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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2039/98

of 24 September 1998

amending Council Regulations (EC) No 1890/97 and (EC) No 1891/97 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 Community [1], and in particular Articles 8(9) and 9 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 Community [2], and in particular Articles 13(9) and 15 thereof,

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

Whereas:

A. PROCEDURE

(1) On 31 August 1996, the Commission announced, by two separate notices published in the *Official Journal of the European Communities*, the initiation of an anti-dumping proceeding [3] as well as an anti-subsidy proceeding [4] in respect of imports of farmed Atlantic salmon originating in Norway.

(2) The Commission sought and verified all information that it deemed necessary for the purpose of its definitive findings. As a result of this examination, it was established that definitive anti-dumping and countervailing measures should be adopted in order to eliminate the injurious effects of dumping and subsidisation. All interested parties were informed of the results of the investigation and were given the opportunity to comment thereon.

(3) On 26 September 1997, the Commission adopted Decision 97/634/EC [5], accepting undertakings offered in connection with the two abovementioned proceedings by the exporters mentioned in the Annex to that Decision and terminated the investigations in their respect.

(4) On the same day, the Council, by Regulation (EC) No 1890/97 [6], imposed an anti-dumping duty of ECU 0,32 per kilo on imports of farmed Atlantic salmon originating in Norway. Imports of farmed Atlantic salmon exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 1(2) of the Regulation.

(5) On the same day, the Council, by Regulation (EC) No 1891/97 [7], also imposed a countervailing duty of 3,8 % on imports of farmed Atlantic salmon originating in Norway. Imports of farmed Atlantic salmon exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 1(2) of that Regulation.

(6) The abovementioned Regulations set out the definitive findings and conclusions on all aspects of the investigations.

B. WITHDRAWAL OF UNDERTAKINGS

(7) In monitoring the undertakings submitted by the Norwegian exporters, the Commission gradually found that a number of exporters had no sales to the European Community for consecutive reporting quarters. Upon verification, some of these

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ No 128, 30. 4. 1998, p. 18).
[2] OJ L 288, 21. 10. 1997, p. 1.
[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. 81. Decision as last amended by Regulation (EC) No 1126/98 (OJ L 157, 30. 5. 1998, p. 82).
[6] OJ L 267, 30. 9. 1997, p. 1. Regulation as last amended by Regulation (EC) No 772/98 (OJ L 111, 9. 4. 1998, p. 10).
[7] OJ L 267, 30. 9. 1997, p. 19. Regulation as last amended by Regulation (EC) No 772/98 (OJ L 111, 9. 4. 1998, p. 10).

companies also declared that they had not exported during the reference period of the original investigations having led to the present anti-dumping and countervailing measures, and that they have no binding contractual obligations to do so in the near future.

(8) The Commission informed the parties concerned of these findings and pointed out that, in view of these facts, the companies did not qualify as exporters within the meaning of Regulation (EC) No 384/96 (hereinafter the 'basic anti-dumping Regulation') and Regulation (EC) No 2026/97 (hereinafter the 'basic anti-subsidies Regulation'). Furthermore, it was made known to these parties that to maintain the undertakings in force under these circumstances would be administratively cumbersome for the Commission in terms of monitoring. These parties were also informed that they could offer, when the relevant conditions are met, again an undertaking as new exporters in accordance with Article 2 of Regulation (EC) No 1890/97 and with Article 2 of Regulation (EC) No 1891/97. Any application by these parties under those Articles would be treated expeditiously. Consequently, the following companies withdrew their undertakings voluntarily:

