

**COMMISSION REGULATION (EC) No 1628/2003
of 17 September 2003**

imposing a provisional anti-dumping duty on imports of large rainbow trout originating in Norway and the Faeroe Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 ⁽¹⁾ of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Regulation (EC) No 1972/2002 ⁽²⁾, (the basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 19 December 2002, the Commission announced by way of a notice published in the *Official Journal of the European Communities* ⁽³⁾, the initiation of an anti-dumping proceeding concerning imports of large rainbow trout originating in Norway and the Faeroe Islands.
- (2) The proceeding was initiated following a complaint lodged in November 2002 by the Finnish Fish Farmers' Association and the Åland Islands Fish Farmers' Association (the complainant) on behalf of producers representing a major proportion, in this case more than 30 %, of the total Community production of large rainbow trout. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised producers/exporters and importers known to be concerned as well as their associations, the authorities of Norway, the Home Government of the Faeroe Islands, users and Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) A number of producers/exporters in Norway and the Faeroe Islands, as well as producers and importers in the Community made their views known in writing. All parties who so requested within the above time limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (5) In view of the apparent large number of producers/exporters of the product concerned in Norway and the Faeroe Islands and the large number of Community producers of the like product, sampling was envisaged in the notice of initiation for the determination of dumping and injury. Sampling was also envisaged in the notice of initiation in respect of importers of the product concerned into the Community.
- (6) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination of dumping, resultant injury and Community interest. Verification visits were carried out at the following companies:
 - (a) *Sampled Community producers*
 - Viviers de France, Castets, France,
 - Napapiirin Kala Oy, Vanttauskoski, Finland,
 - Savon Taimen Oy, Rautalampi, Finland,
 - Flisö Fisk Ab, Mariehamn, Finland,
 - Saaristomeren Kala Oy, Uusikaupunki, Finland,
 - Linnatien Lohi Ky, Kuivaniemi, Finland,
 - Kames Fish, Kilmelford, United Kingdom;

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ C 318, 19.12.2002, p. 2.

- (b) *Sampled producers in Norway*
 - Firda Sjøfarmer AS, Byrknesøy,
 - Hydroteck AS, Kristiansund,
 - Sjøtroll Havbruk AS, Bekkjjarvik;
 - (c) *Sampled exporters in Norway*
 - Coast Seafood AS, Måløy,
 - Hallvard Lerøy AS, Bergen,
 - Sirena Norway AS, Florø;
 - (d) *Sampled exporting producers in the Faeroe Islands*
 - P/F PRG Export and its related producer P/F Luna, Gøta,
 - P/F Vestsalmon and its related producer P/F Vestlax, Kollafjørður;
 - (e) *Related importers in the Community*
 - Vestlax Hirtshals AS, Hirtshals, Denmark;
 - (f) *Unrelated importers in the Community*
 - Lohikunta, Turku, Finland,
 - Kesko Food Ltd, Helsinki, Finland.
- (7) The investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from January 1999 to the end of the IP (analysis period).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

- (8) Rainbow trout is a species of fish originally native to North America. It is not native to European waters and does not naturally breed in Europe. Therefore, rainbow trout sold on the Community market is generally of farmed origin. The farming of large rainbow trout in the Community, as well as in Norway and the Faeroe Islands, is regulated at national level by means of licences, as is common for most aquacultural activities. The production cycle of farmed rainbow trout begins with the adult fish spawning in fresh water. The young fish (or smolt) are then ongrown in fresh, brackish or salt water principally in large cages or pens. In general, the production cycle lasts between two and three years.

2. Product concerned

- (9) The product concerned is large rainbow trout (*Oncorhynchus mykiss*) whether fresh, chilled or frozen, whether in the form of whole fish (with heads on and gills, gutted, weighing more than 1,2 kg or with heads off, gilled and gutted, weighing more than 1 kg) or in the form of fillets (weighing over 0,4 kg) originating in Norway and the Faeroe Islands and normally declared under CN codes 0302 11 20, 0303 21 20, 0304 10 15 and 0304 20 15 (the product concerned). Before 1 January 2003, the product concerned was normally declared under CN codes ex 0302 11 90, ex 0303 21 90, ex 0304 10 11 and ex 0304 20 11. The CN classification corresponds to the different presentations of the product (fresh or chilled whole fish, fresh or chilled fillets, frozen whole fish and frozen fillets). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding.

3. Like product

- (10) The product concerned produced and exported to the Community from Norway and the Faeroe Islands and that produced and sold on the Community market by Community producers are similar in all their essential physical characteristics and in their uses. Moreover, no differences were found between the product concerned as exported and large rainbow trout, which were produced and sold on the exporters' domestic market. In this regard, it is to be noted that there is no domestic market for the product concerned in the Faeroe Islands.

- (11) It is therefore provisionally concluded that, in accordance with Article 1(4) of the basic Regulation and for the purpose of this investigation, all types of large rainbow trout produced in the Faeroe Islands, those produced and sold in Norway and those produced and sold by the Community industry on the Community market are alike to those exported from Norway and the Faeroe Islands to the Community.

C. SAMPLING FOR THE DETERMINATION OF DUMPING

- (12) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, pursuant to Article 17 of the basic Regulation, producers/exporters were requested, in accordance with Article 17(2), to make themselves known within three weeks of the initiation of the proceeding and to provide basic information on their export and domestic sales, their precise activities with regard to the production of the product concerned and the names and activities of all their related companies involved in the production and/or selling of large rainbow trout. The Commission also contacted known associations of producers/exporters, the authorities of Norway and the Home Government of the Faeroe Islands. These parties raised no objections to the use of sampling.

