COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.7.2008
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Proposal for a

COUNCIL REGULA TION

repealing the anti-dumping duties imposed by Council Regulation (EC) No 437/2004 on imports of large rainbow trout originating in Norway

(presented by the Commission)

EXPLANATORY MEMORANDUM

Context of the proposal	
	Grounds for and objectives of the proposal This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ('the basic Regulation') in the proceedings concerning imports of large rainbow trout originating in Norway.
	General context This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.
	Existing provisions in the area of the proposal Council Regulation (EC) No 437/2004 of 8 March 20004 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of large rainbow trout originating in Norway.
	Consistency with the other policies and objectives of the Union Not applicable.
Consultation of interested parties and impact assessment	
	Consultation of interested parties
	Interested parties concerned by the proceeding have already had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.
	Collection and use of expertise
	There was no need for external expertise.
	Impact assessment This proposal is the result of the implementation of the basic Regulation. The basic Regulation does not foresee a general impact assessment but contains an exhaustive list of conditions that have to be assessed.
Legal elements of the proposal	
	Summary of the proposed action By Council Regulation (EC) No 437/2004 of 8 March 2004 the Council imposed a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of large rainbow trout originating in Norway. On 15 May 2007, the Commission opened an interim review of the above measures

	pursuant to Article 11(3) of the basic Regulation. The investigation concluded that dumping did not take place during the review investigation period and there is no likelihood of recurrence of dumping should measures be allowed to lapse. It is therefore proposed that the Council adopt the attached proposal for a Regulation.
	Legal basis Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005.
	Subsidiarity principle The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.
	Proportionality principle The proposal complies with the proportionality principle for the following reasons:
	The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.
	Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.
	Choice of instruments
	Proposed instruments: regulation.
	Other means would not be adequate for the following reason(s). The above-mentioned basic Regulation does not foresee alternative options.
Budgetary implication	
	The proposal has no implication for the Community budget.

Proposal for a

COUNCIL REGULATION

repealing the anti-dumping duties imposed by Council Regulation (EC) No 437/2004 on imports of large rainbow trout 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] ('the basic Regulation'), and in particular Article 9 and 11(2) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) The Council, following an anti-dumping investigation (the 'original investigation'), by Regulation (EC) No 437/2004[2] imposed a definitive anti-dumping duty on imports of large rainbow trout ('LRT' or 'the product concerned' as defined in recital (19) below) originating in Norway. The definitive duty was imposed in the form of a country-wide ad valorem duty at a level of 19,9% ('the current measures').

2. Request for review and initiation

(2) On 12 March 2007, the Commission received a request for a partial interim review lodged by several producers and exporters of LRT; i.e. Sjøtroll Havbruk AS, Lerøy Fossen AS, Firda Sjøfarmer AS, Coast Seafood AS, Hallvard Leroy AS and Sirena Norway AS ('the applicants') pursuant to Article 11(3) of the basic Regulation.

(3) The applicants have provided *prima facie* evidence that the basis on which the measures were established has changed and that these changes are of a lasting nature. The applicants alleged and provided *prima facie* evidence showing that their export prices to the Community market have increased significantly and substantially more than the domestic prices and cost of production in Norway. The applicants alleged furthermore that this would lead to a reduction of dumping significantly below the level of the current measures and therefore the continued imposition of measures at the existing levels is no longer necessary to offset dumping. This evidence was considered sufficient to justify the opening of a proceeding.

(4) Accordingly, after having consulted the Advisory Committee, the Commission on 15 May 2007 initiated, by the publication of a notice in the *Official Journal of the*

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

[2] OJ L 72, 11.3.2004, p. 23.

European Union[3], a partial interim review of anti-dumping measures in force on imports of LRT originating in Norway in accordance with Article 11(3) of the basic Regulation ('the notice of initiation').

(5) This review was limited in scope to the aspects of dumping, with the objective of assessing the need for the continuation, removal or amendment of the existing measures.