Undertaking No	Company Name
002	A.B.A. AS
004	Alamar AS
012	Arctic Product AS
025	Atlantis AS
029	Brødrene Karlsen AS
037	DM Direkte Markedsføringsbyrå
040	E. Slorer Jacobsen & Co. AS
054	Frøya Fiskeindustri AS
069	Imperial Salmon Co. AS
081	Kurt F. Løseth & Co. AS
097	Midtco AS
118	Nornir Group AS
131	NTC Norwegian Taste Company AS
133	Oddvin Bjørge AS
150	Sandanger AS
152	Scan-Mar AS
163	Sigerfjord-Fisk AS
169	Sotra Fiskeindustri AS
173	Stokfish Norway AS
179	Thorleif E. Ellingsen AS
181	Torget International AS

(9) In accordance with Article 8(9) of the basic anti-dumping Regulation, and with Article 13(9) of the basic anti-subsidies Regulation, there was no further need to give these parties an opportunity to comment since they themselves withdrew their undertakings.

C. DEFINITIVE MEASURES AND RATE OF DUTY

(10) Following the withdrawal of their undertakings, the companies concerned are not entitled to continue to benefit from an exemption from the anti-dumping and countervailing duties.

(11) In accordance with Article 8(9) of Regulation (EC) No 384/96, the rate of the anti-dumping duty should be established on the basis of the findings of the investigation which led to the undertakings. In this regard, and in view of recital (107) of Regulation (EC) No 1890/97, it is considered appropriate to set the rate of the definitive anti-dumping duty at ECU 0,32 per kilo net product weight.

(12) In accordance with Article 13(9) of Regulation (EC) No 2026/97, the rate of the countervailing duty should be established on the basis of the findings of the investigation which led to the undertakings. Under the present circumstances and in view of recital (149) of Regulation (EC) No 1891/97, it is considered appropriate that the rate of the definitive countervailing duty be set at the level of 3,8 %.

D. AMENDMENT OF THE ANNEXES TO REGULATION (EC) No 1890/97 AND REGULATION (EC) No 1891/97

(13) The Annexes to Regulation (EC) No 1890/97 and Regulation (EC) No 1891/97, exempting the parties listed therein from the duties, should be amended to remove that exemption for the companies listed in Annex I hereto.

(14) It is noted that the Commission has accordingly amended the Annex to Decision 97/634/EC accepting undertakings from the parties herein.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1890/97 is hereby replaced by Annex II to this Regulation.

Article 2

The Annex to Regulation (EC) No 1891/97 is hereby replaced by Annex II to this Regulation.

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, 24 September 1998.

For the Council
The President
N. MICHALEK

ANNEX I

Companies which withdrew their undertakings

Undertaking No	Company Name	Taric additional Code
002	A.B.A. AS	8096
004	Alamar AS	8097
012	Arctic Product AS	8110
025	Atlantis AS	8123
029	Brødrene Karlsen AS	8127
037	DM Direkte Markedsføringsbyrå	8135
040	E. Slorer Jacobsen & Co. AS	8137
054	Frøya Fiskeindustri AS	8151
069	Imperial Salmon Co. AS	8171
081	Kurt F. Løseth & Co. AS	8183
097	Midtco AS	8201
118	Nornir Group AS	8231
131	NTC Norwegian Taste Company AS	8236
133	Oddvin Bjørge AS	8238
150	Sandanger AS	8261
152	Scan-Mar AS	8263
163	Sigerfjord-Fisk AS	8274
169	Sotra Fiskeindustri AS	8280
173	Stokfish Norway AS	8284
179	Thorleif E. Ellingsen AS	8293
181	Torget International AS	8297

