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(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice of initiation of a partial interim review of the countervailing measures applicable to
imports of certain rainbow trout originating in Turkey**

(2017/C 234/04)

The European Commission ('the Commission') has received a request for an interim review pursuant to Article 19 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ ('the basic anti-subsidy Regulation').

1. Request for review

The request for review was lodged by the Aegean Exporters Association ('the applicant'), on behalf of producers/exporters of rainbow trout of Turkey ('the country concerned').

2. Product under review

The product subject to this review is rainbow trout (*Oncorhynchus mykiss*)

- live weighing 1,2 kg or less each, or
- fresh, chilled, frozen and/or smoked:
 - in the form of whole fish (with heads on), whether or not gilled, whether or not gutted, weighing 1,2 kg or less each, or
 - with heads off, whether or not gilled, whether or not gutted, weighing 1 kg or less each, or
 - in the form of fillets weighing 400 g or less each,

originating in Turkey and currently falling within CN codes ex 0301 91 90, ex 0302 11 80, ex 0303 14 90, ex 0304 42 90, ex 0304 82 90 and ex 0305 43 00 (TARIC codes 0301 91 90 11, 0302 11 80 11, 0303 14 90 11, 0304 42 90 10, 0304 82 90 10 and 0305 43 00 11) ('product under review').

3. Existing measures

The measures currently in force are a definitive countervailing duty imposed by Commission Implementing Regulation (EU) 2015/309 ⁽²⁾.

The applicant alleges that the continued imposition of the measure on imports of the product under review at its current level is no longer necessary to offset the countervailable subsidisation. In this respect, the applicant has provided sufficient evidence showing a significant change in the structure and the terms of the implementation of the direct subsidies granted to producers on a per kg of rainbow trout produced. With the new modalities eligibility limits are reached much faster, and for any production above that limit, no more subsidies are granted. Therefore this change resulted in a significant decrease of the subsidy amount received by, in particular, the large exporting producers of the product under review.

In the light of the above, the Commission considers that there is sufficient *prima facie* evidence that the circumstances with regard to subsidisation have changed significantly and are of a lasting nature and, therefore, the measures should be reviewed.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Commission Implementing Regulation (EU) 2015/309 of 26 February 2015 imposing a definitive countervailing duty on imports of certain rainbow trout originating in Turkey (OJ L 56, 27.2.2015, p. 12).

4. Procedure

Having determined, after informing the Member States, that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of subsidisation, the Commission initiates a review in accordance with Article 19 of the basic Regulation. The purpose of the review is to establish if the continued imposition of the measures is still necessary to offset the countervailable subsidy.

Following the review, it may be necessary to amend the rate of duty imposed on imports of certain rainbow trout originating in Turkey.

The Government of Turkey has been invited for consultations.

4.1. Procedure for the determination of the need for the continued imposition of the measures

Exporting producers⁽¹⁾ of the product under review from Turkey and the authorities of Turkey are invited to participate in the Commission investigation.

Investigating exporting producers

Procedure for selecting exporting producers to be investigated in Turkey

(a) Sampling

In view of the potentially large number of exporting producers in Turkey involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 27 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with information on their company(ies) requested in Annex I to this notice.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of Turkey and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned, if appropriate, of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers, and to the authorities of the country concerned.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

Without prejudice to the application of Article 28 of the basic Regulation companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to section (b) below, the countervailing duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average amounts of subsidisation established for the exporting producers in the sample⁽²⁾.

⁽¹⁾ An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under review.

⁽²⁾ Pursuant to Article 15(3) of the basic Regulation, any zero and *de minimis* amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in Article 28 of the basic Regulation shall be disregarded.

(b) Individual subsidy margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 27(3) of the basic Regulation, that the Commission establish their individual subsidy amounts. The exporting producers wishing to claim an individual subsidy margin must request a questionnaire and return it duly completed within 37 days of the date of notification of the sample selection, unless otherwise specified.

However, exporting producers claiming an individual subsidy amount should be aware that the Commission may nonetheless decide not to determine their individual subsidy amount if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

4.2. **Other written submissions**

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

4.3. **Possibility to be heard by the Commission investigation services**

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

4.4. **Instructions for making written submissions and sending completed questionnaires and correspondence**

Information submitted to the Commission for the purpose of trade defence investigations should be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties on a confidential basis should be labelled 'Limited' ⁽¹⁾. Any request for confidential treatment must be duly justified.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 29(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing information on a confidential basis does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf. The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 29 of Regulation (EU) 2016/1037 (OJ L 176, 30.6.2016, p. 55.) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures. It is also a document protected in accordance with Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË
Email: trade_trout_review@ec.europa.eu

5. Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 28 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 28 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

6. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues relating to the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>.

7. Schedule of the investigation

The investigation will be concluded, pursuant to Article 22(1) of the basic Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*.

8. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX

☐	'Limited version' ⁽¹⁾
☐	Version 'For inspection by interested parties'
(tick the appropriate box)	

ANTI-SUBSIDY PROCEEDING CONCERNING IMPORTS CERTAIN RAINBOW TROUT ORIGINATING IN TURKEY**INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN TURKEY**

This form is designed to assist exporting producers in Turkey in responding to the request for sampling information made in point 4.1(a) of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
Email address	
Telephone	
Fax	

2. TURNOVER, SALES VOLUME AND PRODUCTION

Indicate the turnover in the accounting currency of the company during the period 1 July 2016 - 30 June 2017 (export sales to the Union for each of the 28 Member States ⁽²⁾ separately and in total and domestic sales) of certain rainbow trout as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume and the currency used.

	Ton Whole Fish Equivalent (T WFE) (*)		Value in accounting currency Specify the currency used
Export sales to the Union, for each of the 28 Member States separately and in total, of the product under investigation, manufactured by your company	Total:		
	Name each Member State ⁽¹⁾ :		
Domestic sales of the product under investigation, manufactured by your company			

(*) Conversion factors from net weight to whole fish equivalent (WFE)

⁽¹⁾ Add additional rows where necessary.

⁽¹⁾ This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 29 of Council Regulation (EC) No 597/2009 (OJ L 188, 18.7.2009, p. 93) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures.

⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Indicate the production volume and capacity during the period 1 July 2016 - 30 June 2017 of certain rainbow trout as defined in the notice of initiation for each of the production licence your company has:

Licence number	Region	Maximum production quantity in Ton Whole Fish Equivalent (T WFE) (*)	Actual production quantity in Ton Whole Fish Equivalent (T WFE) (*)
Total of all licences			

(*) Conversion factors from net weight to whole fish equivalent (WFE)

Product presentation	Factor
Live	1,00
Fresh/chilled (gutted, head on)	0,85
Frozen (gutted, head on)	0,85
Fillets: Fresh/chilled	0,47
Fillets: Frozen	0,47
Fillets: Smoked	0,40

3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES ⁽¹⁾

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under sub-contracting arrangements, or processing or trading the product under investigation. In any case, please indicate whether your company produces live trout, fresh trout, frozen trout, fillets, smoked trout fillets or several of these product types (please list them).

Company name and location	Activities	Relationship

4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

5. INDIVIDUAL SUBSIDY MARGIN

The company declares that, in the event that it is not selected to be in the sample, it would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual subsidy margin in accordance with section 4.1(b) of the notice of initiation.

☐ Yes

☐ No

⁽¹⁾ In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In this context 'person' means any natural or legal person.

In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

6. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:
