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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1890/97

of 26 September 1997

imposing a definitive anti-dumping duty 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 Articles 8 and 9 thereof,

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

Whereas:

A. PROCEDURE

1. Complaint

- (1) In August 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of an anti-dumping proceeding concerning imports of farmed Atlantic salmon originating in Norway. The proceeding was initiated as a result of a complaint lodged jointly by the Scottish Salmon Growers' Association Ltd (SSGA) and the Shetland Salmon Farmers' Association (SSFA), on behalf of their members whose collective production of farmed Atlantic salmon constitutes a major proportion of the total Community output of this product. The complaint contained evidence of dumping of the product concerned originating in Norway, and of material injury resulting therefrom which was considered sufficient to justify the opening of a proceeding.
- (2) A parallel anti-subsidy proceeding was initiated on the same date⁽³⁾ with regard to the same imports and has been the subject of a separate investigation from the present anti-dumping proceeding.

2. Initiation of investigations

- (3) The Commission officially, advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainants of the initiation of an investigation and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (4) In view of the large number of parties concerned by this proceeding and the strict time limits to be complied with pursuant to Article 6 (9) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'), sampling of Community producers and Norwegian producers/exporters was carried out as follows.

As far as producers supporting the complaint are concerned, the Commission decided to limit the investigation of some injury aspects to a representative sample of 16 Community producers, in accordance with Article 17 (1) and (2) of the Basic Regulation.

As far as Norwegian producers/exporters are concerned, two separate representative samples of six farmers and six exporters were selected by the Commission in consultation with, and with the consent of, the parties concerned, in accordance with Article 17 (1) and (2) of the Basic Regulation. However, as one company, Saga Lax Norge A/S, which was initially included in the sample of exporters, did not provide the Commission with the information deemed necessary for the investigation, it was replaced by another company, Domstein Salmon A/S.

- (5) The Commission sent questionnaires to the companies selected as part of the samples of Community producers, Norwegian farmers and Norwegian exporters as well as to related and unrelated importers in the Community and also to associations of traders and processors which made themselves known and to their member companies.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).

⁽²⁾ OJ C 253, 31. 8. 1996, p. 18.

⁽³⁾ OJ C 253, 31. 8. 1996, p. 20.

The parties which so requested were granted an opportunity to be heard by the Commission.

The Commission verified all information it deemed necessary for the purpose of a determination of dumping, injury resulting therefrom, and Community interest and carried out investigations at the premises of the following companies:

(a) *Complainant Community producers in the United Kingdom*

Aquascot, Alness
Ardessie, Dundonnell
Ardvar, Laing
Ayre, Mossbank
Dury, Laxo
Highland Fish Farmer, Aberdeen
Joseph Johnston, Montrose
Kames, Argyll
Kyles of Bute, Tighnabruich
Landcatch, Langbank
Marine Harvest, Edinburgh
Murray Seafood, Dunoon
North Atlantic, Vadhur Walls
Ocean Reaper, Scalloway
Shetland Norse, Lerwick
Strathaird, Inverness.

(b) *Norwegian farmers*

Aakvik Settefisk A/S, Møre og Romsdal
Bolstad Fiskeoppdrett A/S/Bolstad Fjordbruk A/S, Hordaland
Finnmark Stamfiskstasjon A/S, Finnmark
Karstensen Fiskeoppdrett A/S, Sogn og Fjordane
Egil Kristoffersen & Sønner A/S, Nordland
Kvernsmolt A/S, Hordaland.

(c) *Norwegian exporters*

Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S, Hordaland
Domstein Salmon A/S, Sogn og Fjordane
Skaarfish Group A/S, Sogn og Fjordane
Terra Seafood A/S/Norfood Group A/S, Sør-Trøndelag
Timar Seafood A/S, Sør-Trøndelag
Ålesundfisk A/S, Sogn og Fjordane.

(d) *Importers in the Community*

Skaarfish International GmbH, Hamburg, Germany
Timar (Culturas em Água) Lda, Olhão, Portugal.

(e) *Processors in the Community*

Pêcheries de Fécamp, France.

- (6) The investigation of dumping covered the period 1 August 1995 to 31 July 1996 (hereinafter referred to as 'the investigation period').

The examination of injury covered the period from 1992 to the end of the investigation period.

- (7) Having been informed of the Commission's provisional findings, the Norwegian exporters mentioned in the Annex to this Regulation offered undertakings pursuant to Article 8 of the Basic Regulation. These undertakings were considered acceptable by the Commission.
- (8) The Commission subsequently completed the investigation on dumping and injury and informed all parties of the essential facts and considerations on the basis of which it intended to recommend the imposition of definitive residual anti-dumping duties which would be applicable to those exporters who had either failed to offer an undertaking or who would subsequently withdraw their undertaking or otherwise fail to honour it. Pursuant to Article 20 of the Basic Regulation, interested parties were granted a period within which to make representations subsequent to the disclosure.
- (9) The parties' representations were considered, and the Commission altered its conclusions where appropriate.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (10) The product under consideration is farmed Atlantic salmon, whether or not filleted, fresh, chilled or frozen. This definition excludes other similar farmed fish products such as big ('salmon') trout, other salmon species such as Pacific salmon as well as wild salmon and further processed types such as smoked salmon.

The product as described above is currently classifiable under CN codes ex 0302 12 00, ex 0304 10 13, ex 0303 22 00 and ex 0304 20 13, corresponding to different presentations of the product (fresh or chilled whole fish, fresh or chilled fillets, frozen whole fish and frozen fillets). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding.

2. Like product

- (11) The investigation showed that farmed Atlantic salmon produced by the Community industry and sold on the Community market is either alike in all respects to, or closely resembling farmed Atlantic salmon produced in Norway and sold in both the Norwegian and Community markets and they should therefore be regarded as like products within the meaning of Article 1 (4) of the Basic Regulation.

C. DUMPING

1. General

(12) One of the specific features of the Norwegian salmon industry is the strict distinction which is maintained between the growers (commonly referred to as 'farmers') who produce salmon, and the traders (commonly referred to as 'exporters') who sell it domestically and for export. Farmers normally sell all their output to Norwegian exporters and are generally not aware of the final destination of the product. Since sales 'intended for domestic consumption' (within the meaning of Article 2 (2) of the Basic Regulation) and sales 'for export from the exporting country to the Community' (as referred to under Article 2 (8) of the Basic Regulation) could only be identified at the level of the exporters, the assessment of dumping was made at this level.

(13) The Norwegian exporters have contested the existence of such a strict distinction between producers and exporters. In their view, 'integrated companies make up about half the sales volume of the companies included in the "exporter" sample'. They suggested that to be consistent with Article 2 (5) of the Basic Regulation, the cost of obtaining the salmon sold domestically and for export for such 'integrated companies' should have been based on their own costs of farming rather than on data obtained from independent farmers in the sample of producers.

The Council considers that although corporate relationships exist between exporters and farmers, especially because exporters sometimes own — wholly or partly — a number of salmon farms, it remains that the two activities are clearly distinct from an operational point of view. This is illustrated by the fact that in the responses to the 'pre-questionnaire', issued to the exporters at the beginning of the investigation for sampling purposes, no exporter claimed to purchase salmon exclusively from 'integrated' farms and few farms reported that they were selling all their production to a single exporter. The subsequent investigation of the sampled Norwegian farmers and exporters confirmed this.

Furthermore, several exporters investigated, holding interests in salmon farms, declared in their response to the questionnaire, or during verification visits, that the price at which they procure salmon from 'related' producers is fully in line with that

charged by independent farmers and strictly determined by the prevailing market conditions.

It is also noted that farmers and exporters of salmon in Norway are organized in separate trade associations, are subject to distinct legal and financial requirements and often defend divergent business interests.

In such circumstances, it was considered that the most reasonable approach was to select a representative sample of Norwegian farmers and to base the 'cost of acquisition' for each exporter, used in determining whether domestic sales were profitable and for constructing normal value, on a weighted average of the domestic selling prices charged by the sampled farmers.

2. Normal value

(14) It was first necessary to determine whether the categories of products sold by the six exporters investigated on the domestic market — as defined in terms of conditioning (fresh/chilled or frozen), quality (superior, ordinary or low) and presentation (gutted head-on, gutted head-off or in fillets) — could be considered as identical or closely resembling the categories sold for export to the Community. This was found to be so for all domestically sold categories of farmed Atlantic salmon.

As two specific categories (fresh/chilled salmon of superior and ordinary quality gutted head-on) accounted for more than 72 % of total exports to the Community by each of the six exporters investigated during the investigation period, it was decided to limit the investigation of dumping to these two categories.

(15) It was examined whether total domestic sales of farmed Atlantic salmon by each of the six exporters investigated were representative, i.e. made in sufficient quantities. For this purpose the total quantity sold domestically during the investigation period was compared to the total quantity sold for export to the Community, leaving aside 'domestic' sales to other exporters whose final destination could not be determined by the seller of the product under consideration.

On this basis, although none of the six exporters investigated had a domestic sales volume of the product concerned constituting at least 5 % of the export volume of that product to the Community, two of these exporters reached a ratio higher than 4 %. Domestic sales of other exporters accounted for significantly less than 4 %. Since the statistics provided by the Norwegian industry indicated that

Norway, as a whole, had a domestic consumption of farmed Atlantic salmon representing 5,2 % of its exports to the Community, it was considered, in accordance with the provisions of Article 2 (2) of the Basic Regulation, that the prices charged by the two exporters in question could be regarded as representative of the market concerned and, therefore, that their domestic sales were made in sufficient quantities.

The two exporters in question argued that normal value should not have been calculated on the basis of sales to the Norwegian domestic market because the size of the Norwegian market had been overestimated due to the inclusion of qualities which were not comparable to those exported to the Community and the fact that sales at a loss had not been excluded when performing the representativeness test.

With regard to the allegation that certain qualities sold domestically were not comparable to those exported to the Community, it must be emphasized that Article 2 (2) of the Basic Regulation provides for a comparison between 'sales of the like product intended for domestic consumption' and the 'sales volume of the product under consideration' exported to the Community.

In the present case, the product under consideration has been defined as farmed Atlantic salmon falling under CN codes ex 0302 12 00, ex 0304 10 13, ex 0304 22 00 and ex 0304 20 13. These CN codes encompass farmed Atlantic salmon of 'superior', 'ordinary' and 'production' quality. Although 'production' quality salmon is not normally exported to the Community, it is clearly a 'like product', being a product 'alike in all respects to' or at least, having 'characteristics closely resembling those of' salmon of superior or ordinary quality as provided for under Article 1 (4) of the Basic Regulation.

With regard to the non-exclusion of sales at a loss for the purpose of performing the representativeness test, it was argued that it was inconsistent to include sales at a loss ('not in the ordinary course of trade') for the purpose of assessing the representativeness of domestic sales and to exclude such sales when establishing the level of the normal value.

However, it should be noted that there is no requirement, under Article 2 (2) of the Basic Regulation, that only profitable domestic sales should be

considered in establishing representativity of the domestic market. Furthermore, the 'ordinary course of trade' test, used in establishing normal value, can only be performed after the representativeness test has been carried out, since the analyses of the profitability of domestic transactions requires that the full cost of sales has been assessed by reference to the representative domestic selling, general and administrative costs of one or several exporters.

The argument put forward by exports concerning the application of the representativity test was therefore rejected.

- (16) The next step consisted of determining, for the two exporters with global domestic sales made in sufficient quantities and for the two categories of farmed Atlantic salmon mostly sold for export to the Community, whether domestic sales of each category were also sufficiently representative to establish normal value. For the sake of consistency with the representativity test as applied on a global basis, a threshold of 4 % (instead of the usual 5 %) was used.

On the basis, only domestic sales of one category of salmon sold by one company were found to be sufficiently representative.

- (17) It was then necessary to examine whether the domestic sales of the product category in question could, by reason of the prices at which those sales were made, be considered as having been made in the ordinary course of trade. For this purpose, the full cost of domestic sales was calculated by the addition of three components:
- (a) a representative 'cost of acquisition' resulting from a weighted average of the domestic selling prices charged to independent customers during the investigation period by the six farmers in the sample;
 - (b) an average 'processing adjustment' based on data collected from both farmers and exporters — this adjustment was made wherever the cost of bleeding, gutting and packing the fish was not already included in the price charged by the farmer;
 - (c) the selling, general and administrative costs of the exporter in question for domestic sales of the product concerned.

The Norwegian exporters claimed that the use of 'acquisition costs', i.e. the weighted average of the selling prices per quality from the sampled farmers, to calculate the full cost of domestic sales gave

'erroneous results'. They also expressed surprise that the production costs of the farmers were not taken into account in the dumping calculations.

Although the questionnaire sent to the investigated farmers included questions on both their farming costs and their selling prices to independent exporters, the Council considers, for the reasons set out in recital 13, that the use of 'acquisition costs' constituted the most reasonable approach to reflect the full cost for an exporter of procuring salmon for resale to domestic or export customers.

By comparing the full cost thus calculated, expressed in Norwegian Kroner per kilo (Nkr/kg), to the price of each domestic sales transaction made during the investigation period, it was found that less than 80 % (but more than 10 %) of the quantities of the product category in question had been sold at a profit. Consequently, normal value was established for the product category concerned as the weighted average domestic price of the profitable transactions, in accordance with Article 2 (1) of the Basic Regulation.

The exporters disputed the validity of the method used to calculate normal value based on domestic sales prices excluding sales at prices below the average 'full cost' and complained that this method resulted in artificially high normal values for a perishable product.

The argument was rejected as the elimination of 'sales below cost' from the calculation of the weighted average domestic selling price used as a basis for the normal value is in line with the consistent practice of the Community institutions and is in full conformity with Article 2 (4) of the Basic Regulation. The fact that salmon is a perishable product does not affect the concept that sales below cost are regarded as not being 'in the ordinary course of trade'.

- (18) For all other product categories, normal value had to be established, for the six exporters investigated, in accordance with Article 2 (3) of the Basic Regulation, on the basis of a constructed value.

The constructed value was calculated, for the two exporters with representative domestic sales, by adding to the 'cost of acquisition' (and 'processing adjustment' where necessary) amounts corresponding to the actual selling, general and administrative costs and profits respectively incurred and realized by each of the two companies concerned in respect of sales of the like product in the domestic market. For this purpose, the profitability of these compa-

nies was established by comparing the cost of domestic sales as defined in recital 17 above, expressed in Nkr/kg, to the price of each domestic sales transaction made during the investigation period. Since the quantities sold at a profit were, in both cases, lower than 80 % (but higher than 10 %), only profitable transactions were taken into account in the calculation of the weighted average individual profitability.

The exporters claimed that the weighted average profit margin added to the full cost of the exporters for the purpose of calculating constructed normal values was 'an excessive and unrealistic profit margin for salmon traders'. They argued that in accordance with Article 2.2.2 (ii) of the Agreement on Implementation of Article VI of GATT 1994, the actual profit realized by exporters should have been used rather than a profit computed after the exclusion of sales below cost. They also remarked that the profit margin used in the present proceeding was significantly higher than that used in the previous investigation in 1989/1990.

These arguments could not be accepted for the following reasons. First, the data established in the previous investigation is not relevant in the context of the present investigation since both Article 2 (6) of the Basic Regulation and Article 2.2.2 of the Agreement on Implementation of Article VI of GATT 1994 stipulate that 'actual data pertaining to production and sale' have to be used, i.e. that found in the current investigation. Second, the aforementioned provisions refer to profits realized for domestic sales made in the 'ordinary course of trade', i.e. those sales as defined by Article 2 (4) of the Basic Regulation.

- (19) For the four exporters without representative domestic sales, the constructed value was calculated by adding to the 'cost of acquisition' (and 'processing adjustment' where necessary) amounts corresponding to the weighted average of both the selling, general and administrative costs incurred and the profits realized by the two other exporters in respect of domestic sales of the like product in accordance with Article 2 (6) (a) of the Basic Regulation.

3. Export price

- (20) In all cases where export sales of farmed Atlantic salmon were made to independent customers in the Community, the export price was established, in accordance with Article 2 (8) of the Basic Regulation, on the basis of the export prices actually paid.

- (21) In four cases, where the product was imported into the Community by a related sales company, reliable export prices had to be constructed, in accordance with Article 2 (9) of the basic Regulation, on the basis of the price charged to the first independent buyer by deducting all costs incurred between importation and resale and profits accruing. For this purpose, the profit margin was established by reference to that normally realized by independent importers.

The exporters claimed that the profit margin of 2,8 % applied to prices from related importers in the Community for the purpose of constructing export prices was too high as the related importers only provided 'invoicing purposes'.

The argument could not be accepted as the profit margin applied resulted from actual data obtained during the investigation and was in conformity with Article 2 (9) of the Basic Regulation.

- (22) In one case, reliable information concerning costs incurred between importation and resale had not been supplied by the related sales company. For the purpose of constructing the export price for the exporter concerned, the Commission used the highest costs found for another related sales company which cooperated in the investigation as the facts available within the meaning of Article 18 of the Basic Regulation.
- (23) In another case, an exporter failed to provide the Commission with information concerning sales to independent buyers of significant quantities of smoked salmon processed in the Community by a related smoke house using fresh salmon supplied by the exporter concerned. It was decided that all export transactions to this related smoke house would be disregarded.

4. Comparison

- (24) For the purpose of ensuring a fair comparison between normal value and export price, adjustments were made wherever appropriate to account for differences affecting price comparability with regard to transport, insurance, handling, loading and ancillary costs, credit and commissions, in accordance with Article 2 (10) of the Basic Regulation.

5. Dumping margin

- (25) With regard to all six investigated exporters, the comparison per product category of weighted average normal values and weighted average export

prices during the investigation period revealed the existence of dumping. Since the dumping margins varied per product category, a weighted average dumping margin was established for each exporter investigated.

- (26) The analysis of export prices on a monthly average basis also revealed for all six exporters a pattern of export prices which differed significantly between time periods, i.e. export prices in November and December, the peak consumption period immediately preceding Christmas, were significantly below average export prices during the investigation period. For two exporters, this pattern was considered as sufficiently marked to justify the calculation of dumping by comparing the weighted average normal values to prices of all individual export transactions to the Community, in accordance with Article 2 (11) of the Basic Regulation, so that the full degree of dumping practised could be reflected.

The two exporters considered that this method was contrary to the normal 'average to average' approach contained in Article 2 (11) of the Basic Regulation and that there was no reason to deviate from the normal approach in the present case.

This argument was rejected as, for the two exporters concerned, there was a significant difference between the dumping margins calculated on an 'average to average' basis and an 'average to transaction' basis. This was indicative of a sufficiently marked pattern of selling at lower prices during certain periods to warrant application of the 'average to transaction' method.

- (27) For the company Saga Lax Norge A/S, which was initially included in the sample, but did not provide the Commission with the information deemed necessary for the investigation, a dumping margin had to be assessed on the basis of the facts available in accordance with Article 18 of the Basic Regulation. In this respect, for the reasons given in recital 101, in particular the relationship of Saga Lax Norge A/S with one of the cooperative exporters investigated, Timar Seafood A/S, it is considered that the margin of dumping established for this latter company, which is the highest found for a sampled exporter, should be assigned to Saga Lax Norge A/S.

- (28) On the basis of these findings, the Commission calculated a weighted average dumping margin for the exporters investigated in accordance with Article 9 (6) of the Basic Regulation. For this purpose, the margin established for Saga Lax Norge

A/S in the circumstances referred to in Article 18 of the Basic Regulation was not taken into account. Since the cooperation given by the Norwegian industry in general was satisfactory and in view of the objectivity of the 'preselection' of farmers and exporters from which the samples were drawn, it was concluded that this weighted average dumping margin should apply to all cooperating Norwegian exporters outside the sample.

- (29) On this basis, the dumping margins established, based on the free-at-Community-frontier prices, were as follows:

Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S	12,60 %
Skaarfisk Group A/S	6,69 %
Terra Seafood A/S/Norfood Group A/S	9,70 %
Timar Seafood A/S	13,05 %
Ålesundfisk A/S	6,84 %
Domstein Salmon A/S	12,50 %
Saga Lax Norge A/S	13,05 %
Others	10,95 %

D. COMMUNITY INDUSTRY

- (30) The Community producers supporting the complaint represent approximately 57 % of the total Community production of the product concerned, and were therefore considered to constitute the Community industry in accordance with Articles 4 (1) and 5 (4) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

- (31) Information relating to production, sales and market share was requested and obtained from all the complainant Community producers. However, in view of the large number of producers supporting the complaint and the time limits established in Article 6 (9) of the Basic Regulation, the remaining injury indicators were based on information obtained from a representative sample of Community producers.
- (32) Of the 90 Community producers supporting the complaint, a sample of 16 was selected, according to geographical location and size of the companies in terms of production and sales. These companies accounted for 73 % of the output of the complain-

ant Community industry and 42 % of total Community output.

- (33) Injury has been established on the basis of data relating to the period 1992 to the investigation period. The geographical scope of the investigation over this period was the Community as constituted at the time of the initiation of the proceeding, i.e. the Community of 15 Member States. The injury assessment was based on the relevant economic factors as provided for within the meaning of Article 3 of the Basic Regulation.
- (34) It is recalled that the injurious impact of the dumped imports from Norway on the situation of the Community industry of farmed Atlantic salmon was first established in 1991 by a previous anti-dumping proceeding. Since then, the impact of imports from Norway has led the Commission to impose minimum import prices on a number of occasions. However, such measures appear to have had, at best, a short-term effect on the market.
- (35) The following injury indicators should, therefore, be seen in the light of a long-standing, unfavourable situation experienced by the Community industry concerned.

2. Community consumption

- (36) In calculating total apparent Community consumption of farmed Atlantic salmon the following combined totals have been taken into consideration:
- the sales volume in the Community of the Community producers, as established on the basis of data provided by the Scottish Salmon Growers' Association, the Shetland Salmon Farmers' Association and the Irish Salmon Growers' Association, in combination with Eurostat data for their exports outside the Community,
 - the imports into the Community of the products concerned (as declared within CN codes 0302 12 00, 0303 22 00, 0304 10 13 and 0304 20 13) from Norway,
 - the imports into the Community of the same products from all other third countries.
- (37) With a view to establishing consistent figures covering the enlarged Community of 15 for the whole period under examination, the total imports were based on relevant Eurostat and EFTA imports statistics. In addition, in order to ensure comparability between the different figures, all data were converted to whole fish equivalent. For this purpose, the import figures for fresh and chilled

salmon and for fresh and chilled salmon fillets were divided respectively by appropriate factors of 0,90 and 0,65. It should be noted that CN codes 0302 12 00, 0304 10 13 and 0304 20 13 may also cover products not included in the scope of this proceeding (i. e. Pacific salmon and/or wild salmon) but for which the quantities imported can be considered, given the origins reported, as negligible.

- (38) On this basis, the apparent Community consumption of farmed Atlantic salmon increased from 201 037 tonnes in 1992 to 316 866 tonnes in the investigation period — an increase of 58 %.

3. Volume and market share of the dumped imports

- (39) The aggregate volume of imports from Norway increased continuously and substantially from 134 338 tonnes in 1992 to 211 597 tonnes in the investigation period, an increase of 58 %, in line with the increase of Community consumption.
- (40) The market share of the Norwegian imports in the Community declined from around 67 % in 1992 to around 62 % in 1993 and 1994 and then increased to 67 % in 1995 and the investigation period.
- (41) The fact that Norwegian imports have been able over the last four and a half years to maintain their very high market share in a fast-growing market is in itself illustrative of the Norwegian exporters' position on the Community market. Moreover, this significant increase in Norwegian imports occurred in spite of minimum import prices imposed by the Commission during this period (see recital 76).

4. Prices of the Norwegian exports

(a) Overall trend

- (42) Statistical data show that the CIF import price of salmon originating in Norway fell continuously and overall by 27 % between 1992 and the investigation period. Furthermore, this trend appears to indicate that the minimum import prices imposed during the period examined were not consistently adhered to by the Norwegian exporters.

(b) Undercutting

- (43) For the investigation period, the prices of the sampled Community producers were compared to the prices of Norwegian exports. For the Community producers, the prices of gutted salmon head-on were taken as a basis for comparison. These categories of salmon represented more than 65 % of the volume of sales of all types of salmon sold by the sampled Community producers and accounted for the majority of imports of Norwegian salmon.
- (44) For the exporters, prices were based on sales figures provided by the Norwegian exporters having

cooperated in the investigation concerning both dumping and subsidies. These prices were adjusted to a Community frontier customs duty paid basis.

- (45) Comparisons were made on a monthly weighted average basis. The prices of the Community producers were at ex-works level and at levels of trade known to be comparable to those of Norwegian imports. The results of the comparison showed the existence of monthly undercutting margins of up to 12 %. In addition, undercutting was found to be at its peak during the most important period of the selling season, i. e. the period immediately preceding Christmas.
- (46) It should be noted that salmon is traded as a commodity in a transparent and competitive market. It is sold on a daily basis, and the suppliers have to adapt rapidly, i. e. daily or hourly, to any reduction in prices of their competitors, making it therefore difficult to assess undercutting. Consequently, the undercutting margins found should be seen in the context of continuous pressure exerted by the Norwegian imports on the market prices.
- (47) Some importers argued that, in comparing prices, an upward adjustment should be made to the Norwegian prices in order to take account of the fact that the consumer is prepared to pay a premium for salmon of Scottish origin. No evidence was provided concerning this claim and in particular regarding differences in the physical characteristics of the products which could justify an adjustment in price.