3. Parties concerned by the proceeding

(6) The Commission officially advised all known exporters/producers in Norway, traders, importers and associations known to be concerned, and representatives of the Kingdom of Norway, 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. Sampling

(7) Section 5.(a) of the notice of initiation indicated that the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation. In response to the request pursuant to Section 5.(a)(i) of the notice of initiation, 298 companies, representing more than 70% of the production licences in use during the IP, provided the information requested within the specified deadline. Of these, 123 were exporting LRT and /or producers of LRT. Exports were made either directly or indirectly via related and independent traders.

(8) In view of the large number of companies involved, it was decided to make use of the provisions for sampling and, for this purpose, a sample of producing companies, with the largest export volumes to the Community (exporting producers) was chosen, in consultation with the representatives of the Norwegian industry.

(9) In accordance with Article 17 of the basic Regulation, the selected sample covered the largest possible representative volume of exports that could reasonably be investigated within the time available.

(10) Requests for the determination of an individual dumping margin were submitted by the companies not selected in the sample. However, in view of the large number of requests and the large number of companies selected in the sample, it was considered that such individual examinations would be unduly burdensome within the meaning of Article 17(3) of the basic Regulation and would have prevented completion of the investigation in good time. The claims for determination of individual margins are therefore rejected.

(11) One of the exporting producers selected in the sample, declared that it was unable to complete the reply to the anti-dumping questionnaire. This exporting producer was therefore excluded from the sample and the findings with regard to it were based on the facts available in accordance with Article 18 of the basic Regulation.

(12) The investigation has also revealed that two other exporting producers included in the sample did not export the product concerned produced by them or their related companies to the Community during the review investigation period ('RIP'). Since no export price was therefore available, no dumping margin could be established for these exporting producers.

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[3] OJ C 109, 15.5.2007, p. 23.

(13) The three exporting producers included in the final sample represented around 33% of Norwegian exports of LRT to the Community and 31% of the production volume in Norway during the RIP which was still considered representative.

(14) As far as importers are concerned, and in order to enable the Commission to decide whether sampling is necessary, section 5.(a)(ii) of the notice of initiation requested importers in the Community to submit the information specified in this section. Only three importers in the Community replied to the sampling form. Given this low number of co-operating importers no sampling was necessary in this case.

(15) The Commission sought and verified all information deemed necessary for the determination of dumping. To this end the Commission invited all parties known to be concerned and all other parties which made themselves known within the deadlines set out in the notice of initiation to co-operate in the present proceeding and to fill in the relevant questionnaires.

(16) The Commission carried out verification visits at the premises of the following companies:

(a) Producers in Norway

– Marine Harvest AS, Bergen, Norway

– Hallvard Leroy AS, Bergen, Norway

– Sjotroll Havbruk AS, Bekkjarvik, Norway

– Svanoy Havbruk AS, Svanoybukt, Norway

– Hyen Laks AS, Hyen, Norway

(b) Related traders in Norway

– Coast Seafood AS, Maloy, Norway

– Skaar Norway AS, Floro, Norway

(17) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

5. Investigation period

(18) The investigation of dumping covered the period from 1 April 2006 to 31 March 2007 ('review investigation period' or 'RIP').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(19) The product under review is the same as in the original investigation, i.e. large rainbow trout (Oncorhynchus Mykiss) whether fresh, chilled or frozen, whether in the form of whole fish (with heads and gills on, gutted, weighing more than 1,2 kg each or with heads off, gilled and gutted, weighing more than 1 kg each), or in the form of fillets (weighing over 0,4 kg each), originating in Norway ('the product concerned').

(20) The product concerned is currently classifiable within CN codes 0302 11 20, 0303 21 20, 0304 19 15 and 0304 29 15 corresponding to different presentations of the product (fresh or chilled fish, fresh or chilled fillets, frozen fish and frozen fillets).

2. Like product

(21) As established in the original investigation and confirmed by this investigation, the product concerned and the product produced and sold on the domestic market in Norway were found to have the same basic physical characteristics and had the same use. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation. Since the present review was limited to dumping, no conclusions were reached with regard to the product produced and sold by the Community industry in the Community market.

C. DUMPING

1. General

(22) The Norwegian producers of LRT were making sales of the product concerned to the Community either directly, or via related and unrelated traders. Only identifiable sales destined for the Community market made directly or via related companies of the exporting procurers included in the sample based in Norway, were used to calculate the export price.

