

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/309****of 26 February 2015****imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain rainbow trout originating in Turkey**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), and in particular Article 15 thereof,

Whereas:

**A. PROCEDURE****1. Provisional Measures**

- (1) The European Commission ('the Commission') imposed a provisional countervailing duty on imports of certain rainbow trout originating in Turkey by Implementing Regulation (EU) No 1195/2014 <sup>(2)</sup> ('the provisional Regulation').
- (2) The Commission initiated the investigation following a complaint lodged on 3 January 2014 by the Danish Aquaculture Association ('the complainant') on behalf of producers representing more than 25 % of the total Union production of certain rainbow trout via a Notice published in the *Official Journal of the European Union* ('Notice of initiation') <sup>(3)</sup>. As mentioned in recital 1 of the provisional Regulation, the Notice of initiation was subject to a corrigendum published in the *Official Journal of the European Union* on 4 September 2014 ('the corrigendum') <sup>(4)</sup>.

**2. Investigation period and period considered**

- (3) As set out in recital 23 of the provisional Regulation, the investigation of subsidy and injury covered the period from 1 January 2013 to 31 December 2013 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2010 to the end of the investigation period ('the period considered').

**3. Subsequent procedure**

- (4) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional countervailing duty was imposed ('provisional disclosure'), several interested parties made written submissions with respect to the provisional findings. The parties who so requested were granted an opportunity to be heard.
- (5) The Aegean Exporters' Association ('AEA') requested a hearing with the Hearing Officer in trade proceedings ('Hearing Officer'). The hearing took place on 26 November 2014. The alleged change of the product scope by way of corrigendum, the inclusion of smoked rainbow trout in the product scope and the calculation of standing were discussed during the hearing. A second meeting with the Hearing Officer took place on 8 January 2015. In addition to the issues discussed at the hearing of 26 November 2014, the methodology applied for the injury analysis and the proposed approach with respect to undertakings were discussed.
- (6) The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings were modified accordingly.

<sup>(1)</sup> OJ L 188, 18.7.2009, p. 93.

<sup>(2)</sup> Commission Implementing Regulation (EU) No 1195/2014 of 29 October 2014 imposing a provisional countervailing duty on imports of certain rainbow trout originating in Turkey (OJ L 319, 6.11.2014, p. 1).

<sup>(3)</sup> Notice of initiation of an anti-subsidy proceeding concerning imports of certain rainbow trout originating in Turkey (OJ C 44, 15.2.2014, p. 9).

<sup>(4)</sup> Corrigendum to the Notice of initiation of an anti-subsidy proceeding concerning imports of certain rainbow trout originating in Turkey (OJ C 297, 4.9.2014, p. 23).

- (7) The Commission informed all parties of the essential facts and considerations on the basis of which it intended to impose a definitive countervailing duty on imports of rainbow trout originating in Turkey and definitively collect the amounts secured by way of provisional duty ('final disclosure'). All parties were granted a period within which they could make comments on the definitive disclosure.
- (8) The comments submitted by the interested parties were considered and taken into account where appropriate.

#### 4. Sampling

- (9) Following the provisional disclosure, AEA referred to the corrigendum to the Notice of initiation mentioned in recital 2 and claimed that by way of that corrigendum the Commission extended the product definition. Because of the alleged extension it could not be excluded that some Turkish exporters did not come forward at initiation and did not complete the sampling form. Therefore, the sample of the exporting producers may no longer be representative. After the final disclosure the same party reiterated its comment without providing any further substantiation or explanation.
- (10) Eighteen groups of exporting producers in Turkey provided the requested information and agreed to be included in the sample. The total declared export volume to the Union by these companies during 2013 accounted for the totality of exports from Turkey to the Union as set out in recital 14 of the provisional Regulation. As mentioned in recital 15 of the provisional Regulation, pursuant to Article 27(1) of the basic Regulation, the Commission selected a sample of four groups of exporting producers on the basis of the largest representative volume of exports to the Union. The sample represents 64 % of the exports of the product concerned to the Union. Therefore the sample is representative and the party's claims in this regard were rejected.
- (11) In the absence of any further comments regarding sampling, recitals 9 to 17 of the provisional Regulation are confirmed.

#### 5. Individual examination

- (12) Eleven companies or groups of companies requested individual examination under Article 27(3) of the basic Regulation.
- (13) The Commission rejected these requests as the number of exporting producers is so large that individual examination would be unduly burdensome and would prevent completion of the investigation in good time.

### B. PRODUCT CONCERNED AND LIKE PRODUCT

- (14) As set out in recital 24 of the provisional Regulation, the product concerned is rainbow trout (*Oncorhynchus mykiss*):

- live weighing 1,2 kg or less each, or
- fresh, chilled, frozen and/or smoked:
  - in the form of whole fish (with heads on), whether or not gilled, whether or not gutted, weighing 1,2 kg or less each, or
  - with heads off, whether or not gilled, whether or not gutted, weighing 1 kg or less each, or
  - in the form of fillets weighing 400 g or less each,

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

- (15) Following provisional disclosure, and as already mentioned in recital 9, one interested party claimed that the Commission had expanded the product scope of the investigation by way of corrigendum which was allegedly confirmed by Article 1(1) of the provisional Regulation. This party argued that such expansion of the product scope was unlawful. Furthermore they claimed that interested parties should have been consulted on the alleged expansion of the product scope. After the final disclosure the same party reiterated its comment without providing any further substantiation or explanation.

