



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Definitive anti-dumping and countervailing duties were imposed on farmed Atlantic salmon originating in Norway by Council Regulations (EC) No 1890/97 and 1891/97. The form of the duties set out in these two Regulations was, however, later reviewed, with both Regulations being replaced by Council Regulation (EC) No 772/1999.
2. At the same time as definitive duties were imposed, individual price undertakings were also accepted from 190 Norwegian exporters by Commission Decision 97/634/EC. By offering undertakings, the companies all agreed to respect certain minimum import prices for their sales of farmed Atlantic salmon originating in Norway and to provide the Commission, within due deadlines, periodic reports of their sales to the Community.
3. Due to the late receipt of one such sales report, a breach of the terms of the undertaking offered by a Norwegian company, Gje-Vi AS, was deemed to have occurred. Acceptance of this company's undertaking was therefore withdrawn by the Commission by Regulation (EC) No 651/98, with definitive anti-dumping and countervailing duties imposed in its place by Council Regulation (EC) No 772/98.
4. Gje-Vi AS subsequently made a satisfactory request for a partial interim review pursuant to Article 11 (3) of the Basic Anti-Dumping Regulation and Article 19 (1) of the Basic Anti-Subsidy Regulation on the grounds that there had been a significant change in circumstances since the imposition of duties against its exports to the Community.
5. A Notice of initiation of a partial interim review was therefore published in July 2001. The review was limited in scope to an examination of whether a new undertaking could be accepted from this company.
6. It is the finding of the Commission's investigation that the offer of a new undertaking from the company concerned is acceptable.
7. Accordingly, it is necessary to amend the list of companies in the Annex to Regulation (EC) No 772/1999 which benefit from an exemption to the anti-dumping and countervailing duties.
8. In addition, this Regulation rectifies a clerical error which occurred in the previous Regulation amending the measures on farmed Atlantic salmon originating in Norway (Regulation (EC) No 1677/2001).
9. In parallel, the Commission is amending the Annex to Decision 97/634/EC which lists the companies from which undertakings are accepted.

Proposal for a

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community¹, as last amended by Regulation (EC) No 2238/2000², and in particular Article 11(3) thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community³, and in particular Article 19(1) thereof,

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

Whereas:

A.PROCEDURE

- (1) Definitive anti-dumping and countervailing duties were imposed on farmed Atlantic salmon originating in Norway by Council Regulations (EC) No 1890/97⁴ and 1891/97⁵. The form of the duties set out in these two Regulations was, however, later reviewed, with both Regulations being replaced by Council Regulation (EC) No 772/1999⁶.
- (2) At the same time as definitive duties were imposed, individual price undertakings were also accepted from 190 Norwegian exporters by Commission Decision 97/634/EC⁷. By offering undertakings, the companies all agreed to respect certain minimum import prices for their sales of farmed Atlantic salmon originating in Norway and to provide the Commission, within due deadlines, periodic reports of their sales to the Community.

¹ OJ No L 56, 6.3.1996, p.1.

² OJ No L 257, 11.10.2000, p.2 .

³ OJ No L 288, 21.10.1997, p.1.

⁴ OJ No L 267, 30.9.1997, p.1.

⁵ OJ No L 267, 30.9.1997, p.19.

⁶ OJ No L 101, 16.4.1999, p.1. Regulation as last amended by Regulation (EC) No 1677/2001 (OJ L 227, 23.8.2001, p.15).

⁷ OJ No L 267, 30.9.1997, p.81. Decision as last amended by Decision 2001/644/EC (OJ L 227, 23.8.2001, p.49).

- (3) However, due to the late receipt by the Commission of one such sales report from the Norwegian exporter Gje-Vi AS, a breach of the terms of the company's undertaking was deemed to have occurred. Acceptance of this company's undertaking was withdrawn by the Commission by Regulation (EC) No 651/98⁸, with definitive anti-dumping and countervailing duties imposed in its place by Council Regulation (EC) No 772/98⁹.

B. REQUEST FOR A REVIEW

- (4) Gje-Vi AS (hereafter the "Applicant"), subsequently made a satisfactory request for a partial interim review pursuant to Article 11(3) of Regulation (EC) No 384/96 and Article 19(1) of Regulation (EC) No 2026/97.
- (5) The request contained sufficient evidence of a significant change in circumstances which had occurred since the imposition of duties against its exports to the Community. The company therefore wished to offer again a price undertaking and submitted that, in view of these changes, such an undertaking would be both effective and practicable.
- (6) A Notice of initiation of a partial interim review was published accordingly¹⁰. It should be noted in this regard that the review was limited in scope to an examination of whether a new undertaking can be accepted from the Applicant.