2. Normal value

(23) For the determination of normal value the Commission first established, for each of the exporting producers included in the sample, whether its total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(24) In order to determine whether domestic sales were representative, sales to unrelated traders located in Norway during the RIP were disregarded since the final destination of these sales could not be established with certainty. Indeed, the investigation indicated that these sales were overwhelmingly destined for export to third country markets and therefore not sold for domestic consumption.

(25) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales, which were identical or directly comparable with the types sold for export to the Community.

(26) Domestic sales of a particular product type were considered as sufficiently representative when the volume of that product type sold on the domestic market during the review investigation period represented 5% or more of the total volume of the comparable product type sold for export to the Community.

(27) An examination was also made as to whether the domestic sales of each type of the product concerned sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers of the type in question. This was done by establishing the proportion of profitable domestic sales to independent customers of each exported product type, on the domestic market during the review investigation period, as follows:

(28) Where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, 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 cost of production, normal value was based on the actual domestic prices. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the RIP, irrespective of whether these sales were profitable or not.

(29) Where the volume of profitable sales of a product type represented 80% or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as weighted average of profitable sales of that type only, provided that these sales represented 10% or more of the total sales volume of that type.

(30) Where the volume of the profitable sales of any product type represented less than 10% of the total sales volume of that type, it was considered that the domestic price of this particular type does not provide an appropriate basis for the establishment of the normal value.

(31) 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.

(32) In this regard, it was first examined whether normal value could be established on the basis of domestic prices of other producers in Norway in accordance with Article 2(1) of the basic Regulation. Since in this case, the corporate structures of the groups selected in the sample were highly complex and differed significantly from each other, which very likely had an impact on the exporting producer's sales price on the domestic market, it was considered that in this case the use of the sales prices of other producers was not appropriate because this would not give more reliable results than using each exporting producer's own data. Therefore, normal value was constructed in accordance with Article 2(3) of the basic Regulation as follows:

(33) Normal value was constructed by adding to the exporting producer's manufacturing costs of the exported types, adjusted where necessary, a reasonable amount for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit.

(34) In all cases SG&A and profit were established pursuant to the methods set out in Article 2(6) of the basic Regulation. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.

(35) One of the three exporting producers concerned for which the normal value had to be constructed did not have representative domestic sales. Therefore, the method as described in Article 2(6) chapeau could not be used.

(36) Since the other exporting producers had representative domestic sales in the ordinary course of trade, SG&A and profit for this exporting producer were determined in accordance with Article 2(6)(a) of the basic Regulation, i.e. on the basis of the weighted average of the actual amounts determined for other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin.

3. Export price

(37) In all cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

(38) Where export sales were made via related importers, the export price was constructed, pursuant to Article 2(9) of the basic Regulation, on the basis of the price at which the imported products were first resold to an independent buyer, duly adjusted for all costs incurred between importation and resale, as well as a reasonable margin for SG&A and profit. In this regard, the related importers' actual SG&A during the RIP were used. As far as profit is concerned, it was determined on the basis of information

available, and in the absence of any other more reliable information, that 2% profit was reasonable for an importer in this business sector.

(39) As mentioned above in recital (24), in cases where sales were made via unrelated traders, it was not possible to determine with certainty the final destination of the product exported. Therefore, it could not be established whether a certain sale was made to a customer in the Community or to another third country, and it was therefore decided to disregard sales to unrelated traders.

4. Comparison

(40) The comparison between normal value and export prices was made on an ex-works basis.

(41) 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 prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. On this basis allowances for differences in discounts, commissions, transport, insurance, handling, loading and ancillary costs, packing, bank charges credit and import duties were made.

5. Dumping margins

5.1. Sampled companies

(42) For the exporting producers which were included in the sample, an individual dumping margin was calculated. For these companies, the weighted average normal value of each type of the product concerned exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned, as provided for under Article 2(11) of the basic Regulation.