Norway

- (13) 141 companies came forward and provided the requested information within the time limit set for this purpose. They represented practically all Norwegian exports of the product concerned to the Community in the IP.
- (14) It was apparent from the companies' replies to the sampling exercise that, in general, a clear distinction in functions exists between farmers (producers) who produce large rainbow trout and traders (exporters) who sell it domestically and for export. In most instances, producers sell the majority of their production to Norwegian exporters and are generally unaware of the final destination of the product and of its final price. At the same time, it is recognised that Norwegian exporters are in most cases traders. They do not necessarily cover the whole domestic market as producers may make some direct sales to customers on the domestic market. Exporters generally act independently of the producers in that the prices at which they sell the product concerned do not systematically bear a direct relationship to the costs incurred by the producers in the farming of large rainbow trout.
- (15) For this reason, a representative sample of exporters was selected in order to be in a position to identify the goods exported to the Community and the prices at which they were exported. Also, in order to have a complete overview of the Norwegian domestic market and to be able to verify that the prices in such a domestic market were actually made in the ordinary course of trade, it was considered necessary to also select a sample of producers so that their costs of production and sales on the domestic market could also be taken into account.
- (16) The selection of samples was made in consultation with, and with the consent of the Norwegian Seafood Federation and the Norwegian Seafood Association. The samples of producers and exporters were established primarily based on the significance of production and export volumes respectively.
- (17) The samples that were established comprised six companies: three producers and three exporters. On the basis of their replies to the sampling return, these companies represented approximately 35 % of Norwegian production of the product concerned and 40 % of Norwegian export sales to the Community. Questionnaires were sent to all sampled companies.
- (18) The Norwegian Seafood Federation, the Norwegian Seafood Association as well as all cooperating Norwegian companies, whether or not retained for the sample, were informed of the choice of the samples and given the opportunity to make comments. These parties were also informed of the possibility that a single country-wide dumping margin might be established. None of the parties objected either to the choice of the samples or the possible determination of a country-wide margin.

The Faeroe Islands

- (19) 24 individual companies (15 of which belonged to larger groups) came forward and provided the requested information within the time limit set for this purpose. Only eight of the 24 companies indicated exports of the product concerned to the Community during the IP. Together, these eight companies accounted for all such exports.
- (20) The production and sales of the product concerned in the Faeroe Islands is carried out by vertically integrated groups of companies that both produce and export the product concerned. Therefore, only a sample of exporting producers was selected. In accordance with Article 17(1) of the basic Regulation, the selection of the sample was based on the largest representative volume of exports, which could reasonably be investigated within the time available.
- (21) Two exporting producers were chosen to constitute the sample in consultation with and with the consent of the Faeroe Fish Farmers' Association. The two companies selected in the sample represented, according to the replies to the sampling exercise, approximately 45 % of Faeroese production and a similar percentage of Faeroese exports to the Community of the product concerned. Questionnaires were sent for completion to both sampled companies.
- (22) None of the remaining exporting producers requested an individual treatment in accordance with Article 17(3) of the basic Regulation. The cooperating exporting producers, which were not finally retained in the sample, were therefore informed that any anti-dumping duty on their exports would be calculated in accordance with the provisions of Article 9(6) of the basic Regulation. These companies were given an opportunity to make comments in relation to the samples. However, no comments were received.

D. DUMPING**1. Norway***(a) General*

- (23) The investigation confirmed the distinction in functions between producers and exporters referred to in recital 14. In cases where production and export are distinct functions performed by different companies, it is practically impossible to identify the producer of the exported goods in question, and in any case, the producer of such exported goods cannot be deemed to be responsible for the level of the export price eventually charged for their goods by the exporters. As a result of this situation, it was concluded that the establishment of individual dumping margins would be impracticable and that a single country-wide dumping margin should be established for Norway.
- (24) Accordingly, it was decided that a weighted average normal value and a weighted average export price would be calculated for Norway as a whole. These would be based on the information submitted by the sampled exporters and producers.

(b) Normal value

- (25) In considering normal value, it is noted that Article 2(2) of the basic Regulation provides for it to be based on sales of the like product on the domestic market where they are representative and made in the ordinary course of trade.

(i) Representativity of sales volume

- (26) The Commission examined whether the domestic sales of each exporter had been made in representative quantities. In this respect, it is noted that any quantities sold to other exporters, the final destination of which could not be determined by the sampled exporter, were disregarded.
- (27) It was established that the overall domestic sales of each of the three sampled exporters were representative in that their volume exceeded 5 % of their overall sales of the product concerned to the Community.

- (28) It was then examined whether the domestic sales of each sampled exporter were representative for each product type i.e. whether the domestic sales of each product type exceeded 5 % of the sales volume of the same product type to the Community. The elements taken into account in defining the product types were the quality of the product concerned (superior, ordinary or other), its conditioning (fresh/chilled or frozen) and its presentation (whole fish gutted head on, whole fish gutted head off or in fillets). The investigation established that each of the sampled exporters had representative domestic sales for only certain product types. For these product types, it was then examined for each exporter whether such domestic sales were made in the ordinary course of trade as described below. For the remaining product types where domestic sales were not representative, normal value had to be constructed.

(ii) Ordinary course of trade test and cost of acquisition

- (29) In determining whether the domestic sales of the sampled exporters were made in the ordinary course of trade, and for the reasons explained in recitals 14, 24 and 25, information gathered from the sampled producers concerning their costs and selling prices was taken into account. Therefore, for each product type sold by the exporters, a 'cost of acquisition' was established in the following manner.
- (30) The sampled producers' profitable domestic sales to independent customers were used to calculate the cost of acquisition for the sampled exporters for each product type. Sales by producers to customers known to them as traders were not taken into account in this calculation, as in the majority of cases, the products were not destined for domestic consumption.
- (31) In cases where it was found that domestic sales to independent customers by product type were not profitable, the Commission based the cost of acquisition on each sampled producer's cost of production for each product type plus a reasonable amount for selling, general and administrative costs (SG & A) and profits. These amounts were determined, in accordance with Article 2(6) of the basic Regulation, on the basis of the SG & A and profits of the profitable sales made by the producer concerned since less than 80 % but more than 10 % of such sales were profitable.
- (32) The results of the above exercise were then weighted by the quantities sold domestically by the producers to independent customers to give an overall cost of acquisition for each product type sold by the sampled producers.
- (33) At the same time, the investigation revealed that fillet product types exported to the Community by the sampled exporters (and in most cases also sold by them on the domestic market) were not produced by the sampled producers. Therefore, the Commission based the cost of acquisition for these fillet product types on the weighted average cost of acquisition established for fresh, gutted head on superior quality fish (the most sold type of product). This cost was then increased to reflect the percentage difference between the exporters' domestic selling prices for the fillet product types and for fresh, gutted head-on superior quality fish.
- (34) On the basis of information concerning the cost of acquisition as calculated in recitals 30 to 33, the proportion of domestic sales made in the ordinary course of trade was then determined for each exporter overall and in respect of each product type where the sales were found to be representative. For this purpose, the average selling price by product type was compared to its unit cost, which was calculated by adding to the cost of acquisition for each product type, the SG & A costs of the exporter in question incurred in all domestic sales of the product concerned.

