COMMISSION REGULATION (EC) No 117/2004

of 23 January 2004

amending Regulation (EC) No 1628/2003 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 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 1972/2002 [2] (the basic Regulation), and in particular Articles 7 and 8 thereof,

After consulting the Advisory Committee,

Whereas:

UNDERTAKING

(1) The Commission, by Regulation (EC) No 1628/2003 [3] (the provisional Regulation) imposed a provisional anti-dumping duty on imports of large rainbow trout originating in Norway and the Faeroe Islands.

(2) Subsequent to the adoption of provisional anti-dumping measures, two groups of cooperating companies in the Faeroe Islands, i.e. (i) P/F PRG Export together with its related producer P/F Luna and (ii) P/F Vestsalmon together with its related producer P/F Vestlax (hereinafter referred to as the companies), offered price undertakings in accordance with Article 8(1) of the basic Regulation. In these undertakings, the companies have offered to sell the product concerned at or above price levels that eliminate the injurious effects of dumping.

(3) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, as well as the resales of the product concerned made by related parties in the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of these companies is such that the Commission considers the risk of circumventing the agreed undertakings is limited.

(4) In view of this, the undertakings are acceptable.

(5) In order to enable the Commission to monitor effectively the companies compliance with the undertakings, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex attached to this Regulation. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

(6) In the event of a breach or withdrawal of the undertaking, or a suspected breach, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following Article is added to Regulation (EC) No 1628/2003:

'*Article 2*

1. The undertakings offered by the companies named below in connection with the present anti-dumping proceeding are hereby accepted. Imports under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by these companies to a company in the Community acting as an importer shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
Faeroe Islands	P/F PRG Export together with its related producer P/F Luna, FO-510 Gøta	A474
Faeroe Islands	P/F Vestsalmon together with its related producer P/F Vestlax, PO Box 82, FO-410 Kollafjørður	A475

2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:

(a) a commercial invoice containing at least the elements listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.'

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 232, 18.9.2003, p. 29.