II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 1195/2014

of 29 October 2014

imposing a provisional countervailing duty on imports of certain rainbow trout originating in Turkey

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community ([1]), and in particular Article 12 thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 15 February 2014, the European Commission (the Commission) announced the initiation of an anti-subsidy proceeding with regard to imports into the Union of certain rainbow trout originating in Turkey (the country concerned) on the basis of Article 10 of the Regulation (EC) No 597/2009 (the basic Regulation) by a notice published in the *Official Journal of the European Union* ([2]) (the Notice of Initiation). A corrigendum to the Notice of Initiation was published in the Official Journal on 4 September 2014 ([3]).

(2) The Commission initiated the investigation following a complaint lodged on 3 January 2014 by the Danish Aquaculture Association (the complainant) on behalf of producers representing more than 25 % of the total Union production of certain rainbow trout. The complaint contained *prima facie* evidence of subsidisation of certain rainbow trout and of material injury caused by it, which the Commission considered sufficient to justify the initiation of an investigation.

(3) In accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of Turkey (GOT) prior to the initiation of the proceeding that it had received a properly documented complaint alleging that subsidised imports of certain rainbow trout originating in Turkey were causing material injury to the Union industry. The Commission invited the GOT for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution.

([1]) OJ L 188, 18.7.2009, p. 93.
([2]) Notice of Initiation of an anti-subsidy proceeding concerning imports of certain rainbow trout originating in Turkey (OJ C 44, 15.2.2014, p. 9).
([3]) OJ C 297, 4.9.2014, p. 23.

(4) The GOT accepted consultations and they were subsequently held. During the consultations, no mutually agreed solution could be found. Following the consultations, a submission was received from the GOT. The Commission took due note of the comments.

2. **Parallel anti-dumping proceeding**

(5) On 15 February 2014, the Commission also announced the initiation of an anti-dumping investigation concerning imports into the Union of the same product originating in Turkey by a notice published in the *Official Journal of the European Union* ([1]).

(6) The injury analyses performed in the present anti-subsidy and the parallel anti-dumping investigations are based on the same definition of the Union industry, the same representative Union producers and the same investigation period and led to identical conclusions unless otherwise specified. This was considered appropriate in order to streamline the injury analysis and to reach consistent findings. For this reason, comments on injury aspects put forward in any one of these proceedings were taken into account in both investigations.

3. **Interested parties**

(7) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other known Union producers, users and importers, exporting producers in Turkey and the Turkish authorities as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(8) All interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No comments were made.

4. **Sampling**

(9) The Commission announced in the Notice of Initiation that it might sample the interested parties, in particular the Union producers, the unrelated importers and the exporting producers in Turkey in accordance with Article 27 of the basic Regulation.

4.1. *Sampling of Union producers*

(10) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 27(1) of the basic Regulation and in view of the Union industry being highly fragmented with more than 700 small and medium enterprises producers (SMEs), the Commission selected the sample on the basis of the largest representative volume of production which could reasonably be investigated within the time available, considering also the geographical spread and sufficient coverage of different steps and types of production (production of live, fresh, frozen, fillets and smoked trout). This sample consisted of nine Union producers. The sampled Union producers accounted for more than 12 % of the total Union production, based on complaint data. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is representative of the Union industry.

4.2. *Sampling of importers*

(11) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(12) Three unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

([1]) Notice of Initiation of an anti-dumping proceeding concerning imports of certain rainbow trout originating in Turkey (OJ C 44, 15.2.2014, p. 18).

4.3. *Sampling of exporting producers*

(13) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Turkey to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Republic of Turkey to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(14) Eighteen groups of exporting producers in Turkey provided the requested information and agreed to be included in the sample. The total declared export volume to the Union by these companies of the certain rainbow trout during 2013 accounts for the totality of exports from Turkey to the Union.

(15) In accordance with Article 27(1) of the basic Regulation, the Commission selected a sample of four groups of exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available, considering also the geographical spread. The sampled group of companies account for almost 64 % of the declared export sales to the Union, and are located in two different regions.

(16) In accordance with Article 27(2) of the basic Regulation, all known exporting producers concerned, and the Turkish authorities were consulted on the selection of the sample. One company contested the selection of sampled companies and claimed that it should be included in the sample. It argued that it exclusively produces, processes and sells trout (that is to say it does not have any other activities), and has been doing so since 1971, making it the first producer of the product concerned in Turkey. It further claimed that it has substantial sales on the domestic market and finally, that it was the biggest producer in the Marmara region.

(17) The Commission recalls that the selection of sampled companies was made on the basis of the largest quantities of volumes in accordance with Article 27(1) of the basic Regulation taking into account the number of producers that could reasonably be investigated within the time available. As the proposed sample represents 64 % of the exports of the product concerned to the Union, such a sample is representative of the situation of the Turkish industry. Furthermore, the sampled companies are situated in two different regions (out of three represented) which is considered sufficient for the purpose of the investigation. Therefore, the Commission maintains that the sampled companies correspond to the largest representative volumes of imports which could be reasonably investigated within the time available.

5. **Individual examination**

(18) Eleven companies or groups of companies requested individual examination under Article 27(3) of the basic Regulation. At this stage of the investigation, the Commission has not taken any decision about the request for individual examination. The Commission will decide whether to grant individual examination at the definitive stage of the investigation.

6. **Replies to the questionnaire**

(19) The Commission sent questionnaires to the GOT, to all sampled companies in the Union, three importers and to the sampled groups of exporting producers in Turkey.

(20) Three companies within a group of Turkish exporting producers requested an exemption from the obligation to provide a questionnaire reply. One of these companies argued that it was mainly active in production of seabass and seabream and it only produces a small volume of product concerned. One company is running a small supermarket and is only marginally involved with the product concerned, and one company was a related importer who did not have important sales of the product concerned in the investigation period. The Commission decided to exempt the company running the small supermarket from the obligation to fill in the questionnaire response. However, it maintained its position that the company mainly active in production of seabass and seabream had to fill in the questionnaire as well as the related importer since the volumes produced (in case of the exporting producer) or traded (in case of the related importer) were still important.

(21) Questionnaire replies were received from the GOT and all of the other sampled groups of exporting producers in Turkey and the companies asking for individual examination.

7. **Verification visits**

(22) The Commission sought and verified all the information deemed necessary for a provisional determination of subsidy, resulting injury and Union interest. Verification visits pursuant to Article 26 of the basic Regulation were carried out at the premises of the following companies:

(a) *Union producers:*

— Aqualande SAS, Roquefort, France

— Danaqua, Grindsted, Denmark

— Danforel A/S, Grindsted, Denmark

— Kongeåns Dambrug ApS, Brørup, Denmark

— LaFo Forellen GmbH, Oberndorf, Germany

— Hofer Forellen GmbH, Oberndorf, Germany

— Zakład Hodowli Pstrąga w Zaporze — Mylof, Rytel, Poland

— Piszolla, S.L., Guadalajara, Spain

— Az.Agr. Trot. Erede Rossi Silvio Di Rossi Niccola, Sefro, Italy

— Grupo Tres Mares, S.A., La Coruña, Spain

(b) *Exporting producers in Turkey*

— Group of related companies 'GMS', Bodrum, Turkey:

— Akyol Su Ürn.Ürt.Taş.Kom.İth.İhr.Paz.San. ve Tic. Ltd Şti

— Asya Söğüt Su Ürünleri Üretim Dahili Paz.ve İhr. LtdŞti

— GMS Su Ürünleri Üretim İth. Paz. San. ve Tic. Ltd Şti

— Gűműsdoga Su Űrűnleri Űretim Ihracat Ithalat AŞ

— Gümüş-Yel Su Ürünleri üretim İhracat ve İthalat Ltd Şti

— Hakan Komandit Şirketi

— İskele Su Ürünleri Hayv.Gida Tur.Inş.Paz.Ihr.LtdŞti

— Karaköy Su Ürünleri Üretim Paz.Tic.İhr. ve İth.LtdŞti

— Özgü Su Ürün. Üret. Taş. Komis. İth. İhr. Paz. San. Ve Tic. Ltd Şti

— Group of related companies 'Kilic', Bodrum, Turkey:

— Bafa Su Ürünleri Yavru Űretim Merkezi San Tic A.S,

— Kilic Deniz Űrűnleri Űretimi Ihracat Ithalat ve Ticaret AŞ,

— KLC Gida Ürünleri Ith.Ihr.Ve Tic.A.Ş,

— Kilic Erşen Su Űrűnleri Ithalat Ihr. San ve Tic, Ltd Şti,

— Group of related companies 'Özpekler', Denizli, Turkey:

— Özpekler Ins.Taah.Day. Tük. Mall.Su Ürün.San.ve Tic.,

— Özpekler Ithalat Ihracat Su Ürünleri San.Ve Tic. Ltd Sti,

— Ternaeben Gida ve Su Ürünleri Ith. Ihr. San. ve Tic. Ltd Şti ('Ternaeben'), Kayseri, Turkey

(c) *Government of Turkey:*

— Ministry of Economy, Ankara, Turkey

— Ministry of Food, Agriculture and Livestock, Ankara, Turkey

(d) *Importers in the Union related to Turkish exporters:*

— Spador S.R.L. ('Spador')

— Ternäben Service GmbH ('TSG'),

— Ternäben Vertrieb GmbH ('TVG')

(e) *Union producer (processor) related to exporting producer in Turkey (Ternäben)*

— Ternäben Spółka z.o.o., Poland ('TPL')

8. **Investigation period and period considered**

(23) The investigation of subsidy and injury covered the period from 1 January 2013 to 31 December 2013 (the investigation period). The examination of trends relevant for the assessment of injury covered the period from 1 January 2010 to the end of the investigation period (the period considered).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(24) The product concerned is rainbow trout (*Oncorhynchus mykiss*):

— live weighing 1,2 kg or less each, or

— fresh, chilled, frozen and/or smoked:

— in the form of whole fish (with heads on), whether or not gilled, whether or not gutted, weighing 1,2 kg or less each, or

— with heads off, whether or not gilled, whether or not gutted, weighing 1 kg or less each, or

— in the form of fillets weighing 400 g or less each,

originating in Turkey and currently falling within the CN codes ex 0301 91 90, ex 0302 11 80, ex 0303 14 90, ex 0304 42 90, ex 0304 82 90 and ex 0305 43 00 (the product concerned).