(iii) Calculation of normal value

- (35) In cases where the sales volume of a product type, sold at a net sales price equal to or above the unit cost, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the unit cost, normal value was based on the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.

- (36) In cases where the volume of profitable sales of a product type represented 80 % or less but at least 10 % of the total sales volume of that type, or where the weighted average price of that type was below the unit cost, normal value was based on the weighted average of profitable domestic sales of that type only.
- (37) For those product types where the volume of profitable sales represented less than 10 % of the total sales volume of that type on the domestic market, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore, normal value could not be based on domestic prices. It is recalled that, as noted in recital 28, normal value was also constructed for those product types not sold domestically in representative quantities.
- (38) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value, in accordance with Article 2(3) of the basic Regulation. Normal value was constructed by adding to the cost of acquisition a reasonable amount for SG & A and for profits. The amounts for SG & A and profits were established in accordance with the first sentence of Article 2(6) of the basic Regulation.
- (39) The normal values, as established above, were then weighted on the basis of the quantities sold to the Community, so as to arrive at an average normal value for Norway.

(c) *Export price*

- (40) In the majority of cases, export sales were made to independent customers in the Community. In these cases, the export price was established, in accordance with Article 2(8) of the basic Regulation, on the basis of export prices actually paid or payable.
- (41) One exporter made sales of the product concerned to a related company in the Community. In this case, an export price was constructed, in accordance with Article 2(9) of the basic Regulation, on the basis of the price charged by the related company to the first independent buyer, after deduction of the appropriate amounts for all costs incurred between importation and resale including duties and taxes and a reasonable profit.
- (42) The same exporter also made sales of the product concerned to a second related company in the Community. However, the large rainbow trout thus exported was transformed by this related company into products which no longer came within the definition of the product concerned, prior to its sale to independent customers. These export sales were therefore not taken into account for the purposes of determining the margin of dumping.
- (43) Finally, the export prices established, as indicated above, for each exporter in the sample, were weighted on the basis of the quantities sold to their respective customers in the Community, so as to arrive at an average export price for Norway.

(d) *Comparison*

- (44) The average normal value and average export price obtained as indicated above were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.
- (45) In this regard, it is to be noted that the sampled producers claimed a number of adjustments in respect of physical differences between the various quality grades of the product concerned (superior, ordinary and other quality fish). The sampled producers firstly made a claim in respect of certain costs relating to 'Japan quality' trout (a fish of superior quality with strict skin and flesh colour requirements beyond those required for markets other than Japan) which they considered were not relevant in the consideration of the production costs for the product concerned exported to the Community. They secondly claimed a reduction in the production costs for non-superior quality grades by the absolute difference in average sales prices, expressed in NOK/kg, between superior and non-superior quality grades.

- (46) These claims made by the sampled producers under Article 2(10)(a) of the basic Regulation could not be accepted. In respect of the claim for 'Japan quality' trout, it must be noted that the sampled producers could not substantiate that all Japan quality trout were destined for the Japanese market nor that the specific costs relating to such fish had not in fact been incurred by all fish during the production cycle. As regards the second claim, it should be noted that it had the effect of eliminating certain costs rather than reallocating them over all units of production. Moreover, the sampled producers did not have an established system to identify costs on the basis of differences between the various quality grades of the product concerned and had never utilised the methodology proposed before. Therefore, for all the above reasons and in the absence of a more appropriate method, it was decided in accordance with the provisions of Article 2(5) of the basic Regulation, to allocate costs on the basis of turnover.
- (47) In addition to the above, allowances for differences in discounts, rebates, transport, insurance, handling, loading and ancillary costs, credit and after-sales costs were granted in relation to the export price, where applicable and supported by verified evidence. Similarly, in relation to the normal value, allowances for differences in transport, insurance, handling, loading and ancillary costs and credit costs were granted where applicable and where supported by verified evidence.

(e) *Dumping margin*

- (48) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price.
- (49) This comparison showed the existence of dumping. The dumping margin provisionally established for Norway as a whole, expressed as a percentage of the cif at Community frontier price is 26,3 %.

2. The Faeroe Islands

(a) *Normal value*

- (50) In view of the fact that there is no domestic market for the product concerned in the Faeroe Islands, normal value was established, in accordance with Article 2(3) of the basic Regulation, on the basis of the cost of production of the companies in the sample, plus a reasonable amount for SG & A and for profits.
- (51) Since there is neither a domestic market for the product concerned nor for the same general category of product in the Faeroe Islands, the amounts for SG & A and profits to be added to the cost of production of the sampled exporting producers were established in accordance with Article 2(6)(c) of the basic Regulation. These amounts were therefore based on the weighted average SG & A costs and profits incurred in domestic sales by companies producing and selling the same general category of products in a third country, i.e. Chile, in the recent past. This method was considered to be the most reasonable in this situation as the production and sales structure for the aquaculture industry in that country is similar to that in the Faeroe Islands (i.e. the production and sale of the same general category of products in Chile and the Faeroe Islands is carried out by integrated companies).

(b) *Export price*

- (52) Both of the sampled exporting producers made export sales to unrelated customers in the Community during the IP. In accordance with Article 2(8) of the basic Regulation, the export price for these transactions was established on the basis of export prices actually paid or payable.
- (53) In addition, one of the sampled exporting producers also made sales in the IP to a related company in the Community. However, the large rainbow trout thus exported was subsequently transformed by the related company prior to sale to independent customers in the Community into products, which no longer came within the definition of the product concerned. Consequently, these export sales were not taken into account for the purposes of determining the margin of dumping.

