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COMMISSION REGULATION (EC) No 1826/1999

of 23 August 1999

amending Regulation (EC) No 929/1999 imposing provisional anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway with regard to certain exporters, imposing provisional anti-dumping and countervailing duties on imports of such salmon with regard to certain exporters, amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidies proceedings concerning imports of such salmon and amending Council Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of such salmon

(OJ L 223, 24.8.1999, p. 3)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EC) No 2592/1999 of 8 December 1999	L 315	17	9.12.1999

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COMMISSION REGULATION (EC) No 1826/1999

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amending Regulation (EC) No 929/1999 imposing provisional anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway with regard to certain exporters, imposing provisional anti-dumping and countervailing duties on imports of such salmon with regard to certain exporters, amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidies proceedings concerning imports of such salmon and amending Council Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of such salmon

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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]), as last amended by Regulation (EC) No 905/98 ([2]), 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 Community ([3]), and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS 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 ([4]) as well as an anti-subsidy proceeding ([5]) 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 ([6]), as last amended by Regulation (EC) No 929/1999 ([7]), accepting undertakings offered in connection with the two above-mentioned proceedings from the exporters listed in the Annex to the Decision and terminating the investigations in their respect.

(4) On the same day, the Council, by Regulations (EC) No 1890/97 ([8]) and 1891/97 ([9]) imposed anti-dumping and countervailing duties 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

([1]) OJ L 56, 6.3.1996, p. 1.
([2]) OJ L 128, 30.4.1998, p. 18.
([3]) OJ L 288, 21.10.1997, p. 1.
([4]) OJ C 253, 31.8.1996, p. 18.
([5]) OJ C 253, 31.8.1996, p. 20.
([6]) OJ L 267, 30.9.1997, p. 81.
([7]) OJ L 115, 4.5.1999, p. 13.
([8]) OJ L 267, 3.9.1997, p.1. Regulation repealed by Regulation (EC) No 772/1999 OJ No L 101, 16.4.1999, p. 1.
([9]) OJ L 267, 30.9.1997, p.19, repealed by Regulation (EC) No 772/1999.

▼B

exempted from that duty pursuant to Article 1(2) of those Regulations.

(5) The abovementioned Regulations set out the definitive findings and conclusions on all aspects of the investigations. The form of the duties having been reviewed, Regulations (EC) No 1890/97 and 1891/97 were replaced by Regulation (EC) No 772/1999, as amended by Regulation (EC) No 1003/1999 ([1]).

B. **PROVISIONAL MEASURES IMPOSED BY REGULATION (EC) No 929/1999 (Recital 29 *et seq*)**

(6) The text of the undertakings provides that failure to submit a quarterly report of all sales transactions to the first unrelated customer in the Community within a prescribed time limit (except in case of *force majeure*), would be construed as a violation of the undertaking, as would non-compliance with the obligation to sell the different presentations of the product concerned (i.e. gutted, head-on, etc.) on the Community market at prices which are not below the minimum import prices foreseen in the undertaking.

(7) For the third quarter of 1998, one Norwegian company did not present a report within the prescribed time limit. For the same quarter, the Commission had reason to believe that another Norwegian exporter had sold the product concerned to the Community market at a price which was below the price foreseen in its undertaking. Two other Norwegian companies appeared to have made misleading declarations in their quarterly reports as to the identity of the exporter and the identity and nature of the sales reported.

(8) The Commission therefore had reason to believe that these four companies had breached the terms of their undertakings and, consequently, by Regulation (EC) No 929/1999 imposed provisional anti-dumping and countervailing duties on imports of farmed Atlantic Salmon falling within CN codes ex 0302 12 00, ex 0304 10 13, ex 0303 22 00 and ex 0304 20 13 originating in Norway and exported by the companies.

(9) By the same Regulation (hereinafter referred to as 'the provisional duty Regulation'), the Commission deleted the four companies concerned from the Annex to Decision 97/634/EC, which lists the companies from which undertakings are accepted.

C. **PROCEDURE FOLLOWING IMPOSITION OF PROVISIONAL DUTIES**

(10) All four Norwegian companies subject to the provisional duties received disclosure in writing concerning the essential facts and considerations on the basis of which these provisional duties were imposed. They were also given an opportunity to submit comments and request a hearing.

(11) Within the time limit set in the provisional duty Regulation, all of the Norwegian companies concerned submitted comments in writing. Following receipt of these written submissions, the Commission sought and examined all information it deemed necessary for the purpose of a definitive determination on the apparent violations. Of the four companies subject to the provisional measures, one requested (and was granted) a hearing.

