (18-24 months); the risk of disease, predators and bad weather conditions which occur frequently in this industry; the non-predictability of prices of a product traded as a commodity; the very short shelf-life of the product. It was also found that a sufficient profit margin was needed in order for Community producers to have access to financing, which is particularly crucial for this industry to remain competitive in a rapidly growing market.

(95) On this basis, the export prices for those product types used in the determination of price undercutting (see recital 43) were compared, for the period of investigation, on a free-at-Community-frontier level, after adjusting where appropriate for freight, customs duties and post importation costs, with the weighted average selling prices charged by the selected Community producers concerned, increased, where appropriate, to cover production cost plus the abovementioned profit margin of 15 %.

Level of duties

(96) Attention had to be paid in this case to the fact that the imposition of a residual countervailing duty at a level of 3,8 % has also been adopted by the Council. According to Article 14 (1) of the Basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization. It was established that, in this case, it was possible to impose both types of duties. The reason for this was that none of the countervailing subsidies involved were export subsidies and they therefore had no impact on the dumping margin. The subsidies had the same effect on normal value and export price and, in the absence of subsidies, the dumping margin would have remained the same.

However, since in this case, injury was found to result from both dumping and subsidization, the total level of both duties could not exceed the amount necessary to remove such injury.

(97) The dumping margin found for each of the exporters investigated was therefore compared to the amount of injury which was not already eliminated by the countervailing duty, i.e. to the corresponding injury elimination level reduced by 3,8 %. The level of the anti-dumping duty applicable to all Norwegian exporters outside the sample was similarly established by calculating the weighted average of the lower of the dumping margins and the injury elimination levels net of countervailing duties on a company by company basis.

(98) For the two exporters for which marked changes in the pattern of export prices in the period immediately preceding Christmas had been identified (see recital 26), the injury elimination level was calculated by reference to the prices of individual export transactions to the Community. For the four others, the injury elimination level was calculated by reference to the weighted average export prices.

(99) For three exporters in the sample, the injury elimination level was lower than the dumping margin and any anti-dumping measures for them should be based on the former. For the others, measures should be based on the dumping margin.

2. Undertakings

(100) As already mentioned in recital 7, the Norwegian exporters listed in the Annex offered undertakings pursuant to Article 8 of the Basic Regulation in respect of the exports of the product concerned to the Community.

(101) The Norwegian exporter, Saga Lax Norge A/S did not provide, at the outset of the investigation, the necessary information to allow the Commission to make individual findings on dumping and injury for this company. It should be noted, however, that Saga Lax Norge A/S is related to a number of companies in Norway which fully cooperated in the investigation. This includes one of the companies selected in the sample of exporters, Timar Seafood A/S, for which individual findings on dumping and injury could, therefore, be made. As regards the level of the residual duty, this has been set by reference to the findings made in relation to Timar Seafood A/S. As to whether Saga Lax Norge A/S and its related companies should be subject to that duty without being given the opportunity to offer an undertaking, account should be taken of the fact that, during a significant part of the investigation period, several related companies, including Timar Seafood A/S, were not related to Saga Lax Norge A/S and it does not, therefore, seem appropriate to deny them the benefit of their cooperation. In these circumstances, it is considered that no useful purpose would be served by refusing to entertain the offer of an undertaking by Saga Lax Norge A/S itself. The monitoring of undertakings in the present proceeding will be facilitated by the undertaking entered into by the Norwegian government in the parallel anti-subsidy proceeding and it is therefore concluded that all the companies concerned should be given the same treatment in terms of measures, including the possibility to enter into price undertakings.

(102) Having examined these undertakings, the Commission found them to be acceptable, since they would eliminate the injurious effects of dumping pursuant to Article 8 (1) of the Basic Regulation.

(103) The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered by the exporters listed in the Annex were accepted by Commission Decision 97/634/EC [1] and the investigation should therefore be terminated without the imposition of definitive duties in respect of these exporters.

3. Definitive duties

(104) Notwithstanding the acceptance of the undertakings offered by a large number of Norwegian exporters, residual duties should be imposed on imports of the product concerned originating in Norway in order to cover all Norwegian exports of the product concerned to the Community and also to underpin the undertakings by discouraging their circumvention. Moreover, the level of the duty to be imposed in case of a breach or withdrawal of undertakings should be determined.

(a) *Form of the duty*

(105) Having considered the different types of duties which may be envisaged in the present case, it has been concluded that a specific duty, expressed as a fixed amount in ECU per kg, would be the most appropriate. Such a duty appears to be particularly well adapted to the product concerned and impossible to evade by incorrectly stating the price at the Community frontier. Since farmed Atlantic salmon is mostly traded as a commodity, whose price is not susceptible to significant variation depending on size, presentation or quality, and since the bulk of Norwegian exports to the Community consists of fresh or chilled gutted salmon, this approach appears adequate.

(106) The application of a specific duty is also justified in this case by the fact that values declared on importation into the Community appear not to be consistently in line with the prices actually charged by the Norwegian exporters to independent EC customers.