(c) *Comparison*

- (54) The comparison between normal value and export price was made on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.
- (55) It is noted that the Faeroese sampled exporting producers also claimed adjustments to the cost of production for physical differences between the various types of the product concerned (superior, ordinary and other quality fish) based on the absolute differences in average sales prices observed in their sales to the Community market during the IP.
- (56) For the reasons noted above in respect of the same claim made by the Norwegian sampled producers (see recital 45), this claim could not be accepted in the form in which it had been made. Therefore, in the absence of a more appropriate method, it was decided, in accordance with the provisions of Article 2(5) of the basic Regulation, to allocate costs on the basis of turnover.
- (57) In addition to the above, allowances for differences in transport costs, ocean freight and insurance costs, credit costs, discounts and rebates have been granted where applicable and justified.

(d) *Dumping margins*

- (58) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margins were established on the basis of a comparison of a weighted average normal value with a weighted average of export prices. On the basis of this comparison, the dumping margins, expressed as a percentage of the cif at Community frontier price are the following:

P/F PRG Export (for goods produced by P/F Luna)	54,5 %
P/F Vestsalmon (for goods produced by P/F Vestlax)	28,1 %

- (59) In accordance with Article 9(6) of the basic Regulation, where an examination has been limited by the application of sampling pursuant to Article 17 of the same Regulation, any anti-dumping duty applied to imports from exporters or producers which have made themselves known in accordance with Article 17 but were not included in the examination shall not exceed the weighted average dumping margin established for the parties in the sample. The dumping margin thus calculated for these companies is 40,5 %. With regard to the residual dumping margin for any non-cooperating exporting producers in the Faeroe Islands, it is noted that the level of cooperation from parties in the Faeroe Islands was considered to be good. Therefore, it is provisionally concluded that the residual dumping margin for all other companies should be based on the highest dumping margin found for the sampled cooperating exporting producers, i.e. 54,5 %.

E. COMMUNITY INDUSTRY(a) *Sampling*

- (60) In view of the large number of producers of large rainbow trout in the Community, the application of sampling was foreseen in the notice of initiation for the assessment of injury. The selection of the sample of Community producers was based on the largest representative volume of production and sales that could be reasonably investigated within the time available in accordance with Article 17 of the basic Regulation. All Community producers were therefore requested in the notice of initiation to provide basic information on their production, sales volumes and prices and their precise activities with regard to the production of the product concerned during the IP.
- (61) On the basis of the information provided to the Commission, nine companies operating in four Member States, were initially selected in the sample. Questionnaires were sent to all nine companies.

(b) *Sampled Community producers*

- (62) Out of the nine selected companies, two withdrew their cooperation and were therefore excluded from the proceeding. Another expressly supported the proceeding and replied to the questionnaire, without, however, being able to provide its sales to unrelated customers on a transaction-by-transaction basis. This was because almost all of its sales were made to a related company, which went bankrupt. All other selected companies provided full and complete questionnaire replies. On-the-spot verification visits were carried out at the premises of the six sampled companies as well as one related company, Napapiirin Kala Oy, all mentioned in recital 6(a). These companies accounted for 16 % of the total Community production of large rainbow trout during the IP.

(c) *Definition of the Community industry*

- (63) The complainant Community producers (both the sampled and non-sampled) together with the Community producers supporting the complaint (both sampled and non-sampled), which responded to the sampling exercise and were not subsequently excluded from the proceeding, account for more than 25 % of Community production of the product concerned. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the basic Regulation.
- (64) One interested party alleged that the complainants should be regarded as a regional industry and should be considered as constituting the Community industry within the terms of Article 4(1)(b) of the basic Regulation. This argument was provisionally rejected because the dumped imports from Norway and the Faeroe Islands are not concentrated in the Finnish market and do not cause injury solely to the producers of that country. The conditions of Article 4(1)(b) are therefore not met.

F. INJURY

(a) *Apparent Community consumption*

- (65) Apparent consumption of farmed large rainbow trout in the Community was established on the basis of the production figures for the cooperating producers and the production of the other Community producers, and by adding imports and deducting exports, using data derived from Eurostat. As the Eurostat figures report net weights for four different CN codes, i.e. fresh, or chilled fish gutted head-on or head-off, fresh, or chilled fillets and frozen gutted fish or fillets, certain adjustments were made to convert net weights to round weights or 'whole fish equivalents', as the industry in general performs comparisons on this basis. Therefore, the import figures for 'fresh, chilled and frozen trout excluding fillets' and for 'fresh, chilled and frozen trout fillets' were divided respectively by the conversion factors of 0,83 and 0,52. It should be noted that the CN codes concerned might also cover other types of fish not included in the scope of this proceeding, such as portion-sized trout. However, given the origins reported, such quantities can be considered negligible. With regard to exports, the same methodology was used in order to convert net weights to whole fish equivalents. However, in this case as many Community exporting producers produce significant quantities of portion-sized rainbow trout, the export figures were adjusted on the basis of the ratio of production of large rainbow trout in each Member State over the total production of rainbow trout of that Member State, using the information of the Federation of European Aquaculture Producers contained in the complaint.
- (66) It should be noted that the Community consumption also includes the large rainbow trout that is subsequently transformed via further processing.
- (67) On the above basis, the apparent consumption of large rainbow trout on the Community market increased, between 1999 and the IP, by 18 %, from 44 000 tonnes to around 52 000 tonnes.

Apparent consumption in the Community	1999	2000	2001	IP
Tonnes	43 831	49 970	50 485	51 893
<i>Index 1999 = 100</i>	100	114	115	118

Source: Questionnaire replies of the Community industry, complaint, Eurostat.

