

**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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), in particular Article 9 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EC) No 1628/2003⁽²⁾ (the provisional Regulation) imposed a provisional anti-dumping duty on imports of large rainbow trout falling within CN codes 0302 11 20, 0303 21 20, 0304 10 15 and 0304 20 15, originating in Norway and the Faeroe Islands.
- (2) It is recalled that the investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (investigation period or IP). The examination of trends relevant for the injury analysis covered the period from 1 January 1999 to 30 September 2002 (analysis period).

B. SUBSEQUENT PROCEDURE

- (3) Following the imposition of provisional duties on imports of large rainbow trout originating in Norway and the Faeroe Islands, some interested parties submitted comments in writing. The parties who so requested were also granted an opportunity to be heard orally.
- (4) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

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

(6) The Commission continued to seek and verify all information it deemed necessary for the definitive findings. In addition to the verification visits undertaken at the companies mentioned in recital 6 of the provisional Regulation, it should be noted that after the imposition of provisional measures, on-spot verification visits were carried out at the premises of the following companies and Associations:

- Federation of European Aquaculture Producers (FEAP), Bonnelles, Belgium,
- Syndicat national des industries du saumon et de la truite fumés, Paris, France,
- P/F PRG Export and its related producer P/F Luna, Gøta, Faeroe Islands,
- P/F Vestsalmon and its related producer P/F Vestlax, Kollafjørður, Faeroe Islands,
- P/F Bakkafrost, Glyvrrar, Faeroe Islands,
- P/F Faeroe Salmon, Klaksvik, Faeroe Islands,
- P/F Faeroe Seafood, Torshavn, Faeroe Islands,
- P/F Landshandilin, Torshavn, Faeroe Islands,
- P/F Navir, Argir, Faeroe Islands,
- P/F Viking Seafood, Strendur, Faeroe Islands.

(7) Some parties argued that the selected IP was not appropriate as the prices were extremely low during that period and have since recovered. In this respect, it should be recalled that, as per Article 6(1) of the basic Regulation, for the purpose of a representative finding, an investigation period shall be selected which, in the case of dumping shall, normally, cover a period of not less than six months immediately prior to the initiation of the proceeding. In other words, the IP is basically determined by the date of initiation. However, it is also recalled that in line with usual Community practice, the IP concerning dumping had a duration of one year. This period which is usually long enough to cover also

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 232, 18.9.2003, p. 29. Regulation as last amended by Regulation (EC) No 117/2004 (OJ L 17, 24.1.2004).

seasonal changes in demand and thus ensuring a representative finding, in particular by excluding that short-lived fluctuations on the Community market or on the home markets of the exporting country carry a disproportional overweight in the findings. Article 6(1) of the basic Regulation also sets the rules under which circumstances occurring after the IP can be taken into account. Accordingly, information relating to a period subsequent to the investigation period shall, normally, not be taken into account. In line with consistent Community practice, this has been interpreted as meaning that events relating to a period subsequent to the IP can only be taken into account if they are manifest, undisputed and lasting. Nothing found in this investigation suggests that the data relating to a period after the initiation are more representative than those relating to the IP. Events before the IP are in any event taken into account in the analysis period. The argument was therefore rejected.

C. PRODUCT CONCERNED AND LIKE PRODUCT

- (8) The Norwegian exporting producers and the Norwegian Ministry of Fisheries argued that fresh/chilled and frozen trout should not be considered as like products because they do not share the same physical characteristics since frozen trout is a processed product using fresh as its raw material. They further claimed that frozen trout competes only to a limited degree with fresh trout and is to a large extent intended for different markets than the fresh products. It was also noted that authorities in the USA have consistently not included frozen products in the context of antidumping proceedings concerning salmon originating in Norway. Similarly, they submitted that in the recent antidumping proceeding concerning salmon originating in Norway, the Faeroes Islands and Chile, the Community Institutions found that frozen fillets from Chile competed with fresh salmon products from the Community industry only to a limited degree. On the basis of these arguments they requested that frozen whole fish and fillets be excluded by the proceeding.
- (9) In this respect it should be noted that in assessing whether the product concerned should be deemed to be alike to large rainbow trout produced in the Community, it was initially considered whether the various types of and presentations of large rainbow trout, i.e. fillets or whole fish, fresh or frozen, shared the same basic physical, technical and/or chemical characteristics. In this respect it was considered that, in contrast to procedures such as smoking or marinating, the freezing of large rainbow trout does not alter the basic characteristics of the product, but solely allows its storage for a deferred consumption. Moreover, the present investigation has established that fresh and frozen large rainbow trout are interchangeable. In addition, in the recent investigation ⁽¹⁾ concerning salmon where a similar argument was made, it was determined that the product concerned included whole fish, gutted fish and various types of portion fillets, whether fresh, chilled or frozen and that such presentations of salmon constituted a single product which itself was deemed to be alike in all respects to that produced by the Community producers and sold in the Community market, and thus this case does not support the submission made. Finally, arguments concerning practice in the USA were not considered relevant in the context of this investigation, since the product scope of the anti-dumping investigations carried out by the USA authorities was different. On the basis of the above, the request that frozen whole fish and fillets should be excluded from the proceeding could not be accepted.
- (10) The same parties also argued, that live trout should not be covered by the product concerned that producers of live trout should not be considered for the definition of the Community industry, and that producers of trout should be distinguished from companies involved in the slaughtering, packing, freezing and filleting of fish. In this respect it should be noted that live trout is not covered by the investigation and thus not accounted in for the total production of the product concerned in the Community. Furthermore, live trout is indeed neither the product concerned nor are producers of live trout included in the definition of the Community industry. However, in respect of the submission that the trout growers should be distinguished, it was established that all the sampled cooperating producers included in the definition of the Community industry grow the fish and then slaughter it and pack it, or fillet it. In some cases they further process it and/or freeze it. This distinction between producing companies and processing companies does therefore not exist in the Community industry and the argument was thus rejected.
- (11) It was further argued that part of the production of large rainbow trout in the Community is destined for producing roe, and that fish grown to maturity to this end constitutes a product of a much inferior quality and therefore can not be considered as alike to the product concerned. It was also submitted in this regard that the basic physical characteristics change significantly because of lower fat content and the colour of flesh of the fish matured for producing roe. In this respect, it should be firstly noted that the alleged changes in fat content and the colour of flesh are only significant when the fish is fully matured, but not before. The fish is,