(b) *Amounts of the duties*

(107) The definitive anti-dumping duty to be imposed on imports of farmed Atlantic salmon exported by companies which have not offered any undertaking or in case of breach or withdrawal of undertakings by any party which is not specifically mentioned below is ECU 0,32/kg net product weight.

Exports of farmed Atlantic salmon exported by the following companies, all of which have entered into undertakings, would be subject to the following rates of duty in the case of breach or withdrawal of undertakings:

[1] See page 81 of this Official Journal.

Company	Rate of duty ECU/kg net product weight
Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S	0,35
Skaarfish Group A/S	0,23
Terra Seafood A/S/Norfood Group A/S	0,25
Timar Seafood A/S	0,41
Ålesundfisk A/S	0,22
Domstein Salmon A/S	0,33
Saga Lax Norge A/S	0,41

(c) *Implementation and management of the duties*

(108) For the purpose of ensuring an effective implementation of the duties the Commission should be entitled, after consulting the Advisory Committee, to amend, by regulation, the Annex to this Regulation. It should be recalled that in this case, measures are exceptionally taken with regard to exporters and not with regard to producers (see recital 12 *et seq.*) since exporting companies are generally not involved in the production activity. This facilitates access to the salmon exporting industry. This increases the likelihood of a significant number of new Norwegian exporters to the Community. Therefore, for the sake of good administration, the Commission should be entitled either to extend the exemption from the payment of the duties to any new exporters who may offer acceptable undertakings,

HAS ADOPTED THIS REGULATION:

Article 1

1. (a) A definitive anti-dumping duty is hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00 *19), ex 0304 10 13 (Taric code: 0304 10 13 *19), ex 0303 22 00 (Taric code: 0303 22 00 *19) and ex 0304 20 13 (Taric code: 0304 20 13 *19) originating in Norway.

(b) This duty shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00 *11, 0304 10 13 *11, 0303 22 00 *11, 0304 20 13 *11). For the purpose of this Regulation, wild Atlantic salmon shall be that in respect of which the competent authorities of the Member State 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. The rate of duty applicable is ECU 0,32/kg net product weight (Taric additional code: 8900), with the exception of imports of farmed Atlantic salmon exported by the companies listed in the Annex to this Regulation, which shall be exempted from the duties.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Where any new exporter in the exporting country in question provides sufficient evidence to the Commission that it did not export the goods described in Article 1 (1) during the investigation period, then the Commission, after consulting the Advisory Committee, may, where appropriate, amend by regulation the Annex to this Regulation in order to extend the exemption from the payment of the duties to the new exporter.

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, 26 September 1997.

For the Council

The President

J. POOS

ANNEX

	Company Name	Taric Code
1	A. Øvreskotnes AS	8095
2	A.B.A. AS	8096
3	Agnefest Seafood	8325
4	Alamar AS	8097
5	Alsvåg Fiskeprodukter AS	8098
6	Altafjord Oppdrett AS	8099
7	Aqua Export AS	8100
8	Aqua Partner AS	8101
9	Aqua Supply AS	8107
10	Aquatrade AS	8108
11	Arctic Group International AS	8109
12	Arctic Product AS	8110
13	Arctic Superior AS	8111
14	Arne Mathisen AS	8112
15	AS Aalesundfisk	8113
16	AS Austevoll Fiskeindustri	8114
17	AS Keco	8115
18	AS Møre Codfish Company	8116
19	AS Nortraders Ltd	8117
20	AS Refsnes Fiskeindustri	8118
21	AS West Fish Sales Ltd	8119
22	Astor AS	8120
23	Atlantic King Stranda AS	8121
24	Atlantic Seafood AS	8122
25	Atlantis AS	8123
26	Borkowski & Røsnes AS	8124
27	Brødrene Aasjord AS	8125
28	Brødrene Eilertsen AS	8126
29	Brødrene Karlsen AS	8127
30	Brødrene Remø AS	8128
31	Christiansen Partner AS	8129
32	Clipper Seafood AS	8130
33	Coast Seafood AS	8131
34	Companhia do Bacalhau Lda AS	8132
35	Dåfjord Laks AS	8133
36	Delfa Norge AS	8134
37	DM Direkte Markedsføringsbyrå	8135
38	DNHS Fishing Company AS	8399
39	Domstein Salmon AS	8136
40	E. Slorer Jacobsen & Co. AS	8137
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen AS	8139
43	Eurolaks AS	8140
44	Euronor AS	8141
45	Fader Martin AS	8142
46	Fiskeforsyningen AS	8143
47	Fjord Aqua Group AS	8144
48	Fjord Trading Ltd AS	8145
49	Fonn Egersund AS	8146
50	Fossen AS	8147
51	Fresh Atlantic AS	8148
52	Fresh Marine Company AS	8149
53	Fryseriet AS	8150
54	Frøya Fiskeindustri AS	8151
55	Gigante Fiskekroken AS	8152
56	Gje-vi AS	8153
57	Gjendemsjø Fisk AS	8299
58	Grieg Seafood AS	8300
59	Gunnar Klo AS	8301
60	Haafa fisk AS	8302
61	Hallvard Leroy AS	8303
62	Herøy Filetfabrikk AS	8304
63	Herøy Lakseoppdrett AL	8305
64	Hirsholm Norge AS	8306
65	Hitramat & Delikatesse AS	8154
66	Hydro Seafood Sales AS	8159
67	Hydrotech-gruppen AS	8161
68	Icelandic Freezing Plants Norway AS	8165
69	Imperial Salmon Co. AS	8171
70	Incofood AS	8172
71	Inter Road AS	8173
72	Inter Sea AS	8174
73	J. Meinert AS	8175
74	Jan og Einar Martinussen AS	8176
75	Janas AS	8177
76	Joh. H. Pettersen AS	8178
77	Johan J. Helland AS	8179
78	Karl Storm Andersen Eft AS	8180
79	Karsten J. Ellingsen AS	8181
80	Kr. Kleiven & Co. AS	8182
81	Kurt F. Løseth & Co. AS	8183
82	Labeyrie Norge AS	8184
83	Lafjord Group AS	8185
84	Langfjord Laks AS	8186
85	Leica Fiskeprodukter	8187
86	Leonhard Products AS	8423
87	Lofoten Seafood Export AS	8188
88	Lorentz A. Lossius AS	8189
89	Ma-vo Norge AS	8190
90	Marex AS	8326
91	Marinco AS	8191
92	Marine Seafood AS	8196
93	Marstein Seafood AS	8197
94	Master Seafood AS	8198
95	Melands Røkeri Eftf. AS	8199
96	Memo Food AS	8200
97	Midtco AS	8201
98	Misundfisk AS	8202
99	Myre Sjømat AS	8203
100	Naco Trading AS	8206
101	Namdal Salmon AS	8207
102	Nature Sea-lect Ltd	8208
103	Neptun Stavanger AS	8209
104	Nergård AS	8210
105	Nils Williksen AS	8211
106	Niscan Corporation	8212
107	Nisja Trading AS	8213
108	Nor-Food AS	8214
109	Nor-Trade International	8215
110	Nordhav AS	8216
111	Nordic Group ASA	8217
112	Nordreisa Laks AS	8218