(b) *Cumulative assessment of the effects of the imports concerned*

- (68) The Commission examined whether imports of large rainbow trout originating in Norway and the Faeroe Islands should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.
- (69) In that regard, the dumping margins established in relation to the imports from Norway and the Faeroe Islands were found to be 26,3 and 54,5 % respectively, i.e. not below the *de minimis* level of 2 % set forth in Article 9(3) of the basic Regulation. The volume of imports from Norway and the Faeroe Islands was not negligible.
- (70) As regards the conditions of competition, the investigation showed that the product concerned imported from Norway and the Faeroe Islands were alike in all their essential physical characteristics. Furthermore, on that basis, large rainbow trout imported from Norway and the Faeroe Islands was interchangeable and was marketed in the Community during the analysis period through comparable sales channels and under similar commercial conditions. Moreover, it is recalled that the imported product was found to be alike to large rainbow trout produced in the Community and as such competes under the same conditions of competition.
- (71) It was argued that imports originating in the Faeroe Islands should not be cumulated with imports from Norway for the investigation as their volumes were *de minimis* for the years 1999 to 2001 and were only above *de minimis* during the IP. It was further argued that imports from the Faeroe Islands will decrease after the IP for two reasons. Firstly, it was alleged that the prevailing favourable selling conditions in Japan in the period 1999 to 2001, which encouraged the Faeroese farmers to start farming large rainbow trout, no longer exist. Secondly, it was alleged that Faeroese farmers have taken up the production of salmon again, and that this will result in a reduction of the production of large rainbow trout and subsequently of their market share in the Community. As far as the first argument is concerned, the question whether or not import volumes are negligible is defined on the basis of the imports which took place during the IP and these were found to represent 2 % of the Community market. As far as the second argument is concerned, it should be noted that, in accordance with Article 6(1) of the basic Regulation, information relating to a period subsequent to the IP shall, normally, not be taken into account. Moreover, the arguments in question were based on mere assumptions and were not supported by facts. It was therefore considered that they were not manifest, undisputed and lasting, and were provisionally rejected.
- (72) In the light of the above, the Commission services provisionally considered that all the criteria set out in Article 3(4) of the basic Regulation were met and that imports from Norway and the Faeroe Islands should therefore be examined cumulatively.

(c) *Volume of the imports concerned and market share*

- (73) The volume of imports of the product concerned originating in Norway and the Faeroe Islands derived from Eurostat using the methodology as described in recital 65 increased from approximately 1 700 tonnes in 1999 to over 9 000 tonnes in the IP.

	1999	2000	2001	IP
Volume of imports (tonnes)	1 657	1 766	5 979	9 264
<i>Index 1999 = 100</i>	100	107	361	559

- (74) During the analysis period, the dumped imports from Norway and the Faeroe Islands increased their share of the Community market from 3,8 % in 1999 to 17,9 % in the IP. The sharp increase in imports (14,1 percentage points) over the analysis period has absorbed the major part of the increase in consumption that occurred in the Community market over the same period.

	1999	2000	2001	IP
Market share	3,8 %	3,5 %	11,8 %	17,9 %

(d) *Effect of the dumped imports on prices in the Community market*

(i) *Import prices*

- (75) Price information for the imports concerned was derived from Eurostat data based on the import volumes established using the methodology described in recital 65. This information showed that between 1999 and the IP, the average cif prices of imports originating in Norway and the Faeroe Islands decreased by 27 %. The decrease is particularly steep after 2000, which coincides with the dramatic upsurge of imports from Norway and the Faeroe Islands.

	1999	2000	2001	IP
Prices in EUR/kg of whole fish equivalent	2,52	3,06	2,19	1,84
<i>Index 1999 = 100</i>	100	121	87	73

Source: Eurostat.

(ii) *Price undercutting and price depression*

- (76) For the purpose of calculating the level of price undercutting in the IP, the prices of the product concerned sold by the sampled Community industry producers were compared to the prices of imports of the sampled exporting producers on the Community market during the IP on the basis of weighted average prices per product type of large rainbow trout, net of all rebates and taxes to unrelated customers.
- (77) The elements taken into account in defining the product types were the quality of the product concerned (superior, ordinary or other), its conditioning (fresh/chilled or frozen) and its presentation (whole fish gutted head on, whole fish gutted head off or in fillets). The prices of the sampled Community industry producers were taken at an ex-works (post processing) level and at levels of trade considered to be comparable to those of the imports concerned. The cif prices of the sampled exporting producers were adjusted to include customs duties and in the case of one exporting producer in the Faeroe Islands an adjustment was made in order to bring product types sold by this exporter to a comparable level with those sold by the sampled Community producer.
- (78) This comparison showed that during the IP, the products concerned originating in Norway and the Faeroe Islands were sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, as follows: Norway on average by 6,3 % and Faeroe Islands in the range between 1 % and 21,4 %.
- (79) It should also be noted that the prices of the Community industry were depressed and that the Community industry as a whole came close to being loss-making during the IP, whilst several companies were actually loss-making.

(e) *Economic situation of the Community industry*

(i) Preliminary remarks

- (80) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry, in this regard it should be noted that this industry has not been subject to dumping or subsidisation in the past. Due to the use of sampling, the injury indicators have been established partially for the sampled companies and partially for the Community industry as a whole. The sales prices, profitability, return on investment, cash flow and wages have been established on the basis of information from the sampled companies. The other injury indicators: production capacity, production, market shares and employment, have been established on a Community industry level.

(ii) Production capacity, production, capacity utilisation

- (81) The Community industry's production capacity remained stable during the analysis period. This stable picture is mainly explained by the fact that the production level depends on the environmental licences which are issued in most Member States and are renewed every 5 to 10 years. Over the same period, the Community industry increased its production by 8 % and its capacity utilisation rate by five percentage points.

	1999	2000	2001	IP
Production capacity in tonnes of whole fish equivalent	15 065	15 050	15 085	15 104
<i>Index 1999=100</i>	100	100	100	100
Production in tonnes of whole fish equivalent	10 854	12 153	11 154	11 671
<i>Index 1999=100</i>	100	112	103	108
Production/capacity utilisation rates	72 %	81 %	74 %	77 %

Source: Questionnaire replies of the Community industry.

(iii) Stocks

- (82) It is noted that farmed large rainbow trout is a perishable product, which unless frozen, has a shelf-life of less than two weeks. As the sampled Community industry producers do not keep stocks of fresh large rainbow trout after harvest and do not, to any significant degree, freeze their production, stock levels are not considered to be a meaningful indicator of injury in this investigation.