- (16) As stated in the recital 25 of the provisional Regulation, the corrigendum did not affect the product scope, but was purely editorial. Thus, from the outset, the product scope covered portion-size rainbow trout in all various presentations. During the investigation it became apparent that the description of the different presentations within the product scope was ambiguous and that there were some inconsistencies between various language versions published in the *Official Journal of the European Union*, which required clarification. For example, a literal reading of the product scope would have entailed that live fish would be gutted. However, it appeared that all interested parties which were requested to fill in the relevant questionnaires reported all product types despite the clerical mistake and therefore it was concluded that there was indeed a common understanding that all types were included in the product scope from initiation of the current proceeding. Interested parties were informed immediately following the publication of the corrigendum by e-mail but none of them submitted any comments or claimed a violation of their rights of defence. Also, during the investigation, all presentations produced as covered by the product definition had been reported to the Commission by the exporting producers. Therefore, the party's claims in this regard were rejected.
- (17) Two interested parties reiterated that smoked trout should be excluded from the product scope. They contested the Commission conclusion set out in recital 29 of the provisional Regulation that the various presentations — 'live', 'chilled', 'frozen' or 'smoked' — covered by the definition of the product concerned shared the same basic physical, technical and chemical characteristics and referred again to two prior anti-dumping investigations concerning other fish products (large rainbow trout and salmon) concluded in 2004 <sup>(1)</sup> and 2005 <sup>(2)</sup> respectively where smoked products were not within the product scope. The parties brought forward information on the effects of the smoking process which allegedly changed the aforementioned characteristics. Furthermore, they reiterated that the cost structure of smoked fillets and other presentations would be significantly different and that the production process of smoked fillets involved significant smoking costs.
- (18) After the final disclosure the AEA claimed that the Commission had not clarified which were the basic physical, technical and chemical characteristics of smoked and non-smoked trout that were found to be similar. The AEA further claimed that they had provided evidence showing that smoked trout had for example a different chemical structure, different sensory characters and a different nutrition value than non-smoked trout.
- (19) Despite the effects of the smoking process, the Commission considered that the main basic characteristics as explained in the recital 29 of the provisional Regulation remain similar and did not justify the exclusion of the smoked products from the product scope. Contrary to what was claimed by AEA, the product, which is trout in various presentations destined for human consumption, maintains its characteristics and its basic chemical and nutritional qualities also when smoked. The information on the effects of the smoking process, that the parties had brought forward, did not provide evidence that the aforementioned basic characteristics would fundamentally change in the process of smoking. The issue was also discussed in the hearings with the Hearing Officer referred to in the recital 5. Furthermore, all categories of the product concerned, including smoked trout, are covered under chapter 3 of the Combined Nomenclature <sup>(3)</sup> and are clearly distinguished from preparations of fish which are covered under Chapter 16 of the same nomenclature. Regarding different cost structures, the parties concerned did not further substantiate their claim. Furthermore, as already mentioned in recital 30 of the provisional Regulation, the investigation showed that the cost structure of the smoked fillets and other presentations was indeed similar. The main cost element, making up over 50 % of the total cost of each presentation, was the farming cost, consisting essentially of feed (fishmeal and fish oil) together with the cost of energy and the cost of eggs or juveniles. In any event, the undercutting calculation has been made, as explained in recitals 112 and 113 of the provisional Regulation, by comparing prices per product type. Finally, as already explained in the recital 31 of the provisional Regulation the earlier investigations did not find or specifically conclude that smoked products should be excluded from the product scope. The claims made in this regard were therefore rejected.
- (20) After final disclosure the AEA and the Government of Turkey ('GOT') reiterated that including smoked trout in the product scope of the current investigation would be contradictory to previous practice and that the Commission did not sufficiently explain the alleged deviation from previous practice.

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

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

<sup>(3)</sup> Commission Implementing Regulation (EU) No 1101/2014 of 16 October 2014 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 312, 31.10.2014, p. 1).

- (21) As already explained in the recital 31 of the provisional Regulation, the earlier investigations did not find or specifically conclude that smoked products should be excluded from the product scope. Indeed, since the smoked products were not covered by the complaints of those earlier investigations, the Commission did not investigate whether they could have been included in the scope of the investigations in the hypothetical case that they would have been included in the complaint. Therefore, the claim that the current investigation deviates from previous practice is incorrect and therefore rejected.
- (22) In the absence of any further comments regarding the product concerned or the like product, recitals 24 to 32 of the provisional Regulation are confirmed.

### C. SUBSIDY

#### 1. State support to investments in the aquaculture sector

- (23) In the absence of any comments regarding state support to investments in the aquaculture sector, recitals 38 to 49 of the provisional Regulation are confirmed.

#### 2. Direct and indirect subsidies to producers of trout

- (24) After the provisional disclosure, one sampled exporting producer and the GOT questioned the Commission's methodology for calculating the average indirect subsidy amount by only taking into account the trout production receiving direct payments. They requested that the Commission uses the total inland water trout production figures, as published by the Turkish Statistical Institute <sup>(1)</sup> in September 2014. After final disclosure, both parties reiterated their claim. The Commission considers that the provided data on the total inland water trout production of trout in Turkey during the investigation period, despite having been submitted after the verification visits, are reliable and therefore accepted this claim.
- (25) Accordingly, the average indirect subsidy amount calculated with regard to the purchases by two sampled exporting producers from unrelated suppliers was amended from TRY 0,60 to TRY 0,51 per kg calculated on a 'whole fish equivalent basis', based on the following calculation:

- Total country-wide subsidy granted as reported in the reply to the questionnaire by the GOT
- Minus the direct subsidy amount received by the sampled exporting producers (Özpekler, Kilic, GMS)
- Minus the 0,2 % fee transferred to the unions, as a legal prerequisite for receiving the direct subsidy

This amount was then divided by the total inland water trout production minus trout production of the sampled exporting producers, Özpekler, Kilic, GMS) as reported in the reply to the questionnaire by the GOT.

- (26) Hence, the average subsidy amount per kg calculated on a 'whole fish equivalent basis' for the sampled exporting producers was based on the direct subsidy amount received for the farming activity and the average subsidy amount granted by the GOT, i.e. TRY 0,51 per kg calculated on a 'whole fish equivalent basis' for the purchases from unrelated suppliers, if any. The total benefit was then expressed as a percentage of the CIF value.
- (27) Following the provisional disclosure, one sampled exporting producer suggested a slightly modified calculation method as regards the subsidy amount of purchased raw material from another sampled exporting producer. The Commission accepted this suggestion and updated the table below in recital 33 accordingly.
- (28) Following the provisional disclosure and subsequently after definitive disclosure, two sampled exporting producers claimed that the Commission had countervailed the direct subsidy amount disbursed to them but not the actual benefit. The amounts received would, however, constitute taxable income. The applicable corporate tax rate of 20 % in Turkey should therefore be deducted from the total direct subsidy amount received. Article 7(1)(a) of the basic Regulation would suggest that 'any application fee, or other costs necessarily incurred in order to qualify for, or to obtain, the subsidy' should be deducted from the amount of the benefit. The exporting producers were of the opinion that payment of applicable corporate income taxes is a prerequisite for the receipt of funds disbursed to them and should therefore be considered as an 'other cost' incurred to qualify for, or obtain, the subsidy.

<sup>(1)</sup> [http://www.turkstat.gov.tr/Kitap.do?metod=KitapDetay&KT\\_ID=13&KITAP\\_ID=52](http://www.turkstat.gov.tr/Kitap.do?metod=KitapDetay&KT_ID=13&KITAP_ID=52)

- (29) The Commission rejected this claim. There is no legal basis in the basic Regulation that would support the proposed methodology. Taxes cannot be considered as costs pursuant to Article 7(1)(a) of the basic Regulation. The payment of the corporate income tax is an obligation under Turkish Tax Law that applies to all companies irrespective of whether they receive subsidies or not. Contrary to what the exporting producers believe, the payment of corporate income taxes is not a prerequisite for the receipt of funds but rather the actual farming of the product concerned.
- (30) Following the provisional disclosure and subsequently after definitive disclosure, two sampled exporting producers claimed that as they have to wait for a long time until the subsidies are disbursed, substantial financial expenses occur in the meantime. They therefore expect the Commission to make a downward adjustment to the benefit amount received to reflect such financing costs. In this respect, the sampled exporting producers refer to recital 42 of the provisional Regulation in which the Commission found a benefit on the basis of the value added tax (VAT) exemptions for purchased machinery and quantified this benefit as 'the interest payable to a commercial bank for the period until the VAT is refunded'.
- (31) This claim is unfounded. As a matter of fact, the responsible administrative bodies need to set up the necessary procedures and supervision mechanisms in order to manage such a large subsidy scheme. It is therefore normal that for such a scheme to which a large number of farmers in the aquaculture sector in Turkey are entitled, it can take a certain time until the subsidies are conferred. Drawing a parallel to recital 42 of the provisional Regulation is misleading. The VAT benefit described therein is a subsidy scheme intended by the GOT, whereas possible financing expenses are accompanying costs that typically incur and whose compensation it is not intended by the GOT.
- (32) In the absence of any further comments regarding direct and indirect subsidies to producers, recitals 50 to 64 of the provisional Regulation are confirmed.
- (33) Taking into account comments made by interested parties after the provisional disclosure the direct and indirect subsidy margins are as follows:

| Direct and indirect subsidies |                |
|-------------------------------|----------------|
| Company Name                  | Subsidy margin |
| GMS                           | 6,9 %          |
| Kilic                         | 9,5 %          |
| Özpekler                      | 6,4 %          |
| Ternaeben                     | 8,0 %          |

### 3. Subsidised loans

- (34) Following the provisional disclosure and subsequently after definitive disclosure, one sampled exporting producer claimed that the Commission had considered a loan as a countervailable subsidy even though it was intended for an investment not related to the product concerned.
- (35) The Commission rejected this claim. In the course of the investigation it was determined that the exporting producer of rainbow trout received such a loan, which is countervailable as it is specific to the aquaculture sector. It was considered to be irrelevant that the scheme in question is not specific to the legal entity producing the product under investigation as long as the programme is specific as such and its benefits can be related to the production of the product concerned. The latter is the case since the subsidised loan reduced the overall financing cost of the producer which also benefits the product concerned. No evidence was submitted that the management of financial resources by the exporting producers concerned was conducted in such a way that the overall financing cost of the company would not be affected by the grant of the loan.
- (36) Following the provisional disclosure, another sampled exporting producer argued that the Commission had not correctly allocated the benefit of a subsidised loan between two different legal entities of the same group, whereby only one legal entity produces the product concerned.

- (37) The Commission accepted the claim and allocated the benefit based on the turnover of the respective legal entities. The allocated benefit to the product concerned is virtually nil and therefore should not be reflected in the overall subsidisation amount.
- (38) After the provisional disclosure and subsequently after the definitive disclosure, with regard to the loans that were countervailed, one sampled exporting producer questioned the Commission's calculation of turnover ratio used in the allocation of benefits to exports of the product concerned to the Union. It argued that the export sales of the product concerned should be divided by the total turnover of the company including sales of trout and other products both sold domestically and exported to the EU in order to calculate the turnover ratio for determining the amount for subsidised loans.
- (39) The Commission accepted this claim. However, despite this new methodology, the subsidised loans margins remained the same.
- (40) In the absence of any further comments regarding subsidised loans, recitals 65 to 81 of the provisional Regulation are confirmed.
- (41) Taking into account comments made by interested parties after the provisional disclosure the subsidised loans margins are as follows:

| Preferential loans |                |
|--------------------|----------------|
| Company Name       | Subsidy margin |
| Özpekler           | 0,3 %          |

#### 4. Agricultural Insurance Pool and Premium Support Rates

- (42) In the absence of any comments regarding agricultural insurance pool and premium support rates recitals 82 to 90 of the provisional Regulation are confirmed.

#### 5. Subsidies for consultancy

- (43) In the absence of any comments regarding subsidies for consultancy recital 91 of the provisional Regulation is herewith confirmed.

#### 6. Subsidies for fuel and discarding fishing vessels

- (44) In the absence of any comments regarding subsidies for fuel and discarding fishing vessels recital 92 of the provisional Regulation is herewith confirmed.