(25) As already mentioned in recital 1, the definition of the product concerned was subject to a corrigendum. The correction was purely editorial and the scope was not affected.

2. **Like product**

(26) The investigation showed that the product produced and sold on the Turkish domestic market and/or exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical, technical and chemical characteristics and the same basic uses.

(27) The Commission decided at this stage that those products are therefore like products within the meaning of Article 2(c) of the basic Regulation.

3. **Claims regarding the product scope**

(28) Some interested parties claimed that smoked trout should be excluded from the product scope. According to these parties there were differences in the production process and differences in physical, technical and chemical characteristics when compared to non-smoked trout. Furthermore, the Turkish authorities claimed that the cost structure of smoked fillets producers was significantly different from the cost structure of other producers which

would indicate that smoked and non-smoked products were not a single product. Finally, these parties referred to two prior anti-dumping investigations concerning similar products (large rainbow trout and salmon) concluded in 2004 ([1]) and 2005 ([2]) respectively where smoked products were outside the product scope. The parties referred in particular to recital 9 of Council Regulation (EC) No 437/2004 ([3]) where it would be acknowledged that the process of smoking would alter the basic characteristics of the product in question. On this basis smoked trout should be excluded from the product scope in the current investigation.

(29) The investigation showed that the various presentations — 'ive', 'chilled', 'frozen' or 'smoked' — covered by the definition of the product concerned share the same basic physical, technical and chemical characteristics. In particular, all trout had the same intrinsic qualities (chemical, nutritional or other) and the processing did not deprive the fish therefrom, but resulted only in different presentations which were merely different means of preserving the fish before further processing, preparation, cooking or consumption. Therefore, it was concluded that conservation by smoking does not materially alter the basic physical, technical and chemical characteristics of the product.

(30) Regarding different production processes and different cost structures, the parties did not explain how this could have had an impact on the conclusion that smoked and non-smoked products were a single product. In any event, any possible difference in production processes has as such no impact on the definition of the product scope. Furthermore, in this specific case, the production process and cost structure of smoked fillets were in fact not significantly different from the production process and cost structure of other presentations of trout. The main cost element of each presentation was farming cost, consisting essentially of feed (fishmeal and fish oil), energy cost and the cost of eggs or juveniles. The claims made in this regard should therefore be rejected.

(31) In the previous investigations to which the interested parties referred to, and in contrast to the current investigation, smoked products were not included in the complaint leading to the initiation of these cases. Therefore, they were not within the scope of these investigations and consequently not investigated. Recital 9 of Regulation (EC) No 437/2004 addressed a claim by an interested party that frozen whole fish and fillets should be excluded from the proceeding. However, the investigation did not find or specifically conclude that smoked products should be excluded from the product scope. On the basis that the current investigation found that all presentations of trout have the same basic physical, technical and chemical characteristics, this argument should be rejected.

(32) For the reasons above the claim that the smoked products should be excluded from the scope of the product scope was at this stage rejected.

C. **SUBSIDY**

1. **Introduction**

(33) The complainant alleged that the GOT is subsidising its aquaculture sector. The complaint contained prima facie evidence for several subsidy practices included in both legislation and a number of policy documents which are the basis for the state support of the sector.

(34) The Commission reviewed and analysed the documents provided in the complaint as well as additional documents submitted by the GOT and by sampled exporting producers in the course of the investigation and found that all of these documents show that the aquaculture sector in the Republic of Turkey receives preferential treatment in many areas.

(35) The decision by the Turkish authorities to subsidize specifically the aquaculture sector dates back to 2003 and has resulted in large amounts of public money being transferred to Turkish producers and exporters over the last 10 years.

([1]) Council Regulation (EC) No 437/2004 of 8 March 2004 imposing definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of large rainbow trout originating in Norway and the Faeroe Islands (OJ L 72, 11.3.2004, p. 23).

([2]) Commission Regulation (EC) No 628/2005 of 22 April 2005 imposing a provisional anti-dumping duty on imports of farmed salmon originating in Norway (OJ L 104, 23.4.2005, p. 5) and Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway (OJ L 15, 20.1.2006, p. 1).

([3]) Council Regulation (EC) No 437/2004 of 8 March 2004 imposing definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of large rainbow trout originating in Norway and the Faeroe Islands (OJ L 72, 11.3.2004, p. 23).

(36) In the framework of the pre-initiation consultations between the GOT and the Commission, as mentioned in recitals 3 and 4 above, the GOT did not challenge the existence of any of the investigated schemes.

2. **Schemes investigated**

(37) The Commission sent questionnaires to the GOT and the sampled exporting producers, requesting information on the following schemes that allegedly involved the granting of subsidies to the aquaculture industry:

— *State support to investments made in the aquaculture sector*

  — Customs duty exemption

  — VAT exemption

  — Tax reduction

  — Social security premium support (employers' contribution)

  — Interest support

  — Land allocation

  — Income tax support

  — Social security premium support (employees' contribution)

— *Direct subsidies granted to producers of trout*

  — Direct subsidies to trout farmers

  — Direct subsidies for the organic production of trout

  — Specific support for juveniles

— *Subsidised loans and insurance for trout producers*

  — Low-Interest Investment Loans and Business Loans by Ziraat Bankasi

  — Low-Interest Investment Loans and Business Loans by Agricultural Credit Cooperatives

  — Agricultural Insurance Pool and Premium Support Rates

— *Subsidies for consultancy*

— *Subsidies for fishing vessels*

  — Purchase of fuel for fishing boats (Consumption tax rebate on vessel fuel)

  — Discarding of fishing vessels

— *Other subsidies and other subsidy programmes*

3. **State support to investments in the aquaculture sector**

3.1. *Introduction*

(38) The GOT introduced a support scheme for businesses which invest funds in certain sectors and certain regions, including the aquaculture sector. The purpose of this scheme is to:

— increase production and employment,

— encourage large investments contributing to international competitiveness,

— stimulate direct foreign investments,

— support investments for environmental protection and R & D activities, in line with the targets outlined in Turkey's various development plans and annual programmes that are specified below.

3.2. *Legal basis*

(39) The following legal provisions provide for state support to investments in the aquaculture sector: *Turkish Decree No 2012/3305* published on 19 June 2012 concerning State Support for Investments and *Communique No 2012/1* published on 20 June 2012 on the Implementation of the Decree concerning State support for Investments in the *Official Gazettes No 28328 and 28329* respectively.

3.3. *Findings of the investigation*

(40) Even though the *Turkish Decree No 2012/3305* is the relevant support scheme for the investigation period, similar provisions had been in place since 2006 and even before. This fact is relevant as subsidies linked to the purchase of fixed assets, such as investment subsidies, may be allocated to the investigation period even if they were granted before the investigation period.

(41) The investigation confirmed the existence of the various state support schemes. Aquaculture production is expressly listed in Annex 2/A of *Decree No 2012/3305* among the sectors which may benefit from incentives like value added tax (VAT) exemption, customs duty exemption, tax reduction, contributions to investment, social security premium support (employers' contribution, land allocation, interest rate support, income tax support and social security premium support (employees' contribution). Based on the level of economic development of the six regions determined by the *Decree No 2012/3305* the aid intensity can vary.

(42) Even though the existence of 'Regional investment' programmes was confirmed by the investigation, none of the sampled companies benefited from all schemes. A few of them benefited from VAT and customs duty exemptions that apply equally to all six regions in Turkey. However, as the sampled companies purchased machinery and equipment from Union companies within the EU-Turkey Customs Union, the customs duty was not due. Moreover, as Turkey applies an input and output VAT system, the benefits obtained during the investigation period consisted only of a time gain of two months until the companies were refunded their VAT by the tax authorities. The actual benefit would be the interest payable to a commercial bank for the period until the VAT is refunded. This benefit is negligible and was not further analysed.

(43) One sampled company benefited from a tax reduction because of the purchase of machinery made in the framework of the abovementioned regulation of state support to investments. Instead of the generally applicable corporate tax rate of 20 % it only paid 4 %.

(44) The same sampled company also benefited from the Social Security Premium Support Programme. As a holder of an investment encouragement certificate it benefited from the social security premium support for employers' and employees' contribution. After having completed its investment, the company's social security premium employers' and employees' shares corresponding to the minimum wage were exempted by the Social Security Institution for newly created employment. The Ministry of Economy funded the scheme.

3.4. *Conclusion*

(45) The state support to investments is provisionally considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation, when the state support takes the form of a tax incentive, i.e. when government revenue is otherwise due but in fact forgone or not collected.