5. Situation of the Community industry

5.1. Global information

(a) Production

- (48) Production of farmed Atlantic salmon by the Community industry increased from 45 801 tonnes in 1992 to 90 206 tonnes in the investigation period. This growth in production resulted from increased demand and allowed the Community industry to reduce its unit-cost and improve its productivity. In this respect, information obtained from the sampled companies shows that in the investigation period they were able to produce 2,35 times the quantity produced in 1992, with exactly the same number of workers.

(b) Sales and market shares

- (49) The volume of sales of the Community industry on the Community market increased during the period considered from 42 535 tonnes in 1992 to 82 885 tonnes in the investigation period, representing an increase of 40 320 tonnes. This increase should be seen in relation to an increase in consumption of almost 116 000 tonnes in the Community in the same period.

- (50) The development of sales volume compared to that of apparent Community consumption, shows that the market share held by the Community industry increased from 21,2 % in 1992 to 28,9 % in 1994, and subsequently decreased to 26,2 % in the investigation period.

5.2. Sampled information

(c) *Capacity and capacity utilization*

- (51) As regards capacity, it was found that the companies selected in the sample used different criteria for establishing capacity and, therefore, no reliable historical figures could be obtained for capacity prior to the investigation period. However, for the investigation period, figures for capacity provided by the Scottish Environment Protection Agency, an organization recently created which establishes sustainable capacity limits according to environmental requirements, were found to be reliable. On this basis, the average capacity utilization rate was found to be 59 % in the investigation period.

(d) *Price evolution*

- (52) The prices of the sampled companies decreased by 24 % between 1992 and the investigation period. This reduction in price is very close to the reduction in prices of imports from Norway, indicating therefore that the Community industry was unable to resist pressure from Norwegian prices.
- (53) Norwegian exporters claimed that the downward evolution of prices was exclusively due to improvement of the cost efficiency of salmon producers worldwide.
- (54) The Community industry has indeed increased its production and sales over the period examined, with consequent reductions in unit costs and considerable productivity gains. Yet in spite of this, the investigation has shown that the abovementioned decrease in price resulted in insufficient profitability for the Community industry. This is due to the fact that prices have fallen beyond what could have been expected following gains in productivity. While it is true that the price of salmon will decrease if the cost of production decreases, this does not explain the deterioration of the Community industry's profitability (see recital 55).

(e) *Profitability*

- (55) The average profitability improved between 1992 and 1993, but decreased thereafter although the market was expanding and the costs of the Community industry were reduced. Moreover, the average profitability never reached the minimum

profit level (approximately 15 % of turnover), which is considered necessary in a high risk industry such as this (due to the uncertainty created by the risk of disease, predators and bad weather conditions) and was in the investigation period at its lowest point (3,3 %) since 1992. It must be underlined that, during the investigation period, a majority of the sampled Community producers were making considerable losses.

- (56) Regarding profitability, the figure of 15 % which the Commission has taken into consideration as a normal profit margin was deemed excessive by the Norwegian exporters.

- (57) As already mentioned above, the investigation established that a profit of 15 % on turnover is indeed necessary in this industry. Apart from the high-risk nature of this industry mentioned above, this was further confirmed by examining the profit margins in the salmon industry before the occurrence of injurious dumping, and also the profit margins that were considered as reasonable in other, comparable, Community industries such as trout farming and poultry. In all these cases the figure of 15 % was confirmed. In addition a 15 % profit was considered as being a reasonable, albeit conservative, estimate by one Norwegian-owned Community producer. This company considered that 15 % was probably an underestimation as far as small companies were concerned. Finally, if the cumulated profit on sales made in the normal course of trade of the sampled Norwegian farmers and exporters on their domestic market is examined, it is in line with the figure of 15 %.

(f) *Employment*

- (58) Employment levels for the sampled Community producers remained stable between 1992 and the investigation period, with the sampled companies accounting for around 1 100 jobs directly linked to the production of farmed Atlantic salmon. An estimate of the whole employment level in the Community for this industry suggests that there were 3 300 people employed in the salmon business during the investigation period.

(g) *Investment*

- (59) Investments increased between 1992 and the investigation period. However, this increase should be interpreted in the light of the specific situation of the salmon industry where more than half of the investments in the period were devoted to replacements. Furthermore, in the context of a growing industry where acquisition of up-to-date equipment is crucial, the net investment does not appear to be sufficient to make the apparent growth sustainable in the longer term.

6. Conclusion

- (60) In concluding that the Community industry had suffered material injury during the period examined, account was taken of the following facts.
- (61) The investigation has shown that the sampled Community producers have suffered significant price pressure over the period under consideration with a consequent significant fall in the prices of these companies. This led to a deterioration of the financial situation of the producers concerned, with insufficient profitability achieved by the sampled companies as a whole and losses by many producers. A number of companies have closed down in the recent past and, among the surviving companies in the sample, some are endangered. Furthermore, this deterioration in profitability should be seen in the light of considerable achievements in respect of productivity during the period examined. As regards market share, it should be noted that after an improvement in 1994, the market share of the Community industry is again in decline in spite of a significant increase in consumption.
- (62) In the light of the foregoing analysis, it has been concluded that the Community industry has suffered material injury within the meaning of Article 3 (1) of the Basic Regulation. This conclusion is mainly based on the price pressure suffered, together with decreasing and clearly insufficient profitability of the sampled Community producers.

F. CAUSATION OF INJURY

- (63) For the purpose of determining whether the injury suffered by the Community industry was caused by the dumped Norwegian imports or whether other factors caused or contributed to that injury, the following elements were examined.

1. Causal link between the imports concerned and injury

- (64) It should be noted that since the Norwegian imports of salmon were found to be dumped in the same period during which countervailable subsidies were paid to Norwegian producers, the coincidental effects of both dumping and subsidization cannot be distinguished and have therefore to be examined in conjunction.
- (65) In examining whether the material injury suffered by the Community industry had been caused by the effect of the dumped and subsidized imports, it

was noted, in the first instance, that the injury consisted mainly of continuous price pressure and reduced profitability for the Community producers. This coincided with a significant increase in volume of low priced imports of salmon from Norway. As a consequence, Norway has been able to maintain its market share at a very high level (67 %) in an expanding market. Moreover, the prices of these imports fell significantly during the period considered and undercutting of up to 12 % was found in the most important selling period. In this context, it should be recalled that the market for salmon is transparent. In such a market, any downward pressure on prices is likely to be caused by the main supplier, in this case Norway.

- (66) Under these circumstances, it is concluded that the combined effects of dumping and subsidization of the Norwegian imports have caused material injury to the Community industry.

2. Other factors

- (67) The trend in consumption in the Community market, the evolution and impact of imports from other third countries and the competitiveness of the Community salmon industry were analysed in order to establish whether they could have been a cause of the injury suffered by the Community industry.

(a) Community consumption

- (68) Community consumption of Atlantic salmon increased continuously and in total by 58 % between 1992 and the investigation period. The injury suffered by the Community industry cannot, therefore, be attributed to any downward trend in demand.

(b) Imports from other third countries

- (69) As regards imports from third countries not concerned by the present proceeding (mostly the Faeroes, Chile, Canada and Iceland), their overall market share was found to have decreased from 12 % to 7 % during the period considered. It was therefore concluded that the impact of these imports had been limited.

(c) Competitiveness of the Community industry

- (70) It should be noted that the Community producers of salmon significantly improved their competitiveness between 1992 and the investigation period; the output per worker more than doubled, there was a reduction in the fish mortality rate by 23 % and an increase of 25 % in the average weight of the salmon grown. Moreover, the volume of exports of

the Community industry increased from 3 266 tonnes in 1992 to 7 321 tonnes in the investigation period. On this basis, the Community industry has attained considerable efficiency in cost terms.

3. Conclusion

- (71) In the light of the above, it was concluded that the dumped and subsidized Norwegian imports of salmon have, taken in isolation, caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General considerations

- (72) On the basis of all evidence submitted, consideration was given as to whether, despite the conclusions on dumping and injury, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to impose measures in the present case. For this purpose, the impact of possible measures for all parties involved in the proceedings and also the consequences for those same parties of not taking measures were assessed.
- (73) In making such an appreciation, in conformity with the Basic Regulation, special consideration was given to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition.

2. Interest of the Community industry

- (74) It should first be recalled that the Community industry of farmed Atlantic salmon has suffered from a long history of dumping attributable to Norwegian exports.
- (75) Injurious dumping was established by the Commission as far back as 1991 (Commission Decision 91/142/EEC)⁽¹⁾, when it was decided that, despite positive findings on both dumping and injury, no measures should be imposed on the grounds that the Norwegian authorities had taken measures at a national level which, it was thought, would stabilize the market.
- (76) Subsequently, minimum import prices (MIP) have been set by the Commission on several occasions over the past few years (November 1993, February 1994, March 1994) and lastly from 16 December 1995 to 13 June 1996 by Regulation (EC) No

2907/95⁽²⁾. MIPs were justified by the fact that the volume and prices of imports were causing or threatening to cause disturbances on the market resulting in serious economic, societal or environmental difficulties and demanding the adoption of immediate measures. As opposed to anti-dumping or countervailing measures, these measures did not require a finding that the exporting country concerned had engaged in unfair trading practices. These measures failed to produce the expected effects.

- (77) Against this background, it is considered that if no effective measures are taken in order to correct the injurious effects of dumped and subsidized Norwegian imports, the situation of the Community industry will continue to deteriorate to the point where, ultimately, its very existence could be at risk.

- (78) It should also be recalled that the Community industry of farmed Atlantic salmon is mostly made up of small and medium-sized enterprises, located in rural and mostly less-developed regions of the Community (Objective 1 regions), where economic activity is scarce. As has been mentioned above, the Community industry has constantly improved its productivity, which is consequently not in doubt. In the course of the restructuring which has taken place, a number of small farms have been acquired by producers which are part of large groups. If no measures are taken, apart from the likelihood of a further reduction in the number of competitors in the market, the investment in improving productivity and restructuring may well prove not to have had the desired effect.

3. Interest of other community industries

- (79) A number of downstream users such as smokers and wholesalers of farmed Atlantic salmon alleged that the imposition of measures on imports of Norwegian farmed Atlantic salmon would adversely affect their activities. These users argued that if measures had the effect of reducing quantities of farmed Atlantic salmon imported from Norway, no alternative sources of supply would be available. These same users alleged that if imports of farmed Atlantic salmon from Norway were made more expensive, they would have to pass on the additional cost to the final consumer who would then turn to other products. The argument was also made that a duty imposed on unprocessed farmed Atlantic salmon originating in Norway could lead to the expansion of the Norwegian industry processing farmed Atlantic salmon, at the expense of the Community processing industry.

⁽¹⁾ OJ L 69, 16. 3. 1991, pp. 32-37.

⁽²⁾ OJ L 304, 16. 12. 1995, pp. 38-39.

- (80) It should be pointed out, first of all, that the investigation has shown that the Community industry has the capacity to increase its production and it would certainly do so if it were allowed to achieve a reasonable return. Furthermore, in the event that the proposed measures would result in a reduction of the quantities of farmed Atlantic salmon being imported from Norway, alternative sources of supply are readily available, i.e. Chile, Canada, Iceland and the Faroe Islands.
- (81) As to the pricing policy likely to be adopted by Community producers following the imposition of measures, it should be borne in mind that any increase in the prices of the Community producers is bound to be limited to what is strictly necessary for them to obtain a more reasonable return. If the Community producers were to increase their prices massively, it is indeed more than likely that other exporting countries would gain a more substantial share of the Community market. In addition, any such price increases on the part of the Community industry are bound to be limited by another factor, i.e. the availability to the consumer of farmed salmon trout, which is a product relatively similar and thus substitutable for salmon, available in the Community at a slightly lower price and which seems to have also been negatively affected by the increase of imports of dumped farmed Atlantic salmon from Norway.
- (82) As to the possibility of the Community processing industry being affected by competition of processed products from Norway, the anti-dumping and countervailing duties will be levied on the raw material, which represents only a proportion of the cost of the processed product. The limited impact of the proposed duty rates should therefore not be sufficient to justify a reduction in processing operations in the Community. Finally, most of the smokers in the Community also process and trade salmon produced in the Community, as well as other products and are therefore not entirely dependent on salmon imported from Norway.
- (83) It should be noted, furthermore, that in order to evaluate the likely impact that measures might have on processors in the Community, the Commission sent questionnaires to all companies which were members of three associations of traders and processors which had made themselves known and requested a hearing.
- (84) In total, 93 questionnaires were sent but only one complete and verifiable reply was received, making it thus impossible to evaluate, on a representative basis, the possible effect that the imposition of measures might have on the Community industry trading or processing farmed Atlantic salmon.
- (85) Nevertheless, the information obtained so far has shown that, as far as smoked salmon is concerned, the cost of the raw material, i.e. farmed Atlantic salmon represents around 45 % of the total cost of production of smoked salmon. Thus, if the cost of the raw material was increased by, for instance, 10 %, this would entail a total increase in the cost of production of smoked salmon of only 4,5 %.
- (86) In addition, information obtained from various reliable sources seems to indicate that the situation of Community processors is quite diverse. There are, on the one hand, companies which produce ready-to-eat meals and which are part of large groups. Since the cost of the raw material fish is a limited proportion of the cost of the final product, these companies are unlikely to be significantly affected by the present measures. On the other hand, there are a number of companies who smoke or pickle salmon and which are more dependent on the price of the raw material. These companies would probably have to pass on part of the extra cost to the next trade level. As already mentioned under recital 85, the increase in costs would be of a limited nature. In any event, information obtained so far seems to indicate that only in the case of price increases in excess of 20 % would there be a danger that consumers would turn to other products.
- #### 4. Interest of importers
- (87) A number of importers have argued in general terms that any imposition of anti-dumping measures would negatively affect them.
- (88) As has been shown above, it is expected that the proposed measures, whilst allowing the Community industry to recover from the injurious effects of dumping, will neither affect the possibility for importers of purchasing salmon from Norway or other sources, nor entail price increases in excess of what is necessary for the Community industry to be able to regain a reasonable profitability.
- #### 5. Interest of consumers
- (89) Consumer representatives (BEUC) argued that protective measures would not be in the interest of the consumers in the Community, since they would entail a restriction of the products being on offer and/or price increases to the consumer.
- (90) As has been shown above, the existence of alternative sources of supply and the availability of substitute products tend to demonstrate that the effect on the final consumer will be minimal, if any. In addition, it should be borne in mind that any duty will be levied on the CIF import price. The impact, if

any, on retail prices will therefore be considerably lessened. It should further be noted that the average yearly consumption of salmon in the Community is estimated at 0,8 kg per capita, which suggests that the overall impact on consumers will be very small.

6. Conclusion

- (91) Having carefully examined all the above aspects, it was concluded that it is in the Community interest to impose anti-dumping measures on imports of farmed Atlantic salmon originating in Norway since there are no compelling reasons which would lead to the conclusion that it is not in the Community interest to impose such measures.

H. ANTI-DUMPING MEASURES

1. Level of anti-dumping measures

- (92) In accordance with the relevant provisions of the Basic Regulation, it was examined whether the measures should be less than the dumping margins found, if such lesser measures would be adequate to remove the injury to the Community industry.
- (93) In this respect, it is considered that any measures imposed should allow the Community industry to achieve prices they would have obtained in the absence of dumped imports. In the absence of any information to the contrary, it can be assumed that such prices would cover its cost of production and a reasonable profit. In order to achieve this, the prices of imports should be increased accordingly.
- (94) For the purpose of calculating the necessary price increase, the prices of the dumped imports were compared to selling prices reflecting the cost of production of the Community industry plus a reasonable level of profit. In this respect, a profit margin of 15 % was considered to be the minimum profit level necessary to make this sector viable. In determining this profit level, account was taken of the following factors: salmon farming is a high-risk industry given, *inter alia*, the length of the production process (18-24 months); the risk of disease, predators and bad weather conditions which occur frequently in this industry; the non-predictability of prices of a product traded as a commodity; the very short shelf-life of the product. It was also found that a sufficient profit margin was needed in order for Community producers to have access to financing, which is particularly crucial for this industry to remain competitive in a rapidly growing market.

- (95) On this basis, the export prices for those product types used in the determination of price undercutting (see recital 43) were compared, for the period of investigation, on a free-at-Community-frontier level, after adjusting where appropriate for freight, customs duties and post importation costs, with the weighted average selling prices charged by the selected Community producers concerned, increased, where appropriate, to cover production cost plus the abovementioned profit margin of 15 %.

Level of duties

- (96) Attention had to be paid in this case to the fact that the imposition of a residual countervailing duty at a level of 3,8 % has also been adopted by the Council. According to Article 14 (1) of the Basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization. It was established that, in this case, it was possible to impose both types of duties. The reason for this was that none of the countervailing subsidies involved were export subsidies and they therefore had no impact on the dumping margin. The subsidies had the same effect on normal value and export price and, in the absence of subsidies, the dumping margin would have remained the same.

However, since in this case, injury was found to result from both dumping and subsidization, the total level of both duties could not exceed the amount necessary to remove such injury.

- (97) The dumping margin found for each of the exporters investigated was therefore compared to the amount of injury which was not already eliminated by the countervailing duty, i.e. to the corresponding injury elimination level reduced by 3,8 %. The level of the anti-dumping duty applicable to all Norwegian exporters outside the sample was similarly established by calculating the weighted average of the lower of the dumping margins and the injury elimination levels net of countervailing duties on a company by company basis.
- (98) For the two exporters for which marked changes in the pattern of export prices in the period immediately preceding Christmas had been identified (see recital 26), the injury elimination level was calculated by reference to the prices of individual export transactions to the Community. For the four others, the injury elimination level was calculated by reference to the weighted average export prices.

- (99) For three exporters in the sample, the injury elimination level was lower than the dumping margin and any anti-dumping measures for them should be based on the former. For the others, measures should be based on the dumping margin.

2. Undertakings

- (100) As already mentioned in recital 7, the Norwegian exporters listed in the Annex offered undertakings pursuant to Article 8 of the Basic Regulation in respect of the exports of the product concerned to the Community.
- (101) The Norwegian exporter, Saga Lax Norge A/S did not provide, at the outset of the investigation, the necessary information to allow the Commission to make individual findings on dumping and injury for this company. It should be noted, however, that Saga Lax Norge A/S is related to a number of companies in Norway which fully cooperated in the investigation. This includes one of the companies selected in the sample of exporters, Timar Seafood A/S, for which individual findings on dumping and injury could, therefore, be made. As regards the level of the residual duty, this has been set by reference to the findings made in relation to Timar Seafood A/S. As to whether Saga Lax Norge A/S and its related companies should be subject to that duty without being given the opportunity to offer an undertaking, account should be taken of the fact that, during a significant part of the investigation period, several related companies, including Timar Seafood A/S, were not related to Saga Lax Norge A/S and it does not, therefore, seem appropriate to deny them the benefit of their cooperation. In these circumstances, it is considered that no useful purpose would be served by refusing to entertain the offer of an undertaking by Saga Lax Norge A/S itself. The monitoring of undertakings in the present proceeding will be facilitated by the undertaking entered into by the Norwegian government in the parallel anti-subsidy proceeding and it is therefore concluded that all the companies concerned should be given the same treatment in terms of measures, including the possibility to enter into price undertakings.
- (102) Having examined these undertakings, the Commission found them to be acceptable, since they would eliminate the injurious effects of dumping pursuant to Article 8 (1) of the Basic Regulation.
- (103) The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered by the exporters listed in the Annex

were accepted by Commission Decision 97/634/EC⁽¹⁾ and the investigation should therefore be terminated without the imposition of definitive duties in respect of these exporters.

3. Definitive duties

- (104) Notwithstanding the acceptance of the undertakings offered by a large number of Norwegian exporters, residual duties should be imposed on imports of the product concerned originating in Norway in order to cover all Norwegian exports of the product concerned to the Community and also to underpin the undertakings by discouraging their circumvention. Moreover, the level of the duty to be imposed in case of a breach or withdrawal of undertakings should be determined.

(a) *Form of the duty*

- (105) Having considered the different types of duties which may be envisaged in the present case, it has been concluded that a specific duty, expressed as a fixed amount in ECU per kg, would be the most appropriate. Such a duty appears to be particularly well adapted to the product concerned and impossible to evade by incorrectly stating the price at the Community frontier. Since farmed Atlantic salmon is mostly traded as a commodity, whose price is not susceptible to significant variation depending on size, presentation or quality, and since the bulk of Norwegian exports to the Community consists of fresh or chilled gutted salmon, this approach appears adequate.
- (106) The application of a specific duty is also justified in this case by the fact that values declared on importation into the Community appear not to be consistently in line with the prices actually charged by the Norwegian exporters to independent EC customers.

(b) *Amounts of the duties*

- (107) The definitive anti-dumping duty to be imposed on imports of farmed Atlantic salmon exported by companies which have not offered any undertaking or in case of breach or withdrawal of undertakings by any party which is not specifically mentioned below is ECU 0,32/kg net product weight.

Exports of farmed Atlantic salmon exported by the following companies, all of which have entered into undertakings, would be subject to the following rates of duty in the case of breach or withdrawal of undertakings:

⁽¹⁾ See page 81 of this Official Journal.

Company	Rate of duty ECU/kg net product weight
Hydro Seafood Mowi A/S/Hydro Seafood Sales A/S/Nor-Food A/S	0,35
Skaarfisk Group A/S	0,23
Terra Seafood A/S/Norfood Group A/S	0,25
Timar Seafood A/S	0,41
Ålesundfisk A/S	0,22
Domstein Salmon A/S	0,33
Saga Lax Norge A/S	0,41

(c) *Implementation and management of the duties*

- (108) For the purpose of ensuring an effective implementation of the duties the Commission should be entitled, after consulting the Advisory Committee, to amend, by regulation, the Annex to this Regulation. It should be recalled that in this case, measures are exceptionally taken with regard to exporters and not with regard to producers (see recital 12 *et seq.*) since exporting companies are generally not involved in the production activity. This facilitates access to the salmon exporting industry. This increases the likelihood of a significant number of new Norwegian exporters to the Community. Therefore, for the sake of good administration, the Commission should be entitled either to extend the exemption from the payment of the duties to any new exporters who may offer acceptable undertakings,

salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00 *19), ex 0304 10 13 (Taric code: 0304 10 13 *19), ex 0303 22 00 (Taric code: 0303 22 00 *19) and ex 0304 20 13 (Taric code: 0304 20 13 *19) originating in Norway.

- (b) This duty shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00 *11, 0304 10 13 *11, 0303 22 00 *11, 0304 20 13 *11). For the purpose of this Regulation, wild Atlantic salmon shall be that in respect of which the competent authorities of the Member State 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. The rate of duty applicable is ECU 0,32/kg net product weight (Taric additional code: 8900), with the exception of imports of farmed Atlantic salmon exported by the companies listed in the Annex to this Regulation, which shall be exempted from the duties.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Where any new exporter in the exporting country in question provides sufficient evidence to the Commission that it did not export the goods described in Article 1 (1) during the investigation period, then the Commission, after consulting the Advisory Committee, may, where appropriate, amend by regulation the Annex to this Regulation in order to extend the exemption from the payment of the duties to the new exporter.

HAS ADOPTED THIS REGULATION:

Article 1

1. (a) A definitive anti-dumping duty is hereby imposed on imports of farmed (other than wild) Atlantic

Article 3

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

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

Done at Brussels, 26 September 1997.