(iv) Market share and growth

- (83) For the sake of a consistent and meaningful analysis, it was considered appropriate to assess the market share of the Community industry on the basis of the production figures of large rainbow trout during the analysis period, as was done for the Community consumption in recital 65, rather than on the sales of the product concerned.
- (84) On this basis the market share held by the Community industry decreased by two percentage points over the analysis period. While Community consumption increased by 18 % over the same period, the volume of the imports concerned increased almost sixfold. Thus, the Community industry lost part of its market share, whereas the imports concerned managed to increase theirs. The Community industry was therefore unable to take full advantage of the growth of the market between 1999 and the IP.

	1999	2000	2001	IP
Market share	24,8 %	24,3 %	22,1 %	22,5 %

- (85) It should be recalled that the general market share held by all Community producers (both cooperating and non-cooperating) is much higher (34,5 % for the IP), as the above percentages refer only to the market share held by the Community industry as defined in recital 63.

(v) Employment, productivity and wages

- (86) The level of employment of the Community industry decreased over the analysis period by 11 %. Over the same period, its productivity, measured as output per person employed per year, increased by 21 %. This increase in output per person is mainly due to investment in new equipment. In addition, several companies have had to lay off people due to the severe situation facing the industry without being able in the short term, due to the production cycle of the product, to decrease production volumes.

	1999	2000	2001	IP
Number of employees	185	170	173	16
<i>Index 1999 = 100</i>	100	92	93	89
Productivity: production/employee	100	122	110	121

Source: Questionnaire replies of the Community industry.

- (87) The total wage bill of the sampled Community industry producers remained relatively stable during the IP. Over the analysis period, the average wage per employee increased by 8 %. After remaining stable in 2000, wages increased by 4 % in 2001 with a further increase of 4 % being recorded during the IP.

	1999	2000	2001	IP
Wages per employee in EUR	24 328	24 345	25 221	26 216
<i>Index 1999 = 100</i>	100	100	104	108

Source: Questionnaire replies of the sampled Community industry.

(vi) Sales prices

- (88) The sampled Community industry producers' average net sales price increased from a figure of EUR 2,9 per kilogram in 1999 to reach a peak of EUR 3,1 in 2000. A significant fall in price was then observed between 2000 and 2001. This fall continued in the IP, with average prices reaching to their lowest level of EUR 2,5 per kilogram. The steep decrease in prices from 2000 onwards coincided with the surge of dumped imports on the Community market from Norway and the Faeroes Islands.

	1999	2000	2001	IP
Sales prices to unrelated customers in the EC in EUR/kg of whole fish equivalent	2,86	3,09	2,75	2,54
<i>Index 1999 = 100</i>	100	108	96	89

Source: Questionnaire replies of the sampled Community industry.

(vii) Profitability

- (89) The sampled Community industry producers' return on net sales in the Community market, before taxes, suffered a marked deterioration during the IP due to the low prices prevailing on the market. During the same period, the Community industry improved its productivity and diversified its production. These factors resulted in lower unit production costs as the Community industry was able to spread its fixed costs over a greater volume of production. During the analysis period, the profitability of the sampled Community industry producers' sales in the Community to unrelated customers developed as follows:

	1999	2000	2001	IP
Profitability	11,5 %	16,1 %	13,8 %	0,5 %
<i>Index 1999 = 100</i>	100	140	120	4

Source: Questionnaire replies of the sampled Community industry producers.

- (90) The sampled Community industry producers taken as a whole were profitable in the years 1999 to 2001 reaching levels which are considered necessary given the high risk nature of the industry. However, in parallel to the sharp price decrease that occurred in the IP, profitability decreased dramatically and several of the sampled companies recorded losses during the IP. In addition, a number of cooperating producers reconsidered their production plans for future years with the result that fewer smolts were put to the water in 2002.

(viii) Investments and return on investments

- (91) The level of investments in the production of the product concerned made by the sampled Community industry producers increased during the analysis period from approximately EUR 500 000 to more than EUR 800 000. This investments increase focused mainly on the replacement of existing assets and the acquisition of additional and/or new equipment with the aim of better handling existing production and thereby improving productivity.
- (92) The sampled Community industry producers' return on investment, which expresses their pre-tax result as a percentage of the average opening and closing net book value of assets employed in the production of the product concerned, was positive during the period 1999 to 2001, reflecting their profit-making situation. In the IP, as their level of profitability declined sharply to just merely break-even point, their return on investment fell sharply to just 2 %. In general, the industry is not very capital intensive and the level of investments accounts for a relatively small part of total production costs.

	1999	2000	2001	IP
Investments in EUR '000	483	714	604	832
<i>Index 1999 = 100</i>	100	148	125	172
Return on investments	59 %	69 %	77 %	2 %

Source: Questionnaire replies of the sampled Community industry.

(ix) Cash flow

- (93) The sampled Community industry producers recorded a net cash inflow from operating activities during the analysis period. However, when expressed as a percentage of turnover, the net cash inflow showed a marked decline in percentage terms, especially during the IP.

	1999	2000	2001	IP
Cash flow in EUR '000	1 919	2 034	2 140	398
<i>Index 1999 = 100</i>	100	106	112	21
Cash flow expressed as percentage of turnover	15 %	20 %	17 %	4 %

Source: Questionnaire replies of the sampled Community industry producers.

(x) Magnitude of dumping margin

- (94) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from Norway and the Faeroe Islands, this impact is substantial.

(f) Conclusion on injury

- (95) The examination of the abovementioned factors shows that between 1999 and the IP, the dumped imports increased sharply in terms of volume and market share. In fact, their volume increased by almost sixfold during the analysis period and they achieved a market share of approximately 18 % in the IP. It is to be noted that in the IP, they accounted for approximately 85 % of total imports of the product concerned into the Community. Moreover in the IP, the sales prices of the Community industry were substantially undercut (up to a maximum of 21,4 %) by those of the imports concerned.
- (96) During this period certain injury indicators, such as production and capacity utilisation developed positively (+ 8 % and + five percentage points respectively). However, in light of the increase in Community consumption of 18 % during the same period, these indicators should have developed in a more positive manner. The Community industry, faced by the increasing volume of dumped imports at low prices, has had to reduce its number of employees. The increase in productivity per employee during the period is partly a reflection of that reduction in employment.
- (97) The Community industry lost market share during the analysis period at a time when total Community consumption grew from approximately 44 000 tonnes to nearly 52 000 tonnes. The Community industry suffered a dramatic decline in profitability (- 11 percentage points), cash flow (- 11 % of turnover) and return on investments (- 57 percentage points).
- (98) In the light of the foregoing it is provisionally concluded that the Community industry has suffered material injury, characterised by severe price depression, declining profitability as well as declining returns on investment, within the meaning of Article 3 of the basic Regulation.