#### 7. Calculation of the total subsidy margins

- (45) Following the provisional disclosure, two sampled companies pointed out a clerical rounding error in the calculation of the total subsidy margins. The Commission accepted the claim and updated the table below accordingly.
- (46) In the absence of any comments regarding the methodology to calculate the overall subsidy margins, the methodology as set out in recital 93 to 98 of the provisional Regulation is herewith confirmed.
- (47) Taking into account comments made by interested parties, the definitive subsidy margins applicable to the net, free-at-Union-frontier price, before duty, are as follows:

| Company Name | Subsidy margin |
|--------------|----------------|
| GMS          | 6,9 %          |
| Kilic        | 9,5 %          |
| Özpekler     | 6,7 %          |
| Ternaeben    | 8,0 %          |

| Company Name                   | Subsidy margin |
|--------------------------------|----------------|
| Weighted average of the sample | 7,6 %          |
| Country-wide subsidy margin    | 9,5 %          |

#### D. INJURY

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

- (48) Following provisional disclosure, one interested party argued that the Commission would have excluded data from Union producers which were processing live fish acquired from other Union producers from the total Union production. They claimed that the fish processing industry in the Union was thus de facto excluded from the investigation.
- (49) After final disclosure the same party reiterated its comments and suggested that the Commission should have performed (i) either an integrated analysis based on the total combined output of farmers and of processors in the Union or (ii) a two-step analysis based on an initial segmented analysis of the injury of the farmers segment on the one hand and of the processors segment on the other hand followed by an integration into an analysis of the entire industry. It was claimed that the latter would be in line with WTO jurisprudence in the case of EC-Salmon <sup>(1)</sup> as well as with previous practice of the Commission <sup>(2)</sup>. However, the party did not provide any estimate on what effects, if any, the alternative methodologies would have on the injury analysis. Finally, the same interested party argued that the methodology is inconsistent with the fact that imports destined to reprocessing are included both in the volume of imports and Union production.
- (50) After the final disclosure, also the GOT raised the argument that data from Union producers which were processing live fish acquired from other Union producers should be included in the total Union production.
- (51) Furthermore, the GOT argued that the production volume used in the injury analysis is different from the production volume used in the standing analysis and therefore potentially incorrect. The GOT also reiterated its comment regarding the alleged flaws of the standing analysis.
- (52) The current investigation included all Union producers of live, fresh, frozen, filleted and smoked trout. As explained in recital 10 of the provisional Regulation, the sample of Union producers included different steps and types of the production (production of live, fresh, frozen, fillets and smoked trout) and was considered representative of the Union industry as a whole. The above claim that the fish processing industry was de facto excluded from the analysis was therefore incorrect and rejected.
- (53) Furthermore, there was no data available that would have enabled the Commission to perform a segmented analysis of the different steps and types of the production. In addition, as noted in the recital 10 of the provisional Regulation, the Union industry is highly fragmented with more than 700 small and medium sized enterprises, therefore it was not possible for the Commission to collect the data on different segments. Therefore, the suggested segmented analysis was not feasible in this case.
- (54) Finally, the inclusion of the imports destined for reprocessing in the production figure was chosen to obtain the best estimate of the production volume. In any event, the imports of the product concerned (excluding smoked trout) destined to reprocessing represented less than 3 % of the total Union production calculated under this methodology and an alternative methodology of excluding them from the Union production figure would therefore not have had any significant impact on this injury indicator.
- (55) The different production volume calculated for the purposes of the standing analysis and the injury analysis reflects the fact that more precise information became available during the investigation whereas the standing analysis was based on a prudent assessment of the prima facie evidence available at the time of the standing analysis. The Commission also responded to the specific questions of the GOT regarding the standing analysis by

<sup>(1)</sup> Panel Report, European Communities — Anti-Dumping Measures on Farmed Salmon from Norway, WT/DS337/R, adopted 15 January 2008.

<sup>(2)</sup> Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 1).

an individual disclosure sent on 18 December 2014 and during the hearing with the Hearing Officer on 8 January 2015. Therefore, the argument that the production volume used for the injury analysis is potentially incorrect due to difference of sources between the standing analysis and the injury analysis is rejected.

- (56) As explained in recital 123 of the provisional Regulation production volume was based on data of the Federation of European Aquaculture Producers ('FEAP') which is collected on an ex-farm basis and refers to live fish harvested in each Member State. The proportion of imports destined for reprocessing was added to the Union production volume of the live fish based on information collected and verified during this investigation. Since production volume is calculated on a 'whole fish equivalent basis', there is no difference if it is calculated from the first form of sale, meaning 'live', or the last possible form of sale, meaning 'processed'. Thus, if the volume of processed fish would have been added to the volume of live fish, as suggested by the interested party, this would have result in double counting. Despite the fact that the total production volume was mainly based on data from the live fish production in order to avoid double counting, the methodology used did not exclude other types of the Union production (production of fresh, frozen, filleted and smoked trout) and the injury factors refer to the whole Union industry, i.e. live fish and further processing. Therefore, in contrast to what was claimed by this party, the methodology used to determine the total Union production volume did not exclude the trout processing industry. The argument was therefore rejected.
- (57) In any event, even if the methodology suggested by the interested party would have been accepted and the data from the Union producers which were processing live fish was added to the data from Union producers of live fish, and even if this would lead to the overstatement of some of the injury indicators such as production volume, sales volumes, production capacity and employment they would still show the same trends over the period considered because the volumes reproduced by the processing industry are linked with the production volumes of the live fish.
- (58) In the absence of any other comments, recitals 99 and 100 of the provisional Regulation are confirmed.