For the Council

The President

J. POOS

ANNEX

	Company Name	Taric Code		Company Name	Taric Code
1	A. Øvreskotnes AS	8095	57	Gjendemsjø Fisk AS	8299
2	A.B.A. AS	8096	58	Grieg Seafood AS	8300
3	Agnefest Seafood	8325	59	Gunnar Klo AS	8301
4	Alamar AS	8097	60	Haafa fisk AS	8302
5	Alsvåg Fiskeprodukter AS	8098	61	Hallvard Leroy AS	8303
6	Altafjord Oppdrett AS	8099	62	Herøy Filetfabrikk AS	8304
7	Aqua Export AS	8100	63	Herøy Lakseoppdrett AL	8305
8	Aqua Partner AS	8101	64	Hirsholm Norge AS	8306
9	Aqua Supply AS	8107	65	Hitramat & Delikatesse AS	8154
10	Aquatrade AS	8108	66	Hydro Seafood Sales AS	8159
11	Arctic Group International AS	8109	67	Hydrotech-gruppen AS	8161
12	Arctic Product AS	8110	68	Icelandic Freezing Plants Norway AS	8165
13	Arctic Superior AS	8111	69	Imperial Salmon Co. AS	8171
14	Arne Mathisen AS	8112	70	Incofood AS	8172
15	AS Aalesundfisk	8113	71	Inter Road AS	8173
16	AS Austevoll Fiskeindustri	8114	72	Inter Sea AS	8174
17	AS Keco	8115	73	J. Meinert AS	8175
18	AS Møre Codfish Company	8116	74	Jan og Einar Martinussen AS	8176
19	AS Nortraders Ltd	8117	75	Janas AS	8177
20	AS Refsnes Fiskeindustri	8118	76	Joh. H. Pettersen AS	8178
21	AS West Fish Sales Ltd	8119	77	Johan J. Helland AS	8179
22	Astor AS	8120	78	Karl Storm Andersen Eft AS	8180
23	Atlantic King Stranda AS	8121	79	Karsten J. Ellingsen AS	8181
24	Atlantic Seafood AS	8122	80	Kr. Kleiven & Co. AS	8182
25	Atlantis AS	8123	81	Kurt F. Løseth & Co. AS	8183
26	Borkowski & Røsnes AS	8124	82	Labeyrie Norge AS	8184
27	Brødrene Aasjord AS	8125	83	Lafjord Group AS	8185
28	Brødrene Eilertsen AS	8126	84	Langfjord Laks AS	8186
29	Brødrene Karlsen AS	8127	85	Leica Fiskeprodukter	8187
30	Brødrene Remø AS	8128	86	Leonhard Products AS	8423
31	Christiansen Partner AS	8129	87	Lofoten Seafood Export AS	8188
32	Clipper Seafood AS	8130	88	Lorentz A. Lossius AS	8189
33	Coast Seafood AS	8131	89	Ma-vo Norge AS	8190
34	Companhia do Bacalhau Lda AS	8132	90	Marex AS	8326
35	Dåfjord Laks AS	8133	91	Marinco AS	8191
36	Delfa Norge AS	8134	92	Marine Seafood AS	8196
37	DM Direkte Markedsføringsbyrå	8135	93	Marstein Seafood AS	8197
38	DNHS Fishing Company AS	8399	94	Master Seafood AS	8198
39	Domstein Salmon AS	8136	95	Melands Røkeri Eftf. AS	8199
40	E. Slorer Jacobsen & Co. AS	8137	96	Memo Food AS	8200
41	Ecco Fisk & Delikatesse	8138	97	Midtco AS	8201
42	Edvard Johnsen AS	8139	98	Misundfisk AS	8202
43	Eurolaks AS	8140	99	Myre Sjømat AS	8203
44	Euronor AS	8141	100	Naco Trading AS	8206
45	Fader Martin AS	8142	101	Namdal Salmon AS	8207
46	Fiskeforsyningen AS	8143	102	Nature Sea-lect Ltd	8208
47	Fjord Aqua Group AS	8144	103	Neptun Stavanger AS	8209
48	Fjord Trading Ltd AS	8145	104	Nergård AS	8210
49	Fonn Egersund AS	8146	105	Nils Williksen AS	8211
50	Fossen AS	8147	106	Niscan Corporation	8212
51	Fresh Atlantic AS	8148	107	Nisja Trading AS	8213
52	Fresh Marine Company AS	8149	108	Nor-Food AS	8214
53	Fryseriet AS	8150	109	Nor-Trade International	8215
54	Frøya Fiskeindustri AS	8151	110	Nordhav AS	8216
55	Gigante Fiskekroken AS	8152	111	Nordic Group ASA	8217
56	Gje-vi AS	8153	112	Nordreisa Laks AS	8218

	Company Name	Taric Code		Company Name	Taric Code
113	Norexport AS	8223	152	Scan-Mar AS	8263
114	Norfi Produkter AS	8227	153	Scanfood AS	8264
115	Norfood Group AS	8228	154	Sea Eagle Group AS	8265
116	Norfra Eksport AS	8229	155	Sea Star International AS	8266
117	NorMan Trading Ltd AS	8230	156	Sea-Bell AS	8267
118	Nornir Group AS	8231	157	Seaco AS	8268
119	Norsk Akvakultur AS	8232	158	Seacom AS	8269
120	Norsk Sjømat AS	8233	159	Seacom Nord AS	8270
121	Northern Seafood AS	8307	160	Seafood Farmers of Norway Ltd AS	8271
122	Nortrade AS	8308	161	Seanor AS	8272
123	Norway Royal Salmon Sales AS	8309	162	Sekkingstad AS	8273
124	Norway Royal Salmon AS	8312	163	Sigerfjord-Fisk AS	8274
125	Norway Seafarms AS	8313	164	Sirena Norway AS	8275
126	Norway Seafoods ASA	8314	165	Skaarfish Group AS	8276
127	Norwegian Salmon AS	8315	166	Skarpsno Mat	8277
128	Norwell AS	8316	167	SL Fjordgruppen AS	8278
129	Notfisk Arctic AS	8234	168	SMP Marine Produkter AS	8279
130	Nova Sea AS	8235	169	Sotra Fiskeindustri AS	8280
131	NTC Norwegian Taste Company AS	8236	170	Starfish AS	8281
132	Ocean Superior Products AS	8237	171	Stavanger Røkeri AS	8282
133	Oddvin Bjørge AS	8238	172	Stjernelaks AS	8283
134	Ok-Fish Kvalheim AS	8239	173	Stokfish Norway AS	8284
135	Omega Sea AS	8240	174	Stolt Sea Farm AS	8285
136	Oster Sea Products AS	8241	175	Storm Company AS	8286
137	Pan Fish Sales AS	8242	176	Superior AS	8287
138	Pero Food AS	8243	177	Svenodak AS	8288
139	Polar Gigante AS	8246	178	Terra Seafood AS	8289
140	Polar Seafood Norway AS	8247	179	Thorleif E. Ellingsen AS	8293
141	Prilam Norvège AS	8248	180	Timar Seafood AS	8294
142	Pundslett Fisk	8251	181	Torget International AS	8297
143	Roger AS	8253	182	Torris Products Ltd AS	8298
144	Rolf Olsen Seafood AS	8254	183	Troll Salmon AS	8317
145	Ryfisk AS	8256	184	Uniprawns AS	8318
146	Rørvik Fisk-og fiskematforretning AS	8257	185	Vareberg's Røykeri	8319
147	Saga Lax Norge AS	8258	186	Vest Agentur AS	8320
148	Sagalax Nord AS	8259	187	Vie de France Norway AS	8321
149	Salomega AS	8260	188	Vikenco AS	8322
150	Sandanger AS	8261	189	Wannebo International AS	8323
151	Sangoltgruppa AS	8262	190	West Fish Norwegian Salmon AS	8324

Council Declaration

The Council states that, in the situations described in Article 8 (9) of Regulation (EC) No 384/96 as regards the breach or withdrawal of undertakings by an exporter, it will examine, with a view to its adoption as soon as possible by the written procedure, a Commission proposal tabled following consultation of the Advisory Committee amending Annex I to this Regulation so as to deprive the exporter of the benefit of duty exemption.

COUNCIL REGULATION (EC) No 1891/97

of 26 September 1997

imposing a definitive countervailing duty 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 3284/94 of 22 December 1994 on protection against subsidized imports from countries not members of the European Community⁽¹⁾, and in particular Article 11 (6) thereof,

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

Whereas:

A parallel anti-dumping proceeding was initiated with regard to the same imports⁽²⁾ and has been the subject of a separate investigation from the present anti-subsidy proceeding.

2. Initiation of investigations

- (3) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producers 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 a set time limit.
- (4) The following methodology was used for collection of relevant data:

(a) Producers/exporters in Norway

On 3 September 1996, the Commission forwarded a letter together with the Notice of Initiation and a copy of the non-confidential version of the complaint to the known associations representing salmon producers and exporters in Norway i.e. the Norwegian Fish Farmers' Association and the Federation of Norwegian Fishing Industry. It was explained that producers and exporters were requested to make themselves known by contacting the Commission and by providing certain information specified in paragraph 5 (a) of the Notice of Initiation ('the preliminary questionnaire').

On 5 September 1996, a meeting was organised at the request of the Norwegian producers and exporters, i.e. the two associations and their legal representative. It became clear that there are in Norway around 650 fish farmers involved in the production of salmon, and 200 to 300 exporters (although most exports to the Community are concentrated in the hands of 40 to 50 of them). The purpose of the meeting was for the Norwegian industry to explain to the Commission the great difficulty in securing cooperation from almost 1 000 operators in the salmon business even in the form of a response to the preliminary questionnaire. For this reason, in order to limit the investigation to a reasonable number of parties in accordance with Article 18 (1) of the Basic Regulation, it was agreed that only a selected number of

A. PROCEDURE

1. Complaint

- (1) On 31 August 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of an anti-subsidy proceeding concerning imports of farmed Atlantic salmon originating in Norway and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged jointly by the Scottish Salmon Growers' Association Ltd and by the Shetland Salmon Farmers' Association, acting on behalf of their members whose collective production of farmed Atlantic salmon constitutes a major proportion of the total Community output of this product.

The complaint contained sufficient evidence of subsidization of the imports concerned and of material injury resulting therefrom to justify the initiation of an anti-subsidy proceeding. Pursuant to Article 7 (9) of Regulation (EC) No 3284/94 (hereafter referred to as the 'Basic Regulation'), consultations were offered to the Norwegian authorities prior to the initiation of the investigation, and took place in Brussels from 19 to 20 August 1996. The consultations did not lead to a mutually agreed solution between the parties.

⁽¹⁾ OJ L 349, 31. 12. 1994, p. 22. Regulation as amended by Regulation (EC) No 1252/95 (OJ L 122, 2. 6. 1995, p. 2).

⁽²⁾ OJ C 253, 31. 8. 1996, p. 20.

⁽³⁾ OJ C 253, 31. 8. 1996, p. 18.

farmers and exporters should initially provide such a response. However, the Commission reserved the right to accept replies from other companies or to request information from companies not included in the initial selection.

Approximately 100 companies made themselves known to the Commission within the time-limit set. The Norwegian industry alleged that they accounted for 25 % of Norwegian production and 60 % of exports from Norway. The Commission sent a detailed questionnaire to all these companies ('the full questionnaire').

A total of 32 producers/exporters replied to the full questionnaire within the time-limit specified. These 32 companies were located in all regions of Norway and represented a significant part of Norwegian salmon production and exports. Due to the cooperation of the Norwegian Government, their questionnaire replies provided sufficient and adequate information to be representative of Norwegian salmon production for the purpose of certain parts of this investigation, although the coverage of production was not considered representative as regards other parts.

(b) *Community producers*

In view of the large number of producers supporting the complaint and the time limits to be complied with pursuant to Article 8 (9) of the Basic Regulation, the Commission decided to investigate injury on the basis of a representative sample of Community producers.

- (5) The Commission sought and verified all the information it considered necessary for a determination of subsidization, injury resulting therefrom and Community interest, and carried out investigations at the premises of the following administrations/firms:

(a) *Government of Norway*

Ministry of Fisheries, Oslo
Ministry of Foreign Affairs, Oslo
Ministry of Local Government and Labour, Oslo
Ministry of Finance, Oslo
Norwegian Industrial and Regional Development Fund (SND), Oslo

(b) *Non-governmental entities in Norway*

Nor-Cargo, Skein
Kreditkassen, Norske Bank, Oslo

(c) *Producers in Norway*

Bolstad Fiskeopdrett AS, Eikelandsosen
E. Karstensen Fiskeopdrett AS, Batalden
Erwik's Laks og Ørret AS, Dyrvik

Finmark Stamfiskstasjon AS, Korsfjord
Hydro Seafood Mowi AS, Bergen
Hyen Laks AS, Hyen
Marius Eikremsvik AS, Skodje
Sørrollnesfisk AS, Hamnvik
Tom Hansen Fiskeopdrett AS, Rørvik
Veidholmen Fisk, Veidholmen

(d) *Exporters in Norway*

Aalesundfisk AS, Aalesund
Domstein Salmon AS, Måløy
Fresh Marine Company AS, Trondheim
Hydro Seafood Sales AS, Bergen
Møre Codfish, Aalesund
Nils Williksen AS, Rørvik
Rolf Olsen Seafood AS, Bergen
Salmonor AS, Bergen
Skaarfisk Group A/S, Florø
Terra Seafood AS, Trondheim
TiMar Seafood AS, Trondheim

(e) *Community producers (UK)*

Aquascot, Alness
Ardessie, Dundonnell
Ardvar, Laing
Ayre, Mossbank
Dury, Laxo
Highland Fish Farmer, Aberdeen
Joseph Johnston, Montrose
Kames, Argyll
Kyles of Bute, Tighnabruich
Landcatch, Langbank
Marine Harvest, Edinburgh
Murray Seafood, Dunoon
North Atlantic, Vadhure Walls
Ocean Reaper, Scalloway
Shetland Norse, Lerwick
Strathaird, Inverness

(f) *Processors*

Pêcheries de Fécamp, Fécamp (France)

- (6) The period used for the investigation of subsidies was 1 January 1995 to 31 July 1996 (hereinafter referred to as 'the investigation period'). However, for the investigation of certain injury indicators such as price undercutting, the investigation period was the 12 months immediately prior to the initiation of the investigation, i.e. August 1995 to July 1996.

- (7) Having been informed of the Commission's provisional findings, the Norwegian exporters mentioned in the Annex to this Regulation and the Norwegian government offered undertakings pursuant to Article 10 of the Basic Regulation.

(8) The Commission subsequently completed the investigation on subsidization and injury and informed all parties of the essential facts and considerations on the basis of which it intended to recommend the imposition of definitive residual countervailing duty which would be applicable to those exporters who had either failed to offer an undertaking or who would subsequently withdraw their undertaking or otherwise fail to honour it. Pursuant to Article 21 of the Basic Regulation, interested parties were granted a period within which to make representations subsequent to the disclosure.

(9) The parties' representations were considered, and the Commission altered its conclusions where deemed appropriate.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(10) The proceeding covers farmed Atlantic salmon, whether or not filleted, fresh, chilled or frozen.

This definition excludes other similar farmed fish products such as large ('salmon') trout, other salmon species such as Pacific salmon as well as wild salmon and further processed types such as smoked salmon.

The product under consideration is currently classifiable under CN codes ex 0302 12 00, ex 0304 10 13, ex 0303 22 00 and ex 0304 20 13, corresponding to different presentations of the product (fresh or chilled whole fish, fresh or chilled fillets, frozen whole fish and frozen fillets). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding.

2. Like product

(11) The investigation showed that the farmed Atlantic salmon produced in Norway and sold for export to the Community is identical, that is to say, alike in all respects to the farmed Atlantic salmon produced by the Community industry and sold on the Community market. They should therefore be considered like products within the meaning of Article 1 (5) of the Basic Regulation.

C. SUBSIDIES

1. General

(a) *Basic approach*

(12) The complainant alleged that Norwegian Salmon growers have benefited from a number of subsidies granted by the Government of Norway, and that these subsidies fall within the definition of countervailability set out in Article 3 of the Basic Regulation.

(13) It was therefore investigated whether government institutions, including any public or private entity under the control of the Government of Norway, provided any financial contribution, as defined in Article 2 (1) of the Basic Regulation, to salmon growers in Norway. It was further investigated whether the financial contributions found to exist also conferred a benefit to their recipients.

(14) The Council has made an analysis of the alleged schemes, and determined whether these were countervailable in accordance with the Basic Regulation. Subsidies as defined above are countervailable unless they are non-specific or fall into one of the three 'green light' categories (R&D, regional or environmental aid). It should be noted that specificity must be assessed in the light of the criteria set out in Article 3 (2), (3) and (4) of the Basic Regulation and that subsidies are non-specific only if they are generally available and their eligibility is automatic, and that the 'green light' status must be requested by the third country (no prior notifications having been made to the WTO) and must be demonstrated by its authorities on the basis of the criteria set out in Article 3 of the Basic Regulation. Since none of the countervailable subsidies in question are granted with reference to quantities manufactured or sold, and there are no export subsidies involved, the amount of each subsidy is allocated over total sales (either of the cooperating companies or the whole industry) made in the investigation period in accordance with Article 4 (3) (c) of the Basic Regulation and expressed *ad valorem*. The amount of subsidy is calculated on the basis of the 'benefit to the recipient' approach enshrined in Article 4 (2) of the Basic Regulation.

(15) In analysing the schemes, the Council is aware that in some cases not all salmon growers will have received exactly the same benefit of the subsidies found. However, since any grower can sell to any exporter, it is impossible to impose a company specific duty which could be enforced by customs authorities, since the identity of the grower could never be checked. Consequently, a single rate of subsidy has been calculated in all cases, since only a single country-wide duty is appropriate in this case. Moreover, although total sales of salmon in Norway have been used as the denominator, this does not mean that all salmon growers are considered to have been subsidized. Indeed, any im-

porters which consider that they have obtained salmon from less- or non-subsidized growers and/or exporters can request refunds of countervailing duty in accordance with Article 13 of the Basic Regulation.

(b) *Agreement on the European Economic Area (EEA Agreement)*

- (16) The Norwegian Government alleged that certain subsidies should not be examined under the countervailing duty regulation, in view of the provisions of the EEA Agreement. Article 26 of the EEA Agreement prohibits the use of countervailing measures, unless otherwise specified in the Agreement. In this respect, Article 20 of the EEA Agreement explicitly states that provisions and arrangements that apply to fish are set out in Protocol 9 to the Agreement. Article 4 (3) of Protocol 9 expressly permits the use of countervailing measures in order to remedy the injurious effects of subsidies in the fisheries sector.

Protocol 13 to the Agreement limits the use of anti-subsidy measures to areas where the Community *acquis* is not fully integrated. This is the case as regards the fisheries sector. However, Norway referred to the fact that while some of the alleged subsidies were fish-specific (e.g. FOS/Rødfisk), others, for example regional aid and differentiated social security contributions, were 'horizontal' schemes which applied to all sectors in Norway. It was claimed that these subsidies, since they were subject to approval by the EFTA Surveillance Authority (ESA) on the basis of common State aid rules with those of the Community, should not be investigated under the Basic Regulation, which in the case of Norway could only apply to subsidies directed at the fisheries sector.

The Council's position is that all the alleged subsidies should be examined in the course of this investigation. The fact that certain 'horizontal' subsidies may be found countervailable in this case is an issue separate from their approval or otherwise by the ESA, and it does not prejudice their legal status under any international agreement. It does, however, pave the way for legitimate redress, by means of measures at the Community frontier, for a Community industry producing a product to which the full benefit of the EEA Agreement does not apply.

In this regard, the object and purpose of the Basic Regulation is to counteract the injurious effects of a subsidy found to be countervailable as regards the products under investigation, irrespective of whether the granting of the subsidy by the subsidizing country is, or is not, legitimate in view of the applicable international rules. Thus, application of

the Basic Regulation to any of the 'horizontal' subsidies in no way contradicts their approval by the ESA and consequently their legality under the EEA Agreement. The application of the Basic Regulation merely concerns the effects of these 'horizontal' subsidies on production of salmon and on its export to the Community.

I. PROGRAMMES FOUND TO BE COUNTER-AVAILABLE

1. Differentiated social security contributions

(a) *Description of the scheme*

- (17) The complainant alleged that the Norwegian social security system subsidizes the salmon industry through the applicability of different rates of employers' contributions depending on their location.

For the purpose of determining the rate of social security contributions, Norway is divided into five zones, with the following rates applicable to each zone:

zone 1	Central municipalities in southern Norway: 14,1 %
zone 2	Rural districts in southern Norway: 10,6 %
zone 3	The municipalities Frøya, Hitra, Osen, Åfjord, Roan and Smøla: 6,4 %
zone 4	All municipalities in Troms county except those in zone 5, all municipalities in Nordland county and 13 municipalities in Nord-Trøndelag county: 5,1 %
zone 5	All municipalities in Finnmark county and the northern municipalities in Troms County Municipality, Karlsøy, Kvænangen, Kåfjord, Lyngen, Nordreisa, Skjervøy and Storfjord: 0 %

Pursuant to the National Insurance Act of 17 June 1966, Norway applies a differentiated employers' social security contribution system. The scheme was introduced in 1975 as an amendment of the National Insurance Act. The programme is part of a policy to maintain and develop the more remote regions of Norway. The contribution is calculated as a percentage of the gross salary payments (see above).

The percentage applied for determining the rate of contribution depends upon the residence of the employee. All economic sectors benefit from the exemption or reduction, including the salmon industry.

The zones are established on the basis of a model consisting of 11 indicators: net migration, distances to centres of more than 5 000, 10 000 or 50 000 inhabitants, percentage of the population living in villages or towns, number of females per 100 males, percentage of the population aged 20 to 49, unemployment rate, percentage of the population receiving disability pensions, percentage of the population holding university degrees, average taxable income, percentage of population employed in primary sectors and percentage of labour force employed in selected tertiary sectors. These indicators are weighted by 0,075, except for migration, which is weighted by 0,25. This analysis was last carried out in 1988 at municipal, regional and county level.

(b) *Existence of a subsidy*

- (18) An analysis of the questionnaire response and verification by the Norwegian Government revealed that the differentiated employers' social security contribution constitutes a subsidy as defined in Article 2 of the Basic Regulation.

The reduction in, or exemption from, employers' social security contributions constitutes a financial contribution by the government of Norway. The system constitutes government revenue that is foregone or not collected. In exempting or reducing the employers' social security contributions, in all zones except zone 1, the government revenue is reduced. Therefore, the scheme falls within the definition of a financial contribution in accordance with Article 2 (1) (a) (ii) of the Basic Regulation.

The scheme clearly confers a benefit to the employers in accordance with Article 2 (2) of the Basic Regulation. In employing employees resident in zones 2 to 5, employers obtain a benefit compared to the situation that would exist if all employees were resident in zone 1 and were subject to the basic rate of 14,1 %. It should be noted that 73 % of the population resides in zone 1. The benefit to employers employing employees in zones 2 to 5 is the difference between the actual amount of social security contributions paid and the amount of such contributions that would have been paid had the basic rate of 14,1 % been applied.

The Norwegian Government claimed that the scheme in question is a general tax measure, and that since the rate of contributions for each zone was set separately by central government no revenue was foregone. This argument cannot be accepted, since this kind of scheme involving different rates of contribution by region is equivalent to a system of reductions and exemptions from a

basic rate and clearly confers a benefit to those enterprises which qualify for such reductions or exemptions. For this reason, the Council has determined that the amount of subsidy should be measured by reference to the highest rate of contribution.

(c) *Specificity*

- (19) This subsidy is specific within the meaning of Article 3 (2) (a) of the Basic Regulation. The investigation has demonstrated that in practice almost all employees live in the same zone as the employer. Consequently, the scheme confers a *de facto* benefit to employers on the basis of their location. The scheme is specific since employers located in zones 2 to 5 pay less than the basic rate in zone 1, and therefore the benefit conferred is limited to firms located in those zones.

(d) *Calculation of the benefit*

- (20) The Government of Norway did not provide global figures for social security contributions by salmon producers. Therefore the basis for the calculation of the benefit was the social security contributions of the cooperating and verified producers located in zones 2, 3, 4 or 5. The subsidy was calculated by comparing the actual payment of social security contributions with the amount which would have been paid had the basic rate of 14,1 % been applied.

One cooperating producer, which has a large number of related companies involved in the farming of the product concerned, submitted information concerning only a limited number of related companies in the group. In these circumstances, information on the social security contributions of this group was not taken into account as it was incomplete.

The difference was considered to be the benefit to the salmon producers. The total subsidy, when expressed as a percentage of the turnover of the cooperating and verified producers (including zone 1), amounts to 0,93 %.

2. The Norwegian Industrial and Regional Development Fund (SND)

(a) *The complaint*

- (21) According to the complainant, the SND is the main source of finance for the fish-farming industry. Norwegian salmon growers have benefited from SND subsidy programmes such as grants, loans and loan guarantees.

(b) Description of the scheme

- (22) The Norwegian Industrial and Regional Development Fund (known by the acronym 'SND') was established by Act No 97 of 3 July 1992. The SND is operated by the government and is controlled by the Ministry of Industry and Energy. The purpose of the SND is to promote the commercial and socio-economic development of Norwegian industry. The support is primarily targeted at small and medium-sized enterprises and regions which are economically underdeveloped.

In practice, projects are funded through a combination of loans and grants. Each applicant has to submit a financial overview of the project for which financing is requested. If financial aid is granted, a percentage of the total cost is covered by a grant and another percentage is usually covered by a loan.

The SND also guarantees commercial loans. In addition, it provides equity infusions (see recital 69).

*(c) Types of subsidy**A. Grants*

- (23) The SND grant scheme is funded partly through the budget of the Ministry Industry and Energy (grants covering all regions) and partly through the budget of the Ministry of Local Government and Labour (grants to assisted areas). In the period 1986 to 1996, around Nkr 270 million was paid in grants to salmon growers and Nkr 100 million was paid to mixed/integrated enterprises (processors and preservers handling fish including salmon).

The grant scheme includes 5 types of grants:

1. development grants;
2. business development grants for SMEs in central regions;
3. investment grants in assisted areas;
4. business development grants in assisted areas;
5. regional development grants.

Grants 2, 3 and 4 are limited to certain regions in Norway while programmes 1 and 5 are available to all regions.

Existence of a subsidy

- (24) The SND grant scheme clearly constitutes a subsidy within the meaning of Article 2 of the Basic Regulation.

The grant scheme provides a financial contribution since there is a direct transfer of funds to the beneficiaries within the meaning of Article 2(1)(a)(i) of the basic Regulation. The scheme confers a benefit to salmon producers, since investment costs are reduced by the amount of the grant.

Specificity

- (25) As regards SND grants, specificity is twofold:
- regional specificity, and
 - lack of objective criteria and of automatic eligibility for non-regional schemes.
- (26) With regard to the business development grants in central regions, investment grants in assisted areas and business development grants in assisted areas, access to the subsidy is limited to enterprises in certain regions and specificity therefore exists.
- (27) With regard to the grants which are available nationwide, most SND funding is distributed to each county in Norway. Each individual county decides which projects are eligible for support. Although SND funding is in theory generally available, support is not granted on a consistent basis to eligible projects. The investigation revealed that there are no objective criteria applied in selecting projects. Since the counties have the ultimate responsibility for selection of projects, the criteria and priorities differ between counties, and even within the counties the criteria are not consistently applied. In the absence of objective criteria, it is clear that a large amount of discretion exists. The amount of discretion exercised is evident from the questionnaire reply of the Norwegian government. The response contains examples of similar applications where one is rejected while another one was accepted. Although the existence of a certain amount of discretion for granting authorities does not necessarily render a subsidy specific, the complete absence of any consistency and objective criteria in the counties as regards the selection of projects means that the non-specificity requirements of Article 3(2)(b) of the Basic Regulation are not met. In addition, certain SND benefits have been granted in disproportionately large amounts to the fish farming sector over a number of years, which would in any event lead to a finding of specificity under Article 3(2)(c) if the Basic Regulation as regards the SND as a whole.
- (28) In conclusion, the SND grants are specific within the meaning of Article 3(2) of the Basic Regulation. There are no objective criteria for approving

grants, and certain SND benefits have been disproportionately granted to fish farming. In addition, the grants which are restricted to certain regions are by definition specific.