(43) On the basis of the above, the dumping margins of the sampled companies expressed as a percentage of the CIF net free-at-Community-frontier price, duty unpaid are:

Marine Harvest AS	**-12,1%**
Hallvard Leroy AS	**-3,3%**
Sjotroll Havbruk AS	**0,6%**

5.2. Countrywide dumping margin

(44) Given the dumping margins determined for all the companies in the sample were *de minimis* and the cooperation in this investigation was very high, the countrywide dumping margin was also considered to be *de minimis*.

D. LASTING NATURE OF CHANGED CIRCUMSTANCES

1. General

(45) It was further examined, in accordance with Article 11(3) of the basic Regulation, whether the circumstances during the RIP; i.e. the dumping margins as indicated above, were of a lasting nature. In this regard, the following aspects were examined in particular: (i) the likely development of the normal value, (ii) the evolution of the production volume in Norway and (iii) the development of the consumption of LRT in

the Community market, (iv) the evolution of export prices and volumes to third country markets as well as (v) the development of export prices and volumes to the Community.

2. Evolution of the normal value

(46) To determine the likely evolution of the normal value and since the normal values established during the RIP had to be constructed on the basis of the cost of manufacturing for the exporting producer with the largest export volume to the EC in accordance with Article 2(3) and 2(6) of the basic Regulation, it was considered appropriate to examine the likely evolution of the cost of production in Norway as a surrogate for domestic prices.

(47) Within this framework, several factors having an influence on the level of the unit costs were examined, such as costs of feed, costs of smolt and the impact of the consolidation process of the Norwegian LRT industry. Firstly, the investigation revealed that the two main cost elements, the cost of feed and the cost of smolt, representing over 60% of the total cost, have decreased since the original investigation and have stabilised since the RIP. No indications were found that they would fluctuate significantly in the foreseeable future. This was confirmed by feed price lists for the first quarter of 2008 verified during the investigation. Secondly, the consolidation process in the industry had also a cost reducing effect due to economies of scale. Thus, the overall production costs have decreased by around 12% between the original investigation and the RIP. It is expected that overall costs will now stabilise at levels found during the RIP.

(48) Since the normal values established during the RIP were not always constructed, it was examined whether the domestic sales prices are likely to remain at the same level as during the RIP. No information was available with regard to domestic prices in Norway after the RIP. Although it was observed, on the basis of publicly available statistical data showing price evolutions over the past years, that domestic prices in Norway and export prices to the Community have been at similar levels and have generally followed the same trend, no meaningful conclusion could be drawn on this basis. It was therefore difficult to predict how domestic prices will indeed develop in the future but it could be inferred that they would follow a similar trend to export prices to the Community.

(49) In conclusion, given the above, it is considered that the normal value, when based on cost of production is not likely to increase significantly in the foreseeable future. On the other hand, the analysis of the normal value, when based on domestic prices, did not show a clear picture of future developments. Therefore, although no overall definitive conclusion could be drawn, there is an indication that normal value is not likely to increase significantly in the foreseeable future.

(50) Subsequent to disclosure, the Community Industry ('CI') claimed that the conclusions reached as far as feed and smolt cost are concerned would be erroneous. The CI alleged that feed price in Finland would have increased by 36% between 2001 and 2008 and that Norwegian feed price evolution would have followed the same trend. The CI also claimed that the price of feed components would have increased sharply during and after the RIP indicating an increase in the LRT production cost in Norway.

(51) As the allegations concerning feed price in Finland were not supported by any public or verifiable information, they had to be rejected. As far as the price of feed components is concerned, it is not contested that it may have increased. However,

given the substitutability between different feed components; usually some higher priced components can be substituted by lower priced components, it is expected that even if the cost of certain feed components increased, this would not have a direct linear impact on the overall feed cost (and subsequently total production cost), i.e. if any increase in overall feed costs, such increase will be at a significantly lower pace.

(52) The CI also claimed that Norwegian statistics showed that smolt unit cost had increased by 15.7% between 2003 and 2006. The same statistics however revealed that, when looking at a wider time span, the smolt cost had fluctuated over the last ten years and overall did not significantly increase. Also, it should be noted that the average smolt cost submitted by the CI did not refer to any average smolt weight, which is, however, necessary to make a meaningful evaluation of these costs. Given the above, the arguments raised by the Community industry regarding feed and smolt cost were disregarded and conclusions in recital (49) above are therefore confirmed.