C. REVIEW INVESTIGATION

1.1 Product concerned

- (7) The product concerned is farmed Atlantic salmon originating in Norway currently classifiable within CN codes ex 0302 12 00 (Taric codes 0302 12 00 21, 0302 12 00 22, 0302 12 00 23 and 0302 12 00 29), ex 0303 22 00 (Taric codes 0303 22 00 21, 0302 22 00 22, 0303 22 00 23 and 0302 22 00 29), ex 0304 10 13 (Taric codes 0304 10 13 21 and 0304 10 13 29) and ex 0304 20 13 (Taric codes 0304 20 13 21 and 0304 20 13 29).

1.2 Parties concerned by the investigation

- (8) The Applicant, the representative associations of producers in Norway and the Community, importers in the Community and the authorities in Norway were officially advised of the initiation of the review. All the parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.
- (9) The Applicant was sent a questionnaire and submitted a reply within the time limits specified. A verification visit was subsequently carried out at its premises in Norway.

⁸ OJ No L 88, 24.3.1998, p.31.

⁹ OJ No L 111, 9.4.1998, p.10.

¹⁰ OJ No C 188, 4.7.2001, p.11.

D. FINDINGS OF THE INVESTIGATION

- (10) The investigation showed that the Applicant has a different management structure and is now better organised than it was in 1998 when poor internal coordination and lack of personnel who were able to deal with the obligations imposed by the undertaking were the reason for the breach.
- (11) The company's accounting staff are aware of type and level of information that would be required for the quarterly sales reports as well as the need to submit the reports in due time and there are no reasons for supposing that the same error would occur again.
- (12) Furthermore, the company now has a good computerised accounting system which can accommodate the software necessary for the quarterly sales reports to the Commission.
- (13) Importantly, also, the personnel who are now involved in selling the product concerned to the Community are aware that a strict system of minimum import prices applies (and they also know the price levels below which farmed Atlantic salmon cannot be sold). There are no indications or grounds for believing that the company would *not* observe the terms of the undertaking vis-à-vis the applicable minimum import prices.
- (14) In view of the foregoing and the changed circumstances which have occurred since the imposition of definitive anti-dumping and countervailing duties against the company, the offer of an undertaking from Gje-Vi AS is considered acceptable.
- (15) In this regard, the undertaking has been formally accepted by Commission Decision 2001/.../EC¹¹).

E. CORRIGENDUM TO REGULATION (EC) No 1677/2001

- (16) During publication of Regulation 1677/2001¹², the last amendment to Regulation (EC) No 772/1999, the name of the Norwegian company, Janas A/S (UT No 1/75, Taric Additional Code 8177) was inadvertently omitted from the list of companies from which undertakings are accepted and thus exempted from the definitive anti-dumping and countervailing duties.
- (17) Accordingly, the name of this company should be added back into the aforementioned list.

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

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

¹¹ OJ No ,

¹² OJ L 227, 23.8.2001, p.15.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

The insertion of Janas A/S into the Annex to Regulation (EC) No 772/1999 shall apply with effect from 24 August 2001.

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

Done at Brussels,

For the Council
The President

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

| UT No | Company Name | Taric additional Code |
|-------|----------------------------|-----------------------|
| 3 | Rosfjord Seafood AS | 8325 |
| 7 | Aqua Export A/S | 8100 |
| 8 | Aqua Partner A/S | 8101 |
| 11 | Arctic Group International | 8109 |
| 13 | Artic Superior A/S | 8111 |
| 15 | A/S Aalesundfisk | 8113 |
| 16 | Austevoll Eiendom AS | 8114 |
| 17 | A/S Keco | 8115 |
| 20 | A/S Refsnes Fiskeindustri | 8118 |
| 21 | A/S West Fish Ltd | 8119 |
| 22 | Astor A/S | 8120 |
| 24 | Atlantic Seafood A/S | 8122 |
| 26 | Borkowski & Rosnes A/S | 8124 |
| 27 | Brødrene Aasjord A/S | 8125 |
| 31 | Christiansen Partner A/S | 8129 |
| 32 | Clipper Seafood A/S | 8130 |
| 33 | Coast Seafood A/S | 8131 |
| 35 | Dafjord Laks A/S | 8133 |
| 39 | Domstein Fish A/S | 8136 |
| 41 | Ecco Fisk & Delikatesse | 8138 |
| 42 | Edvard Johnsen A/S | 8139 |
| 43 | Fjord Seafood ASA | 8140 |
| 44 | Euronor AS | 8141 |
| 46 | Fiskeforsyningen AS | 8143 |
| 47 | Fjord Aqua Group AS | 8144 |
| 48 | Fjord Trading Ltd. AS | 8145 |
| 50 | Fossen AS | 8147 |
| 51 | Fresh Atlantic AS | 8148 |
| 52 | Fresh Marine Company AS | 8149 |
| 56 | Gje-Vi AS | 8153 |
| 58 | Grieg Seafood AS | 8300 |
| 61 | Hallvard Lerøy AS | 8303 |
| 62 | Fjord Seafood Måløy A/S | 8304 |
| 66 | Marine Harvest Norway AS | 8159 |
| 67 | Hydrotech-gruppen AS | 8428 |
| 72 | Inter Sea AS | 8174 |
| 75 | Janas A/S | 8177 |
| 76 | Joh. H. Pettersen AS | 8178 |
| 77 | Johan J. Helland AS | 8179 |

