

## PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

### COMMISSION

#### **Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of large rainbow trout originating in Norway**

(2007/C 109/13)

The Commission has received a request for a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ('the basic Regulation')<sup>(1)</sup>.

#### **1. Request for review**

The request was lodged by Sjøtroll Havbruk AS, Lerøy Fossen AS, Firda Sjøfarmer AS, Coast Seafood AS, Hallvard Leroy AS and Sirena Norway AS, producers and exporters from Norway ('the applicants').

The request is limited in scope to the examination of the level of dumping of imports of large rainbow trout originating in Norway.

#### **2. Product**

The product under review is large rainbow trout (*Oncorhynchus Mykiss*) whether fresh, chilled or frozen, whether in the form of whole fish (with heads and gills on, gutted, weighing more than 1,2 kg each or with heads off, gilled and gutted, weighing more than 1 kg each), or in the form of fillets (weighing over 0,4 kg each) originating in Norway ('the product concerned'), currently classifiable within CN codes 0302 11 20, 0303 21 20, 0304 10 15 until December 2006 and 0304 19 15 as from January 2007 and 0304 20 15 until December 2006 and 0304 29 15 as from January 2007. These CN codes are given only for information.

#### **3. Existing measures**

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 437/2004<sup>(2)</sup> on imports of large rainbow trout originating in Norway.

#### **4. Grounds for the review**

The request pursuant to Article 11(3) of the basic Regulation is based on the prima facie evidence, provided by the applicants, that the circumstances on the basis of which measures were established have changed and that these changes are of a lasting nature.

The applicants allege, inter alia, that their export prices of the product concerned to the Community have increased significantly and substantially more than the domestic prices and cost of production in Norway. This has allegedly led to a reduction or elimination of dumping. The applicants claim that this evidence of reduction or elimination of dumping is also valid for all exports of the product under review to the Community. The applicants provided evidence to support this claim. Therefore the continued imposition of measures at the existing levels on all imports of large rainbow trout originating in Norway, which were based on the level of dumping previously established, is allegedly no longer necessary to offset dumping.

In light of the above-mentioned evidence and given the fact that a single country-wide duty applies to imports of the product concerned, it is considered that the partial review should examine the level of dumping of all imports of large rainbow trout originating in Norway.

#### **5. Procedure for the determination of dumping**

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission hereby initiates a review in accordance with Article 11 (3) of the basic Regulation, limited to dumping.

The investigation will assess the need for the continuation, removal or amendment of the existing measures on imports of large rainbow trout originating in Norway.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

<sup>(2)</sup> OJ L 72, 11.3.2004, p. 23.

(a) *Sampling*

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation.

Volume information requested in points 5(a)(i) and 5(a)(ii) below should be provided on a whole fish equivalent basis (WFE) which should be used consistently for all data provided. In addition, the list of conversion rates used, if any, should be provided.

(i) *Sampling for exporters/producers in Norway*

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(c)(i) and in the format indicated in point 7:

- name, address, e-mail address, telephone and fax numbers and contact person,
- the turnover in local currency and the volume in kg WFE of the product concerned sold for export to the Community during the period from 1 April 2006 to 31 March 2007 (investigation period — 'IP'),
- the turnover in local currency and the sales volume in kg WFE of the product concerned sold on the domestic market during the period IP,
- whether the company intends to claim an individual margin <sup>(1)</sup> (individual margins can only be claimed by producers),
- the precise activities of the company with regard to the production of the product concerned,
- the volume in kg WFE of the production of the product concerned, the production capacity and the investments in production capacity during the IP,
- the names and the precise activities of all related companies <sup>(2)</sup> involved in the production and/or selling (export and/or domestic) of the product concerned and their respective production volume (i.e. harvested) covered in the volume reported above,

<sup>(1)</sup> Individual margins may be claimed pursuant to Article 17(3) of the basic Regulation for companies not included in the sample.

<sup>(2)</sup> For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country, and any known associations of exporters/producers.

(ii) *Sampling for importers*

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in point 6(c)(i) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax numbers and contact person,
- the total turnover in euro of the company during the IP,
- the total number of employees,
- the precise activities of the company with regard to the product concerned,
- the volume in kg WFE and value in euro of imports into and resales made in the Community market during the IP of the imported product concerned originating in Norway,
- the names and the precise activities of all related companies <sup>(3)</sup> involved in the production and/or selling of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

<sup>(3)</sup> For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93.

In order to obtain the information it deems necessary for the selection of the sample of importers, the Commission will, in addition, contact any known associations of importers.

(iii) Final selection of the samples

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 6(c)(ii).

The Commission intends to make the final selection of the samples after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the samples must reply to a questionnaire within the time limit set in point 6(c)(iii) and must cooperate within the framework of the investigation.

If sufficient co-operation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in point 8.

(b) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled exporters/producers in Norway, to any association of exporters/producers, to the sampled importers, to any association of importers that cooperated in the proceeding that led to the imposition of the existing measures, and to the authorities of the exporting country concerned. This information and supporting evidence should reach the Commission within the time limit set in point 6(a).

c) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 6(a).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(b).

## 6 Time limits

(a) General time limits

(i) For parties to request a questionnaire

All interested parties should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Union*.

(ii) For parties to make themselves known, to submit questionnaire replies and any other information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(c)(iii).

(b) Hearings

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

(c) Specific time limit in respect of sampling

(i) The information specified in points 5(a)(i) and 5(a)(ii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5(a)(iii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

### 7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' <sup>(1)</sup> and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'FOR INSPECTION BY INTERESTED PARTIES'.

Commission address for correspondence:

European Commission  
Directorate General for Trade  
Directorate H  
Office: J-79 5/16  
B-1049 Brussels  
Fax (32-2) 295 65 05

### 8. Non-co-operation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and use of facts available is made, the result may be less favourable to that party than if it had cooperated.

### 9. Schedule of the investigation

The investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

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<sup>(1)</sup> This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).