

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice of initiation of a partial interim review of the countervailing measures applicable to imports
of certain rainbow trout originating in the Republic of Turkey**

(2021/C 380/05)

The European Commission ('the Commission') has decided on its own initiative to initiate a partial interim review pursuant to Article 19 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation').

1. Product under review

The product subject to this review 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 the Republic of Turkey ('country concerned') and currently falling under 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) ('product under review'). The CN and TARIC codes are given for information only.

2. Existing measures

The measures currently in force are a definitive countervailing duty imposed by Commission Implementing Regulation (EU) 2021/823 ⁽²⁾.

3. Grounds for the review

There is sufficient evidence that the circumstances with regard to subsidisation on the basis of which the existing measures were imposed have changed and that these changes are of a lasting nature.

More specifically, significant changes on the structure and the terms of implementation of the subsidies granted by the Turkish Government to producers of rainbow trout have taken place since 2016. These changes, which appear having a lasting nature, led to a decrease of direct subsidies received by Turkish rainbow trout producers.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Commission Implementing Regulation (EU) 2021/823 of 20 May 2021 imposing a definitive countervailing duty on imports of certain rainbow trout originating in Turkey following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council. (OJ L 183, 25.5.2021, p. 5).

In light of the above, the Commission considers that there is sufficient evidence that the circumstances with regard to subsidisation have changed significantly, that the changes are of a lasting nature and, therefore, that the measures should be reviewed for all exporting producers.

The Commission reserves the right to investigate any relevant subsidy practices, which may be revealed during the course of the investigation.

4. Procedure

Having determined, after informing the Member States that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of the level of subsidisation, the Commission initiates a review in accordance with Article 19(1) of the basic Regulation. A note containing all the relevant information at this stage is available to all interested parties for inspection. The investigation will examine the level of subsidisation in order to establish the need for continued imposition of the measures at the current rate.

The Government of the country concerned has been invited for consultations in accordance with Article 10(7) of the basic anti-subsidy Regulation.

The Commission draws the attention of the parties that further to the COVID-19 outbreak a Notice ⁽³⁾ has been published on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations that may be applicable to this proceeding.

4.1. Review investigation period

The investigation will cover the period from 1 January 2020 to 31 December 2020 ('the review investigation period').

4.2. Investigating exporting producers

Procedure for selecting exporting producers to be investigated in the country concerned

(a) Sampling

In view of the potentially large number of exporting producers in the country concerned involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 27 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to provide the Commission with information on their company(ies) within 7 days of the date of publication of this Notice. This information must be provided via TRON.tdi at the following address:

https://tron.trade.ec.europa.eu/tron/tdi/form/R749_SAMPLING_FORM_FOR_EXPORTING_PRODUCER

Tron access information can be found in sections 4.3.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission has also contacted the authorities of the country concerned and may contact any known associations of exporting producers.

⁽³⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020XC0316%2802%29> 'On the COVID-19 outbreak on anti-dumping and anti-subsidy investigations' (OJ C 86, 16.3.2020, p. 6).

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned if appropriate, of the companies selected to be in the sample.

Once the Commission has received the necessary information to select a sample of exporting producers, it will inform the parties concerned of its decision whether they are included in the sample. The sampled exporting producers will have to submit a completed questionnaire within 30 days from the date of notification of the decision of their inclusion in the sample, unless otherwise specified.

A copy of the questionnaire for exporting producers is available in the file for inspection by interested parties and on DG Trade's website:

https://trade.ec.europa.eu/tdi/case_details.cfm?id=2543

The Commission will add a note reflecting the sample selection to the file for inspection by interested parties. Any comment on the sample selection must be received within 3 days of the date of notification of the sample decision.

The questionnaire will also be made available to any known association of exporting producers, and to the authorities of the country concerned.