## 2. Union consumption

- (59) Following provisional disclosure, and as already mentioned in recital 48, one interested party argued that the Commission excluded data from Union producers which were processing live fish acquired from other Union producers of live fish, and only included the production volume of Union producers that imported live fish for further processing. This party claimed that the total Union consumption would therefore be understated. After final disclosure the same party reiterated its comment without providing any additional substantiation, except a hypothetical example regarding market shares, claiming that the methodology of the Commission to determine Union consumption is internally illogical and results in overstated market share of the Turkish imports..
- (60) As explained in recitals 52 and 56 the fish processing industry in the Union was in fact not excluded from the analysis. Nonetheless, production data were established on the basis of live fish calculated on a 'whole fish equivalent basis' in order to avoid double counting. The same result would have been reached if total production volume would have been established on the basis of further processed trout converted to 'whole fish equivalent'. However, if the volume of processed fish would have been added to the volume of live fish, as suggested by the interested party, this would have resulted in double counting and, consequently, it would have artificially increased the total production volume and consumption in the Union. At the same time, as explained in the recital 57, these indicators would nevertheless show the same trends over the period considered. Therefore, these arguments were rejected.
- (61) The alleged impact on the market share of Turkish imports is addressed in recital 64.
- (62) In the absence of any other comments, recitals 101 to 105 of the provisional Regulation are confirmed.

## 3. Imports from the country concerned

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

- (63) After the final disclosure one interested party argued that the Commission excluded data from Union producers which were processing live fish acquired from other Union producers of live fish, and only included the production volume of Union producers that imported live fish for further processing. This party claimed that this methodology lead to an overstatement of the market share of the Turkish imports. As mentioned in recital 59, except a hypothetical example regarding market shares, the party did not provide any substantiation to its claim.



(64) As explained in recital 60 production data were established on the basis of live fish calculated on a 'whole fish equivalent basis' in order to avoid double counting. If the volume of processed fish would have been added to the volume of live fish, as suggested by the interested party, this would have resulted in double counting and, consequently, an understatement of the market share of the Turkish imports. At the same time, as explained in the recital 57, these indicators would nevertheless show the same trends over the period considered. The argument is therefore rejected.

(65) In the absence of any other comments, recitals 106 to 108 of the provisional Regulation are confirmed.

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

(66) Following provisional disclosure, one party argued that import prices from Turkey should not be established on an average basis but on a product type basis as the product type composition and the weight of one particular type within that composition would have a significant impact on the average price. After the final disclosure the same party reiterated its comment without providing any further substantiation of its claim.

(67) It is deemed appropriate that for the purposes of establishing and examining the overall injury indicators' trends relating to prices of the product concerned over the period considered as required by Article 3 of the basic Regulation a weighted average import price should be used that relates to the product concerned as defined. In fact detailed data is collected only for the investigation period. Therefore, data at a product type level is not available for the whole period considered. In any event, the weighted average import price would allow examining the trend valid for the product concerned. The fact that a trend would allegedly be different for certain product types cannot invalidate the overall trend. Last, the price is weighted to take into consideration namely the weight of any of the product types within the various compositions.

(68) On the other hand, for the purposes of the price undercutting determination during the investigation period, as explained in recitals 112 and 113 of the provisional Regulation the Commission did use the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and compared them with the corresponding weighted average prices per product type of the imports of product concerned from the sampled cooperating Turkish producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs.

(69) For the reasons above, the argument was rejected.

(70) After provisional disclosure the same party questioned the fact that the Commission did not make any adjustment for post-importation cost. Following this claim the Commission further analysed the information available and the average post-importation costs incurred by the related importer of sampled exporting producer were used.

(71) The price comparison was made on a type-per-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. Taking into account the adjustment described in the recital 70 above, the weighted average undercutting margin of the imports from the country concerned on the Union market was between 2 % and 16 % (the average undercutting margin was 6 %).

(72) In the absence of any other comments, recitals 109 to 111 and 114 to 117 of the provisional Regulation are confirmed.

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

### 4.1. *General remarks*

(73) After provisional disclosure, the GOT requested that the Commission should provide information on macroeconomic injury indicators aggregated on the level of the sampled Union producers only. This party reiterated its claim after final disclosure. It is the Commission practice that macroeconomic indicators are established and analysed at Union level and not at the level of the sampled Union producers. It is indeed considered that as far as macroeconomic indicators are concerned, complete data of the whole Union industry, which also includes the data from the sampled companies reflect better the situation during the period considered, than data of only part of the industry. This request was therefore rejected.

(74) In the absence of any other comments, recitals 118 to 122 of the provisional Regulation are confirmed.

#### 4.2. *Macroeconomic indicators*

##### 4.2.1. Production, production capacity and capacity utilisation

(75) Following provisional disclosure, and as already mentioned in recital 9, one interested party argued that the Commission excluded data from Union producers which were processing live fish acquired from other Union producers of live fish, and only included the production volume of Union producers that imported live fish for further processing. This party claimed that the total production volume in the Union would therefore be understated.

(76) As explained in recital 52 the Commission analysed the whole Union industry including producers of live, fresh, frozen, filleted and smoked trout and as explained in recitals 56 and 60 total production volume in the Union was not affected by the methodology used by the Commission. Therefore this argument was rejected.

(77) The GOT argued that FEAP data included data of 13 Member States only and that for this reason the total Union production volume was underestimated.

(78) FEAP data indeed did not include Member States with a total production volume of below 1 000 tons ('whole fish equivalent') per year, which could, however, given the low quantities, not have had any significant impact on the established trends. In addition, this party did not demonstrate any potential impact of including the remaining Member States in the overall data. The argument was therefore rejected.

(79) After final disclosure the GOT claimed that production figures of two Member States, notably Bulgaria and Romania that were excluded had in fact produced more than 1 000 tons in 2011. However, the production volumes provided by the GOT refer essentially to large trout production which is not the product subject to the current investigation. Therefore, this claim was rejected.

(80) Following provisional disclosure, one interested party claimed that the production capacity as shown in recital 124 of the provisional Regulation was incorrect because it was calculated on the basis of the incorrectly established production volume as claimed in recital 75. In addition, this interested party claimed that the capacity utilisation rate should not be based on the information provided by the sampled Union producers as the sample contained Union producers representing various production stages, such as smoking, while the production volume would allegedly only contain live trout. After the final disclosure this party claimed that the formula used was wrongly based on an average capacity utilisation rate of the sampled producers instead of using specific data of the live fish industry on the one hand and the processing industry on the other hand. The party further claimed that in addition the data of the processing industry that was acquiring live trout in the Union was not included which had allegedly a significant impact on the determination of the overall production capacity in the Union. Finally, this party claimed that the determination of the capacity should in any event not be based on a formula but on actual data from the Union producers.