(46) The subsidy is specific and countervailable since the benefit of the subsidy is specifically limited to a list of economic sectors. The access to the subsidy is further limited to certain enterprises operating in certain sectors. In addition, the subsidy does not meet the non-specificity requirements of Article 4(2)(b) of the basic Regulation, given that the number and quality of the restrictions applicable to certain sectors, most notably those restricting to either certain types of enterprises or completely excluding certain sectors.

(47) Aquaculture is expressly designated in Annex 2A of the Decree as one of the activities which may benefit from this type of tax exemptions. Annex 4 to the decree lists the sectors which may not benefit from any incentive under this scheme.

(48) Consequently, according to Article 3(2) of the basic Regulation the above mentioned subsidies are considered a financial contribution of the government that confer a benefit to the recipients.

3.5. *Calculation of the subsidy amount*

(49) One company availed of benefits under the abovementioned schemes. However, the benefit to the company was found to be negligible.

4. **Direct subsidies to producers of trout**

4.1. *Introduction*

(50) Direct subsidies per kg of trout produced are the main subsidy scheme benefiting the product concerned. These subsidies are revised each year as part of the yearly review of agricultural subsidies.

4.2. *Legal basis*

(51) The following legal provisions provide for direct subsidies: *Turkish Decree No 2013/4463* on *agricultural subsidies in 2013*, dated 07 March 2013 and published in the *Official Gazette No 28612* on 8 April 2013 (applying retroactively as of 1 January 2013).

4.3. *Findings of the investigation*

(52) The investigation confirmed the existence of direct subsidies for trout. It was found that for the investigation period the level of subsidy per kg of trout was set at 0,65 TL/kg for production up to 250 tons a year. Half of this amount (0,325 TL/kg) was granted for produced quantities between 251-500 tons/year and no subsidies were granted for produced quantities above 500 tons. The subsidy was granted to the producers of the product concerned with a licence from the Ministry of Food, Agriculture and Livestock.

(53) Before any payment is made, producers need to be registered in the aquaculture registration system of the Ministry of Food, Agriculture and Livestock. They are subject to regular and unannounced inspection visits.

(54) Three out of four sampled groups of companies benefited from direct subsidies during the investigation period since they farmed trout themselves. The largest group however, Ternaeben, did not farm trout but purchased it (mostly live trout and frozen whole fish) from unrelated farmers and processed it. It therefore did not receive direct subsidies. As a result, the question arose as to whether the benefit of direct subsidies applied as well to Ternaeben and to the other three sampled groups of companies who not only farmed but also purchased some trout from unrelated companies for processing.

(55) In this respect, the Commission stresses that the product concerned covers both the directly subsidised raw material, namely live trout and the downstream products (fresh, frozen whole fish, fillets, smoked trout). As the production of live trout is subsidised and practically all trout farmers in Turkey benefit from this scheme, all producers of the product concerned (namely live trout and the downstream products) benefit from this direct subsidy scheme, irrespective of whether they farm the trout themselves or purchase it for further processing.

(56) The benefit to producers of the product concerned can in any event be demonstrated. In this regard, the Commission compared the cost of farming of the three sampled companies which farm trout themselves (including a reasonable and conservative amount of selling, general and administrative expenses (SG&A) and profit) with the price paid to purchase live or chilled fish from unrelated suppliers. The Commission found that for all three companies the purchase price for live or chilled fish was lower than the average cost of farming.

(57) Regarding the Ternaeben group, the Commission compared the average cost of farming of the three other sampled companies (including a reasonable and conservative amount of SG&A and profit) with the individual average purchase price Ternaeben paid for chilled or live fish. It was found that the average cost of farming of the other three sampled companies was higher than the average purchase price of Ternaeben. Its average purchase price was found to be in line with the other sampled companies.

(58) Therefore, the Commission considers that the sampled companies, also to the extent that they purchased trout from unrelated companies, benefited from the direct subsidy scheme.

(59) The complainant alleged that an extra support payment was made for the organic production of trout and the per piece production of juveniles. The investigation confirmed the existence of the extra support payment for the organic production of trout. However, it was found that only one company existed in Turkey for the organic production of trout but this company went bankrupt recently. As a result, no subsidies for the organic production of trout were conferred during the investigation period.

(60) In addition, the Commission found that the specific support for the production of juveniles existed in 2012 but was abandoned as of 2013 as the level of the production of juveniles in Turkey already satisfied the market needs.

4.4. *Conclusion*

(61) On the basis of the findings of the investigation, the Commission provisionally concludes that the abovementioned public contribution takes the form of a direct grant within the meaning of Article 3(1)(a)(i) of the basic Regulation and therefore confers a direct benefit to Turkish producers of trout in line with Article 3(2) of the basic Regulation. A 'benefit' is conferred because direct funding (grant) is provided by public authorities without any interest rate or royalty. Such free funds are usually not available on the market.

(62) The direct subsidies scheme is specific and countervailable within the meaning of Article 4(2)(a) of the basic Regulation as access to it is limited to certain enterprises. Enterprises involved in aquaculture are expressly cited and trout is clearly designated as one of the species which benefit from this subsidy scheme. This direct grant is specific, as the granting authority, and the legislation pursuant to which the granting authority operates, explicitly limits access to these grants to enterprises operating in the aquaculture sector.

4.5. *Calculation of the subsidy amount*

(63) The total benefit per company was the average direct subsidy amount received during the investigation period for the own farmed live fish and the average subsidy amount granted by the GOT, calculated on the basis of the total subsidies conferred and divided by the total amount of trout production in Turkey for the purchased live fish.

(64) The table below shows the provisionally determined amount of benefit for these grants set out above, with the benefit taken as the amount received in the investigation period by the companies concerned.

Direct and Indirect Subsidies	
Company Name	Subsidy margin
GMS	7,0 %
Kilic	9,6 %
Özpekler	6,8 %
Ternaeben	9,5 %

5. **Subsidised loans**

5.1. *Introduction*

(65) Certain public and private entities provided preferential loans to companies operating in the aquaculture sector. The main entities concerned are described below.

(66) Agricultural Credit Cooperatives (ACCs) are private law entities which have been established by agricultural producers (i.e. real persons or legal entities that are engaged in agricultural production) in Turkey in order to support their financial needs in their business.

(67) The Agricultural Bank of the Republic of Turkey (Türkiye Cumhurriyeti Ziraat Bankasi or 'Ziraat Bankasi') is a state owned bank and public body, whose shares are fully owned by the Under Secretariat of Treasury. In the framework of a government programme as set out in the recital 70 below, also applying to the investigation period, Ziraat Bankasi provides preferential loans to the aquaculture sector, to promote agricultural production and agribusiness. In this regard, the Council of Ministers annually determines the duration, procedures and principles of the programme and the Treasury transfers the remaining amount of the interest payment, corresponding to the discounted interest rate, to Ziraat Bankasi. Therefore it is considered that Ziraat Bankasi is vested with governmental authority and thus is considered a public body.

(68) The Small and Medium Enterprises Development Organization (KOSGEB) is a public body whose objective is to increase small and medium sized enterprises' (SMEs) share in economic and social development by offering quality services and support towards developing SMEs' power of competition and spreading culture of entrepreneurship. KOSGEB falls within the competence of the Ministry of Science, Industry and Technology and is partly independent.

(69) Türk Eximbank (Eximbank) was chartered by the Turkish Government on 21 August 1987 by *Decree No 87/11914*, following the order of *Law No 3332* and is a fully state-owned bank and public body acting as the Turkish government's major export incentive instrument in Turkey's sustainable export strategy. Eximbank has been mandated by the government to support foreign trade and Turkish contractors/investors operating overseas, in order to increase exports of Turkish businesses and to strengthen their international competitiveness. Hence, it is considered that Eximbank is vested with governmental authority and thus is considered a public body.

5.2. *Legal basis*

(70) The following legal provisions provide for subsidised loans: *Turkish Decree No 2013/4271* published in the *Official Gazette No 28561* and dated 16 February 2013 concerning the Extension of low-interest investment loans and business loans by Ziraat Bankasi and ACCs in 2013, *Turkish Decree No 2010/27612* published in the *Official Gazette* on 15 June 2010 concerning loans at zero percent interest rates for SMEs and *Turkish Law No 3332*, published on 31 March 1987 in the *Official Gazette No 19417* (bis) on export credits by Eximbank, the Turkish Export Credit Bank of Turkey.

5.3. *Findings of the investigation*

(71) The preferential loans from Eximbank and KOSGEB were investigated on the basis of the respective allegations in the complaint concerning subsidised loans. The investigation confirmed the existence of low-interest loans. However, none of the sampled exporting producers were found to have benefited from any loans granted by ACCs.

(72) The Commission found that one sampled company obtained four preferential loans from Ziraat Bankasi under the provisions of *Decree No 4271/2013* during the investigation period. Within the scope of the Aquaculture loans, Ziraat Bankasi extended investment loans in respect of the purchase of machinery and equipment and the bank further extended operational loans in order to finance operational costs.

(73) In addition to the preferential loans from Ziraat Bankasi one sampled company benefited from a loan at zero percent interest rate pursuant to *Decree No 2010/27612* on the basis of which KOSGEB administers the various SME support programmes. SMEs operating in the Aquaculture sector are also entitled to benefit from these support programmes.

(74) Moreover, during the investigation it was found that two sampled companies received two and six low interest loans from the Eximbank respectively. The representatives of Eximbank confirmed during the verification visit held with the GOT that Eximbank grants loans to Turkish exporters at better conditions than generally available on the market.