(12) The oral and written comments submitted by the interested parties were considered and, where appropriate, the definitive findings have been changed accordingly.

([1]) OJ L 123, 13.5.1999, p. 19.

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D. **DEFINITIVE FINDINGS — REPEAL OF PROVISIONAL DUTIES FOR ONE COMPANY**

(13) With regard to the Norwegian exporter, Atlantic Seafood A/S, whose quarterly sales report was received by the Commission after the prescribed date, the company stated that, at the time when the report should have been sent, it had encountered technical problems with its electronic mail system which were beyond its control. Evidence was provided from the company's 'internet provider' which confirmed this submission.

(14) Having examined the additional evidence put forward by the company subsequent to the imposition of the provisional measures, the Commission is satisfied that the company was prevented from sending its report in time for reasons which were beyond its control. Accordingly, it is considered that Regulation (EC) No 929/1999 should be repealed in so far as this company is concerned and any provisional duties collected should be released.

E. **DEFINITIVE FINDINGS — VIOLATION OF UNDERTAKINGS BY THREE COMPANIES**

(15) Another company, Myre Sjømat AS, had provisional measures imposed against it by Regulation (EC) 929/1999 due to an apparent violation of the minimum import price. Subsequent to the imposition of the provisional measures, the company claimed that some of the transactions declared on the quarterly sales report for the period in question as 'Presentation g' (fillets or fillet portions), with sales prices below the minimum import price for this presentation, were in fact 'Presentation e' (offcuts or trimmings). It was submitted that the sales prices of these offcuts or trimmings were above the minimum import price for 'Presentation e' and that no violation of the undertaking had occurred. It was also claimed that another sale reported below the minimum import price as 'Presentation g' was not a commercial sale but a low-priced sample of salmon fillets.

(16) The Commission requested the company to provide supporting documentation for these claims, which it did. With regard to those sales originally declared as 'Presentation g' but which were later claimed to be 'Presentation e', the Commission is satisfied that the consignments in question were indeed offcuts or trimmings and that the minimum import price for these sales had been respected.

With regard to the sale of a sample at a low price, it should be noted that whilst the undertaking provides for sufficient flexibility to allow such sales to be made below the minimum import price, they do not fall outside its scope. Accordingly, the low-priced sale in question has to be included in the quarterly average sales price of the company for the presentation concerned. On this basis, the quarterly average price of sales of 'Presentation g' during the quarter concerned was significantly below the applicable minimum import price.

It should also be noted that, in addition to the violation of the minimum import price during the third quarter of 1998, the report of Myre Sjømat AS for this quarter was received late. The reports for the two subsequent quarters were also received late or were not received at all. No satisfactory explanations were received concerning these additional reporting violations.

In view of all the above, it is concluded that definitive duties should be imposed against this company.

(17) Brødrene Eilertsen A/S, one of the two companies which appeared to have made misleading declarations as to the identity of the exporter within the meaning of the undertaking and the identity and nature of the goods reported, claimed that the company was indeed the 'exporter' and that the Norwegian company on whose behalf Brødrene Eilertsen A/S appeared to have been acting (and which, it was understood, had neither an

▼B

export licence issued by the Norwegian authorities nor an undertaking with the Commission), was in fact Eilertsen's agent. Brødrene Eilertsen A/S argued that it should be regarded as the 'exporter' as it dealt with customs authorities, freight hauliers and had to arrange its own customs duty payment/credit facilities in Norway and the Community.

(18) The company confirmed, however, that the money-flow did not match the purchase/resale invoice-flow and that for most export transactions the other Norwegian company obtained orders from customers in the Community, took responsibility for arranging the financing of the sale and, most importantly, received payment for the shipment direct from the customers. Brødrene Eilertsen A/S argued that this was typical business practice and was not done with a view to violating the minimum import price or the undertaking.

(19) The Commission has considered all the arguments put forward, however, none of these detract from the fact that the company issued invoices to unrelated customers in the Community, but never received payment for those invoices. It is considered that this type of business practice is incompatible with the obligations imposed by the undertaking as the company is unable to ensure that the invoice amount was actually paid by its customer and, it follows, that it was not below the minimum import price level. Consequently, it could not control whether the actual prices achieved did indeed respect the terms of its undertaking as far as the minimum import prices were concerned. For these reasons, Brødrene Eilertsen A/S cannot be considered as an exporter within the meaning of the undertaking.