ANNEX II

Companies benefiting from undertakings

Undertaking No	Company name	Taric additional code
001	A. Øvreskotnes AS	8095
003	Agnefest Seafood	8325
005	Alsvåg Fiskeprodukter AS	8098
007	Aqua Export AS	8100
008	Aqua Partner AS	8101
011	Arctic Group International AS	8109
013	Arctic Superior AS	8111
014	Arne Mathiesen AS	8112
015	AS Aalesundfisk	8113
016	AS Austevoll Fiskeindustri	8114
017	AS Keco	8115
019	AS Nortraders Ltd	8117
020	AS Refsnes Fiskeindustri	8118
021	AS West Fish Ltd	8119
022	Astor AS	8120
023	Atlantic King Stranda AS	8121
024	Atlantic Seafood AS	8122
026	Borkowski & Røsnes AS	8124
027	Brødrene Aasjord AS	8125
028	Brødrene Eilertsen AS	8126
030	Brødrene Remø AS	8128
031	Christiansen Partner AS	8129
032	Clipper Seafood AS	8130
033	Coast Seafood AS	8131
035	Dåfjord Laks AS	8133
036	Delfa Norge AS	8134
039	Domstein Salmon AS	8136
041	Ecco Fisk & Delikatesse	8138
042	Edvard Johnsen AS	8139
043	Eurolaks AS	8140
044	Euronor AS	8141
045	Fader Martin AS	8142
046	Fiskeforsyningen AS	8143
047	Fjord Aqua Group AS	8144
048	Fjord Trading Ltd AS	8145
049	Fonn Egersund AS	8146
050	Fossen AS	8147
051	Fresh Atlantic AS	8148
052	Fresh Marine Company AS	8149
053	Fryseriet AS	8150
055	Gigante Fiskekroken AS	8152
058	Grieg Seafood AS	8300
059	Gunnar Klo AS	8301
060	Haafa fisk AS	8302
061	Hallvard Lerøy AS	8303
062	Herøy Filetfabrikk AS	8304
064	Hirsholm Norge AS	8306
065	Hitramat & Delikatesse AS	8154
066	Hydro Seafood Sales AS	8159
067	Hydrotech-gruppen AS	8428
068	Icelandic Freezing Plants N. AS	8165
070	Incofood AS	8172
071	Inter Road AS	8173
072	Inter Sea AS	8174
075	Janas AS	8177
076	Joh. H. Pettersen AS	8178
077	Johan J. Helland AS	8179
079	Karsten J. Ellingsen AS	8181
080	Kr. Kleiven & Co. AS	8182
082	Labeyrie Norge AS	8184
083	Lafjord Group AS	8185
084	Langfjord Laks AS	8186
085	Leica Fiskeprodukter	8187
086	Leonhard Products AS	8423
087	Lofoten Seafood Export AS	8188
088	Lorentz A. Lossius AS	8189
089	Ma-vo Norge AS	8190
090	Marex AS	8326
092	Marine Seafood AS	8196
093	Marstein Seafood AS	8197
095	Melands Røkeri Eftf. AS	8199
096	Memo Food AS	8200
098	Midsundfisk AS	8202
099	Myre Sjømat AS	8203
100	Naco Trading AS	8206
101	Namdal Salmon AS	8207
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
111	Nordic Group ASA	8217
112	Nordreisa Laks AS	8218
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
119	Norsk Akvakultur AS	8232
120	Norsk Sjømat AS	8233
121	Northern Seafood AS	8307

Undertaking No	Company name	Taric additional code
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
128	Norwell AS	8316
129	Notfisk Arctic AS	8234
130	Nova Sea AS	8235
134	Ok-Fish Kvalheim AS	8239
136	Oster Sea Products AS	8241
137	Pan Fish Sales AS	8242
138	Pero Food AS	8243
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
151	Sangoltgruppa AS	8262
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
164	Sirena Norway AS	8275
165	Kinn Salmon AS	8276
166	Skarpsno Mat	8277
167	SL Fjordgruppen AS	8278
168	SMP Marine Produkter AS	8279
171	Stavanger Røkeri AS	8282
172	Stjernelaks AS	8283
174	Stolt Sea Farm AS	8285
175	Storm Company AS	8286
176	Superior AS	8287
177	Svenodak AS	8288
178	Terra Seafood AS	8289
180	Timar Seafood AS	8294
182	Torris Products Ltd AS	8298
183	Troll Salmon AS	8317
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
191	Nor-Fa Food AS	8102