⁽¹⁾ OJ L 133, 29.5.2003, p. 1.

however, slaughtered before the full maturity, and accordingly the quality of the fish is not affected to that extent that it cannot be sold on the market for human consumption. In this respect, it should be further noted that fully matured trout also produces lower quality roe. For that reason, there is no added value for growing trout to full maturity, even for producing roe. Accordingly, the fish grown to lesser than full maturity and producing roe as a by-product can therefore be sold on the market at prices equal or lower to non mature trout, depending on its stage of maturity and on the market conditions. Therefore, allowing fish mature does not alter its basic physical characteristics unless full maturity is reached. This latter event, is however, not in the interest of growers as explained above. As for the differences in quality these are duly taken into consideration in determining the different types of fish subject to the investigation and as such were accounted for in the dumping calculations and in the injury assessment. The argument was therefore rejected.

- (12) In the absence of any other information submitted by interested parties, the conclusions drawn in recitals 9 and 10 of the provisional Regulation are hereby confirmed.

D. DUMPING

1. Claims made by parties in Norway and the Faeroe Islands

- (13) A number of parties in both Norway and the Faeroe Islands argued that, since their production of large rainbow trout was geared mainly towards the supply of the Japanese market, the dumping calculations did not take sufficient account of alleged physical differences between the quality types sold to that market and those sold to the European and domestic market. They questioned the appropriateness of allocating costs of production on the basis of turnover. Instead they claimed that the Commission should have accepted the calculations submitted in the questionnaires, whereby the cost of production for non-superior quality grades was reduced by the absolute difference in average sales prices, expressed in NOK/kg, between superior and non-superior quality grades.
- (14) The cost of production calculations submitted by the companies in their questionnaire replies could not be accepted since, as mentioned in recital 46 of the provisional Regulation, the companies could not substantiate that all Japan quality trout were destined for the Japanese market, nor that the specific costs relating to such fish had not in fact been incurred by all fish during the production cycle. In addition, the methodology proposed by the companies had the effect of eliminating certain costs rather than reallocating them over all units of

production and the sampled producers did not have an established system to identify costs on the basis of differences between the various quality grades of the product concerned and had never previously used the methodology proposed. Moreover, although it is acknowledged that the major part of both Norwegian and Faroese trout exports is destined for the Japanese market, it cannot be excluded that so-called Japan quality trout is sometimes exported to other markets. If one accepts the argument made by the parties that the primary production objective is to supply trout meeting Japanese standards, it is only correct to apportion costs, such as extra pigmentation in the feed, across all fish produced. The allocation of production costs on the basis of turnover, also foreseen in the absence of a more appropriate method by Article 2(5) of the basic Regulation, is indeed the best method to reflect differences in those cases where the same costs are incurred for all products but the quality finally obtained is different.

- (15) In addition, the sampled producers in the Faeroe Islands argued that they considered the methodology they proposed of adjusting costs by the differences in resale values between the different categories of trout was in line with generally accepted accounting principles. As already referred to in recital 56 of the provisional Regulation, the methodology used by the sampled producers does not allocate costs to the products on the basis of how these costs are actually incurred, nor does it distribute production costs to the products in a manner that properly reflects their relative sales values. On the contrary, it has the effect of failing to recognise all production costs since it is based on simply reducing costs for lower quality products by an amount equal to the difference between their sales prices and those of higher quality product. Therefore, this methodology cannot be considered to be in line with generally accepted accounting principles.
- (16) In conclusion, the use of turnover as the basis of production cost allocation, in accordance with Article 2(5) of the basic Regulation, means that any alleged physical differences in the quality types of the product concerned are appropriately reflected in the calculations since this method, by its nature, allocates more production cost to those fish having the greater sales value, such as superior quality trout. The arguments in recitals 11 and 12 above are therefore rejected and the approach set out in recital 46 of the provisional Regulation is hereby confirmed.
- (17) A number of Norwegian parties argued that the cost of acquisition calculations in respect of each producer, which were based on sales destined for consumption on the domestic market (recital 30 of the provisional Regulation), only represented a small part of the total

domestic sales and would therefore not be representative. In considering this claim, the methodology used to determine the cost of acquisition, as set out in recitals 29 to 32 of the provisional Regulation was also re-examined. It was concluded that the exclusion of sales which were not made in the ordinary course of trade and the construction of the costs in the cases were sales by product types were not profitable could lead to the inclusion in the cost of acquisition of elements not only relating to costs, but also involving a notion of profit. It was therefore established that the carrying out of an ordinary course of trade exercise at the level of the producers would not be fully appropriate. Accordingly, it was decided to base the 'cost of acquisition' exclusively on the costs incurred by the sampled producers, these costs still being allocated to the products in the way described in the last sentence of recital 46 of the provisional Regulation. Moreover, in order to ensure a maximum of representativity, it was decided that the costs of acquisition so calculated for each sampled producer should be weighted by the quantities of all sales made domestically by those producers to independent domestic customers to give an overall cost of acquisition for each product type sold by the sampled producers.

(18) It was also submitted that the representativity of domestic sales by Norwegian exporters should have been assessed on the basis of the combined domestic sales of the three exporters for each product type rather than for each exporter separately (recital 34 of the provisional Regulation). However, the approach adopted of assessing the representativity of domestic sales for each exporter separately, is consistent with the established practice of considering the circumstances and determining the results of each exporter forming part of a sample separately before determining the overall result for the sample. This representativity test is in no way linked to the question of whether individual duties or a single country wide duty, as in this case, is being applied. Accordingly, the argument is rejected and the approach set out in recitals 26 to 28 of the provisional Regulation is confirmed.