(20) It also follows that, in submitting quarterly undertaking reports of 'sales' to the Community which can only be regarded as hypothetical (as they simply reflected the amounts stated on the invoices and not necessarily, contrary to the requirements of the undertaking, the real value of the underlying financial transactions), the company misled the Commission with regard to its true function and capability for respecting the undertaking and also as to the true nature and price level of the sales. Indeed, if these facts had been known to the Commission, they would have led to the rejection of the offer of an undertaking at the outset, or to the withdrawal of acceptance of the undertaking at a much earlier stage.

(21) For an undertaking to be considered acceptable, the Commission must be satisfied that it can be effectively monitored, which is something it clearly cannot do when a company such as Brødrene Eilertsen A/S has no control (or even knowledge) of the final price of exported salmon paid by the customer in the Community directly to the supplier in Norway. Consequently, the acceptance of the undertaking offered by Brødrene Eilertsen A/S should be withdrawn and definitive duties should be imposed.

(22) The other company which appeared to have made misleading declarations as to the identity of the exporter, Arne Mathisen A/S, confirmed that with regard to one particular supplier in Norway, an exporter without an undertaking, its money-flow did not reflect the paper-flow of purchase and resale invoices. It had a commercial arrangement with this Norwegian supplier and its sole customer in the Community (which was related to the Norwegian supplier) whereby Arne Mathisen A/S would receive from the importer the difference between the cost of goods supplied from the related company in Norway and the resale price to the importer, thus saving on bank costs. Sales sourced in this way constituted a significant proportion of the total exports of Arne Mathisen A/S.

(23) The company stated that it was acting as exporter because it acquired legal title to the goods, accepted the commercial risks and arranged for transport to the Community. Arne Mathisen A/S also argued that receipt of only the difference between the purchase and resale prices was standard business practice. The

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company further submitted that the resale prices of goods purchased from Arne Mathisen A/S by the Community importer in question had been verified during an on-spot verification at the importer's premises in November 1998 and were found to have been above the minimum import price. It was argued that the sales in question of Arne Mathisen A/S had not, therefore, caused any injury ultimately to the Community industry.

(24) It also submitted that it had ceased sourcing salmon from the company in Norway which is related to its customer in the Community as soon as an amendment was made at the end of November 1998 to the undertaking (and corresponding amendment to the applicable Norwegian legislation) which expressly prevented salmon being sourced in this way from, *inter alia*, Norwegian exporters which do not hold undertakings.

(25) With regard to the arguments concerning the receipt of a 'net' amount from the Community customer, the considerations and conclusions of the Commission set out above at recital 19 *et seq* also apply to Arne Mathisen A/S. It too is considered to have sent hypothetical sales reports, and to have misled the Commission as to its true function and capability for respecting the undertaking.

(26) In this regard, as long as it had no control over the constitutive price element, it is irrelevant whether Arne Mathisen A/S may have taken responsibility for ancillary obligations concerning its sales. In addition, it should be noted that, contrary to what it had stated earlier, Arne Mathisen A/S admitted that it was fully aware of the relationship between the Norwegian supplier concerned and its sole customer in the Community. It follows, therefore, that Arne Mathisen A/S must have known that prices and money-flows between those two companies were only of a notional character as they were, in essence, transfer prices between related parties.

(27) As concerns the verification visit of the Commission to the unrelated customer in the Community, the argument that the resale prices of this company may have been above the minimum import price and therefore at non-injurious levels is considered to be a completely different issue to the one of whether Arne Mathisen A/S had respected its undertaking or not.

(28) Indeed, to establish, as argued by Arne Mathisen A/S, that these resale prices had no negative effects, it would also be necessary to extend the investigation to the related parties of that importer in Norway and the Community. Furthermore, such a finding is not required by Article 8(9) of Regulation (EC) No 384/96 in order to establish a violation, nor for withdrawing the acceptance of the undertaking. Finally, it is irrelevant whether Arne Mathisen A/S abandoned the practise of obtaining salmon from the Norwegian supplier which was related to its customer in the Community once, as mentioned above in recital 24, this method of sourcing was blocked in November 1998. At that time it had already violated its undertaking for more than five consecutive reporting quarters. Consequently, the acceptance of the undertaking offered by Arne Mathisen A/S should be withdrawn and definitive duties should be imposed.