Green-light claim

- (29) The Norwegian government claimed green-light treatment for regional aid granted by SND in the form of investment grants in assisted areas and business development grants in assisted areas in accordance with Article 3 (8) of the Basic Regulation.

In order to assess the merits of this claim, it is necessary to analyse it in the light of the criteria set out in the abovementioned Article.

(i) Assessment

(a) *Positive elements*

- (30) The grants are given within a general framework of regional aid, as defined by regulation and in Norway's regional plans.
- (31) Eligible regions are designated according to their level of GDP per capita, unemployment and population density, and in total cover about 25 % of the population of Norway. These are three eligible regions, zones A, B and C. The rest of Norway is not eligible for regional aid.
- (32) Aid ceilings have been established according to the level of development of each eligible region. Zone A, the least developed (covering the far north of Norway), is eligible for aid up to 50 % of eligible costs, zone B up to 30 % and zone C up to 25 %. All percentages include a supplement for small and medium-sized enterprises.
- (33) The eligible regions are clearly designated contiguous geographical areas.

Norway is divided into 19 counties and 435 municipalities. All eligible regions consist of a mixture of whole counties and of groups of municipalities within counties. The county is the basic unit of analysis as regards regional aid, but many counties consist of municipalities which are in different zones, and several counties include a mixture of eligible and non-eligible municipalities. In spite of this, however, there appears to be homogeneity in the attribution of different municipalities to the different zones and the boundaries of each zone always coincide with municipality boundaries.

(b) *Negative elements*

- (34) On the basis of the four elements examined above, the green light criteria set out in Article 3 (8) of the Basic Regulation are so far met. However, within the regions, aid is specific, within the meaning of the Basic Regulation.

As has already been explained, although the aid is mainly granted by central government, it is the county authorities which select recipients and disburse the aid. Since the criteria for selecting eligible companies are subjective (see recital 25), this gives rise to inconsistency from county-to-county in how aid is granted, and therefore there is a lack of consistent application within each zone. In addition, certain SND benefits have been granted disproportionately to the fish farming sector. Therefore specificity exists within each assisted region.

- (35) Moreover, the actual application of the criteria for selecting eligible regions is not consistent. Article 3 (8) (iii) of the Basic Regulation stipulates that one of the following criteria must be met:

— GDP per capita below 85 % of national average,

— unemployment rate at least 110 % of the national average.

It has been established, that while all eligible regions in zone A and zone B (either whole counties or groups of municipalities) meet the above GDP criteria, the situation as regards zone C is more complicated. Overall, zone C has a GDP per capita equivalent to 81,6 % of the national average, but in case of one county (Sogn og Fjordane) within zone C, neither the GDP nor the unemployment criteria are met; and the same is true of a number of other groups of municipalities which constitute the zone C region within a particular county.

(ii) Conclusion

- (36) Under Article 3 (8) of the Basic Regulation, aid must be non-specific within eligible regions for the subsidy to be non-actionable. In this case, since aid within all eligible regions is specific, none of them qualify for green light treatment. As regards zone C, the fact that several eligible areas within it do not meet the GDP or unemployment criteria constitutes a second factor which in any event disqualifies zone C. Consequently, the green light claim has to be rejected.

Therefore, it is concluded that all SND grants are countervailable.

Calculation of the benefit

- (37) During the verification visits to salmon growers, it was established that SND grants were in general used for the acquisition of fixed assets. Therefore, in accordance with Article 4(3)(d) of the Basic Regulation, the value of the grant was allocated over a period reflecting the normal depreciation of fixed assets in the industry. The investigation revealed that according to general Norwegian accountancy principles productive assets are written down at an annual rate of 15 %, which results in a 7-year depreciation period. Since this practice was also followed by the salmon growers, this depreciation period was used for the allocation of the benefit of the grants.

- (38) The total amount of grants made to salmon growers during the period 1 January 1989 to the end of the investigation period, (Nkr 204 million) was allocated on a straight-line basis over 7 years. The benefit for each year is increased by the commercial interest rate, thus reflecting the normal cost to the beneficiary of borrowing an equivalent amount each year. Using this method, the amount of grants attributed to the investigation period is Nkr 49 980 000 including the addition of 8,25 % annual interest, the average rate for the period concerned.

The total sales (export and domestic) of Norwegian salmon producers in the investigation period amounted to Nkr 10 460 million.

The grant amount was expressed as a percentage of the total sales value; the subsidy is 0,48 %.

B. Loans

- (39) SND operates a loan programme. This programme consists of three types of loans:

- secured loans for long-term investment,
- risk capital loans for investment,
- risk capital loans for investment in assisted areas.

The criteria for eligibility are identical for the grants.

The basis for stipulating the interest rate in each case is the interest rate on government bonds plus

a deposit commission of 0,4 %. The investigation showed that during the investigation period the interest rate was close to the interest rate of commercial banks. However, in the past loans were granted at an interest rate lower than the commercial interest rate.

The SND loans are usually granted with a grace period of 1 or 2 years without any repercussion on the interest rate.

Existence of a subsidy

- (40) The SND loan programme constitutes a subsidy as defined in Article 2 of the Basic Regulation.

There is a financial contribution in the provision of loans from the government and a benefit is conferred in three ways: (a) the loan is given interest-free for 1 or 2 years (depending on the amount of the loan and the repayment period); (b) the interest rate is lower than the interest for similar loans in the private market; or (c) the loans are not repaid and are forgiven by the SND.

The SND incurred losses of approximately Nkr 235 million on loans to the fish farming sector between 1989 and the end of the investigation period.

Specificity

- (41) Thus, the SND loan programme is countervailable with regard to loans which fall into any of the categories above. Since the same criteria for eligibility apply as for SND grants (recitals 25 to 28), the specificity analysis for grants is applicable to loans. Furthermore, there is clear evidence of disproportionate use of this subsidy by the fish farming sector in certain years.

Calculation of the benefit

- (42) As regards the preferential interest aspect of SND loans, the calculation of the benefit was done through an analysis of the SND loans with the cooperating and verified producers. The SND loans confer two types of benefit: a preferential interest rate (loans prior to 1994) and grace period (period of 1 or 2 years of interest-free loan provision).

The subsidy was calculated by comparing the interest which was actually paid with the normal commercial interest rate. The commercial interest rate was taken from the monthly interest rates of Norske Bank, the major commercial bank in Norway.

The interest benefit was divided by the term of the loan in order to calculate the annual benefit. Finally, the benefit was allocated to the investigation period. One cooperating producer, which has a large number of related companies involved in the farming of the product concerned, originally submitted information concerning only a limited number of related companies in the group. Information relating to loans received by other companies in the group was submitted after the deadline for receipt of such information. In these circumstances, information on the loans received by this group was not taken into account as it was incomplete.

Expressed as percentage to the turnover of the cooperating and verified salmon producers which received SND loans, the subsidy amounts to 0,19 %.

- (43) As to the losses incurred by the SND on loans due to non-repayment, it was established that such losses were heavily concentrated in the period 1990 to 1993. Although the benefits, in the form of a relief of obligations incurred by the salmon industry, were obtained on a regular basis, attribution to the year in question is not appropriate, since the unusual concentration of losses over a short period constitutes 'special circumstances' under Article 4 (3) (e) of the Basic Regulation, and justifies allocation over time. Therefore this benefit can be characterized as a *de facto* non-recurring grant, and is allocated over the normal period of 7 years (see recital 37).

An additional argument in favour of this approach is the fact that it is reasonable to assume, in the absence of sufficient cooperation from Norwegian producers, that such large amounts of money must have been used to acquire fixed assets, since it has already been established that most SND grants are used for this purpose. With the addition of interest (using the parameters explained in recital 38) the amount attributed to the investigation period is Nkr 57,600 000. Expressed as a percentage of total sales of Norwegian salmon during the investigation period, the subsidy is 0,55 %.

Norway argued that it was unfair to consider all losses on loans as subsidies, since private banks also incurred losses, and the SND, like private banks, accepted a level of risk. The interest rate charged was meant to include a risk element. Furthermore, since most losses involved bankruptcies, the salmon growers involved usually ceased trading and therefore obtained no benefit.

It is considered that the losses constituted debt forgiveness by government, and therefore a subsidy.

In any event, the SND interest rate was found to be below the commercial rate and in addition grace periods were given. Moreover, no evidence was presented that most of the SND losses concerned bankrupt companies, but even if they did, there was clear evidence that the licences had been picked up by other growers, who were effectively relieved of the debt obligation.

- (44) The total subsidy under the loan programme therefore amounts to 0,74 %.

C. Loan Guarantees

- (45) The SND provides two types of loan guarantees:

- loan guarantees,
- loan guarantees in assisted areas.

The guarantees are given as guarantees of collection. The loans guaranteed by SND can only be used for financing investment or working capital. The lender bank is obliged to secure the loan guaranteed by the SND according to the conditions set out in the letter of approval. Before SND makes any payment on a guarantee, substantiated proof of the debtors' insolvency is required.

It did not appear from the investigation that the SND loan guarantee has any influence on the interest rate provided by the lending bank. In addition, the company which obtains a guarantee has to pay a fee to SND equivalent to 1 % to 1,5 % of the lending amount. However, from 1989 onwards, the amount collected in fees, both as regards the scheme as a whole and the fish farming sector in particular, has been manifestly inadequate to cover the payment for defaults.

The programme was used to repay banks for loans to salmon growers which were not repaid. This resulted in effective grants to salmon growers.

Existence of a subsidy and specificity

- (46) The investigation revealed that the loan guarantee programme constitutes a subsidy.

There is a financial contribution from the SND and there is a benefit for the salmon growers whose loan was guaranteed to the extent that the guarantee was not made on a commercial basis. It is clear that the fees were set at a level which would not cover, even in the long term, the amount of defaulted loans paid back to the banks: in these

circumstances, the default payments in excess of fees paid constitute grants to salmon growers. The subsidy is specific; the specificity analysis applied for SND grants (recitals 25 to 28) is also valid for loan guarantees. Furthermore, there is clear evidence of disproportionate use of this subsidy by the fish farming sector.

Calculation of the benefit

- (47) Between 1989 and the end of the investigation period, losses on the scheme as regards the fish farming sector amounted to Nkr 317 million. In accordance with Article 4 (3) (b) (i) of the Basic Regulation, the fees incurred in order to qualify for the benefit were deducted from the total payments made by the SND in the loan guarantee programme. Although the loan guarantee scheme is operated on a regular basis, almost all the default payments on loan guarantees were made between 1989 and 1992, and in view of this heavy concentration this benefit can be characterized as a *de facto* non-recurring grant and should therefore be allocated over a period of seven years. In this regard, the same considerations as were used in the case of losses on SND loans apply (see recital 43). With the addition of interest using the parameters explained in recital 38, the amount attributed to the investigation period amounts to Nkr 77 890 000.

Expressed as a percentage of the total sales of Norwegian salmon during the investigation period, the subsidy is 0,74 %.

As for SND loans, Norway argued that it was unfair to consider all losses on loan guarantees as subsidies, since salmon growers had defaulted on loans on which both the SND and private banks had accepted a level of risk which had been taken into account in the interest rate charged for those loans. However, it is considered that loans from the SND were subsidized and that losses on such loans constitutes debt forgiveness. Furthermore, the fees charged for the loan guarantees were manifestly inadequate to cover long-term liabilities arising from defaulted loans.

3. Transport subsidies

(a) *The complaint*

- (48) The complainant alleged that transport of salmon has been supported by a system of grants to compensate producers in remote areas for the extra

freight cost arising from their geographical location.

(b) *Description of the scheme*

- (49) The investigation established that Norway has set up a transport subsidy scheme through the county administrations. The scheme aims to provide aid to compensate for the long distances to the markets. The schemes are operated and financed by the counties. Only 5 of the 19 counties operated a transport aid scheme during the period of investigation. These were Møre og Romsdal, Nord-Trøndelag, Nordland, Troms and Finnmark.

The total budget for transport aid in the five counties was Nkr 74 267 402 in 1995. In Møre og Romsdal, Nord-Trøndelag, Troms and Finnmark no subsidies were granted to the transport of fresh fish. Only Nordland operated a transport aid scheme for the transport of fresh fish.

In Nordland a number of selected sectors within the processing industry are eligible for transport grants. On the basis of actual costs, the scheme is open to applications for partial compensation providing that the transport costs are significant. The maximum ceiling range is 30 to 45 % of total transport costs. Only the portion of the inland transport is eligible for transport aid.

(c) *Existence of a subsidy*

- (50) The transport aid scheme constitutes a subsidy within the meaning of Article 2 of the Basic Regulation.

The scheme clearly provides a financial contribution in accordance with Article 2 (1) (a) (i) of the Basic Regulation, since up to 45 % of the transport costs are reimbursed by the counties. The programme confers a benefit to salmon producers and/or exporters since the transport expenses which are incurred under normal circumstances are reduced.

The scheme is specific within the meaning of Article 3 of the Basic Regulation. There are no clear objective criteria for granting the subsidy and the transport subsidy is not granted automatically. The county municipalities exercise great discretion in: (a) granting the subsidy; and (b) the amount of refund which is paid. The verification made it clear that even if a company fulfils the criteria for obtaining a benefit, it can be rejected without express motivation. Consequently, the transport aid scheme is specific within the territory of the county concerned and therefore countervailable.

(d) *Calculation of benefit*

- (51) The total amount of grants from the transport aid scheme to companies transporting, among other fish products, salmon, was calculated. Specific figures for salmon were not provided. The amounts of grants used for the calculation were those relating to transport aid received in 1995 and 1996. The amount of grants attributed to the investigation period is Nkr 1 420 000.

The grant was expressed as a percentage of the total sales value of salmon in the investigation period. The subsidy is 0,01 %.

4. Regional Commission for northern Norway and North Trondelag

- (52) The Regional Commission for northern Norway and North Trondelag is a regional policy body, whose task is elaboration of regional policy and promotion of commercial and industrial development in the region.

Funds are granted for special development measures in northern Norway and the purpose of these is to help to promote innovation and readjustment in the region's commerce and industry. The fund has been organized in programmes such as a travel and tourism programme, an industrial programme, a fisheries and aquaculture programme.

In the investigation period one grant of Nkr 800 000 was made to a project involving three companies, of which one is salmon-related.

Existence of a subsidy

- (53) The grant is a direct transfer of funds from the government and therefore constitutes a subsidy. The grant clearly confers a benefit to the salmon sector. However, on an *ad valorem* basis the amount of benefit is too negligible to be taken into account.

5. FOS/Rødfisk

(a) *The complaint*

- (54) The complainant alleged that the government supported salmon farmers through the Norwegian Fish Farmers' Sales Organization (FOS) and Rødfisk AS.

(b) *Description of the scheme*

- (55) At the end of 1989, an imbalance occurred between demand and supply in the European salmon

market. In view of the difficulties in the market, the Norwegian Association of Fish Farmers and FOS, which was the sole exporter of salmon in Norway, set up a freeze-storage programme in January 1990. The aim was to withhold a certain amount of salmon from the market in order to improve the prices. In order to finance the programme an obligatory freezing-fee of Nkr 5 per kilo was introduced. In addition, FOS took a loan from the Christiana Bank for Nkr 1,3 billion. A second loan of Nkr 600 million was given by a consortium of Norwegian banks.

In October 1991, FOS experienced serious financial problems in relation to the repayment of the loan. In addition, the county court of Trondheim decided on 28 October 1991 that the freezing-fee of Nkr 5 was illegal. These factors created serious doubts as to the ability of FOS to repay its debts to the banks and resulted in its bankruptcy in early November 1991.

As a result of the bankruptcy, the banks and the Norwegian government started negotiations to find a solution for the crisis. Before the bankruptcy, FOS had frozen 90 000 tonnes of salmon and the majority of the salmon farmers delivering salmon to FOS had outstanding invoices. The banks and the Norwegian government got together to achieve a controlled liquidation of FOS. The agreement resulted in the establishment of a company called Rødfisk which would conduct the liquidation of FOS. Rødfisk is a consortium of major Norwegian banks which were the main lenders to FOS. Rødfisk was established to deal with two major issues: the sale of the remaining stock and the repayment of fish farmers which had a claim on FOS. At the time of the bankruptcy, about 35 000 tonnes of frozen salmon remained in stock.

Rødfisk was financed by the banks and the Norwegian government. Firstly, the government provided an interest-free loan on Nkr 400 million. This loan was never repaid and eventually written off. The banks took over claims to the FOS' bankruptcy of Nkr 560 million.

The newly financed Rødfisk started repaying the salmon farmers at 49 % of their initial claim and sold the frozen salmon in non-traditional markets. Indeed, Norway concluded an agreement with the European Commission not to sell the salmon within the Community.

The investigation revealed that during 1992 Rødfisk also gave loans to salmon growers at an interest rate of 6,0 %. The commercial interest rate at that time was 11,5 %.

*(c) Existence of a subsidy***Government grants to Rødfisk**

- (56) The interest-free loan of Nkr 400 million provided by the Norwegian government to Rødfisk which was subsequently written off constitutes a subsidy in accordance with Article 2 of the Basic Regulation.

The financial contribution consists of a non-recurring grant of Nkr 400 million in accordance with Article 2 (1) (a) (i) of the Basic Regulation.

The benefit for the salmon growers resulting from the use of the grants by Rødfisk is twofold: (a) partial repayment of their claim to FOS which would not have occurred under normal market conditions; and (b) the provision of loans at preferential interest rates.

Although the Nkr 400 million grant was made to Rødfisk and not directly to the salmon growers, it is reasonable to conclude that the benefit was enjoyed by the growers, since Rødfisk only existed for the purpose of resolving the outstanding problems inherited from FOS. The Nkr 400 million is considered to cover the benefits from the repayments of claims and the preferential loans.

Specificity

- (57) The subsidy is clearly specific since only salmon farmers could benefit from the payments of Rødfisk.

Therefore, the non-recurring grant of Nkr 400 million is countervailable.

The Norwegian Government referred to the agreement with the European Commission (recital 55) and argued that, in view of the circumstances pertaining at the time, it was not reasonable now to return to this matter and countervail the subsidy. The Council, however, takes the view that nothing in the agreement prevents the taking of protective measures and since the effects of the subsidy are still present, there is an obligation to countervail in order to remedy any injurious effects.

Loans from banks to FOS

- (58) The verification revealed that the loans advanced by the banks were made on a commercial basis. Christiana Bank was a private bank at that time and the repayment of almost all the loan was eventually secured. Although a number of banks participating in later loans to FOS and Rødfisk were State-owned for a period of time, there is no

evidence they behaved in a non-commercial manner.

To the extent that certain banks were part of the government as defined in Article 1 (3) of the Basic Regulation, there was a financial contribution in the form of loans to FOS and Rødfisk. However, since the banks acted on a commercial basis, and Rødfisk repaid the loans, salmon growers derived no benefit.

Calculation of benefit

- (59) Large non-recurring loans are allocated over a period of time reflecting the normal depreciation period for fixed assets in the industry concerned.

The total amount of the grant (Nkr 400 million) was allocated over a 7-year period since, as already explained with regard to SND grants, 7 years is the normal depreciation period applicable in Norway (recital 37). This resulted in an attributed amount to the investigation period of Nkr 97 940 000. As was done with SND grants, this amount was increased with the weighted average interest rate loans to the fish farming industry during the investigation period (8,25 %) since salmon growers would have paid interest if they had borrowed an equivalent amount with commercial banks.

The grant was expressed as a percentage of the total sales value of the Norwegian salmon growers in the investigation period. The subsidy is 0,94 %.

**II. PROGRAMMES FOUND NOT TO BE COUNTER-
AVAILABLE****6. The Research Council of Norway (RCN)**

- (60) The complainant alleged that the Research Council of Norway (RCN) spends Nkr 100 million annually on R&D work directed towards the fish farming industry through five different programmes.

The RCN's objective is to support R&D in various sectors in Norway. Eligible receivers of support are universities, research institutes and companies. It was established that salmon growers received Nkr 24 million in aid from RCN during the investigation period.

The Government of Norway had made a claim for green-light treatment for this aid, on the basis that it is granted in accordance with the criteria set out in Article 3 (7) of the Basic Regulation. It has been established that RCN supports up to 50 % of the costs for basic industrial research and 25 % of the

costs of applied research; these percentages can be increased by 10 % if an SME is involved. The costs involved fall within the definition of eligible costs specified in Article 3 (7), and the percentages are well below the upper limits of 75 % and 50 % respectively allowed by this Article.

Consequently, it has been concluded that R&D aid from the RCN is non-actionable and cannot be subject to a countervailing duty.

In addition, regardless of the issue of green-light treatment, there is no evidence that the RCN aid is specific.

7. The Seafood Export Council

- (61) This body was set up in 1991 to promote Norwegian seafood in export markets, in succession to the FOS. Its expenditure has grown from Nkr 2 million in 1992 to Nkr 35 million in 1995.

It was established that the Seafood Export Council does not grant assistance to individual salmon growers or exporters, but does promote the product at trade fairs and in special promotion activities.

The Seafood Export Council is financed directly by a levy on salmon growers. Consequently, its funding is derived from a mutually agreed private source and any assistance granted does not constitute a subsidy.

8. North Norwegian Growth

- (62) The complainant alleged that North Norwegian Growth, a body 30 % owned by the State and also partly owned by the State-owned SIVA, DNM and Troms County Council, provided subsidies and equity infusions within aquaculture and elsewhere.

It was established that North Norwegian Growth is a public investment company that provides resources in the form of share capital and advice to small and medium-sized firms in northern Norway with a potential for growth and profitability. The company was established in 1992. The company's activities are concentrated in the marine sector.

It is clear that North Norwegian Growth provides equity investments to companies in the north of Norway. It is State-owned, but aims at a rate of return of at least 8 to 10 % above the risk-free rate per annum. In June 1996, it made its largest investment in the salmon sector, Nkr 8,5 million in a salmon producer, giving North Norwegian Growth a 34,5 % shareholding. The analysis of this equity

infusion confirmed that the involvement of North Norwegian Growth is based on a long-term perspective and that it intends to ensure an adequate rate of return on its investment. The examination of the economic assessment of the further prospects of the company appeared to justify the infusion from the point of view of a reasonable private investor. It was also established that previous equity investments in fish farming had been profitable. In addition, in cases where a market price exists for the shares of the companies involved, there is no evidence that North Norwegian Growth has paid more than this price.

Consequently, the equity infusions, while constituting a financial contribution from the government, do not appear to confer a benefit to the recipient and cannot be considered to be a countervailable subsidy.

9. Sties

(a) *The complaint*

- (63) The complainant alleged that Sties Transport was a company which transports between 70 to 80 % of Norwegian salmon and has incurred losses in recent years. It alleged that there are strong indications that the loss-making activities of Sties have been financed by the Norwegian State.

(b) *Description of the scheme*

- (64) Sties Thermo-Transport AS changed its name to Nor-Cargo Thermo AS from 1 June 1996 (hereafter Nor-Cargo). Nor-Cargo is a transport company which specializes in the transport of temperature-dependent goods including salmon, on a national and international basis. Nor-Cargo's share of transported Norwegian salmon fell from 50 % about 10 years ago to 36 % in 1994, 34 % in 1995 and 24 % in 1996.

Nor-Cargo made a small net profit on salmon transport in 1994 and 1995, equivalent to 4 % of turnover. The company as a whole made small losses between 1992 and 1995. The investigation revealed that these losses were covered by available funds within the company (reserves built up in the previous years) or by a group contribution from a profitable subsidiary within the Nor-Cargo group.

As regards salmon transport, Nor-Cargo explained that it is having to price close to its cost level because of the strong competition in the transport market. No specific rebates are granted to customers in the salmon industry.

Nor-Cargo is fully owned by Nor-Cargo AS, which is a private company. Nor-Cargo AS has three main shareholders: Vesteralsen Dampskipsselskap (VD), Stavangerske Dampskipsselskap (SD) and Troms Fylkes Dampskipsselskap (TFD). VD and TFD are both 25 % owned by local municipalities. None of the representatives of the local municipalities is a member of the board of directors of Nor-Cargo. The verification did not uncover any evidence that national or local governments have involvement or any influence in Nor-Cargo.

(c) *Existence of a subsidy*

- (65) The transport services of Nor-Cargo do not constitute a subsidy within the meaning of Article 2 of the Basic Regulation for the following reasons:

Firstly, Nor-Cargo does not fall within the definition of a government or public body as defined in Article 1 (3) of the Basic Regulation. Nor-Cargo Thermo is 100 % owned by Nor-Cargo which is a private company. Although local municipalities and State-owned firms are minority shareholders in Nor-Cargo, their holding being equivalent to about 16 %, the investigation revealed no evidence to show that these have any influence in the decision-making process of Nor-Cargo.