(19) A number of Norwegian parties also argued, at a late stage of the investigation, that the calculation of the cost of acquisition for trout fillets is inaccurate as it is based on the cost of acquisition for 'superior' quality fish, as indicated in recital 33 of the provisional Regulation, and as the codes used for fillets include a range of different qualities. They maintained that 'superior' quality fish is not used for fillets, which are generally made from 'other' quality fish, or sometimes 'ordinary' quality fish, qualities as defined in recital 28 of the provisional Regulation. Nevertheless, they considered that even basing the calculation on 'other' quality fish would not be accurate since this category itself covered a range of different

qualities. Although expressly requested during the verification visits, these parties did not supply information that would permit a more detailed calculation, nor otherwise substantiate the above claim. The approach adopted is considered the most reasonable since, by taking the cost of acquisition for fresh gutted head-on superior quality fish (the most commonly sold type) and adjusting this by the percentage difference between the selling prices for that product and for the fillets, quality differences involved are actually reflected in the calculation. It should be noted that companies were requested in the questionnaire to immediately contact the officials in charge, should they have any queries or request any clarification on the main aspects of the questionnaire itself, as for example the part concerning the product description, which they never did. At this stage of the investigation, the abovementioned remarks concerning the range of qualities within the product codes used can no longer be taken into consideration. The methodology set out in recital 33 of the provisional Regulation is therefore confirmed.

(20) A Norwegian party maintained that the profit margins used in constructing the costs of acquisition and normal values were unrealistically high (recitals 31 and 38 of the provisional Regulation). In this context, it is to be noted that in view of the revision of the methodology used to establish the cost of acquisition, no profit margin has now been used at the level of the sampled producers. The profit margins used at the level of the sampled exporters, in the limited number of cases where values were constructed, were in the range 12 % — 21 % with the average being close to 15 %. These figures came from the sampled companies' own verified data relating to their profitable sales and therefore cannot be considered to be excessive. The argument is therefore rejected. One Norwegian party argued that only considering profitable sales in constructing the cost of acquisition and normal value in the cases indicated in recitals 31 and 36 of the provisional Regulation would be against WTO rules. This argument cannot be accepted. Indeed, in view of the revision of the methodology used to establish the cost of acquisition, the question no longer arises for the cost of acquisition. The approach followed in testing the profitability of domestic sales of exporters for the determination of normal value, is consistent with the provisions contained in Article 2(4) of the basic Regulation, which are in conformity with WTO rules. The claim is therefore rejected.

(21) Parties in the Faeroe Islands claimed that, in the absence of domestic sales, normal values should be determined on the basis of information concerning export sales to third countries, which was requested as part of the questionnaire for the investigation (recitals 50 and 51 of the provisional Regulation). In this respect it should be

noted that the request for certain information in an investigation does not prejudice in any way the further analysis or restrict the choice of methodologies to those making use of that information only. The construction of normal values on the basis of the cost of production in the country of origin is the first alternative listed at Article 2(3) of the basic Regulation for cases where there are no domestic sales. The use of constructed normal value, instead of exported prices to third countries, as the basis for the determination of normal value is also the consistent practice of the Community in the absence of representative domestic sales. No arguments were presented nor any reasons found as to why the use of export prices to third countries would have been more appropriate in this case than a constructed normal value. The argument is therefore rejected and the approach set out in recitals 50 and 51 of the provisional Regulation is confirmed.

- (22) A number of Norwegian parties identified certain sales to wholesalers and distributors as having being incorrectly excluded from the domestic sales. The calculations were amended in order to take account of these sales.
- (23) Four Norwegian companies argued that the codes used in the investigation to identify the different types of the product concerned were not sufficiently detailed for the purpose. It should be noted that the product coding system is based on the widely accepted system of classification used in the industry, the purpose of which is to distinguish between the various qualities of product. It is therefore considered an appropriate basis to ensure a proper comparison between the normal value and export price for the same quality and presentation of the product concerned. The argument is therefore rejected for the same reasons mentioned in recital 17.
- (24) One Norwegian exporter claimed an adjustment in respect of certain domestic sales to retailers on the basis that they were at a different level of trade than its sales to the Community. This argument was accepted and the normal value calculations were amended accordingly.
- (25) A number of parties submitted comments regarding the inclusion of certain items in the cost of production data and the correct identification of domestic sales transactions where those to traders were being excluded. For those claims which were found to be justified the dumping calculations were amended accordingly. A clerical error found in the cost of acquisition calculation for one Norwegian producer, which had led to an understatement of the cost of acquisition, was also corrected.

2. Post IP events in the Faeroe Islands

- (26) Some parties in the Faeroe Islands argued that the level of production and exports from the Faeroe Islands had significantly decreased since the IP and that, as a conse-

quence, Faroese exports to the EC will be *de minimis* in the future. On this basis, it was claimed that the proceeding should be terminated in respect of the Faeroe Islands. In this respect, it should be noted that, according to Article 6(1) of the basic Regulation, information relating to a period subsequent to the IP shall, normally, not be taken into account. Findings should therefore be limited to the IP except in cases where the effects of new circumstances can be proved to be manifest, undisputed, lasting, not open to manipulation and do not stem from deliberate action by interested parties. It was verified that the claimed reduction in production and exports had indeed taken place. However, even if the claimed decreases would bring Faroese exports to the EC below the *de-minimis* level in the near future, there are insufficient elements to conclude that such a decrease would be lasting. Moreover, even if a lasting decrease in production and exports in general would actually take place, it would not be possible to conclude from this fact that exports to the EC would also decrease in a lasting way given that EC exports only amount to around 11 % of the production and that therefore any slight change in the supply of, for example, the Japanese market may result in significant increases of the exports to the Community. This type of situations would only be verifiable over a more extended period of time. The claim is therefore rejected.

3. Dumping calculations

- (27) Some claims having been accepted, and the calculations refined, the amount of dumping finally determined, expressed as a percentage of the CIF net at Community frontier price, is as follows:

Norway, country wide margin	24, 8 %
Faeroe Islands:	
P/F PRG Export (for goods produced by P/F Luna)	54,5 %
P/F Vestsalmon (for goods produced by P/F Vestlax)	30,0 %
Cooperating but non-sampled companies	42,6 %
All other companies	54,5 %

E. COMMUNITY INDUSTRY

- (28) The Norwegian Ministry of Fisheries argued that the percentage of the Community industry's production in relation to the total Community production is below 25 %, and therefore the proceeding should be terminated due to the lack of support for the case. This submission was based firstly, on the argument that the production of the Community industry which should not include

the production of large rainbow trout used for captive transfers as further explained in recital 41, and secondly the argument that the total Community production figures for 2001 and 2002 reported by the Federation of European Aquaculture Producers (FEAP) are not reliable as there is no common method for collecting the data on production from the members of FEAP.