5.4. *Conclusion*

(75) The above mentioned low-interest loans are provisionally considered a subsidy within the meaning of Article 3(1)(a)(i) and Article 3(2) of the basic Regulation.

(76) On the basis of the findings of the investigation, the Commission concludes that the benefit conferred to the recipient takes the form of a discount in the interest rates of loans contracted for aquaculture production. The scheme, State supported loans, confers a benefit to the recipient of the loans as such loans are granted under financial conditions which do not reflect market conditions for loans with a comparable maturity. They are granted below market rates.

(77) These schemes are specific within the meaning of Article 4(2)(a) of the basic Regulation, as the granting authorities or the legislation pursuant to which the granting authorities operate explicitly limit access to certain enterprises.

(78) All the above mentioned loans are therefore considered as countervailable subsidies, which confer a benefit and are specific in the sense of Article 3(1)(a)(ii) of the basic Regulation.

5.5. *Calculation of the subsidy amount*

(79) Article 6(b) of the basic Regulation provides that the benefit on preferential loans was provisionally calculated as the difference between the amount of interest paid and the amount that would be paid for a comparable commercial loan which companies could obtain on the market. As a benchmark the Commission applied the weighted average interest rate for Turkish loans for the investigation period by using the electronic trading platform Bloomberg (WAIRCOMM Index).

(80) The benefit was calculated for the investigation period as the difference between the interest actually paid during the investigation period, and the interest that would have been paid using the benchmark.

(81) The subsidy margins calculated for the sampled exporting producers based on this methodology are as follows:

Preferential loans	
Company Name	Subsidy margin
Kilic	0,1 %
Özpekler	0,3 %

6. **Agricultural Insurance Pool and Premium Support Rates**

6.1. *Introduction*

(82) The Agricultural Insurance Law and the Regulation on Implementation Principles of the Agricultural Insurance Pool set out the goal of the government to provide insurance coverage against all losses of the fish stock and harvest of trout producers due to numerous possible diseases, natural disasters, accidents etc.

(83) The insurance types which are covered under the Agricultural Insurance Pool are (i) Crop Insurance, (ii) Greenhouse Insurance, (iii) Big Cattle Insurance, (iv) Small Cattle Insurance, (v) Poultry Insurance, and (vi) Aquaculture Insurance.

6.2. *Legal basis*

(84) The legal basis of this programme is *the Agricultural Insurance Law No 5363* and *Turkish Decree No 2012/4138* regarding risks, products and regions within the scope of Agricultural Insurance Pool and Premium Support Rates published in the *Official Gazette No 28537* and dated 23 January 2013.

6.3. *Findings of the investigation*

(85) The investigation confirmed the existence of this subsidy scheme. According to Articles 12 and 13 of the *Agricultural Insurance Law No 5363* and *Decree No 2012/4138* regarding Risks, Products and Regions within the Scope of Agricultural Insurance Pool and Premium Support Rates (*Decree No 2012/4138*), producers of aquaculture products may benefit from an insurance premium support of the government as provided in Article 1/6 of the *Decree No 2012/4138*.

(86) A company wishing to apply to the Agricultural Insurance Pool files a projection for the insurance policy it wishes. The company is subsequently inspected by the Agricultural Insurance Pool for a risk assessment and offered an insurance policy including the amount of premium payable. If the company operating in the agricultural sector accepts the offer, the government pays half of the insurance premium.

(87) The Commission found that farmers in Turkey in general do not insure their products. Only one of the sampled companies benefited from the insurance premium support programme of the government during the investigation period for 3 months. It then switched to a private insurer.

6.4. *Conclusion*

(88) In practice, the benefit conferred by this scheme takes the form of a reduction in the financial costs incurred in the life insurance coverage of aquaculture livestock. This scheme constitutes a subsidy within the meaning of Article 3(1)(a)(i) of the basic Regulation in the form of a direct grant by the government to trout producers and a 'financial contribution' in the sense of the basic Regulation because the recipient of the subsidy benefits from a favourable insurance premium, which is well below the level of insurance premiums available on the market for the coverage of comparable risks. The scheme confers a benefit within the meaning of Article 3(2) of the basic Regulation. The benefit is equal to the difference between the premiums offered in the context of a commercial insurance policy and the subsidised premium.

(89) The subsidy is specific as the granting authority and the legislation pursuant to which the granting authority operates explicitly limit access to this grant to enterprises operating in the agriculture sector and even explicitly target risks incurred by aquaculture producers.

6.5. *Calculation of subsidy amount*

(90) One company availed of benefits under this scheme. However, the benefit to the company was found to be negligible.

6.6. *Subsidies for consultancy*

(91) This scheme aims at providing the necessary knowledge and know-how to the aquaculture producers in order to modernise and increase production and to become more efficient. None of the sampled exporting producers were found to have benefited from this scheme during the investigation period.

6.7. *Subsidies for fuel and discarding fishing vessels*

(92) These subsidies are linked to the purchase of fuel for fishing boats, or linked to the discarding of fishing vessels. These subsidy payments benefit specifically fisheries activities. None of the sampled exporting producers were found to have benefited from these subsidies during the investigation period.

6.8. *Conclusion on subsidisation*

(93) The Commission calculated the amounts of countervailable subsidies in accordance with the provisions of the basic Regulation for the investigated companies scheme by scheme, and added these figures together to calculate a total subsidy amount for each group for the investigation period.

(94) To calculate the overall subsidy margins below, the Commission first calculated the percentage subsidisation, being the subsidy amount over total company turnover. This percentage was then used to calculate the subsidy allocated to exports of the product concerned to the Union during the investigation period.

(95) The subsidy amount per whole fish equivalent of product concerned exported to the Union during the investigation period was then calculated, and the margins below calculated as a percentage of the CIF value of the same exports per whole fish equivalent.

(96) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average subsidy margin. Therefore, that margin was established on the basis of the margins of the sampled exporting producers.

(97) For all other exporting producers, the Commission established the subsidy margin on the basis of the facts available, in accordance with Article 28 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.

(98) The level of cooperation in this case is high because the imports of the cooperating exporting producers constituted more than 80 % of the total exports to the Union during the investigation period. On this basis, the Commission decided to base the residual subsidy margin at the level of the sampled company with the highest subsidy margin.

Company Name	Subsidy margin
GMS	7,0 %
Kilic	9,7 %
Özpekler	7,1 %
Ternaeben	9,5 %
Weighted average of the sample	8,2 %
Country-wide subsidy margin	9,7 %

D. **INJURY**

1. **Definition of the Union industry and Union production**

(99) The like product was manufactured by more than 700 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 8(1) of the basic Regulation.

(100) The total Union production during the investigation period was estimated at around 170 million kg 'whole fish equivalents' (WFE), based on data provided by national and European producers' associations and individual companies. As indicated in recital 10 nine Union producers were selected in the sample representing more than 12 % of the total Union production of the like product.

2. **Union consumption**

(101) The Commission established the Union consumption on the basis of the total estimated Union producers' sales volume on the Union market and the total import volume based on Eurostat.

(102) Total Union producers' sales volume was estimated as set out in recital 130 below.

(103) As for the import volume, Eurostat reports net weights for six different CN codes, namely live, fresh, chilled, frozen and/or smoked in the form of whole and/or gutted fish or fillets. Net weights were converted into WFE for comparison purpose by dividing the import quantity recorded in Eurostat with the below conversion factors. These conversion factors were provided in the complaint and are commonly used in the industry.

Table 1

Conversion factors

Product presentation	Factor
Live	1,00
Fresh/chilled/frozen (gutted)	0,85
Fillets: Fresh/chilled/frozen	0,47
Fillets: Smoked	0,40

(104) The relevant CN codes cover also other types of fish not included in the scope of this investigation, such as brown trout (*Salmo trutta*), cutthroat trout (*Oncorhynchus clarki*), golden trout (*Oncorhynchus aguabonita*) and gila trout (*Oncorhynchus gilae*). However, the investigation found that species other than the product concerned were not produced in Turkey, or only produced in negligible quantities. This was based on the information provided by the Turkish industry to the Federation of European Aquaculture Producers (FEAP) and other public information sources [1] cross-checked, whenever possible, with relevant Turkish official statistics. On this basis, it was concluded that Eurostat statistics provided sufficiently reliable and complete import data.

(105) The Union consumption, as established, remained stable from 2010 to 2011, then decreased by 5 % between 2011 and 2012 and further dropped by 7 % from 2012 and the investigation period. Overall, consumption decreased by 12 % in the period considered.

Table 2

Union consumption (kg WFE)

	2010	2011	2012	Investigation period
Total Union consumption	183 399 382	183 932 215	173 599 493	162 108 475
Index	*100*	*100*	*95*	*88*

Source: FEAP, Eurostat

3. **Imports from the country concerned**

3.1. *Volume and market share of the imports from the country concerned*

(106) As indicated in recital 103, the Commission established the volume of imports on the basis of Eurostat, expressed in kg WFE. The market share of the imports was established on the basis of import volume from Turkey and total Union consumption.