Secondly, Nor-Cargo has not financially contributed to the salmon producers. Their services are rendered at normal market rates. Nor-Cargo is competing as a private company in the Norwegian transport sector.

Thirdly, Nor-Cargo did not apply preferential transport rates to salmon producers and consequently did not confer a benefit to the salmon growers.

Finally, the losses of Nor-Cargo have not been covered by the government or any public body. All losses were covered by available funds within the company or were covered by a transfer of funds in the Nor-Cargo group.

Therefore, there is no subsidization involved.

10. State-owned banks

(a) *The complaint*

- (66) The complainant alleged that, following the banking crisis in Norway, Norwegian State-owned banks financed losses in the salmon sector. According to the complainant, around 14 % of the loans to borrowers in this sector were written off in 1991.

(b) *Description*

- (67) The Norwegian banks began to incur serious losses on loans in 1987, and in the succeeding years losses increased sharply. By 1989, eight banks had lost their full capital and were unable to meet liabilities. In early 1991, it became clear that the private bank's guarantee fund would no longer be able to meet the capital needs of the industry.

In this respect, in March 1991, the government established the Government Bank Insurance Fund (GBIF established by Act No 2 of 15 March 1991) in order to provide loans on special terms to banks' guarantee funds and ultimately take shares in the banks. In October 1991 the government established the Government Bank Investment Fund which was authorized to provide equity capital in the banks and issue loans on a commercial basis. In this respect, the government became majority shareholder in most of the major banks in Norway during 1991/1992. In the case of some banks, this government shareholding has subsequently been reduced or eliminated.

These measures were considered necessary to continue the operation of the Norwegian banking system and further provide capital to the business sector and the municipalities.

Although the GBIF exercised powers in the banks in using its voting rights, the GBIF did not interfere in the commercial operations of the banks. The allegation that the government through the GBIF used its power to favour certain industries does not seem to be correct. The investigation revealed no evidence that the banks, although fully or partially State-owned, continued operating on anything but a normal commercial basis *vis-à-vis* their customers.

(c) *Existence of a subsidy*

- (68) The operation of the State-owned banks in Norway does not appear to constitute a countervailable subsidy.

The investigation revealed that there is no benefit for salmon farmers. As described above, the banks continued providing loans at commercial market rates. The interest rates which were applied to the fish-farming industry in the period of State ownership was the nominal interest rate charged on long-term government bonds (more than 11 years), plus 1,5 % to 2 %. These rates were also applicable to other industries.

The verification showed that all loans to the salmon growers were given at interest rates comparable to the national averages of interest rates of all banks to all sectors; no preferential rates were applied to the salmon sector.

The investigation did show that the banks involved incurred considerable losses on loans to fish farming during the period from 1987 onwards. The amounts of such losses increased sharply during 1990 and 1991, but losses had almost disappeared by 1994. Therefore, losses were already being incurred when the banks involved were still privately-owned and there is no evidence that the move into State ownership affected the lending practices of the banks or led to them granting loans on easier terms. In fact, losses on loans to fish farming peaked during 1990, before the government had taken shares in any of the major banks. Any losses on loans to salmon producers which coincided with the period of State ownership of the banks were due to the continuing difficulties encountered by this sector in the early 1990s (following over-production and the freezing programme set up by FOS) and did not appear to represent a departure from normal commercial practice with regard to fish farming. It is undeniable that government intervention in the banking sector enabled continuing support to be given to salmon growers, and that such support may not have been forthcoming in the absence of government intervention.

However, the losses on loans incurred during the period of State ownership were recurring benefits and would have been charged during the year in question. Consequently, any subsidy involved would no longer have had any effect. Furthermore, there is no evidence of specificity with regard to any benefits received.

11. SND equity infusions

- (69) SND has invested about Nkr 120 million in companies concerned with salmon. The investigation established that SND's investment policy is based on earning an adequate return on its equity stakes, and an examination of SND's accounts shows that these operations are profitable. In addition, in cases where a market price exists for the shares of the companies involved, there is no evidence that SND has paid more than this price.

Consequently, these infusions have involved a financial contribution from the government, but no benefit appears to have accrued to salmon growers, since there is no evidence that SND's investment practice is different from that of private investors in Norway.

Therefore, the investigation has not established the existence of a subsidy.

12. Other institutions

- (70) The complainant alleged that the Norwegian salmon-farming industry continues to benefit from ongoing subsidization, and a number of other government bodies and agencies, which allegedly provide subsidies, were listed.

It was established that none of the listed institutions granted financial supports which constitute a subsidy within the meaning of the Basic Regulation.

(a) *Norwegian Salmon Breeding*

- (71) It was established that Norwegian Salmon Breeding provides no financial support of any kind to salmon growers. It is a continuation of the breeding organization Norske Fiskeopdretters Avlsstasjon AS (NFA AS) which was established in 1985 by the Norwegian Fishfarmers' Association, the Fishfarmers Sales Organization and the National Association of Fish Hatcheries. Norwegian Salmon Breeding was established by a merger of the NFA AS and the newly-established company Akva Gen AS at Sunndaløra. After a share placing with the participants in the fish farming industry, Norwegian Salmon Breeding held share capital totalling Nkr 21 182 000 distributed among a total of 149 shareholders. The Norwegian Industrial and Regional Development Fund (SND) is one of the shareholders.

(b) *Vesco*

- (72) The National Centre for Veterinary Contract Research and Commercial Services Ltd (Vesco) is a State-owned joint stock company, wholly owned by the Royal Ministry of Agriculture. Vesco is engaged nationally and internationally in contract research for commerce and industry and the public sector. Vesco is the largest distributor of veterinary vaccines in Norway.

Vesco has derived profit from selling goods and services to the fish-farming industry, and has acted on a commercial basis and not provided counter-vailable subsidies to salmon farmers.

(c) *SIVA*

- (73) SIVA is a State enterprise organized in conformity with the State Enterprises Act, and is wholly owned by the Norwegian State as represented by the Ministry of Local Government and Labour. SIVA's financial activities are associated with the construction and leasing of industrial properties, and initiation of and participation in the establishment of regionally-based investment companies.

SIVA contributed to the establishment of the investment company North Norwegian Growth (see recital 62), and holds 25,62 % of this company's share capital of Nkr 60,3 million. As already explained, North Norwegian Growth

carried out investments in the fish-farming industry, but SIVA made no investments or conducted other financial operations related to the fish farming sector during the investigation period.

(d) *The State veterinary laboratories*

- (74) The State veterinary laboratories (SVL) comprise the governmental scientific veterinary diagnostic laboratories in Norway which consist of the Central Veterinary Laboratory in Oslo and the State regional veterinary laboratories in Sandnes, Bergen, Trondheim and Harstad. In addition to diagnostic work on animals including fish and molluscs, SVL serves as an advisory body for the agricultural authorities with regard to disease control and the administration of official regulations concerning animal and aquatic animal health. The fish-farming industry has to pay for the diagnostic service undertaken by SVL. SVL also issues health certificates to fish exporters (when required by the importing country), for which they pay a fee.

Another important fish-related activity at SVL is research on different aspects of serious disease problems that have occurred in the Norwegian fish-farming industry. The research has been financed partly through grants from the Norwegian Research Council, partly through own budget funds or funding from the industry or government to carry out certain research tasks.

The funding does not confer a benefit on salmon growers and is, for this reason, not countervailable.

(e) *The Guarantee Institute for Export Credits*

- (75) The Guarantee Institute for Export Credits (GIEK) is a government agency. GIEK issues guarantees and underwrites export credits to Norwegian exporters in general. In several instances, therefore, the export of salmon to the Community has been underwritten by GIEK as part of its short-term commercial credits programme, if a credit has been granted by the Norwegian exporter to the European buyer.

The furnishing of guarantees is a financial contribution as defined in Article 2 (1) (a) of the Basic Regulation. GIEK underwrites export credits provided that the exporter pays the premium. The premium charged is presupposed to cover all the costs incurred by GIEK involved in the transaction including the risk of claims and losses. This follows from the legal framework of GIEK, which is the yearly government budget. The budget stipulates that GIEK is empowered to underwrite export credits on the condition that the operations of GIEK break even. In 1995 GIEK covered approximately Nkr 1 800 million of fish exports, and

internal analysis by GIEK estimates a net profit in the range of Nkr 1,5 to Nkr 2 million.

The verification revealed that the GIEK programme complies with the OECD arrangement on guidelines for officially State supported export credits, and that the interest rate provisions of the Agreement seem to be respected. Consequently, it is compatible with the provisions of the exemption in the second subparagraph of item (k) in Annex I to the Basic Regulation ('the illustrative list of export subsidies').

In view of the fact that the GIEK programme provides for the recovery of costs involved and was profitable during the investigation period, it is concluded that there is no countervailable subsidy involved.

(f) *Joint Competence Committee for the Fisheries Industry (FFK)*

- (76) The Joint Committee for the Fisheries Industry (FFK) was established on the basis of a Cooperation Agreement dated 9 October 1991 between the Norwegian Fishermen's Association, the Norwegian Fishfarmers Association, the Federation of Norwegian Fishing Industry and the Norwegian Federation of Trade Unions. FFK is a liaison body for the above organizations in the fisheries industry and the fisheries authorities represented by the Ministry of Fisheries.

The funds give no benefit for the production or export of salmon and do not benefit individual producers.

(g) *Women's Committee of the Fisheries Industry*

- (77) The Women's Committee of the Fisheries Industry was established in July 1991 by the Ministry of Fisheries. The Committee administers women's funds appropriated over the Ministry of Fisheries' budget, and the Committee's work is targeted particularly at 66 municipalities in Norway that are dependent on the fisheries. The Committee's main purpose is to strengthen women's position in the fishing industry and in coastal communities. The funds are not employed to support specific enterprises.

The grant schemes do not constitute a subsidy to salmon farmers as defined in the Basic Regulation.

III. CONCLUSION ON SUBSIDIES

- (78) The following schemes were found to be countervailable in accordance with the provisions of the Basic Regulation, with amount of subsidy, expressed *ad valorem*, as follows:

— Differentiated social security contributions	0,93 %
— Regional Development Fund (SND)	
— grants	0,48 %
— Loans	0,74 %
— Loan guarantees	0,74 %
— Transport subsidies	0,01 %
— FOS/Rødfisk (grant)	0,94 %

The total *ad valorem* amount of subsidy is 3,84 %.

D. COMMUNITY INDUSTRY

- (79) The Community producers supporting the complaint represent approximately 57 % of the total Community production of the product concerned, and were therefore considered representative of the Community industry in accordance with Article 6 (1) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

- (80) Information was requested and obtained from all the complaining companies relating to production, sales and market share. However, in view of the large number of producers supporting the complaint and the time limits established in Article 8 (9) of the Basic Regulation, the remaining injury indicators were based on information obtained from a representative sample of Community producers.
- (81) Of the 90 Community producers supporting the complaint, a sample of 16 was selected, according to geographical location and size of the companies in terms of production and sales. These companies accounted for 73 % of the output of the complainant Community industry and 42 % of total Community output.
- (82) For the purpose of establishing injury in the present proceeding, data relating to the period 1992 to the period covering August 1995 to July 1996 were analysed. The geographical scope of the investigation over this period was the Community as constituted at the time of the initiation of the proceeding, i.e. the Community of 15 Member States. The injury assessment was based on the relevant economic factors as provided for by Article 5 of the Basic Regulation.
- (83) It is recalled that the injurious impact of the Norwegian imports on the situation of the

Community industry of farmed Atlantic salmon was first established in 1991 by a previous anti-dumping proceeding. Since then, the impact of imports from Norway has led the Commission to impose minimum import prices on a number of occasions. However, such measures appear to have had at best a short-term effect on the market.

- (84) The following injury indicators should, therefore, be seen in the light of a long standing, unfavourable situation experienced by the Community industry concerned.

2. Community consumption

- (85) In calculating total apparent Community consumption of farmed Atlantic salmon the following combined totals have been taken into consideration:

- the sales volume in the Community of the Community producers, as established on the basis of data provided by the Scottish Salmon Growers' Association, the Shetland Salmon Farmers' Association and the Irish Salmon Growers' Association, in combination with Eurostat for their exports outside the Community,
- the imports into the Community of the products concerned (as declared within CN codes 0302 12 00, 0303 22 00, 0304 10 13 and 0304 20 13) from Norway,
- the imports into the Community of the same products from all other third countries.

With a view to establishing consistent figures covering the enlarged Community of 15 for the whole period under examination, the total imports were based on relevant Eurostat and EFTA imports statistics. In addition, in order to ensure compatibility between the different figures, all data was converted to whole fish equivalent. For this purpose, the import figures for fresh and chilled salmon and for fresh and chilled salmon fillets were divided respectively by appropriate factors of 0,90 and 0,65.

It should be noted that CN codes 0302 12 00, 0304 10 13 and 0304 20 13 may also cover products not included in the scope of this proceeding (i.e. Pacific salmon and/or wild salmon) but for which the quantities imported can be considered, given the origins reported, as negligible.

- (86) On this basis, the apparent Community consumption of farmed Atlantic salmon increased from 201 037 tonnes in 1992 to 316 866 tonnes in the last 12-month period under investigation (namely 1 August 1995 to 31 July 1996) — an increase of 58 %.

3. Volume and market share of the subsidized imports

- (87) The aggregate volume of imports from Norway increased continuously and substantially from 134 338 tonnes in 1992 to 211 597 tonnes in the last 12-month period under investigation, an increase of 58 %, in line with the increase of Community consumption.
- (88) The market share of the Norwegian imports in the Community declined from around 67 % in 1992 to around 62 % in 1993 and 1994 and then increased to 67 % in 1995 and the last 12-month period under investigation.
- (89) The fact that Norwegian imports have, over the last four years and a half, been able, in a fast-growing market, to maintain their very high market share is in itself illustrative of the Norwegian exporters' position on the Community market. Moreover, this significant increase in Norwegian imports occurred in spite of minimum import prices imposed by the Commission during this period (see recital 123).

4. Prices of the Norwegian exports

(a) Overall trend

- (90) Statistical data show that the cif import price of salmon originating in Norway fell continuously and overall by 27 % between 1992 and the last 12-month period under investigation (namely 1 August 1995 to 31 July 1996). Furthermore, this trend appears to indicate that the minimum import prices imposed during the period examined, were not consistently adhered to by the Norwegian exporters.

(b) Undercutting

- (91) For the last 12-month period under investigation, the prices of the sampled Community producers were compared to the prices of Norwegian exports. For the Community producers, the prices of gutted salmon head-on were taken as a basis for comparison. These categories of salmon represented more than 65 % of the volume of sales of all types of salmon sold by the sampled Community producers and accounted for the majority of imports of Norwegian salmon.
- (92) For the exporters, prices were based on sales figures provided by the Norwegian exporters having cooperated in the investigations concerning both dumping and subsidies. These prices were adjusted to a Community-frontier customs-duty-paid basis.
- (93) Comparisons were made on a monthly weighted average basis. The prices of the Community producers were at ex-works level and at levels of trade

known to be comparable to those of Norwegian imports. The results of the comparison showed the existence of monthly undercutting margins of up to 12 %. In addition, undercutting was found to be at its peak during the most important period of the selling season, i.e. the period immediately preceding Christmas.

- (94) It should be noted that salmon is traded as a commodity in a transparent and competitive market. It is sold on a daily basis, and the suppliers have to adapt rapidly, i.e. daily or hourly, to any reduction in prices of their competitors, making it therefore difficult to assess undercutting. Consequently, the undercutting margins found should be seen in the context of continuous pressure exerted by the Norwegian imports on the market prices.
- (95) Some importers argued that, in comparing prices, an upward adjustment should be made to the Norwegian prices in order to take account of the fact that the consumer is prepared to pay a premium for salmon of Scottish origin. No evidence was provided concerning this claim and in particular regarding differences in the physical characteristics of the products which could justify an adjustment in price.

5. Situation of the Community industry

5.1. Global information

(a) Production

- (96) Production of the product concerned by the Community industry increased from 45 801 tonnes in 1992 to 90 206 tonnes in the last 12-month period under investigation. This growth in production resulted from increased demand and allowed the Community industry to reduce its unit cost and improve its productivity. In this respect, information obtained from the sampled companies shows that in the last 12-month period under investigation they were able to produce 2,35 times the quantity produced in 1992, with exactly the same number of workers.

(b) Sales and market shares

- (97) The volume of sales of the Community industry on the Community market increased during the period considered from 42 535 tonnes in 1992 to 82 885 tonnes in the last 12-month period under investigation, representing an increase of 40 320 tonnes. This increase should be seen in relation to an increase in consumption of almost 116 000 tonnes in the Community in the same period.

- (98) The development of sales volume compared to that of apparent Community consumption, shows that the market share held by the Community industry increased from 21,2 % in 1992 to 28,9 % in 1994, and decreased subsequently to 26,2 % in the last 12-month period under investigation.

5.2. Sampled information

(c) Capacity and capacity utilization

- (99) As regards capacity, it was found that the companies selected in the sample used different criteria for establishing capacity and, therefore, no reliable historical figures could be obtained for capacity prior to the last 12-month period under investigation. However, for this last period, figures for capacity provided by the Scottish Environment Protection Agency, an organization recently created which establishes sustainable capacity limits according to environmental requirements, were found to be reliable. On this basis, the average capacity utilization rate was found to be 59 % in the last 12-month period under investigation.

(d) Price evolution

- (100) The prices of the sampled companies decreased by 24 % between 1992 and the last 12-month period under investigation. This reduction in price is very close to the reduction in prices of imports from Norway, indicating therefore that the Community industry was unable to resist pressure from Norwegian prices.
- (101) Norwegian exporters claimed that the downward evolution of prices was exclusively due to improvement of the cost efficiency of salmon producers world wide.
- (102) The Community industry has indeed increased its production and sales over the period examined, with consequent reductions in unit costs and considerable productivity gains. Yet in spite of this, the investigation has shown that the abovementioned decrease in price resulted in sufficient profitability for the Community industry. This is due to the fact that prices have fallen beyond what could have been expected following gains in productivity. While it is true that the price of salmon will decrease if the cost of production decreases, this does not explain the deterioration of the Community industry's profitability (see recital 103).

(e) Profitability

- (103) The average profitability improved between 1992 and 1993, but decreased thereafter although the market was expanding and the costs of the Community industry were reduced. Moreover, the average profitability never reached the minimum

profit level (approximately 15 % of turnover), which is considered necessary in a high-risk industry such as this (due to the uncertainty created by the risk of disease, predators and bad weather conditions) and was during the last 12-month period under investigation at its lowest point (3,3 %) since 1992. It must be underlined that a majority of the sampled Community producers were making considerable losses during the last 12-month period under investigation.

- (104) Regarding profitability, the figure of 15 % which the Commission has taken into consideration as a normal profit margin was deemed excessive by the Norwegian exporters.
- (105) As already mentioned above, the investigation established that a profit of 15 % on turnover is indeed necessary in this industry. Apart from the high risk nature of this industry mentioned above, this was further confirmed by examining the profit margins in the salmon industry before the occurrence of injurious subsidization, and also the profit margins that were considered as reasonable in other, comparable, Community industries such as trout farming and poultry. In all these cases the figure of 15 % was confirmed. In addition, a 15 % profit was considered as being a reasonable, albeit conservative, estimate by one Norwegian-owned Community producer. This company considered that 15 % was probably an underestimation as far as small companies were concerned. Finally, if the cumulated profit on sales made in the normal course of trade of the sampled Norwegian farmers and exporters on their domestic market is examined, it is in line with the figure of 15 %.

(f) Employment

- (106) Employment levels for the sampled Community producers remained stable between 1992 and the last 12-month period under investigation, with the sampled companies accounting for around 1 100 jobs directly linked to the production of farmed Atlantic salmon. An estimate of the whole employment level in the Community for this industry that there were 3 300 people employed in the salmon business during the same period.

(g) Investment

- (107) Investments increased between 1992 and the last 12-month period under investigation. However, this increase should be interpreted in the light of the specific situation of the salmon industry where more than half of the investments in the period were devoted to replacements. Furthermore, in the context of a growing industry where acquisition of up-to-date equipment is crucial, the net investment does not appear to be sufficient to make the apparent growth sustainable in the longer term.

6. Conclusion

- (108) In concluding that the Community industry had suffered material injury during the period examined, account was taken of the following facts.
- (109) The investigation has shown that the sampled Community producers have suffered significant price pressure over the period under consideration with a consequent significant fall in the prices of these companies. This led to a deterioration of the financial situation of the producers concerned, with insufficient profitability achieved by the sampled companies as a whole and losses by many producers. A number of companies have closed down in the recent past and, among the surviving companies in the sample, some are endangered. Furthermore, this deterioration in profitability should be seen in the light of considerable achievements in respect of productivity during the period examined. As regards market share, it should be noted that after an improvement in 1994, the market share of the Community industry is again in decline in spite of a significant increase in consumption.
- (110) In the light of the foregoing analysis, it has been concluded that the Community industry has suffered material injury within the meaning of Article 5 (1) of the Basic Regulation. This conclusion is mainly based on the price pressure suffered, together with decreasing and clearly insufficient profitability of the sampled Community producers.

F. CAUSATION OF INJURY

- (111) For the purpose of determining whether the injury suffered by the Community industry was caused by the subsidized Norwegian imports or whether other factors caused or contributed to that injury, the following elements were examined.

1. Causal link between the imports concerned and injury

- (112) It should be noted that since the Norwegian imports of salmon were found to be dumped in the same period in which countervailable subsidies were paid to Norwegian producers, the coincidental effects of both dumping and subsidization cannot be distinguished and have therefore to be examined in conjunction.
- (113) In examining whether the material injury suffered by the Community industry had been caused by the effect of the dumped and subsidized imports, it was noted, in the first instance, that the injury consisted mainly of continuous price pressure and reduced profitability for the Community producers. This coincided with a significant increase in

volume of dumped and subsidized Norwegian imports of salmon. As a consequence, Norway has been able to maintain its market share at a very high level (67 %) in an expanding market. Moreover, the prices of these imports fell significantly during the period considered and undercutting of up to 12 % was found in the most important selling period. In this context, it should be recalled that the market for salmon is transparent. In such a market, any downward pressure on prices is likely to be caused by the main supplier, in this case Norway.

- (114) Under these circumstances, it is concluded that the combined effects of dumping and subsidization of the Norwegian imports have caused material injury to the Community industry.

2. Other factors

- (115) The trend in consumption in the Community market, the evolution and impact of imports from other third countries and the competitiveness of the Community salmon industry were analysed in order to establish whether they could have been a cause of the injury suffered by the Community industry.

(a) Community consumption

- (116) Community consumption of Atlantic salmon increased continuously and in total by 58 % between 1992 and the last 12-month period under investigation. The injury suffered by the Community industry cannot, therefore, be attributed to any downward trend in demand.

(b) Imports from other third countries

- (117) As regards imports from third countries not concerned by the present proceeding (mostly the Faeroes, Chile, Canada and Iceland), their overall market share was found to have decreased from 12 % to 7 % during the period considered. It was therefore concluded that the impact of these imports had been limited.

(c) Competitiveness of the Community industry

It should be noted that the Community producers of salmon have significantly improved their competitiveness between 1992 and the last 12-month period under investigation; the output per worker more than doubled, there was a reduction in the fish mortality rate by 23 % and an increase of 25 % in the average weight of the salmon grown. Moreover, the volume of exports of the Community industry at profitable prices increased from 3 266 tonnes in 1992 to 7 321 tonnes in the last 12-month period under investigation. On this basis, the Community industry has attained considerable efficiency in cost terms.

3. Conclusion

- (118) In the light of the above, it was concluded that the dumped and subsidized Norwegian imports of salmon have, taken in isolation, caused material injury to the Community industry. Furthermore, although the rate of subsidy found was lower than the margin of dumping, the contribution of subsidization to the injury caused by the imports in question has been significant.

G. COMMUNITY INTEREST

1. General considerations

- (119) On the basis of all evidence submitted, consideration was given as to whether, despite the conclusions on subsidization and consequent injury, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to impose measures in the present case. For this purpose, the impact of possible measures for all parties involved in the proceedings and also the consequences for those same parties of not taking measures were assessed.
- (120) In making such an appreciation, in conformity with the Basic Regulation, special consideration was given to the need to eliminate the trade-distorting effects of injurious subsidies and to restore effective competition.

2. Interest of the Community industry

- (121) It should first be recalled that the Community industry of farmed Atlantic salmon has suffered from a long history of unfair trading practices attributable to Norwegian exports.
- (122) Injurious dumping was established by the Commission as far back as 1991 (Commission Decision 91/142/EEC)⁽¹⁾, when it was decided that, despite positive findings on both dumping and injury, no measures should be imposed on the grounds that the Norwegian authorities had taken measures on a national level which, it was thought, would stabilize the market.
- (123) Subsequently, minimum import prices (MIP) have been set by the Commission on several occasions over the past few years (November 1993, February

1994, March 1994) and lastly from 16 December 1995 to 13 June 1996 by Regulation (EC) No 2907/95⁽²⁾. MIPs were justified by the fact that the volume and prices of imports were causing or threatening to cause disturbances on the market resulting in serious economic, societal or environmental difficulties and demanding the adoption of immediate measures. As opposed to anti-dumping or countervailing measures, these measures did not require a finding that the exporting country concerned had engaged in unfair trading practices. These measures failed to produce the expected effects.