3. Evolution of the production volumes in Norway

(53) Contrary to the arguments raised by the Norwegian interested parties, the investigation revealed that the production volume in Norway of the product concerned is likely to further increase in the near future. Although it seems that two major Norwegian producers of the product concerned have indeed decided to terminate their production of the product concerned, the investigation also revealed that other producers of both LRT and salmon planned to stop the salmon production and concentrate on the production of LRT.

(54) Production licences issued by the Norwegian government are covering both the product concerned by this review (LRT) and salmon and limit the production volume of these two products. Although no new licences are expected to be issued before 2009, individual producers may decide to shift within the same licence from the production of salmon to the production of LRT (and *vice versa*). However, given the relative production volume between salmon and LRT (on average around 90% within one licence is used for the salmon production while only 10% for the production of LRT) the impact of a shift from salmon to LRT would be far more significant than the other way round.

(55) The Norwegian interested parties claimed that major producers of LRT were switching increasingly to the production of salmon because of the biological differences between LRT and salmon (e.g. harvesting frequency, shorter period for releasing trout smolt), which would make the production of salmon more efficient and therefore more lucrative. Besides the fact that this argument was not supported by any evidence, it was also not taking into account that LRT has been successfully produced in Norway over many years, while the same biological differences between salmon and LRT have always existed. It was not explained which exact circumstances had changed which made a change in production strategies now more likely than in the past. It also contradicted the expectations of the Norwegian producers of LRT that consumption would increase world-wide (see recital (63) below). This argument therefore had to be rejected.

(56) Furthermore, publicly available statistics show that the number of smolts for the production of the product concerned released in 2008 increased significantly, i.e. by at least 20% in comparison to 2007. An increasing trend in production is also illustrated by other statistics (SSB – Statistics Norway)) which show a significant increase in production (+42%) and sales (+53%) of LRT juveniles over the period 2003-2006.

(57) Finally, the evidence submitted by the Norwegian interested parties in support of their arguments, i.e. that there was a decrease in the biomass level and roe production indicating lower outputs in the future, was incomplete and based on many assumptions. It was therefore not considered as conclusive.

(58) On the basis of the above, the argument of the Norwegian interested parties that production volumes in Norway will decrease overall therefore had to be rejected.

(59) The CI claimed that the production in Norway is expected to increase even further following the likely issuance of new production licences in 2009. As mentioned above in recital (54), it is not expected that any new licences will be issued before 2009. In this respect, it was considered that even if new licences were to be issued in 2009, the additional number of licences and thus additional production volume is yet unknown. Furthermore, licences cover both, the production of salmon and the production of trout and at this stage it is not possible to forecast with sufficient degree of certainty how much of each licence will be used either for salmon or for trout. Finally, it should be noted that even if new licences were to be issued, and given the relatively long production cycles, this does not translate immediately in an increase of production. This argument had therefore to be rejected.

(60) The Norwegian Seafood Federation and Association contested that production volume of trout would have increased or would increase further in future claiming that the total biomass and the number of fish in April 2008 was significantly lower when compared to April 2007. These allegations could however not be verified and had to be rejected.

(61) On the basis of the above, it is concluded that production volumes of LRT in Norway are likely to increase in the foreseeable future.

4. Evolution of the Community consumption

(62) It is noted that this investigation was limited to dumping and therefore precise data on the Community industry's production and sales of LRT on the Community market during the RIP were not available.

(63) However, several sources confirmed that world wide demand for fish products including LRT is expected to increase by 5% on a yearly basis in the future. This expanding trend is also likely to be observed in the Community even though demand in the Community is not expected to absorb the entirety of the additional LRT volumes produced in Norway.