[1] Food and Agriculture Organisation of United Nations; Turkish Ministry of Food, Agriculture and Livestock; Turkish Seafood Association

(107) Imports into the Union from the country concerned developed as follows:

Table 3

Import volume (kg WFE) and market share

	2010	2011	2012	Investigation period
Volume of imports from Turkey (kg WFE)	15 664 502	21 510 620	22 113 656	27 008 376
Index	*100*	*137*	*141*	*172*
Market share	9 %	12 %	13 %	17 %
Index	*100*	*137*	*149*	*195*

Source: Eurostat

(108) Despite the decrease in consumption, import volumes of the product concerned to the Union increased steadily during the period considered and in total by 72 %. This led to an increase of the corresponding market share from 9 % in 2010 to 17 % in the investigation period, i.e. an increase of 8 percentage points or of 95 % during the period considered.

3.2. *Prices of the imports from the country concerned and price undercutting*

(109) The Commission established the average prices of imports on the basis of Eurostat by dividing the total volume of Turkish imports expressed in kg WFE by the total value of those imports. Price undercutting of the imports was established on the basis of the data of the sampled exporting producers.

(110) The average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices (EUR/kg WFE)

	2010	2011	2012	Investigation period
Turkey	2,63	2,78	2,83	2,75
Index	*100*	*106*	*108*	*105*

Source: Eurostat

(111) The average import price of the product concerned increased by 8 % between 2010 and 2012 and subsequently decreased by 3 % between 2012 and the investigation period. Overall, the average import price increased by 5 % during the period considered.

(112) The Commission determined the price undercutting during the investigation period by comparing: (a) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and (b) the corresponding weighted average prices per product type of the imports from the sampled exporting producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis.

(113) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed a weighted average undercutting margin ranging between 5 % and 18 % of the imports from the country concerned on the Union market.

(114) One sampled exporting producer argued that the Commission should give due consideration to any difference in the level of trade. However, the investigation showed that no differences existed in the level of trade between the sampled Union producers and the sampled exporting producers in Turkey. The argument should therefore be rejected.

(115) The Aegean Exporters' Association (representing the Turkish exporters) and one exporting producer claimed that the Union industry is mainly focussed on the production of organic trout and pink trout which have a significant price premium as compared to trout exported from Turkey. Therefore, they claimed that the prices were not comparable. However, as explained in the recital 113 above, the price comparisons were made on a type-by-type basis for transactions at the same level of trade duly adjusted where necessary. As a consequence any price differences based on different product types have been duly taken into consideration.

(116) The Aegean Exporters' Association also claimed that the Union industry used different production processes resulting in different optic and sensory characteristics and a difference in shelf life. It was alleged that trout produced by the Union industry also had different weight ranges when compared to trout produced in Turkey. All these elements had allegedly an impact on the price comparison and should therefore be taken into consideration. However, no evidence was provided in order to substantiate these claims, neither did the evidence obtained during the investigation support these claims. As explained in recital 113 the price comparisons were made on a type-by-type basis for transactions at the same level of trade duly adjusted where necessary. Any differences based on different product types have been therefore duly taken into consideration.

(117) Therefore, the claims made regarding price comparisons should be rejected.

4. **Economic situation of the Union industry**

4.1. *General remarks*

(118) In accordance with Article 8(4) of the basic Regulation, the examination of the impact of the subsidised imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(119) As mentioned in recital 10, sampling was used for the determination of possible injury suffered by the Union industry.

(120) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the complaint, FEAP and Eurostat. The data related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. The data related to the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(121) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the subsidy margin.

(122) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.2. *Macroeconomic indicators*

4.2.1. Production, production capacity and capacity utilisation

(123) Production volume of the Union industry was obtained from FEAP and the complainant. FEAP data is collected on an ex-farm basis and refers to live fish harvested in each Member State. As FEAP data covered only part of the investigation period, they were completed on the basis of estimates of the complainant. In addition, since FEAP data is collected on an ex-farm basis and refers to live fish harvested, and in order to avoid double-counting, the proportion of imports from all sources destined for reprocessing (around 20 % of all import volumes, excluding 'smoked', based on the information provided by the sampled exporting producers in the questionnaire replies) was added to the EU production of life fish.

(124) On this basis, the total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 5

Production, production capacity and capacity utilisation

	2010	2011	2012	Investigation period
Production volume (kg WFE)	168 291 314	161 896 836	151 960 522	136 950 842
Index	*100*	*96*	*90*	*81*
Production capacity (kg WFE)	220 309 323	215 689 275	209 607 237	183 616 771
Index	*100*	*98*	*95*	*83*
Capacity utilisation	76 %	75 %	72 %	75 %
Index	*100*	*98*	*95*	*98*

Source: the complaint, FEAP, data of the sampled Union producers and of sampled exporting producers, Eurostat.

(125) Production decreased each year during the period considered. In the investigation period, the production decreased by 19 % as compared to 2010. This decrease was more pronounced than the decrease in the consumption during the period considered.

(126) Production capacity was estimated by dividing the production volume by the capacity utilisation rate of the sampled Union producers.

(127) Production capacity of the Union industry decreased by 17 % throughout the period considered. The findings of the investigation indicate that a number of Union producers have closed down their production facilities during the period considered thereby decreasing the total Union production capacity.

(128) Union producers' capacity utilisation rate was at around 75 % during the period considered, decreasing by 1 percentage point between 2010 and the end of the investigation period.

4.2.2. Sales volume and market share

(129) The Union industry's sales volume and market share developed over the period considered as follows:

Table 6

Sales volume and market share

	2010	2011	2012	Investigation period
Sales volume on the Union market (kg WFE)	163 321 913	156 440 124	146 677 898	130 729 993
Index	*100*	*96*	*90*	*80*
Market share	89 %	85 %	84 %	81 %
Index	*100*	*96*	*95*	*91*

Source: the complaint, FEAP, data of the sampled Union producers, Eurostat

(130) Sales volume of the Union industry was established on the basis of the total production volume, as described in recital 123 by deducting the Union industry's export sales.

(131) Export sales volume was based on Eurostat data converted into kg WFE. Other trout species possibly included in the CN codes concerned were considered negligible since they were not produced in the Union, or produced in only very small quantities. Therefore, it was considered that Eurostat provided sufficiently reliable data for the export of rainbow trout during the period considered.

(132) Thus, sales volume of the Union industry decreased constantly between 2010 and the investigation period and overall by 20 % throughout the period considered. This negative trend has been more pronounced than the decrease in the total consumption over the same period as described in recital 105.

(133) As a result the market share held by the Union industry also decreased throughout the period considered and overall fell by 8 percentage points during the same period. At the same time Turkish imports increased by 72 % and the corresponding market share by 8 percentage points, as described in recital 108 above, which corresponded to the loss of market share of the Union industry.

4.2.3. Growth

(134) The Union consumption declined from 2011 to the end of investigation period. Despite the decreasing demand on the Union market, imports from Turkey nearly doubled and resulted in a growing market share during the period considered. Thus, the Union industry lost part of its market share, whereas the imports concerned managed to increase theirs in the decreasing Union market. At the same time, the production volume of the Union industry declined more than the market contracted while the volume of the Turkish imports increased both in absolute and in relative terms.

4.2.4. Employment and productivity

(135) Employment and productivity developed over the period considered as follows:

Table 7

Employment and productivity

	2010	2011	2012	Investigation period
Number of employees	3 692	3 413	3 144	2 862
Index	*100*	*92*	*85*	*78*
Productivity (kg WFE/employee)	45 578	47 431	48 332	47 847
Index	*100*	*104*	*106*	*105*

Source: the complaint, FEAP, data of the sampled Union producers

(136) Employment of the Union industry was estimated on the basis of the total production volume, divided by the productivity of the sampled Union producers. Given the decrease in production volume (Table 5), the level of employment of the Union industry declined by 22 % during the period considered.

(137) As employment decreased at a higher rate than production volume, the estimated productivity per employee, measured as output in kg WFE per employee, increased by 5 % during the period considered.

4.2.5. Magnitude of the amount of the countervailable subsidies and recovery from past subsidisation or dumping

(138) All subsidy margins are significantly above the de minimis level. As regards the impact of the magnitude of the amount of the countervailable subsidies on the Union industry, given the volume and prices of imports from Turkey, the impact can be considered not negligible.

(139) Since this is the first anti-subsidy investigation concerning the product concerned, no data are available to assess effects of possible past subsidisation or dumping.

4.3. *Microeconomic indicators*

4.3.1. Prices and factors affecting prices

(140) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 8

Sales prices in the Union

	2010	2011	2012	Investigation period
Average unit sales prices to unrelated customers EUR/kg WFE	2,76	2,91	2,89	2,95

	2010	2011	2012	Investigation period
Index	*100*	*105*	*105*	*107*
Unit cost of production EUR/kg WFE	2,73	2,84	2,89	2,98
Index	*100*	*104*	*106*	*109*

Source: Data of the sampled Union producers

(141) The sampled Union producers' average unit sales price first increased from EUR 2,76 per kg WFE in 2010 to EUR 2,91 in 2011, then decreased to EUR 2,89 in 2012 and again increased to EUR 2,95 in the investigation period. Overall, the average sales price of the sampled Union producers increased by 7 % during the period considered. This increase was however not sufficient to cope with the parallel increase of the cost of production of 9 % during the same period. As a result, the average unit net sales price fell below the unit cost of production during the investigation period.

(142) The sampled Union producers' production cost increased from EUR 2,73 per kg WFE in 2010 to EUR 2,84 in 2011. In 2012 a more moderate increase to EUR 2,89 was observed. A bigger increase to EUR 2,98 took place in the investigation period when the cost of production exceeded the average unit sales prices — making the Union production unprofitable overall. The most important element of the cost of production is the cost of feed (fishmeal and fish oil) together with the cost of energy and the cost of eggs or juveniles, which increased during the period considered and which is thus reflected in the increase of the average production cost.