(29) All the interested parties were informed of the essential facts and considerations on the basis of which it was intended to either repeal the provisional measures imposed against them and reinstate them on the list of companies from which undertakings are accepted, or confirm the withdrawal of the Commission's acceptance of their undertaking and to recommend the imposition of definitive anti-dumping and countervailing duties and the definitive collection of the amounts secured by way of provisional duties. The companies were also granted a period within which to make representations subsequent to this disclosure. Comments received were taken into account where appropriate.

(30) In parallel to this Regulation, the Commission is submitting a proposal for a Council Regulation imposing definitive anti-dumping and countervailing duties on farmed Atlantic salmon

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originating in Norway and exported by the three companies which remain subject to the provisional duty imposed by Regulation (EC) No 929/1999, namely Myre Sjømat AS, Brødrene Eilertsen A/S and Arne Mathisen A/S.

F. **NEW VIOLATION CASES**

(31) As mentioned above, all exporters from which undertakings have been accepted are required, *inter alia*, to submit quarterly reports to the Commission of their sales of the product concerned to the Community and to respect minimum prices for the various presentations of the product concerned.

(32) While monitoring the reports relating to the fourth quarter of 1998, it appeared that one exporter, Norfra Eksport AS, had made sales for one presentation of fish on the Community market below the minimum price foreseen in the undertaking.

(33) The company was given an opportunity to correct any possible clerical mistakes made in the processing of the report and also to comment on any erroneous assessment thereof made by the Commission.

(34) In reply, the company stated that it had not realised that it was obliged to respect the minimum price for each presentation separately, but rather that it could compensate sales below the minimum price in one presentation with sales above the minimum price in another. Moreover, the company stated that the same approach had been applied in its sales report for the third quarter of 1997, however, at that time, the Commission had not advised it that anything untoward had occurred. Accordingly, the company considered that its interpretation of the terms of the undertaking and its approach concerning sales prices was correct.

(35) The Commission cannot accept the first argument as it considers that the text of the undertaking signed by the company makes it absolutely clear that minimum prices are to be respected by presentation. In addition, pre-formatted computer files have been distributed to exporters as part of the reporting procedure. These files are also clearly geared to presenting (and checking) prices by presentation, and not by an average of all presentations.

(36) As concerns the submission that the Commission had failed to advise the company in the past that it had misinterpreted the undertaking, it is noted that the Commission, in May 1998, whilst clarifying a number of technical issues raised by the Norwegian Seafood Export Council, also emphasised that the respect of the minimum prices would be checked for each presentation. It was confirmed that Norfra Eksport AS had received a copy of this letter.

(37) In addition, while monitoring the reports relating to the first quarter of 1999, it appeared that another exporter, Janas AS, had made sales for one presentation of fish on the Community market below the minimum price foreseen in the undertaking. The company was given an opportunity to correct any possible clerical mistakes made in the processing of the report and also to comment on any erroneous assessment thereof made by the Commission. No satisfactory answer was received, however, from the company within the deadline set which caused the Commission to consider that its preliminary evaluation was incorrect.

(38) Also with regard to the first quarter of 1999, no sales report was received within the prescribed time limit from another exporter, Vie de France Norway AS, despite the fact that a reminder was sent to the company 24 hours before the deadline. The company was subsequently given an opportunity to advise the Commission of any reasons which may have prevented it from sending its report within the time limit, however, no explanation has been received from the company in this respect.

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(39) Accordingly, there are reasons to believe that the undertakings of Norfra AS, Janas AS and Vie de France Norway AS are being breached.

G. IMPOSITION OF PROVISIONAL MEASURES FOLLOWING APPARENT BREACHES OF THE UNDERTAKINGS

(40) Having regard to the above, it is considered that pending further investigation of these apparent violations, provisional duties be imposed against these three companies.

(41) In accordance with Article 8(10) of Regulation (EC) No 384/96 and Article 13(10) of Regulation (EC) No 2067/97, the rate of the anti-dumping and countervailing duty respectively must be established on the basis of the best information available.

(42) In this regard and in view of recital 107 of Regulation (EC) No 1890/97 and recital 149 of Regulation (EC) No 1891/97, it is considered appropriate that the provisional anti-dumping and countervailing duty rates be set at the level, and in the form, imposed by Regulation (EC) No 772/1999.

H. FINAL CONSIDERATION CONCERNING IMPOSITION OF PROVISIONAL DUTIES

(43) In the interest of sound administration, a period should be fixed in which interested parties may make known their views in writing and request a hearing.

I. NEW EXPORTERS

(44) Following the imposition of definitive anti-dumping and countervailing duties, several Norwegian companies have made themselves known to the Commission claiming to be new exporters and have offered undertakings.