(81) As set out in recitals 52, 56 and 60 the Commission did not exclude the processing industry in the Union from its analysis and the argument that the production volume was incorrectly calculated was rejected. Furthermore, as explained in the recital 53 no data was available that would have enabled the Commission to perform segmented analysis using data of the specific two industries. For the same reason, the determination of the capacity could not be based on actual data from over 700 Union small and medium-sized producers. As explained in the recitals 123 and 124 of the provisional Regulation, the capacity utilisation rate established by the Commission was consistent with the Union production volume. Therefore, the argument that the determination of the capacity on the basis of incomplete total production figures and that the capacity utilisation rate should not be based on the information of the sampled Union producers was also rejected. In any event, even if the alternative methodology for calculating the production volume suggested by the interested party was accepted and the data from Union processing industry that was acquiring live trout in the Union was added to the data from Union producers of live fish, resulting in double counting as explained in the recital 56, the development of the capacity utilisation rate would show the same trends over the period considered. This argument was therefore rejected.

(82) In the absence of any other comments, recitals 123 to 128 of the provisional Regulation are confirmed.

#### 4.2.2. Sales volume and market share

- (83) Following provisional disclosure, and as already mentioned in recital 9, one interested party argued that the Commission excluded data from Union producers which were processing live fish acquired from other Union producers of live fish, and only included the production volume of Union producers that imported live fish for further processing. This party alleged that the part of the processing industry in the Union was excluded from the analysis as such. Therefore, this party claimed that sales volume of the Union industry would be underestimated and market share calculated on this basis incorrect. After the final disclosure the same party reiterated its comments and suggested that the Commission should have relied on the alternative methodologies described in recital 49, without substantiating their relevance for this finding.
- (84) For the reasons set out in recitals 52, 56 and 60, the argument that production volume was incorrectly established and that part of the Union industry was not taken into consideration in the analysis was rejected. It followed that the argument that sales volume and market share were incorrectly established was also rejected. As explained in the recital 53 any segmented analysis was not feasible and was rejected. However, if the methodology for calculating the sales volume suggested by the interested party would have been accepted this would have resulted in double counting and, consequently, an overstatement of the sales volume and the market share of the Union industry. At the same time, as explained in the recital 57, these indicators would nevertheless show the same trends over the period considered. The argument is therefore rejected.
- (85) In the absence of any other comments, recitals 129 and 133 of the provisional Regulation are confirmed.

#### 4.2.3. Growth

- (86) In the absence of any comments, recital 134 of the provisional Regulation is confirmed.

#### 4.2.4. Employment and productivity

- (87) Following provisional disclosure, and as already mentioned in recital 9, one party argued that the Commission excluded data from Union producers which were processing live fish acquired from other Union producers of live fish and that therefore the employment was underestimated. After the final disclosure this party claimed that the formula used was wrongly based on an employment of the sampled producers instead of using data of these specific two industries. The party further claimed that furthermore, the data of the processor industry that was acquiring live trout in the Union was not included which had allegedly a significant impact on the determination of the overall employment in the Union. Finally, this party claimed that the determination of the employment in any event not be based on a formula but on actual data from the Union producers.
- (88) For the reasons set out in recital 52, 56 and 60 the argument that part of the Union industry was not taken into consideration in the analysis was rejected. Furthermore, as explained in the recital 53 no data was available that would have enabled the Commission to perform segmented analysis using specific data of the live fish industry on the one hand and the processing industry on the other hand. For the same reason, the determination of the employment could not be based on actual data from over 700 Union small and medium-sized producers. As explained in the recital 136 of the provisional Regulation, the employment figure established by the Commission was consistent with the Union production volume. Indeed the Commission when establishing employment data took into consideration the whole Union industry including the processing industry. It follows that the argument that employment was incorrectly established was also rejected. In any event, even if the alternative methodology for calculating the production volume suggested by the interested party was accepted and the data from Union processor industry that was acquiring live trout in the Union was added to the data from Union producers of live fish, resulting in the double counting as explained in the recital 56, the development of the employment would show the same trends over the period considered. This argument was therefore rejected.
- (89) In the absence of any other comments, recitals 135 to 137 of the provisional Regulation are confirmed.

### 4.3. *Microeconomic indicators*

#### 4.3.1. Prices and factors affecting prices

- (90) Following provisional disclosure, one party argued that the Union industry sales prices should not be established on an average basis but on a per-type basis as the product type composition and the weight of one particular type of product concerned within that composition would have a significant impact on the average sales price. After the final disclosure the same party reiterated its comments without providing any further substantiation of its claim.

- (91) However, by analogy, for the reasons set out in recitals 67 and 68 this argument was rejected.
- (92) In the absence of any other comments, recitals 140 to 142 of the provisional Regulation are confirmed.

#### 4.3.2. Labour costs

- (93) In the absence of any comments, recitals 143 and 144 of the provisional Regulation are confirmed.

#### 4.3.3. Inventories

- (94) In the absence of any comments, recital 145 of the provisional Regulation is confirmed.

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

- (95) In the absence of any comments, recitals 146 to 151 of the provisional Regulation are confirmed.

### 5. Conclusion on injury

- (96) On the basis of the above overall analysis of the relevant macroeconomic and microeconomic factors and in the absence of any other comments, the conclusions set out in recitals 152 to 155 of the provisional Regulation that the entire Union industry including all different steps and types of production (production of live, fresh, frozen, fillets and smoked trout) has suffered material injury within the meaning of Article 8(4) of the basic Regulation are confirmed.