(29) In respect of the first aspect, it should be noted that, irrespective of the question how the presence of a captive market can be most appropriately taken into consideration in the injury determination, the investigation has in any event to cover the entire market for the reasons further explained in recitals 41, 42 and 43, and thus both the production used for sales on the free market and that used for captive transfers. Standing should therefore equally be determined for the entire market, and the argument made in this respect was therefore rejected.

(30) In respect of the second argument made, it is correct that at the provisional stage, the statistical information made available by FEAP contained a number of unconfirmed figures, but these figures were not relied upon exclusively. FEAP aggregates the production data which is provided by its members, the national associations, and/or national research institutions. These data are reviewed and reported to FEAP in the framework of its meetings twice per year. The production figures concerning the previous year are reviewed and approved. Following the General Assembly meeting of FEAP on October 2003, and the subsequent on-spot verification visit at the premises of FEAP, the production figures were accordingly reviewed. FEAP remains the sole source of information at Community level for total Community production. As for the reliability of these figures it should be noted that FEAP adjusts the production figures when appropriate in order to reduce any discrepancies in the methods used by its members or/and national research institutions in order to publish an aggregate data. On this basis, and in view of the figures of the Community industry production which were revised as explained in recital 44, it was confirmed that the Community industry does account for more than 25 % of Community production of the product concerned, and therefore the argument of the Norwegian Ministry of Fisheries was rejected.

(31) The Faeroes' exporting producers and the Faeroe Fish Farming Association argued that the complainant must be regarded as a regional industry because, almost all of its production is sold on the Finnish market, and the intra-Community trade with Finland is negligible, thus meeting the criteria set out in Article 4(1)(b) of the basic Regulation for establishing an isolated market. Whereas the Finnish producers have indeed sold a major proportion of their production of large rainbow trout on the

Finnish market during the investigation period, the market share of other Community producers in that market represented more than 12 %. This percentage is considered substantial, in particular in view of the fact that the market for the product concerned is competitive, transparent and sensitive to price variations. The Finnish market cannot therefore be considered as an isolated market. In addition, the dumped imports from Norway and the Faeroe Islands are not concentrated in the Finnish market and do not cause injury solely to the producers of that country. The criteria set out in Article 4(1)(b)(i) of the basic Regulation for a regional case are therefore not met, and the argument was rejected.

F. INJURY

1. Apparent Community consumption

(32) Due to the revised figures of Community production as described in recital 44, the figures in recitals 67, 74 and 84 of the provisional Regulation regarding the Community consumption and subsequently the market shares of Community industry and of imports from Norway and the Faeroe Islands have been accordingly reviewed for the purpose of the definitive determination and presented below.

Apparent consumption in the Community

	1999	2000	2001	IP
Tonnes	43 831	49 970	54 250	55 565
Index 1999 = 100	100	114	124	127

(33) On the above basis, the apparent consumption of large rainbow trout on the Community market shows a slight increase in relation to the figures indicated in the provisional Regulation.

(34) One party argued that CN codes used by Eurostat during the IP covered also portion-sized trout not included in the product scope of this proceeding and therefore the export and import figures used in calculating the apparent Community consumption of large rainbow trout would be inaccurate.

(35) The methodology used to calculate the consumption takes indeed account of this element and makes the necessary appropriate adjustments as described in detail in recital 65 of the provisional Regulation.

(36) In the absence of any other information submitted, and account being taken of the revised figures of the Community consumption, the methodology explained in recital 65 of the provisional Regulation is hereby confirmed.

2. Market share of the imports concerned

- (37) Due to the revised figures of Community consumption as described above, the figures regarding market share of the imports from Norway and the Faeroe Islands have been reviewed for the purpose of the definitive determination and are presented below:

	1999	2000	2001	IP
Market share	3,8 %	3,5 %	11,0 %	16,7 %

- (38) The above shows the same sharp increase of the dumped imports from Norway and the Faeroe Islands as concluded in recital 74 of the provisional Regulation. Indeed, their market share moved up by approximately 13 % percentage points over the analysis period and absorbed the major part of the increase in consumption that occurred in the Community market over the same period.

3. Effect of the dumped imports on prices in the Community market

- (39) Subsequent to the provisional measures, new calculations of the undercutting margins, due to some transactions found to have been wrongly recorded and the corrections made to take account of the free customs duty quota granted to the Faeroe Islands (recitals 92 and 93), showed that the products concerned originating in Norway and the Faeroe Islands were sold in the Community at prices which undercut the Community industry's prices, when expressed as percentage of the latter, as follows: Norway on average by 7,3 % and the Faeroe Islands in the range between 21,8 % and 28,4 %.
- (40) The analysis of all the revised figures did not alter the methodology explained in recitals 76 and 77 of the provisional Regulation which is hereby confirmed.

4. Economic situation of the Community industry

(i) Preliminary remarks

- (41) It was found in the investigation that two of the sampled cooperating Community industry producers used the like product for further processing to other products, mainly smoked and ground trout. Such internal captive transfers, i.e. those used by an integrated producer for further processing, transformation or assembly within an integrated process do not enter the open market and are thus not in direct competition with imports of the product concerned. In order to take this situation into account and to provide as complete a picture as possible of the situation of the Community industry, data have been obtained and analysed for the entire activity, and it was subsequently determined whether the production was destined for captive use or for the free market.
- (42) For the following economic indicators the analysis focused on the situation prevailing on the free market: sales volume, sales prices, profitability, return on investments and cash flow. Where possible and justified, these findings were subsequently compared with the data for the captive market. Due to the use of sampling, these indicators were examined on the basis of the data obtained for the sampled companies. It should be noted that there were no indications of further processing by other companies belonging to the Community industry but outside the sample.
- (43) As regards other economic indicators, it was found on the basis of the investigation, that they could reasonably be examined only by referring to the whole activity. Indeed, production (for both the captive and the free market), capacity, capacity utilisation, market share, investments, employment, productivity, wages, ability to raise capital depend upon the whole activity, whether the production is captive or sold on the free market.