- (124) Against this background, it is considered that if no effective measures are taken in order to correct the injurious effects of dumped and subsidized Norwegian imports, the situation of the Community industry will continue to deteriorate to the point where, ultimately, its very existence could be at risk.
- (125) It should also be recalled that the Community industry of farmed Atlantic salmon is mostly made up of small and medium-sized enterprises, located in rural and mostly less-developed regions of the Community (Objective 1 regions), where economic activity is scarce. As has been mentioned above, the Community industry has constantly improved its productivity, which is consequently not in doubt. In the course of the restructuring which has taken place, a number of small farms have been acquired by producers which are part of large groups. If no measures are taken, apart from the likelihood of a further reduction in the number of competitors in the market, the investment in improving productivity and restructuring may well prove not to have had the desired effect.

3. Interest of other Community industries

- (126) A number of downstream users such as smokers and wholesalers of farmed Atlantic salmon alleged that the imposition of measures on imports of Norwegian farmed Atlantic salmon would adversely affect their activities. These users argued that if measures had the effect of reducing quantities of farmed Atlantic salmon imported from Norway, no alternative sources of supply would be available. These same users alleged that if imports of farmed Atlantic salmon from Norway were made more expensive, they would have to pass on the additional cost to the final consumer who would then

⁽¹⁾ OJ L 69, 16. 3. 1991, p. 32.

⁽²⁾ OJ L 304, 15. 12. 1995, p. 38.

turn to other products. The argument was also made that a duty imposed on unprocessed farmed Atlantic salmon originating in Norway could lead to the expansion of the Norwegian industry processing farmed Atlantic salmon, at the expense of the Community processing industry.

- (127) It should be pointed out, first of all, that the investigation has shown that the Community industry has the capacity to increase its production and it would certainly do so if it were allowed to achieve a reasonable return. Furthermore, in the event that the proposed measures would result in a reduction of the quantities of farmed Atlantic salmon being imported from Norway, alternative sources of supply are readily available, i.e. Chile, Canada, Iceland and the Faeroes.
- (128) As to the pricing policy likely to be adopted by Community producers following the imposition of measures, it should be borne in mind that any increase in the prices of the Community producers is bound to be limited to what is strictly necessary for them to obtain a more reasonable return. If the Community producers were to increase their prices massively, it is indeed more than likely that other exporting countries would gain a more substantial share of the Community market. In addition, any such price increases on the part of the Community industry are bound to be limited by another factor, i.e. the availability to the consumer of farmed salmon trout, which is a product relatively similar and thus substitutable for salmon, available in the Community at a slightly lower price and which seems to have also been negatively affected by the increase of imports of subsidized farmed Atlantic salmon from Norway.
- (129) As to the possibility of the Community processing industry being affected by competition of processed products from Norway, the anti-dumping and countervailing duties will be levied on the raw material, which represents only a proportion of the cost of the processed product. The limited impact of the proposed duty rates should therefore not be sufficient to justify a reduction in processing operations in the Community. Finally, most of the smokers in the Community also process and trade salmon produced in the Community as well as other products and are therefore not entirely dependent on salmon imported from Norway.
- (130) It should be noted, furthermore, that in order to evaluate the likely impact that measures might have on processors in the Community, the Commission sent questionnaires to all companies which were members of three associations of traders and processors which had made themselves known and requested a hearing.
- (131) In total, 93 questionnaires were sent but only one complete and verifiable reply has been received, making it thus impossible to evaluate, on a representative basis, the possible effect that the imposition of measures might have on the Community industry trading or processing farmed Atlantic salmon.
- (132) Nevertheless, the information obtained so far has shown that, as far as smoked salmon is concerned the cost of the raw material, i.e. farmed Atlantic salmon represents around 45 % of the total cost of production of smoked salmon. Thus, if the cost of the raw material was increased by, for instance, 10 %, this would entail a total increase in the cost of production of smoked salmon of only 4,5 %.
- (133) In addition, information obtained from various reliable sources seems to indicate that the situation of Community processors is quite diverse. There are, on the one hand, companies which produce ready meals and which are part of large groups. Since the cost of the raw material, fish is a limited proportion of the cost of the final product, these companies are unlikely to be significantly affected by the present measures. On the other hand, there are a number of companies who smoke or pickle salmon and which are more dependent on the price of the raw material. These companies would probably have to pass on part of the extra cost to the next trade level. As mentioned at recital 132, the increase in costs would be of a limited nature. In any event, information obtained so far seems to indicate that only in the case of price increases in excess of 20 % would there be a danger that consumers would turn to other products.

4. Interest of importers

- (134) A number of importers have argued in general terms that any imposition of protective measures would negatively affect them.
- (135) As has been shown above, it is expected that the proposed measures, while allowing the Community industry to recover from the injurious effects of subsidization, will neither affect the possibility for importers to purchase salmon from Norway or other sources, nor entail price increases in excess of what is necessary for the Community industry to be able to regain a reasonable profitability.

5. Interest of consumers

- (136) Consumer representatives (BEUC) argued that protective measures would not be in the interest of the consumers in the Community, since they would entail a restriction of the products being on offer and/or price increases to the consumer.
- (137) As has been shown above, the existence of alternative sources of supply, the availability of substitute products tend to demonstrate that the effect on the final consumer will be minimal, if any. In addition, it should be borne in mind that any duty will be levied on the cif import price. The impact, if any, on retail prices will therefore be considerably lessened. It should be further noted that the average yearly consumption of salmon in the Community is estimated at 0,8 kilograms per capita, which suggests that the overall impact on consumers will be very small.

6. Conclusion

- (138) Once all the above aspects had been carefully examined, it was concluded that it is in the Community interest to impose countervailing measures on imports of farmed Atlantic salmon originating in Norway since there are no compelling reasons which would lead to the conclusion that it is not in the Community interest to impose such measures.

H. COUNTERVAILING MEASURES

1. Level of countervailing measures

- (139) In accordance with the relevant provisions of the Basic Regulation, it was examined whether the measures should be less than the amount of subsidy found, if such lesser measures would be adequate to remove the injury to the Community industry.
- (140) In this respect, it is considered that any measures imposed should allow the Community industry to achieve prices they would have obtained in the absence of subsidized imports. In the absence of any information to the contrary, it can be assumed that such prices would cover its cost of production and a reasonable profit. In order to achieve this, the prices of imports should be increased accordingly.
- (141) For the purposes of calculation of the necessary price increase, the prices of subsidized imports should be compared to selling prices reflecting the cost of production of the Community industry plus a reasonable level of profit. In this respect, a profit margin of 15 % was considered to be the

minimum profit level necessary to make this sector viable. In determining this profit level, account was taken of the fact that this is a high-risk industry given, *inter alia*, the length of the production process (18 to 24 months); the risk of disease, predators and bad weather conditions which occur frequently in this industry; the un-predictability of prices of a product traded as a commodity; the very short shelf-life of the product. It was also found that a sufficient profit margin was needed in order for Community producers to have access to financing, which is particularly crucial for this industry to be able to remain competitive in a rapidly growing market.

On this basis, the weighted average export prices for those product types used in the determination of price undercutting (see recital 91) were compared, for the last 12-month period under investigation, on a free-at-Community-frontier level, after adjusting where appropriate for freight, customs duties and post importation costs, with the weighted average selling prices charged by the selected Community producers concerned, increased, where appropriate, to cover production cost plus the abovementioned profit margin of 15 %.

Level of duties

- (142) It was considered that duty could cover the difference between these prices. For the reasons set out in recital 15, a single rate of duty for all imports originating in Norway is appropriate.
- (143) In order to determine the level of the duty, the price increases thus established have been expressed as a percentage of the weighted average, free-at-Community-frontier, value of the imported goods.
- (144) This comparison showed an injury elimination level of 12,28 %. Since this margin is higher than the subsidy margin as established, the rate of the countervailing duty should be established on the basis of the latter.

2. Undertakings

- (145) As mentioned in recital 7, having been informed of the Commission's provisional findings, the Norwegian Government and the Norwegian exporters mentioned in the Annex to this Regulation offered undertakings pursuant to Article 10 of the Basic Regulation.
- (146) Having examined these undertakings, the Commission found them to be acceptable, since they would eliminate the injurious effects of subsidization pursuant to Article 10 (1) of the Basic Regulation.

- (147) The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered by Norway and by the exporters listed in the Annex to this Regulation were accepted by Commission Decision 97/634/EC⁽¹⁾ and the investigation should therefore be terminated without the imposition of definitive duties in respect of these exporters.

3. Definitive countervailing duties

- (148) Notwithstanding the acceptance of the undertakings offered by a large number of Norwegian exporters, residual duties should be imposed on imports of the product concerned originating in Norway in order to cover all Norwegian exports of the product concerned to the Community and also to underpin the undertakings by discouraging their circumvention. Moreover, the level of the duty to be imposed in case of a breach or withdrawal of undertakings should be determined.

(a) Level of duty

- (149) The definitive countervailing duty, to be imposed on imports of farmed Atlantic salmon exported by companies which have not offered any undertaking, or in case of breach or withdrawal of undertakings is 3,8 %.

(b) Implementation and management of the duties

- (150) For the purpose of ensuring an effective implementation of the duties, taking account of the large number of exporters having given undertakings, the Commission should be entitled, after consulting the Advisory Committee, to amend, by Regulation, the Annex to this Regulation so as to be able, if necessary, to extend the exemption from the payment of the duties to any new exporters who may offer acceptable undertakings,

HAS ADOPTED THIS REGULATION:

Article 1

1. (a) A definitive countervailing duty is hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00*19), ex 0304 10 13 (Taric code: 0304 10 13*19), ex 0303 22 00 (Taric code: 0303 22 00*19) and ex 0304 20 13 (Taric code: 0304 20 13*19) originating in Norway.
- (b) This duty shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11, 0304 20 13*11). For the purpose of this Regulation, wild Atlantic salmon shall be that in respect of which the competent authorities of the Member State 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. The rate of duty applicable to the net free-at-Community price, before duty, shall be 3,8 % (Taric additional code 8900), with the exception of imports of farmed Atlantic salmon exported by the companies listed in the Annex, which shall be exempted from the duty.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Where any new exporter in the exporting country in question provides sufficient evidence to the Commission that it did not export the goods described in Article 1 (1) during the investigation period, the Commission, after consulting the Advisory Committee, may where appropriate amend, by Regulation, the Annex in order to extend the exemption from the payment of the duties to the new exporter.

Article 3

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

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

Done at Brussels, 26 September 1997.

For the Council

The President

J. POOS

⁽¹⁾ See page 81 of this Official Journal.

ANNEX

	Company name	Taric code		Company name	Taric code
1.	A. Øvreskotnes AS	8095	57.	Gjendemsjø Fisk AS	8299
2.	A.B.A. AS	8096	58.	Grieg Seafood AS	8300
3.	Agnefest Seafood	8325	59.	Gunnar Klo AS	8301
4.	Alamar AS	8097	60.	Haafa fisk AS	8302
5.	Alsvåg Fiskeprodukter AS	8098	61.	Hallvard Leroy AS	8303
6.	Altafjord Oppdrett AS	8099	62.	Herøy Filetfabrikk AS	8304
7.	Aqua Export AS	8100	63.	Herøy Lakseoppdrett AL	8305
8.	Aqua Partner AS	8101	64.	Hirsholm Norge AS	8306
9.	Aqua Supply AS	8107	65.	Hitramat & Delikatesse AS	8154
10.	Aquatrade AS	8108	66.	Hydro Seafood Sales AS	8159
11.	Arctic Group International AS	8109	67.	Hydrotech-gruppen AS	8161
12.	Arctic Product AS	8110	68.	Icelandic Freezing Plants Norway AS	8165
13.	Arctic Superior AS	8111	69.	Imperial Salmon Co. AS	8171
14.	Arne Mathisen AS	8112	70.	Incofood AS	8172
15.	AS Aalesundfisk	8113	71.	Inter Road AS	8173
16.	AS Austevoll Fiskeindustri	8114	72.	Inter Sea AS	8174
17.	AS Keco	8115	73.	J. Meinert AS	8175
18.	AS Møre Codfish Company	8116	74.	Jan og Einar Martinussen AS	8176
19.	AS Nortraders Ltd	8117	75.	Janas AS	8177
20.	AS Refsnes Fiskeindustri	8118	76.	Joh. H. Pettersen AS	8178
21.	AS West Fish Sales Ltd	8119	77.	Johan J. Helland AS	8179
22.	Astor AS	8120	78.	Karl Storm Andersen Eft AS	8180
23.	Atlantic King Stranda AS	8121	79.	Karsten J. Ellingsen AS	8181
24.	Atlantic Seafood AS	8122	80.	Kr. Kleiven & Co. AS	8182
25.	Atlantis AS	8123	81.	Kurt F. Løseth & Co. AS	8183
26.	Borkowski & Rønnes AS	8124	82.	Labeyrie Norge AS	8184
27.	Brødrene Aasjord AS	8125	83.	Lafjord Group AS	8185
28.	Brødrene Eilertsen AS	8126	84.	Langfjord Laks AS	8186
29.	Brødrene Karlsen AS	8127	85.	Leica Fiskeprodukter	8187
30.	Brødrene Remø AS	8128	86.	Leonhard Products AS	8423
31.	Christiansen Partner AS	8129	87.	Lofoten Seafood Export AS	8188
32.	Clipper Seafood AS	8130	88.	Lorentz A. Lossius AS	8189
33.	Coast Seafood AS	8131	89.	Ma-vo Norge AS	8190
34.	Companhia do Bacalhau Lda AS	8132	90.	Marex AS	8326
35.	Dåfjord Laks AS	8133	91.	Marinco AS	8191
36.	Delfa Norge AS	8134	92.	Marine Seafood AS	8196
37.	DM Direkte Markedsføringsbyrå	8135	93.	Marstein Seafood AS	8197
38.	DNHS Fishing Company AS	8399	94.	Master Seafood AS	8198
39.	Domstein Salmon AS	8136	95.	Melands Røkeri Eftf. AS	8199
40.	E. Slorer Jacobsen & Co. AS	8137	96.	Memo Food AS	8200
41.	Ecco Fisk & Delikatesse	8138	97.	Midtco AS	8201
42.	Edvard Johnsen AS	8139	98.	Misundfisk AS	8202
43.	Eurolaks AS	8140	99.	Myre Sjømat AS	8203
44.	Euronor AS	8141	100.	Naco Trading AS	8206
45.	Fader Martin AS	8142	101.	Namdal Salmon AS	8207
46.	Fiskeforsyningen AS	8143	102.	Nature Sea-lect Ltd	8208
47.	Fjord Aqua Group AS	8144	103.	Neptun Stavanger AS	8209
48.	Fjord Trading Ltd AS	8145	104.	Nergård AS	8210
49.	Fonn Egersund AS	8146	105.	Nils Williksen AS	8211
50.	Fossen AS	8147	106.	Niscan Corporation	8212
51.	Fresh Atlantic AS	8148	107.	Nisja Trading AS	8213
52.	Fresh Marine Company AS	8149	108.	Nor-Food AS	8214
53.	Fryseriet AS	8150	109.	Nor-Trade International	8215
54.	Frøya Fiskeindustri AS	8151	110.	Nordhav AS	8216
55.	Gigante Fiskekroken AS	8152	111.	Nordic Group ASA	8217
56.	Gje-vi AS	8153	112.	Nordreisa Laks AS	8218

	Company name	Taric code		Company name	Taric code
113.	Norexport AS	8223	152.	Scan-Mar AS	8263
114.	Norfi Produkter AS	8227	153.	Scanfood AS	8264
115.	Norfood Group AS	8228	154.	Sea Eagle Group AS	8265
116.	Norfra Eksport AS	8229	155.	Sea Star International AS	8266
117.	NorMan Trading Ltd AS	8230	156.	Sea-Bell AS	8267
118.	Nornir Group AS	8231	157.	Seaco AS	8268
119.	Norsk Akvakultur AS	8232	158.	Seacom AS	8269
120.	Norsk Sjømat AS	8233	159.	Seacom Nord AS	8270
121.	Northern Seafood AS	8307	160.	Seafood Farmers of Norway Ltd AS	8271
122.	Nortrade AS	8308	161.	Seanor AS	8272
123.	Norway Royal Salmon Sales AS	8309	162.	Sekkingstad AS	8273
124.	Norway Royal Salmon AS	8312	163.	Sigerfjord-Fisk AS	8274
125.	Norway Seafarms AS	8313	164.	Sirena Norway AS	8275
126.	Norway Seafoods ASA	8314	165.	Skaafish Group AS	8276
127.	Norwegian Salmon AS	8315	166.	Skarpsno Mat	8277
128.	Norwell AS	8316	167.	SL Fjordgruppen AS	8278
129.	Notfisk Arctic AS	8234	168.	SMP Marine Produkter AS	8279
130.	Nova Sea AS	8235	169.	Sotra Fiskeindustri AS	8280
131.	NTC Norwegian Taste Company AS	8236	170.	Starfish	8281
132.	Ocean Superior Products AS	8237	171.	Stavanger Røkeri AS	8282
133.	Oddvin Bjørge AS	8238	172.	Stjernelaks AS	8283
134.	Ok-Fish Kvalheim AS	8239	173.	Stokfish Norway AS	8284
135.	Omega Sea AS	8240	174.	Stolt Sea Farm AS	8285
136.	Oster Sea Products AS	8241	175.	Storm Company AS	8286
137.	Pan Fish Sales AS	8242	176.	Superior AS	8287
138.	Pero Food AS	8243	177.	Svenodak AS	8288
139.	Polar Gigante AS	8246	178.	Terra Seafood AS	8289
140.	Polar Seafood Norway AS	8247	179.	Thorleif E. Ellingsen AS	8293
141.	Prilam Norvège AS	8248	180.	Timar Seafood AS	8294
142.	Pundslett Fisk	8251	181.	Torget International AS	8297
143.	Roger AS	8253	182.	Torris Products Ltd AS	8298
144.	Rolf Olsen Seafood AS	8254	183.	Troll Salmon AS	8317
145.	Ryfisk AS	8256	184.	Uniprawns AS	8318
146.	Rørvik Fisk-og fiskematforretning AS	8257	185.	Vareberg's Røykeri	8319
147.	Saga Lax Norge AS	8258	186.	Vest Agentur AS	8320
148.	Sagalax Nord AS	8259	187.	Vie de France Norway AS	8321
149.	Salomega AS	8260	188.	Vikenco AS	8322
150.	Sandanger AS	8261	189.	Wannebo International AS	8323
151.	Sangoltgruppa AS	8262	190.	West Fish Norwegian Salmon AS	8324

Council Declaration

The Council states that, in the situations described in Article 10 (9) of Regulation (EC) No 3284/94 as regards the violation or withdrawal of undertakings by an exporter, it will examine, with a view to its adoption as soon as possible by the written procedure, a Commission proposal tabled following consultation of the Advisory Committee amending Annex I to this Regulation so as to deprive the exporter of the benefit of duty exemption.

COMMISSION REGULATION (EC) No 1892/97
of 29 September 1997

setting the agricultural conversion rates applicable to certain aid in Sweden and in the United Kingdom and the resulting maximum amounts of compensatory aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 724/97 of 22 April 1997 determining measures and compensation relating to appreciable revaluations that affect farm incomes⁽¹⁾, and in particular Article 7 thereof,

Whereas pursuant to Article 3 of Council Regulation (EC) No 2990/95⁽²⁾, as amended by Regulation (EC) No 1451/96⁽³⁾, as regards the Swedish krona, and pursuant to Article 3 of Regulation (EC) No 724/97 as regards the pound sterling, the agricultural conversion rates applicable to the aid referred to in Article 7 of Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽⁴⁾, as last amended by Regulation (EC) No 150/95⁽⁵⁾, have not been reduced as a result of appreciable revaluations of the currencies concerned; whereas, however, Article 3 of Regulation (EC) No 724/97 provides for a reduction in the agricultural conversion rate applicable to one of the aids referred to in Article 7 of Regulation (EEC) No 3813/92 where, because of measures taken following an appreciable revaluation, that rate exceeds the current agricultural conversion rate by more than 11,5 %; whereas, in such cases, the conversion rate to be applied is equal to the current agricultural conversion rate plus 11,5 %;

Whereas the agricultural conversion rates for the Swedish krona and the pound sterling applicable to some of the aids referred to in Article 7 of Regulation (EEC) No 3813/92 were reduced from 1 August 1997 to avoid differences of more than 11,5 % from the agricultural conversion rates current on that date; whereas, in order to facilitate the administration of the aids concerned, the rates applicable for them from 1 August 1997 should be specified and fixed;

Whereas Article 4 (2) of Regulation (EC) No 724/97 provides for compensation for the effects of the reduction in the agricultural conversion rates applicable to the aids referred to in Article 7 of Regulation (EEC) No 3813/92;

whereas Commission Regulation (EC) No 805/97 of 2 May 1997 laying down detailed rules for compensation relating to appreciable revaluations⁽⁶⁾ provides for supplementary amounts of compensatory aid to be paid in addition to that compensation; whereas the maximum supplementary amount of the first tranche of compensatory aid for the reduction in the aid referred to in Article 7 of Regulation (EEC) No 3813/92 for which the operative event occurs on 1 August 1997 should be fixed for Sweden and for the United Kingdom;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The agricultural conversion rate of ECU 1 = £ 0,833821, applicable on 31 July 1997 to the aids referred to in Article 7 of Regulation (EEC) No 3813/92 for which the operative event occurs on 1 August, shall be replaced from 1 August 1997 in respect of the aids concerned by ECU 1 = £ 0,803724.

The agricultural conversion rate of ECU 1 = Skr 9,91834, applicable on 31 July 1997 to the aids referred to in Article 7 of Regulation (EEC) No 3813/92 for which the operative event occurs on 1 August, shall be replaced from 1 August 1997 in respect of the aids concerned by ECU 1 = Skr 9,90747.

Article 2

The maximum supplementary amount of the first tranche of compensatory aid that may be granted as a result of the reduction in the agricultural conversion rate referred to in Article 1 shall be '0' for Sweden and ECU 0,51 million for the United Kingdom.

Article 3

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

⁽¹⁾ OJ L 108, 25. 4. 1997, p. 9.

⁽²⁾ OJ L 312, 23. 12. 1995, p. 7.

⁽³⁾ OJ L 187, 26. 7. 1996, p. 1.

⁽⁴⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁶⁾ OJ L 115, 3. 5. 1997, p. 13.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1893/97

of 29 September 1997

derogating from Regulation (EC) No 1528/96 on the taking over of paddy rice by the intervention agencies and fixing the corrective amounts, price increases and reductions to be applied as regards the taking over of rice by the Greek intervention agency during the 1996/97 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, and in particular Article 8 (b) thereof,

Whereas the conditions for the taking over of paddy rice by the intervention agencies are laid down by Commission Regulation (EC) No 1528/96 ⁽²⁾; whereas Article 7 (1) of that Regulation lays down that effective delivery must take place by 31 August of the current marketing year;

Whereas, during the 1996/97 marketing year, the Greek intervention agency encountered difficulties in setting up an effective storage, control and reception system for the goods; whereas there were consequently delays in the acceptance of offers submitted and the taking over of deliveries; whereas the difficulties encountered during the 1996/97 marketing year justify granting Greece a derogation from the deadline laid down by the abovementioned Article for delivery to the intervention agency;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 7 (1) of Regulation (EC) No 1528/96, the effective delivery of paddy rice for taking over by the Greek intervention agency during the 1996/97 marketing year must take place by 30 September 1997.

Article 2

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

It shall apply with effect from 1 September 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 190, 31. 7. 1996, p. 25.

COMMISSION REGULATION (EC) No 1894/97
of 29 September 1997
providing for the rejection of applications for export licences for beef and veal
products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 2222/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 ⁽³⁾, as last amended by Regulation (EC) No 1572/97 ⁽⁴⁾, and in particular Article 10 thereof,

Whereas the quantity covered by applications for advance fixing of refunds is greater than that normally disposed of; whereas it has therefore been decided to reject certain applications for export licences for beef and veal submitted on 25 and 26 September 1997,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 10 (2) of Regulation (EC) No 1445/95, applications for export licences with advance

fixing of refunds for products falling within the beef and veal sector, with the exception of those falling within product codes:

- 0102 10 10 9120,
- 0102 10 30 9120,
- 0102 10 90 9120,
- 0102 90 41 9100,
- 0102 90 71 9000,
- 0102 90 79 9000,
- 0201 10 00 9110,
- 0201 10 00 9130,
- 0201 20 20 9110,
- 0201 20 30 9110,
- 0201 20 50 9110,
- 0201 20 50 9130,
- 0201 30 00 9100,
- 1602 50 31 9125,
- 1602 50 31 9325,
- 1602 50 39 9125,
- 1602 50 39 9325,

submitted on 25 and 26 September 1997 shall be rejected.

Article 2

This Regulation shall enter into force on 30 September 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 296, 21. 11. 1996, p. 50.

⁽³⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽⁴⁾ OJ L 211, 5. 8. 1997, p. 39.

COMMISSION REGULATION (EC) No 1895/97
of 29 September 1997
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24 (1) (b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽²⁾, as amended by Regulation (EEC) No 790/91⁽³⁾;

Whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, in order to ensure that the supplies are carried out, provision should be made for tenderers to be able to

mobilize either rape seed oil or sunflower oil; whereas the contract for the supply of such each lot is to be awarded to the tenderer submitting the lowest tender,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The supply shall cover the mobilization of vegetable oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward processing arrangements.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽²⁾ OJ L 204, 25. 7. 1987, p. 1.

⁽³⁾ OJ L 81, 28. 3. 1991, p. 108.

