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

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

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[(1)], and in particular Article 12 thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 15 February 2014, the European Commission (the Commission) announced the initiation of an anti-subsidy proceeding with regard to imports into the Union of certain rainbow trout originating in Turkey (the country concerned) on the basis of Article 10 of the Regulation (EC) No 597/2009 (the basic Regulation) by a notice published in the *Official Journal of the European Union*[(2)] (the Notice of Initiation). A corrigendum to the Notice of Initiation was published in the Official Journal on 4 September 2014[(3)].

(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. The complaint contained *prima facie* evidence of subsidisation of certain rainbow trout and of material injury caused by it, which the Commission considered sufficient to justify the initiation of an investigation.

(3) In accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of Turkey (GOT) prior to the initiation of the proceeding that it had received a properly documented complaint alleging that subsidised imports of certain rainbow trout originating in Turkey were causing material injury to the Union industry. The Commission invited the GOT for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1195/2014. (See end of Document for details)*

(4) The GOT accepted consultations and they were subsequently held. During the consultations, no mutually agreed solution could be found. Following the consultations, a submission was received from the GOT. The Commission took due note of the comments.

2. Parallel anti-dumping proceeding

(5) On 15 February 2014, the Commission also announced the initiation of an anti-dumping investigation concerning imports into the Union of the same product originating in Turkey by a notice published in the *Official Journal of the European Union*[(4)].

(6) The injury analyses performed in the present anti-subsidy and the parallel anti-dumping investigations are based on the same definition of the Union industry, the same representative Union producers and the same investigation period and led to identical conclusions unless otherwise specified. This was considered appropriate in order to streamline the injury analysis and to reach consistent findings. For this reason, comments on injury aspects put forward in any one of these proceedings were taken into account in both investigations.

3. Interested parties

(7) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other known Union producers, users and importers, exporting producers in Turkey and the Turkish authorities as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(8) All interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No comments were made.

4. Sampling

(9) The Commission announced in the Notice of Initiation that it might sample the interested parties, in particular the Union producers, the unrelated importers and the exporting producers in Turkey in accordance with Article 27 of the basic Regulation.

4.1. *Sampling of Union producers*

(10) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 27(1) of the basic Regulation and in view of the Union industry being highly fragmented with more than 700 small and medium enterprises producers (SMEs), the Commission selected the sample on the basis of the largest representative volume of production which could reasonably be investigated within the time available, considering also the geographical spread and sufficient coverage of different steps and types of production (production of live, fresh, frozen, fillets and smoked trout). This sample consisted of nine Union

producers. The sampled Union producers accounted for more than 12 % of the total Union production, based on complaint data. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is representative of the Union industry.

4.2. *Sampling of importers*

(11) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(12) Three unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

4.3. *Sampling of exporting producers*

(13) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Turkey to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Republic of Turkey to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(14) 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 of the certain rainbow trout during 2013 accounts for the totality of exports from Turkey to the Union.

(15) In accordance with 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 which could reasonably be investigated within the time available, considering also the geographical spread. The sampled group of companies account for almost 64 % of the declared export sales to the Union, and are located in two different regions.

(16) In accordance with Article 27(2) of the basic Regulation, all known exporting producers concerned, and the Turkish authorities were consulted on the selection of the sample. One company contested the selection of sampled companies and claimed that it should be included in the sample. It argued that it exclusively produces, processes and sells trout (that is to say it does not have any other activities), and has been doing so since 1971, making it the first producer of the product concerned in Turkey. It further claimed that it has substantial sales on the domestic market and finally, that it was the biggest producer in the Marmara region.

(17) The Commission recalls that the selection of sampled companies was made on the basis of the largest quantities of volumes in accordance with Article 27(1) of the basic Regulation taking into account the number of producers that could reasonably be investigated within the time available. As the proposed sample represents 64 % of the

exports of the product concerned to the Union, such a sample is representative of the situation of the Turkish industry. Furthermore, the sampled companies are situated in two different regions (out of three represented) which is considered sufficient for the purpose of the investigation. Therefore, the Commission maintains that the sampled companies correspond to the largest representative volumes of imports which could be reasonably investigated within the time available.