(ii) *Production capacity, production, capacity utilisation*

- (44) Following provisional measures, the factors listed in the table below have been reexamined. Certain information regarding three cooperating Community producers could now be taken into account with the consequence that the figures in recital 81 of the provisional Regulation were slightly understated. These have been therefore adjusted for the purpose of the definitive determination and are presented below.

Production capacity, production, capacity utilisation

	1999	2000	2001	IP
Production capacity in tonnes of Whole Fish Equivalent	15 645	15 630	15 665	15 684
<i>Index 1999 = 100</i>	100	100	100	100
Production in tonnes of Whole Fish Equivalent	11 348	12 739	11 605	12 080
<i>Index 1999 = 100</i>	100	112	102	106
Production/Capacity utilisation rates	73 %	82 %	74 %	77 %

- (45) The analysis of all the revised figures did not alter the conclusions drawn in recital 81 of the provisional Regulation which are hereby confirmed.

(iii) *Stocks*

- (46) It was found in the investigation that one of the non-sampled cooperating Community producers had frozen a large part of its production in 2000 and 2001, which was subsequently sold in 2001 and during the IP. However, no other producers were found to freeze their production and therefore, the conclusions drawn in recital 82 of the provisional Regulation are hereby confirmed.

(iv) *Market share of Community industry*

- (47) Furthermore, due to the revised figures for Community consumption and Community industry production, as explained in recital 32, the market share held by the Community industry during the analysis period is presented below:

Market share of Community industry

	1999	2000	2001	IP
Market share	25,9 %	25,5 %	21,4 %	21,7 %

- (48) The above shows that the market share held by the Community industry decreased by four percentage points over the analysis period. Whilst the high increase of the Community consumption, i.e. 27 % over the analysis period, does not change the trend of the imports concerned showing a sharp increase, it results in a much lower market share held by the Community industry, which lost more than four percentage points over the same period. The conclusions drawn in recital 84 of the provisional Regulation are therefore hereby confirmed. It should be however noted that the Community industry's market share declined only in 2001 when the imports concerned increased sharply.

(v) *Employment, productivity, wages and ability to raise capital*

- (49) For the same reasons as described in recital 44, the employment and productivity figures were accordingly revised, as follows:

Employment, productivity

	1999	2000	2001	IP
Number of employees	194	179	182	173
<i>Index 1999 = 100</i>	100	92	94	89
Productivity: production/employee	100	122	109	119

Source: Questionnaire replies of the Community industry.

- (50) The analysis of all the revised figures did not alter the conclusions drawn in recital 86 of the provisional Regulation which are hereby confirmed.
- (51) With regard to the ability to raise capital, it is confirmed that the Community industry did not encounter particular difficulties given its possibility to invest in new equipment, as explained in recital 91 of the provisional Regulation. However, this ability should be seen in the light of the Community industry's efforts to increase its productivity in order to cope with the increased competition due to low market prices.
- (52) In the absence of any other information regarding wages, the conclusions drawn in recital 87 of the provisional Regulation are hereby confirmed.

(vi) *Sales*

- (53) With regard to sales volumes, it should be firstly recalled that, as explained in recitals 65, 66 and 82 of the provisional Regulation, the production figures were considered equal to the sales of the product concerned on both the captive and the free market with the exception of one company's sales as explained in recital 46. The sales of the like product on the free market made by the Community industry and the production volumes used by two sampled companies for further processing the like product (captive use), are presented below:

	1999	2000	2001	IP
Free market sales in tonnes WFE	10 274	8 114	10 727	11 326
<i>Index 1999 = 100</i>	100	79	104	110
Captive use in tonnes WFE	872	2 053	1 559	2 795
<i>Index 1999 = 100</i>	100	235	179	320

Source: Questionnaire replies of the sampled Community industry producers.

- (54) The above shows that whilst the sales on the free market increased by ten percentage points during the analysis period, the captive use increased three fold. It should however, be noted that the high increase in captive use is mainly due to the fact that one of the two integrated producers practically started its operations of further processing only in 2000. In any case, this evolution indicates that the Community industry was not able to benefit from the increase in consumption (+ 27 % over the analysis period), but instead was forced to increase its use of the like product.

(vii) *Profitability*

- (55) In a review of the information submitted by the sampled cooperating Community producers, the profitability of these companies for their net sales on the free market has been revised for the purpose of the definitive determination and is presented below:

	1999	2000	2001	IP
Profitability of the sales on the free market	8,6 %	13,3 %	10,4 %	0,5 %
	100	155	122	5

Source: Questionnaire replies of the sampled Community industry producers.

- (56) The above shows that while the profitability of the free market sales was relatively high in the period 1999 to 2001, during the IP, it marked a significant deterioration to practically break even point due the low prices prevailing on the market. As for the profitability including captive use, this could not be determined since the captive transfers of the like product were internal transfers of the integrated producers, for which no invoices were issued. However, there is no reason to believe that the profitability of these captive transfers within the two companies concerned did not follow the same trend as that of the sales on the free market.

(viii) *Return on investment, cash flow*

- (57) The reviewed sampled Community industry's return on investment during the analysis period is presented below:

	1999	2000	2001	IP
Return on investments	43,7 %	57,2 %	58,3 %	2,3 %

Source: Questionnaire replies of the sampled Community industry producers.

- (58) The above shows the same trend as provisionally established and therefore the conclusions drawn in recital 92 of the provisional Regulation are hereby confirmed. As for the return on investment concerning the captive transfers, for the same reasons as explained for the profitability, it could not be assessed. Nevertheless, given that the captive transfers are made by the integrated producers using the same production facilities and the same investments, it was considered that they follow the same trend as the sales on the free market.

- (59) The sampled Community industry producers, recorded a net cash inflow from operating activities during the analysis period. However, this declined dramatically during the IP as shown below:

	1999	2000	2001	IP
Cash flow in EUR '000 without captive use	1 522	1 757	1 713	398
<i>Index 1999 = 100</i>	100	115	113	26
Cash flow expressed as percentage of turnover	12 %	18 %	13 %	4 %

Source: Questionnaire replies of the sampled Community industry producers.