(45) In this regard, four such companies, F. Uhrenholt Seafood Norway AS, Mesan Seafood AS, Polaris Seafood AS and Scanfish AS, demonstrated that they had not exported the product concerned to the Community during the investigation period which led to the current anti-dumping and countervailing duties (hereinafter ‘the original investigation period’). The companies also showed that they were not related to any of the companies in Norway which are subject to the anti-dumping and countervailing duties. Finally, the companies provided evidence that they had either exported the product concerned to the Community after the original investigation period, or had entered into an irrevocable contractual obligation to export a significant amount of the product concerned to the Community.

(46) The undertakings offered are identical in terms to those previously offered by other Norwegian companies exporting farmed Atlantic salmon originating in Norway and it is considered that acceptance of such undertakings from these exporters will be sufficient to remove the effects of injurious dumping and subsidisation.

(47) Since the exporters have offered to provide the Commission with regular and detailed information on their exports to the Community, it is concluded that the undertakings can be monitored effectively by the Commission.

(48) The undertakings offered by these companies are therefore considered acceptable. The companies have been informed of the essential facts and considerations upon which acceptance of the undertaking is based. The Advisory Committee was consulted and has raised no objections. Pursuant, therefore, to Article 2 of Regulation (EC) No 772/1999, the Annex to that Regulation should be amended so as to grant exemption from payment of anti-dumping and countervailing duties to these companies.

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J. **CHANGE OF NAME**

(49) Finally, two other Norwegian exporters, Herøy Filetfabrikk AS and SL Fjordgruppen AS, advised the Commission that the names of the companies had been changed to Atlantis Filetfabrikk AS and Fjord Seafood Leines AS respectively. The Commission has therefore verified and confirmed that there were no changes to the corporate structure which warranted a more detailed examination of the appropriateness of the companies maintaining their undertakings. Accordingly, the names of these companies should be amended in the Annex to Decision 97/634/EC.

K. **AMENDMENT OF THE ANNEX TO DECISION 97/634/EC**

(50) The Annex to Decision 97/634/EC accepting undertakings in the context of the present anti-dumping and anti-subsidies proceedings should be amended to take account of the reinstatement of the undertaking given by Atlantic Seafood A/S in respect of which the provisional duties should be repealed, the undertakings accepted from F.Uhrenholt Seafood Norway AS, Mesan Seafood AS, Polaris Seafood AS and Scanfish AS, and the change of name of Herøy Filetfabrikk AS to Atlantis Filetfabrikk AS and of SL Fjordgruppen AS to Fjord Seafood Leines AS.

(51) For the sake of clarity, an updated version of this Annex should be published herewith, showing the exporters whose undertakings remain in force.

L. **AMENDMENT OF REGULATION (EC) No 929/1999**

(52) As mentioned previously, by Regulation (EC) No 772/1999, the Council amended the form of the anti-dumping duty to a variable duty based on minimum import prices for each of the different presentations of farmed Atlantic salmon originating in Norway. In this regard, new Taric codes were created for each of these presentations.

(53) By Regulation (EC) No 929/1999, provisional measures were imposed against the four companies listed in Annex II to that Regulation. However, Article 2(1)(a) of that Regulation still refers, incorrectly, to the Taric codes which were replaced by Regulation (EC) No 772/1999. In addition, references to the Taric additional code 8900 in Article 2(2)(a) and (b) of Regulation (EC) No 929/1999 are superfluous. An amendment to these Articles in Regulation (EC) No 929/1999 is therefore necessary,

HAS ADOPTED THIS REGULATION:

Article 1

1. The provisional anti-dumping and countervailing duties imposed against Atlantic Seafood A/S (UT No 24, Taric additional code 8122) by Regulation (EC) No 929/1999 in relation to farmed (other than wild) Atlantic salmon originating in Norway 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*21and 0304 20 13*29), are hereby repealed.

2. Annex II to Regulation (EC) No 929/1999 is hereby replaced by Annex I to the present Regulation.

3. Any amounts secured from Atlantic Seafood A/S by way of the provisional anti-dumping and countervailing duties imposed by Regulation (EC) No 929/1999 shall be released.

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Article 2

1. (a) Provisional 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) ex 0304 10 13 (Taric codes: 0304 20 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 the companies listed in Annex II to the present Regulation.