ANNEX

LOTS A, B

1. **Operation No** (1): 22/97 (A); 23/97 (B)
2. **Programme**: 1997
3. **Recipient** (2): WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma
(tel.: (39 6) 5228 2988; fax: 5228 2844/3; telex: 626675 WFP I)
4. **Representative of the recipient**: to be designated by the recipient
5. **Place or country of destination**: North Korea
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** (3) (7): see OJ C 114, 29. 4. 1991, p. 1 (III. A (1)(a))
8. **Total quantity (tonnes net)**: 2 400
9. **Number of lots**: two (A: 1 200 tonnes; B: 1 200 tonnes)
10. **Packaging and marking** (6) (7): see OJ C 267, 13. 9. 1996, p. 1 (10.8 A, B and C (2))
see OJ C 114, 29. 4. 1991, p. 1 (IIIA (3))
language to be used for the marking: English and Korean
supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilization**: Mobilization of refined rape seed oil produced in the Community
Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: A: 24. 11 — 14. 12. 1997; B: 22. 12. 1997 — 11. 1. 1998
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 14. 10. 1997 (12 noon (Brussels time))
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 28. 10. 1997 (12 noon (Brussels time))
 - (b) period for making the goods available at the port of shipment: A: 8 — 28. 12. 1997; B: 5 — 25. 1. 1998
 - (c) deadline for the supply: —
22. **Amount of tendering security**: ECU 15 per tonne
23. **Amount of delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (1): Bureau de l'aide alimentaire,
Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Brussels
(telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively))
25. **Refund payable on application by the successful tenderer** (4): —

LOT C

1. **Operation No** ⁽¹⁾: 1863/94
2. **Programme**: 1994
3. **Recipient** ⁽²⁾: Honduras
4. **Representative of the recipient**: Ministro de la Secretaría Técnica y de Cooperación Intern. (Setco), Dr Guillermo Molica Chocano, Edificio Plaza Flores, Av. de la Paz, Tegucigalpa, Honduras (tel.: (504 37) 66 16; fax: 85 87)
5. **Place or country of destination** ⁽³⁾: Honduras
6. **Product to be mobilized**: refined sunflower oil
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁵⁾: see OJ C 114, 29. 4. 1991, p. 1 (III. A (1) (b))
8. **Total quantity (tonnes net)**: 80
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁶⁾: see OJ C 267, 13. 9. 1996, p. 1 (10.4.A, B and C (2))
see OJ C 114, 29. 4. 1991, p. 1 (III.A (3))
language to be used for the marking: Spanish
11. **Method of mobilization**: mobilization of refined sunflower oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: Almacenes de Depósito SA (Aldesa), San Pedro Sula, Cortés, frente a Unitec, Honduras CA
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 3 — 16. 11. 1997
18. **Deadline for the supply**: 14. 12. 1997
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 14. 10. 1997 (12 noon (Brussels time))
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 28. 10. 1997 (12 noon (Brussels time))
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 17 - 30. 11. 1997
 - (c) deadline for the supply: 28. 12. 1997
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾:

Bureau de l'aide alimentaire,
Attn Mr T. Vestergaard,
Bâtiment Loi 130, bureau 7/46,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels
telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
25. **Refund payable on application by the successful tenderer** ⁽⁷⁾: —

Notes:

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Article 7 (3) (g) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
- (⁵) The successful tenderer shall supply to the beneficiary or its representative, on delivery, a sanitary certificate.
- (⁶) Notwithstanding OJ C 114, point IIIA (3) (c) is replaced by the following: 'the words "European Community"'.
- (⁷) The marking in Korean must be made as follows on the reverse side of the packaging:

European Community:

구 주 공동 체

Rape seed oil:

유채씨 기름

For free distribution:

무 상 배 급 용

COMMISSION REGULATION (EC) No 1896/97
of 29 September 1997
correcting Regulation (EC) No 1887/97 establishing the standard import values
for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Commission Regulation (EC) No 1887/97⁽⁵⁾ establishes a standard import value for determining the entry price of apples originating in certain third countries;

Whereas an error has been discovered in the Annex to that Regulation; whereas the Regulation in question should therefore be corrected;

Whereas Article 4 (3) of Regulation (EC) No 3223/94 provides that, where no standard import value is in force

for a product for a given origin, the average of standard import values in force for that product are to apply; whereas, as a result, that average should be recalculated if one of the component standard import values is corrected;

Whereas application of the corrected standard import value must be requested by the party concerned so that he is not placed at a disadvantage,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values applicable to apples originating in certain third countries listed in the Annex to Regulation (EC) No 1887/97 are hereby replaced by the standard import values listed in the table in the Annex.

Article 2

This Regulation shall enter into force on 30 September 1997.

At the request of the party concerned, Article 1 shall apply from 27 to 29 September 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ L 265, 27. 9. 1997, p. 79.

ANNEX

<i>(ECU/100 kg)</i>			
Regulation	CN code	Country code ⁽¹⁾	Standard import value
(EC) No 1887/97	0808 10 92, 0808 10 94, 0808 10 98	052	72,0
		064	47,8
		388	99,6
		400	81,4
		528	64,8
		804	80,4
		999	74,3

⁽¹⁾ Country nomenclature laid down in Commission Regulation (EC) No 68/96 (OJ L 14, 19. 1. 1996, p. 6). The code '999' represents 'other origins'.

COMMISSION REGULATION (EC) No 1897/97

of 29 September 1997

amending representative prices and additional duties for the import of certain products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 1143/97 ⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1222/97 ⁽⁵⁾, as last amended by Regulation (EC) No 1862/97 ⁽⁶⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 September 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.
⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.
⁽³⁾ OJ L 141, 24. 6. 1995, p. 16.
⁽⁴⁾ OJ L 165, 24. 6. 1997, p. 11.
⁽⁵⁾ OJ L 173, 1. 7. 1997, p. 3.
⁽⁶⁾ OJ L 264, 26. 9. 1997, p. 34.

ANNEX

to the Commission Regulation of 29 September 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	23,57	4,51
1701 11 90 ⁽¹⁾	23,57	9,75
1701 12 10 ⁽¹⁾	23,57	4,32
1701 12 90 ⁽¹⁾	23,57	9,32
1701 91 00 ⁽²⁾	26,66	11,90
1701 99 10 ⁽²⁾	26,66	7,38
1701 99 90 ⁽²⁾	26,66	7,38
1702 90 99 ⁽³⁾	0,27	0,38

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 1898/97

of 29 September 1997

laying down rules of application in the pigmeat sector for the arrangements covered by Council Regulation (EC) No 3066/95 and repealing Regulations (EEC) No 2698/93 and (EC) No 1590/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 1595/97⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽³⁾, as last amended by Regulation (EC) No 3290/94⁽⁴⁾, and in particular Article 22 thereof,

Whereas Regulation (EC) No 3066/95 adjusts as an autonomous and transitional measure the agricultural concessions in the Europe Agreements concluded between the European Communities and their Member States of the one part and the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, the Republic of Bulgaria and Romania respectively of the other part, for the period 1 January 1996 to entry into force of the Additional Protocols; whereas these adjustments were extended by Council Regulation (EC) No 2490/96⁽⁵⁾ to 31 December 1997; whereas owing to procedural delays the Additional Protocols to the Europe Agreements, negotiation of which are concluded, cannot enter into force on 1 July 1997; whereas Regulation (EC) No 3066/95 has therefore been amended by Regulation (EC) No 1595/97 in order to allow early implementation in the agricultural sector of the negotiation results;

Whereas, while bearing in mind the provisions of the Interim Agreements intended to guarantee product origin, the arrangements should be operated using import licences; whereas rules on the presentation of licence

applications and to the entries to be made on applications and licences are required that differ from those in Article 8 of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁶⁾, as last amended by Regulation (EC) No 1404/97⁽⁷⁾; whereas licences should be issued following a reflection period and possibly with a common percentage acceptance applied;

Whereas for the purposes of smooth operation of the arrangements security of ECU 30 per 100 kilograms should be required against import licences; whereas given the risk of speculative misuse of the arrangements where pigmeat is concerned importer access to these products should be precisely regulated;

Whereas import licences for certain product categories in the pigmeat sector have already been assigned for the period 1 July to 30 September 1997 in line with Commission Regulation (EC) No 1461/97 of 25 July 1997 determining the extent to which applications lodged in July 1997 for import licences for certain pigmeat products under the regime provided for by the Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic can be accepted⁽⁸⁾ and with Commission Regulation (EC) No 1462/97 of 25 July 1997 determining the extent to which applications lodged in July 1997 for import licences for certain pigmeat products under the regime provided for by the Agreements concluded by the Community with Bulgaria and Romania can be accepted⁽⁹⁾; whereas the quantities available for the period 1 October to 31 December 1997 should be set by reference to the quantities agreed and quotas set for the period 1 July to 31 December 1997;

Whereas Commission Regulation (EEC) No 2698/93⁽¹⁰⁾, as last amended by Regulation (EC) No 691/97⁽¹¹⁾, lays down detailed rules for application in the pigmeat sector of the arrangements provided for in the Interim Agree-

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽⁴⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ L 338, 28. 12. 1996, p. 13.

⁽⁶⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁷⁾ OJ L 194, 23. 7. 1997, p. 5.

⁽⁸⁾ OJ L 199, 26. 7. 1997, p. 22.

⁽⁹⁾ OJ L 199, 26. 7. 1997, p. 24.

⁽¹⁰⁾ OJ L 245, 1. 10. 1993, p. 80.

⁽¹¹⁾ OJ L 102, 19. 4. 1997, p. 12.

ments between the European Economic Community and Poland, Hungary, and the former Czech and Slovak Federative Republic; whereas since it is replaced by this Regulation it should be repealed;

Whereas Commission Regulation (EC) No 1590/94⁽¹⁾, as last amended by Regulation (EC) No 691/97, lays down detailed rules for application in the pigmeat sector of the arrangements provided for in the Interim Agreements between the Community and Bulgaria and Romania; whereas since it is replaced by this Regulation it should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

All imports into the Community under the arrangements laid down in Regulation (EC) No 3066/95 of products covered by group Nos 1, 2, 3, 4, H1, H2, 5, 6, 7, 8, 9, 10/11, 12/13, 14, 15, 16 and 17 provided for in Annex I to this Regulation shall be subject to presentation of an import licence.

The quantities covered by these arrangements and the reduction in the Common Customs Tariff duty are listed by group in Annex I.

Article 2

The quantities referred to in Article 1 are, for each period specified in Annex I, allocated as follows:

- 1 July to 30 September: 25 %,
- 1 October to 31 December: 25 %,
- 1 January to 31 March: 25 %,
- 1 April to 30 June: 25 %.

Article 3

The following provisions shall apply to the import licences referred to in Article 1:

1. Applicants must be natural or legal persons who at the time of application can satisfy the competent authority of their Member State that they have been engaging in trade in pigmeat for at least 12 months. Retailers and restaurateurs selling products to the final consumer are excluded.

2. Licence applications may cover only one of the groups indicated in Annex I. They may cover products of differing CN codes originating in only one of the countries to which this Regulation relates. In such cases all the CN codes and product descriptions must be entered in boxes 16 and 15 respectively. The application must be for a minimum of one tonne and a maximum of 25 % of the quantity available for the group concerned during the quarter in question as specified in Article 2.

3. Box 8 of the licence application and the licence shall show the country of origin; the licence shall impose an obligation to import from that country.

4. Box 20 of the licence application and the licence shall carry one of the following entries:

- Reglamento (CE) n° 1898/97
- Forordning (EF) nr. 1898/97
- Verordnung (EG) Nr. 1898/97
- Κανονισμός (ΕΚ) αριθ. 1898/97
- Regulation (EC) No 1898/97
- Règlement (CE) n° 1898/97
- Regolamento (CE) n. 1898/97
- Verordening (EG) nr. 1898/97
- Regulamento (CE) n° 1898/97
- Asetus (EY) N:o 1898/97
- Förordning (EG) nr 1898/97.

5. Box 24 of the licence shall carry one of the following entries:

- Reducción del derecho de aduana en virtud del Reglamento (CE) n° 1898/97
- Nedsættelse af importafgiften jf. forordning (EF) nr. 1898/97
- Ermäßigung des Zollsatzes nach dem GZT gemäß Verordnung (EG) Nr. 1898/97
- Μείωση του δασμού όπως προβλέπεται στον κανονισμό (ΕΚ) αριθ. 1898/97
- Customs duty reduction as provided for in Regulation (EC) No 1898/97
- Réduction du droit de douane comme prévu au règlement (CE) n° 1898/97
- Riduzione del dazio doganale a norma del regolamento (CE) n. 1898/97
- Douanerecht verlaagd overeenkomstig Verordening (EG) nr. 1898/97
- Redução do direito aduaneiro conforme previsto no Regulamento (CE) n° 1898/97
- Tullialennus, josta on säädetty asetuksessa (EY) N:o 1898/97
- Nedsättning av tullavgiften enligt förordning (EG) nr 1898/97.

⁽¹⁾ OJ L 167, 1. 7. 1994, p. 16.

Article 4

1. Licence applications may be lodged only in the first 10 days of each period specified in Article 2.
2. Applications shall be invalid if the applicant does not declare in writing that he has not lodged and will not lodge, for the period in question, other applications for products of the same group in the Member State of lodgement or another Member State. If an applicant lodges more than one application for products of one group none of the applications shall be valid.
3. Member States shall notify to the Commission, on the fifth working day following the end of the period for lodging applications, those lodged for each of the products of the groups in question. The applicants and quantities for each group shall be listed. All notifications, including 'nil' ones, shall be made by telex or fax on the stipulated working day. The form reproduced as Annex II shall be used for 'nil' notifications and those reproduced as Annexes II and III if applications have been made.
4. The Commission shall decide with all speed to what the applications referred to in Article 3 can be met.

If the total amount applied for is more than that available the quantities granted shall be scaled down by a common percentage.

If it is less than the amount available the Commission shall determine the quantity to be added to that available for the next period.
5. Licences shall be issued as soon as possible after the Commission's decision.
6. Licences shall be valid throughout the Community.

Article 5

For the purposes of Article 21 (2) of Regulation (EEC) No 3719/88 import licences shall be valid for 150 days from their actual date of issue.

Licences shall not be transferable.

Article 6

Security of ECU 30 per 100 kg shall be lodged against applications for import licences for any product indicated in Article 1.

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

Done at Brussels, 29 September 1997.

Article 7

The provisions of Regulation (EEC) No 3719/88 shall be applicable except as otherwise provided by this Regulation.

However, Article 8 (4) of that Regulation notwithstanding, quantities imported pursuant to this Regulation may not exceed that indicated in boxes 17 and 18 of the import licence. To that end '0' shall be entered in box 19 of the licence.

Article 8

The products shall be placed in free circulation on presentation of an EUR.1 certificate issued by the exporting country in accordance with Protocol 4 to the Europe Agreements concluded with the said countries, or, of a declaration by the exporter in accordance with the provisions of the said Protocol.

Article 9

The Member States shall cooperate closely with the Commission to ensure compliance with this Regulation.

Article 10

The quantities available for applications in the period 1 to 10 October 1997 are given in Annex IV hereto.

Article 11

Regulations (EEC) No 2698/93 and (EC) No 1590/94 are hereby repealed.

Article 12

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

It shall apply with effect from 1 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

A. PRODUCTS ORIGINATING IN HUNGARY

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4705	1	1601 00 91 1601 00 99	20	7 700	8 050	8 400	8 750
09.4706	2	1602 49 15 1602 49 19 1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 30 1602 49 50	20	770	805	840	875
09.4704	3	0210 11 11 0210 12 11 0210 19 40 0210 19 51	20	1 760	1 840	1 920	2 000
09.4708	4	0203 11 10 0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 15 0203 19 55 ⁽¹⁾ 0203 19 59 0203 21 10 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 0203 29 55 ⁽¹⁾ 0203 29 59	20	33 990	35 535	37 080	38 625
09.4727	H1	1501 00 19	ECU 164/t	2 400	2 400	2 400	2 400
09.4722	H2	1601 00 91	ECU 1 759/t	500	500	500	500

B. PRODUCTS ORIGINATING IN POLAND

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4803	5	0210 11 11 0210 11 19 0210 11 31 0210 11 39 0210 12 11 0210 12 19 0210 19 10 0210 19 20 0210 19 30 0210 19 40 0210 19 51 0210 19 59 0210 19 60 0210 19 70 0210 19 81 0210 19 89	20	3 300	3 450	3 600	3 750

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4805	6	1601 00 91 1601 00 99	20	2 530	2 645	2 760	2 875
09.4806	7	1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50	20	10 890	11 385	11 880	12 375
09.4820	8	0103 92 19	20	1 540	1 610	1 680	1 750
09.4809	9	0203 11 10 0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 15 0203 19 55 (1) 0203 19 59 0203 21 10 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 0203 29 55 (1) 0203 29 59	20	11 220	11 730	12 240	12 750

C. PRODUCTS ORIGINATING IN THE CZECH REPUBLIC

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4621	10/11	0103 92 19 0203 11 10 0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 15 0203 19 55 (1) 0203 19 59 0203 21 10 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 0203 29 55 (1) 0203 29 59 1602 41 10 1602 42 10 1602 49	20	5 830	6 095	6 360	6 625

D. PRODUCTS ORIGINATING IN THE SLOVAK REPUBLIC

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4621	12/13	0103 92 19	20	2 530	2 645	2 760	2 875
		0203 11 10					
		0203 12 11					
		0203 12 19					
		0203 19 11					
		0203 19 13					
		0203 19 15					
		0203 19 55 (1)					
		0203 19 59					
		0203 21 10					
		0203 22 11					
		0203 22 19					
		0203 29 11					
		0203 29 13					
		0203 29 15					
		0203 29 55 (1)					
		0203 29 59					
		1602 41 10					
		1602 42 10					
		1602 49					

E. PRODUCTS ORIGINATING IN BULGARIA

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4654	14	0203 11 10	20	330	345	360	375
		0203 29 55 (1)					

F. PRODUCTS ORIGINATING IN ROMANIA

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4751	15	1601 00 91	20	990	1 035	1 080	1 125
		1601 00 99					
09.4752	16	1602 41 10	20	1 870	1 955	2 040	2 125
		1602 42 10					
		1602 49 11					
		1602 49 13					
		1602 49 15					
		1602 49 19					
		1602 49 30					
		1602 49 50					

(tonnes)

Order No	Group No	CN code	Rate of duty applicable (% of MFN)	Annual quantity			
				From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4756	17	0203 11 10 0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 15 0203 19 55 ⁽¹⁾ 0203 19 59 0203 21 10 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 0203 29 55 ⁽¹⁾ 0203 29 59	20	13 750	14 375	15 000	15 625

⁽¹⁾ Excluding tenderloin presented alone.

ANNEX II

Application of Regulation (EC) No 1898/97

COMMISSION OF THE EUROPEAN COMMUNITIES

DG VI/D/3 Pigmeat sector

Request for import licences at reduced customs duties	Date	Period
---	------	--------

Member State:

Sender:

Contact:

Telephone No:

Telefax No:

Group No	Quantity requested
1	
2	
3	
4	
H1	
H2	
5	
6	
7	
8	
9	
10/11	
12/13	
14	
15	
16	
17	

ANNEX III

Application of Regulation (EC) No 1898/97

COMMISSION OF THE EUROPEAN COMMUNITIES		DG VI/D/3 Pigmeat sector	
Request for import licences at reduced customs duties		Date	Period
Member State			
Group No	CN code	Applicant (name and address)	Quantity (tonnes)
		Total in tonnes of group number	

ANNEX IV

(tonnes)	
Group No	Quantity available
1	2 413,5
2	267,7
3	841
4	10 585,3
H1	1 200
H2	250
5	1 650
6	1 125,3
7	5 170
8	770
9	5 610
10/11	320
12/13	1 265
14	165
15	490
16	904,3
17	6 875

COMMISSION REGULATION (EC) No 1899/97

of 29 September 1997

setting rules of application in the poultrymeat and egg sectors for the arrangements covered by Council Regulation (EC) No 3066/95 and repealing Regulations (EEC) No 2699/93 and (EC) No 1559/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 1595/97⁽²⁾,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs⁽³⁾, as last amended by Commission Regulation (EC) No 1516/96⁽⁴⁾, and in particular Article 22 thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽⁵⁾, as last amended by Commission Regulation (EC) No 2916/95⁽⁶⁾, and in particular Article 22 thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin⁽⁷⁾, as last amended by Commission Regulation (EC) No 2916/95, and in particular Articles 2 (1), 4 (1) and 10 thereof,

Whereas Regulation (EC) No 3066/95 adjusts as an autonomous and transitional measure the agricultural concessions in the Europe Agreements concluded between the European Communities and their Member States on the

one hand and respectively the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, the Republic of Bulgaria and Romania on the other, for the period 1 January 1996 to entry into force of the Additional Protocols; whereas these adjustments were extended by Council Regulation (EC) No 2490/96⁽⁸⁾ to 31 December 1997; whereas owing to procedural delays the Additional Protocols to the Europe Agreements, negotiation of which are concluded, cannot enter into force on 1 July 1997; whereas Regulation (EC) No 3066/95 has therefore been amended by Regulation (EC) No 1595/97 in order to allow early implementation in the agricultural sector of the negotiation results;

Whereas the Agreements contain provisions intended to guarantee product origin and the arrangements should be operated using import licences; whereas rules on the presentation of licence applications and on the entries to be made on applications and licences are required that differ from those in Article 8 of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁹⁾, last amended by Regulation (EC) No 1404/97⁽¹⁰⁾; whereas licences should be issued following a reflection period and possibly with a common percentage acceptance applied;

Whereas the Agreements provide for reduced customs duty on imports within quantitative limits of certain egg and poultrymeat sector products; whereas to ensure regularity of importation these quantities should be staggered over the year;

Whereas to reduce fraud risk compliance with the eligibility criteria for importers should be checked in the Member State in which they are established or their registered office located;

Whereas for the purposes of smooth operation of the arrangements security of ECU 20 per 100 kilograms

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 282, 1. 11. 1975, p. 49.

⁽⁴⁾ OJ L 189, 30. 7. 1996, p. 99.

⁽⁵⁾ OJ L 282, 1. 11. 1975, p. 77.

⁽⁶⁾ OJ L 305, 19. 12. 1995, p. 49.

⁽⁷⁾ OJ L 282, 1. 11. 1975, p. 104.

⁽⁸⁾ OJ L 338, 28. 12. 1996, p. 13.

⁽⁹⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽¹⁰⁾ OJ L 194, 23. 7. 1997, p. 5.

should be required against import licences; whereas given the risk of speculative misuse of the arrangements where egg and poultrymeat products are concerned importer access to these products should be precisely regulated;

Whereas import licences for certain product categories in the egg and poultrymeat sectors have already been assigned for the period 1 July to 30 September 1997 in line with Commission Regulation (EC) No 1522/97 of 30 July 1997 determining the extent to which applications lodged in July 1997 for licences for certain egg and poultrymeat products under the regime provided for by the Interim Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, Romania and Bulgaria can be accepted⁽¹⁾; whereas the quantities available for the period 1 October to 31 December 1997 should therefore be set by reference to the quantities agreed and quotas set for the period 1 July to 31 December 1997;

Whereas Commission Regulation (EEC) No 2699/93⁽²⁾, as last amended by Regulation (EC) No 1514/97⁽³⁾, set detailed rules for application in the poultrymeat and egg sectors of the arrangements provided for in the Interim Agreements between the European Economic Community and Poland, Hungary, and the former Czech and Slovak Federative Republic; whereas since it is replaced by the present Regulation it should be repealed;

Whereas Commission Regulation (EC) No 1559/94⁽⁴⁾, as last amended by Regulation (EC) No 1514/97, set detailed rules for application in the poultrymeat and egg sectors of the arrangements provided for in the Interim Agreements between the Community and Bulgaria and Romania; whereas since it is replaced by the present Regulation it should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

All imports into the Community under the arrangements set by Regulation (EC) No 3066/95 of products covered

by Annex I to this Regulation shall be subject to presentation of an import licence.

The quantities covered by these arrangements and the reduction in the Common Customs Tariffs duty are listed by group in Annex I.

Article 2

The quantities referred to in Article I are for each period specified in Annex I staggered as follows:

groups 1, 12, 19 and 28:

- 1 July to 30 September: 35 %,
- 1 October to 31 December: 35 %,
- 1 January to 31 March: 15 %,
- 1 April to 30 June: 15 %;

groups 2, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 23, 24, 25, 26, 27, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44 and 45:

- 1 July to 30 September: 25 %,
- 1 October to 31 December: 25 %,
- 1 January to 31 March: 25 %,
- 1 April to 30 June: 25 %.

Article 3

The following provisions shall apply to the import licences indicated in Article 1:

1. Applicants must be natural or legal persons who at the time of application can satisfy the competent authority of their Member State that they imported or exported at least 50 tonnes (product weight) in the case of products covered by Regulation (EEC) No 2777/75 or five tonnes (egg in shell equivalent) in the case of products covered by Regulation (EEC) No 2771/75 or (EEC) No 2783/75 during each of the two calendar years preceding that in which the licence application is lodged. Retailers and restaurateurs selling these products to the final consumer are excluded.

⁽¹⁾ OJ L 204, 31. 7. 1997, p. 33.

⁽²⁾ OJ L 245, 1. 10. 1993, p. 88.

⁽³⁾ OJ L 204, 31. 7. 1997, p. 16.

⁽⁴⁾ OJ L 166, 1. 7. 1994, p. 62.

