COUNCIL REGULATION (EC) No 321/2003

of 18 February 2003

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [2], and in particular Article 13 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) On 31 August 1996, by means of two separate notices published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding [3] and an anti-subsidy proceeding [4] in respect of imports of farmed Atlantic salmon (the product concerned) originating in Norway.

(2) These proceedings resulted in anti-dumping and countervailing duties being imposed in September 1997 by Council Regulations (EC) No 1890/97 [5] and No 1891/97 [6] in order to eliminate the injurious effects of dumping and subsidisation.

(3) In parallel to this, by Decision 97/634/EC of 26 September 1997 accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway [7], the Commission accepted undertakings from 190 Norwegian exporters and imports of the product concerned exported to the Community by these companies were exempted from the said anti-dumping and countervailing duties.

(4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and No 1891/97 were replaced by Regulation (EC) No 772/1999 [8].

B. NEW EXPORTERS, CHANGES OF NAME AND VOLUNTARY WITHDRAWAL OF AN UNDERTAKING

(5) Three Norwegian companies, Vestmar AS, Gaia Seafood AS and Polar Quality AS claimed that they are 'new exporters' within the meaning of Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11(4) of Regulation (EC) No 384/96 and Article 20 of Regulation (EC) No 2026/97 and have offered undertakings identical to those previously accepted from other Norwegian companies. Having investigated the matter, it was established that the applicants fulfilled the conditions for being considered as new exporters and, accordingly, the undertakings offered have been accepted by the Commission. The exemption to the anti-dumping and countervailing duties should therefore be extended to these companies.

(6) One Norwegian exporter, Arctic Group International, with an undertaking advised the Commission that the group of companies to which it belonged had been reorganised and that another company within the group, Arctic Group Maritime AS, was now responsible for exports to the Community. The company therefore requested that its name be changed on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC and on the list of companies which benefit from an exemption to the anti-dumping and countervailing duties in the Annex to Regulation (EC) No 772/1999.

(7) Another company, Fjord Seafood Midt-Norge AS, with an undertaking advised the Commission that its name had changed to Fjord Seafood Norway AS and, in, addition, that a company within the same group, Fjord Seafood Måløy, also with an undertaking, had merged with it. It was therefore requested that the new name of the company appear on the above mentioned lists and, as a separate undertaking was no longer appropriate, that the name of the related company, Fjord Seafood Måløy, be deleted.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 1973/2002 (OJ L 305, 7.11.2002, p. 4).
[3] OJ C 253, 31.8.1996, p. 18.
[4] OJ C 253, 31.8.1996, p. 20.
[5] OJ L 267, 30.9.1997, p. 1. Regulation as last amended by Regulation (EC) No 297/1999 (OJ L 37, 11.2.1999, p. 2).
[6] OJ L 267, 30.9.1997, p. 19. Regulation as last amended by Regulation (EC) No 297/1999.
[7] OJ L 267, 30.9.1997, p. 81. Decision as last amended by Decision 2002/743/EC (OJ L 240, 7.9.2002, p. 51).
[8] OJ L 101, 16.4.1999, p. 1. Regulation as last amended by Regulation (EC) No 1593/2002 (OJ L 240, 7.9.2002, p. 22).

(8) It is considered after verification that the requests are acceptable since the modifications do not entail any substantive changes which would affect the assessment of dumping or subsidisation, nor do they affect any of the considerations on which the acceptance of the undertakings was based. Consequently, the names of Arctic Group International and Fjord Seafood Midt-Norge AS should be changed to Arctic Group Maritime AS and Fjord Seafood Norway AS respectively on the list of companies from which undertakings are accepted in the Annex to Regulation (EC) No 772/1999 and the name of Fjord Seafood Måløy AS deleted from that list.

(9) Another Norwegian company, Timar Seafood AS, advised the Commission that it wished to withdraw its undertaking. Accordingly, the name of this company should be deleted from the list of companies from which undertakings are accepted in the Annex to Regulation (EC) No 772/1999.

C. **AMENDMENT OF THE ANNEX TO REGULATION (EC) No 772/1999**

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 772/1999 shall be replaced by the text in the Annex to this Regulation.

Article 2

1. (a) Definitive countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (TARIC codes: 0302 12 00 21, 0302 12 00 22, 0302 12 00 23 and 0302 12 00 29), ex 0303 22 00 (TARIC codes: 0303 22 00 21, 0303 22 00 22, 0303 22 00 23 and 0303 22 00 29), ex 0304 10 13 (TARIC codes: 0304 10 13 21 and 0304 10 13 29) and ex 0304 20 13 (TARIC codes: 0304 20 13 21 and 0304 20 13 29) originating in Norway and exported by Fjord Seafood Måløy AS and Timar Seafood AS.

   (b) These duties shall not apply to wild Atlantic salmon (TARIC codes: 0302 12 00 11, 0304 10 13 11, 0303 22 00 11 and 0304 20 13 11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.

2. (a) The rate of the countervailing duty applicable to the net free-at-Community frontier price, before duty, shall be 3,8 %.

   (b) The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be EUR 0,32 per kilogram net product weight. However, if the free-at-Community-frontier price, including the countervailing and anti-dumping duties, is less than the relevant Minimum Price set out in paragraph 3, the anti-dumping duty to be collected shall be the difference between that Minimum Price and the free-at-Community-frontier price, including the countervailing duty.

3. For the purpose of paragraph 2, the following minimum prices shall apply per kilogram net product weight:

Presentation of salmon	Minimum price EUR/kg net product weight	TARIC code
Whole fish, fresh or chilled	2,92	0302 12 00 21
Gutted, head-on, fresh or chilled	3,25	0302 12 00 22
Gutted, headless, fresh or chilled	3,65	0302 12 00 23
Other, fresh or chilled, including 'steaks'	3,65	0302 12 00 29
Whole fish, frozen	2,92	0303 22 00 21
Gutted, head-on, frozen	3,25	0303 22 00 22

Presentation of salmon	Minimum price EUR/kg net product weight	TARIC code
Gutted, headless, frozen	3,65	0303 22 00 23
Other, frozen, including 'steaks'	3,65	0303 22 00 29
Whole fish fillets, more than 300 gr each, fresh or chilled	5,19	0304 10 13 21
Other fish fillets or fillet portions, 300 gr or less each, fresh or chilled	6,55	0304 10 13 29
Whole fish fillets, more than 300 gr each, frozen	5,19	0304 20 13 21
Other fish fillets or fillet portions, weighing 300 gr or less each, frozen	6,55	0304 20 13 29

Article 3

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

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

Done at Brussels, 18 February 2003.

For the Council

The President

N. CHRISTODOULAKIS