(ix) *Comments received from interested parties*

- (60) One party argued that the Community industry did not suffer material injury during the IP since performance indicators such as production, production capacity, productivity and the average wage per employee increased over the same period. Moreover, the industry was profitable, made a return on investment and had a positive cash flow. Regarding the production increase, it should be noted that the production of large rainbow trout follows a biological cycle of 2,5-3 years before it is harvested and sold on the market. A production increase during the IP is therefore due to a decision of farmers on the quantity of small fish put in the water in 1999 and 2000 reflecting the market conditions of these years which were not influenced by the dumped imports. With regard to the productivity increase, this is mainly attributable to the investment in new equipment reflecting the efforts of the Community industry to cope with low market prices and secondly to the decrease of employment, this indeed reflecting the severe situation facing the industry. As for the profitability and cash flow, both marked a sharp decline during the IP reflecting the low prices obtained on the market and the difficult financial situation of the Community industry.
- (61) It was further argued that the Community industry's production did not manage to increase in order to meet the increase in demand because of the licensing policies pursued within the Community. It should be noted that the environmental licences affect the production capacity, which as described in recital 81 of the provisional Regulation remained stable during the analysis period. However, as the production capacity was not fully used, there was a free capacity which could have been used for meeting the increase in demand. This argument was therefore rejected.
- (62) It was further argued that several Norwegian exporters also sell trout smaller than 1,2 kg, which might obtain lower prices affecting thus the injury assessment analysis. In this respect, it should be noted that the investigated sampled companies representing approximately 40 % of total Norwegian exports during the IP were not found to have had any sales of that kind of trout. Therefore, it can be assumed that the quantities concerned were, if any, negligible, and thus their impact on the analysis equally negligible. The argument was therefore rejected.
- (63) In the absence of any other information submitted, and account being taken of all revised figures regarding the economic indicators, the conclusions drawn in recitals 80 to 98 of the provisional Regulation are hereby confirmed.

5. Conclusion on injury

- (64) Captive use was limited to two sampled Community producers and there were no indications of further processing of the like product by other producers belonging to the Community industry. Furthermore, given the profits attained by the Community industry between 1999 and 2001, it is unlikely that the captive use could have a significant impact on the economic situation of the Community industry. Therefore, the conclusions drawn by the above analysis on the situation of the Community industry are not considered to change due to the captive use.
- (65) During the analysis period the volume of low-prices imports from Norway and the Faeroe Islands increased significantly. Their market share increased from 3,8 % to 16,7 %. It is noteworthy that the increase of the imports from Norway and the Faeroe Islands and the decline of the sales price were particularly pronounced between 2001 and the IP. Import volumes during that period were multiplied by 4 to 6 and import prices decreased by 34 %, undercutting the Community industry's sales prices (which were close to break-even point) in the range between 7,3 % and 28,4 % during the IP. This should be further seen in conjunction with the evolution of profitability of the Community industry which after a first decline in 2001 decreased sharply to a nil level during the IP.
- (66) Regarding the argument that some of the detailed injury indicators developed positively during the analysis period and accordingly did not point towards injury, it should firstly be noted that, as per Article 3(5) of the basic Regulation, none of the economic factors or indices listed in this article shall necessarily be decisive in the determination of material injury suffered by the Community industry. More importantly, while some economic indicators pertaining to the situation of the Community industry, such as production, production capacity installed and capacity utilisation, productivity, and investments showed positive developments over the analysis period, these had not the desired positive effect. Indeed, the Community industry suffered from eroding market shares in a growing market though demand and reduced prices resulting in a quasi loss-making situation during the IP which in fact more than offset the aforementioned positive developments.
- (67) Taking into account all factors mentioned above, it is considered that the Community industry has suffered material injury.

G. CAUSATION

- (68) It was argued that the price undercutting by Norwegian exports of large rainbow trout should not be considered significant and injurious to the Community industry. In this respect, it should be firstly noted that the undercutting found is significant taking into account the specific features of the product concerned: large rainbow trout is a commodity and sensitive to price fluctuations. In addition, the Community industry is very fragmented, and thus can not impose its prices on the market. These factors together explain the injurious impact that the level of price undercutting found had on the Community industry.
- (69) It was further argued that the IP coincided with a temporary and cyclical mismatch of offer and demand in the world market for trout. As investments decisions are made two to three years before the product is brought to the market, the stability of prices will from time to time be disrupted. Temporary shortages in the market will lead to increased prices, while the effect is the opposite if demand does not keep pace with production.

- (70) In this regard, it should indeed be noted that if the Community market had during the analysis period an excess demand resulting in a shortage, this would normally push the prices to a higher level, as consumers would bid up the price through that excess. However, instead a steep drop in prices occurred in 2001 and during the IP, which in the absence of other likely explanations must be attributed to the dumped imports from Norway and the Faeroe Islands.
- (71) It was further argued that large rainbow trout is a commodity where the world prices are set in the dominant market of Japan, and that the Community prices followed these prices which dropped significantly during the same period. In this respect, it should be noted that on the basis of the information submitted by the Norwegian Seafood Federation on the Japanese wholesale price quotations for frozen Norwegian trout for the period 1997 up to 2003, the prices on the Japanese market dropped continuously throughout the analysis period, account being taken of the fluctuations in currency exchange rates. However, the argument that prices of large rainbow trout are set worldwide by the Japanese market, was not confirmed by the findings of the investigation. Whereas it is true that the prices in the Community also dropped sharply during the IP, as did prices on the Japanese market, they were maintained at a reasonable level in 1999 and even increased in 2000, contrary to those in Japan. During the same period, the imports from Norway and the Faeroe Islands followed the same trend as the Community prices, while in volume terms they were kept at a low level. It is only in 2001, when the prices in the Japanese market attained a very low level, that dumped imports into the Community from Norway and the Faeroe Islands increased dramatically, namely to three times the volume of 2000. This increase is thus directly attributable to the selling off on the Community market of a part of the production in excess due to the reduction of their exports on the collapsed market in Japan. On the above basis, the argument was therefore rejected.
- (72) In the absence of any other new information submitted on the causation, the findings and the conclusion reached, as set out in recitals 109 to 120 of the provisional Regulation, are hereby confirmed.

