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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1469/2001

of 16 July 2001

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([1]), 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 ([2]), and in particular Article 13 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

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

(2) These proceedings resulted in anti-dumping and countervailing duties being imposed by Council Regulations (EC) No 1890/97 ([5]) and 1891/97 ([6]) in September 1997 in order to eliminate the injurious effects of dumping and subsidisation.

(3) In parallel, by Decision 97/634/EC ([7]), the Commission also accepted undertakings from 190 Norwegian exporters and imports of farmed Atlantic salmon originating in Norway exported to the Community by these companies were exempted from the anti-dumping and countervailing duties by Article 1(2) of those Regulations.

(4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and 1891/97 were replaced by Regulation (EC) No 772/1999 ([8]).

B. FAILURE TO COMPLY WITH THE UNDERTAKING

(5) The undertakings offered by the Norwegian companies oblige them, *inter alia*, to charge certain minimum prices when they export the product concerned to the Community and to provide detailed quarterly reports to the Commission of such sales.

(6) During a series of visits in November 2000 to the premises of several Norwegian companies with undertakings to verify the data appearing on their sales reports, it was found that one of the exporters visited, Haafa Fish AS (UT No 1/60, TARIC Additional Code 8302, 'Haafa fisk AS'), had breached its undertaking by providing misleading information regarding certain sales and not respecting the minimum import prices.

(7) The Commission's findings in this respect are set out more fully in Commission Decision 2001/544/EC ([9]).

(8) As acceptance of the undertaking has been withdrawn by the Commission, definitive anti-dumping and anti-subsidy duties should be imposed forthwith against the company concerned.

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
([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. 1.
([6]) OJ L 267, 30.9.1997, p. 19.
([7]) OJ L 267, 30.9.1997, p. 81. Decision as last amended by Decision 2000/744/EC (OJ L 301, 30.11.2000, p. 82).
([8]) OJ L 101, 16.4.1999, p. 1. Regulation as last amended by Regulation (EC) No 2606/2000 (OJ L 301, 30.11.2000, p. 61).
([9]) See page 50 of this Official Journal.

C. **CHANGES OF NAME AND OWNERSHIP**

(9) One Norwegian exporter with an undertaking, Polar Seafood Norway AS (UT No 1/140, TARIC Additional Code 8247), advised the Commission that the group of companies to which it belonged had been re-organised and that another company within the group was now responsible for exports to the Community. The company therefore requested that its name be replaced by that of the related company on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

(10) Two other exporters, Hydro Seafood Norway AS (UT No 1/66, TARIC Additional Code 8159) and Hydro Seafood Rogaland AS (UT No 1/145, TARIC Additional Code 8256) advised the Commission that their ownership and names had changed, and requested that the list of companies from which undertakings are accepted be amended accordingly.

(11) Having verified the nature of the requests, the Commission considered that they are all acceptable since the modifications did not entail any substantive changes which would affect the assessment of dumping or subsidisation. Nor do these changes affect any of the considerations on which the acceptance of the undertaking was based.

(12) Consequently, the Commission Decision referred to at recital 7 changes the names of Polar Seafood Norway AS, Hydro Seafood Norway AS and Hydro Seafood Rogaland AS to Polar Salmon AS, Marine Harvest Norway AS and Marine Harvest Rogaland AS respectively on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

D. **CESSATION OF TRADING**

(13) The Commission was also advised that two Norwegian companies with undertakings, Delfa Norge A/S (UT No 1/36, TARIC Additional Code 8134) and OK-Fish Kvalheim AS (UT No 1/134, TARIC Additional Code 8239) had recently ceased trading and had been wound up, or were in the process of being wound up. Accordingly, the names of these companies have been deleted from the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

E. **VOLUNTARY WITHDRAWAL OF AN UNDERTAKING**

(14) Following changes in its trading patterns, Nova Sea AS (UT No 1/130, TARIC Additional Code 8235), advised the Commission that it wished to withdraw its undertaking. Accordingly, the name of this company has been deleted from the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

(15) In view, however, of the voluntary nature of the withdrawal, the company was advised that it could, if it so wished (and subject to certain conditions), offer an undertaking again in the future as a new exporter in accordance with Article 2 of Regulation (EC) No 772/1999.

F. **AMENDMENT OF THE ANNEX TO REGULATION (EC) No 772/1999**

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

1. (a) Definitive countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (TARIC codes: 0302 12 00*21, 0302 12 00*22, 0302 12 00*23 and 0302 12 00*29), ex 0303 22 00 (TARIC codes: 0303 22 00*21, 0303 22 00*22, 0303 22 00*23 and 0303 22 00*29), ex 0304 10 13 (TARIC codes: 0304 10 13*21 and 0304 10 13*29) and ex 0304 20 13 (TARIC codes: 0304 20 13*21 and 0304 20 13*29) originating in Norway and exported by Haafa Fish AS.

   (b) These duties shall not apply to wild Atlantic salmon (TARIC codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11 and 0304 20 13*11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.

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

(b) The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be 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 (EUR/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, included '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 fillets portion, weighing 300 g or less each, frozen	6,55	0304 20 13*29

Article 3

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

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

Done at Brussels, 16 July 2001.

For the Council
The President
L. MICHEL

ANNEX

'ANNEX

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

UT No	Company Name	TARIC additional code
3	Rosfjord Seafood AS	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	Austevoll Eiendom AS	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Astor A/S	8120
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
39	Domstein Fish A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Fjord Seafood ASA	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

UT No	Company Name	TARIC additional code
51	Fresh Atlantic AS	8148
52	Fresh Marine Company AS	8149
58	Grieg Seafood AS	8300
61	Hallvard Lerøy AS	8303
62	Fjord Seafood Måløy A/S	8304
66	Marine Harvest Norway AS	8159
67	Hydrotech-gruppen AS	8428
72	Inter Sea AS	8174
75	Janas A/S	8177
76	Joh. H. Pettersen AS	8178
77	Johan J. Helland AS	8179
79	Karsten J. Ellingsen AS	8181
80	Kr Kleiven & Co. AS	8182
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	Misundfisk AS	8202
100	Naco Trading AS	8206
101	Fjord Seafood Midt-Norge A/S	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

UT No	Company Name	TARIC additional code
115	Norfood Group AS	8228
116	Norfra Eksport AS	8229
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	Frionor AS	8314
128	Norwell AS	8316
137	Pan Fish Sales AS	8242
140	Polar Salmon AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
144	Rolf Olsen Seafood AS	8254
145	Marine Harvest Rogaland AS	8256
146	Rørvik Fisk-og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Prima Nor AS	8259
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
167	Fjord Domstein A/S	8278
168	SMP Marine Produkter AS	8279

UT No	Company Name	TARIC additional code
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 Fish 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
197	Normarine AS	A049
198	Oskar Einar Rydbeck	A050
199	Emborg Foods Norge AS	A157
200	Helle Mat AS	A158
201	Norsea Food AS	A159
202	Salmon Company Fjord Norway AS	A160
203	Stella Polaris AS	A161
204	First Salmon AS	A205
205	Norlaks A/S	A206’