| UT No | Company Name | Taric additional Code |
|-------|--------------------------------------|-----------------------|
| 79 | Karsten J. Ellingsen AS | 8181 |
| 80 | Kr Kleiven & Co. AS | 8182 |
| 82 | Labeyrie Norge AS | 8184 |
| 83 | Lafjord Group AS | 8185 |
| 85 | Leica Fiskeprodukter | 8187 |
| 87 | Lofoten Seafood Export AS | 8188 |
| 92 | Marine Seafood AS | 8196 |
| 96 | Memo Food AS | 8200 |
| 98 | Misundfisk AS | 8202 |
| 100 | Naco Trading AS | 8206 |
| 101 | Fjord Seafood Midt-Norge A/S | 8207 |
| 104 | Nergård AS | 8210 |
| 105 | Nils Williksen AS | 8211 |
| 107 | Nisja Trading AS | 8213 |
| 108 | Nor-Food AS | 8214 |
| 111 | Nordic Group ASA | 8217 |
| 112 | Nordreisa Laks AS | 8218 |
| 113 | Norexport AS | 8223 |
| 114 | Norfi Produkter AS | 8227 |
| 115 | Norfood Group AS | 8228 |
| 116 | Norfra Eksport AS | 8229 |
| 119 | Norsk Akvakultur AS | 8232 |
| 120 | Norsk Sjømat AS | 8233 |
| 121 | Northern Seafood AS | 8307 |
| 122 | Nortrade AS | 8308 |
| 123 | Norway Royal Salmon Sales AS | 8309 |
| 124 | Norway Royal Salmon AS | 8312 |
| 126 | Frionor AS | 8314 |
| 128 | Norwell AS | 8316 |
| 137 | Pan Fish Sales AS | 8242 |
| 140 | Polar Salmon AS | 8247 |
| 141 | Prilam Norvège AS | 8248 |
| 142 | Pundslett Fisk | 8251 |
| 144 | Olsen Seafood AS | 8254 |
| 145 | Marine Harvest Rogaland AS | 8256 |
| 146 | Rørvik Fisk-og fiskematforretning AS | 8257 |
| 147 | Saga Lax Norge AS | 8258 |
| 148 | Prima Nor AS | 8259 |
| 151 | Sangoltgruppa AS | 8262 |
| 153 | Scanfood AS | 8264 |
| 154 | Sea Eagle Group AS | 8265 |

| UT No | Company Name | Taric additional Code |
|-------|----------------------------------|-----------------------|
| 155 | Sea Star International AS | 8266 |
| 156 | Sea-Bell AS | 8267 |
| 157 | Seaco AS | 8268 |
| 158 | Seacom AS | 8269 |
| 160 | Seafood Farmers of Norway Ltd AS | 8271 |
| 161 | Seanor AS | 8272 |
| 162 | Sekkingstad AS | 8273 |
| 164 | Sirena Norway AS | 8275 |
| 165 | Kinn Salmon AS | 8276 |
| 167 | Fjord Seafood Sales AS | 8278 |
| 168 | SMP Marine Produkter AS | 8279 |
| 172 | Stjernelaks AS | 8283 |
| 174 | Stolt Sea Farm AS | 8285 |
| 175 | Storm Company AS | 8286 |
| 176 | Superior AS | 8287 |
| 178 | Terra Seafood AS | 8289 |
| 180 | Timar Seafood AS | 8294 |
| 182 | Torris Products Ltd. AS | 8298 |
| 183 | Troll Salmon AS | 8317 |
| 188 | Vikenco AS | 8322 |
| 189 | Wannebo International AS | 8323 |
| 190 | West Fish Norwegian Salmon AS | 8324 |
| 191 | Nor-Fa Fish AS | 8102 |
| 193 | F.Uhrenholt Seafood Norway AS | A033 |
| 194 | Mesan Holding AS | A034 |
| 195 | Polaris Seafood AS | A035 |
| 196 | Scanfish AS | A036 |
| 197 | Normarine AS | A049 |
| 198 | Oskar Einar Rydbeck | A050 |
| 199 | Emborg Foods Norge AS | A157 |
| 200 | Helle Mat AS | A158 |
| 201 | Norsea Food AS | A159 |
| 202 | Salmon Company Fjord Norway AS | A160 |
| 203 | Stella Polaris AS | A161 |
| 204 | First Salmon AS | A205 |
| 205 | Norlaks A/S | A206 |
| 206 | Atlantis AS | A257 |
| 207 | Cape Fish AS | A258 |