5. **Individual examination**

(18) Eleven companies or groups of companies requested individual examination under Article 27(3) of the basic Regulation. At this stage of the investigation, the Commission has not taken any decision about the request for individual examination. The Commission will decide whether to grant individual examination at the definitive stage of the investigation.

6. **Replies to the questionnaire**

(19) The Commission sent questionnaires to the GOT, to all sampled companies in the Union, three importers and to the sampled groups of exporting producers in Turkey.

(20) Three companies within a group of Turkish exporting producers requested an exemption from the obligation to provide a questionnaire reply. One of these companies argued that it was mainly active in production of seabass and seabream and it only produces a small volume of product concerned. One company is running a small supermarket and is only marginally involved with the product concerned, and one company was a related importer who did not have important sales of the product concerned in the investigation period. The Commission decided to exempt the company running the small supermarket from the obligation to fill in the questionnaire response. However, it maintained its position that the company mainly active in production of seabass and seabream had to fill in the questionnaire as well as the related importer since the volumes produced (in case of the exporting producer) or traded (in case of the related importer) were still important.

(21) Questionnaire replies were received from the GOT and all of the other sampled groups of exporting producers in Turkey and the companies asking for individual examination.

7. **Verification visits**

(22) The Commission sought and verified all the information deemed necessary for a provisional determination of subsidy, resulting injury and Union interest. Verification visits pursuant to Article 26 of the basic Regulation were carried out at the premises of the following companies:

(a) *Union producers:*

— Aqualande SAS, Roquefort, France

— Danaqua, Grindsted, Denmark

— Danforel A/S, Grindsted, Denmark

— Kongeåns Dambrug ApS, Brørup, Denmark
— LaFo Forellen GmbH, Oberndorf, Germany
— Hofer Forellen GmbH, Oberndorf, Germany
— Zakład Hodowli Pstrąga w Zaporze — Mylof, Rytel, Poland
— Piszolla, S.L., Guadalajara, Spain
— Az.Agr. Trot. Erede Rossi Silvio Di Rossi Niccola, Sefro, Italy
— Grupo Tres Mares, S.A., La Coruña, Spain

(b) *Exporting producers in Turkey*

— Group of related companies 'GMS', Bodrum, Turkey:
  — Akyol Su Ürn.Ürt.Taş.Kom.İth.İhr.Paz.San. ve Tic. Ltd Şti
  — Asya Söğüt Su Ürünleri Üretim Dahili Paz.ve İhr. LtdŞti
  — GMS Su Ürünleri Üretim İth. Paz. San. ve Tic. Ltd Şti
  — Gűműsdoga Su Űrűnleri Űretim Ihracat Ithalat AŞ
  — Gümüş-Yel Su Ürünleri üretim İhracat ve İthalat Ltd Şti
  — Hakan Komandit Şirketi
  — İskele Su Ürünleri Hayv.Gida Tur.Inş.Paz.Ihr.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
— Group of related companies 'Kilic', Bodrum, Turkey:
  — Bafa Su Ürünleri Yavru Űretim Merkezi San Tic A.S,
  — Kilic Deniz Űrűnleri Űretimi Ihracat Ithalat ve Ticaret AŞ,
  — KLC Gida Ürünleri Ith.Ihr.Ve Tic.A.Ş,
  — Kilic Erşen Su Űrűnleri Ithalat Ihr. San ve Tic, Ltd Şti,
— Group of related companies 'Özpekler', Denizli, Turkey:
  — Özpekler Ins.Taah.Day. Tük. Mall.Su Ürün.San.ve Tic.,
  — Özpekler Ithalat Ihracat Su Ürünleri San.Ve Tic. Ltd Sti,
  — Ternaeben Gida ve Su Ürünleri Ith. Ihr. San. ve Tic. Ltd Şti ('Ternaeben'), Kayseri, Turkey

(c) *Government of Turkey:*

— Ministry of Economy, Ankara, Turkey
— Ministry of Food, Agriculture and Livestock, Ankara, Turkey

(d) *Importers in the Union related to Turkish exporters:*

— Spador S.R.L. ('Spador')
— Ternäben Service GmbH ('TSG'),
— Ternäben Vertrieb GmbH ('TVG')

(e) *Union producer (processor) related to exporting producer in Turkey (Ternäben)*