H. COMMUNITY INTEREST

- (73) Subsequent to the imposition of provisional measures, some Associations of fish processing industries submitted comments opposing to the measures. A questionnaire was therefore addressed to them, and they were invited to submit their responses, on the basis of which an assessment of the alleged economic effects of the anti-dumping measures to these parties was made. One party replied and submitted information regarding seven of its member companies. On the basis of this information, which was consolidated for the seven companies, it was concluded that the economical impact of the anti-dumping measures on the fish processing companies would be negligible. Their argument was therefore rejected.
- (74) One party argued that the product concerned from Norway is of better quality and that the imposition of definitive measures would reduce supply of quality trout from Norway. This would be to the detriment of importers involved and also to consumers as prices will be likely increased due to reduced supply from Norway. The effect of lower supply from Norway is allegedly likely to be especially strong in particular during summer and early autumn when the supply from the Finnish industry is low. Furthermore, it was argued that the imposition of anti-dumping measures would result in a lasting re-direction of Norwegian exporters' sales activities from the Community to other markets, which in turn would be to the detriment of importers and consumers in the Community.

- (75) Regarding the quality differences, it should be noted that they were considered in the different types of the product concerned and as such were examined in the dumping calculations and the injury assessment. As regards the increased prices in the Community due to the lower supply from Norway, it should be emphasised that the purpose of anti-dumping duties is to restore a 'level playing field', rather than to prevent access to Community markets. As for the effect of the measures on the Finnish market due to lower supply in particular during the summer, it should be noted that the Finnish market is not regarded as a separate market in accordance with Article 4(1)(b) of the basic Regulation. Therefore, the supply and demand conditions are determined at the level of the whole Community market in which the Norwegian imports compete with the Community producers. Regarding the possibility of Norwegian exporting producers to export during the summer when the supply in the Finnish market is low, this is a comparative advantage. Should this advantage exist, it remains unaffected by the imposition of anti-dumping measures, and thus Norwegian exporting producers will continue to benefit from it.
- (76) The same party argued that since the imposition of provisional measures, Norwegian exports of large rainbow trout to the Community have decreased by over 60 per cent compared with the same period in 2002. This decrease of supply appears set to increase in the future given the declining level of production of large rainbow trout in Norway, and to be detrimental to importers, the processing industry and consumers in the Community.
- (77) In this respect, it should be firstly noted that anti-dumping measures aim at restoring a level playing field and not to prevent access into the Community market. In this connection, it is noteworthy that the imports continued at a level comparable to that of 1999 and 2000, before the steep increase in dumped imports in 2001. As for the decreasing level of production in Norway, no substantiated evidence was submitted indicating that such a situation would continue in a lasting manner. Additionally, any such decrease might, in any event, not actually affect the exports to the Community market if the supplying conditions in other export markets were even less favourable than those to the Community at the time of the exports. On this basis, the argument was rejected.
- (78) Several associations of fish processing industries argued that not enough attention was paid to the existence of different market segments (whole, fillet, roe and smoked) and different pricing on these segments. Moreover, it was argued that large rainbow trout farmed in salty waters in Norway has a specific positioning on the market and that restricting the access to this specific origin of the product by imposing a heavy duty did not favour free competition.
- (79) Firstly, it should be noted that smoked trout and roe are not subject to this investigation. Regarding the whole fish and fillets, they were considered as different types of the product concerned and as such were examined in the dumping calculations and the injury assessment. Therefore, the different pricing of different market segments has been indeed taken into account. Regarding the specific origin of product, the investigation has established that the products exported from Norway and the Faeroe Islands and the products sold by Community producers have been alike in all their essential physical characteristics and uses.
- (80) Furthermore, it was argued that cheap large trout, mostly of Finnish production, has been sold mainly for the consumer market as whole fish or fillets, while processors do not use much of it. This argument was not substantiated. In contrast, on the basis of the information provided by the Finnish cooperating companies, it was not only found that their production had been sold also to processors, but a number of them further processed the product concerned themselves before they sold it on the market. Moreover, the significant undercutting established for imports from Norway and the Faeroe Islands rather indicates that cheap imports from Norway and the Faeroe Islands have been attractive to processors due to their low price. The argument was therefore rejected.

- (81) It was further argued that the Community market registered higher prices after the IP ending thus a low price period for trout, and that it is highly probable that the prices will remain on a relatively high level in the short/medium term. First it should be noted that, in line with a consistent Community practice, events relating to a period subsequent to the investigation period can only be taken into account if they are manifest, undisputed and lasting. However, this price evolution was not substantiated and no elements demonstrating the likeliness of its lasting nature were provided. Although the prices after the IP were indeed found to have increased, this fact does not constitute evidence in itself for the future prices, which are determined on the basis of the balance between supply and demand. In this respect, it should be noted that, in contrast to a possible forecast of supply, the demand is very difficult to anticipate as there are many interacting factors in the market which may cause price fluctuations. In any case, no relevant information was provided to substantiate an estimate of these two factors. Therefore, the argument was rejected.
- (82) It was further argued that the duty on imports will cause an increase of prices, the processors will turn to other types of fish such as salmon and the Community farmers will face difficulties regarding their trout sales. Therefore, it was claimed that the anti-dumping measures would not be in the interest of the producers.
- (83) Regarding the increase of prices, the anti-dumping measures indeed aim at increasing the dumped prices, removing thus the injurious impact suffered by the Community industry. It cannot be excluded either that a substitution effect takes place, account being taken of the substitutability of large rainbow trout with salmon and the price differential between them. In general, whereas a price increase helps the Community industry recover profitability, other exporters not targeted by the measures as well as the Community industry via a higher use of production capacity might increase their supply, which in turn has to keep pace with demand and find a new balance at lower level of prices. In this respect, it should be noted that a substitution with salmon has the same effect on prices. In conclusion, whilst the anti-dumping duty aims at restoring a 'level playing field', the prevailing market forces determine the prices.
- (84) One party argued that the absence of a reaction from its side representing the interests of consumer associations should not be interpreted as a lack of interest, and even more be used to conclude that the impact on consumers of any anti-dumping measures will be limited. It requested therefore that recital 117 of the provisional Regulation be accordingly amended. The Institutions have taken note of this claim. However, in the absence of any substantiated information, this claim does not affect the conclusions of the provisional Regulation concerning the Community interest.
- (85) The Finnish Food and Drink Industries' Federation submitted comments which nevertheless could not be taken into account for the purpose of the definitive findings since it had failed to make itself known as an interested party either within the time limits set out in the notice initiating this proceeding, or within the time limit set out by Article 2 of the provisional Regulation. Furthermore, the allegations made by this federation were expressly rejected by its members having cooperated in the investigation.
- (86) In the absence of any other new information submitted on the Community interest, the findings and the conclusion reached, as set out in recitals 109 to 120 of the provisional Regulation, are hereby confirmed.