G. CAUSATION

(a) Introduction

- (99) In order to reach its conclusions on the cause of the injury suffered by the Community industry and in accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

(b) *Effects of the dumped imports*

- (100) Between 1999 and the IP, dumped imports from Norway and the Faeroe Islands increased dramatically in volume (over 550 %) and in market share (from 3,8 % in 1999 to 17,9 % in the IP). Their price decreased substantially during the analysis period and undercut significantly the Community's industry prices in the IP. In this regard, it should be noted that the large rainbow trout market is a competitive and transparent market. Thus, price undercutting in a market with such characteristics is a detrimental factor that diverts trade towards Norwegian and Faeroese dumped imports.
- (101) The prices of the dumped imports were below those of the Community industry throughout the analysis period. Moreover, they exerted a pressure, which forced the Community industry to decrease its own prices. In this regard, it should be noted that the Community industry is very fragmented, and thus cannot impose its prices on the market.
- (102) The declining prices and loss in market share experienced by the Community industry coincided with a number of other negative developments in its overall economic situation. The Community industry went from recording levels of profitability considered appropriate for an industry of this nature to a barely breakeven situation in the IP. It also recorded a sharp deterioration in its cash flow and return on investment during the IP. These factors, coupled with the fact that the Community industry was not able to take advantage of the growing Community market, due to the depressed prices, had the effect that in spite of rationalisations and investments, it suffered material injury during the period. The expansion of the dumped imports market share and the drop in the prices coincided with the sharp change in the conditions for the Community industry.

(c) *Effects of other factors*

Performance of other Community producers

- (103) As regards the production and sales volumes of the other Community producers, they have decreased slightly in terms of volume (2 %) between 1999 and the IP and they have decreased steeply in terms of market share (13,4 %). No indication was found that the prices of other Community producers were lower than those of the cooperating Community industry. Therefore, it is provisionally concluded that the products produced and sold by the other Community producers did not contribute to the injury suffered by the Community industry.

Imports from other third countries

- (104) According to information derived from Eurostat, the volume of imports originating in other third countries (e.g. Turkey, Chile) increased by 22 % over the analysis period, i.e. in line with consumption, to reach a level of approximately 1 700 tonnes (whole fish equivalent) in the IP. This corresponds to a market share of 3,3 %. Over the same period, the prices of these imports decreased by 9 % (from 2,35 EUR/kg in 1999 to 2,15 EUR/kg in the IP). However, it is noted that the average price of these imports was above that of the imports originating in Norway and the Faeroe Islands during the IP. It is therefore provisionally concluded that imports from third countries have not materially contributed to the injury suffered by the Community industry.
- (105) No other factors, which could at the same time have injured the Community industry, were raised by interested parties or identified during the course of the investigation.

(d) *Conclusion on causation*

- (106) The negative situation of the Community industry coincided with a sharp increase in imports from Norway and the Faeroe Islands and a substantial price undercutting by these imports.

- (107) As to the imports from other third countries, in view of their market share during the IP which was very low in relation to that of the imports concerned, and also in view of the average prices which appeared to be higher than those of the imports concerned during the IP, it is provisionally concluded that the effect of these other factors was not such as to break the causal link between the dumped imports and the injury suffered by the Community industry.
- (108) It is therefore provisionally concluded that the dumped imports originating in Norway and the Faeroe Islands have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

H. COMMUNITY INTEREST

- (109) In order to assess the Community interest, the Commission carried out an investigation into the likely effects of the imposition/non-imposition of anti-dumping measures on the economic operators concerned. In addition to the Community producers and importers, the Commission requested information from all interested parties known to be concerned such as users and consumers associations.

(a) *Interest of the Community industry*

- (110) The Community industry is mainly composed of small and medium-sized companies. The production process depends greatly on the biological cycle of large rainbow trout and substantial economies of scale cannot be achieved as production levels are monitored by the authorities through environmental licences. Even so, the Community industry still has the possibility to increase production somewhat within the limitations of its existing licences, as its capacity utilisation rate is currently around 77 %.
- (111) The imposition of measures is expected to prevent a further distortion of the market and a deterioration of prices. This would enable the Community industry to recover lost market share, while still selling at cost covering prices, which again will lead to lower unit costs due to higher productivity. In conclusion, it is expected that mainly the decrease in unit costs (due to a higher capacity utilisation and subsequently the higher productivity) and to a lesser extent a slight price increase, will allow the Community industry to improve its financial situation, without distorting the consumers market.
- (112) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the financial situation of the Community industry will continue. The Community industry is particularly marked by a loss of revenue due to depressed prices, market share and insufficient profitability. Indeed, in view of the decreasing revenue and the material injury suffered during the IP, it is most likely that the financial situation of the Community industry will deteriorate further in the absence of any measures. This would ultimately lead to cuts in production and more closures of production sites, which would therefore threaten employment and investments in the Community.
- (113) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the injurious dumping.

(b) *Interest of unrelated importers/traders in the Community*

- (114) In view of the apparent large number of importers of the product concerned, and in order to enable the Commission to decide whether sampling was necessary and, if so, to select a sample, importers or representatives acting on their behalf were requested in the notice of initiation to make themselves known and to provide basic information concerning their sales volumes and prices for the product concerned during the IP. As the number of companies providing this information was limited, the Commission decided not to apply sampling and questionnaires were sent to all importers which made themselves known. Two companies replied to the questionnaire. Both companies imported large rainbow trout from Norway.