## E. CAUSATION

### 1. Effects of the subsidised imports

- (97) In the absence of any comments, recitals 157 to 161 of the provisional Regulation are confirmed.

### 2. Effects of other factors

#### 2.1. Imports from third countries

- (98) In the absence of any comments, recitals 162 to 165 of the provisional Regulation are confirmed.

#### 2.2. Export performance of the Union industry

- (99) In the absence of any comments, recitals 166 and 168 of the provisional Regulation are confirmed.

#### 2.3. Development of consumption

- (100) In the absence of any comments, recitals 169 and 170 of the provisional Regulation are confirmed.

#### 2.4. Competition with other fish species

- (101) Following provisional disclosure, some interested parties reiterated their claim that the material injury suffered by the Union industry was caused by the competition with other fish species. The parties cited studies<sup>(1)</sup> that allegedly showed that other fish species are competing with portion sized rainbow trout on the German market. The parties concerned argued further that, apart from the alleged competition with large trout, salmon and pangasius, there was also competition with cod, halibut, mackerel and redfish which caused the injury to the Union industry.

- (102) The studies mentioned above to which the parties concerned referred to did not bring any conclusive evidence neither regarding the German market nor the Union market taken as a whole supporting the claims made. These claims were also contradicted by the fact that throughout the period considered Turkish imports of rainbow trout increased both in market share and sales volumes in the Union.

- (103) The alleged competition from other fish species could in any event not explain the overall economic and financial deterioration of the Union industry and especially the loss of market share compared to the imports from Turkey, which were increasing over the period considered.

<sup>(1)</sup> Nielsen et al, Market Integration of Farmed Trout in Germany, Marine Resource Economics, Volume 22, pp. 195–213 and Nielsen, M., Smit, J., & Guillen, J. (2009). Market integration of fish in Europe. Journal of Agricultural Economics, 60(2), 367-385. 10.1111/j.1477-9552.2008.00190.x

- (104) On this basis the claims made in this regard were rejected.
- (105) In the absence of any other comments, recitals 171 to 175 of the provisional Regulation are confirmed.

2.5. *Administrative and regulatory burden, geographical limitations*

- (106) Following provisional disclosure, some interested parties reiterated their claim that the analysis did not take into account the negative impact of the administrative burden in the Member States.
- (107) The administrative and regulatory burden including the alleged limitations to use certain geographical areas for aquaculture purposes in the Member States as a possible other factor having caused injury to the Union industry was addressed in recitals 176 to 178 of the provisional Regulation. The parties concerned did not further substantiate their claim or provide any further information in this regard. Therefore, this claim was rejected.
- (108) In the absence of any other comments, recitals 176 to 178 of the provisional Regulation are herewith confirmed.

2.6. *Price pressure exerted by the large retailers*

- (109) Following provisional disclosure, some interested parties reiterated their claim that the analysis did not take into account the negative impact of the price pressure and high bargaining power of the retail sector.
- (110) The price pressure and bargaining power of the retail sector as possible other factors having caused injury to the Union industry were addressed in recitals 179 to 181 of the provisional Regulation. The parties concerned did not further substantiate their claim or provide any further information in this regard. Therefore, this claim was rejected.
- (111) In the absence of any other comments, recitals 179 to 181 of the provisional Regulation are confirmed.

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

- (112) Following provisional disclosure, some interested parties reiterated their claim that the analysis did not take into account the negative impact of several other factors on individual Union producers such as alleged over-investments, environmental issues and litigations.
- (113) However, these factors were addressed in recitals 182 to 186 of the provisional Regulation. The parties concerned did not further substantiate their claim or provide any further information in this regard. Therefore, this claim was rejected.
- (114) In the absence of any other comments, recitals 182 to 186 of the provisional Regulation are confirmed.

3. **Conclusion on causation**

- (115) On the basis of the above and in the absence of any other comments, recitals 187 to 189 of the provisional Regulation that the material injury suffered by the Union industry was caused by the subsidised imports and that no other factors analysed both individually and collectively break the causal link are confirmed.

F. **UNION INTEREST**

1. **Interest of the Union industry**

- (116) In the absence of any comments, recitals 191 to 194 of the provisional Regulation are confirmed.

2. **Interest of unrelated importers**

- (117) Following the imposition of provisional measures, two additional importers made themselves known and claimed that the imposition of duties for trout from Turkey would have a negative impact for them. These parties did not however substantiate their claims. Therefore these claims were rejected.

(118) In the absence of any other comments, recitals 195 and 198 of the provisional Regulation are confirmed.

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

(119) In the absence of any comments, recitals 199 to 203 of the provisional Regulation are confirmed.

**4. Conclusion on Union interest**

(120) On the basis of the above and in the absence of any other comments, recital 204 of the provisional Regulation that there were no compelling reasons that it was not in the Union interest to impose measures on imports of the product concerned from Turkey is confirmed.

**G. COUNTERVAILING MEASURES**

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

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

(122) In view of the adjustment described in recitals 70 and 71 above the injury margins have been revised as described in the recital 127 below.

(123) In the absence of any other comments, recitals 206 to 217 of the provisional Regulation are confirmed.

**2. Definitive measures**

(124) In the light of the foregoing, and in accordance with Article 15 of the basic Regulation, definitive countervailing duties should be imposed in accordance with the lesser duty rule in Article 15(1) of the basic Regulation. The Commission compared the injury margins and the subsidy margins. The amount of the duties should be set at the level of the lower of the subsidy and the injury margins.

(125) Given the high rate of cooperation of the Turkish exporting producers, the 'All other companies' duty was set at the level of the highest duty to be imposed on the companies sampled or cooperating in the investigation. The 'All other companies' duty will be applied to those companies which had not cooperated in the investigation.

(126) For the cooperating non-sampled Turkish companies listed in the Annex, the definitive duty rate is set at the weighted average of the rates of the sampled companies.

