COMMISSION REGULATION (EC) No 117/2004

of 23 January 2004

amending Regulation (EC) No 1628/2003 imposing a provisional anti-dumping duty on imports of large rainbow trout originating in Norway and the Faeroe Islands

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 1972/2002 [2] (the basic Regulation), and in particular Articles 7 and 8 thereof,

After consulting the Advisory Committee,

Whereas:

UNDERTAKING

(1) The Commission, by Regulation (EC) No 1628/2003 [3] (the provisional Regulation) imposed a provisional anti-dumping duty on imports of large rainbow trout originating in Norway and the Faeroe Islands.

(2) Subsequent to the adoption of provisional anti-dumping measures, two groups of cooperating companies in the Faeroe Islands, i.e. (i) P/F PRG Export together with its related producer P/F Luna and (ii) P/F Vestsalmon together with its related producer P/F Vestlax (hereinafter referred to as the companies), offered price undertakings in accordance with Article 8(1) of the basic Regulation. In these undertakings, the companies have offered to sell the product concerned at or above price levels that eliminate the injurious effects of dumping.

(3) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, as well as the resales of the product concerned made by related parties in the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of these companies is such that the Commission considers the risk of circumventing the agreed undertakings is limited.

(4) In view of this, the undertakings are acceptable.

(5) In order to enable the Commission to monitor effectively the companies compliance with the undertakings, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex attached to this Regulation. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

(6) In the event of a breach or withdrawal of the undertaking, or a suspected breach, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following Article is added to Regulation (EC) No 1628/2003:

'*Article 2*

1. The undertakings offered by the companies named below in connection with the present anti-dumping proceeding are hereby accepted. Imports under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by these companies to a company in the Community acting as an importer shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
Faeroe Islands	P/F PRG Export together with its related producer P/F Luna, FO-510 Gøta	A474
Faeroe Islands	P/F Vestsalmon together with its related producer P/F Vestlax, PO Box 82, FO-410 Kollafjørður	A475

2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:

(a) a commercial invoice containing at least the elements listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.'

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 232, 18.9.2003, p. 29.

2. Article 2 of Regulation (EC) No 1628/2003 is hereby renumbered Article 3.

3. Article 3 of Regulation (EC) No 1628/2003 is hereby renumbered Article 4.

4. The Annex attached to this Regulation is hereby added as Annex to Regulation (EC) No 1628/2003.

Article 2

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

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

Done at Brussels, 23 January 2004.

For the Commission
Pascal LAMY
Member of the Commission

ANNEX

Elements to be indicated in the commercial invoice referred to in Article 2

The following elements shall be indicated in the commercial invoice accompanying sales of large rainbow trout to the Community, which are subject to the Undertaking:

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.
2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs-cleared at the Community frontier.
6. The exact description of the goods, including:
   — the Product Code Number (PCN), i.e. 1 or 2,
   — the description of the goods corresponding to the PCN (i.e. 'PCN 1: large rainbow trout chilled or fresh, head-on', 'PCN 2: large rainbow trout frozen, head-off '),
   — the company product code number (CPC) (if applicable),
   — CN code,
   — quantity (to be given in kilograms).
7. The description of the terms of the sale, including:
   — price per kilogram,
   — the applicable payment terms,
   — the applicable delivery terms,
   — total discounts and rebates.
8. Name of the company acting as an importer to which the invoice is issued directly by the company.
9. The name of the official of the company that has issued the commercial invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the Undertaking offered by [company], and accepted by the European Commission through Regulation (EC) No 117/2004. I declare that the information provided on this invoice is complete and correct.'