2. Licence applications may cover only one of the groups indicated in Annex I. They may cover products of differing CN codes originating in only one of the countries to which this Regulation relates. In such cases all the CN codes and product descriptions must be entered in boxes 16 and 15 respectively. The application must be for a minimum of one tonne and a maximum of 10 % of the quantity available for the group concerned during the quarter in question as specified in Article 2.

3. Box 8 of the licence application and the licence shall show the country of origin; the licence shall impose an obligation to import from that country.

4. Box 20 of the licence application and the licence shall carry one of the following entries:

- Regulamento (CE) n° 1899/97
- Forordning (EF) nr. 1899/97
- Verordnung (EG) Nr. 1899/97
- Κανονισμός (ΕΚ) αριθ. 1899/97
- Regulation (EC) No 1899/97
- Règlement (CE) n° 1899/97
- Regolamento (CE) n. 1899/97
- Verordening (EG) nr. 1899/97
- Regulamento (CE) n° 1899/97
- Asetus (EY) N:o 1899/97
- Förordning (EG) nr 1899/97.

5. Box 24 of the licence shall carry one of the following entries:

- Reducción del derecho de aduana en virtud del Reglamento (CE) n° 1899/97
- Nedsættelse af importafgiften jf. forordning (EF) nr. 1899/97
- Ermäßigung des Zollsatzes nach dem GZT gemäß Verordnung (EG) Nr. 1899/97
- Μείωση του τελωνειακού δασμού όπως προβλέπεται στον κανονισμό (ΕΚ) αριθ. 1899/97
- Customs duty reduction as provided for in Regulation (EC) No 1899/97
- Réduction du droit de douane comme prévu au règlement (CE) n° 1899/97
- Riduzione del dazio doganale a norma del regolamento (CE) n. 1899/97

- Douanerecht verlaagd overeenkomstig Verordening (EG) nr. 1899/97
- Redução do direito aduaneiro conforme previsto no Regulamento (CE) n° 1899/97
- Tullialennus, josta on säädetty asetuksessa (EY) N:o 1899/97
- Nedsättning av tullavgiften enligt förordning (EG) nr 1899/97.

Article 4

1. Licence applications may be lodged only in the first 10 days of each period specified in Article 2.

2. Applications must be lodged with the competent authority of the Member State in which the applicant is established or has his registered office. They shall be invalid if the applicant does not declare in writing that he has not lodged and will not lodge, for the period in question, other applications for products of the same group.

3. If more than one application is lodged for products of one group none of the applications shall be valid.

4. Member States shall notify to the Commission, on the fifth working day following the end of the period for lodging applications, those lodged for each of the products of the groups in question. The applicants and quantities for each group shall be listed. All notifications, including 'nil' ones, shall be made by telex or fax on the stipulated working day. The form reproduced as Annex II shall be used for 'nil' notifications and those reproduced as Annexes II and III if applications have been made.

5. The Commission shall decide with all speed to what extent applications referred to in Article 3 can be met. If the total amount applied for is more than that available the quantities granted shall be scaled down by a common percentage. If it is less than the amount available the Commission shall determine the quantity to be added to that available for the next period.

6. Licences shall be issued as soon as possible after the Commission's decision.

7. Licences shall be valid throughout the Community.

Article 5

For the purposes of Article 21 (2) of Regulation (EEC) No 3719/88 import licences shall be valid for 150 days from their actual issue.

They shall not be transferable.

Article 6

Security of ECU 20 per 100 kg shall be lodged against applications for import licences for any product indicated in Article 1.

Article 7

The provisions of Regulation (EEC) No 3719/88 shall be applicable except as otherwise provided by this Regulation.

However, Article 8 (4) of that Regulation notwithstanding, quantities imported pursuant to this Regulation may not exceed that indicated in boxes 17 and 18 of the import licence. To that end '0' shall be entered in box 19 of the licence.

Article 8

The products shall be placed in free circulation on presentation of an EUR.1 certificate issued by the export-

ing country in accordance with Protocol 4 to the Europe Agreements concluded with the said countries, or, of a declaration by the exporter in accordance with the provisions of the said Protocol.

Article 9

The quantities available for applications in the period 1 to 10 October 1997 are given in Annex IV hereto.

Article 10

Regulations (EEC) No 2699/93 and (EC) No 1559/94 are hereby repealed.

Article 11

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

It shall apply with effect from 1 July 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

A. PRODUCTS ORIGINATING IN HUNGARY

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4701	1	0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19	10 450	10 925	11 400	11 875
09.4702	2	ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63	1 430	1 495	1 560	1 625
09.4709	4	0207 11 30 0207 11 90 0207 12 10 0207 12 90 0207 13 50 0207 14 50 0207 13 60 0207 14 60	23 650	24 725	25 800	26 875
09.4712	7	0207 13 10 0207 14 10	9 240	9 660	10 080	10 500
09.4713	8	0207 26 50 0207 27 50	2 310	2 415	2 520	2 625
09.4714	9	0207 26 10 0207 27 10	5 280	5 520	5 760	6 000
09.4716	10	0407 00 11 0407 00 19 0407 00 30	2 310	2 415	2 520	2 625
09.4717	11	0407 91 80	550	575	600	625
09.4734	44	1602 31	1 210	1 265	1 320	1 375
09.4735	45	1602 39	1 980	2 070	2 160	2 250

B. PRODUCTS ORIGINATING IN POLAND

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4801	12	0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19 ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63	1 650	1 725	1 800	1 875

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4810	14	0105 92 00	3 850	4 025	4 200	4 375
		0105 93 00				
		0207 11 10				
		0207 11 30				
		0207 11 90				
		0207 12 10				
		0207 12 90				
09.4811	15	0207 13 10	5 390	5 635	5 880	6 125
		0207 13 20				
		0207 13 30				
		0207 13 40				
		0207 13 50				
		0207 13 60				
		0207 13 99				
		0207 14 10				
		0207 14 20				
		0207 14 30				
		0207 14 40				
		0207 14 50				
		0207 14 60				
		0207 14 70				
		0207 14 99				
09.4812	16	0105 99 30	1 540	1 610	1 680	1 750
		0207 24 10				
		0207 24 90				
		0207 25 10				
		0207 25 90				
		0207 26 10				
		0207 26 20				
		0207 26 30				
		0207 26 40				
		0207 26 50				
		0207 26 60				
		0207 26 70				
		0207 26 80				
		0207 26 99				
		0207 27 10				
		0207 27 20				
		0207 27 30				
		0207 27 40				
		0207 27 50				
		0207 27 60				
		0207 27 70				
		0207 27 80				
09.4816	17	0407 00 11	1 650	1 725	1 800	1 875
		0407 00 19				
		0407 00 30				
09.4825	18	0408 91 80	330	345	360	375
		0408 99 80 (*)				

C. PRODUCTS ORIGINATING IN THE CZECH REPUBLIC

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4601	19	0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19 ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63	550	575	600	625
09.4622	21	0207 11 0207 12 0207 13 50 0207 13 60 0207 14 50 0207 14 60	2 860	2 990	3 120	3 250
09.4609	23	0207 13 10 0207 14 10	2 530	2 645	2 760	2 875
09.4610	24	0207 25 10 0207 25 90 0207 26 10 0207 26 50 0207 27 10 0207 27 50	440	460	480	500
09.4614	25	0407 00 11 0407 00 19 0407 00 30	5 830	6 095	6 360	6 625
09.4615	26	0408 11 80 ⁽²⁾ 0408 19 81 0408 19 89	330	345	360	375
09.4616	27	0408 91 80 0408 99 80 ⁽³⁾	2 420	2 530	2 640	2 750

D. PRODUCTS ORIGINATING IN THE SLOVAK REPUBLIC

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4601	28	0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19 ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63	330	345	360	375

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4622	30	0207 11 0207 12 0207 13 50 0207 13 60 0207 14 50 0207 14 60	1 980	2 070	2 160	2 250
09.4609	32	0207 13 10 0207 14 10	770	805	840	875
09.4610	33	0207 25 0207 26 10 0207 26 50 0207 27 10 0207 27 50	550	575	600	625
09.4614	34	0407 00 11 0407 00 19 0407 00 30	2 750	2 875	3 000	3 125
09.4615	35	0408 11 80 ⁽²⁾ 0408 19 81 0408 19 89	220	230	240	250
09.4616	36	0408 91 80 0408 99 80 ⁽³⁾	1 100	1 150	1 200	1 250

E. PRODUCTS ORIGINATING IN BULGARIA

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4650	37	0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19 ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63	550	575	600	625
09.4659	38	0207 32 51 0207 32 59 0207 33 51 0207 33 59 0207 35 11 0207 35 23 0207 35 51 0207 35 61 0207 36 11 0207 36 23 0207 36 51 0207 36 61 ex 0207 35 31 ex 0207 36 31 ex 0207 35 41 ex 0207 36 41 ex 0207 35 71 ex 0207 36 71 ex 0207 35 99 ex 0207 36 90	550	575	600	625

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4655	39	0207 12 10 0207 12 90	1 760	1 840	1 920	2 000
09.4656	40	0408 91 80 0408 99 80	660	690	720	750

F. PRODUCTS ORIGINATING IN ROMANIA

Duty applicable: 20 % of MFN

(tonnes)

Order No	Group No	CN code	Annual quantity			
			From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4757	43	0207 11 90 0207 12 90 0207 14 60 0207 14 70 0207 14 99	1 100	1 150	1 200	1 250

(1) In dried egg yolk equivalent (1 kg liquid egg = 0,26 kg dried whole egg).

(2) In liquid egg yolk equivalent (1 kg dried egg yolk = 2,12 kg liquid egg yolk).

(3) In liquid whole egg equivalent (1 kg dried whole egg = 3,9 kg liquid whole egg).

ANNEX II

Application of Regulation (EC) No 1899/97

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI/D/3 - Eggs and poultry

Applications for reduced duty import licences	Date	Period
---	------	--------

Member State:

Consigner:

Person to contact:

Telephone:

Fax:

Group No	Quantity requested
1	
2	
4	
7	
8	
9	
10	
11	
44	
45	
12	
14	
15	
16	
17	
18	
19	
21	
23	
24	
25	
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27	
28	
30	
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34	
35	
36	
37	
38	
39	
40	
43	

ANNEX III

Application of Regulation (EC) No 1899/97

COMMISSION OF THE EUROPEAN COMMUNITIES		DG VI/D/3	Eggs and poultry
Applications for reduced duty import licences		Date	Period
Group No	Member State		
CN code	Applicant (name and address)	Quantity (tonnes)	
	Total tonnes of group number		

ANNEX IV

(tonnes)	
Group No	Quantity available
1	4 053,00
2	412,50
4	7 406,00
7	2 520,00
8	642,50
9	2 127,50
10	836,86
11	275,00
44	605,00
45	990,00
12	1 019,60
14	1 925,00
15	1 470,00
16	614,60
17	788,75
18	165,00
19	239,75
21	1 035,38
23	1 065,00
24	157,50
25	2 915,00
26	165,00
27	1 210,00
28	231,00
30	990,00
32	365,00
33	275,00
34	1 375,00
35	110,00
36	550,00
37	231,25
38	171,64
39	880,00
40	330,00
43	310,31

COMMISSION REGULATION (EC) No 1900/97
of 29 September 1997
establishing the standard import values for determining the entry price of
certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 2375/96 ⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EC) No 150/95 ⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 September 1997.

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

Done at Brussels, 29 September 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 29 September 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0709 90 79	052	72,0
	999	72,0
0805 30 30	388	55,4
	524	54,3
	528	54,1
	999	54,6
	052	92,0
0806 10 40	064	45,1
	400	202,4
	999	113,2
	052	72,0
0808 10 92, 0808 10 94, 0808 10 98	064	46,7
	388	112,2
	400	56,7
	404	81,2
	528	59,8
	800	140,4
	804	80,4
	999	81,2
	052	98,3
	064	87,1
0808 20 57	400	77,2
	999	87,5
	052	162,9
	400	138,4
0809 30 41, 0809 30 49	624	191,7
	999	164,3
	052	42,9
	060	54,3
	064	81,3
0809 40 30	066	53,6
	068	30,4
	400	107,9
	624	144,5
	999	73,6
	052	72,0
	999	72,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

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

(97/634/EC)

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 amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Article 8 (1) thereof,

Having regard to Council Regulation (EC) No 3284/94 of 22 December 1994 on protection against subsidized imports from countries not members of the European Community⁽³⁾, and in particular Article 10 (1) thereof,

After consulting the Advisory Committee,

Whereas:

- (1) On 31 August 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽⁴⁾, the initiation of anti-subsidy proceedings in respect of imports of farmed Atlantic salmon originating in Norway.
- (2) On 31 August 1996, the Commission also announced, by a separate notice published in the *Official Journal of the European Communities*⁽⁵⁾, the initiation of an anti-dumping proceeding in

respect of imports of farmed Atlantic salmon originating in Norway.

- (3) Both of the above mentioned proceedings were initiated following complaints lodged in July 1996 by the Scottish Salmon Growers' Association Ltd and the Shetland Salmon Farmers' Association on behalf of their members, which represent a major proportion of total Community production of farmed Atlantic salmon. The complaints contained sufficient evidence of injurious dumping and subsidization of the imports concerned to justify the initiation of anti-dumping and anti-subsidy proceedings.
- (4) The Commission sought and verified all information that it deemed necessary for the purpose of its definitive findings. In the course of this examination, it was established that definitive anti-dumping and countervailing measures should be taken in order to eliminate the injurious effects of dumping and subsidization. The findings and conclusions on all aspects of the investigations are set out in Council Regulation (EC) No 1890/97⁽⁶⁾ and (EC) No 1891/97⁽⁷⁾.
- (5) Having been informed of the Commission's findings, the Kingdom of Norway and the Norwegian exporters referred to in Article 1 of the present Decision offered undertakings pursuant to Article 10 of Council Regulation (EC) No 3284/94. The Norwegian exporters also offered their undertakings pursuant to Article 8 of Council Regulation (EC) No 384/96.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ L 349, 31. 12. 1994, p. 22.

⁽⁴⁾ OJ C 253, 31. 8. 1996, p. 20.

⁽⁵⁾ OJ C 253, 31. 8. 1996, p. 18.

⁽⁶⁾ See page 1 of this Official Journal.

⁽⁷⁾ See page 19 of this Official Journal.

- (6) Pursuant to these undertakings, the Norwegian exporters, have, *inter alia*, offered not to sell the product under investigation to their first unrelated customer in the Community below a certain minimum price. Norway, for its part, has agreed to take a number of measures which will contribute to eliminating the injurious effects of subsidisation. Both Norway and the Norwegian exporters concerned have agreed to comply with their undertakings as of 1 July 1997.
- (7) The Commission considers that the combined effect of the above mentioned undertakings will be sufficient to remove the injurious effects of dumping and subsidization.
- (8) In addition, given that Norway has offered to co-operate with the Commission in monitoring the evolution of Norwegian exports of farmed Atlantic salmon to the Community, and that the exporters which have offered undertakings have agreed to provide the Commission with regular and detailed information on their exports to the Community, it is concluded that the correct observance of the undertakings can be effectively monitored by the Commission.
- (9) Under these circumstances, the undertakings offered by Norway and the Norwegian exporters mentioned below, are considered acceptable, and the investigations can, therefore, be terminated with respect to those parties.
- (10) All exporters and related importers concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the termination of the investigations without the imposition of measures with regard to parties from which undertakings have been accepted and these parties have had the opportunity to comment on all aspects of the investigations. Accordingly, should the Commission have reasons to believe that an undertaking is being violated, a provisional anti-dumping duty and a provisional countervailing duty may be imposed pursuant to Article 8 (10) of Regulation (EC) No 384/96 and Article 10 (10) of Regulation (EC) No 3284/94, respectively. A definitive anti-dumping duty and a definitive countervailing duty will be imposed, should the conditions of Article 8 (9) of Regulation (EC) No 384/96 and Article 10 (9) of Regulation No (EC) 3284/94 respectively be met.
- (11) The Advisory Committee was consulted and no objections were raised as to the acceptance of the undertakings offered.
- (12) Having been informed of the main facts and considerations on the basis of which the Commission intended to accept the undertakings, the Community industry expressed concern that, in view of past experience with minimum prices, these undertakings would not constitute an effective remedy to the injury it was suffering.
- (13) It should be pointed out that these undertakings contain strict monitoring provisions and, furthermore, unlike the minimum prices previously imposed, they will be underpinned by residual duties which may be imposed in cases of violation. It is therefore considered that these measures are adequate to remedy the injurious effects of dumping and subsidisation,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by the Kingdom of Norway and by the Norwegian exporters mentioned in the Annex to this Decision, in connection with the anti-subsidy proceeding concerning imports into the Community of farmed Atlantic salmon originating in Norway, are hereby accepted.

The undertakings offered by the Norwegian exporters mentioned in the Annex to this Decision, in connection with the anti-dumping proceeding concerning imports into the Community of farmed Atlantic salmon originating in Norway, are hereby accepted.

Article 2

The investigations in connection with the anti-dumping and anti-subsidy proceedings referred to in Article 1 are hereby terminated with regard to the parties named in that Article.

Article 3

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 26 September 1997.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

ANNEX

	Company Name	Taric Code		Company Name	Taric Code
1.	A. Øvreskotnes A/S	8095	57.	Gjendemsjø Fisk A/S	8299
2.	A.B.A. A/S	8096	58.	Grieg Seafood A/S	8300
3.	Agnefest Seafood	8325	59.	Gunnar Klo A/S	8301
4.	Alamar A/S	8097	60.	Haafa fisk A/S	8302
5.	Alsvåg Fiskeprodukter A/S	8098	61.	Hallvard Leroy A/S	8303
6.	Altafjord Oppdrett A/S	8099	62.	Herøy Filetfabrikk A/S	8304
7.	Aqua Export A/S	8100	63.	Herøy Lakseoppdrett AL	8305
8.	Aqua Partner A/S	8101	64.	Hirsholm Norge A/S	8306
9.	Aqua Supply A/S	8107	65.	Hitramat & Delikatesse A/S	8154
10.	Aquatrade A/S	8108	66.	Hydro Seafood Sales A/S	8159
11.	Arctic Group International A/S	8109	67.	Hydrotech-gruppen A/S	8161
12.	Arctic Product A/S	8110	68.	Icelandic Freezing Plants Norway A/S	8165
13.	Arctic Superior A/S	8111	69.	Imperial Salmon Co. A/S	8171
14.	Arne Mathisen A/S	8112	70.	Incofood A/S	8172
15.	A/S Aalesundfisk	8113	71.	Inter Road A/S	8173
16.	A/S Austevoll Fiskeindustri	8114	72.	Inter Sea A/S	8174
17.	A/S Keco	8115	73.	J. Meinert A/S	8175
18.	A/S Møre Codfish Company	8116	74.	Jan og Einar Martinussen A/S	8176
19.	A/S Nortraders Ltd	8117	75.	Janas A/S	8177
20.	A/S Refsnes Fiskeindustri	8118	76.	Joh. H. Pettersen A/S	8178
21.	A/S West Fish Sales Ltd	8119	77.	Johan J. Helland A/S	8179
22.	Astor A/S	8120	78.	Karl Storm Andersen Eft A/S	8180
23.	Atlantic King Stranda A/S	8121	79.	Karsten J. Ellingsen A/S	8181
24.	Atlantic Seafood A/S	8122	80.	Kr. Kleiven & Co. A/S	8182
25.	Atlantis A/S	8123	81.	Kurt F. Løseth & Co. A/S	8183
26.	Borkowski & Røsnes A/S	8124	82.	Labeyrie Norge A/S	8184
27.	Brødrene Aasjord A/S	8125	83.	Lafjord Group A/S	8185
28.	Brødrene Eilertsen A/S	8126	84.	Langfjord Laks A/S	8186
29.	Brødrene Karlsen A/S	8127	85.	Leica Fiskeprodukter	8187
30.	Brødrene Remø A/S	8128	86.	Leonhard Products A/S	8423
31.	Christiansen Partner A/S	8129	87.	Lofoten Seafood Export A/S	8188
32.	Clipper Seafood A/S	8130	88.	Lorentz A. Lossius A/S	8189
33.	Coast Seafood A/S	8131	89.	Ma-vo Norge A/S	8190
34.	Companhia do Bacalhau Lda A/S	8132	90.	Marex A/S	8326
35.	Dåfjord Laks A/S	8133	91.	Marinco A/S	8191
36.	Delfa Norge A/S	8134	92.	Marine Seafood A/S	8196
37.	DM Direkte Markedsføringsbyrå	8135	93.	Marstein Seafood A/S	8197
38.	DNHS Fishing Company A/S	8399	94.	Master Seafood A/S	8198
39.	Domstein Salmon A/S	8136	95.	Melands Røkeri Eftf. A/S	8199
40.	E. Slorer Jacobsen & Co. A/S	8137	96.	Memo Food A/S	8200
41.	Ecco Fisk & Delikatesse	8138	97.	Midtco A/S	8201
42.	Edvard Johnsen A/S	8139	98.	Misundfisk A/S	8202
43.	Eurolaks A/S	8140	99.	Myre Sjømat A/S	8203
44.	Euronor A/S	8141	100.	Naco Trading A/S	8206
45.	Fader Martin A/S	8142	101.	Namdal Salmon A/S	8207
46.	Fiskeforsyningen A/S	8143	102.	Nature Sea-lect Ltd	8208
47.	Fjord Aqua Group A/S	8144	103.	Neptun Stavanger A/S	8209
48.	Fjord Trading Ltd A/S	8145	104.	Nergård A/S	8210
49.	Fonn Egersund A/S	8146	105.	Nils Williksen A/S	8211
50.	Fossen A/S	8147	106.	Niscan Corporation	8212
51.	Fresh Atlantic A/S	8148	107.	Nisja Trading A/S	8213
52.	Fresh Marine Company A/S	8149	108.	Nor-Food A/S	8214
53.	Fryseriet A/S	8150	109.	Nor-Trade International	8215
54.	Frøya Fiskeindustri A/S	8151	110.	Nordhav A/S	8216
55.	Gigante Fiskekroken A/S	8152	111.	Nordic Group A/SA	8217
56.	Gje-vi A/S	8153	112.	Nordreisa Laks A/S	8218

	Company Name	Taric Code		Company Name	Taric Code
113.	Norexport A/S	8223	152.	Scan-Mar A/S	8263
114.	Norfi Produkter A/S	8227	153.	Scanfood A/S	8264
115.	Norfood Group A/S	8228	154.	Sea Eagle Group A/S	8265
116.	Norfra Eksport A/S	8229	155.	Sea Star International A/S	8266
117.	NorMan Trading Ltd A/S	8230	156.	Sea-Bell A/S	8267
118.	Nornir Group A/S	8231	157.	Seaco A/S	8268
119.	Norsk Akvakultur A/S	8232	158.	Seacom A/S	8269
120.	Norsk Sjømat A/S	8233	159.	Seacom Nord A/S	8270
121.	Northern Seafood A/S	8307	160.	Seafood Farmers of Norway Ltd A/S	8271
122.	Nortrade A/S	8308	161.	Seanor A/S	8272
123.	Norway Royal Salmon Sales A/S	8309	162.	Sekkingstad A/S	8273
124.	Norway Royal Salmon A/S	8312	163.	Sigerfjord-Fisk A/S	8274
125.	Norway Seafarms A/S	8313	164.	Sirena Norway A/S	8275
126.	Norway Seafoods A/SA	8314	165.	Skaarfish Group A/S	8276
127.	Norwegian Salmon A/S	8315	166.	Skarpsno Mat	8277
128.	Norwell A/S	8316	167.	SL Fjordgruppen A/S	8278
129.	Notfisk Arctic A/S	8234	168.	SMP Marine Produkter A/S	8279
130.	Nova Sea A/S	8235	169.	Sotra Fiskeindustri A/S	8280
131.	NTC Norwegian Taste Company A/S	8236	170.	Starfish	8281
132.	Ocean Superior Products A/S	8237	171.	Stavanger Røkeri A/S	8282
133.	Oddvin Bjørge A/S	8238	172.	Stjernelaks A/S	8283
134.	Ok-Fish Kvalheim A/S	8239	173.	Stokfish Norway A/S	8284
135.	Omega Sea A/S	8240	174.	Stolt Sea Farm A/S	8285
136.	Oster Sea Products A/S	8241	175.	Storm Company A/S	8286
137.	Pan Fish Sales A/S	8242	176.	Superior A/S	8287
138.	Pero Food A/S	8243	177.	Svenodak A/S	8288
139.	Polar Gigante A/S	8246	178.	Terra Seafood A/S	8289
140.	Polar Seafood Norway A/S	8247	179.	Thorleif E. Ellingsen A/S	8293
141.	Prilam Norvège A/S	8248	180.	Timar Seafood A/S	8294
142.	Pundslett Fisk	8251	181.	Torget International A/S	8297
143.	Roger A/S	8253	182.	Torris Products Ltd A/S	8298
144.	Rolf Olsen Seafood A/S	8254	183.	Troll Salmon A/S	8317
145.	Ryfisk A/S	8256	184.	Uniprawns A/S	8318
146.	Rørvik Fisk-og fiskematforretning A/S	8257	185.	Vareberg's Røyeri	8319
147.	Saga Lax Norge A/S	8258	186.	Vest Agentur A/S	8320
148.	Sagalax Nord A/S	8259	187.	Vie de France Norway A/S	8321
149.	Salomega A/S	8260	188.	Vikenco A/S	8322
150.	Sandanger A/S	8261	189.	Wannebo International A/S	8323
151.	Sangoltgruppa A/S	8262	190.	West Fish Norwegian Salmon A/S	8324