(64) Subsequent to disclosure, the Finnish Fish Farmers' Association ('FFFA') objected to the above conclusion stating that, even if worldwide fish demand is expected to increase, there would be no additional demand for Norwegian LRT in the Community. FFFA further claimed that any additional demand would be directed to new and exotic fish species rather than trout. It should be noted that as mentioned in recital (63) above, several sources indicated an increase in consumption of LRT, which was also confirmed by other interested parties representing farmers located in several Member States but also in Norway. As FFFA did not submit any information or evidence which could substantiate its allegations, they had to be rejected.

5. Evolution of export prices and volumes to third country markets

(65) The investigation showed that Norway’s main export markets are Russia and to a lesser extent Japan, where, in total, about 57% of the Norwegian exports of LRT were destined, while only 13% of Norwegian exports were destined to the Community

market in 2007. Around 14% of total Norwegian exports of LRT were also destined to Ukraine and Taiwan in the same year.

(66) Norwegian exports on the world market are in competition with Chilean exports; Chile being the biggest global player, its production and export volumes exceed those of Norway.

(67) However, following increasing demand, Norwegian exports to Russia but also to Ukraine have increased significantly during the past years; i.e. from 8.600 tons in 2002 to 31.500 tons in total in 2007. This trend is confirmed by recent statistics, which show that significant additional volumes of Chilean and Norwegian LRT are exported to Russia.

(68) As stated in recital (65), the investigation showed that Russia has become the main export market for Norwegian producers. On top of the significant export volume increase to Russia, a switch from sales of frozen trout to fresh trout could also be observed in 2007. This switch shows the will by Norwegian producers to satisfy the needs of their Russian customers who prefer fresh products, thus indicating the strong interest of the Norwegian exporting producers in the booming Russian market.

(69) Norwegian exports to Japan show a downward trend between 2006 and 2007, i.e. they decreased by 39% from 10.877 to 6.661 tons. As in the case of Russia, Norwegian imports are in competition with Chilean imports on the Japanese market. Chile was able to increase significantly its export volumes to Japan. However, in order to draw more definitive conclusions a wider time-span should be looked at. On the basis of the data available to the Commission services, such conclusion could however not be drawn.

(70) Norwegian export prices were found to be higher to third country markets than to the Community (on average by 8.6%) during the RIP. However, statistics referring to the period after the RIP show a decreasing price trend also in Norway's traditional export markets. Average export prices from Norway to Russia have fluctuated between 2006 and 2007 from 34.70 NOK/kg to 24.22 NOK/kg, which is explained to a great extent by the switch from frozen trout to fresh trout, which was less expensive, but also by the international competition. Likewise, export prices to Japan moved from an average 33.26 NOK / kg in 2006 to 29.79 NOK per kg. Despite this decrease, export prices to the EC in 2007 were still on average 4% below the export prices to Japan & Russia. This trend is also confirmed for the beginning of 2008.

(71) In a situation of global increasing demand, given the attractiveness (higher prices) of the main expanding market (Russia) and given the steady increasing demand of other markets such as Ukraine and Far East countries where exports of LRT originating in Norway have been increasing over the past years, it is likely that supplementary volumes of LRT will be mostly channelled to and absorbed by these markets.

(72) Subsequent to disclosure the CI claimed that there are high stock levels of frozen LRT in Norway which should be taken into consideration in the analysis of the likely development of export volumes into the Community. However, the CI did not submit any evidence pointing to the existence of high stock levels. This claim was therefore considered as speculative. It is also noted that verification visits took place at the premises of the largest exporting producers of LRT in Norway and that no such high stock levels could be found. This claim was therefore rejected.

(73) The CI further claimed the existence of increasing Russian production of LRT and the likely introduction of additional customs duties by the Russian authorities on

Norwegian LRT to protect the Russian LRT production. Other LRT producers claimed that Norwegian LRT producers were dependent on the Russian market and that, should market access to Russia be limited due to the unpredictability of this market, significant volumes of LRT would be directed to the Community.

(74) Likewise, these allegations were not supported by any evidence and were considered purely speculative. Thus, there were no reasons to assume that the currently expanding Russian market would limit access to Norwegian exports. It is also noted that, as mentioned above in recital (65), other third country markets such as Ukraine and the Far East are also expanding and that exports from Norway have indeed increased to these countries. The argument that Norway depends solely on exports to Russia had therefore to be rejected.