	Company Name	Taric Code
113	Norexport AS	8223
114	Norfi Produkter AS	8227
115	Norfood Group AS	8228
116	Norfra Eksport AS	8229
117	NorMan Trading Ltd AS	8230
118	Nornir Group AS	8231
119	Norsk Akvakultur AS	8232
120	Norsk Sjåmat AS	8233
121	Northern Seafood AS	8307
122	Nortrade AS	8308
123	Norway Royal Salmon Sales AS	8309
124	Norway Royal Salmon AS	8312
125	Norway Seafarms AS	8313
126	Norway Seafoods ASA	8314
127	Norwegian Salmon AS	8315
128	Norwell AS	8316
129	Notfisk Arctic AS	8234
130	Nova Sea AS	8235
131	NTC Norwegian Taste Company AS	8236
132	Ocean Superior Products AS	8237
133	Oddvin Bjørge AS	8238
134	Ok-Fish Kvalheim AS	8239
135	Omega Sea AS	8240
136	Oster Sea Products AS	8241
137	Pan Fish Sales AS	8242
138	Pero Food AS	8243
139	Polar Gigante AS	8246
140	Polar Seafood Norway AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
143	Roger AS	8253
144	Rolf Olsen Seafood AS	8254
145	Ryfisk AS	8256
146	Rørvik Fisk-og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Sagalax Nord AS	8259
149	Salomega AS	8260
150	Sandanger AS	8261
151	Sangoltgruppa AS	8262
152	Scan-Mar AS	8263
153	Scanfood AS	8264
154	Sea Eagle Group AS	8265
155	Sea Star International AS	8266
156	Sea-Bell AS	8267
157	Seaco AS	8268
158	Seacom AS	8269
159	Seacom Nord AS	8270
160	Seafood Farmers of Norway Ltd AS	8271
161	Seanor AS	8272
162	Sekkingstad AS	8273
163	Sigerfjord-Fisk AS	8274
164	Sirena Norway AS	8275
165	Skaarfish Group AS	8276
166	Skarpsno Mat	8277
167	SL Fjordgruppen AS	8278
168	SMP Marine Produkter AS	8279
169	Sotra Fiskeindustri AS	8280
170	Starfish AS	8281
171	Stavanger Røkeri AS	8282
172	Stjernelaks AS	8283
173	Stokfish Norway AS	8284
174	Stolt Sea Farm AS	8285
175	Storm Company AS	8286
176	Superior AS	8287
177	Svenodak AS	8288
178	Terra Seafood AS	8289
179	Thorleif E. Ellingsen AS	8293
180	Timar Seafood AS	8294
181	Torget International AS	8297
182	Torris Products Ltd AS	8298
183	Troll Salmon AS	8317
184	Uniprawns AS	8318
185	Vareberg's Røykeri	8319
186	Vest Agentur AS	8320
187	Vie de France Norway AS	8321
188	Vikenco AS	8322
189	Wannebo International AS	8323
190	West Fish Norwegian Salmon AS	8324