   (b) These duties shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11and 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 EUR 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 g each, fresh or chilled	5,19	0304 10 13*21
Other fish fillets or fillet portions, 300 g or less each, fresh or chilled	6,55	0304 10 13*29
Whole fish fillets, more than 300 g each, frozen	5,19	0304 20 13*21
Other fish fillets or fillet portions, weighing 300 g or less each, frozen	6,55	0304 20 13*29

Article 3

The following companies shall be added to the Annex to Regulation (EC) No 772/1999 listing the companies exempted from the definitive anti-dumping and countervailing duties:

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UT No	Company name	TARIC additional code
193	F. Uhrenholt Seafood Norway AS	A033
194	Mesan Seafood AS	A034
195	Polaris Seafood AS	A035
196	Scanfish AS	A036

Article 4

The Annex to Decision 97/634/EC is hereby replaced by Annex III to the present Regulation.

Article 5

1. Article 2(1)(a) of Regulation (EC) No 929/1999 is replaced by the following:

'Provisional 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 the companies listed in Annex II to the present Regulation.'

2. Article 2(2)(a) of Regulation (EC) No 929/1999 is replaced by the following:

'The rate of the countervailing duty applicable to the net free-at-Community frontier price, before duty, shall be 3,8 %.'

3. Article 2(2)(b) of Regulation (EC) No 929/1999 is replaced by the following:

'The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be EUR 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.'

Article 6

This Regulation shall enter into force on the day following 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.

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ANNEX I

List of companies subject to provisional anti-dumping and countervailing duties by Regulation (EC) No 929/1999

UT No	Company	TARIC additional code
14	Arne Mathisen A/S	8112
28	Brødrene Eilertsen A/S	8126
99	Myre Sjømat AS	8203

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ANNEX II

Company subject to provisional anti-dumping and countervailing duties by Regulation (EC) No 1826/1999

UT No	Company name	Taric additional code
187	Vie de France Norway AS	8321

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ANNEX III

ANNEX TO DECISION 97/634/EC

List of the 112 companies from which undertakings are accepted, as updated on 25 August 1999

UT No	Company name	TARIC additional code
3	Agnefest Seafood	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	A/S Austevoll Fiskeindustri	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Astor A/S	8120
23	Atlantic King Stranda A/S	8121
24	Atlantic Seafood A/S	8122
26	Borkowski & Rosnes A/S	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
36	Delfa Norge A/S	8134
39	Domstein Salmon A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Eurolaks AS	8140
44	Euronor AS	8141
46	Fiskeforsyningen 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
53	Fryseriet AS	8150
58	Grieg Seafood AS	8300
60	Haafa fisk AS	8302
61	Hallvard Lerøy AS	8303
62	Atlantis Filetfabrikk AS	8304
66	Hydro Seafood Norway AS	8159
67	Hydrotech-gruppen AS	8428
72	Inter Sea AS	8174
76	Joh. H. Pettersen AS	8178
77	Johan J. Helland AS	8179
79	Karsten J. Ellingsen AS	8181
80	Kr Kleiven & Co. AS	8182

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UT No	Company name	TARIC additional code
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
93	Marstein Seafood AS	8197
96	Memo Food AS	8200
98	Midsundfisk AS	8202
100	Naco Trading AS	8206
101	Namdal Salmon AS	8207
104	Nergård AS	8210
105	Nils Williksen AS	8211
107	Nisja Trading AS	8213
108	Nor-Food AS	8214
111	Nordic Group ASA	8217
112	Nordreisa Laks AS	8218
113	Norexport AS	8223
114	Norfi Produkter AS	8227
115	Norfood Group AS	8228
119	Norsk Akvakultur AS	8232
120	Norsk Sjømat AS	8233
121	Northern Seafood AS	8307
122	Nortrade AS	8308
123	Norway Royal Salmon Sales AS	8309
124	Norway Royal Salmon AS	8312
126	Norway Seafoods AS	8314
128	Norwell AS	8316
130	Nova Sea AS	8235
134	Ok-Fish Kvalheim AS	8239
137	Pan Fish Sales AS	8242
140	Polar Seafood Norway AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
144	Rolf Olsen Seafood AS	8254
145	Ryfisk AS	8256
146	Rørvik Fisk- og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Prima Nor AS	8259
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
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

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UT No	Company name	TARIC additional code
167	Fjord Seafood Leines 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
180	Timar Seafood AS	8294
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
191	Nor-Fa Food AS	8102
192	Westmarine AS	8625
193	F. Uhrenholt Seafood Norway AS	A033
194	Mesan Seafood AS	A034
195	Polaris Seafood AS	A035
196	Scanfish AS	A036