- (115) Both claimed that the product concerned imported from Norway is of a better quality than that produced in the Community. They argued that the imposition of anti-dumping measures would lead to a reduction in the availability of good quality large rainbow trout from Norway, especially during the summer and early autumn when Finnish producers, because of the production cycle for large rainbow trout, are not able to fully supply the market. Regarding the first argument, it has been established that both the product concerned and the product produced by the Community industry producers are like products. The quality of the product is determined by its general appearance including its flesh and skin colour. These factors were taken into account in the comparison of the different product types imported and those types produced and sold by the Community industry. It should also be noted that the majority of the sales of the Community industry were of superior quality fish. As far as product availability is concerned, it is firstly noted that the Finnish market is not considered to be a closed market and that there are supplies from Finnish producers on a year round basis, even if there are seasonal variations. Secondly, the imposition of anti-dumping measures would not affect at all the alleged advantage of the Norwegian imports during the periods of the year when the supply in the Community is apparently lacking. These imports will therefore continue to satisfy the supply in the Community market. The arguments were therefore provisionally rejected.
- (116) Therefore, it can be provisionally concluded that the likely effects of the imposition of anti-dumping measures on unrelated importers/traders would not be significant.

(c) Interest of users and consumers

- (117) No user or consumer associations made themselves known within the time limit set in the notice of initiation. The Commission services therefore also contacted the associations of users and consumers known from the recent salmon investigations and invited them to submit information regarding the ongoing proceeding. However, no replies were received either from individual users, their representative associations or from consumer associations. Given the non-cooperation of these parties, it can be provisionally concluded that the imposition of any anti-dumping measure would not unduly affect their situation.

(d) Competition and trade distorting effects

- (118) With respect to the effects of possible measures on competition in the Community, it appears likely that the exporting producers concerned will be able to continue to sell large rainbow trout, albeit at non-injurious prices, as they have a strong market position. This taken with the large number of producers in the Community and imports from other third countries will ensure that users and retailers will continue to have a wide choice of different suppliers of the product concerned at reasonable prices.
- (119) Thus, there will be an important number of actors in the market, which will be able to satisfy the demand. On the basis of the above, it is therefore provisionally concluded that competition will most likely remain strong after the imposition of anti-dumping measures.

(e) Conclusion on Community interest

- (120) In the light of the above, it is provisionally concluded that no compelling reasons exist against imposing measures in the present case and that the application of measures would be in the interest of the Community.

I. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (121) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be taken in order to prevent further injury to the Community industry by the dumped imports.

- (122) The provisional measures should be imposed at a level sufficient to eliminate the injurious effect caused to the Community industry by the dumped imports, without exceeding the dumping amounts found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.
- (123) It is considered that in the period 1999 to 2001 there was a normal competitive situation on the Community market where the Community industry, in the absence of injurious dumping, made a normal profit margin which, on average exceeded the level of 12 %. Moreover, a profit level of 12 % is considered necessary in order to take into account the high-risk nature of this industry. Consequently, on the basis of the information available, it was preliminarily found that a profit margin of 12 % of turnover could be regarded as an appropriate level which the Community industry could be expected to obtain in the absence of injurious dumping.
- (124) The required price increase was then determined on the basis of a comparison, at the same level of trade, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price was obtained by adjusting the sales price of each sampled Community industry producer to a break-even point and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.
- (125) The injury elimination margins found were as follows:

Country	Company	Injury margin
Norway	Countrywide margin	21,4 %
Faeroe Islands	P/F PRG Export (for goods produced by P/F Luna)	49,1 %
	P/F Vestsalmon (for goods produced by P/F Vestlax)	16,8 %
	All other cooperating companies	33,4 %

With regard to the residual injury elimination margin for any non-cooperating exporting producers in the Faeroe Islands, it is noted that the level of cooperation from parties in the Faeroe Islands was considered to be good. Therefore, it is provisionally concluded that the residual injury elimination margin for all other companies should be based on the highest injury elimination margin found for the sampled cooperating exporting producers, i.e. 49,1 %.

2. Provisional measures

- (126) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports of large rainbow trout originating in Norway and the Faeroe Islands at the level of the injury elimination margins found as these were, in all cases, lower than the dumping margins found.
- (127) The individual company anti-dumping duty rates specified in this Regulation in respect of companies located in the Faeroe Islands were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the Faeroe Islands and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

- (128) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

J. FINAL PROVISION

- (129) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

A provisional anti-dumping duty is hereby imposed on imports of large rainbow trout (*Oncorhynchus mykiss*) whether fresh, chilled or frozen, whether in the form of whole fish (with heads on and gills, gutted, weighing more than 1,2 kg or with heads off, gilled and gutted, weighing more than 1 kg) or in the form of fillets (weighing over 0,4 kg) originating in Norway and the Faeroe Islands, currently classifiable within CN codes 0302 11 20, 0303 21 20, 0304 10 15 and 0304 20 15.

The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products produced by all companies in Norway shall be 21,4 %. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products produced by the companies listed below in the Faeroe Islands shall be as follows:

Company	Provisional duty	TARIC additional code
P/F Luna, FO-510 Gøta	49,1 %	A474
P/F Vestlax, PO Box 82, FO-410 Kollafjørður	16,8 %	A475
P/F Alistødin Á Bakka, Bakkavegur FO-625 Glyvrrar	33,4 %	A476
P/F Atlantic Seafarm, FO-900 Vágur,	33,4 %	A477
East Salmon, Box 177, FO-700 Klaksvík	33,4 %	A478
Funningslaks PF, Miðrás 3, FO-100 Tórshavn	33,4 %	A479
Gulin PF, Miðrás 3, FO-100 Tórshavn	33,4 %	A480
P/F Hellisvað, FO-727 Árnafjørður	33,4 %	A481
Kalbaks Laksaaling PF, Í Brekkum 1, FO-530 Fuglafjørður	33,4 %	A482
Navir, P/F, Argjabodagøta 7, FO-160 Argir	33,4 %	A483
All other companies	49,1 %	A999

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

The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within 20 days of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 17 September 2003.

For the Commission
Pascal LAMY
Member of the Commission