6. Evolution of export prices and volumes to the Community

(75) Price data available on export sales to the Community have shown that between 2006 and 2007 the average export prices have moved from an average of 4.02 EUR/kg in 2006 to an average 2.87 EUR/kg in 2007. However, since the last quarter of 2007 up to the beginning of 2008, statistics show that this trend stopped and that prices have stabilised.

(76) As the above analysis shows in recital (71), in a situation of growing markets, it is unlikely that the increased production volume of LRT in Norway will be fully directed to the Community should measures be allowed to lapse. Indeed, demand is increasing world-wide and Norwegian exports are already well established in several third country markets and are expected to increase further. Despite the competition with Chilean exports, and although in relative terms Norway has lost market shares to Chile in some markets, its exports to most of these countries in absolute terms have increased and are expected to increase further given the world market situation.

(77) With regard to the Community market, as mentioned above in recital (63), consumption for LRT is likely to increase and thus the Community market will be able to absorb increased import quantities without necessarily experiencing significant price pressure. It is also noted that the competition between Norwegian and Chilean imports is not only strong in other third country markets, but also in the Community market. There are therefore no clear indications that import volumes from Norway into the Community will indeed increase significantly should measures be allowed to lapse.

(78) Given the expected increase in consumption, and the situation in the world-market as described above, it cannot be concluded that there is a risk of oversupply in the Community market with consequent significant price drops.

(79) Therefore, it was concluded that the situation as it was during the RIP with regard to the export prices and production volume is of a lasting nature.

(80) Subsequent to disclosure, the CI claimed that export prices to Finland had dropped significantly during and after the RIP and that export price of LRT to Finland had been below cost of production since July 2007.

(81) It should first be noted that the costs of Norwegian produced LRT as estimated by the CI were overstated and did not correspond to the actual verified farming and production cost of the investigated companies. As far as the level of export prices is concerned and although Finland imports a significant part of Norway's total exports to the Community, significant quantities are also exported to Sweden and Denmark where the average export price were higher. Since an evaluation has to be done on

Community wide basis, average export prices to all countries in the Community have to be taken into consideration. On this basis, the above conclusion in recital (75), i.e. that export prices to the Community, as a whole, have stabilised at the beginning of 2008 is therefore confirmed.

7. Conclusion

(82) The investigation has shown that the dumping margins were found to be *de minimis*.

(83) The investigation has also shown that the production capacity for the product concerned in Norway will likely increase. However, the investigation further revealed that although somewhat increased quantities may be directed to the Community, due to an expected increase in consumption, the increased production volume will likely be absorbed in a large part by other third country markets. Consumption will also very likely increase in the Community market which will be able to absorb the potential increase in imports and therefore no significant oversupply is expected.

(84) Additionally, although prices in the Community showed a decreasing trend, this trend is not confirmed after the RIP, where prices have stabilised. On the basis of the above, i.e. increasing consumption and no likely risk of oversupply, the price pressure in the Community is not expected to increase.

(85) It is therefore concluded that the circumstances on the basis of which the dumping margins were calculated during the RIP are of a lasting nature.

(86) The current interim review should therefore be terminated and the definitive anti-dumping measures should be repealed.

F. DISCLOSURE

(87) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to terminate the present interim review. All parties were given an opportunity to comment. Their comments were taken into account where warranted and substantiated by evidence.

HAS ADOPTED THIS REGULATION:

Sole Article

The partial interim review of the anti-dumping measures applicable to imports of large rainbow trout (Oncorhynchus Mykiss) whether fresh, chilled or frozen, whether in the form of whole fish (with heads and gills on, gutted, weighing more than 1,2 kg each or with heads off, gilled and gutted, weighing more than 1 kg each), or in the form of fillets (weighing over 0,4 kg each), originating in Norway, currently classifiable within CN codes 0302 11 20, 0303 21 20, 0304 19 15 and 0304 29 15, initiated pursuant to Article 11(3) of Council Regulation (EC) No 384/96, is hereby terminated and the measures in force on imports originating in Norway repealed.

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, […]

For the Council
The President
[...]