I. DEFINITIVE ANTI-DUMPING MEASURES

- (87) In view of the conclusions reached regarding dumping, injury, causation and Community interest, it is considered that definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Community industry by dumped imports from Norway and the Faeroe Islands.

1. Injury elimination level

- (88) Based on the methodology explained in recitals 121 to 125 of the provisional Regulation, an injury elimination level has been calculated for the purposes of establishing the level of measures to be definitively imposed.
- (89) The Norwegian authorities argued that a normal profit margin considered of 12 % is too high. It was further submitted that the analysis period was not representative of a normal competitive situation, as prices and profit margins, according to the industry, were particularly high during these years compared with the average situation in the industry.
- (90) Firstly, it should be noted that this argument was not substantiated. Secondly, the sharp decline of Norwegian trout prices in the Japanese market as explained in recital 71 might have had a significant impact on the profits realised by the Norwegian industry during the analysis period. This price fall did not however occur on the Community market before the surge of dumped imports, when a normal competitive situation prevailed. Therefore, the argument that the analysis period was not representative of a normal competitive situation was rejected.
- (91) However, on the basis of the revised figures concerning the profitability of the Community industry as explained in recital 55, a profit level of 10 % was considered as an appropriate level which the Community industry could be expected to obtain in the absence of injurious dumping.
- (92) One party argued that different quality grades of the like product in the Community had not been appropriately considered resulting in a certain inconsistency with the target prices.
- (93) It was indeed found that some transactions have been wrongly recorded in terms of quality due to the misinterpretation of some invoices. All the relevant transactions were therefore corrected and new calculations for determining undercutting and injury margins were made. Furthermore, corrections were made to take account of the free customs duty quota granted to the Faeroe Islands.
- (94) On the basis of the above, the new injury elimination margins found are presented below:

	Injury elimination margins
Norway	19,9 %
Faeroe	
P/F Vestsalmon (for goods produced by P/F Vestlax)	43,8 %
P/F PRG Export (for goods produced by P/F Luna)	54,4 %
Other cooperating	49,3 %

- (95) In the absence of any further comments made, the methodology used for establishing the injury elimination level as described in recitals 121 to 125 of the provisional Regulation is confirmed.

2. Form and level of the duties

- (96) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed in respect of imports originating in Norway and the Faeroe Islands. The measures should be imposed at the level of the injury margins or the dumping margins found, whichever are the lower. There are no reasons why these measures should not, as with provisional measures, take the form of an *ad valorem* duty.
- (97) Following the imposition of any definitive measures, the Commission will examine the market developments, and in particular the effect of enlargement of the Community market, and propose changes to the application of measures, if warranted.

3. Collection of provisional duties

- (98) In view of the magnitude of the dumping margins found and in the light of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected at the rate of the duty definitively imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected.
- (99) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

4. Undertakings

- (100) The Commission by Regulation No 117/2004 of 23 January 2004 amending the provisional Regulation accepted the undertakings offered by two exporting producers in the Faeroe Islands. The reasons for accepting these undertakings are set out in this Regulation. The Council recognises that the undertakings eliminate the injurious effect of dumping. In addition, the companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Under these circumstances, it is considered that the risk of circumvention of the agreed undertakings is limited.
- (101) It is pointed out that, in the event of suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of 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), currently classifiable within CN codes 0302 11 20, 0303 21 20, 0304 10 15 and 0304 20 15, originating in Norway and the Faeroe Islands.

⁽¹⁾ European Commission — Directorate General for Trade — Directorate B — J-79 5/17 Rue de la Loi/Wetstraat 200 B 1049 Brussels.

2. The rate of the definitive antidumping duty applicable, before duty, to the net free-at-Community-frontier price for products described in paragraph 1 produced by all companies in Norway shall be 19,9 %. The rate of the definitive anti-dumping duty applicable, before duty, to the net free-at-Community-frontier price for products described in paragraph 1 produced by the companies listed below in the Faeroe Islands shall be as follows:

Producer	Definitive anti-dumping duty (%)	TARIC additional code
P/F PRG Export together with its related producer P/F Luna, FO-510 Gøta	54,4 %	A474
P/F Vestsalmon together with its related producer P/F Vestlax, P.O. Box 82, FO-410 Kollafjørður	30,0 %	A475
P/F Alistødin Á Bakka, Bakkavegur FO-625 Glyvrrar	42,6 %	A476
P/F Atlantic Seafarm, FO-900 Vágur,	42,6 %	A477
East Salmon, Box 177, FO-700 Klaksvík	42,6 %	A478
Funningslaks PF, Miðrás 3, FO-100 Tórshavn	42,6 %	A479
Gulin PF, Miðrás 3, FO-100 Tórshavn	42,6 %	A480
P/F Hellisvað, FO-727 Árnafjørður	42,6 %	A481
Kalbaks Laksaaling PF, Í Brekkum 1, FO-530 Fuglafjørður	42,6 %	A482
Navir, P/F, Argjabodagøta 7, FO-160 Argir	42,6 %	A483
All other companies	54,4 %	A999

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

Article 2

Imports under one of the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by a company named below to a company in the Community acting as an importer shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are imported in conformity with Article 2(2) of Regulation (EC) No 1628/2003.

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

Article 3

As regards imports of the product described in Article 1(1) originating in Norway and the Faeroe Islands, the amounts secured by way of provisional anti-dumping duties pursuant to Regulation (EC) No 1628/2003 shall be definitively collected in accordance with the rules set out below.

The amounts secured in excess of the definitive rates of anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisionally duties shall be definitively collected.

Article 4

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

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

Done at Brussels, 8 March 2004.

For the Council

The President

D. AHERN