4.3.2. Labour costs

(143) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 9

Average labour costs per employee

	2010	2011	2012	Investigation period
Average labour costs per employee (EUR)	26 585	26 958	28 276	27 757
Index	*100*	*101*	*106*	*104*

Source: Data of the sampled Union producers

(144) Between 2010 and the investigation period, the average labour costs per employee of the sampled Union producers increased by 4 %. This overall increase during the period considered is relatively low and in any event below the general increase in labour cost (7,5 %) [1] and the inflation rate (9,6 %) [2] in the Union during the same period.

4.3.3. Inventories

(145) Trout is a perishable product, which unless frozen, has a shelf life of less than two weeks. As the sampled Union producers do not keep stocks of trout after harvest and do not, to any significant degree, freeze their production, stock levels are not considered to be a meaningful indicator of injury in this investigation.

[1] Eurostat: EU-28 Labour cost index, nominal value — quarterly data (NACE Rev. 2)
[2] Eurostat: EU 28 HICP — inflation rate — cumulative annual average rate of change (%) from 2010 to 2013

4.3.4. Profitability, cash flow, investments, return on investments and ability to raise capital

(146) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 10

Profitability, cash flow, investments and return on investments

	2010	2011	2012	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	1,1 %	2,5 %	– 0,1 %	– 0,8 %
Index	*100*	*230*	*– 13*	*– 88*
Cash flow (1 000 EUR)	– 1 242	2 828	1 715	– 5 210
Index	*100*	*428*	*338*	*– 220*
Investments (1 000 EUR)	3 952	4 158	4 371	10 265
Index	*100*	*105*	*111*	*260*
Return on investments	1,8 %	4,3 %	– 0,2 %	– 1,3 %
Index	*100*	*238*	*– 13*	*– 74*

Source: Data of the sampled Union producers

(147) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. In 2010 and 2011 profitability increased slightly but remained at low levels only slightly above break-even. The situation declined further in 2012 where profitability turned negative and during the investigation period where losses further increased. This, as explained in recital 142, is due to the increasing trend of production cost while the Union industry could not raise its prices accordingly. Throughout the period concerned, a number of Union producers went out of business.

(148) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow increased from 2010 to 2011 and declined after that. Between 2012 and the investigation period it declined deeply, rendering the total cumulative cash flow of the period concerned negative. Generally, the negative trend in cash flow follows the declining trend of the profitability, although the negative cash flow in 2010 and the substantial drop between 2012 and the investigation period was also the result of investments made due to consolidation efforts as explained in recital 149.

(149) Investments increased only slightly between 2010 and 2012 whereas there was a significant increase in the investigation period. Investments were linked to acquisition of production facilities from discontinued companies and/or consolidation of related companies and not to the replacement of existing assets or the acquisition of additional and/or new equipment. Thus, the peak in investments observed in the investigation period was primarily related to consolidation. This is confirmed by the fact that the total production capacity decreased by 17 % during the period considered.

(150) The return on investments is the profit in percentage of the net book value of investments. Return on investment followed the same trend than profitability, namely it increased from 2010 to 2011 while only remaining merely over the break-even point. Return on investment dropped afterwards and became negative in 2012. It declined further during the investigation period. This negative development resulted from the fact that the Union industry could not raise its prices, despite the increasing trend of production cost.

(151) As far as the ability to raise capital is concerned, the deterioration of the ability of the sampled Union producers to generate cash for the like product was weakening their financial situation by reducing the internally generated funds. As regards funding from banks, increasing difficulties to obtain bank financing were encountered. The investigation found that, overall, the ability to raise capital deteriorated.

5. **Conclusion on injury**

(152) The investigation clearly showed at this stage that the Union industry suffered material injury. The injury translated in a loss of market share and decline in profitability, in particular. In the same time, imports of the product concerned gained market share and they were found to undercut the Union industry prices on the Union market.

(153) Certain injury indicators, such as unit sales price, average labour cost per employee, productivity and investments, developed positively. As regards the unit sales prices the increase was due to increased production cost. However, this increase did not compensate the full increase of unit cost, thus turning profitability to negative in 2012. As explained in the recital 144 the Union industry's increase in average labour cost per employee was below the general increase in labour cost and the inflation rate in the Union. The Union industry had to reduce its number of employees which resulted in an increase in productivity per employee. The increase of investments was mainly linked to the acquisition of production facilities from discontinued companies and consolidation and not to replacement of existing assets or the acquisition of new equipment.

(154) Most injury indicators showed negative trends. The Union industry suffered a decline in profitability, cash flow and return on investments. The profitability and return on investments, which were merely over the break-even point during 2010 and 2011, became negative in 2012 and declined further during the investigation period. At the same time, the production volume, production capacity, employment and market shares were reduced under the pressure of the subsidised imports.

(155) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 8(4) of the basic Regulation.

E. **CAUSATION**

(156) In accordance with Article 8(5) of the basic Regulation, the Commission examined whether the subsidised imports from the country concerned caused material injury to the Union industry. In accordance with Article 8(6) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the subsidised imports from the country concerned was not attributed to the subsidised imports. These factors are:

(a) Imports of other third countries

(b) Export performance of the Union industry

(c) Development of consumption

(d) Competition with other fish species

(e) Administrative and regulatory burdens, geographical limitations

(f) Price pressure exerted by large retailers

(g) Over-investments, financial expenses, exchange rate fluctuations and extra-ordinary losses linked to litigations

1. **Effects of the subsidised imports**

(157) To establish the existence of a causal link between the subsidised imports of the product concerned from Turkey and the injury suffered by the Union industry, the Commission analysed the volume and price levels of the subsidised imports and the extent to which these could have caused the material injury suffered by the Union industry.

(158) The investigation showed that subsidised imports from the country concerned nearly doubled during the period considered. This resulted in a gain of market share of 8 percentage points, from 9 % in 2010 to 17 % in the investigation period. This happened despite a decreasing trend of consumption. At the same time the Union industry lost 8 percentage points of its market share.

(159) The average prices of the subsidised imports increased by 5 % between 2010 and the investigation period. This increase was due to the overall increase in cost of production. However, import prices remained at significantly lower levels than those of the Union industry. The subsidised imports undercut Union industry prices with an average undercutting margin of 9 % during the investigation period. At the same time given the increased subsidised imports of the product concerned which exerted a significant price pressure on the Union market, the Union industry could not raise its sales prices sufficiently so that they could cover for its increased cost of production and in any case not above the Turkish subsidised imports' prices.

(160) It was found that the increase of subsidised imports from Turkey and their market share gain clearly coincided with the loss of market share of the Union industry, the decrease in production volumes, production capacity and employment, the downward trend of profitability, cash flow, and return of investments. Thus, the subsidised imports were considered as exercising pressure on the Union industry which subsequently contributed to its inability to increase its sales prices in line with the cost, to loss of market share and to overall economic and financial deterioration,

(161) Based on the above, the Commission concluded at this stage that the Union industry's deteriorating state had to be attributed to the increase in imports at subsidised prices from Turkey and that these imports had a determining role in the material injury suffered by the Union industry.

2. **Effects of other factors**

2.1. *Imports from third countries*

(162) The volume of imports from other third countries (Chile, Norway, Bosnia and Herzegovina and others) developed over the period considered as follows:

Table 11

Imports from third countries

Country		2010	2011	2012	Investigation period
Total of all third countries except the country concerned	Volume (kg WFE)	4 412 967	5 981 471	4 807 938	4 370 106
	Index	*100*	*136*	*109*	*99*
	Market share	2,4 %	3,3 %	2,8 %	2,7 %
	Index	*100*	*135*	*115*	*112*
	Average price (EUR/kg WFE)	2,63	2,85	2,80	2,94
	Index	*100*	*108*	*106*	*112*

Source: Eurostat

(163) The import volume from all other third countries was at a low level and even decreased slightly during the period considered. It increased between 2010 and 2011, but decreased subsequently and reached slightly lower volumes during the investigation period than at the beginning of the period considered in 2010. Market share followed a similar trend. It increased between 2010 and 2011, but decreased again in 2012 and the investigation period. Overall, their market share increased slightly from 2,4 % to 2,7 % during the period considered. At the same time the imports from Turkey were at much higher level both in terms of volume and market shares and showed a constant increasing trend.

(164) Average import prices were increasing over the period considered. In total average import prices increased by 12 % over the period considered. Import prices from other third countries were lower than the average unit sales prices of the sampled Union producers but higher than the Turkish import prices, except in 2012 where they were slightly lower.

(165) In view of the low and stable import volumes as well as the low and rather stable market shares from all other third countries and their price levels that followed overall price levels in the Union, the Commission concluded at this stage that the other third country imports did not contribute to the injury suffered by the Union industry.

2.2. *Export performance of the Union industry*

(166) The volume of exports of the Union industry developed over the period considered as follows:

Table 12

Export performance of the Union producers

	2010	2011	2012	Investigation period
Export volume (kg WFE)	4 969 401	5 456 712	5 282 624	6 220 849
Index	*100*	*110*	*106*	*125*
Average price (EUR/kg WFE)	4,08	4,60	4,13	4,16
Index	*100*	*113*	*101*	*102*

Source: Eurostat

(167) Export sales of the Union industry increased by 25 % during the period considered. However, the Union market is the main market for the Union industry and its exports constituted only around 3 % of its production in 2010-2011 and around 5 % in the investigation period. Export sales prices of the Union industry were by around 30 % higher than their average sales price in the Union, generating higher profits than sales on the Union market.