Without prejudice to the application of Article 28 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to section (b) below, the countervailing duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average amount of subsidisation established for the exporting producers in the sample. ⁽⁴⁾

(b) Individual amount of countervailable subsidisation for companies not included in the sample

Pursuant to Article 27(3) of the basic Regulation, non-sampled cooperating exporting producers may request the Commission to establish their individual amount of countervailable subsidisation. Exporting producers wishing to claim an individual amount of countervailable subsidisation must fill in the questionnaire and return it duly completed within 30 days of the date of notification of the sample selection, unless otherwise specified. A copy of the questionnaire for exporting producers is available in the file for inspection by interested parties and on DG Trade's website:

https://trade.ec.europa.eu/tdi/case_details.cfm?id=2543

The Commission will examine whether non-sampled cooperating exporting producers can be granted an individual amount of countervailable subsidisation in accordance with Article 27(3) of the basic Regulation.

However, non-sampled cooperating exporting producers claiming an individual amount of countervailable subsidisation should be aware that the Commission may nonetheless decide not to determine their individual amount of countervailable subsidisation if, for instance, the number of non-sampled cooperating exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

4.3. Interested parties

Parties will only be able to participate in the investigation as interested party from the moment they make themselves known, and provided that there is an objective link between their activities and the product under review. Being considered as an interested party is without prejudice to the application of Article 28 of the basic Regulation.

⁽⁴⁾ Pursuant to Article 15(3) of the basic Regulation, any zero and *de minimis* amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in Article 28 of the basic Regulation shall be disregarded.

Access to the file available for inspection for interested parties is made via Tron.tdi at the following address: <https://webgate.ec.europa.eu/tron/TDI>. Please follow the instructions on that page to get access.

4.4. *Other Written submissions*

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*. In order to obtain the information it deems necessary for its investigation, the Commission may send questionnaires to interested parties that have come forward.

4.5. *Possibility to be heard by the Commission investigation services*

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request as well as a summary of what the interested party wishes to discuss during the hearing. The hearing will be limited to the issues set out by the interested parties in writing beforehand.

In principle, hearings will not be used to present factual information which is not yet on file. Nevertheless, in the interest of good administration and to enable Commission services to progress with the investigation, interested parties may be directed to provide new factual information after a hearing.

4.6. *Instructions for making written submissions and sending completed questionnaires and correspondence*

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing the Commission:

- (a) to use the information and data for the purpose of this trade defence proceeding and
- (b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' ⁽³⁾. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 29(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

Interested parties are invited to make all submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>) including scanned powers of attorney and certification sheets. By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf.

⁽³⁾ A 'Sensitive' document is a document which is considered confidential pursuant to Article 29 of the basic Regulation and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures. It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email, which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of registered mail.

For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi and by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: <https://tron.trade.ec.europa.eu/tron/tdi>

Email address: TRADE-R749-TROUT-SUBSIDY@ec.europa.eu

5. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 22(1) of the basic Regulation, within 15 months from the date of the publication of this Notice in the *Official Journal of the European Union*.

6. **Possibility to comment on other parties' submissions**

In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues.

Comments on the information provided by other interested parties in reaction to the disclosure of the definitive findings should be submitted within 5 days from the deadline to comment on the definitive findings, unless otherwise specified. If there is an additional final disclosure, comments filed by other interested parties in reaction to this further disclosure should be made within 1 day from the deadline to comment on this further disclosure, unless otherwise specified.

The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

7. **Extension to time limits specified in this Notice**

Any extension to the time limits provided for in this Notice should only be requested in exceptional circumstances and will only be granted if duly justified upon good cause being shown. In any event, any extension to the deadline to reply to questionnaires will be limited normally to 3 days, and as a rule will not exceed 7 days. Regarding time limits for the submission of other information specified in the Notice of Initiation, extensions will be limited to 3 days unless exceptional circumstances are demonstrated.

8. **Non-cooperation**

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 28 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 28 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

9. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in due course.

Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. The Hearing Officer will examine the reasons for requests for intervention, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website:

<http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>.

10. **Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council. ⁽⁶⁾

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website:

<http://ec.europa.eu/trade/policy/accessing-markets/trade-defence>

⁽⁶⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L295, 21.11.2018, p. 39).