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

| Company                     | Subsidy margin | Injury margin | Countervailing duty |
|-----------------------------|----------------|---------------|---------------------|
| GMS                         | 6,9 %          | 24 %          | 6,9 %               |
| Kilic                       | 9,5 %          | 37 %          | 9,5 %               |
| Özpekler                    | 6,7 %          | 22 %          | 6,7 %               |
| Ternaeben                   | 8,0 %          | 17 %          | 8,0 %               |
| Other cooperating companies | 7,6 %          | 23 %          | 7,6 %               |
| All other companies         | 9,5 %          | 37 %          | 9,5 %               |

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

- (129) The individual company countervailing duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities.
- (130) Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'.
- (131) A company may request the application of these individual countervailing duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission <sup>(1)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (132) To ensure a proper enforcement of the countervailing duties, the residual duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

### 3. Undertakings

- (133) Following disclosure of the provisional Regulation 15 exporting producers offered price undertakings in accordance with Article 13 of the basic Regulation.
- (134) The Commission analysed these offers carefully in light of the specific context of the relationship with Turkey. The Commission considered however that such undertakings would not be practical in the current proceeding. This is for the reasons of the high number of presentations of the product concerned, the significant price differences between the different presentations of the product concerned and the risk of cross-compensation due to the sale of other products to the same customers.
- (135) After the final disclosure, one interested party (AEA), claimed that the reasons for considering the undertakings not to be practical are not correct. First, it claimed that the number of presentations is limited, they are clearly identifiable through TARIC codes and, if necessary, certain presentations can be grouped, second, that the existence of high price differences between different presentations would not render the undertakings impracticable because different minimum import prices could be established for different presentations and, finally, that similar undertakings had been accepted in case of other fish products (salmon) <sup>(2)</sup> earlier.
- (136) First, the sampled exporting producers that had offered undertakings and for which the Commission had detailed information had exported seven different presentations of the product concerned during the investigation period. Such presentations cannot be clearly identified with TARIC codes. Furthermore, any grouping of presentations requiring different prices may lead to cross compensation between the minimum import prices of different presentations. Second, if the high number of exporting producers and presentations combined with the significant price differences between the presentations would be mitigated with a high number of minimum import prices as suggested by the interested party, it would render the monitoring of the undertakings even more impractical. Third, mitigating the risk of cross compensation by continuous monitoring of a clause not to sell anymore other products to the same customers would be disproportionately resource consuming and therefore impractical. Finally, as far as the salmon case is concerned, the undertakings accepted at that time have been proven impractical as evidenced by the many withdrawals during the lifetime of the measures. For the reasons above, the arguments that the undertakings would be practical in the present case are rejected.
- (137) Therefore, the price undertakings offered were rejected.

### 4. Definitive collection of the provisional duties

- (138) In view of the subsidy margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional countervailing duty, imposed by the provisional Regulation, should be definitively collected. Amounts secured in excess of the definitive rates of the countervailing duty should be released.

<sup>(1)</sup> European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

<sup>(2)</sup> Regulation (EC) No 85/2006.

(139) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Council Regulation (EC) No 1225/2009 <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

#### Article 1

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

- live weighing 1,2 kg or less each, or
- fresh, chilled, frozen and/or smoked:
  - in the form of whole fish (with heads on), whether or not gilled, whether or not gutted, weighing 1,2 kg or less each, or
  - with heads off, whether or not gilled, whether or not gutted, weighing 1 kg or less each, or
  - in the form of fillets weighing 400 g or less each,

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

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

| Company                                                                                         | Countervailing duty | TARIC additional code |
|-------------------------------------------------------------------------------------------------|---------------------|-----------------------|
| — Akyol Su Ürn.Ürt.Taş.Kom.İth.İhr.Paz.San. ve Tic. Ltd Şti                                     | 6,9 %               | B964                  |
| — Asya Söğüt Su Ürünleri Üretim Dahili Paz.ve İhr. LtdŞti                                       |                     |                       |
| — GMS Su Ürünleri Üretim İth. Paz. San. ve Tic. Ltd Şti                                         |                     |                       |
| — Gümüşdoga Su Ürünleri Üretim İhracat İthalat AŞ                                               |                     |                       |
| — Gümüş-Yel Su Ürünleri üretim İhracat ve İthalat Ltd Şti                                       |                     |                       |
| — Hakan Komandit Şirketi                                                                        |                     |                       |
| — İskele Su Ürünleri Hayv.Gıda Tur.İnş.Paz.İhr.LtdŞti                                           |                     |                       |
| — Karaköy Su Ürünleri Üretim Paz.Tic.İhr. ve İth.LtdŞti                                         |                     |                       |
| — Özgü Su Ürün. Üret. Taş. Komis. İth. İhr. Paz. San. ve Tic. Ltd Şti                           |                     |                       |
| BAFA Su Ürünleri Yavru Üretim Merkezi Sanayi Ticaret AŞ                                         | 9,5 %               | B965                  |
| Özpekler İnşaat Taahhüd Dayanıklı Tüketim Malları Su Ürünleri Sanayi ve Ticaret Limited Şirketi | 6,7 %               | B966                  |
| Ternaeben Gıda ve Su Ürünleri İthalat ve İhracat Sanayi Ticaret AŞ                              | 8,0 %               | B967                  |
| Companies listed in the Annex                                                                   | 7,6 %               |                       |
| All other companies                                                                             | 9,5 %               | B999                  |

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

#### Article 2

The amounts secured by way of provisional countervailing duties pursuant to Implementing Regulation (EU) No 1195/2014 shall be definitively collected. The amounts secured in excess of the definitive rates of countervailing duty shall be released.

<sup>(1)</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).



*Article 3*

Where any new exporting producer in Turkey provides sufficient evidence to the Commission that:

- it did not export to the Union the product described in Article 1(1) during the investigation period (1 January 2013 to 31 December 2013),
- it is not related to any of the exporters or producers in Turkey which are subject to the measures imposed by this Regulation,
- it has actually exported to the Union the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union,

Article 1(2) may be amended by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate of 7,6 %.

*Article 4*

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

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

Done at Brussels, 26 February 2015.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

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

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