(168) On these grounds, the Commission concluded at this stage that the export performance of the Union industry did not break the causal link between the subsidised imports and the injury suffered by the Union industry.

2.3. *Development of consumption*

(169) Union consumption remained stable from 2010 to 2011 and decreased by 12 % between 2011 and the investigation period, overall it decreased by 12 %. In the context of decreasing consumption however the subsidised Turkish imports managed to increase their market share by 8 percentage points or 95 % while the Union industry

lost a market share of as well 8 percentage points. Therefore, the loss in sales volume and market share from the Union industry could not be solely explained by the overall decrease in consumption. Therefore, the steady increase of subsidised imports in a shrinking market at prices undercutting the Union industry's sales prices on the Union market independently caused injury and as concluded in recital 160 they had a determinative role.

(170) On these grounds, the Commission concluded at this stage that the decreasing consumption, whilst it might have contributed to the injury suffered by the Union industry, could not, by itself, explain the injury suffered by the Union industry and therefore could not break the causal link between the subsidised imports and the injury suffered by the Union industry.

2.4. *Competition with other fish species*

(171) The Aegean Exporters Association claimed that the material injury suffered by the Union industry was caused by competition with other fish species such as pangasius, large trout and salmon.

(172) As far as pangasius is concerned, imports declined by around 24 % during the period considered. This is in contrast with the increase in imports of the product concerned over the same period.

(173) As regards other fish species, it is noted that according to information available, namely a publicly available study from the Fødevareøkonomisk Institut of the University Copenhagen ([1]), large trout and salmon are substitutes competing in the same market segment. In contrast, trout subject to current investigation is sold in different market segments and there is no direct correlation between the price of large trout or salmon and the price of trout subject to current investigation.

(174) On this basis these claims should be rejected.

(175) On these grounds, the Commission concluded at this stage that the competition with other fish species did not contribute to the injury suffered by the Union industry.

2.5. *Administrative and regulatory burdens, geographical limitations*

(176) The Aegean Exporters Association further claimed that the material injury suffered by the Union industry was caused by administrative and regulatory burdens as well as limitations to use certain geographical areas for aquaculture purposes.

(177) The alleged causality between the named administrative and regulatory requirements and the injury was not substantiated. In particular, it was not demonstrated that the administrative and regulatory framework including the geographical limitations as regards areas available for aquaculture purposes would have changed during the period considered in such a way that it could have caused the injury. In fact, these named elements merely characterize the overall economic and regulatory environment of the aquaculture sector in the Union and cannot explain the degradation of the Union industry's situation during the period considered. This claim should therefore be rejected.

(178) On these grounds, the Commission at this stage concluded that the alleged administrative and regulatory burdens and geographical limitations did not break the causal link between the subsidised imports and the injury suffered by the Union industry.

2.6. *Price pressure exerted by the large retailers*

(179) The Agean Exporters' Association and one of the sampled exporting producers claimed that large retailers in the Union have a strong bargaining power and that any injury suffered by the Union producers was due to the price pressure exerted by such retailers and not due to imports from Turkey.

([1]) Nielsen, M., Jensen, C. L., Nielsen, R., Petersen, C. S., & Ravensbeck, L. (2008). Globale markedsmodeller for laksefisk, fiskemel og olie, herunder data for engroshandel. København: Museum Tusculanum. (Rapport/Fødevareøkonomisk Institut; Nr. 198). http://curis.ku.dk/ws/files/44694071/Rapport_198.pdf

(180) None of the large retailers came forward and cooperated in the present investigation. In any event, Turkish imports prices were subsidised and below the prices of the Union industry throughout the period considered. During the investigation period, the undercutting margins were between 5 % and 18 %. Under such a scenario, the alleged price pressure exerted by large retailers could not possibly explain the overall economic and financial deterioration and especially the loss of market share but it could have only marginally contributed to the injury suffered, if at all.

(181) On these grounds, the Commission concluded at this stage that any possible price pressure exerted by the large retailers could not break the causal link between the subsidised imports and the injury suffered by the Union industry.

2.7. *Over-investments, financial expenses, exchange rate fluctuations and extra-ordinary losses linked to litigations*

(182) The Aegean Exporters' Association claimed that the declining performance of at least certain Union producers was due to over-investments rather than the Turkish imports. The same party further claimed that the decline of the profitability of the Union industry was partly due to increased finance expenses, exchange rate fluctuations and cost incurred as a consequence of litigation.

(183) The claims regarding alleged over-investments and cost incurred as a consequence of litigation were not substantiated. Neither did the findings of the investigation support the claim that these factors would have had any material impact on the profitability of the sampled Union producers.

(184) Claims regarding the increase of finance expenses and exchange rate fluctuations were not specified or substantiated in any way. Neither did the findings of the investigation support the claim that these factors would have had any impact on the profitability of the sampled Union producers.

(185) These claims should therefore be disregarded.

(186) On these grounds, the Commission at this stage concluded that the alleged over-investments, financial expenses, exchange rate fluctuations and extra-ordinary losses linked to litigations did not contribute to the injury suffered and thus they could not break the causal link between the subsidised imports and the injury suffered by the Union industry.

3. **Conclusion on causation**

(187) The above analysis has demonstrated that there was a substantial increase in the volume and market share of the subsidised imports from the country concerned. The increase of these imports at prices undercutting the Union sales prices led to the deterioration of the situation of the Union industry. On this basis, it was concluded that imports from Turkey had a determining role in the material injury suffered by the Union industry.

(188) Other factors which could have caused injury to the Union industry were also analysed. In this respect, it was found that imports from other third countries, the export performance of the Union industry, competition with other fish species, administrative and regulatory burdens, geographical limitations, over-investments, financial expenses, exchange rate fluctuations and extra-ordinary losses linked to litigations did not contribute to the injury suffered by Union industry. Other factors such as the development of Union consumption and price pressure exerted by large retailers might have contributed to the injury suffered but they could not break the causal link established between the subsidised imports and the injury suffered by the Union industry during the investigation period.

(189) On the basis of the above, the Commission concluded at this stage that the material injury to the Union industry was caused by the subsidised imports from the country concerned and that no other factors break that causal link. The injury notably consists of decrease in production and production capacity, sales volume, market share, employment while the profit and return of investments became negative during the period considered.

F. **UNION INTEREST**

(190) In accordance with Article 31 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious subsidisation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

1. **Interest of the Union industry**

(191) The investigation established that the Union industry suffered material injury caused by subsidised imports from Turkey.

(192) The imposition of measures would restore fair competition on the market. The Union industry's downwards trend in financial performance indicators is the result of its difficulty in competing with the subsidised imports from the country concerned. The imposition of countervailing duties would therefore put the Union industry in the position to increase its prices to cover the cost of production and thus increase its market share, employment, production and improve its financial performance indicators such as profitability, cash flow and return on investments.

(193) Should measures not be imposed, the price pressure from Turkish imports is likely to continue with further negative effects on the profitability of the Union industry. This further decline in performance would ultimately lead to further cuts in production and more closures of production sites, which would therefore threaten employment and investments in the Union.

(194) On this basis, the Commission concluded at this stage, that countervailing measures were in the interest of the Union industry.

2. **Interest of unrelated importers**

(195) In the Notice of Initiation the Commission invited importers and their representative associations to make themselves known. As indicated in recital 12 above, three companies made themselves known by replying to the sampling form for unrelated importers. Consequently, questionnaires were sent to all three companies that came forward, but only one of them replied. From the reply it became apparent that although this party had imported a very small amount of trout during the investigation period, it was not usually an importer of trout but of other fish products. The amount of trout imported by this company was not sufficient to be considered overall representative.

(196) At a later stage another importer came forward without however replying to the questionnaire. This importer claimed that the imposition of duties on trout from Turkey would interrupt its import activities without however detailing this claim or providing any information relevant for the assessment of any potential impact on its business activities, such as profitability, import and resale prices.

(197) While it cannot be excluded that unrelated importers will be effected by the imposition of countervailing duties, the aim of such duties is to restore the level playing field in the Union market. Other sources of supply are also existent and importers in the Union should be able to switch their sources of supply in response to the imposition of duties. Overall, the investigation did not reveal any significant negative effects of the imposition of duties on unrelated importers/traders in the Union.

(198) In the light of the above and in the absence of other data from unrelated importers/traders, the Commission concluded at this stage that the imposition of measures would not have an overall significant adverse effect on unrelated importers/traders.

3. **Interest of users, consumers, suppliers**

(199) In the Notice of Initiation the Commission invited users and their representative associations, and representative consumer organisations to make themselves known. In addition, the Commission contacted all known relevant parties. However, none of these parties came forward.

(200) After the deadline said in the Notice of Initiation, two parties that claimed to be suppliers of machinery to Turkish producers/processors of trout made themselves known.

(201) One party claimed that the imposition of duties would result in increased prices for the final consumers. This party did not, however, substantiate this claim. The investigation did not reveal any significant negative effects of the imposition of duties on the final consumers. As mentioned above, consumer organisations did not cooperate and did not provide any information on the basis of which the impact of measures could have been assessed in detail. In any event, while countervailing duties may have an effect on import prices, such potential price increase may at least partly be diluted through the distribution chain and any price increase for the final consumer may therefore not to be significant at consumer level.

(202) In addition, the aim of countervailing duties is to restore the level playing field in the Union market, but not to restrict imports of fair priced imports in the Union.

(203) In view of the above, as well as the non-cooperation of users and consumer organisations in the investigation and in particular the level of measures, the Commission concluded at this stage that the imposition of measures would not have an overall significant adverse effect on users, consumers or suppliers.

4. **Conclusion on Union interest**

(204) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of the product concerned from Turkey at this stage of the investigation.

G. **PROVISIONAL COUNTERVAILING MEASURES**

(205) On the basis of the conclusions reached by the Commission on subsidisation, injury, causation and Union interest, provisional countervailing measures should be imposed to prevent further injury being caused to the Union industry by the subsidised imports.

1. **Injury elimination level (Injury margin)**

(206) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.

(207) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of subsidised imports.

(208) Imports from Turkey started to increase with significant quantities mainly in 2008, that is to say before the period considered. The profitability realised by the Union industry at the beginning of the period considered in 2010 was therefore not considered representative. As before 2008 the pressure of imports from Turkey was not substantial on the Union market, it was considered that profit margins realised before that period could be reasonable. On the basis of the complaint, in 2006 and 2007 the Danish trout industry realised a profit margin which, on average reached or exceeded the level of 12 %. Consequently, on this basis, it was considered at this stage that a profit margin of 12 % of turnover could be regarded as an appropriate level which the Union industry could expect to obtain in the absence of injurious subsidisation.

(209) The Aegean Exporters' Association and one exporting producer claimed that the target profit should be lower than 12 % on the grounds that (i) in prior investigations (salmon; large rainbow trout) the target profits used were lower, (ii) the actual profit margin obtained by the Union industry at the beginning of the period considered was also lower and (iii) the profit margin of 12 % refers to Danish trout industry only and not to the Union industry as a whole and was therefore not representative. Finally, the exporting producer claimed further that a profit margin of 3 % should be used as such profit was in line with the average profit margin of the overall food industry.

(210) First, as regards to the comparison to large trout and salmon investigations, it should be noted that each investigation must reach its conclusions on the basis of its own merits. In this specific case, information was available in the investigation file of the current investigation which was found to be reasonable and was therefore used.

(211) Second, the target profit level on sales of the like product in the Union market should be the one that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of subsidised imports. Given that during the period considered and even before that the subsidised imports were present in substantial quantities, it could not be accepted that there were normal conditions of competition. The profit level of 12 % was obtained in the absence of substantial presence of Turkish imports in the Union market and thus considered as reasonable target profit in the circumstance of the present case at this stage.

(212) Third, the Danish trout industry was considered sufficiently representative for the Union market as Denmark was one of the main trout producing countries in the Union. In the absence of other available information at this stage it was used for the purpose of the determination of the target profit level.

(213) Finally, the claim that the general profit margin of food industry realised a much lower profit margin was not substantiated. The Commission considered that in any event, the profit margin realised by the Danish trout industry should take better into account the specificities of this industry and would thus be more appropriate. Indeed, the food industry consists of various sub categories pertaining to different market segments and which are subject to different market conditions which are not necessarily applicable to the trout industry.

(214) For the reasons above, the Commission concluded at this stage that a target profit margin of 12 % of turnover was reasonable to use.

(215) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by subtracting from the Union sales prices the actual profit margin achieved during the investigation period and replacing it by the profit margin of 12 %.

(216) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the sampled exporting producers in Turkey, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

(217) The injury elimination level for 'companies in Annex I' and for 'all other companies' is defined in the same manner as the subsidy margin for these companies (see recitals 96 and 97).

2. **Provisional measures**

(218) Provisional countervailing duties should be imposed on imports of rainbow trout (*Oncorhynchus mykiss*) live weighing 1,2 kg or less each, or fresh, chilled, frozen and/or smoked in the form of whole fish or with heads off or in the form of fillets originating in Turkey, in accordance with the lesser duty rule in Article 12(1) of the basic Regulation. The Commission compared the injury margins and the subsidy margins. The amount of the duties should be set at the level of the lower of the subsidy margins.

(219) On the basis of the above, the provisional countervailing duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Subsidy margin	Injury margin	Countervailing duty
GMS	7,0 %	27 %	7,0 %
Kilic	9,7 %	41 %	9,7 %
Özpekler	7,1 %	26 %	7,1 %
Ternaeben	9,5 %	20 %	9,5 %
Other cooperating companies	8,2 %	26 %	8,2 %
All other companies	9,7 %	41 %	9,7 %

(220) The above countervailing measures are established in the form of ad valorem duties, that is to say, in proportion to the value of the import.

(221) The individual company countervailing duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities.

(222) Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual countervailing duty rates.

(223) A company may request the application of these individual countervailing duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([1]). The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.

(224) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual countervailing duties. The companies with individual countervailing duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Annex II. Imports not accompanied by that invoice should be subject to the countervailing duty applicable to 'all other companies'.

(225) To ensure a proper enforcement of the countervailing duties, the residual duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

H. **FINAL PROVISIONS**

(226) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

([1]) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

(227) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional countervailing duty is hereby imposed on imports of rainbow trout (*Oncorhynchus mykiss*):

— live weighing 1,2 kg or less each, or

— fresh, chilled, frozen and/or smoked:

  — in the form of whole fish (with heads on), whether or not gilled, whether or not gutted, weighing 1,2 kg or less each, or

  — with heads off, whether or not gilled, whether or not gutted, weighing 1 kg or less each, or

  — in the form of fillets weighing 400 g or less each,

currently falling within the CN codes ex 0301 91 90, ex 0302 11 80, ex 0303 14 90, ex 0304 42 90, ex 0304 82 90 and ex 0305 43 00 (TARIC codes 0301 91 90 11, 0302 11 80 11, 0303 14 90 11, 0304 42 90 10, 0304 82 90 10 and 0305 43 00 11) and originating in Turkey.

2. The rates of the provisional countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Provisional countervailing duty	TARIC additional code
— Akyol Su Ürn.Ürt.Taş.Kom.İth.İhr.Paz.San. ve Tic. Ltd Şti — Asya Söğüt Su Ürünleri Üretim Dahili Paz.ve İhr. LtdŞti — GMS Su Ürünleri Üretim İth. Paz. San. ve Tic. Ltd Şti — Gümüşdoga Su Ürünleri Üretim Ihracat Ithalat AŞ — Gümüş-Yel Su Ürünleri üretim İhracat ve İthalat Ltd Şti — Hakan Komandit Şirketi — İskele Su Ürünleri Hayv.Gida Tur.Inş.Paz.Ihr.LtdŞti — Karaköy Su Ürünleri Üretim Paz.Tic.İhr. ve İth.LtdŞti — Özgü Su Ürün. Üret. Taş. Komis. İth. İhr. Paz. San. ve Tic. Ltd Şti	7,0 %	B964
BAFA Su Ürünleri Yavru Üretim Merkezi Sanayi Ticaret AŞ	9,7 %	B965
Özpekler İnşaat Taahhüd Dayanıklı Tüketim Malları Su Ürünleri Sanayi ve Ticaret Limited Şirketi	7,1 %	B966
Ternaeben Gida ve Su Ürünleri Ithalat ve Ihracat Sanayi Ticaret AŞ	9,5 %	B967
Companies in Annex I	8,2 %	
All other companies	9,7 %	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty applicable to 'all other companies' shall apply.

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

Article 2

1. Without prejudice to Article 30 of Regulation (EC) No 597/2009, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 31(4) of Council Regulation (EC) No 597/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 shall apply for a period of four months.

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

Done at Brussels, 29 October 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Cooperating Turkish exporting producers not sampled and not granted individual examination:

Name	TARIC additional code
Abalıoğlu Yem-Soya ve Tekstil San. A.Ş.	B968
Ada Su Ürünleri Turizm İnşaat ve Ticaret Ltd Şti.	B969
Ahmet Aydeniz Gıda San. ve Tic. A.Ş.	B970
Alba Lojistik İhracat İthalat Ltd Şti.	B971
Alba Su Ürünleri A.Ş.	B972
Alfam Su Ürünleri A.Ş.	B973
Alima Su Ürünleri ve Gida San. Tic. A.Ş.	B974
Alka Su Ürünleri A.Ş.	B975
Azer Altin Su Ürünleri	B976
Bağcı Balık Gıda ve Enerji Üretimi San ve Tic. A.Ş.	B977
Çamlı Yem Besicilik Sanayii ve Ticaret A.Ş	B978
Çirçir Su Ürünleri Ltd Şti.	B979
Ipaş Su Ürünleri A.Ş.	B980
Kemal Balıkçılık Ihr. Ltd Şti.	B981
Liman Entegre Balıkçılık San ve Tic. Ltd Şti.	B982
Miray Su Ürünleri	B983
Önder Su Ürünleri San. ve Tic. Ltd Şti.	B984
Penta Su Ürünleri Üretim ve Sanayi Tic. A.Ş.	B985
Tai Su Ürünleri Ltd Şti.	B986
TSM Deniz Ürünleri San. Tic. A.Ş.	B987
Ugurlu Balık A.Ş.	B988
Yaşar Dış Tic. A.Ş.	B989

ANNEX II

The valid commercial invoice referred to in Article 1(4) must be issued showing the following:

1. The name and function of the official of the entity issuing the commercial invoice.
2. The following declaration:

   'I, the undersigned, certify that the rainbow trout sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in Turkey. I declare that the information provided in this invoice is complete and correct.'
3. Date and signature of the official of the entity issuing the commercial invoice.